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MMPC-13

Business Law

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QUESTION PAPER

June – 2024

(Solved)

BUSINESS LAW

MMPC-13

Time: 3 Hours]

[Maximum Marks: 100

Note: Attempt any five questions. All questions carry equal marks.

Q. 1. What is 'Business Law'? Discuss the different principles of Business Law.

Ans. Ref.: See Chapter-2, Page No. 14, 'Concepts Under Business Law' and Page No. 14, 'Principles of Business Law'.

Q. 2. Define 'Company'. Discuss the distinctive features of a Company form of Business.

Ans. Ref.: See Chapter-4, Page No. 51, 'Formation of A Company' and Page No. 62, Q. No. 1.

Q. 3. What is 'Contract'? Discuss the different elements of a valid contract.

Ans. Ref.: See Chapter-5, Page No. 71, 'Formation of Contracts' and Page No. 72, 'Essentials of Valid Contract'.

Q. 4. What is a Limited Liability Partnership (LLP)? Explain the process of incorporation of a LLP.

Ans. Ref.: See Chapter-3, Page No. 36, 'Limited Liability Partnership Act, 2008' and Page No. 38, 'Incorporation of LLP'.

Q. 5. Define Insolvency. Describe the salient features of the Insolvency and Bankruptcy Code, 2016.

Ans. Ref.: See Chapter-9, Page No. 128, 'Definition of Insolvency' and Page No. 129, 'Unified Insolvency and Bankruptcy Law – The Insolvency and Bankruptcy Code, 2016'.

Q. 6. What is Intellectual Property? Explain how Patents and Copyrights are providing protection to the Intellectual Property.

Ans. Ref.: See Chapter-10, Page No. 145, 'Intellectual Property' and Page No. 146, 'Patents and Copyright'.

Q. 7. What are the key constitutional provisions in India relating to Environment? Discuss the initiatives by the Govt. of India to promote sustainable production and consumption.

Ans. Ref.: See Chapter-12, Page No. 176, Q. No. 1 and Page No. 180, Q. No. 6.

Q. 8. What is the need for Competition Law? Explain the different types of Anti-Competitive Agreements.

Ans. Ref.: See Chapter-13, Page No. 185, 'Objectives of Competition Law', 'Brief Historical Overview of Indian Competition Law' and Page No. 186, 'Anti-Competitive Agreements' and Page No. 193, Q. No. 9.

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QUESTION PAPER

December – 2023

(Solved)

BUSINESS LAW

MMPC-13

Time: 3 Hours]

[Maximum Marks: 100

Note: Attempt any five questions. All questions carry equal marks.

Q. 1. What is Business Law? Discuss the different objectives and purposes that the Business Law serves in the today's business world.

Ans. Ref.: See Chapter-1, Page No. 1, 'Introduction' and Page No. 2, 'Significance of Business Law', 'Objectives of Business Law'.

Q. 2. Who is a Partner? Discuss the different rights and duties of a Partner.

Ans. Ref.: See Chapter-3, Page No. 40, Q. No. 1, Page No. 32, 'Relation of Partners to One Another'.

Q. 3. Define 'Company'. Briefly, explain the different principal documents of a Company.

Ans. Ref.: See Chapter-4, Page No. 51, 'Introduction', 'Formation of A Company' and Page No. 53, 'Principal Documents of A Company'.

Q. 4. What is the need for regulation of Banking Company? Explain the Regulation in relation to the Bank Management.

Ans. Ref.: See Chapter-7, Page No. 100, 'Regulation in Relation to Chartering/Licensing' and 'Regulation in Relation to the Bank Management'.

Q. 5. Describe the four pillars of institutional infrastructure created by the Insolvency and Bankruptcy Code, 2016.

Ans. Ref.: See Chapter-9, Page No. 138, Q. No. 5.

Q. 6. Why Right to Privacy is important? Discuss the data protection framework in India.

Ans. Ref.: See Chapter-11, Page No. 160, 'Right to Privacy and the Need for specific Data Protection Laws' and 'Data Protection Framework in India'.

Q. 7. Explain the need for protecting the Environment. Discuss the role of Judicial Forums on Environmental Protection in India.

Ans. Protecting the environment is essential for the well-being of all living organisms, including humans, as well as for the health and sustainability of the planet. Here are the key reasons why environmental protection is critical:

1. Biodiversity Conservation: The environment supports an intricate web of life, with millions of species of plants, animals, and microorganisms relying on ecosystems for survival. By protecting habitats such as forests, oceans, and wetlands, we preserve biodiversity, which ensures ecological balance and stability. Loss of biodiversity can disrupt ecosystems, lead to the extinction of species, and negatively affect ecosystem services that humans rely on, such as pollination, water purification, and disease regulation.

2. Human Health and Well-being: A healthy environment provides clean air, water, and food, all of which are vital for human health. Pollution, deforestation, and water contamination can lead to severe health issues like respiratory diseases, waterborne illnesses, and malnutrition. By protecting the environment, we reduce pollution and mitigate health risks associated with environmental degradation.

3. Climate Change Mitigation: Protecting the environment helps combat climate change, which is one of the most significant global challenges today. Greenhouse gas emissions from human activities, such as burning fossil fuels and deforestation, are warming the planet. Environmental protection efforts, such as

Sample Preview of The Chapter

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BUSINESS LAW

BLOCK-1: OVERVIEW OF BUSINESS LAW



Introduction to Business Law

INTRODUCTION

Business occupations play a critical role in any country's economy. The act of doing business, which results in the development of jobs and opportunities, as well as the generation of income for the economy, plays an important role in nation-building. Because it ensures the aspects of confidence and clarity that are essential to economic transactions between strangers, business law has risen to prominence. The notion of 'Business' and the aims of 'Business Law' will be discussed in this unit. The chapter will assist students in comprehending the importance of business law in today's commercial world and will detail the many sources of business law.

In the text, the phrases "business law" and "business laws" are used interchangeably. "Business Law" is a broad phrase that refers to the legal and regulatory framework that governs the conduct of business. Any country's business environment is governed by its business laws, which are required for performing business transactions and regulating commerce. This chapter will concentrate on defining the term "business," the breadth and importance of business law in today's economic environment, and recognising the various sources of law that have contributed to the evolution of business law. Law, the Rule of Law, and Property are three principles that provide a required foundation for the most successful functioning of the market in the modern nation.

Law

Before students are exposed to 'Business Law,' it is vital to have a preparatory discussion on 'what is law.' The term "law" has been defined in a number of

different ways. Giving a specific definition of law is difficult. It is been defined as a set of guidelines for human behaviour. A simple definition of law states that it is a formal social force composed of norms established by the state and enforced by the state.

Rule of Law

Laws are created to be broadly applicable and equally applied under the Rule of Law. They apply equally to all members of society and to various groupings. "There could be no well-functioning markets without confidence based on the rule of law; without trust and openness," says UN Secretary General. "Without the rule of law, key economic organisations such as businesses, banks, and labour unions would not function, and the government's various economic involvements – regulatory mechanisms, tax systems, customs framework, monetary policy, and so on – would be unjust, inefficient, and opaque."

Property

The term 'property' has two meanings: it refers to something that is owned and it refers to ownership. Individuals and businesses can own, utilise, and transfer their private assets thanks to property law. The property is surrounded by a legal fence that keeps anyone out who don't have your permission. The private market and modern business are built on the exclusionary right of property. Contract law allows an owner to exchange resources at a later date, tort law compensates owners whose resources have been wrongfully harmed by others' actions, criminal law punishes those who harm an owner's resources in a specific way, and business law defines how individuals can own and use private resources in groups. The Property Wheel is depicted in the diagram ahead:

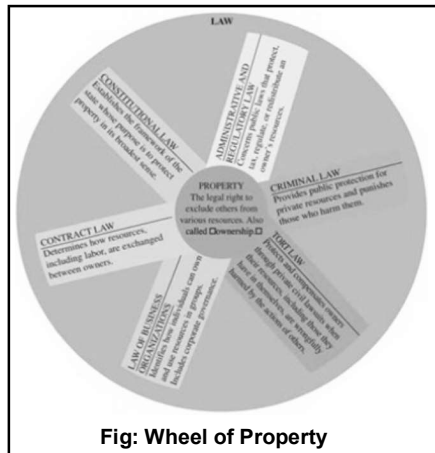


Fig: Wheel of Property

CHAPTER AT A GLANCE

MEANING OF BUSINESS

The term business refers to an organization or enterprising entity engaged in commercial, industrial, or professional activities. Businesses can be for-profit entities or they can be non-profit organizations that operate to fulfill a charitable mission or further a social cause. Businesses range in scale from sole proprietorships to international corporations and can range in size from small to large.

The term business can also be used to define the efforts and activities of individuals to produce and sell goods and services for profit.

The two main areas of business law are:

- Regulation of bankruptcy, partnership, agency, and company laws for commercial entities
- Regulation of contract laws for commercial transactions

BUSINESS ENVIRONMENT

Business environment encompasses all those factors that affect a company's operations and includes customers, competitors, stakeholders, suppliers, industry trends, regulations other government activities, social and economic factors and technological developments.

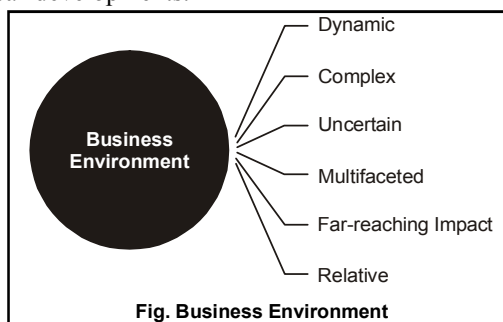


Fig. Business Environment

SIGNIFICANCE OF BUSINESS LAW

Business law plays a vital role in regulating business practices in a country. Here are some points that prove why business law is so relevant:

- **Compensation Issue:** Business law is essential to handle various compensation issues in an organization. A professional business attorney in Santa Rosa can help companies in settling issues related to compensation and salary management. It is the responsibility of the attorney to ensure that his or her client does not violate compensation and benefits laws at any cost. The consequences can be fatal in case of any discrepancies.
- **Safeguard the Rights of Shareholders:** Business law plays a vital role when it comes to safeguarding the rights of a company's shareholders. An experienced business law attorney can successfully handle such issues along with conflicts related to minority shareholders, constitutional documents, and resolution by arbitration, and more.
- **Business Formation:** Business law plays the role of a foundation stone for any business concern. Establishing business includes a lot of legal processes, leasing and permits. A business law attorney is well-versed with all the relevant regulations, and can help the concern establish its operations successfully.

OBJECTIVES OF BUSINESS LAW

The objectives are given below:

- **A comprehensive set of standards established universally:** In prior times, no proper law to safeguard customers, their money invested, or their interests was established, resulting in customers suffering a lot. Because of the fact that there was an absence of laws to maintain orders, liabilities, and safeguard rights, the majority of business owners had set self-made standards to make as much money as possible due to which customers would suffer immensely. With the establishment of business law, businesses around the world now have to follow universal standards that safeguard both customers and businesses.
- **Promoting industrial growth:** Business law is not expected to do only policing job, i.e., laying rules of the game for business and providing certain rights and protecting the rights of the businessmen. The role of business

law is much wider. For example, business law may contribute to the industrial growth. By selectively issuing licences to deserving entrepreneurs, by facilitating capital formation, by ensuring cordial industrial relations, and by providing other needed facilities, business law contributes considerably to the growth of industries.

- **Laying down the procedure for the establishment of business:** The business laws offer the necessary framework for the formation of a business company as well as the establishment of a solid basis for the business entity to succeed in the market.
- **Enforcement of Rights:** Businessmen have “rights” like other citizens – rights which are judicially forceable against infringement by private parties or by government itself. Thus, the businessman may turn to High Courts or Supreme Court to enforce his/her claims against debtors, his/her rights to a patent or copyright, right to own property and so on. The businessman has also a right to defend himself/herself against actions of government – Central, State or local bodies. These rights are provided to him/her by business laws.
- **Contributes to the building of healthy business relationships:** The construction of strong business links is an absolute prerequisite for developing a strong economy of a country, hence laws dealing with business problems are vitally important in the establishment of secure and successful business interactions among the concerned entities. The Partnership Act, for example, lays down the rights, responsibilities, and obligations of a firm’s partners in order to carry out a successful enterprise. Business law is also crucial in facilitating Mergers and Acquisitions (M & As) between companies that want to collaborate and develop their operations.
- **Reduced Possibilities of Fraud:** The business owners are benefitted by business law by making them well aware of the various rules and regulations against individuals and other businesses. In addition, it helps customers by making them well-aware of their rights against business owners so that they do not fall prey to the misery and frauds of the business.

- **Business Laws help Maintain Equilibrium:** The existence of business law creates a sense of satisfaction and security among customers. In the absence of business law, there were different laws in each business concerning business transactions because of which it was difficult for sellers and customers to establish a deal. But, now, the same standards are followed by every country, and it is a lot easier to establish a deal between seller and buyer. This has made business transactions across the world easier and smoother.
- **Ethical Conduct:** Business owners are able to make better decisions with the enactment of business law. They now also know when to seek legal help. Every business is required to maintain ethical conduct. However, many businesses disobey such conduct in the greed to make more profits. Business law mandates every business to make sure it maintains ethical conduct, thereby keeping the buyers satisfied and resulting in a good business image.
- **Social Responsibility:** Business law has social objective too. It seeks to check exploitation of child labour and discrimination in employment or remuneration on the basis of sex, caste or religion; misuse of economic power against any section of society; reckless exploitation of economic resources at the cost of posterity; and systematic disruption of ecology. It prohibits business from indulging in practices which are harmful to public interest.
- **Laying down law in accordance with the evolving standards:** The corporate climate is constantly changing and dynamic. The legislation must be enacted while taking into account the country’s economic and business climate. These regulations guarantee not just consistency in company processes, but also clarity in unexpected situations. To handle the occurrence of unforeseen events, legislative adjustments in the form of amendments are made.
- **Providing Penalties for Violation of Laws:** Business law is incredibly significant since it lists the numerous penalties that regulatory agencies can use to guarantee that business activities are conducted in accordance with the mandated standards set by the respective branch of law.

For example, under Chapter VI of the Competition Act, there are a variety of penalties for violating the Commission's orders or failing to follow the Director or General's the Commission's directions.

- **Insurance Against Risks:** Every firm has inherent risks that can be related to business operations, commodities movement or transit, financial hazards, and so on. Insurance regulations give ways for businesses to insure against such unforeseen events.

SCOPE OF BUSINESS LAW

The scope of business law is indeed vast. It usually deals with topics of licences, large houses, monopolies, issues of securities, contracts, property, agency, negotiable instruments, foreign exchange, partnerships, companies, insurance, sales, bailment, guarantees, labour, suretyship, bankruptcy, consumer interest, business crimes, raising loans from financial institutions, obtaining electricity, iron and steel, customs clearance, allotment of materials, import of capital goods, pollution control and the like. These and other aspects are covered by legislations enacted by Central, State or Local Bodies.

CORPORATE RESTRUCTURING UNDER BUSINESS LAW

Corporate restructuring plays a role in the life of many companies. In general, companies may pursue corporate restructuring strategies in response to falling profits, general market or economic forces and trends, changes in ownership, changes in corporate strategy, or to increase cash flow. Restructuring is usually done with an eye toward maximizing companies' strengths by reducing costs, eliminating inefficiency, and increasing profits.

Whatever the reason for pursuing restructuring, successful corporate restructuring is a complex and exhaustive effort that is better served by a strong valuation of the business enterprise and/or the component pieces. Extensive valuation of company assets may provide a road map to the financial aspect of corporate restructuring and maximize the benefits of restructuring. It begins with an accurate understanding of the company's assets to properly formulate the impact of corporate restructuring strategies.

SOURCES OF BUSINESS LAW

Constitution: A country's Constitution is a set of fundamental ground rules setting out the powers of the different branches of government (i.e. executive, legislative and judicial) and how these entities operate and interrelate. The Constitution may also set out basic

principles, such as fundamental freedoms and rights. In Civil Law systems these rules are usually embodied in "Codes".

All but a very few countries have written constitutions where these fundamental rules can be easily identified (although their interpretation may be less straightforward). The remaining few have unwritten constitutions established by long-standing tradition.

A Constitution overrides any other source of law and it is usually highly difficult to amend. There may be a separate judicial court which considers constitutional issues, namely whether any law, regulation or administrative act is inconsistent with the Constitution and therefore void.

Statutes: Legislation is the second key source of law and usually takes priority over sources of law other than the Constitution. There may be more than one legislative body in a country—central, provincial or state and municipal authorities may each have separate power to legislate. Rules will determine the extent to which and in what areas one legislative body has priority over another.

Primary legislation may delegate powers to a particular ministry or regulator to prepare secondary legislation designed to supplement and develop the principles set out in the primary legislation. For example, tariff setting guidelines for a regulatory authority that is established by primary legislation may be set out in secondary legislation. Secondary legislation is usually not subject to full parliamentary scrutiny guidelines and so is faster to enact. However, it may be more difficult to identify than primary legislation as it may be recorded in subsidiary documents.

Cases: In some countries, judicial decisions are authoritative and develop into a source of law known as "case law". Case law may extend the application of legislation and is deemed to form part of the law.

In other jurisdictions (mainly civil law jurisdictions) judicial decisions are formally only deemed to interpret the existing law and are not a binding source of law, although in practice they are often treated as authoritative.

Custom: Customs and usage plays an important role in regulating business transactions. Most of the business customs and usage have been already codified and given legal sanctions in India. Some of them have been ratified by the decisions of the competent Courts of law. When a custom is accepted by a court and is incorporated in a judicial decision, it becomes a legally recognized custom.