Unit 1 Indian Contract Act 1872

Definition, Concept and kinds of contract

The Indian Contract Act 1872

Meaning of Contract

As per Section 2 (h) of the Indian Contract Act – An Agreement is that which is enforceable by the law. An agreement accordingly is an assertion of the object of which is to make a legitimate commitment i.e. an obligation enforceable by law

A proposition when acknowledged turns into a guarantee. An agreement, accordingly, starts to be just when one gathering makes a proposition or offer to the next gathering and that gathering means his consent (i.e. gives his acknowledgement). In short, an understanding is the aggregate of offer and acknowledgement both the gatherings to an agreement must concur about the topic of the understanding in the same sense and in the meantime.

All Contracts are agreements, but all agreements are not contracts.

A contract is an agreement between two or more parties to perform a service, provide a product or commit to an act and is enforceable by law. There are several types of contracts, and each have specific terms and conditions.

Vital Elements of a Valid Contract

1. Offer and Acceptance: - With a specific end goal to make a legitimate contract, there must be a 'legal offer' by one gathering and 'legal acknowledgment' of the same by the other party.

Example: – John offers to purchase a house from the builder (Estate organization) and manufacturer acknowledges it.

2. Aim to Create Legal Relationship: - In the event that, there is no such plan from gatherings, there is no agreement. Understandings of social or local nature don't ponder legitimate relations.

Case: – Balfour versus Balfour (1919)

3. Lawful Consideration: -Consideration has been characterized in different ways. As indicated by Blackstone, ”Consideration is a reward given by the gathering contracting to another.” as it were of Pollock, “Consideration is the cost for which the guarantee of the another is brought.”

Example: - John is purchasing a house by giving Rs 10,00,00 to the manufacturer.

4. Capacity of the parties: - The gatherings to an understanding must be capable to contract. In the event, that both gatherings do not have the ability to get, the agreement is not substantial.

Agreeing the accompanying persons is clumsy to contract.

(a). Minors,

(b). Persons of unsound personality, and

(c). Persons precluded by law to which they are subject.

Example:- Anita is equipped for paying to the manufacturer while the developer has the position of the house prepared to give.

5. Free Consent:-“Consent” implies the gatherings probably settled upon the same thing in the same sense. As per Section 14, Consent is said to be free when it is not created by-

(1). Coercion,

(2). Undue impact

(3). Fraud

(4). Mis-representation

(5). Mistake.

Example:- John is purchasing the house due to the deceptive notice by the manufacturer of having ocean confronting flats yet just by paying higher rate was not unveiled.

6. Legal Object:-The object of understanding must be legitimate. Item has nothing to do with thought. It implies the reason or configuration of the agreement. Accordingly, when one contracts a house for utilization as a betting house, the object of the agreement is to run a betting house.

The Object is said to be unlawful if-

(a). It is illegal by law;

(b). It is of such nature that if allowed it would crush the procurement of any law;

(c). It is deceitful;

(d). It includes a damage to the individual or property of whatever other;

(e). The court views it as corrupt or contradicted to open strategy.

7. Certainty of Meaning:- As indicated in Section 29," Agreement the importance of which is not Certain or fit for being made sure are void."

8. Probability of Performance:- On the off chance that the demonstration is inconceivable in itself, physically or legitimately if can't be upheld at law.

Example – Builder guarantees to have John an additional sq feet space for their home that is not lawfully enlisted then it is unrealistic.

9. Not Declared to be void or Illegal:-The assertion however fulfilling all the conditions of a legitimate contract should not have been explicitly pronounced void by any law in power in the nation. Understandings specified in Section 24 to 30 of the Act have been explicitly pronounced to be void

Example:- assertions in limitation of exchange, marriage, legitimate procedures and so forth.

10. Lawful Formalities:- An oral Contract is a splendidly legitimate contract, expect in those situations where some statute needs composing, enrollment and so forth. In India wrote work is needed in instances of the offer, home loan, rent and endowment of unfaltering property, debatable instruments; notice and articles of the relationship of an organization, and so on. Enrollment is needed in instances of archives coming extremely close to area 17 of the Registration Act.

All the components specified above must be keeping in mind the end goal to make a substantial contract. In the event, that any of them is missing the understanding does not turn into an agreement.

Types of Contract

→ From the perspective of Legality

Valid Contract: any agreement that is sponsored by all the key components of an agreement is thought to be substantial. Example– A offers B to offer his home for Rs 3 Lakhs. B consents to purchase the house at this cost. It is a substantial contract.

Voidable contract: such sort of agreement are those which can be broken if one of the gatherings needs to the end the agreement. In the event that one of the gatherings feels that the certainties of the agreement were distorted, or there was any misstep, or the agreement was entered by misrepresentation, pressure or undue impact then he can request that end the agreement. However till the time the agreement is not renounced it is still legitimate. Example:- Contract with a minor to work can be Voidable.

Void Contracts or Agreements: Section 2(i) states that any agreement that is not enforceable by both the gatherings is void. For instance, an agreement with a minor is void. Illegal Agreement: this sort of agreement is that where the gathering gets something that is not allowed by law. The thought is illicit for this situation. The certainties of the agreement don't stand the procurements of the law. In the event that the agreement hurts anybody, is a misrepresentation or improper then it is an unlawful contract. Example:-An agreement to confer dacoity is an unlawful contract.

Unenforceable contract: such sort of agreement can be gone into because there are a few actualities or customs missing like composing, enlistment, and so forth it is neither void nor voidable. Example:- When the promissory note is under – stamped, the assertion in that gets to be unenforceable due to that specialized deformity.

From the perspective of execution

Executed Contract: this sort of agreement is that where all the legitimate customs have been done, and nothing is cleared out. Example:- An individual contracts with Builder to purchase a house for Rs 1,000,000. Individual paid Rs. 1,000,000 to Builder. Developer executed the deal deed and conveyed its ownership.

Executory Contract: this is the sort of agreement which has not finished yet. There are sure customs which are cleared out. Example:- X offers his auto to Y for Rs. 1,00,000. Y acknowledges X's offer. On the off chance, that X has not yet conveyed the auto and Y has not yet paid the cost, it is an executory contract.

Unilateral Contract: this is an agreement where one gathering is left to perform, and the other party has finished his customs. Example: -Amit takes a coolie to put his gear to a carriage. The agreement starts to be when the coolie puts the baggage. So Amina has just to satisfy his part.

Bilateral Contract: this is an agreement where both the gatherings need to perform, and they have not yet done anything. This is in a manner like the executory contract. Example:- Tata goes into contract with Chorus where Tata will pay melody for the acquisition of assets

2. Offer and Acceptance

Offer 2(a): When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal.

An "offer" is the starting point in the process of making an agreement. Every agreement begins with one party making an offer to sell something or to provide a service, etc. When one person who desires to create a legal obligation, communicates to another his willingness to do or not to do a thing, with a view to obtaining the consent of that other person towards such an act or abstinence, the person is said to be making a proposal or offer.

Acceptance 2(b): When the person to whom the proposal is made, signifies his assent there to, the proposal is said to be accepted.

An agreement emerges from the acceptance of the offer. "Acceptance" is thus, the second stage of completing a contract. An acceptance is the act of manifestation by the offeree of his assent to the terms of the offer. It signifies the offeree's willingness to be bound by the terms of the proposal communicated to him. To be valid an acceptance must correspond exactly with the terms of the offer, it must be unconditional and absolute and it must be communicated to the offeror.

3. Capacity of parties

Capacity to Contract

According to Section 11, "Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind and is not disqualified from contracting by any law to which he is subject."

So, we have three main aspects:

1. Attaining the age of majority
2. Being of sound mind
3. Not disqualified from entering into a contract by any law that he is subject to

4. Consideration.

Mutual and lawful consideration for agreement, it should be enforceable by law. Hence, intention should be to create legal relationship. Agreements of social or domestic nature are not contracts, Parties should be competent to contract, and contract should not have been declared as void under Contract Act or any other law is also important elements of a valid contract. The contract becomes Void if any of these elements are not fulfilled.

According to Section 2(d), Consideration is defined as: "When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing something, such act or abstinence or promise is called consideration for the promise". Consideration means 'something in return'.

An agreement must be supported by a lawful consideration on both sides

5. Consent and free consent.

According to Section 13, " two or more persons are said to be in consent when they agree upon the same thing in the same sense (Consensus-ad-idem). According to Section 14,

Elements Vitiating free Consent

1. Coercion (Section 15): "Coercion" is the committing, or threatening to commit, any act forbidden by the Indian Penal Code under(45,1860), or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement. For example, "A" threatens to shoot "B"if he doesn't release him from a debt which he owes to "B". "B" releases "A" under threat. Since the release has been brought about by coercion, such release is not valid.

2. Undue influence (Section 16): "Where a person who is in a position to dominate the will of another enters into a contract with him and the transaction appears on the face of it, or on the evidence, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in the position to dominate the will of the other."

(Section 16(2)) States that "A person is deemed to be in a position to dominate the will of another;

Where he holds a real or apparent authority over the other. For example, an employer may be deemed to be having authority over his employee. an income tax authority over to the assessee.

Where he stands in a fiduciary relationship to other, For example, the relationship of Solicitor with his client, spiritual advisor and devotee.

Where he makes a contract with a person whose mental capacity is temporarily or permanently affected by the reason of age, illness or mental or bodily distress"

3. Fraud (Section 17): "Fraud" means and includes any act or concealment of material fact or misrepresentation made knowingly by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto of his agent, or to induce him to enter into the contract. Mere silence is not fraud. a contracting party is not obliged to disclose each and everything to the other party. There are two exceptions where even mere silence may be fraud, one is where there is a duty to speak, then keeping silence is fraud. or when silence is in itself equivalent to speech, such silence is fraud.

4. Misrepresentation (Section 18): " causing, however innocently, a party to an agreement to make a mistake as to the substance of the thing which is the subject of the agreement".

5. Mistake of fact (Section 20): "Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void". A party cannot be allowed to get any relief on the ground that he had done some particular act in ignorance of law. Mistake may be bilateral mistake where both parties to an agreement are under mistake as to the matter of fact.The mistake must relate to a matter of fact essential to the agreement.

7. Legality of object and consideration.

No polluted hand shall touch the pure fountains of justice."

Section 23 of the Indian Contract Act, 1872 ("Act"), specifies three issues, for example, consideration for the agreement, the object of the agreement and the agreement in essence. Section 23 makes a restriction on the freedom of an individual in connection to going into agreements and subjects the privileges of such individual to the overriding contemplations of public policy and the other provisions articulated under it. Section 23 additionally discovers its bearing from Section 264.

The word "Object" used in Section 23 indicates and signifies "purpose" and doesn't imply importance in a similar sense as "consideration". Therefore, despite the fact that the consideration of an agreement might be legal and genuine, that won't stop the agreement from being unlawful if the purpose (object) of the agreement is illicit. Section 23 limits the courts since the section isn't guided by the thought or motive, to the object of the exchange or transaction fundamentally and not to the reasons which lead to the equivalent.

Unit 2. Sale of Goods.(Sale of Goods Act,1930)

The Sale of Goods Act, 1930 herein referred to as the Act, is the law that governs the sale of goods in all parts of India. It doesn't apply to the state of Jammu & Kashmir. The Act defines various terms which are contained in the act itself. Let us see below:

I. Buyer And Seller

As per the sec 2(1) of the Act, a buyer is someone who buys or has agreed to buy goods. Since a sale constitutes a contract between two parties, a buyer is one of the parties to the contract.

The Act defines seller in sec 2(13). A seller is someone who sells or has agreed to sell goods. For a sales contract to come into existence, both the buyers and seller must be defined by the Act. These two terms represent the two parties of a sales contract.

A faint difference between the definition of buyer and seller established by the Act and the colloquial meaning of buyer and seller is that as per the act, even the person who agrees to buy or sell is qualified as a buyer or a seller. The actual transfer of goods doesn't have to take place for the identification of the two parties of a sales contract.

II. Goods

One of the most crucial terms to define is the goods that are to be included in the contract for sale. The Act defines the term "Goods" in its sec 2(7) as all types of movable property. The sec 2(7) of the Act goes as follows:

"Every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale will be considered goods"

As you can see, shares and stocks are also defined as goods by the Act. The term actionable claims mean those claims which are eligible to be enforced or initiated by a suit or legal action. This means that those claims where an action such as recovery by auction, suit, refunds etc. could be initiated to recover or realize the claim.

We say that goods are in a deliverable state when their condition is such that the buyer would, under the contract, be bound to take delivery of these goods. Goods may be further understood in the following subtypes:

1. Existing Goods

The goods that are referred to in the contract of sale are termed as existing goods if they are present (in existence) at the time of the contract. In sec 6 of the Act, the existing goods are those goods which are in the legal possession or are owned by the seller at the time of the formulation of the contract of sale. The existing goods are further of the following types:

A) Specific Goods

According to the sec 2(14) of the Act, these are those goods that are "identified and agreed upon" when the contract of sale is formed. For example, you want to sell your mobile phone online. You put an advertisement with its picture and information. A buyer agrees to the sale and a contract is formed. The mobile, in this case, is specific good.

B) Ascertained Goods:

This is a type not defined by the law but by the judicial interpretation. This term is used for specific goods which have been selected from a larger set of goods. For example, you have 500 apples. Out of these 500 apples, you decide to sell 200 apples. To sell these 200 apples, you will need to separate them from the 500 (larger set). Thus you specify 200 apples from a larger group of unspecified apples. These 200 apples are now the ascertained goods.

C) Unascertained Goods:

These are the goods that have not been specifically identified but have rather been left to be selected from a larger group. For example, from your 500 apples, you decide to sell 200 apples but you don't specify which ones you want to sell. A seller will have the liberty to choose any 200 apples from the lot. These are thus the unascertained goods.

2. Future Goods

In sec 2(6) of the Act, future goods have been defined as the goods that will either be manufactured or produced or acquired by the seller at the time the contract of sale is made. The contract for the sale of future goods will never have the actual sale in it, it will always be an agreement to sell.

For example, you have an apple orchard with apples in it. You agree to sell 1000 apples to a buyer after the apples ripe. This is a sale that has to occur in the future but the goods have been identified already and the agreement made. Such goods are known as future goods.

3. Contingent Goods

Contingent goods are actually a subtype of future goods in the sense that in contingent goods the actual sale is to be done in the future. These goods are part of a sale contract that has some contingency clause in it. For example, if you sell your apples from your orchard when the trees are yet to produce apples, the apples are a contingent good. This sale is dependent on the condition that the trees are able to produce apples, which may not happen.

III. Delivery

The delivery of goods signifies the voluntary transfer of possession from one person to another. The objective or the end result of any such process which results in the goods coming into the possession of the buyer is a delivery process. The delivery could occur even when the goods are transferred to a person other than the buyer but who is authorized to hold the goods on behalf of the buyer.

There are various forms of delivery as follows:

- ***Actual Delivery***: If the goods are physically given into the possession of the buyer, the delivery is an actual delivery.
- ***Constructive delivery***: The transfer of goods can be done even when the transfer is effected without a change in the possession or custody of the goods. For example, a case of the delivery by attornment or acknowledgment will be a constructive delivery. If you pick up a parcel on behalf of your friend and agree to hold on to it for him, it is a constructive delivery.
- ***Symbolic delivery***: This kind of delivery involves the delivery of a thing in token of a transfer of some other thing. For example, the key of the godowns with the goods in it, when handed over to the buyer will constitute a symbolic delivery.

IV. The Document of Title to Goods

From the Sec 2(4) of the act, we can say that this "includes the bill of lading, dock-warrant, warehouse keeper's certificate, railway receipt, multimodal transport document, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented."

V. Mercantile Agent [Section 2(9)]

Mercantile agent is someone who has authority in the customary course of business, either to sell or consign goods under the contract on behalf of the one or both of the parties. Examples include auctioneers, brokers, factors etc.

VI. Property [Section 2(11)]

In the Act, property means 'ownership' or the general property i.e. all ownership right of the goods. A sale constitutes the transfer of ownership of goods by the seller to the buyer or an agreement of the same.

VII. Insolvent [Section 2(8)]

The Act defines an insolvent person as someone who ceases to pay his debts in the ordinary course of business or cannot pay his debts as they become due, whether he has committed an act of insolvency or not.

VIII. Price [Section 2(10)]

In the Act, the price is defined as the money consideration for a sale of goods.

IX. Quality of Goods

In Sec 2(12) of the Act, the quality of goods is referred to as their state or condition.

Essentials

The five essential features of a contract of sale are as discussed below:

1) Two partied

2) Subject matter to be goods

3) Transfer of ownership of goods

4) Consideration is price.

5) Essential elements of a valid contract

1) ***Two parties:*** A sale has to be bilateral because the goods have to pass from one person to another. There must be a buyer – a person who buys or agrees to buy the goods and a seller – a person who sells or agrees to sell goods. The seller and the buyer must be different persons. A part owner can sell to another part owner. A partner may, therefore, sell to his firm or a firm may sell to a partner. But if joint owners distribute property among themselves as per mutual agreement, it is not 'sale'. A person cannot be the seller of his own goods as well as the buyers of them.

However, when a bankrupt person's goods are sold under an execution of decree, the person may buy back his own goods from his trustee.

2) ***Subject matter to be goods:*** The term 'goods' is defined in S*ection 2(7).* It states that 'goods' "means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale".

Money cannot be sold because money means legal tender and not the old coins which can be sold and purchased as goods. Actionable claims are things that a person cannot make use of, but which can be claimed by him by means of legal action such as a debt.

Sale of immovable property is not covered under this Act. As per *Section 3* of the Transfer of Property Act, 1882, 'immovable property' does not include standing timber, growing crops or grass. They are considered movable property and thus goods. Standing timber is taken as movable property while trees are immovable property.

Things like goodwill, copyright, trademark, patents, water, gas, electricity are all goods. In the case of *Commissioner of Sales Tax vs. Madhya Pradesh Electricity Board* [AIR 1970 SC 732], the Supreme Court observed – "…electricity…can be transmitted, transferred, delivered, stored, possessed, etc., in the same way as any other movable property…If there can be sale and purchase of electric energy like any other movable object, we see no difficulty in holding that electric energy was intended to be covered by the definition of "goods".

In the case of *H. Anraj vs. Government of Tamil Nadu* [AIR 1986 SC 63], it was held that lottery tickets are goods and not actionable claims. Thus, sale of lottery tickets is sale of goods. Sugarcane supplied to a sugar factory is goods within the meaning of *Section 2(7)* of the Act as held in the case of *UP Cooperative Cane Unions Federation vs. West UP Sugar Mills Assn.* [AIR 2004 SC 3697]

3) ***Transfer of ownership of Goods:*** There must be transfer of ownership or an agreement to transfer the ownership of goods from the seller to the buyer – not the transfer of mere possession or limited interest as in the case of pledge, lease or hire purchase agreement). If goods remain in possession of seller after sale transaction is over, the 'possession' is with seller, but 'ownership' is with buyer. The Act uses the term 'general property' implying that sale involves total ownership and not a specific right limited by conditions.

Delivery of goods refers to a voluntary transfer of possession of goods from one person to another. Delivery may be constructive or actual depending upon the circumstances of each case. A contract may provide for the immediate delivery of the goods or immediate payment of the price or both. Alternatively, the delivery or payment may be made by instalments or be postponed.

4) ***Consideration is Price:*** The consideration in a contract of sale has to be price i.e., money. If goods are offered as the consideration for goods, it will not amount to sale. It will be barter. If there is no consideration, it will be called gift. But where the goods are sold for definite sum and the price is paid partly in kind and partly in cash, the transaction is a sale.

Consideration is an essential for a valid contract as per the Indian Contract Act, 1872. It is the duty of a buyer who has received and appropriated the goods to pay a reasonable price. According to *Section 2(10)* 'price' means the money consideration for the sale of goods. If the price is not fixed, the contract is void *ab initio*.

Section 9 lays down how the price may be fixed in a contract of sale:

1. a) It can be fixed by the contract itself; or
2. b) It can be fixed in a manner provided by the contract, such as appointment of a valuer; or
3. c) It can be determined by the course of dealings between the parties; or
4. d) If the price is not capable of being fixed in any of the ways mentioned ways, the buyer is bound to pay reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. It is not necessary that reasonable price should be equal to the market price.

Section 10 makes it clear that if the third party appointed under the agreement to fix the price cannot or does not make such valuation, then the agreement to sell goods will become void. If the third party is prevented in his valuation due to the buyer or the seller, the party not at fault can file a suit for damages against the party in fault.

5) ***Essential elements of a valid contract:*** All the essentials of a valid contract must be present. viz., competent parties, free consent, legal object and so on. The transfer of possession and ownership under the Act has to be voluntary and not be tainted with fraud or duress.

Time: Any stipulation with respect to time is not deemed to be of essence to a contract of sale unless a different intention appears from the terms of the contract.

A contract of sale is a generic term and includes both an actual sale and an agreement to sell. *Section 4* provides that if the property in goods is transferred from the seller to the buyer

under a contract, the contract is called a sale. Where the transfer of the property in the goods will take place at a future time or is subject to some condition which has to be fulfilled, the contract is called an agreement to sell. Such an agreement to sell becomes a sale when the prescribed time lapses or the conditions are fulfilled.

Unit 3 The Companies Act, 1956

A company is a body corporate or an incorporated business organization registered under the companies act. It can be a limited or an unlimited company, private or a public company, company limited by guarantee or a company having a share capital, or a community interest company.

Meaning and Definition of Company:

Literary meaning of the word 'company' is an association of persons formed for common object. A company is a voluntary association of persons recognised by law, having a distinctive name and common seal, formed to carry on business for profit, with capital divisible into transferable shares, limited liability, a corporate body and perpetual succession.

Definition of Company:

The main definition of a company are given below:

1. According to Justice James, "A company is an association of persons united for a common object."

2. According to Lord Lindley, "By a 'company' is meant an association of many persons who contribute money or money's worth to a common stock and employ it for some common purpose. The common stock so contributed is denoted in money and is the capital of the company. The persons who contribute it or to whom it belongs are members. The proportion of capital to which each partner is entitled is his share."

3. According to Kimball and Kimball, "A corporation is by nature an artificial person created or authorised by the legal stature for some specific purpose."

4. According to Prof. Haney, "A company is an artificial person created by law having a separate entity with a perpetual succession and a common seal."

Characteristics of Company:

On the basis of definitions studied above, the following are the characteristics of a company:

1. An Artificial Person Created by Law:

A company is a creation of law, and is, sometimes called an artificial person. It does not take birth like natural person but comes into existence through law. But a company enjoys all the rights of a natural person. It has right to enter into contracts and own property. It can sue other and can be sued. But it is an artificial person, so it cannot take oath, cannot be presented in court and it cannot be divorced or married.

2. Separate Legal Entity:

A company is an artificial person and has a legal entity quite distinct from its members. Being separate legal entity, it bears its own name and acts under a corporate name; it has a seal of its own; its assets are separate and distinct from those of its members.

Its members are its owners but they can be its creditors simultaneously as it has separate legal entity. A shareholder cannot be held liable for the acts of the company even if he holds virtually the entire share capital. The shareholders are not agents of the company and so they cannot bind it by their acts.

3. Perpetual Succession:

The life of company is not related with the life of members. Law creates the company and dissolve it. The death, insolvency or transfer of shares of members does not, in any way, affect the existence of a company.

According to Tennyson-

"For men may come, men may go,

But I go on forever."

In the case of company it may be said that members may come and members may go but the company goes on. It is a legal person having come into being by law and only law can bring its end and none else.

4. Common Seal:

On incorporation a company becomes legal entity with perpetual succession and a common seal. The common seal of the company is of great importance. It acts as the official signature of the company. As the company has no physical form, it cannot sign its name on a contract. The name of the company must be engraved on the common seal. A document not bearing the common seal of the company is not authentic and has no legal importance.

5. Limited Liability:

The limited liability is another important feature of the company. If anything goes wrong with the company his risk is only to the extent of the amount of his shares and nothing more. If some amount is uncalled upon a share, he is liable to pay it and not beyond that.

The creditors of a company cannot get their claims satisfied beyond the assets of the company. The liability of members of a company 'limited by guarantee' is limited to the amount of guarantee.

6. Transferability of Shares:

A shareholder can transfer his shares to any person without the consent of other members. Under Articles of Association, a company can put certain restriction on the transfer of shares but it cannot altogether stop it. Private company can put more restrictions on the transferability of shares.

7. Limitation of Work:

The field of work of a company is fixed by its charter. The Memorandum of Association. A company cannot do anything beyond the powers defined in it. Its action is, therefore, limited. In order to do the work beyond the memorandum of association, there is a need for its alteration.

8. Voluntary Association for Profits:

A company is a voluntary association of persons to earn profits. It is formed for the accomplishment of some public good and whatsoever profit is divided among its shareholders. A company cannot be formed to carry on an activity against the public policy and having no profit motive.

9. Representative Management:

The shareholders of company are widely scattered. It is not possible for all the shareholders to take part in the management. They leave their task to the representatives the Board of Directors and the company is managed by Board of Directors.

10. Termination of Existence:

A company is created by law, carries on its affairs according to law and ultimately is affected by law. Generally, the existence of a company is terminated by means of winding up.

Kinds of Companies:

Companies may be classified into various kinds on the following basis:

On the basis of incorporation

2. On the basis of liability

3. On the basis of number of members

4. On the basis of control

5. On the basis of ownership.

1. On the Basis of Incorporation:

On the basis of incorporation companies may be classified into the following three categories:

(i) By Royal Charter-Chartered Companies:

A chartered company is created by the charter or special sanction granted by the Head of the State giving certain exclusive privileges, rights and powers to a distinct body of persons for undertaking commercial activities in specified geographical areas. These rights and privileges are to be enjoyed and the powers are to be used within the terms of the charter.

The British East India Company formed in England in 1600 and Dutch East India Company chartered in Holland in 1602 to trade with India and the East and Bank of England (1690) are the examples of such companies. Since the country attained independence these types of companies do not exist in India.

(ii) Statutory Company:

A statutory company is brought into existence under the Act passed by the legislature of the country or state. Powers, responsibilities, liabilities, objects, scope etc. of such a company are clearly defined under the provisions of the Act which brings it into existence.

Usually, such companies are established to run the enterprises of social or national importance. The Reserve Bank of India, the Industrial Finance Corporation of India, the Life Insurance Corporation of India are some of the examples of statutory companies in India.

(iii) Registered Companies:

A registered company is a company which is organised by getting it registered with the Registrar of Companies under the provisions of Companies Act of the country concerned. The formation, working and continuity of such a company are governed by relevant provisions of the Companies Act.

Most of the companies in the field of industry and commerce are registered companies. In India such companies are registered under the Indian Companies Act, 1956.

2. On the Basis of Liability:

On the basis of liability, company may be classified into:

(a) Limited liability companies.

(i) Companies limited by shares

(ii) Companies limited by guarantee

(b) Unlimited liability companies.

(a) Limited Liability Companies:

Where the liability of the members of a company is limited to the extent of the nominal value of shares held by them, such companies are known as Limited liability companies.

(i) Companies Limited by Shares:

Where the liability of the members of a company is limited by the Memorandum of Association to the amount unpaid on the shares, such a company is called company limited by shares. In case of winding up of the company the members cannot be asked to pay more than the amount unpaid on the shares held by them. A company limited by shares may be a public company or a private company.

(ii) Companies Limited by Guarantee:

Where the liability of the members of a company is limited by the Memorandum of Association to such an amount as the members undertake to contribute to the assets of the company in the event of its winding up.

Such type of companies are not formed for the purpose of profit but are formed for the promotion of art, science, sports, commerce and for cultural activities. Such companies may or may not have share capital. If it has a share capital, it may be a public company or a private company.

(b) Unlimited Liability Companies:

Where the liability of members is not limited, such companies are known as unlimited liability companies. Every member of such a company is liable for its debts in proportion to his interest in the company. Such a company can be converted into a limited liability company after passing a special resolution for conversion and applying to the Registrar of Companies for enrolling it as a limited company.

3. On the Basis of Number of Members:

On the basis of number of members, a company may be:

1. Private Company and

2. Public Company.

1. Private Company:

According to Sec. 3(1)(iii) of the Indian Companies Act, 1956, a private company is that company which by its articles of association:

(i) limits the number of its members to fifty, excluding employees who are members or ex-employees who were and continue to be members;

(ii) restricts the right of transfer of shares, if any;

(iii) Prohibits any invitation to the public to subscribe for any shares to debenture of the company.

Where two or more persons hold share jointly, they are treated as a single member.

According to Sec. 12 of the Companies Act, the minimum number of members to form a private company is two. A private company must use the word 'Pvt' after its name.

Characteristics or Features of a Private Company:

The main features of a private company are as follows:

(i) A private company restricts the right of transfer of its shares. The shares of a private company are not as freely transferable as those of public companies. The articles generally state that whenever a shareholder of a Private company wants to transfer his shares, he must first offer them to the existing members of the company. The price of the shares is determined by the directors. It is done so as to preserve the family nature of the company's shareholders.

(ii) It limits the number of its members to fifty excluding members who are employees or ex-employees who were and continue to be the members. Where two or more persons hold shares jointly they are treated as a single member. The minimum number of members to form a private company is two.

(iii) A private company cannot invite the public to subscribe for its shares or debentures. It has to make its own private arrangement to raise its capital or loans.

Advantages of Private Company:

A private company enjoys the following advantages over limited company.

1. A private company is easy to form than a public company. Only two members are sufficient to form a private company.

2. It can start its business immediately after incorporation. Certificate to commence business is not required to be obtained, which is compulsory for a public company.

3. It may pay remuneration to directors and managerial personnel or appoint any one to the office of profits without any restrictions.

4. As no outsiders are its shareholders it is not required to hold a statutory meeting or file a statutory report.

5. It may give loan to directors without obtaining consent or approval of the Central Government.

6. There is a greater flexibility in regard to the management and conduct of the business than in the public company.

7. The control and management is generally in the hands of capital owners, which is not the case with public company.

2. Public Company:

According to Section 3(1)(iv) of Indian Companies Act, 1956 A public company means a company which is not a private company.

If we explain the definition of Indian Companies Act, 1956 in regard to the public company, we note the following:

(i) The articles do not restrict the transfer of shares of the company.

(ii) It imposes no restriction on the maximum number of the members in the company.

(iii) It invites the general public to purchase the shares and debentures of the company.

4. On the Basis of Control:

On the basis of control, companies may be classified into two categories:

1. Holding company [Sec. 4(4)].

2. Subsidiary company [Sec. 4(1)].

1. Holding Company:

According to Section 4(4) of the Companies Act, 1956 "A company shall be deemed to be the holding company of another, if that other is its subsidiary."

2. Subsidiary Company:

A company is said to be a subsidiary of another if:

(i) The other company controls the composition of its Board of Directors.

(ii) The other company holds more than half in nominal value of its equity share capital.

(iii) It is a subsidiary of such a company which is itself subsidiary of any other company.

For example, if company B is the subsidiary of company A and company C is the subsidiary of company B then company C also becomes the subsidiary of company A. If company D is the subsidiary of company C, it also becomes subsidiary of Company B and A and so on.

5. On the Basis of Ownership:

On the basis of ownership, company may be a:

(i) Government company.

(ii) Non-government company.

1. Government Company:

According to section 617 of the Companies Act. 1956, Government company means, "any company in which not less than 51% of the paid-up share capital is held by the Central Government or by any State Government and includes a company which is a subsidiary of a Government Company." It may be a public company or a private company.

2. Non-Government Companies:

Non-Government company means a company which is not government company. The majority of companies in India belong to this category.

Foreign Company:

Foreign company means any company incorporated outside India but has established business in India.

These companies may be of the following two types:

(i) Companies incorporated outside India which established a place of business in India after the commencement of Indian Companies Act, 1956; and

(ii) Companies incorporated outside India which established a place of business in India before the commencement of this Act and continued to have such a place of business in India at the time of commencement of this Act.

After the establishment of business in India the following documents must be filed with the Registrar of Companies within 30 days from the date of establishment.

(i) A certified copy of Memorandum and Articles of the company translated into English.

(ii) The complete address of the Registered Office of the company.

(iii) A list of directors and secretary of the company.

(iv) The complete address of the place at which the company has constituted as its main office in India.

One-Man Company:

One-man company is that company where one man holds practically the whole of the share capital of the company and in order to meet the statutory requirement of minimum number of members, some dummy names are added. The dummy names which are added are mostly the relatives or friends of principal shareholder.

One-man company is a legal entity distinct from its members. The company in law is equal to a natural person and has a legal entity of its own. The shareholder, even if he holds all the share is not a company. Neither he nor any creditor of the company has any property, legal or equitable in the assets of the company.

Registration and Incorporation of a Company

The Companies Act, 2013 details the regulations and company registration papers essential for the incorporation of a company. In this article, we will understand all such rules and documents listed in the Act. To begin with, let's define the promoters of a company.

Promoters

Section 2(69) of the Companies Act, 2013, defines promoters as an individual who:-

Is named as a promoter in the prospectus or in the annual returns of the company.

Controls the affairs of a company, directly or indirectly.

Advises, directs, or instructs the Board of Directors.

Hence, we can say that promoters are people who originally come up with the idea of the company, form it and register it. However, solicitors, accountants, etc. who act in their professional capacity are NOT promoters of the company.

Formation of a Company

Section 3 of the Companies Act, 2013, details the basic requirements of forming a company as follows:

Formation of a public company involves 7 or more people who subscribe their names to the memorandum and register the company for any lawful purpose.

Similarly, 2 or more people can form a private company.

One person can form a One-person company.

Registration or Incorporation of a Company

Section 7 of the Companies Act, 2013, details the procedure for incorporation of a company. Here is the procedure:

Filing of company registration papers with the registrar

To incorporate a company, the subscriber has to file the following company registration papers with the registrar within whose jurisdiction the location of the registered office of the proposed company falls.

The Memorandum and Articles of the company. All subscribers have to sign on the memorandum.

The person who is engaged in the formation of the company has to give a declaration regarding compliance of all the requirements and rules of the Act. A person named in the Articles also has to sign the declaration.

Each subscriber to the Memorandum and individuals named as first directors in the Articles should submit an affidavit with the following details:

Declaration regarding non-conviction of any offence with respect to the formation, promotion, or management of any company.

He has not been found guilty of fraud or any breach of duty to any company in the last five years.

The documents filed with the registrar are complete and true to the best of his knowledge.

Address for correspondence until the registered office is set-up.

If the subscriber to the Memorandum is an individual, then he needs to provide his full name, residential address, and nationality along with a proof of identity. If the subscriber is a body corporate, then prescribed documents need to be provided.

Individuals mentioned as subscribers to the Memorandum in the Articles need to provide the details specified in the point above along with the Director Identification Number.

The individuals mentioned as first directors of the company in the Articles must provide particulars of interests in other firms or bodies corporate along with their consent to act as directors of the company as per the prescribed form and manner.

Issuing the Certificate of Incorporation

Once the Registrar receives the information and company registration papers, he registers all information and documents and issues a Certificate of Incorporation in the prescribed form.

Corporate Identity Number (CIN)

The Registrar also allocates a Corporate Identity Number (CIN) to the company which is a distinct identity for the company. The allotment of CIN is on and from the company's incorporation date. The certificate carries this date.

Maintaining copies of Company registration papers

The company must maintain copies of all information and documents until dissolution.

Furnishing false information at the time of incorporation

During the formation of a company, an individual can:

Furnish incorrect or false information

Suppress any material information in the documents provided to the Registrar for the incorporation, on purpose

In such cases, the individual is liable for action for fraud under section 447.

The company is already incorporated based on false information

If a company is already incorporated but it is found at a later date that the information or documents submitted were false or incorrect, then the promoters, first directors, and persons making a declaration is liable for action for fraud under section 447.

Order of the National Company Law Tribunal (NCLT)

If a company is incorporated by furnishing false or incorrect information or representation or suppressing material facts or information in the documents furnished, the Tribunal can pass the following orders (if an application is made and the Tribunal is satisfied with it):

Pass an order to regulate the management of the company. It can include changes in its Memorandum and Articles if required. This order is either in public interest or in the interest of the company and its members and creditors.

Make the liability of its members unlimited

Order removal of the name of the company from the Registrar of Companies

Order the company to wind-up

Pass any other order as it deems fit

Before passing an order, the Tribunal has to give the company a reasonable opportunity to state its case. Also, the Tribunal should consider the transactions of the company including obligations contracted or payment of any liability.

company registration papers

Effect of Registration of a Company

According to Section 9 of the Companies Act, 2013, these are the effects of registration of a company:

From the date of incorporation, the subscribers to the Memorandum and all subsequent members of the company are a body corporate.

A registered company can exercise all functions of a company incorporated under the Act. Also, the company has perpetual succession with power to acquire, hold, and dispose of property of all forms. Also, it can contract, sue and be sued by the said name.

Further, the company becomes a legal person separate from the incorporators from the date of incorporation. Also, a binding contract comes into existence between the company and its members as mentioned in the Memorandum and Articles of Association. Until the company dissolves or the Registrar removes it from the register, it has perpetual existence.

Memorandum of Association

Memorandum of Association is the most important document of a company. It states the objects for which the company is formed. It contains the rights, privileges and powers of the company. Hence it is called a charter of the company. It is treated as the constitution of the company. It determines the relationship between the company and the outsiders.

The whole business of the company is built up according to Memorandum of Association. A company cannot undertake any business or activity not stated in the Memorandum. It can exercise only those powers which are clearly stated in the Memorandum.

Definition of Memorandum of Association

"The memorandum of association of a company is the charter and defines the limitation of the power of the company established under the Act".

Thus, a Memorandum of Association is a document which sets out the constitution of the company. It clearly displays the company's relationship with outside world. It also defines the scope of its activities. MoA enables the shareholders, creditors and people who has dealing with the company in one form or another to know the range of activities.

Contents of Memorandum of Association

According to the Companies Act, the Memorandum of Association of a company must contain the following clauses:

1. Name Clause of Memorandum of Association

The name of the company should be stated in this clause. A company is free to select any name it likes. But the name should not be identical or similar to that of a company already registered. It should not also use words like King, Queen, Emperor, Government Bodies and names of World Bodies like U.N.O., W.H.O., World Bank etc. If it is a Public Limited Company, the name of the company should end with the word 'Limited' and if it is a Private Limited Company, the name should end with the words 'Private Limited'.

2. Situation Clause of Memorandum of Association

In this clause, the name of the State where the Company's registered office is located should be mentioned. Registered office means a place where the common seal, statutory books etc., of the company are kept.The company should intimate the location of registered office to the registrar within thirty days from the date of incorporation or commencement of business.

The registered office of a company can be shifted from one place to another within the town with a simple intimation to the Registrar. But in some situation, the company may want to shift its registered office to another town within the state. Under such circumstance, a special resolution should be passed. Whereas, to shift the registered office to other state, Memorandum should be altered accordingly.

3. Objects Clause of Memorandum of Association

This clause specifies the objects for which the company is formed. It is difficult to alter the objects clause later on. Hence, it is necessary that the promoters should draft this clause carefully. This clause mentions all possible types of business in which a company may engage in future.

The objects clause must contain the important objectives of the company and the other objectives not included above.

4. Liability Clause of Memorandum of Association

This clause states the liability of the members of the company. The liability may be limited by shares or by guarantee. This clause may be omitted in case of unlimited liability.

5. Capital Clause of Memorandum of Association

This clause mentions the maximum amount of capital that can be raised by the company. The division of capital into shares is also mentioned in this clause. The company cannot secure more capital than mentioned in this clause. If some special rights and privileges are conferred on any type of shareholders mention may also be made in this clause.

6. Subscription Clause of Memorandum of Association

It contains the names and addresses of the first subscribers. The subscribers to the Memorandum must take at least one share. The minimum number of members is two in case of a private company and seven in case of a public company.

Thus the Memorandum of Association of the company is the most important document. It is the foundation of the company.

Doctrine of Ultra Vires

A Memorandum of Association of a company is a basic charter of the company. It is a binding document which describes the scope of the company among other things. If a company departs from its MOA such an act is ultra vires. Let us further understand the Doctrine of Ultra Vires.

The Doctrine of Ultra Vires is a fundamental rule of Company Law. It states that the objects of a company, as specified in its Memorandum of Association, can be departed from only to the extent permitted by the Act. Hence, if the company does an act, or enters into a contract beyond the powers of the directors and/or the company itself, then the said act/contract is void and not legally binding on the company.

The term Ultra Vires means 'Beyond Powers'. In legal terms, it is applicable only to the acts performed in excess of the legal powers of the doer. This works on an assumption that the powers are limited in nature. Since the Doctrine of Ultra Vires limits the company to the objects specified in the memorandum, the company can be:

Restrained from using its funds for purposes other than those specified in the Memorandum

Restrained from carrying on trade different from the one authorized.

The company cannot sue on an ultra vires transaction. Further, it cannot be sued too. If a company supplies goods or offers service or lends money on an ultra vires contract, then it cannot obtain payment or recover the loan.

However, if a lender loans money to a company which has not been extended yet, then he can stop the company from parting with it via an injunction. The lender has this right because the company does not become the owner of the money as it is ultra vires to the company and the lender remains the owner.

Further, if the company borrows money in an ultra vires transaction to repay a legal loan, then the lender is entitled to recover his loan from the company.

Sometimes an act which is ultra vires can be regularized by the shareholders of the company. For example,

If an act is ultra vires the power of directors, then the shareholders can ratify it.

If an act is ultra vires the Articles of the company, then the company can alter the Articles.

1. An act, legal in itself, but not authorized by the object clause of the Memorandum of Association of a company or statute, is Ultra Vires the company. Hence, it is null and void.
2. An act ultra vires the company cannot be ratified even by the unanimous consent of all shareholders.
3. If an act is ultra vires the directors of a company, but intra vires the company itself, then the members of the company can pass a resolution to ratify it.

4. If an act is Ultra Vires the Articles of Association of a company, then the same can be ratified by a special resolution at a general meeting.

Article Of Association- Its contents and alteration

Understanding Articles of Association

Articles of Association is an important document of a Joint Stock Company. It contains the rules and regulations or bye-laws of the company. They are related to the internal working or management of the company. It plays a very important role in the affairs of a company. It deals with the rights of the members of the company between themselves.

The contents of articles of association should not contradict with the Companies Act and the MoA. If the document contains anything contrary to the Companies Act or the Memorandum of Association, it will be inoperative. The pvt concern that are limited by shares and those limited by guarantee and unlimited companies must have their articles of association. Public companies may not have their articles but may adopt Model articles given in Table A of Schedule I of Companies Act, 1956. If a public company has only some articles of its own, for the rest, articles of Table A will be applicable.

Articles that are profound to be registered should be printed, segmented well and sequenced consecutively. Each subscriber to Memorandum of Association must sign the articles in the presence of at least one witness.

Contents of Articles of Association

The articles generally deal with the following

1. Classes of shares, their values and the rights attached to each of them.

2. Calls on shares, transfer of shares, forfeiture, conversion of shares and alteration of capital.

3. Directors, their appointment, powers, duties etc.

4. Meetings and minutes, notices etc.

5. Accounts and Audit

6. Appointment of and remuneration to Auditors.

7. Voting, poll, proxy etc.

8. Dividends and Reserves

9. Procedure for winding up.

10. Borrowing powers of Board of Directors and managers etc.

11. Minimum subscription.

12. Rules regarding use and custody of common seal.

13. Rules and regulations regarding conversion of fully paid shares into stock.

14. Lien on shares.

Alteration of Articles of Association

The alteration of the Articles should not sanction anything illegal. They should be for the benefit of the company. They should not lead to breach of contract with the third parties. The following are the regulations regarding alteration of articles:

A company may alter its Articles with a special resolution. Due importance and care should be given to ensure that the alteration of AoA does not conflict with the provisions of the Memorandum of Association or the Companies Act. A copy of every special resolution altering the Articles must be filed with the Registrar within 30 days of its passing.

1. The proposed alteration should not contravene the provisions of the Companies Act.

2. The proposed alteration should not contravene the provisions of the Memorandum of Association.

3. The alteration should not propose anything that is illegal.

4. The alteration should be bonafide for the benefit of the company.

5. The proposed alteration should in no way increase the liability of existing members.

6. Alteration can be made only by a special resolution.

7. Alteration can be done with retrospective effect.

8. The Court does not have any power to order alteration of the Articles of Association

Key Differences Between Memorandum of Association and Articles of Association

The major differences between memorandum of association and articles of association are given as under:

1. Memorandum of Association is a document that contains all the condition which are required for the registration of the company. Articles of Association is a document that contains the rules and regulation for the administration of the company.
2. Memorandum of Association is defined in section 2 (56) while the Articles of Association is defined in section 2 (5) of the Indian Companies Act 1956.
3. Memorandum of Association is subsidiary to the Companies Act, whereas Articles of Association is subsidiary to both Memorandum of Association as well as the Act.
4. In any contradiction between the Memorandum and Articles regarding any clause, Memorandum of Association will prevail over the Articles of Association.
5. Memorandum of Association contains the information about the powers and objects of the company. Conversely, Articles of Association contain the information about the rules and regulations of the company.
6. Memorandum of Association must contain the six clauses. On the other hand, Articles of Association is framed as per the discretion of the company.
7. Memorandum of Association is obligatory to be registered with the ROC at the time of registration of Company. As opposed to Articles of Association, is not required to be filed with the registrar, although the company may file it voluntarily.

8. Memorandum of association defines the relationship between company and external party. On the contrary, articles of association govern the relationship between the company and its members and also between the members themselves.

9. When it comes to scope, the acts performed beyond the scope of memorandum are absolutely null and void. In contrast, the acts done beyond the scope of artciles can be ratified by unanimous voting of all shareholders.

Doctrine of Indoor Management

The doctrine helps protect external members from the company. And indeed, states that it entitles the people to presume that internal proceedings are as per documents with the Registrar of Companies.

The doctrine of indoor management evolved around 150 years ago in the context of the doctrine of constructive notice. Moreover, the role of the doctrine of indoor management as opposed to the role of the doctrine of constructive notice. Whereas the doctrine of constructive notice protects a company against outsiders. The doctrine of indoor management protects outsiders against the actions of a company. This doctrine also is a possible safeguard against the possibility of abusing the doctrine of constructive notice.

Here, therefore, we have seen what is the doctrine of indoor management and its exceptions. Now let's see the basis for a doctrine of indoor management.

Basis for Doctrine of Indoor Management

1. What happens internally to a company is not a matter of public knowledge. An outsider can only presume the intentions of a company, but not know the information he/she is not privy to.

2. If not for the doctrine, the company could escape creditors by denying the authority of officials to act on its behalf.

In case this 'outsider' has actual knowledge of irregularity within the company, the benefit under the rule of indoor management would no longer be available. In fact, he/she considers to be a part of the irregularity.

Negligence:

If with a minimum of effort, the irregularities within a company could be discovered, the benefit of the rule of indoor management would not apply. The protection of the rule is also not available where the circumstances surrounding the contract are so suspicious as to invite inquiry. And the outsider dealing with the company does not make proper inquiry.

Forgery:

The rule does not apply where a person relies upon a document that turns out to be forged since nothing can validate forgery. However, a company can never be held bound for forgeries committed by its officers.

Prospectus:

Section 2(70) of the Companies Act, 2013 defines a prospectus as ""A prospectus means Any documents described or issued as a prospectus and includes any notices, circular, advertisement, or other documents inviting deposit fro the public or documents inviting offer from the public for the subscription of shares or debentures in a company." A prospectus also includes shelf prospectus and red herring prospectus. A prospectus is not merely an advertisement.

A document shall be called a prospectus if it satisfy two things:

1. It invites subscription to shares or debentures or invites deposits.

2. The aforesaid invitation is made to the public.

Contents of a prospectus:

1. Address of the registered office of the company.

2. Name and address of company secretary, auditors, bankers, underwriters etc.

3. Dates of the opening and closing of the issue.

4. Declaration about the issue of allotment letters and refunds within the prescribed time.

5. A statement by the board of directors about the separate bank account where all monies received out of shares issued are to be transferred.

6. Details about underwriting of the issue.

7. Consent of directors, auditors, bankers to the issue, expert's opinion if any.

8. The authority for the issue and the details of the resolution passed therefore.

9. Procedure and time schedule for allotment and issue of securities.

10. Capital structure of the company.

11. Main objects and present business of the company and its location.

12. Main object of public offer and terms of the present issue.

13. Minimum subscription, amount payable by way of premium, issue of shares otherwise than on cash.

14. Details of directors including their appointment and remuneration.

15. Disclosure about sources of promoter's contribution.

16. Particulars relation to management perception of risk factors specific to the project, gestation period of the project, extent of progress made in the project and deadlines for completion of the project.

Various Categories of Prospectus

1. Statement in lieu of Prospectus: A public company, which does not raise its capital by public issue, need not issue a prospectus. In such a case a statement in lieu of prospectus must be filed with the Registrar 3 days before the allotment of shares or debentures is made. It should be dated and signed by each director or proposed director and should contain the same particulars as are required in case of prospectus proper.

2. Deemed Prospectus: Section 25 of the companies Act, 2013 provides that all documents containing offer of shares or debentures for sale shall be included within the definition of the term prospectus and shall be deemed as prospectus by implication of law.

Unless the contrary is proved an allotment of or an agreement to allot shares or debentures shall be deemed to have been made with a view to the shares or debentures being offered for sale to the public if it is shown

a. That the offer of the shares or debentures of or any of them for sale to the public was made within 6 month after the allotment or agreement to allot; or

b. That at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been received by it.

All enactments and rules of law as to the contents of prospectus shall apply to deemed prospectus.

3. Abridged Prospectus [Sec. 2(1)]: Abridged prospectus means a memorandum containing such salient features of a prospectus as may be specified by the SEBI by making regulations in this behalf. No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus. A copy of the prospectus shall, on a request being made by any person before the closing of the subscription list and the offer, be furnished to him.

Legal requirement regarding issue of prospectus: (Sec. 26 of the Companies Act, 2013)

The Companies Act has defined some legal requirements about the issue and registration of a prospectus. The issue of the prospectus would be deemed to be legal only if the requirements are met.

1. Issue after the incorporation: As a rule, the prospectus of a company can only be issued after its incorporation. A prospectus issued by, or on behalf of a company, or in relation to an intended company, shall be dated, and that date shall be taken as the date of publication of the prospectus.

2. Registration of prospectus: it is mandatory to get the prospectus registered with the Registrar of Companies before it is issued to the public. The procedure of getting the prospectus registered is as under:

A. A copy of the prospectus, duly signed by every person who is named therein as a director or a proposed director of the company must be filed with Registrar of Companies before the prospectus is issued to the public.

B. The following document must be attached thereto:

i) Consent to the issue of the prospectus required under any person as an expert confirming his written consent to the issue thereof, and that he has not withdrawn his consent as aforesaid appears in the prospectus.

ii) Copies of all contracts entered into with respect to the appointment of the managing director, directors and other officers of the company must also be filed with Registrar.

iii) If the auditor or accountant of the company has made any adjustments in the company's account, the said adjustments and the reasons thereof must be filed with the documents.

iv) There must be a copy of the application which is to be filled for the issue of the company's shares and debentures attached with the prospectus.

v) The prospectus must have the written consent of all the persons who have been named as auditors, solicitors, bankers, brokers, etc.

C. Every prospectus must have, on the face of it, a statement that:

i) A copy of the prospectus has been delivered to the Registrar for registration.

ii) Specifies that any documents required to be endorsed by this section have been delivered to the Registrar.

D. A copy of the prospectus must be filed with the Registrar of Companies.

E. According to the Section 26, no prospectus shall be issued more than ninety days after the date on which a copy thereof is delivered for registration.

If a prospectus issued in contravention of the above –stated provisions, then the company and every person who knows a party to the issue of the prospectus shall be punishable with a fine.

Misleading Prospectus or Mis-statement in prospectus:

A prospectus is said to be misleading or untrue in two following cases:

1. A statement included in a prospectus shall be deemed to be untrue, if the statement is misleading in the form and context in which it is included.

2. Omission from prospectus of any matter to mislead the investors.

CRIMINAL LIABILITY FOR MIS-STATEMENT IN PROSPECTUS (SECTION 34):

Where a prospectus, issued, circulated or distributed:

1. includes any statement which is untrue or misleading in form or context in which it is included; or

2. where any inclusion or omission of any matter is likely to mislead;

Every person who authorises the issue of such prospectus shall be liable under section 447 i.e. fraud.

Defences available in this section are:

1. Person prove that statement or omission was immaterial;

2. Person has reasonable ground to believe and did believe that statement was true; or

3. Person has reasonable ground to believe and did believe that the inclusion or omission was necessary.

CIVIL LIABILITY FOR MIS-STATEMENTS IN PROSPECTUS (SECTION 35):

Where a person has subscribed for securities of a company acting upon any misleading statement, inclusion or omission and has sustained any loss or damage as its consequence, the company and every person who:

1. is a director at the time of the issue of prospectus;

2. has named as director or as proposed director with his consent;

3. is a promoter of the company;

4. has authorised the issue of the prospectus; and

5. is an expert;

shall be liable to pay compensation to effected person. This civil liability shall be in addition to the criminal liability under section 36. Where it is proved that a prospectus has been issued with intent to defraud the applicants for the securities of a company or any other person or for any fraudulent purpose, every person shall be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by any person who subscribed to the securities on the basis of such prospectus.

Statement in lieu of Prospectus

If the promoters of a public company hope to get the subscription of capital from their own limited circle there is prospectus to the public. The promoters shall have to file 'a statement in lieu of prospectus.

According to section 53 of the company's ordinance. If a public company is not issuing a prospectus on its formation. It then must file a statement in lieu of Prospectus with the Registrar of the companies.

A statement in lieu of prospectus is defined as 'a public document prepared in the second schedule of companies ordinance by every such public company which does not issue a prospectus on its formation by filing with the registrar before allotment or shares of debentures, and signed by every person who is named therein'.

A statement in lieu of prospectus gives practically the same information as a prospectus and is signed by all the directors or proposed directors. In case the company has not filed a statement in lieu of prospectus with the registrar, it is then not allowed to allot any of its shares or debentures.

Unit 4. Information Technology Act, 2000

The Government of India enacted The Information Technology Act with some major objectives which are as follows –

- To deliver lawful recognition for transactions through electronic data interchange (EDI) and other means of electronic communication, commonly referred to as **electronic commerce** or E-Commerce. The aim was to use replacements of paper-based methods of communication and storage of information.
- To facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Bankers' Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.

The Information Technology Act, 2000, was thus passed as the Act No.21 of 2000. The I. T. Act got the President's assent on June 9, 2000 and it was made effective from October 17, 2000. By adopting this Cyber Legislation, India became the 12th nation in the world to adopt a Cyber Law regime

The Information Technology Act, 2000 (also known as ITA-2000, or the IT Act) is an Act of the Indian Parliament (No 21 of 2000) notified on 17 October 2000. It is the primary law in India dealing with cybercrime and electronic commerce.

The bill was passed in the budget session of 2000 and signed by President K. R. Narayanan on 9 May 2000. The bill was finalised by group of officials headed by then Minister of Information Technology Pramod Mahajan

It provides legal recognition for transactions that are carried out by means of electronic data interchange. Further, it defines cybercrimes and prescribes specific penalties for the same.

The original Act contained 94 sections, divided into 13 chapters and 4 schedules. The laws apply to the whole of India. If a crime involves a computer or network located in India, persons of other nationalities can also be indicted under the law

The Act provides a legal framework for electronic governance by giving recognition to electronic records and digital signatures. It also defines cyber crimes and prescribes penalties for them. The Act directed the formation of a Controller of Certifying Authorities to regulate the issuance of digital signatures. It also established a Cyber Appellate Tribunal to resolve disputes rising from this new law.[2] The Act also amended various sections of the Indian Penal Code, 1860, the Indian Evidence Act, 1872, the Banker's Book Evidence Act, 1891, and the Reserve Bank of India Act, 1934 to make them compliant with new technologies

Salient Features of I.T Act

The salient features of the I.T Act are as follows −

- Digital signature has been replaced with electronic signature to make it a more technology neutral act.
- It elaborates on offenses, penalties, and breaches.
- It outlines the Justice Dispensation Systems for cyber-crimes.
- It defines in a new section that *cyber café is any facility from where the access to the internet is offered by any person in the ordinary course of business to the members of the public*.
- It provides for the constitution of the Cyber Regulations Advisory Committee.
- It is based on The Indian Penal Code, 1860, The Indian Evidence Act, 1872, The Bankers' Books Evidence Act, 1891, The Reserve Bank of India Act, 1934, etc.
- It adds a provision to Section 81, which states that the provisions of the Act shall have overriding effect. The provision states that *nothing contained in the Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957*.

Scheme of I.T Act

The following points define the scheme of the I.T. Act −

- The I.T. Act contains 13 chapters and 90 sections.

- The last four sections namely sections 91 to 94 in the I.T. Act 2000 deals with the amendments to the Indian Penal Code 1860, The Indian Evidence Act 1872, The Bankers' Books Evidence Act 1891 and the Reserve Bank of India Act 1934 were deleted.
- It commences with Preliminary aspect in Chapter 1, which deals with the short, title, extent, commencement and application of the Act in Section 1. Section 2 provides Definition.
- Chapter 2 deals with the authentication of electronic records, digital signatures, electronic signatures, etc.
- Chapter 11 deals with offences and penalties. A series of offences have been provided along with punishment in this part of The Act.
- Thereafter the provisions about due diligence, role of intermediaries and some miscellaneous provisions are been stated.
- The Act is embedded with two schedules. The First Schedule deals with Documents or Transactions to which the Act shall not apply. The Second Schedule deals with electronic signature or electronic authentication technique and procedure. The Third and Fourth Schedule are omitted.

Digital Signature

Digital signatures mean the authentication of any electronic record using an electronic method or procedure in accordance with the provisions of the Information Technology Act, 2000. Also, a handwritten signature scanned and digitally attached with a document does not qualify as a Digital Signature.

A digital signature is a technique to validate the legitimacy of a digital message or a document. A valid digital signature provides the surety to the recipient that the message was generated by a known sender, such that the sender cannot deny having sent the message. Digital signatures are mostly used for software distribution, financial transactions, and in other cases where there is a risk of forgery.

Electronic Signature

An electronic signature or e-signature, indicates either that a person who demands to have created a message is the one who created it.

A signature can be defined as a schematic script related with a person. A signature on a document is a sign that the person accepts the purposes recorded in the document. In many engineering companies digital seals are also required for another layer of authentication and security. Digital seals and signatures are same as handwritten signatures and stamped seals.

Digital Signature to Electronic Signature

Digital Signature was the term defined in the old I.T. Act, 2000. **Electronic Signature** is the term defined by the amended act (I.T. Act, 2008). The concept of Electronic Signature is broader than Digital Signature. Section 3 of the Act delivers for the verification of Electronic Records by affixing Digital Signature.

As per the amendment, verification of electronic record by electronic signature or electronic authentication technique shall be considered reliable.

According to the **United Nations Commission on International Trade Law (UNCITRAL),** electronic authentication and signature methods may be classified into the following categories –

- Those based on the knowledge of the user or the recipient, i.e., passwords, personal identification numbers (PINs), etc.
- Those bases on the physical features of the user, i.e., biometrics.
- Those based on the possession of an object by the user, i.e., codes or other information stored on a magnetic card.
- Types of authentication and signature methods that, without falling under any of the above categories might also be used to indicate the originator of an electronic communication (Such as a facsimile of a handwritten signature, or a name typed at the bottom of an electronic message).

According to the UNCITRAL MODEL LAW on Electronic Signatures, the following technologies are presently in use –

- Digital Signature within a public key infrastructure (PKI)
- Biometric Device
- PINs
- Passwords
- Scanned handwritten signature
- Signature by Digital Pen
- Clickable "OK" or "I Accept" or "I Agree" click boxes

Types of electronic signature

Unsecured Signature

1. **Email Signature**: Just typing one's name at the end of an email or sending a message on letterhead. They can be easily forged.
2. **Web Signature:** Web-based clickwrap contracts create a lot of difficulties in E-Commerce. The acceptance is made by clicking a single button. Such a signature doesn't do anything about the identity of the sender.

Secured Signature

This includes the signatures which are digitally secured and also which have more legal weightage.

Electronic authentication

Electronic authentication is the process of establishing confidence in user identities electronically presented to an information system. Digital authentication or e-authentication may be used synonymously when referring to the authentication process that confirms or certifies a person's identity and works. When used in conjunction with an electronic signature, it can provide

evidence of whether data received has been tampered with after being signed by its original sender. Electronic authentication can reduce the risk of fraud and identity theft by verifying that a person is who they say they are when performing transactions online.

There are various e-authentication methods that can be used to authenticate a user's identify ranging from a password to higher levels of security that utilize multifactor authentication (MFA). Depending on the level of security used, the user might need to prove his or her identity through the use of security tokens, challenge questions or being in possession of a certificate from a third-party certificate authority that attests to their identity

E-Governance

Definition: E-governance, expands to electronic governance, is the integration of Information and Communication Technology (ICT) in all the processes, with the aim of enhancing government ability to address the needs of the general public. The basic purpose of e-governance is to simplify processes for all, i.e. government, citizens, businesses, etc. at National, State and local levels.

In short, it is the use of electronic means, to **promote good governance**. It connotes the implementation of information technology in the government processes and functions so as to cause **simple, moral, accountable and transparent governan**ce. It entails the access and delivery of government services, dissemination of information, communication in a quick and efficient manner.

Benefits of E-governance

- Reduced corruption

- High transparency
- Increased convenience
- Growth in GDP
- Direct participation of constituents
- Reduction in overall cost.
- Expanded reach of government

Through e-governance, the government plans to **raise the coverage and quality of information and services provided to the general public**, by the use of ICT in an easy, economical and effective manner. The process is extremely complicated which requires, the proper arrangement of hardware, software, networking and indeed re-engineering of all the processes to facilitate better delivery of services.

Types of Interactions in E-Governance

1. **G2G (Government to Government)**: When the exchange of information and services is within the periphery of the government, is termed as G2G interaction. This can be both horizontal, i.e. among various government entities and vertical, i.e. between national, state and local government entities and within different levels of the entity.
2. **G2C (Government to Citizen)**: The interaction amidst the government and general public is G2C interaction. Here an interface is set up between government and citizens, which enables citizens to get access to wide variety of public services. The citizens has the freedom to share their views and grievances on government policies anytime, anywhere.
3. **G2B (Government to Business**): In this case, the e-governance helps the business class to interact with the government seamlessly. It aims at eliminating red-tapism, saving time, cost and establish transparency in the business environment, while interacting with government.

4. **G2E (Government to Employees)**: The government of any country is the biggest employer and so it also deals with employees on a regular basis, as other employers do. ICT helps in making the interaction between government and employees fast and efficient, along with raising their level of satisfaction by providing perquisites and add-on benefits.

E-governance can only be possible if the government is ready for it. It is not a one day task, and so the government has to make plans and implement them before switching to it. Some of the measures include Investment in telecommunication infrastructure, budget resources, ensure security, monitor assessment, internet connectivity speed, promote awareness among public regarding the importance, support from all government departments and so forth

E-governance has a great role to play, that improves and supports all tasks performed by the government department and agencies, because it simplifies the task on the one hand and increases the quality of work on the other.

Legal Recognition of Electronic Records

Section 44 of the Act deems the fulfillment of the requirement of any information to be in writing in typewritten or printed form, if such information fulfills two conditions.

Firstly, such information should be rendered or made available in an electronic form (for example, in a floppy disk).

Secondly, such information is accessible as to be usable for a subsequent reference.

The word 'accessible', as per the UNCITRAL guide, is meant to imply that information in the form of computer data should be readable and interpretable, and that the software that might be necessary to render such information readable should be retained. The word 'usable' is not intended to cover only human use but also computer processing. 'Subsequent reference' seems to imply merely the need for future reference.

The carefully worded section does not seem to lay down any stringent standards as to the reliability or durability of the electronic record. Rather, it merely requires that such information if made available at a certain point of time in electronic form should be available for usage at some future time as well. The purpose is to basically provide a legal sanctity to production of any information in electronic form. Whether such information provided is correct, or authentic, or unaltered, or reliable is not within the purview of this section. If the law provides something to be in writing, then, subject to certain conditions, the legal requirement of writing would be fulfilled if such information is in electronic form.

Legal Recognition of Digital Signatures

Where any lay provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is authenticated by means of digital signature affixed in such manner as may be prescribed by the Central Government.

Explanation.- For the purposes of this section, "signed", with its grammatical variations and cognate expressions, shall, with reference to a person, means affixing of his hand written signature or any mark on any document and the expression "signature" shall be construed accordingly.

Use of electronic records and digital signatures in Government and its agencies. –

(1) Where any law provides for-

(a) the filing of any form, application or any other document with any office authority, body for agency owned or controlled by the appropriate Government in a particular manner;

(b) the issue or grant of any license, permit. Sanction or approval by whatever name called in a particular manner;

(c) the receipt or payment of money in a particular manner, the, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe-

(a) the manner and format in which such electronic records shall be filed, created or issued;

(b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record clause (a).

The Advantages of Electronic-Government

The ultimate goal of the e-government is to be able to offer an increased portfolio of public services to citizens in an efficient and cost effective manner. It allows for government transparency because it allows the public to be informed about what the government is working on as well as the policies they are trying to implement.

The main advantage while implementing electronic government will be to improve the efficiency of the current system(Paper based system). That would in return same money and time. The introduction would also facilitate better communications between governments and businesses.

For example: E-procurement facilitates G2G and B2B communication; this will permit smaller business to compete for government contracts as well as larger business. hence the advantage of creating an open market and stronger economy. Business and citizens can obtain information at a faster speed and it is possible at any time of the day.

The society is moving towards the mobile connections and the ability of an e-government service to be accessible to citizens irrespective of location throughout the country brings the next and potentially biggest benefit of an e-government service as we live in what is now termed as the Knowledge era.

The anticipated benefits of e-government include efficiency, improved services, better accessibility of public services, and more transparency and accountability.

The Disadvantages of Electronic-Government

The main disadvantage concerning e-government is the lack of equality in public access to the internet, reliability of information on the web, and hidden agendas of government groups that could influence and bias public opinions.

Potential implications of implementing and designing e-government, include disinter-mediation of the government and citizens, impacts on economic, social and political factors, vulnerability to cyber attacks and disturbance to the status quo in these areas.

Hyper-surveillance: Once the government begins to develop and become more sophisticated, the citizens will be forced to interact electronically with the government on a larger scale. E.g This could potentially lead to a lack of privacy for civilians as their government obtains more and more information on them.

Cost: Although large amount of money is spent on the development and implementation of e-government the outcomes and effects of trial internet-based governments are often difficult to gauge or unsatisfactory.

Inaccessibility: An e-government site that provides web based access and support often does not offer the potential to reach many users including those who live in the remote areas, have low literacy levels and exist on poverty line incomes.

Feel free to contact E-SPIN for E-Government infrastructure and application security protection, security monitoring; infrastructure and application availability, performance and monitoring solution.

5 The Right To Information Act, 2005

The Right to Information Act, simply known as RTI, is a revolutionary Act that aims to promote transparency in government institutions in India. The Act came into existence in 2005, after sustained efforts of anti-corruption activists.

It is termed revolutionary because it opens government organisations up for scrutiny. Equipped with knowledge about RTI, a common man can demand any government agency to furnish information.

Right to Information (RTI) is an act of the Parliament of India which sets out the rules and procedures regarding citizens' right to information.

Right to Information Act 2005 mandates timely response to citizen requests for government information.

It is an initiative taken by Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions to provide a– RTI Portal Gateway to the citizens for quick search of information

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, prevent corruption, and make our democracy work for the people in real sense

It replaced the former Freedom of Information Act, 2002.

Under the provisions of RTI Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days.

In case of matter involving a petitioner's life and liberty, the information has to be provided within 48 hours.

The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally.

The Right to Information Act, 2005 with right of information was passed by the parliament on Jun 2005, and it came in force in Oct 2005.

The RTI Act 2005, replaced the freedom of information act 2002, with an aim to provide for setting up of a practical regime of right to information for every citizen.

RTI is a mechanism to develop and ensure accountability and transparency,

It is a legal right of every Indian citizen.

The objective of the RTI Act

1) To replace a prevailing culture of secrecy with a culture of transparency
2) To empower the citizen of the country.
3) To promote transparency in the function of the public authorities.
4) To prevent and eliminate corruption.
5) transform the relationship between the citizen and government

Salient Features of RTI Act 2005

1) Under its provision, any citizen of India may request information from a public authority. The required information needs to be replied within 30 days.
2) The request for the information on any issue from the public authority is required to be submitted to the Public Information officer at the centre or in the State.
3) The RTI Act promotes every government body to make their offices transparent by computerizing their records for the wide dissemination of the information for the public.
4) The Jammu and Kashmir will not come under this RTI Act 2005. However, it has a separate Right to Information Act 2009.
5) The restrictions imposed by the Official Secrets Act 1923 was relaxed by the RTI Act.
6) The Act has established a three-tier structure for enforcing the right to information guaranteed under the Act. The three Levels are – Public Information Officer, First Appellate Authority and Central Information Commission (CIC).
7) The information to be submitted within 30 days from the date of receipt of application.
8) In case of non-receipt of information within 30 days, the individual requiring information may file an appeal. The Appellate Authority must reply within 30 days or in exceptional cases 45 days.
9) The individual may file 2nd appeal within 90 days in case of non-supply of information.
10) The public authorities applicable under RTI are all Constitutional bodies at centre and state (Legislature, Executive, Judiciary), bodies/NGOs owned/financed by government, privatized public utility companies.
11) The public authorities excluded under RTI are Central Intelligence and Security Agencies, agencies of state specified through notification. The exclusion is not absolute.

12) The Central Information Commission shall consist of one Chief Information Commissioner and up to 10 Central Information Commissioners.
13) The Chief Information Commissioner will have a term of five years from the date of entering his office. She/ He shall not be entitled to reappointment to that post.
14) There are 31 sections and 6 chapters enumerated in the act.
15) Section 8 deals with public authorities which have been granted an exemption under this Act.

The primary stakeholders in RTI are –

Citizens;

Public Authorities comprising of Public Information Officers and the Appellate; and

Central and State Information Commissions.

The Bill provides for the appointment of one or more officers as Public Information Officers to deal with requests for information.

State both at centre as well as at the state level is to appoint the Chief Information Commissioners and other Commissioners and it is clearly stated in the act that those people who will be appointed for these positions should have the background of social Service, journalism, academics, jurist etc.

Section 2(f) of the RTI Act defines Information as:

“Information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for a time being in force.

Right to Information (RTI) is defined under Section 2(j) as:

"Right to Information" means the Right to Information accessible under this Act which is held by or under the control of any public authority and includes the right to-

i. Inspection of work, documents, records;

ii. Taking notes, extracts, or certified copies of documents or records;

iii. Taking certified of materials;

iv. Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

Obligations of public authorities.--(1) Every public authority shall–

a). maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

b). publish within one hundred and twenty days from the enactment of this Act,--

(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of its officers and employees;

(iii) the procedure followed in the decision making process, including channels

of supervision and accountability;

(iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under

its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its

control;

(Vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the public Information Officers;

(xvii) such other information as may be prescribed, and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies on announcing the

decisions which affect public;

(d) provide reasons for its administrative or quasi judicial decisions to affected persons.

Learning Resources:		
1	Reference Books	*1) Business and Commercial Laws-Sen and Mitra.* *2) Mercantile Law-S. U. Jadhavar, Success Publications, Pune* *3) Business Law-G. M. Dumbre, Success Publications, Pune.* *4) An Introduction to Mercantile Laws-N. D. Kapoor* *5) Business Laws-N. M. Wechlekar* *6) Company Law-Avatar Singh* *7) Law of Contract-Avtar Singh* *8) Business Laws-Kuchhal M.C.* *9) Business Law for Management-Bulchandani K.R.* *10) Consumer Protection Act in India. Niraj Kumar* *11) Consumer protection in India. V.K.Agrawal* *12) Consumer Grievance Redressal under CPA. Deepa Sharma.* *13) Commentary on the Information Technology Act 2000 by Bhansali S.R* *14) E Governance Issues and Strategies by Chaudhary, Suman Kalyan & Nayak,* *Sudhanshu Shekhar* *15) Information Technology Act, 2005* 1.