

**Tamil Nadu  
Edition**

# **BUSINESS LAW**

**Including  
Companies (Amendment) Act, 2019**

**N.D. KAPOOR**



**SULTAN CHAND & SONS**

**BUSINESS LAW**  
Including  
Companies (Amendment) Act, 2019



# BUSINESS LAW

Including

Companies (Amendment) Act, 2019

*for first Degree Course of all Universities in Tamil Nadu*

N.D. KAPOOR

*Formerly, Head of the Department of Commerce  
Hans Raj College, University of Delhi, Delhi*



SULTAN CHAND & SONS

*Educational Publishers*

New Delhi

## SULTAN CHAND & SONS

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**ISBN : 978-93-5161-193-6 (TC-283)**

**Price : ₹ 450.00**

Sixth Revised Edition : 2016

**Seventh Revised Edition : 2021**

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*Printed at : Sanjay Printers, UP*



# Preface

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## **To the Seventh Revised Edition**

We have great pleasure in presenting the Seventh Revised Edition of “Business Law” as per Tamil Nadu University syllabus for all BBA, B.Com. students. The new edition, like its predecessors, attempts to present the basic principles of Law in a way that makes the subject easily intelligible even to a non-specialist. This object has been achieved by dividing into IV units:

**Unit I – The Indian Contract Act** consists of 157 Illustrative Cases, 213 Test Questions, 326 Practical Problems (with Hints and Solutions), 174 Multiple-choice Questions, 194 True & False Questions and 644 Examples with the idea of testing the depth of knowledge of the reader, basic understanding of concepts and his ability to apply whatever he has learnt to a particular situation or problem.

**Unit II – The Sale of Goods Act, 1930.**

**Unit III – Law Relating to The Indian Partnership Act, 1932 and The Limited Liability Partnership Act, 2008.** It facilitate the reader in understanding the Nature of Partnership, Relations of Partners & Dissolution of Firm followed by a chapter on ‘Limited Liability Partnership’ popularly known as LLP has been added in the present edition. LLP combines the advantage of both the Company and Partnership into a single form of organization. The Limited Liability Partnership Act, 2008 was published in Official *Gazette* of India on 9<sup>th</sup> January, 2009 and has been notified with effect from 31<sup>st</sup> March, 2009.

**Unit IV – The Companies Act, 2013 as Amended upto 2019.** The Companies Act, 2013 (Schedules) which has been thoroughly updated and amended upto 2019 to our esteemed readers. The salient features of the present edition are as follows:

**The Companies (Amendment) Act, 2019** issued on 2<sup>nd</sup> November 2018 brought about key changes of certain provisions of the companies Act, 2013. The 2018 Ordinance which was due to expire on January 21, 2019 was passed by the Lok Sabha as it could not be taken up by the Rajya Sabha. In order to give continuity to the amendments introduced by the 2018 ordinances, it was published on January 12, 2019 by another ordinance, *i.e.*, ‘Companies Amendment Ordinance 2019’ with its provisions effective from November 2, 2018. Again since Companies (Amendment) Ordinance, 2019 was to terminate on 13<sup>th</sup> Mach 2019, to give effect to the Ordinance dated 2018 and 2019, now the Companies (Amendment) Act, 2019 has been passed by the Lok Sabha on 26<sup>th</sup> July, 2019 and by the Rajya Sabha on 29<sup>th</sup> July, 2019. It was notified on 31<sup>st</sup> July, 2019 to replace Companies Amendment Ordinance, 2019. The Amendment Act reinstated the requirement of commencement of business

declaration, introduced the requirement for the physical verification of the registered office, made Corporate Social Responsibility (CSR) spending mandatory, prohibits unfit and improper persons from managing companies and rationalize penalty under various sections besides other charges.

1. The following Sections have been amended under **Companies (Amendment) Act, 2019**:

- Amendment of Section 2 – (hereinafter referred to as the Principal Act), in clause (41);
- Insertion of new Section 10A (Commencement of business, etc.);
- Amendment of Section 12 – (Insertion of sub-section 9, physical verification of registered address);
- Amendment of Section 14 – [(sub-section (1) conversion of a public company into a private approved by the Central Government on a prescribed form)], sub-section (2) for the word “Tribunal” the words “Central Government” shall be substituted;
- Amendment of Section 26 – (in sub-sections (4), (5) & (6) for the word “registration”, the word “filing” shall be substituted, sub-section (7) shall be omitted ;
- Amendment of Section 29 – (i) in sub-section (1) in clause (b) the word “public” shall be omitted, (ii) after sub-section (1) a new sub-section (1A) shall be inserted;
- Amendment of Section 35 – in sub-section (2) in clause (c);
- Amendment of Section 53 – for sub-section (3);
- Amendment of Section 64 – for sub-section (2);
- Amendment of Section 77 – in sub-section (1), in clause (a) and clause (b);
- Amendment of Section 86 – of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section is inserted, namely-sub-section (2);
- Substitution of new section for Section 87 – (Rectification by Central Government in Register of Charges;
- Amendment of Section 90 – (i) after sub-section (4), the following sub-section shall be inserted namely: (4A), (ii) for sub-section (9), (iii) after sub-section (9) as so substituted, the following sub-section shall be inserted namely: sub-section (9A), (iv) in sub-section (11);
- Amendment of Section 92 – sub-section (5);
- Amendment of Section 105 – sub-section (3);
- Amendment of Section 117 – for sub-section (2);
- Amendment of Section 121 – sub-section (3);
- Amendment of Section 132 – (a) after sub-section (1) following sub-section is inserted namely (1A), (b) after sub-section (3) sub-section (3A) and (3B) are inserted, (c) sub-section (4) in clause (c) for sub-clause (B);
- Amendment of Section 135 (a) in sub-section (5), after sub-section (5), the following sub-sections shall be inserted sub-section (6), sub-section (7) and sub-section (8);
- Amendment of Section 137;
- Amendment of Section 140 – for sub-section (3);
- Amendment of sub-section 157 – for sub-section (2);

- Substitution of new Section for Section 159 – (Penalty for default of certain provisions);
  - Amendment of Section 164 in sub-section (1), after clause (h);
  - Amendment of Section 165 – sub-section(6);
  - Amendment of section 191 – for sub-section (5);
  - Amendment of Section 197 – (a) sub-section (7) shall be omitted, (b) for sub-section (15);
  - Amendment of Section 203 – in sub-section (5);
  - Amendment of Section 212 – in sub-section (8), sub-section (9), sub-section (10), after sub-section (14) sub-section (14A) shall be inserted;
  - Amendment of Section 238 – in sub-section (3);
  - Amendment of Section 241 – in sub-section (2), after sub-section (2) sub-section (3), sub-section (4) and sub-section (5) shall be inserted;
  - Amendment of Section 242 – after sub-section (4) sub-section (4A) shall be inserted;
  - Amendment of Section 243 – (a) after sub-section (1) sub-sections (1A) and (1B) are inserted, (b) in sub-section (2);
  - Amendment of Section 248 – in sub-section (1) in clause (c) and after clause (c);
  - Amendment of Section 272 – in sub-section (3);
  - Amendment of Section 398 – in sub-section (1) in clause (f);
  - Amendment of Section 441 – in sub-section (1), in clause (b), for sub-section (6);
  - Amendment of Section 446 B;
  - Amendment of Section 447 – in the provision, for the words “twenty lakh rupees”, the words “fifty lakh rupees” shall be substituted;
  - Amendment of Section 454 – in sub-section (3), in sub-section (4) in sub-section (8) in clause (i) in clause (ii);
  - Insertion of new Section 454 A – (Penalty for repeated default).
2. To improve the grasp and understanding of the subject-matter, more questions like – 104 Test Question and 62 Practical Problems (with Hints and Solutions) have been updated.
  3. The Book explodes the myth that law is a difficult and dry subject. Even a lay or general reader who wishes to know the broad principles of Business Law will find the book interesting and lively. Care has been taken to see that the reader at the primary stage of his study does not find himself lost in the quagmire of legal jargon and in the niceties of legal concepts and interpretations.
  4. New typography of the book makes the book strain-free and reader friendly.

We acknowledge with gratitude the help received from scholars, friends and well-wishers at the various stages of preparation of this Revised Edition. Suggestions are invited to further improve the book. Kindly share your views at [info@sultanchandandsons.com](mailto:info@sultanchandandsons.com).

**Editorial Team**  
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## FEATURES OF THE COMPANIES ACT, 2013

1. The new Companies Act, 2013 effective from 01.04.2014 has dispensed with the prior approval of the Central Government on most of the matters of companies which have now been left to be decided by the Boards of Directors of companies and/or the shareholders. The objective is promotion of a legal framework of responsible self-regulation in the corporate sector.
2. The urgent need for in *preventing serious irregularities auditing job* which came to light in the country in the recent past is reflected in the elaboration of the functions of statutory Auditors in the new Companies Act. Further, there is threat of punishment with imprisonment of one year and hefty fine in case as Auditor has contravened any of the provisions knowingly or willfully with the intention to deceive the stakeholders.
3. The new Companies Act, 2013 *has introduced the concept of key managerial personnel* which comprises of Chief Executive Officer (CEO), Company Secretary and the Chief Financial Officer. The rules provide that it is mandatory for every company having paid-up share capital of ten crores of rupees or more to have whole-time key managerial personnel, which only goes to give statutory backing to the position generally prevalent in the corporate sector.
4. Under the new Companies Act, 2013, the composition of the Board of certain class or classes of companies shall *at least include one woman Director*. This provision will be applicable to all listed companies and also to certain big public companies.
5. The Companies Act, 2013 has now made it compulsory to have *one-third of the Board as Independent Directors* for listed companies and also to certain big public companies.
6. The new Companies Act, 2013 provides for constitution of the *Corporate Social Responsibility (CSR) Committee of the Board* to formulate the CSR policy for undertaking the activities specified, in large companies of the size prescribed. *Such companies are required to spend at least two per cent of their profits in every financial year*. The shortfall if any, in spending the amount having to be disclosed in the Board's report with the reason for not spending the amount. There is the need for big companies to extend some help to the community in which they function and prosper.
7. The secretarial audit report provided in respect of listed companies to be annexed to the Board's Report, given by a company secretary will help in improving the compliance by the companies.
8. A new category of company introduced by the Companies Act, 2013 namely One Person Company limited will be private limited in nature. This category will enable sole proprietorships to convert themselves into one person companies and to derive the benefits of incorporation under the Companies Act, 2013.
9. The law of acceptance of deposits by companies has been rationalized with the predominant objective being to protect the interest of several depositors. The latter objective is proposed to be achieved by making it mandatory for companies accepting deposits to give the depositors insurance cover with guaranteed recovery of deposit upto Rs. 20,000 per depositor in case of default. The companies are also required to create a charge on the assets of the company in favour of depositors as security for the repayments of balance money, if any. The Companies Act, 2013 restricts the option to invite deposits from public to fairly big public companies like companies having net worth of rupee one hundred crores or turnover of rupees five hundred crores while all companies, public or private, are allowed to accept deposits upto 10% from their members.
10. Transaction with related parties are subjected to greater disclosure.
11. The procedure regarding *managerial remuneration* in the new Companies Act, 2013 continue to be the same as it was under the previous Companies Act, 1956 and the same will be governed by the provisions of Schedule V which gives the freedom to companies making profits to fix remuneration up to 5% or 10% of net profits, as the case may be, and in respect of companies having no or inadequate profits, to fix remuneration on the basis of the scale of remuneration given depending on the effective capital of such a company. With the graded scale of remuneration having been composed in a manner to suit the current trends and in a liberal way, it is expected that there may be fewer occasions for companies to seek the prior approval of Government for managerial remuneration.
12. The Companies Act, 2013 has included *Nidhis* which are small public companies formed to promote the habit of thrift amongst its member. These will be founded to be, valued to the community in cities and towns.



# Syllabus

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**All Degree Colleges (Autonomous), Tamil Nadu**  
**B. Com., ACCOUNTING AND FINANCE**  
**(Effective from the Academic Year 2019-2020)**  
**BUSINESS LAW**  
**CODE: 19AF/MC/BL33 CREDITS: 3**

## **Objectives of the Course**

- To provide a brief idea about the framework of Indian Business Law.
- To familiarise the students with the principles of law that is essential to manage complex business transactions.
- To provide the students an understanding on the working of Limited Liability Partnership.
- To expose students to the law pertaining to Intellectual Property Rights.

## **Course Learning Outcomes**

On successful completion of the course, the students will be able to:

- Identify various laws involved in business operations.
- Apply basic principles of law pertaining to business.
- Understand the operations of Limited Liability Partnership.
- Comprehend Laws pertaining to Intellectual Property Rights.

## **Unit 1 – Contract Act 1872 (12 Hours)**

- 1.1. Meaning and Types of Contract
- 1.2. Essentials of a Valid Contract-Offer and Acceptance, Consideration, Capacity of Parties, Free Consent, Legality of Object
- 1.3. Performance of Contract
- 1.4. Discharge of Contract, Remedies for Breach of Contract

**Unit 2 – Special Contracts (10 Hours)**

- 2.1. Contract of Indemnity and Guarantee
  - 2.1.1. Difference between Indemnity and Guarantee
  - 2.1.2. Rights, Liabilities and Discharge of Surety
- 2.2. Contract of Bailment and Pledge
  - 2.2.1. Rights and Duties of Bailor and Bailee, Pledger and Pledge
  - 2.2.2. Termination of Bailment

**Unit 3 – Sale of Goods Act 1930 (10 Hours)**

- 3.1. Essentials of a Contract of Sale
- 3.2. Conditions and Warranties
- 3.3. Transfer of Ownership and Delivery of Goods
- 3.4. Performance of Contract of Sale
- 3.5. Rights of an Unpaid Seller

**Unit 4 – Limited Liability Partnership Act, 2008 (LLP) (10 Hours)**

- 4.1. Salient Features of LLP, Difference Between LLP, Partnership and Company
- 4.2. Partners and Designated Partners – Relations
- 4.3. Incorporation - Incorporation by Registration, Registered Office of LLP and Change of Name, Extent and Limitation of Liability of LLP and Partners
- 4.4. Conversion to LLP, Winding up and Dissolution

**Unit 5 – Law Relating to Intellectual Property (10 Hours)**

- 5.1. Provisions relating to Patents, Trademarks and Copyrights
- 5.2. Overview of Laws relating to other Intellectual Property Rights
- 5.3. Enforcement of Intellectual Property Rights

**Periyar University, Tamil Nadu****B. Com., Semester-III Core V – BUSINESS LAW****UNIT-I**

To cultivate understanding of the various Trade Laws of Land – with an expert knowledge of Indian Contract Act, Sale of Goods Act. To provide comprehensive understanding of rights, duties and responsibilities of the parties entering into business dealings Commercial Law – Introduction – Meaning – Objectives – Sources – origin – (custom-law of England – Equity precedents nature of law) Indian Contract Act, 1872 – Contract – Definition – Obligation – Nature and Kinds of Contract – Elements of a Valid Contract – Formation of Contract.

**UNIT –II**

Agreement – Contingent Contract, Quasi Contract – Types of contingent contract – Performance of a Contract, Discharge of a Contract – by performance mutual consent, by impossibility, by contract, by breach – Remedies for breach of Contract.

**UNIT-III**

Contract of Indemnity – Introduction – Rights of indemnity holder and indemnifier – Guarantee – Definition, features, types, Revocation – Bailment – pledge. Hypothecation – Charge mortgage – Meaning and definitions.

**UNIT-IV**

Agency – creation of Agency – Kinds of Agent – Rights and Duties of Principal and Agent – Relation of Principal and third parties – Termination of Agency.

**UNIT-V**

Sale of Goods Act 1930 – Definition of Sale and Agreement to sell – Conditions and Warranties – Transfer of property – Transfer of title – performance – Remedies for breach – Unpaid Seller – Rights of unpaid sale – Auction sale – Rules relating to delivery of goods.

**Bharathidasan University, Tiruchinapally, Tamil Nadu**  
Core Course VI (CC) – BUSINESS LAWS

**Objects**

1. To gain expert knowledge in the principles and practice of law relating to Business activities.
2. To have the basic knowledge of law governing business.
3. To know law relating to agency business.
4. To gain knowledge about different aspects of goods.
5. To create awareness about e-commercial law.

**UNIT – I**

Introduction – Definition, Nature and Scope of Mercantile Law – Law and Society – Growth and sources of Mercantile Law – Nature and Kinds of Contracts – Agreement – Offer and Acceptance – Consideration – Capacity of Parties – Free Consent – Legality of Object and Consideration – Contingent Contracts – Quasi Contracts.

**UNIT – II**

Performance of Contracts – Discharge of Contracts – Remedies for breach including Specific Performance – Indemnity and Guarantee – Bailment and Pledge.

**UNIT – III**

Law of Agency – Definition of Agent and Principal – Distinction between an Agent and a Servant – Creation of Agency – Classification of Agents – Sub Agents – Distinction between a Sub Agent and a Substituted Agent – Powers of Duties of Agent and Principal – Termination of Agency.

**UNIT – IV**

Sales of Good Act – Definition of Contract of Sale – Essentials of a Contract of Sale – Goods – Classification of Goods – Distinction between Sale and Agreement to sell – Document of Title to Goods – Price – Definition of Condition and Warranty – Distinction between Condition and Warranty – Implied Conditions in a Contract of Sale – Implied Warranties – Delivery of Goods – Rules Regarding delivery of goods – Acceptance of delivery – Rights of an unpaid seller.

**UNIT – V**

Law relating to Information Technology (Cyber Laws) – Need for Separate Cyber Law – Problems of Electronic Communication – Cyber Laws in India – Information Technology Act, 2000 – Extend and Applicability – Electronic Signature – Rules pertaining to Digital Signature – Attribution of Electronic Records – Regulation of certifying authorities – Appointment of Controller and other officers – Functions of the Controller – License for issuing Electronic Signature Certificates.



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ISBN 93-5161-193-0



TC-283