

6.1 BUSINESS REGULATIONS

OBJECTIVE: To introduce the students to various Business Regulations and familiarize them with common issues of relevance.

UNIT 1: INTRODUCTION TO BUSINESS LAWS 06 Hrs Introduction, Nature of Law, Meaning and Definition of Business Laws, Scope and Sources of Business Laws.

UNIT 2: CONTRACT LAWS 18Hrs Indian Contract Act, 1872: Definition of Contract, essentials of a valid contract, classification of contracts, remedies for breach of contract. Indian Sale of Goods Act, 1930: Definition of contract of sale, essentials of contract of sale, conditions and warranties, rights and duties of buyer, rights of an unpaid seller.

UNIT 3: COMPETITION AND CONSUMER LAWS: 14 Hrs The Competition Act, 2002: Objectives of Competition Act, Features of Competition Act, CAT, offences and penalties under the Act, Competition Commission of India. Consumer Protection Act, 1986: Definition of the terms consumer, consumer dispute, defect, deficiency, unfair trade practices and services. Rights of the consumer under the Act, Consumer Redressal Agencies – District Forum, State Commission, National Commission.

UNIT 4: ECONOMIC LAWS 12 Hrs Indian Patent Laws and WTO Patent Rules: Meaning of IPR, invention and non-invention, procedure to get patent, restoration and surrender of lapsed patent, infringement of patent, FEMA 1999: Objects of FEMA, salient features of FEMA, definition of important terms: authorized person, currency, foreign currency, foreign exchange, foreign security, offences and penalties.

UNIT 5: ENVIRONMENTAL LAW 06 Hrs Environment Protection Act, 1986: Objects of the Act, definitions of important terms: environment, environment pollutant, environment pollution, hazardous substance and occupier, types of pollution, rules and powers of central government to protect environment in India.

Introduction to Business Law.

The law affects every aspect of our lives; it governs our conduct from the cradle to the grave and its influence even extends from before our birth to after our death. Law is essential to any society in that it provides the rules by which people and businesses interact. Law affects almost every function and area of business.

What is Law?

The law is a set of rules, enforceable by the courts, which regulate the government of the state and govern the relationship between the state and its citizens and between one citizen and another.

OR

Rules made by authority for the proper regulation of a community or society, or for correct conduct in life.

Nature of Law

¶ Law is, at one and the same time, essentially authoritative and essentially ideal.

¶ Law necessarily comprises both a real or factual and an ideal or critical dimension.

¶ A central element of its ideal dimension is a claim to correctness, which includes a claim to moral correctness.

¶ A central element of the real dimension of law is coercion or force.

"Ignorance of law excuses no one", this is a legal principle holding that a person who is unaware of a law may not escape liability for violating that law merely because one was unaware of its content.

The **Constitution of India** is the supreme law of India. It is the longest written constitution of any sovereign country in the world. It came into effect on 26 January 1950.

Business law encompasses all of the laws that dictate how to form and run a business. This includes all of the laws that govern how to start, buy, manage and close or sell any type of business. Business laws establish the rules that all businesses should follow.

Characteristics of Business law

- Defining general rules of commerce;
- Protecting business ideas and business assets;
- Providing mechanisms that allow business people to determine how they will participate in business ventures and how much risk they will bear;
- Ensuring that losses are borne by those responsible for causing them; and
- Facilitating planning by ensuring that commitments are honoured.

Sources of Business law

- Customs of History(Trade)
- Mercantile Law
- Principles of Equity
- Law of Merchants
- British Statutory law
- Indian Statutory laws

The main sources of business law in India are:

Statutory Law: Legislation or statutory is the most important source of law. Legislation is the making of law. But when we use the term legislation as a source of law, we mean law making by statutory authority. Both parliament and state assemblies have enacted a number of legislations that cover various aspects of business.

In England, a distinction is made between statute law or written law and the common law. Only the former is called legislation. In India, there is no common law. Here legislation or enacted law is different from customary or personal law.

English Mercantile Law: The English mercantile law constitutes the foundation on which the super structure of the Indian mercantile law has been built. Our sales of goods Act, for instance has been taken from the English sales of goods Act. Even now, despite the enactment of various statutes relating to matters falling within the purview of the mercantile law, our courts generally take recourse to the English law where some principles are not expressly dealt with in the Act, or where there is ambiguity.

Case Law: Case law, popularly called precedent by lawyers is a judgment of a superior court including a point of principle and which necessitates its adoption and adherence in a subsequent case involving the same point. Case law is useful in as much as it helps courts to render uniformity with regard to the interpretation of statutes.

The past judicial decisions of courts are an important source of law. Sometimes there are no statutory provisions which can answer a legal question raised in a law suit. In such cases, the court will look into previous court decisions on similar matters to find the relevant law. Even when a statute is capable of answering a legal question, the court may refer to precedents to see how the statutory provision was applied in similar circumstances. The precedents set by the high courts have a binding force on lower courts. And the precedents set by the courts of the same status like high courts of different states have persuasive value for each other. In India, the supreme court is the highest court and its decisions have binding force on all the courts subordinate to it, i.e., on high court, district court and other subordinate courts.

Precedents (past judicial decisions): In common law legal systems, a precedent or authority is a legal case that establishes a principle or rule. This principle or rule is

then used by the court or other judicial bodies use when deciding later cases with similar issues or facts.

Indian statute law: Statutory law or statute law is written law set down by a body of legislature or by a singular legislator (in the case of absolute monarchy). This is as opposed to oral or customary law; or regulatory law promulgated by the executive or common law of the judiciary. Statutes may originate with national, state legislatures or local municipalities.

Mercantile law is also known as “**Lex Mercatoria**”, it is the Latin expression for a body of trading principles used by merchants throughout Europe in the medieval. Literally, it means “merchant law”. It evolved as a system of custom and practice, which was enforced through a system of merchant courts along the main trade routes.

Nature of Business Law

- It is a conduct, culture tradition and religion developed by humans.
- It creates rights and duties
- It ensures all the people have specific power and responsibility
- It maintains peace and security
- It provides justice and administers punishment
- It always aims to give justice to the victim and punishment to the law breakers
- It regulates day to day activities
- Regulates internal activities
- Defined by the (Supreme) Court

Scope of Business law

- Constitutional Law
- Criminal Law
- Civil Law
- Industrial Law
- Labor Law
- Commercial Law
- [Extend scope]
- MRTP act, 1969
- Environmental Protection Act, 1986
- Patent Act, 1976
- SICA Act, 1985

- Consumer protection Act, 1986

The Fundamental Rights is defined as the basic human rights of all citizens. They are enforceable by the courts, subject to specific restrictions. Seven fundamental rights were originally provided by the Constitution:

- Right to equality,
- Right to freedom,
- Right against exploitation,
- Right to freedom of religion,
- Cultural and educational rights,
- Right to property, and
- Right to constitutional remedies.

However, the right to property was removed from Part III of the Constitution by the 44th Amendment in 1978.

The Directive Principles of State Policy, embodied in Part IV of the Constitution, are directions given to the state to guide the establishment of an economic and social democracy, as proposed by the Preamble. They set forth the humanitarian and socialist instructions that were the aim of social revolution envisaged in India by the Constituent Assembly. The state is expected to keep these principles in mind while framing laws and policies, even though they are non-justiciable in nature. The Directive Principles may be classified under the following categories: ideals that the state ought to strive towards achieving; directions for the exercise of legislative and executive power; and rights of the citizens which the State must aim towards securing.