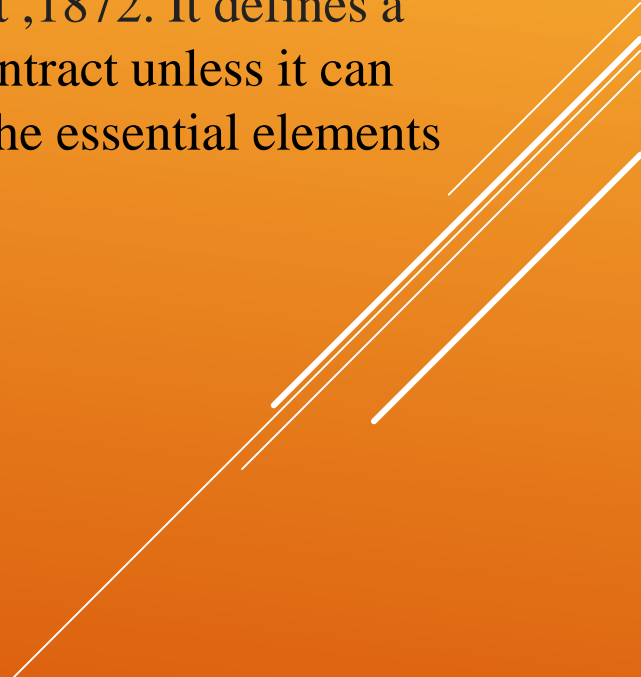


# THE INDIAN CONTRACT ACT, 1872.

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# Meaning

The term Contract has been defined under Section 2 (h) of the Indian Contract Act ,1872. It defines a Contract as an Agreement enforceable by law. An agreement cannot turn into a contract unless it can be enforceable by law. So, in order to be enforceable, a contract must contain all the essential elements of a valid contract as defined in section 10 of the Indian contract act 1872.

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# **Essential elements of contract**

**THE ESSENTIAL ELEMENTS OF A CONTRACT AS DEFINED UNDER SECTION 10 OF THE INDIAN CONTRACT ACT 1872 ARE-**

**AGREEMENT (OFFER & ACCEPTANCE)**

**LEGAL PURPOSE**

**LAWFUL CONSIDERATION**

**CAPACITY TO CONTRACT**

**CONSENT TO CONTRACT**

**LAWFUL OBJECT**

**CERTAINTY**

**POSSIBILITY OF PERFORMANCE**

**NOT EXPRESSLY DECLARED VOID**

**LEGAL FORMALITIES SUCH AS WRITING**

# **Kinds of contract on the basis of validity**

- 1. VALID CONTRACT**
- 2. VOID CONTRACT**
- 3. VOIDABLE CONTRACT**
- 4. UNENFORCEABLE CONTRACT**
- 5. ILLEGAL CONTRACT**

# Classification of Contracts according to formation

According to the mode of formation of contracts, contracts may be classified into three namely

EXPRESS CONTRACT,

IMPLIED CONTRACT, AND

QUASI – CONTRACT

# Classification of Contracts according to performance

According to the extent of performance of contracts, contracts may be classified as:

UNILATERAL CONTRACT, AND

BILATERAL CONTRACT.

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# Offer And Acceptance

## **Offer**

Section 2(a) defines an offer as, “a proposal made by one person to another to do an act or abstain from doing it.” The person who makes the offer is known as the promisor or offeror and the person to whom an offer is made is known as the promisee or the offeree.

Offer must be distinguished from:

- (i) Mere invitation to an offer
- (ii) Mere statement of intention

## **Acceptance**

A contract comes into being from the acceptance of an offer. When the person to whom the offer is made signifies his assent thereto, the proposal is said to be accepted (Sec. 2(b)). Thus, acceptance of the offer must be absolute and unqualified. It cannot be conditional.


# Consideration

Section 2(d) of the Indian Contract Act defines consideration as “when at the desire of the promisor, promisee or any other person has done or abstained from doing or does or abstains from doing or promises to do or to abstain from doing something, such act or abstinence, or promise is called a consideration for the promise.”

- ✓ Consideration must proceed at the desire of the Promisor
- ✓ Consideration may move from the promisee or any other person:
- ✓ Privity of Contract
- ✓ Consideration may be a promise to do something or abstain from doing something
- ✓ Consideration may be past, present or future
- ✓ There must be independent consideration to support each independent promise
- ✓ Consideration must have some value in the eyes of Law though it need not be adequate
- ✓ Consideration must be real and not illusory, impossible uncertain, ambiguous, fraudulent, immoral or opposed to public policy.



# Competency To Contract

- Minority
  - Unsound Mind
  - Disqualified by Law
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# Free Consent


The parties to the contract must mean the same thing in the same sense and not only that but they should mutually agree voluntarily. If their minds do not meet at the same thing in the same sense voluntarily, then their consent shall not be called Free or Voluntary.

Consent is said to be free when it is not caused by:-

1. Coercion
2. Undue Influence
3. Fraud
4. Misrepresentation
5. Mistake

# Void Agreements

Section 2(g) defines Void Agreement as ‘an agreement not enforceable by law is said to be void.’ A void agreement does not give rise to any legal consequences and is void *ab initio*.




## Discharge of Contracts

A contract is discharged when the obligations created by it come to an end. a contract may be discharged in any of the following ways:

1. By agreement.
2. By performance of the contract.
3. By lapses of time.
4. By operation of law.
5. By material alteration.
6. By subsequent impossibility of the performance.
7. **By breach.**

## Quasi Contract

Court's determination of an obligation of one party to another where no actual contract exists. It is based on the parties' conduct, mutual relationship, and/or on the possibility that one would be unjustly enriched at the expense of the other. In strict legal terms a quasi contract does not constitute a formal contract, but is a legal remedy that allows a plaintiff to recover an award or benefit conferred on the defendant.

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# Special Contracts

## 1. Contract of Indemnity and Guarantee

A *contract of indemnity* is a contingent contract. It is a contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself or by the conduct of any other person or by accident. The person who undertakes to indemnify or make good the loss is called the "indemnifier" and whose loss is made good is called the "indemnified" or "indemnity holder".

A *contract of guarantee* is a contract to perform the promise or discharge the liability of a third person in case of his default. The person who gives the guarantee is called the 'surety' or 'guarantor', the person for whom the guarantee is given is called the "principal debtor", and persons to whom the guarantee is called the "creditor".

## 2. Contract of Bailment and Pledge

**Bailment** is the delivery of goods by one person called the bailor to another, called the bailee, for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the direction of the person delivering them (i.e., the bailor). To constitute a bailment :

- ▶ (1) goods are delivered by one person to another;
- ▶ (2) the goods are delivered for some purpose;
- ▶ (3) the goods are to be returned to the bailor or disposed of according to his direction when the purpose is accomplished.

**Pledge** is the bailment of goods as security for payment of a debt or performance of promise. Bailor in this case is called the 'pawnor' and the bailee is called the 'pawnee'

### 3. Contract of Agency

When a person employs another person to do any act for himself or to represent him in dealing with third persons, it is called a '*Contract of Agency*'.

The person who is so represented is called the 'principal' and the representative so employed is called the 'agent (Sec. 182). The duty of the agent is to enter into legal relations on behalf of the principal with third parties. But, by doing so he himself does not become a party to the contract to the contract not does he incur any liability under that contract. Principal shall be responsible for all the acts of his agent provided they are not outside the scope of his authority.