

TULSIAN'S
**BUSINESS
LAWS**

for B.Com. (Hons.)

A SELF-STUDY TEXTBOOK



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CA BHARAT TULSIAN**

S. CHAND

Tulsian's

BUSINESS LAWS

for

B.Com. (Hons.)

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Preface

This book adopts a fresh and novel approach to the study of Law keeping in view the specific requirements of the candidates appearing for the Business Law Paper of B.Com. It has been written in a **Teach Yourself Style** strictly following a student-friendly approach, and is essentially meant to serve as a **Tutor at home**. The important features of this book include:

(a) COVERAGE OF THE BOOK

Broadly the coverage would enable the reader in understanding:

- (i) The Indian Contract Act, 1872
- (ii) The Sale of Goods Act, 1930
- (iii) The Limited Liability Partnership Act, 2008
- (iv) The Information Technology Act, 2000

(b) PEDAGOGICAL FEATURES OF THE BOOK

- **Simple Language:** The Text is presented in the simplest language “meant to serve beginners”.
- **Heading for each Paragraph:** Each paragraph has been arranged under a suitable heading for easy retention of concepts.
- **Tabular Form:** Wherever possible the text matter relating to a particular topic/sub-topic has been presented in a Tabular Form.
- **Eye-catching Screens:** All Important Equations, Formulae, Figures and Practical Steps have been presented in screen format to catch the eye.
- **Uniform Format of Chapter:** Each chapter has been uniformly organised under four headings, viz., Text supported by suitable Illustrations, Solved Problems, True/False Questions and Exercises.

(c) DISTINCTIVE FEATURES OF THE BOOK

- **Over 25 Exhibits:** To acquaint students with various important matters.
- **Over 55 Illustrations:** To aid better understanding of the text
- **Over 100 Practical (Solved) Problems:** Along with necessary working notes and alternative solutions (if any).
- **Over 100 Very Short Answer Type Questions:** To enable students to test their understanding of the subject.
- **Over 100 Short Answer Type Questions:**
- **Over 50 Essay Type Questions:**
- **Over 200 True/False Questions:**

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Syllabus

BUSINESS LAWS

Marks: 100 (Theory = 75, Internal Assessment = 25) Lectures: 48

Objective: The objective of the course is to impart basic knowledge of the important business laws along with relevant case law.

Unit	Conents	Relevant Chapter
UNIT I	The Indian Contract Act, 1872 (15 Lectures) Contract – meaning, characteristics and kinds; Essentials of valid contract - Offer and acceptance, consideration, contractual capacity, free consent, legality of objects; Void agreements; Discharge of contract – modes of discharge including breach and its remedies; Contingent contracts; Quasi – contracts; Contract of indemnity and guarantee; Contract of bailment; Contract of agency.	1–14
UNIT II	The Sale of Goods Act, 1930 (8 Lectures) Contract of sale, meaning and difference between sale and agreement to sell; Conditions and warranties; Transfer of ownership in goods including sale by non-owners; Unpaid seller – meaning and rights of an unpaid seller against the goods and the buyer.	15
UNIT III	The Limited Liability Partnership Act, 2008 (15 Lectures) Salient features of LLP; Difference between LLP and partnership, LLP and company; LLP agreement; Nature of LLP; Partners and designated partners; Incorporation document; Incorporation by registration; Registered office of LLP and change therein; Change of name; Partners and their relations; Extent and limitation of liability of LLP and partners; Whistle blowing; Contributions; Financial disclosures; Annual return; Taxation of LLP; Conversion to LLP; Winding up and dissolution.	16
UNIT IV	The Information Technology Act, 2000 (10 Lectures) Definitions under the Act; Digital signature; Electronic governance; Attribution, acknowledgement and dispatch of electronic records; Regulation of certifying authorities; Digital signatures certificates; Duties of subscribers; Penalties and adjudication; Appellate Tribunal; and Offences.	17

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5. Free Consent	5.1—5.28
6. Legality of Object and Consideration, and Agreements Opposed to Public Policy	6.1—6.10
7. Void Agreement and Contingent Contracts	7.1—7.21
8. Performance of a Contract	8.1—8.21
9. Discharge of a Contract	9.1—9.15
10. Remedies for Breach of Contract	10.1—10.17
11. Quasi-Contracts	11.1—11.9
12. Indemnity and Guarantee	12.1—12.25
13. Bailment and Pledge	13.1—13.28
14. Contract of Agency	14.1—14.40

THE SALE OF GOODS ACT, 1930

15. The Sale of Goods Act, 1930	15.1—15.71
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THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

16. The Limited Liability Partnership Act, 2008	16.1—16.31
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THE INFORMATION TECHNOLOGY ACT, 2000

17. The Information Technology Act, 2000	17.1—17.53
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1

Meaning and Essentials of Contract

1.0 WHAT IS LAW ?

1. Law means a 'set of rules'.
2. Broadly Speaking, Law may be defined as the rules of conduct recognised and enforced by the state to control and regulate the conduct of people, to protect their property and contractual rights with a view to securing justice, peaceful living and social security.
3. Since the value system of society keeps on changing, the law also keeps on changing according to the changing requirements of the society.
4. There are several branches of law such as International law, Constitutional law, Criminal law, Civil law etc. Every branch of law regulates and controls a particular field of activity.

2.0 WHY SHOULD ONE KNOW LAW ?

1. One should know the law to which he is subject because ***ignorance of law is no excuse.***
2. **Examples Example I** – If X is caught travelling in a train without ticket, he cannot plead that he was not aware of the rule regarding the purchase of ticket and therefore, he may be excused. **Example II** – if Y is caught driving scooter without driving license, he cannot plead that he was not aware of the traffic rule regarding the obtaining of a driving license and therefore, he may be excused.

3.0 WHAT IS MERCANTILE LAW (OR COMMERCIAL LAW) ?

1. Mercantile law is not a separate branch of law.
2. Basically, it is a part of civil law which deals with the rights and obligations of mercantile persons arising out of mercantile transactions in respect of mercantile property.
3. It includes laws relating to various contracts, partnership, companies, negotiable instruments, insurance, carriage of goods, arbitration etc.

4.0 WHAT ARE THE SOURCES OF MERCANTILE LAW ?

1. In India, mercantile law is basically an adaptation of the English Law with some modifications and reservations which are necessitated by the peculiar conditions prevailing in India.

1.2 Tulsian's Business Laws

2. The main sources of the Indian mercantile law are as follows.
 1. **English Mercantile Law** English laws are the primary sources of Indian Mercantile Law. English laws are based on customs and usages of merchants in England.
 2. **Indian Statute Law** The various Acts passed by the Indian Legislature are the main sources of mercantile law in India, e.g. Indian Contract Act, 1872, The Sale of Goods Act, 1930, The Indian Partnership Act, 1932, The Negotiable Instruments Act 1881, The Companies Act, 1956.
 3. **Judicial Decisions** The past judicial decisions of English courts and Indian courts are also one of the sources of law. Wherever the law is silent on a point, the judge has to decide the case according to the principle of equity, justice and good conscience. The past judicial decisions are followed by the courts while deciding similar cases before them.
 4. **Customs and Usages** The customs and usages of a trade are also one of the sources of mercantile law in India. These customs and usages govern the merchants of a trade in their dealings with each other. Some Acts passed by the Indian Legislature recognises the importance of such customs and usages. For example, Section 1 of the Indian Contract Act, 1872 provides "nothing contained therein shall affect any usage of custom of trade . . ." Similarly, Section 1 of The Negotiable Instruments Act, 1881 provides "nothing contained therein shall affect any local usage relating to instrument in an oriental language."

5.0 WHAT IS THE LAW OF CONTRACT ?

1. The law of contract is contained in the Indian Contract Act, 1872 which-
 - (a) deals with the general principles of law governing all contracts, and
 - (b) covers the special provisions relating to special contracts like Bailment, Pledge, Indemnity, Guarantee and Agency.
2. The law of Contract is applicable not only to business but also to all day-to-day personal dealings. In fact, each one of us enters into a number of contracts from sunrise to sunset.

EXAMPLES OF CONTRACT

1. when you purchase a newspaper, you enter into a contract with the vendor of newspaper.
2. when you purchase milk, you enter into a contract with the milkman.
3. when you purchase bread and butter, you enter into a contract with the vendor of bread and butter.
4. when you ride a bus, you enter into a contract with the transport company.

Note: The general law of contract relates to the essentials of a valid contract, the rules for performance and discharge of a contract and the remedies available to the aggrieved party in case of breach of contract.

6.0 WHAT IS CONTRACT ?

1. According to Section 2(h) of the Indian Contract Act, 1872, "An agreement enforceable by law is a contract." In other words, an agreement which can be enforced in a court of law is known as a contract.
2. On analyzing this definition of contract, it appears that a contract must have the following two elements:
 1. An agreement, and
 2. Enforceability of an agreement.
3. In the form of an equation, it can be shown as under:

Contract = An Agreement + Enforceability of an agreement

Now the question arises, 'What is an Agreement?' and What is Enforceability of an agreement?

WHAT IS AN AGREEMENT ?

According to Section 2(h) of the Indian Contract Act, 1872, "**An agreement enforceable by law is a contract.**" In other words, an agreement which can be enforced in a court of law is known as a contract.

According to Section 2(e) of the Indian Contract Act, 1872, "**Every promise and every set of promises forming the consideration for each other is an agreement.**" Now the question arises, 'What is promise?' According to Section 2(b) of the Indian Contract Act, 1872, "**A proposal when accepted, becomes a promise.**"

Example: X offers to sell his car for ₹ 1,00,000 to Y. Y accepts this offer. This offer after acceptance becomes promise and this promise is treated as an agreement between X and Y.

In other words, an agreement consists of an offer by one party and its acceptance by the other. In the form of an equation, it can be shown as under:

Agreement = Offer (or Proposal) + Acceptance of Offer (or Proposal)

WHAT IS AN ENFORCEABILITY OF AGREEMENT ?

1. An agreement is said to be enforceable by law if it creates some legal obligation. In other words, the parties to an agreement must be bound to perform their promises and in case of default by either of them, must intend to sue.
2. In commercial or business agreements the usual presumption is that the parties intend to create legal relations.

Example: X offers to sell his car to Y for ₹ 1,00,000. Y accepts this offer. Such an agreement between X and Y is a contract because it creates legal obligation. In this agreement, if X refuses to sell or Y refuses to buy, the other party can file a suit in the court of law for the breach of the contract.

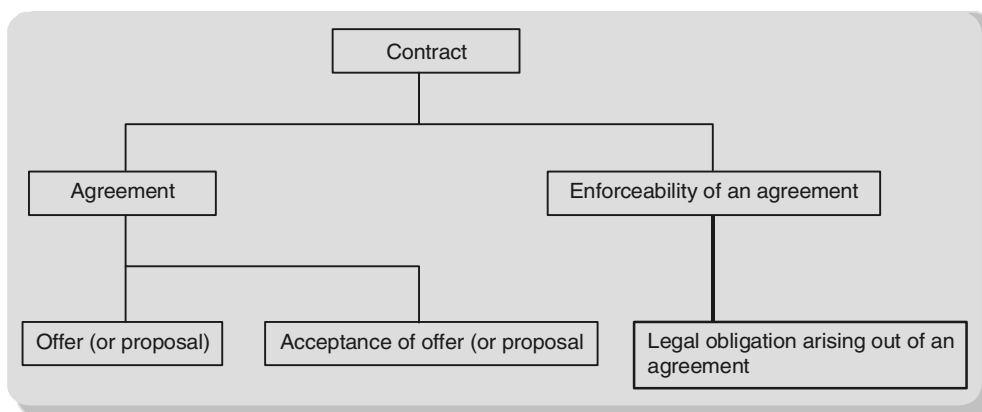
1.4 Tulsian's Business Laws

3. In case of social or domestic agreements, the usual presumption is that the parties do not intend to create legal relations.

Example: *X invites his friend Y to a dinner and Y accepts the invitation. If Y fails to turn up for dinner, X cannot go to the court to claim his loss.*

Similarly, in case of domestic arrangements, parties to agreement do not intend to sue each other so as to make such agreements unenforceable by law, e.g. in *Balfour v. Balfour* (1919) 2 K.B. 571, a promise by the husband to pay his wife £ 30 every month was held unenforceable as the parties never intended it to be attended by legal obligations.

Thus, in the form of a graphic representation, the contract can be expressed as under:



7.0 THE LAW OF CONTRACT IS NOT THE WHOLE LAW OF AGREEMENTS NOR IS IT THE WHOLE LAW OF OBLIGATIONS

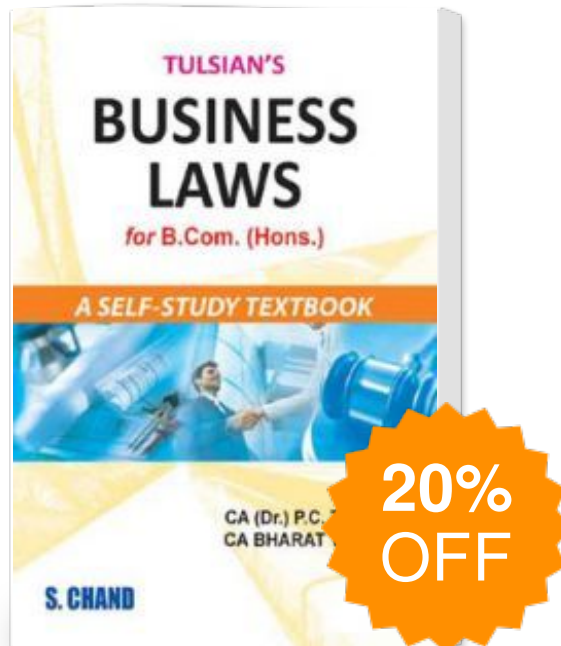
"THE LAW OF CONTRACTS IS NOT THE WHOLE LAW OF AGREEMENTS."

- (a) The law of contracts is the law of only those agreements which create legal obligations (i.e. an obligation which is enforceable by law). An obligation is the duty to do or not to do certain act. In other words, the law of contract is concerned with only those agreements where the parties have the intention to create legal obligations (i.e. the parties are bound to do or not to do certain act). In business or commercial agreements, the usual presumption is that the parties intend to create legal obligations.

Example: *X offers to sell his car to Y for ₹ 1,00,000. Y accepts this offer. In this agreement if there is default by either party, an action for breach of contract can be enforced through a court of law provided all the essential elements of a valid contract are present in this agreement.*

- (b) The law of contract is not the law of those agreements which do not create legal obligations. In other words, the law of contract is not concerned with those agreements where the parties do not have the intention to create legal obligations.

Tulsian'S Business Law For Bcom(Hons)



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