DegreeLive

BBA	SEMESTER 3	CALICUT UNIVERSITY	COURSE CODE: BBA3CJ202

BUSINESS AND CORPORATE REGULATIONS

EXAM REVISION NOTES

JOIN WHATSAPP CHANNEL →

MODULE I

DEFINITION, ESSENTIALS OF A VALID CONTRACT, AND CLASSIFICATION OF CONTRACTS

Definition, Essentials of a Valid Contract, and Classification of Contracts: The law of contract constitutes the legal backbone of modern mercantile transactions, commerce, and enterprise operations.

Essential Elements of a Valid Contract (Section 10): " A valid contract requires the simultaneous fulfillment of the following ten essential elements:

- **1. Plurality of Parties:** There must be at least two distinct legal entities—the promisor (offeror) and the promisee (offeree).
- **2. Offer and Acceptance (Consensus ad Idem):** There must be a lawful offer by one party and an absolute, unqualified acceptance by the other.
- **3. Intention to Create Legal Relations:** The parties must intend that legal consequences ensue upon default.
- **4. Lawful Consideration:** Section 2(d) defines consideration as quid pro quo (something in return).
- **5. Capacity of Parties (Section 11):** Parties must be legally competent: of the age of majority, of sound mind, and not disqualified by any law (such as alien enemies or undischarged insolvents).

Standard Form Contracts and Protective Judicial Devices: In modern mass commercial environments, contracts are rarely negotiated individually. Instead, large enterprises (railways, airlines, insurance companies, banks) utilize Standard Form Contracts (contracts of adhesion or boilerplate contracts) printed with fine-print exclusionary clauses.

- **Reasonable Notice:** The party relying on an exemption clause must demonstrate that reasonable notice of the terms was given to the other party at or before contract formation (Parker v.
- **Contra Proferentem Rule:** Ambiguities in an exemption clause are strictly construed against the party who drafted the instrument.
- **Doctrine of Fundamental Breach:** A party cannot rely on an exemption clause if they commit a breach that goes to the root of the contract (destroying the core purpose).
- **Unreasonable Terms:** Under Section 23 of the Indian Contract Act, unconscionable, oppressive, or grossly one-sided terms imposed by a party with superior bargaining power are contrary to public policy and void (Central Inland Water Transport Corp.

Proposal / Offer: Legal Rules and Distinctions: "

- **Legal Rules of a Valid Offer:** The offer must be capable of creating legal relations.
- Terms must be definite, unambiguous, and certain (Section 29).
- The offer must be communicated to the offeree (Section 4).
- The offer must be made with a view to obtaining assent, not merely expressing an intention.
- An offer cannot stipulate that silence amounts to acceptance (Felthouse v.

Capacity of Parties (Competency to Contract): "

- **Position of a Minor:** Under the Indian Majority Act, 1875, a minor is a person under 18 years of age.
- **No Ratification:** An agreement entered into during minority cannot be ratified after attaining majority, as a void agreement cannot be validated retrospectively.
- **Rule of Estoppel does not apply:** Section 115 of the Evidence Act does not operate against a minor; a minor can plead infancy even if they misrepresented their age.
- **Liability for Necessaries (Section 68):** A minor's estate (not the minor personally) is liable for reimbursement for necessaries supplied to the minor or their dependents suitable to their condition in life.
- **Persons of Unsound Mind (Section 12):** A person is of sound mind for contracting if, at the time of making it, they are capable of understanding it and forming a rational judgment as to its effect upon their interests.

Vices of Consent: Coercion, Undue Influence, Fraud, Misrepresentation, and Mistake: Consent is the voluntary alignment of wills between contracting parties. " True consent requires consensus ad idem.

Undue Influence (Section 16): A contract is induced by undue influence where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

- **Presumption of Domination (Section 16(2)):** , employer and employee, police officer and accused).
- , trustee and beneficiary, doctor and patient, lawyer and client, spiritual guru and devotee).
- They contract with a person whose mental capacity is temporarily or permanently affected by age, illness, or bodily distress.
- **Burden of Proof (Section 16(3)):** In unconscionable transactions between parties where one dominates the other, the burden of proving that the contract was not induced by undue influence lies upon the person in the dominating position.
- **Legal Effect (Section 19A):** The agreement is voidable at the option of the party whose consent was so caused, and the court may set it aside either absolutely or upon terms.

Mistake (Sections 20, 21, and 22): Mistake represents an erroneous belief concerning something. Contract law distinguishes between mistake of law and mistake of fact:

- **Mistake of Law (Section 21):** A contract is not voidable because it was caused by a mistake as to any law in force in India (Ignorantia juris non excusat).
- **Bilateral Mistake of Fact (Section 20):** Where both parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.
- **Unilateral Mistake of Fact (Section 22):** A contract is not voidable merely because it was caused by one of the parties being under a mistake as to a matter of fact.

Performance, Discharge of Contract, Breach, and Remedies for Breach: A contract creates a binding legal tie that remains alive until discharged. Discharge of a contract implies the termination of the contractual relationship between the parties, releasing them from their outstanding obligations.

Types of Breach of Contract: Breach of contract is classified according to timing:

- **Actual Breach:** Occurs when a party fails or refuses to perform on the due date of performance, or during the course of performance.

MODULE II

CONTRACTS OF INDEMNITY AND GUARANTEE

Contracts of Indemnity and Guarantee: In addition to general principles of contract law, the Indian Contract Act, 1872 governs specialized contractual relationships designed to allocate commercial risk, provide credit enhancement, and facilitate financial intermediation.

Contract of Guarantee (Section 126): " A guarantee is a tripartite agreement involving three parties and three distinct contracts:

- **The Three Parties:** Principal Debtor: The person in respect of whose default the guarantee is given.

- **Creditor:** The person to whom the guarantee is given (who extends credit, loans, or goods).
- **Surety (Guarantor):** The person who undertakes to pay or perform in the event of default by the principal debtor.
- **Tripartite Contractual Architecture:** Contract between Creditor and Principal Debtor (the primary underlying loan or obligation).
- Contract between Creditor and Surety (the secondary collateral promise to discharge liability upon debtor default).

Discharge of Surety from Liability: A surety is released and discharged from liability under three principal categories of events:

- **1. By Notice / Death:** Revocation of continuing guarantee under Sections 130 and 131.
- **2. By Conduct of Creditor:** Variance in Terms (Section 133): Any variance made without the surety's consent in the terms of the contract between the principal debtor and creditor discharges the surety as to transactions subsequent to the variance.
- Release or Discharge of Principal Debtor (Section 134): The surety is discharged by any contract between the creditor and principal debtor by which the debtor is released, or by any act or omission of the creditor resulting in the legal discharge of the debtor.
- Compounding, Giving Time, or Agreeing Not to Sue (Section 135): An unauthorized contract between creditor and debtor whereby the creditor promises to give time or not to sue discharges the surety, unless the surety assents.
- Impairing Surety's Eventual Remedy (Section 139): If the creditor does any act inconsistent with the rights of the surety, or omits to do any act which their duty requires them to do, and the eventual remedy of the surety against the debtor is thereby impaired, the surety is discharged.

Law of Bailment and Pledge: Bailment and pledge represent ubiquitous commercial transactions governing the temporary transfer of personal property without transfer of legal ownership.

Duties and Rights of Bailor and Bailee: The Act balances custodial obligations and property protections across both parties:

- **Duties of Bailee:** Duty of Reasonable Care (Sections 151 & 152): The bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would take of his own goods of the same bulk, quality, and value.
- **No Unauthorized Use (Section 154):** If the bailee uses goods in a manner inconsistent with contract conditions, they are liable to compensate the bailor for any damage, and the bailment becomes voidable at the option of the bailor (Section 153).
- **Duty Not to Mix Goods (Sections 155–157):** Bailee must keep goods separate.
- **Duty to Return Goods (Sections 160 & 161):** Bailee must return or deliver goods according to directions without demand upon accomplishment of purpose.
- , a calf born to a bailed cow).

Law of Agency: In complex commercial economies, business enterprises cannot conduct all transactions directly; they must act through representatives.

Rights and Duties of an Agent: The agency relationship is strictly fiduciary, establishing reciprocal legal rights and obligations:

- **Rights of Agent:** Right to retain Sum of s received on principal account for expenses and advances (Section 217); right to receive agreed remuneration (Section 219); right of lien on principal goods and papers (Section 221); right to be indemnified against consequences of lawful acts (Section 222); and right to compensation for injuries caused by principal neglect (Section 225).

Personal Liability of Agent and Termination of Agency: Under Section 230, in the absence of any contract to that effect, an agent cannot personally enforce contracts entered into on behalf of principal, nor is agent personally bound.

- **Termination of Agency (Section 201):** Agency terminates by: (1) Revocation by principal; (2) Renunciation by agent; (3) Completion of agency business; (4) Death or insanity of principal or agent; (5) Insolvency of principal; or (6) Expiry of fixed term.

Contract of Sale: Sale versus Agreement to Sell (Section 4): "

- **Sale (Absolute Sale):** The property (ownership) in the goods is transferred immediately from seller to buyer at the moment contract is made.
- **Agreement to Sell (Conditional Sale):** The transfer of ownership is deferred to a future date or subject to fulfillment of conditions.

Nemo Dat Quod Non Habet and Exceptions (Section 27): Section 27 establishes the bedrock principle: "Nemo dat quod non habet"—No one can transfer a better title than he himself possesses.

MODULE III

NATURE, CHARACTERISTICS, AND CLASSIFICATION OF COMPANIES

Nature, Characteristics, and Classification of Companies: The joint stock company is the preeminent organizational vehicle of modern capitalism, designed to aggregate massive capital, mobilize public savings, and insulate business enterprise from individual mortality.

The Doctrine of Lifting the Corporate Veil: The separate legal identity of a company acts as a protective shield or "veil" between the company and its members.

- **Judicial Grounds for Piercing the Veil:** Protection of Revenue / Tax Evasion: Where corporate creation is an artificial device to evade lawful tax liabilities (Sir Dinshaw Maneckjee Petit Case, 1927).
- **Prevention of Fraud or Improper Conduct:** Where a company is formed solely to evade existing legal or contractual obligations (Gilford Motor Co.
- **Determination of Enemy Character:** In wartime, to ascertain whether controllers of a company are alien enemies (Daimler Co.
- **Sham Company / Mere Agent:** Where the subsidiary is a mere facade or puppet devoid of independent business life.
- **Statutory Grounds Under Companies Act, 2013:** Misstatements in Prospectus (Sections 34 & 35).

Corporate Adjudication: The National Company Law Tribunal (NCLT): The 2013 Act established specialized quasi-judicial bodies to expedite corporate dispute resolution: the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) under Sections 408 and 410.

- **Minimum / Maximum Members:** Min: 2 • Max: 200 members; Min: 7 • Max: Unlimited; Min: 1 • Max: 1 member
- **Minimum Directors:** Minimum 2 directors; Minimum 3 directors; Minimum 1 director
- **Transferability of Shares:** Restricted by Articles (AOA); Freely transferable; N/A (Sole shareholder)
- **Public Fund Raising:** Strictly prohibited by statute; Allowed via public prospectus

Incorporation Procedure via SPICe+ Portal: Incorporation under the MCA21 digital ecosystem has been consolidated into the integrated SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus) web form:

- **Part A:** Name reservation (integrated with RUN - Reserve Unique Name).

- **Part B:** Comprehensive incorporation details, simultaneously applying for Director Identification Numbers (DIN), Permanent Account Number (PAN), Tax Deduction and Collection Account Number (TAN), EPFO/ESIC registrations, Professional Tax registration, GSTIN, and corporate bank accounts.
- **Certificate of Incorporation (Section 7(2)):** Upon verification, the Registrar of Companies (ROC) issues the Certificate of Incorporation containing the unique 21-digit alphanumeric Corporate Identity Number (CIN).

Articles of Association (AOA, Section 5) and Internal Governance: The Articles of Association contain internal regulations, rules, and by-laws governing internal management, share transfers, board proceedings, voting rights, and dividend distribution.

- **Doctrine of Constructive Notice:** The MOA and AOA are public documents once registered with the ROC.
- **Exceptions to Turquand's Rule:** (1) Knowledge of irregularity; (2) Forgery (forged signature creates total nullity, Ruben v.

Company Management: Directors and Key Managerial Personnel: Because a company is an artificial legal person devoid of physical mind and body, it must act through human agents.

Appointment, Disqualifications, and Removal of Directors

- **Director Identification Number (DIN, Section 152):** Every individual intending to be appointed as director must obtain a DIN from the Central Government.
- **Disqualifications (Section 164):** A person cannot be appointed director if: of unsound mind; undischarged insolvent; convicted of moral turpitude with ≥ 6 months imprisonment; disqualified by court order; or failure of company to file financial statements/annual returns for 3 consecutive financial years.
- **Vacation of Office (Section 167):** Office becomes vacant if director incurs disqualification under Sec 164, absents oneself from all board meetings held during a 12-month period, or fails to disclose interest in contracts under Sec 184.
- **Removal of Directors (Section 169):** A company may, by Ordinary Resolution after special notice, remove any director before the expiration of their term (except directors appointed by the Tribunal or under proportional representation).

Mandatory Committees of the Board: To reinforce institutional corporate governance, the Companies Act, 2013 mandates specialized board committees:

- **Audit Committee (Section 177):** Mandatory for listed companies and public companies with paid-up capital ≥ ₹10 crore, turnover ≥ ₹100 crore, or aggregate borrowings ≥ ₹50 crore.
- **Nomination and Remuneration Committee (NRC, Section 178):** Formulates criteria for determining qualifications, positive attributes, and independence of directors, recommending executive remuneration policies.
- **Stakeholders Relationship Committee (Section 178(5)):** Mandatory for companies with > 1,000 shareholders, debenture holders, or security holders to resolve grievances regarding transfer of shares, non-receipt of dividends, or annual reports.

Classification of Corporate Meetings: Company meetings are structured across three broad operational tiers:

- **Meetings of Members:** Annual General Meeting (AGM, Section 96): Mandatory annual assembly of shareholders.
- Extra-Ordinary General Meeting (EGM, Section 100): Special meetings convened between AGMs to address urgent matters.
- **Class Meetings:** Meetings of holders of a specific class of shares to vary class rights (Section 48).
- **Meetings of the Board of Directors:** Board Meetings (Section 173) and Committee Meetings (Audit Committee, Nomination and Remuneration Committee).
- **Meetings of Creditors and Debenture Holders:** Convened during debt restructuring, mergers, schemes of arrangement (Section 230), or winding up.

Corporate Resolutions: Ordinary, Special, and Board Resolutions: Corporate decisions are formalized through resolutions:

- **Ordinary Resolution (Section 114(1)):** Passed when votes cast in favor exceed votes cast against (simple majority >50%).
- **Special Resolution (Section 114(2)):** Passed when votes cast in favor are not less than three times votes cast against (super-majority ≥ 75%).
- **Resolutions Requiring Special Notice (Section 115):** , removing a director, appointing auditor other than retiring auditor).
- **Minutes of Proceedings (Section 118):** Fair and correct Sum of mary of proceedings recorded within 30 days of meeting in physical or electronic minute books signed by Chairman, serving as conclusive evidence of proceedings.

MODULE IV

THE CONSUMER PROTECTION ACT, 2019

The Consumer Protection Act, 2019: The consumer is the foundational economic pivot around which all mercantile activity revolves. However, unbridled commercial forces often expose consumers to unfair trade practices, unsafe products, deceptive advertisements, and predatory digital monopolies.

The Six Inviolable Consumer Rights: Section 2(9) codifies six fundamental consumer rights:

- **1. Right to Safety:** Protection against the marketing of goods, products, or services which are hazardous to life and property.
- **2. Right to be Informed:** Right to be informed about the quality, quantity, potency, purity, standard, and price of goods, products, or services, so as to protect against unfair trade practices.
- **3. Right to Choose:** Right to be assured access to a variety of goods, products, or services at competitive prices wherever possible.
- **4. Right to be Heard:** Right to be heard and assured that consumer interests will receive due consideration in appropriate forums.
- **5. Right to Seek Redressal:** Right to seek redressal against unfair trade practices, restrictive trade practices, or unscrupulous exploitation, claiming just compensation.

Consumer Protection (E-Commerce) Rules, 2020: To eliminate digital marketplace abuse, the Central Government notified the Consumer Protection (E-Commerce) Rules, 2020, governing marketplace and inventory e-commerce entities:

- **Mandatory Information Disclosures:** E-commerce platforms must prominently display the legal name of the seller, geographical address, customer care numbers, country of origin of goods, and total price breakdown (including all fees and taxes).
- **Grievance Redressal Mechanism:** Platforms must appoint a dedicated Grievance Officer, acknowledge receipt of any consumer complaint within 48 hours, and redress the grievance within one month of receipt.
- **Prohibition of Unfair Manipulations:** E-commerce entities are prohibited from manipulating search rankings to favor affiliated sellers, adopting deceptive pricing algorithms, or conducting manipulative flash sales that restrict consumer choice.

Objectives and Extra-Territorial Jurisdiction: The IT Act provides legal recognition for electronic transactions, facilitates electronic governance, accepts digital filings in government registries, and amends the Indian Penal Code, Indian Evidence Act, and Banker's Books Evidence Act.

Cyber Offenses and Penal Sanctions: Chapter XI of the IT Act penalizes computer-related malfeasance:

- **Section 43 (Civil Liability for System Damage):** Unauthorized access, data downloading, virus injection, denial of service (DoS), or system damage attracts liability to pay compensation to the affected victim (up to ₹5 crore adjudicated by the Adjudicating Officer).
- **Section 65 (Tampering with Computer Source Documents):** Knowingly altering or destroying source code attracts imprisonment up to 3 years or fine up to ₹2 lakh.
- **Section 66 & 66B (Hacking & Stolen Computer Resources):** Dishonestly or fraudulently committing any act referred to in Section 43 is punishable with imprisonment up to 3 years or fine up to ₹5 lakh.
- **Section 66C (Identity Theft):** Fraudulent use of another's electronic signature, password, or biometric code: imprisonment up to 3 years and fine up to ₹1 lakh.
- **Section 66D (Cheating by Personation):** Cheating by using a computer resource or digital profile: imprisonment up to 3 years and fine up to ₹1 lakh.

Intellectual Property Rights (IPR) Framework: In the modern knowledge-driven global economy, intangible intellectual assets constitute the primary source of competitive advantage and market capitalization.

The Copyright Act, 1957 (Amended 2012): Copyright protects original expression of ideas, not ideas themselves (the Idea-Expression Dichotomy). Subsists in original literary, dramatic, musical, and artistic works, cinematograph films, and sound recordings.

- **Economic Rights:** Right to reproduce, issue copies, perform in public, make translations, or adapt the work.
- **Moral Rights (Special Rights of Author, Section 57):** Inalienable rights that survive even after total economic assignment: Paternity Right: Right to claim authorship of the work.
- **Integrity Right:** Right to restrain or claim damages for any distortion, mutilation, or modification prejudicial to author honor or reputation.
- **Term of Copyright:** For literary, dramatic, musical, and artistic works: lifetime of the author plus 60 years from the beginning of the calendar year following the year of author death.
- **Doctrine of Fair Dealing (Section 52):** Statutory exceptions permitting unauthorized reproduction without infringement: private research, criticism or review, reporting current events, educational teaching, and judicial proceedings.

Trade Secrets, Confidential Information, and Plant Varieties: Complementing statutory IPR registrations, proprietary commercial knowledge is protected through common law and specialized statutes:

- **Semiconductor Integrated Circuits Layout-Design Act, 2000:** Protects original layout designs and microchip topologies for an intellectual property term of 10 years.
- **Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPV&FR):** Balances corporate plant breeders' rights with statutory recognition of traditional farmers' rights to save, use, sow, resow, and exchange farm seeds.
- **Patent:** Patents Act, 1970 (2005); Technological inventions (product/process); 20 years from application date; Novelty, inventive step, utility
- **Trademark:** Trade Marks Act, 1999; Brand names, logos, symbols, shapes, sounds; 10 years (renewable indefinitely); Distinctiveness; non-deceptive

The Insolvency and Bankruptcy Code (IBC), 2016: Structural Architecture: 3 years. The Insolvency and Bankruptcy Code, 2016 (Act No.

- Consolidating and amending insolvency laws relating to corporate persons, partnership firms, and individuals.
- Time-bound resolution of corporate distress.
- Maximization of value of corporate assets.
- Promoting entrepreneurship and credit availability.
- Balancing interests of all stakeholders, altering priority order of government dues.

Corporate Insolvency Resolution Process (CIRP) Operations: The CIRP is the central statutory engine of the IBC:

- **Initiation of CIRP:** Can be triggered upon a default of at least ₹1 crore (raised from ₹1 lakh to protect MSMEs): Financial Creditors (Section 7): Entities whose financial debt has been defaulted (banks, financial institutions, home buyers).
- **Operational Creditors (Section 9):** Suppliers of goods, service providers, and employees.
- **Corporate Debtor (Section 10):** Voluntary filing by distressed company itself.
- **Moratorium (Section 14):** Upon NCLT admission, an immediate statutory "calm period" (moratorium) is declared, prohibiting the institution or continuation of suits, recovery actions, foreclosure of security interests, or transfer of debtor assets.
- **Creditor-in-Control & Committee of Creditors (CoC):** Board of Directors is suspended; management vests in the Resolution Professional.

DegreeLive