

Law – Plant & Machinery

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Topics

- ▶ Sale of goods and agreements to sell; seller's obligations as to delivery time, title, description, fitness, quality and quantity; exclusion of obligations; sales by sample; passing of property in goods; transfer of title by non-owner; breach of contract and remedies; rights of unpaid seller against goods
- ▶ Licensing of Industries and regulation of industrial activities under various industrial licensing laws etc
- ▶ Salient features of various acts such as the Factory Act, 1948, the Electricity Act, 2003, Labour laws with regards to regulatory measures for industrial undertakings



Sale & Agreement to sell

- ▶ Sale – a transaction completed.
- ▶ Agreement to sell – the transaction will take place at a later date.

Let us see this on transfer or property and Contract Act.

Basis	Sale	Agree to sell
Meaning	Transfer of goods and consideration is complete	The sale will take place in future at an agreed transaction meaning
Nature	Absolute	Conditional
Type	Completed contract	To be executed.
Risk Transfer	Done	To be done
Title	Transferred	To be transferred
Right to resell	Buyer	Seller – as the sale has NOT happened
Subsequent Loss	Buyer	Seller. Property has NOT been transferred.
Tax	Levied	Yet to be levied
Breach	Claim damage & remedy	Damages only, in case of default

Seller's Obligation

- ▶ Transfer the goods
- ▶ Transfer the title of the goods
- ▶ Do the obligations as agree – transport, Erection & Commission, warranty
- ▶ Implied Conditions
 - ▶ Seller is more expert than buyer as so has to follow the law & conventions, Cars
 - ▶ To be clear on the goods to the buyer. Buyer may have an impression.
 - ▶ The property will pass in full and unconditional manner.
 - ▶ They are of good quality as expected by the market conditions.
 - ▶ They are in compliance of the law.

Transfer of Property

- ▶ ONLY legal owner can transfer the title of the property.
 - ▶ The family member may claim that he is the owner, but the documents have to say that.

BREACH OF CONTRACT

- ▶ Property is not transferred or is done illegally
 - ▶ Damages can be had from court
 - ▶ Special damages can also be had from court.
 - ▶ If I was to use this machine, I could have got this much extra profit. That is also allowed.

Damages to seller

- ▶ If seller is unpaid or partially paid and the goods are not transferred.
 - ▶ Seller can resell the goods to another party
 - ▶ He can recall the goods.
 - ▶ He can forcibly re acquire the goods.

Licensing & Other laws

- ▶ Industrial Licencing is where one has to get a pre permission to set up an industry.
- ▶ Industry / services may be reserved
 - ▶ For public sector
 - ▶ For MSME
 - ▶ Not allowed in specific zones.
 - ▶ For national security
 - ▶ For over all public good and lowering the risk.
- ▶ Since 1991 – most of the licencing is finished.
- ▶ Approvals are now mostly on line and in few days.
- ▶ Special Economic Zones have their special rules – and they have to followed.
- ▶ Environment clearance is required before the start of construction and also start of production.

Factory's Act 1948

- ❖ For a factory that employs 10 + workers.
- ❖ To protect workers from occupational hazards and Industrial unsafe positions.
- ❖ Factory = where there is a manufacturing with or without power.
- ❖ Worker = working in manufacturing, (or helping in) directly or indirectly employed.
- ❖ Occupier – the person responsible to follow the act.
- ❖ Pre permission is required to start the factory from inspector of factories.
- ❖ Provisions
 - ❖ Keeping the factory clean and hygienic.
 - ❖ Proper disposal of waste and effluents.
 - ❖ Proper ventilation & environment. No dust.
 - ❖ Not highly heated or very cold.
 - ❖ 14.2 m³ spares per worker. 4.2 m² floor space.

- ▶ Toilets, spittoons
- ▶ Drinking water & cooler.
- ▶ Safety
 - ▶ Machine fencing
 - ▶ Who can work, (young, ladies, un trained cannot work)
 - ▶ Free space around machine / emergency stops.
 - ▶ Inspection & upkeep of cranes / hoist. Only trained person can operate.
 - ▶ Pressure vessels to have safety warning, training of people.
 - ▶ Lifting of weight in limits
 - ▶ Eye safety – goggles, bright light et
 - ▶ Protection from fire. Fire safety training.
 - ▶ Safety officer if more than 1000 workers.

- ▶ Welfare
 - ▶ Canteen
 - ▶ Washing, storing clothes, drying.
 - ▶ Creches, sitting places,
 - ▶ First aid, dispensary
- ▶ Working hours
 - ▶ 48 hours per week.
 - ▶ One day off per week.
 - ▶ Max 9 hours in a day. Rest after 5 hours.
 - ▶ OT at 2 times the wages
 - ▶ No double employment.
- ▶ Notices to be displayed at public places
- ▶ Worker qualifications
 - ▶ More than 14 years age. To carry tokens if 14 + and 18-
 - ▶ Fitness certificate required.
 - ▶ Max 4.5 hrs per day.
 - ▶ Female – between 6 am & 7 pm.

- ▶ Leave rules
 - ▶ PL / SL/ CL.
 - ▶ Leave is NOT a right.
 - ▶ How to apply, and avail, rules there of.
- ▶ Discharge , Dismissal, Retirement, Resignation.
- ▶ Penalties under the Act
 - ▶ Different rates for different offences
 - ▶ Inspector can enter the factory and check & verify.

Electricity Act 2003

12

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- ▶ Generation is being de-licensed and captive generation freely permitted, Note: Hydro-projects, however, need concurrence from the Central Electricity Authority.
- ▶ No person shall
 - ▶ (a) transmit electricity; or
 - ▶ (b) distribute electricity; or
 - ▶ (c) undertake trading in electricity,
- ▶ National Grids & regional demarcations
- ▶ Transmission utility at the central and state level to be a government company.
- ▶ The state governments are required to unbundle State Electricity Boards.
- ▶ Setting up State Electricity Regulatory Commission (SERC) has been made mandatory.
- ▶ An appellate tribunal to hear appeals against the decision of (CERC's) and SERC's.
- ▶ Metering of electricity supplied made mandatory.

- ▶ Provisions related to thefts of electricity made more stringent.
- ▶ Trading as a distinct activity recognised with the safeguard of Regulatory commissions being authorised to fix ceiling on trading margins.
- ▶ For rural and remote areas, stand-alone system for generation and distribution is permitted.
- ▶ Thrust to complete rural electrification and provide for management of rural distribution by panchayat, cooperative societies, NGOs, franchisees etc.
- ▶ Central government to prepare National Electricity Policy and Tariff Policy.
- ▶ Central Electricity Authority (CEA) to prepare National Electricity Plan.

Labour Laws

14

- ▶ All the labour laws have been consolidated in 4 acts. However the syllabus talks of old acts so we deal with those.
- ▶ Minimum wages Act 1948.
 - ▶ Unskilled / Semi skilled / skilled – minimum wages are declared every 6 months by each state.
- ▶ Payment of wages Act – 1936
 - ▶ Wages have to be paid by 7th of the subsequent calendar month.
- ▶ Workman Compensation Act 1923
 - ▶ For every type of permanent disability – there is a money value put for the same.
- ▶ Industrial Disputes Act – 1947
 - ▶ For a dispute between worker – single or collective, how will those be resolved.
- ▶ EPF Act 1952
 - ▶ EPF at 12% to be deducted from wages and the same to be added and deposited in EPF account. By 15th . Very severe punishment if not done. Casual workers also covered.
- ▶ Payment of Bonus Act 1965
 - ▶ All employees getting less than 16,000 per month have to be paid a minimum of 8.33% and a max of 20% bonus once a year. This is taxable.

Labour Laws

- ▶ Payment of Gratuity Act 1972

- ▶ Employees working more than 5 years to be paid a gratuity – when they resign or retire at the rate of 2 weeks per month on the last salary drawn.

- ▶ Maternity Benefit Act 1961

- ▶ 6 months fully paid leave and 6 months half paid leaves to be granted to female employees.
- ▶ Job has to be secure.

Thanks