

Law of Contract

A contract is a legally binding agreement between two or more parties where they agree to do or not do something in exchange for something of value.

Sp 23 Essential Elements of a Contract

1. **Parties to Contract:** At least two parties are needed to form a contract.
2. **Capacity:** All parties must be adults (18+) and of sound mind.
3. **Lawful Offer:** The offer must be valid under the law.
4. **Lawful Acceptance:** Acceptance must also comply with legal rules.
5. **Lawful Consideration:** Something of value must be exchanged legally.
6. **Free Consent:** Consent must be given freely, without coercion, fraud, or mistakes.
7. **Intention to Create Legal Relation:** Parties must intend to create a binding agreement.
8. **Lawful Purpose:** The contract's purpose must comply with the law.
9. **Certainty:** Terms of the contract must be clear and definite.
10. **Specific Subject Matter:** The contract must clearly define its subject.
11. **Possibility of Performance:** The agreement must be possible to fulfill.
12. **Not Declared Void:** The contract should not be prohibited by law.
13. **Formalities:** Some contracts may need to follow specific formats, such as being written or registered.

Classification of Contracts

Contracts can be classified into five broad categories:

1. Based on Method of Formation

- **Express Contract:** Clearly stated in spoken or written words.
 - **Implied Contract:** Formed through actions or behavior rather than words.
 - **Quasi Contract:** Not actual contracts but imposed by law to avoid unjust enrichment.
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2. Based on Time of Performance

- **Executed Contract:** Obligations are performed immediately upon contract formation.
 - **Executory Contract:** Obligations are to be fulfilled at a later date.
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3. Based on Parties Involved

- **Bilateral Contract:** Involves mutual obligations between at least two parties.
 - **Unilateral Contract:** One party fulfills their obligation, and the other party's obligation is contingent on performance.
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4. Based on Formalities

- **Formal Contract:** Adheres to all required formalities and legal standards.
 - **Informal Contract:** Lacks certain formalities but may still be legally binding.
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5. Based on Legality

- **Valid Contract:** Meets all legal requirements and is enforceable in court.
 - **Void Agreement:** Lacks essential elements and has no legal standing.
 - **Voidable Contract:** Legally valid but can be canceled by one or more parties due to specific reasons like coercion or fraud.
 - **Unenforceable Agreement:** Cannot be enforced due to technical issues like missing registration or inadequate stamping.
 - **Illegal Agreement:** Violates the law and is unenforceable.
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This classification helps in understanding the various types and nature of contracts in different contexts.

How an Offer is Converted to a Contract

The process of converting an offer into a contract involves four key steps:

1. Offer (First Step)

An offer is a proposal made by one party to another to do or refrain from doing something. It has two elements:

- **Proposal:** A clear expression of willingness to contract.
- **One Person:** The person making the offer (offeror).

Without acceptance, an offer cannot progress to the next step.

2. Promise (Second Step)

A promise is created when the offer is accepted by the person to whom it is made (offeree). Key elements of a promise:

- **Proposal:** The original offer remains valid.
- **Two or More Persons:** Involves at least the offeror and the offeree.
- **Acceptance of Proposal:** The offeree agrees to the terms of the offer.

If the offer is not accepted, no promise is formed, and thus no contract can be made.

3. Agreement (Third Step)

An agreement is formed when a promise is made. According to **Section 2(e)** of the **Contract Act, 1872**, an agreement consists of promises where consideration is exchanged. Elements include:

- **Proposal:** A valid offer.
- **Two or More Persons:** Both parties involved.
- **Acceptance of Proposal:** Clear acceptance by the offeree.
- **Consideration:** Something of value exchanged between the parties.

An agreement is the foundation for forming a contract but is not legally binding on its own.

4. Contract (Final Step)

An agreement becomes a contract when it is enforceable by law. Only agreements that meet legal requirements and obligations can be converted into contracts. Essential elements include:

- **Proposal:** A valid offer.
- **Two or More Persons:** Participation of both parties.
- **Acceptance of Proposal:** Agreement by the offeree.

- **Consideration:** Exchange of value.
- **Enforceable by Law:** Meets all legal criteria under the **Contract Act, 1872**.

Thus, an offer transitions to a contract through mutual acceptance, consideration, and compliance with legal requirements.

Preliminary Provisions of Bangladesh Labour Act, 2006 (

The Bangladesh Labour Act, 2006 begins with preliminary provisions that explain the basic purpose, scope, and key definitions of the law. These provisions set the foundation for the Act and help to understand its application.

1. Title and Purpose

- The official name of the law is Bangladesh Labour Act, 2006.
 - It was created to:
 - Protect the rights of workers.
 - Ensure fair wages and good working conditions.
 - Maintain safety and harmony in workplaces.
 - Regulate relationships between employers and workers.
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2. Where It Applies

- The Act applies to most workplaces, such as:
 - Factories, plantations, shops, and other businesses.
 - It does not apply to:
 - Members of the armed forces.
 - Certain managerial or supervisory employees.
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3. Important Definitions (Section 2)

To make the law clear, key terms are defined:

- **Worker:**
 - Any person employed in a workplace to do manual (physical) or mental work for wages.
 - Does not include people in managerial roles.

- **Employer:**
 - The owner, manager, or any person responsible for hiring and managing workers.
 - **Wages:**
 - Includes salary, bonuses, allowances, and other benefits paid to workers.
 - Does not include gratuity or retirement benefits.
 - **Establishment:**
 - Any factory, shop, or business where workers are employed.
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4. Overriding Effect of the Act

- This law has more power than any other law or agreement.
 - If any other rule or contract conflicts with this Act, the provisions of the Labour Act will be followed.
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5. Purpose of These Provisions

- To provide a clear idea of the rights and responsibilities of workers and employers.
 - To ensure fair treatment, better working conditions, and protection for all workers.
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Why These Provisions Are Important

- **Clarity:** The definitions and rules help everyone understand their roles and rights.
- **Guidance:** Sets the basic rules for how workplaces should operate.
- **Foundation:** Prepares the way for detailed rules in the rest of the Act.

In simple terms, the preliminary section explains who the law applies to, what it aims to achieve, and how it will work. It ensures fairness and safety in workplaces across Bangladesh.

Conditions of Service and Employment under the Bangladesh Labour Act, 2006

The conditions of service and employment in the Bangladesh Labour Act, 2006 are designed to ensure fair treatment of workers in all workplaces. These conditions cover a variety of aspects, from wages to working hours and safety, aiming to protect workers' rights and maintain healthy employer-employee relations.

1. Wages:

- Minimum wage is set by the government.
- Payment should be made within 7 days after the end of the pay period.
- Workers get two festival bonuses every year.

2. Working Hours:

- 8 hours per day and 48 hours per week is the maximum.
- Overtime work is paid at double the normal rate.
- Workers should get at least one day off each week.

3. Leave:

- 10 days casual leave per year.
- 14 days sick leave with full pay.
- Annual leave: 1 day for every 18 days worked.
- 8 weeks maternity leave with full pay.

4. Health & Safety:

- Workplaces must be clean, safe, and well-ventilated.
- Protective gear should be provided when necessary.

5. Employment Contract:

- Employers must give workers a written contract outlining terms.
- Probation period: 3 months for unskilled workers and 6 months for skilled workers.

6. Termination:

- Workers or employers must give notice before ending employment.
- Workers are entitled to severance pay if laid off.

7. Rights to Organize:

- Workers can form trade unions to represent their interests.

8. Child & Female Worker Protection:

- No child labor (under 14 years).
- Special protections for women workers, including maternity leave.

These rules ensure fair treatment, safety, and protection for workers.

Health and Hygiene under the Bangladesh Labour Act, 2006

The Bangladesh Labour Act, 2006 includes provisions for the health and hygiene of workers to ensure a safe and clean working environment. These provisions focus on maintaining the physical well-being of workers in all workplaces.

1. Cleanliness

- Workplaces must be clean and well-maintained.
- Floors, walls, and roofs must be kept in good condition to prevent health hazards.
- Work areas should be regularly cleaned to remove dirt and waste.

2. Ventilation and Lighting

- Proper ventilation must be provided to ensure fresh air circulation.
- Workplaces should have adequate lighting to prevent accidents and health issues.

3. Sanitary Facilities

- Toilets must be provided for workers, kept clean, and easily accessible.
- Separate toilets must be provided for men and women.
- Washing facilities should be available for workers, especially in workplaces with high physical demands.

4. First Aid

- Workplaces must have a first aid kit and trained personnel to handle accidents.
- For large workplaces, a medical professional should be available.

5. Safety Equipment

- Employers must provide protective gear like helmets, gloves, and masks, depending on the nature of the work.
- These must be in good condition and used by workers to prevent accidents and health issues.

6. Prevention of Illness and Accidents

- Safety measures must be in place to prevent work-related accidents.
- Regular checks should be made to ensure that equipment and machinery are safe for use.

7. Drinking Water

- Safe drinking water must be provided to workers, and it should be kept clean and accessible.
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These health and hygiene provisions ensure that workplaces are safe, clean, and healthy, protecting workers from potential health risks and accidents.

Safety Provisions under the Bangladesh Labour Act, 2006

The Bangladesh Labour Act, 2006 includes important safety measures to protect workers from accidents and injuries at work. These provisions aim to create a safe working environment for all employees.

1. Workplace Safety

- Employers must ensure that the workplace is safe and free from hazards.
- Unsafe conditions that could lead to accidents should be fixed immediately.

2. Safety Equipment

- Workers must be provided with protective gear such as helmets, gloves, masks, and boots if their work involves risks.
- This equipment must be maintained and replaced when necessary.

3. Machine Safety

- All machinery should be in good working condition and have proper safeguards to prevent accidents.
- Safety guards must be installed where needed to protect workers from moving parts.

4. Fire Safety

- Factories and workplaces must have fire extinguishers and other fire-fighting equipment.
- Workers should be trained in fire safety procedures and evacuation plans.

5. Training and Awareness

- Employers must provide safety training to workers, especially in high-risk jobs.
- Workers should be informed about potential dangers and the proper safety procedures to follow.

6. Safety Inspections

- Regular safety inspections must be conducted to check for hazards and ensure that safety measures are followed.
- The government may appoint inspectors to ensure compliance with safety laws.

7. Accident Reporting

- Employers must report any serious accidents or injuries to the labor authorities.
- Workers should be aware of the procedure for reporting unsafe conditions or accidents.

8. First Aid

- Workplaces must have first aid kits available and well-stocked.
- First aid training should be provided to workers, especially in hazardous environments.

These safety provisions aim to protect workers from accidents and injuries by maintaining safe working conditions, providing proper equipment, and ensuring workers are well-trained in safety practices.

Health, Hygiene, and Safety Preventive Measures (Bangladesh Labour Act, 2006)

Under the Bangladesh Labour Act, 2006, there are specific provisions aimed at preventing health, hygiene, and safety risks in the workplace. These measures help protect workers from accidents, illnesses, and poor working conditions. Below are the key preventive measures related to health, hygiene, and safety:

1. Health and Hygiene

- **Clean Environment:** The workplace should be kept clean and well-ventilated. This includes regular cleaning of the floors, surfaces, and work areas.
- **Sanitation Facilities:** Employers must provide clean toilets and washrooms for workers. These facilities should be well-maintained and separate for male and female workers.
- **Drinking Water:** Safe and clean drinking water should be available for workers at all times. It should be easy to access and stored in hygienic containers.
- **Waste Management:** There should be proper systems in place for waste collection, removal, and disposal to avoid unsanitary conditions.

2. Safety Measures

- **Machine Safety:** All machines and equipment should be safe to use, with necessary safety features like protective guards or covers to prevent accidents.
- **Protective Equipment:** Workers exposed to dangerous tasks should be provided with proper protective gear such as helmets, gloves, eye protection, and boots.
- **Fire Safety:** Workplaces should have fire extinguishers and other fire safety equipment. Emergency exits must be clearly marked and free of obstacles, and fire drills should be conducted regularly.

- **Safety Training:** Workers should be trained on how to use safety equipment and follow safety procedures. Regular training helps ensure everyone knows what to do in case of an emergency.

3. Health Hazards

- **Regular Health Checkups:** Workers who are exposed to hazardous conditions (like chemicals or machinery) should receive regular health checkups to detect any health issues early.
- **Safe Handling of Chemicals:** Employers must ensure that chemicals and hazardous substances are stored and handled safely to prevent exposure or accidents.

4. General Safety

- **Working Hours and Breaks:** Employers must not force workers to work excessive hours. Proper rest breaks and a reasonable work schedule help reduce fatigue and improve productivity.
- **Emergency Plans:** Employers must have clear emergency procedures for situations like accidents or fires. Workers should be trained on these plans so they can respond quickly and correctly.
- **Safety Inspections:** Regular inspections of the workplace should be conducted to identify potential risks and ensure compliance with safety standards. Any hazards must be addressed immediately.

These measures are designed to keep workers safe, healthy, and comfortable, creating a better and safer working environment.

Welfare Provisions (Bangladesh Labour Act, 2006)

The Bangladesh Labour Act, 2006 includes provisions to ensure workers' well-being. These are called welfare measures and focus on improving workers' living and working conditions.

1. Basic Amenities

- **Rest Rooms:** Workers should have clean and comfortable places to rest during breaks.
- **Dining Facilities:** Workers should have a place to eat their meals safely.
- **Childcare:** Employers must provide facilities for female workers with babies, like places to breastfeed.
- **First Aid:** Basic first aid kits should be available for emergencies, and some workplaces need medical staff.

2. Health and Hygiene

- **Clean Environment:** Workplaces should be clean, safe, and free from pollution.
- **Clean Water:** Workers should have easy access to clean drinking water.

- **Sanitation:** Proper toilet facilities must be available and maintained.

3. Housing for Workers

- If workers stay at the workplace, the employer must provide safe, clean, and comfortable living spaces.

4. Facilities for Women Workers

- Employers must provide special facilities like safe transport and changing rooms for female workers.

5. Canteen

- If there are more than 100 workers, the employer should set up a canteen to provide affordable meals.

6. Welfare Officer

- A welfare officer should be appointed in larger workplaces to look after workers' needs.

7. Leave and Holidays

- Workers are entitled to annual leave and public holidays to rest and recharge.

Working Hours and Leave (Bangladesh Labour Act, 2006)

The Bangladesh Labour Act, 2006 defines rules regarding working hours and leave for workers to ensure their health and well-being.

1. Working Hours

- **Normal Working Hours:** A worker should not work more than 8 hours a day and 48 hours a week.
- **Overtime:** If a worker works beyond these hours, they are entitled to overtime pay, which is usually 1.5 times the regular wage.
- **Rest Breaks:** Workers should get a 1-hour break after every 5 hours of continuous work.
- **Weekly Holiday:** Every worker is entitled to at least 1 day off per week, commonly on Friday.

2. Leave

- **Annual Leave:** Workers are entitled to 14 days of annual leave with full pay after working for a year.
- **Sick Leave:** Workers are allowed 14 days of sick leave with pay, provided they have a medical certificate.
- **Public Holidays:** Workers are entitled to public holidays as declared by the government. If workers work on these holidays, they are entitled to additional pay.

- **Maternity Leave:** Female workers are entitled to 16 weeks of maternity leave (8 weeks before and 8 weeks after delivery) with pay.
- **Casual Leave:** Workers are entitled to 10 days of casual leave for emergencies or personal reasons.

3. Leave Payment

- **Paid Leave:** Annual leave, sick leave, and maternity leave are generally paid leave. Casual leave may or may not be paid, depending on company policy.

These provisions are designed to ensure workers have reasonable working hours and sufficient rest. They also provide for various types of leave, ensuring workers' health and personal needs are taken care of.