

Chapter 1 : Indian Contract Act Section 10 - Year - Judgments | LegalCrystal

Section 10 in The Indian Contract Act, What agreements are contracts.â€”All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

Contract of service is also known as Apprenticeship Contract. The employer without the consent of the employee cannot alter the terms of contract. A contract is an instrument which is legally enforceable and also for protecting the rights of the contracting parties, be it an employer or an employee. There are restrictive provisions in a service contract. It is basically being incorporated for the protection of confidential information and protection of Intellectual property of the employer. The employer should be clear on the terms of confidential information in the contract of service. However, to put it simple, they can be classified as Voluntary termination and Involuntary termination. Retirement of an employee b. Resignation of an employee c. Failure to return from leave d. Failure to report to work without notice, for three consecutive days without notice. Involuntary termination can be in form of: Unsatisfactory work of an employee In addition to the above, an employer can also terminate an employee on the principle of Termination *Simpliciter*. On the contrary if the Dismissal of the employee is on the terms of Disciplinary actions, then an employer is under an obligation to carry out domestic inquiry in respect of the same. In *Punjab national bank ltd vs. In Ritz theatre Pvt Ltd vs. Of India Pvt Ltd. Vs The Management And Ors*⁷. Industrial Employment Standing Orders Act, applies only to those industrial establishments which are covered by Section 13. But the field of operation of the Act is much wider and it applies to employers who may have no standing orders at all. Companies have certain trade secrets which are supposed to be protected, so there is a need to incorporate the restrictive clause in the service contracts so that the trade secrets of the firm are well protected. These two principles are the *sine qua non* for a contract which is in restraint of trade. The situation with regard to the application of section 27 was further clarified in *BLB Institute case*. It was held that under Section 27 of the Contract Act- a restrictive covenant extending beyond the term of the contract is void and not enforceable, b the doctrine of restraint of trade does not apply during the continuance of the contract for employment and it applies only when the contract comes to an end, c this doctrine is not confined only to contracts of employment, but is also applicable to all other contracts. Non- Compete Covenant c. Non- Poaching Covenant d. Confidentiality covenant The non-solicitation clause does not amount to a restraint of trade, business or profession and would not be hit by Section 27 of the Indian Contract Act, as being void Hence, there are certain non-solicitation agreements which are *prima facie* negative in nature but still stand as an exception and are enforceable. India has an obligation to shape its law in accordance with *Trips*, but till now there is no specific legislation which deals with trade secret. The law on this issue is common based. In this connection, it is also pertinent to point out that for Copyright protection to confidential information the degree of control would determine the obligations of the parties. However, the judicial decision does not follow a set pattern. Injunction preventing the third party from using trade secrets, b. Compensation for damages In addition to this, Section 72 of the Information Technology Act, any breach of confidentiality and privacy is also penalized. The legal position with regard to the post- contractual covenants is well settled in India. As a general rule, negative covenant restricting the employee beyond the period of employment are considered to be unreasonable but there are some exception to it. The exceptions include confidential information and non-solicitation agreements to a reasonable period of time. Hence, it is suggested that while drafting negative clause all the possible consequences of such clause should be pondered upon. Decisions of High Courts and Supreme Courts serve as a guiding law in this regard. AIR SC 2. AIR SC 3. AIR SC 4.

Chapter 2 : Section 10 in The Indian Contract Act,

From the Act. All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

Therefore, there must be an agreement and it should be enforceable by law. Reciprocal Promises 2 f: Void agreement 2 g: Voidable contract 2 i: Void contract 2 j: Acceptance[edit] According to Section 2 b , "When the person to whom the proposal is made, signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise. If the parties are not in ad idem on all matters concerning the offer and acceptance, there is no valid contract. For example, "A" says to "B" "I offer to sell my car for Rs. This is not acceptance and hence it amounts to a counter offer. It should be Communicated to the offeror. To conclude a contract between parties, the acceptance must be communicated in some prescribed form. A mere mental determination on the part of offeree to accept an offer does not amount to valid acceptance. Acceptance must be in the mode prescribed. If the acceptance is not according to the mode prescribed or some usual and reasonable mode where no mode is prescribed the offeror may intimate to the offeree within a reasonable time that acceptance is not according to the mode prescribed and may insist that the offer be accepted in the prescribed mode only. If he does not inform the offeree, he is deemed to have accepted the offer. For example, "A" makes an offer to "B" says to "B" that "if you accept the offer, reply by voice. It will be a valid acceptance, unless "A" informs "B" that the acceptance is not according to the prescribed mode. Acceptance must be given within a reasonable time before the offer lapses. If any time limit is specified, the acceptance must be given within the time, if no time limit is specified it must be given within a reasonable time. It cannot precede an offer. If the acceptance precedes an offer it is not a valid acceptance and does not result in contract. For example, in a company shares were allotted to a person who had not applied for them. Subsequently, when he applied for shares, he was un aware of the previous allotment. The allotment of share previous to the application is not valid. Acceptance by the way of conduct. Mere silence is no acceptance. Silence does not per-se amounts to communication- Bank of India Ltd. It does not even amount to any representation on which any plea of estoppel may be found, unless there is a duty to make some statement or to do some act free and offer er must be consent Acceptance must be unambiguous and definite. Acceptance cannot be given before communication of an offer. Lawful consideration[edit] According to Section 2 d , Consideration is defined as: In short, Consideration means quid pro quo i. An agreement must be supported by a lawful consideration on both sides. Essentials of valid consideration must include: An act constituting consideration must have been done at the desire or request of the promiser. If it is done at the instance of a third party or without the desire of the promisor, it will not be good consideration. Consideration may move from the promisee or any other person. Under Indian law, consideration may be from the promisee of any other person i. This means that as long as there is consideration for the promisee, it is immaterial, who has furnished it. Consideration must be an act, abstinence or forbearance or a returned promise. Consideration may be past, present or future. Past consideration is not consideration according to English law. However it is a consideration as per Indian law. After a month "B" promises to compensate "A" for service rendered to him earlier. When consideration is given simultaneously with promise, it is said to be present consideration.. For example, "A" receives Rs. The money "A" receives is the present consideration. When consideration to one party to other is to pass subsequently to the maker of the contract, is said to be future consideration. Consideration must be real. Consideration must be real, competent and having some value in the eyes of law. Consideration must be something which the promiser is not already bound to do. A promise to do something what one is already bound to do, either by law, is not a good consideration. Consideration need not be adequate. Consideration need not be necessarily be equal to value to something given. So long as consideration exists, the courts are not concerned as to adequacy, provided it is for some value. The consideration or object of an agreement is lawful, unless and until it is: If the object or the consideration of an agreement is for doing an act forbidden by law, such agreement are void. The agreement is void as the procuring government job through unlawful means is prohibited. If it involves injury to a person or property of another: For example, "A" borrowed rs. In case of

default, "A" owes to pay the principal sum at once and huge amount of interest. This contract was held void as it involved injury to the person. If courts regards it as immoral: An agreement in which consideration or object of which is immoral is void. For example, An agreement between husband and wife for future separation is void. Is of such nature that, if permitted, it would defeat the provisions of any law: An agreement which tends to be injurious to the public or against the public good is void. For example, agreements of trading with foreign enemy, agreement to commit crime, agreements which interfere with the administration of justice, agreements which interfere with the course of justice, stifling prosecution, maintenance and champerty. Agreements in restraint of legal proceedings: This deals with two category. One is, agreements restraining enforcement of rights and the other deals with agreements curtailing period of limitation. Trafficking in public offices and titles: Agreements restricting personal liberty: Agreements to procure marriages for rewards are void under the ground that marriage ought to proceed with free and voluntary decisions of parties. Agreements interfering marital duties: Any agreement which interfere with performance of marital duty is void being opposed to public policy. An agreement between husband and wife that the wife will never leave her parental house. Contract Opposed to Public Policy can be Repudiated by the Court of law even if that contract is beneficial for all of the parties to the contract- What considerations and objects are lawful and what not-Newar Marble Industries Pvt. This consideration or object is clearly opposed to public policy and hence the compounding agreement is unlawful and void under Section 23 of the Act. It is unenforceable as against the Petitioner-Company. Competent to contract[edit] Section 11 of The Indian Contract Act specifies that every person is competent to contract provided: He should not be a minor i. He should be of sound mind while making a contract. A person who is usually of unsound mind, but occasionally of sound mind, can make a contract when he is of sound mind. Similarly if a person is usually of sound mind, but occasionally of unsound mind, may not make a valid contract when he is of unsound mind. He is not disqualified from contracting by any other law to which he is subject There are other laws of the land that disqualify certain persons from contracting. According to Section 14, Consent is said to be free when it is not caused by coercion or undue influence or fraud or misrepresentation or mistake. Elements Vitiating free Consent 1. Since the release has been brought about by coercion, such release is not valid. Undue influence Section For example, an employer may be deemed to be having authority over his employee. 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. Mere silence is not fraud. 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. Mistake of fact Section 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.

Chapter 3 : Section 10 of the Indian Contract Act, - Indian Act / Law / Statute / Kanoon - LawyerServices

Section 10 of Indian Contract Act What agreements are contracts All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

The case of *Balfour vs Balfour* is a well known illustration of a domestic agreement. In this case a husband Mr. Balfour was working in Ceylon. During the holidays, he and his wife Mrs. Balfour went to England to enjoy the leave. Balfour was to return to Ceylon, his wife was advised to remain in England, due to ill health. For some time he sent the amount but afterwards differences arose between them which resulted in their separation and the allowance fell into arrears. Balfour's suit for recovery was dismissed by Lord Atkin on the ground that parties did not intend that it will be attended by legal consequences. *Carbolic Smoke Ball Co A General offer* may be accepted by any person from among the public who has the knowledge of it. The performance of conditions of offer will amount to acceptance. The case of *Carlill vs. Carbolic Smoke Ball Co.* Carlill relying on the advertisement purchased and used the smoke balls as per directions but still contracted influenza. Held, it was a general offer and Mrs. Carlill had accepted it by her act, by performing the conditions for acceptance. She was therefore entitled to get the claim. *Gauri Dutt Offer must be communicated-* in this case, Gauri Dutt sent his servant, Lalman to search his missing nephew. After L had left in search of the boy, G issued hand bills announcing a reward of Rs. L who was ignorant of such reward, he claimed the reward. Held, L was not entitled for reward since he was ignorant of it. *Dharmodas Ghose* In this case, a minor Dharmodas mortgaged his house for Rs. Subsequently, the mortgagor sued for setting aside the mortgage on the ground of his minority at the time of execution of mortgage deed. Hence, mortgage was cancelled. *Nash vs Inman A*, a minor, purchased 11 fancy waist coats and other clothes while he was already having sufficient clothes to wear. Held, the 11 waist coats and other clothes purchased were not necessities and the price was irrecoverable. The terms of the deed stipulated that R will pay an annuity of Rs. On the same day, R entered into an agreement with C to pay her the sum directed by A. R contended that no consideration was moved by C to him. *Rose and Frank Co vs. J R Compton* It is a glaring example of a business deal in which the parties did not intend to create legal relations. As per the facts of the case, an agreement was drawn between the American and English firms. Held, the agreement was not a binding contract as there was no intention to create legal relations. *Gorie Mohamed* In order to construct a town hall at Howrah, the commissioner of Howrah Municipality started to obtain necessary fund by public subscription. A also promised to subscribe Rs. On the faith of the promised subscriptions, the secretary of the town hall construction committee engaged a contractor for construction of town hall and thus, incurred liability. A refused to pay his subscription. Held, engaging a contractor and starting the construction work on the faith of the promise to subscribe was sufficient consideration. Hence, A was liable to pay the amount to the extent of the liability incurred by the promise. *Secretary of State of India* The government repaired a certain tank, which had irrigated lands belonging to the government itself and zamindars. The government did not undertake the repairs gratuitously for the zamindars. Zamindars enjoyed the benefit of the repaired tank. Held, zamindars were liable to contribute to the cost of repairs. *Dunlop Pneumatic Tyre Co Ltd vs. The Author* can also be reached at amittalada@gmail.com.

Chapter 4 : Section 11 in The Indian Contract Act,

Section 10 of Indian Contract Act which came into force on the first day of September, is What agreements are contracts which says that • All agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration of and with a lawful object, and are not hereby expressly declared to.

Chapter 5 : What is a Contract? How is it Formed

Section 10 of Indian Contract Act "What agreements are contracts" All agreements are contracts if they are made by the

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free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

Chapter 6 : Indian Contract Act, - Wikipedia

section 10 of the indian contract act, provides that all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared .. to be void. thus, the essential ingredients of valid contract are namely; free consent of.

Chapter 7 : 10 contract act|What agreements are contracts

From the Act. 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.

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Chapter 9 : List of Exempted Incomes (Tax-Free) Under Section

The Indian Contract Act, prescribes the law relating to contracts in India. The Act was passed by British India and is based on the principles of English Common www.nxgvision.com is applicable to all the states of India except the state of Jammu and Kashmir.