

Contracts (General Part) Law, 1973

Chapter One: Making of the Contract

1. A contract is made by way of offer and acceptance, in accordance with the provisions of this chapter.

Ways of Making a Contract

2. A person's proposal to another person constitutes an offer, if it attests to the offeror's resolve to enter into a contract with the offeree, and it is sufficiently definite to make it possible for the contract to be concluded by acceptance of the offer. A proposal may be made to the general public.

Offer

3. (a) The offeror may withdraw the offer by notice to the offeree, provided that the notice of withdrawal is delivered to the offeree before he has given notice of acceptance.

(b) If the offeror declared that the offer is irrevocable or if he set a time for its acceptance, he may not withdraw it after it has been delivered to the offeree.

Withdrawal of an Offer

4. An offer lapses -

(1) when the offeree has rejected it or the time for its acceptance has passed;

(2) when, before notice of acceptance is given, the offeror or offeree dies or becomes legally incompetent, or when a receiving order or a winding up order is made against him.

Lapse of an Offer

5. Acceptance will be by notice by the offeree, delivered to the offeror and attesting to the offeree's resolve to enter into the contract with the offeror in accordance with his offer.

Acceptance

6. (a) Acceptance may be by way of an act in implementation of the contract or by some other conduct, if these ways of acceptance are implied in the offer; for the purposes of sections 3(a) and 4(2), the said conduct is treated as notification of acceptance.

(b) A declaration by an offeror, that the absence of any response on the offeree's part will be deemed acceptance, is of no effect.

Acceptance by way of conduct

7. An offer which is exclusively for the benefit of the offeree is presumed to have been accepted by him, unless he notifies the offeror of his opposition to it within a reasonable time after it comes to his knowledge.

Presumption of acceptance

8. (a) An offer can only be accepted within the period specified in it or, if no period has been specified, within a reasonable time.

(b) When an offeree gives notice of acceptance in due time, but its delivery to the offeror is delayed for a reason not dependent on the offeree and unknown to him, the contract is regarded as having been concluded, unless the offeror informs the offeree of the rejection of the acceptance immediately after the notice of acceptance is delivered to him.

Time for acceptance

9. Acceptance of an offer after it has lapsed is deemed as a new offer.

Acceptance after a Lapse

10. The offeree may withdraw his acceptance by notice to the offeror, provided that notice of the withdrawal is not delivered to the offeror after the notice of acceptance has been delivered to him, or after he has become aware of the acceptance in the manner indicated in section 6(a).

Withdrawal of Acceptance

11. Acceptance, which involves an addition or a limitation or some other change of the offer is deemed as a new offer.

Acceptance with Change

12. (a) In negotiating a contract, a person will act in customary manner and in good faith.

(b) A party who does not act in customary manner and in good faith will be liable to pay compensation to the other party for the damage caused to him in consequence of the negotiations or of the conclusion of the contract, and the provisions of section 10, 13 and 14 of the Contracts (Remedies for Breach of Contract) Law 1970 will apply, mutatis mutandis.

Negotiation in Good Faith

Chapter Two : Rescission of a Contract Because of a Defect in Making it

13. A contract concluded merely for the sake of appearances is void. This provision will not affect the rights acquired by a third party in bona fide reliance on the existence of a contract.

Contract Concluded for Sake of Appearances

14. (a) When a person has entered into a contract in consequence of a mistake, and it may be assumed that, but for the mistake, he would not have entered into it, and if the other party knew or should have known this, he may rescind the contract.

(b) When a person has entered into a contract in consequence of a mistake, and it may be assumed that, but for the mistake, he would not have entered into it, but the other party did not know and need not have known this, the court may, on application of the party who was mistaken, rescind the contract if it considers it just to do so. Upon doing so, the court may require the party who was mistaken to pay compensation for the damage caused to the other party in consequence of making the contract.

(c) A mistake is not grounds for the rescission of a contract under this section, if the contract can be preserved by rectifying the mistake and the other party gives notice, before the contract is rescinded, that he is prepared to rectify it.

(d) For the purposes of this section and of section 15, 'mistake' means a mistake of fact or of law, but does not include a mistake as to the worthwhileness of the transaction.

Mistake

15. A person, who has entered into a contract in consequence of a mistake that is the result of deceit practiced on him by the other party or by a person who acts on his behalf, may rescind the contract. For this purpose, 'deceit' includes the nondisclosure of facts which the other party, according to law, custom or circumstances, should have disclosed.

Deceit

16. When a clerical or similar error has occurred in a contract, the contract will be corrected in accordance with the presumed intention of the parties,

and the error will not be grounds for rescission of the contract.

Clerical error

17. (a) A person who has entered into a contract in consequence of duress, by force or by threats, applied to him by the other party or by a person acting on his behalf may rescind the contract.

(b) A bona fide warning that a right may be exercised does not constitute a threat within the meaning of this section.

Duress

18. If a party has entered into a contract in consequence of the fact that the other party, or a person acting on his behalf, takes advantage of his distress, mental or physical weakness or inexperience, and if the terms of the contract are, to an unreasonable degree, less favorable than is customary, he may rescind the contract.

Extortion

19. If a contract can be divided and the grounds for rescission relate to only one of its parts, that part alone will be subject to rescission. However, if it is to be assumed that the party entitled to rescind would not have entered into the contract but for that part, he may either rescind the said part or the whole contract.

Partial Rescission

20. Rescission of a contract will be by notice by one party to the other party, given within a reasonable time after he became aware of the grounds for rescission or, in the case of duress, within a reasonable time after he became aware that the duress has ceased.

Way of Rescission

21. When a contract has been rescinded, each party will restore to the other party what he has received under the contract, or, if restitution is impossible or unreasonable, pay him the value of what he has received.

Restitution after rescission

22. The provisions of this chapter will not derogate from any other remedy.

Saving of Remedies

Chapter Three : Form of a Contract and Its Contents

23. A contract may be made orally, in writing or in some other form, unless a particular form is a condition of validity by virtue of law or agreement between the parties.

Form of Contract

24. The contents of a contract may be whatever is agreed upon between the parties.

Contents of Contract

25. (a) A contract will be interpreted in accordance with the intention of the parties, as it appears from it, or, if the intention is not apparent from it, as it appears from the circumstances.

(b) When a contract can be interpreted in different ways, an interpretation

that preserves its validity is preferable to an interpretation according to which it is void.

(c) Expressions and stipulations in a contract, which are customarily used in contracts of that kind, will be interpreted in accordance with the meanings assigned to them in such contracts.

(d) Sections 2, 4, 5, 6, 7, 8 and 10 of the Interpretation Law 1981, and Section 57C of the Evidence Ordinance 1971, will apply, mutatis mutandis, to the interpretation of a contract, if there is no other provision in the said matter, and if nothing in the said matter or its context does not contradict such application.

Interpretation of Contract

26. Particulars not set by or under the contract will be in accordance with the practice that obtains between the parties or, in the absence of such practice, in accordance with the practice customary in contracts of that kind, and such particulars will also be deemed to have been agreed.

Supplementary Particulars

27. (a) A contract may depend on the fulfillment of a condition (hereinafter: suspensory condition) or may cease upon the fulfillment of a condition (hereinafter: resolutive condition).

(b) When a contract requires the consent of a third party or a license under any enactment, receipt of that consent or license is presumed to be a suspensory condition.

(c) When a contract is subject to a suspensory condition, each party is entitled to relief to prevent its breach even before the condition is fulfilled.

Conditional Contract

28. (a) When a contract is subject to a suspensory condition and one party prevents fulfillment of the condition, that party is not entitled to rely on nonfulfillment.

(b) When a contract is subject to a resolutory condition and one party causes fulfillment of the condition, that party is not entitled to rely on such fulfillment.

(c) The provisions of this section will not apply when the condition is something that –according to the contract –a party is at liberty to do or not to do, or when a party does not prevent or does not cause the fulfillment of the condition willfully or negligently.

Frustration of a Condition

29. When a contract is subject to a condition and the condition is not fulfilled within the period fixed therefor or, when no period has been fixed, within a reasonable time after the conclusion of the contract, then, in the case of a suspensory condition, the condition will become void.

Avoidance of Contract or Condition

30. A contract, the conclusion, contents or object of which are illegal, immoral or contrary to public policy is void.

Invalid Contract

31. The provisions of Section 19 to 21 will apply, mutatis mutandis, to the avoidance of a contract under this chapter, provided that in the case of an avoidance under section 30 the court may, if deems it just to do so and on such conditions as it sees fit, relieve a party of all or part of the duty under section 21 and, insofar as one party has fulfilled his obligation under the contract, require the other party to fulfill all or part of the

corresponding obligation.

Application of Provisions

32. (a) A gambling, lottery or betting contract under which a party may win some benefit, where winning depends on fate, guesswork or a chance occurrence, rather than on understanding or ability, is not actionable and does not give rise to compensation.

(b) The provisions of this section will not apply to gambling, a lottery or betting regulated by Law or for the conduct of which a permit has been issued under any Law.

Gambling, Lottery or Betting Contract

33. When, under any contract, a mark, a grade, title, prize or the like is to be given according to a decision or evaluation by one of the parties or by a third party, that decision or evaluation will not be the subject of court proceedings.

Contract for Giving Marks or Grades

Chapter Four : Contract in Favor of a Third Party

34. An obligation assumed by a person in a contract in favor of a person who is not a party to the contract (hereinafter: beneficiary) confers to the beneficiary the right to demand fulfillment of the obligation, if the intention to confer that right on him is apparent from the contract.

Conferment of Right

35. The beneficiary's right to demand fulfillment of the obligation becomes void retroactively, if, within a reasonable time after one of the parties to the contract informs him of the right, he informs one of them of its repudiation.

Repudiation of a Right

36. (a) As long as neither of the parties has informed the beneficiary of his right under the contract, they may change or terminate that right by changing the contract.

(b) In the case of an obligation to be fulfilled in consequence of a person's death, by virtue of an insurance contract or of membership in a pension or provident fund or on some other similar grounds, the creditor may, by notice to the debtor or by a will of which notice is given to the debtor, terminate the beneficiary's right or replace him with another beneficiary, even after the beneficiary was informed of his right.

Termination of a Right

37. Any plea available to the debtor against the creditor in connection with the obligation is also available to him against the beneficiary.

Pleas Available Against Beneficiary

38. The beneficiary's right will not derogate from the creditor's right to demand from the debtor the fulfillment of obligations in favor of the beneficiary.

Saving of a Creditor's Right

Chapter Five : Performance of a Contract

39. An obligation or right arising out of a contract will be fulfilled or exercised in customary manner and in good faith.

Performance in Good Faith

40. An obligation may be fulfilled by a person other than the debtor, unless, according to the nature of the obligation or according to the agreement between the parties, the debtor must fulfill it in person.

Performance by Whom

41. An obligation, for which the date of fulfillment has not been agreed upon, will be fulfilled within a reasonable time after the contract is concluded, and on a date of which the creditor has given the debtor reasonable advance notice.

Date for Performance

42. An obligation may be fulfilled before the due date, provided the debtor has given the creditor reasonable advance notice and the creditor is not affected adversely.

Early Performance

43. (a) The date of the obligation's fulfillment is postponed

(1) If its fulfillment on the due date is prevented by a circumstance that depends on the creditor, until the obstacle has been removed;

(2) If its fulfillment is conditional upon the prior fulfillment of an obligation by the creditor, until that obligation has been fulfilled ;

(3) if the parties must fulfill their obligations simultaneously -as long as the creditor is not prepared to fulfill the obligation imposed on him.

(b) If the date for the fulfillment of an obligation has been postponed under subsection (a), the court may, if it deems it just to do so, require the creditor to pay compensation for the damage caused to the debtor by the postponement, even if no infringement of the contract by the creditor is involved, and if the debtor is bound to make periodic payments until the obligation's fulfillment release him from these payments during the period of postponement.

Postponement of Performance

44. (a) If the place for the performance of an obligation has not been agreed upon, it will be fulfilled at the creditor's place of business or, if he has no place of business, at his permanent place of residence.

(b) If the creditor changed his place of business or of residence after the contract was concluded, he will bear the additional expense that arises out of the fulfillment of the obligation at the new place.

Place of performance

45. An obligation to provide a commodity or service, the kind and quality of which have not been agreed upon, will be fulfilled by providing a commodity or service of medium kind and quality.

Medium Performance

46. If the amount of an obligation to pay for a commodity or service has not been agreed upon, it will be fulfilled by paying an amount which, according to the circumstances at the time the contract was concluded, it would have been

appropriate to pay.

Performance by Paying an Appropriate Amount

47. An obligation to make a payment in Israel in a foreign currency, when making the payment in that currency is forbidden by law, will be fulfilled by making the payment in Israel currency at the official rate of exchange on the day of payment.

Israeli Currency

48. If the debtor, in order to fulfill an obligation, assumes another obligation toward the creditor or transfers to him a right in respect of a third party, it is presumed that there is no intent to terminate the former obligation, unless the latter has been fulfilled or the right has been realized.

Conditional Fulfillment

49. An amount paid towards the discharge of a single obligation will first be appropriated to the account of expenses which the debtor has undertaken to pay in respect of that obligation, then to the account of interest, and finally to the account of the obligation itself.

Appropriation of Payments in the Case of One Obligation

50. When an amount is paid to the creditor while the debtor has several obligations towards him, the debtor may indicate, at the time of payment, the obligation to the account of which the amount is to be appropriated; if he does not do so, the creditor may.

Appropriation of Payments in the Case of Several Obligations

51. (a) In the case of alternative obligations, the debtor may, by notice to the creditor within the period set therefor or, if no period has been set, within a reasonable time before the date of fulfillment, choose the obligation which he will fulfill. If he does not do so, the creditor may choose the obligation by notice to the debtor.

(b) If it has been agreed that the creditor will have the right to choose, but he does not exercise it within the period set therefor or, if no period has been set, within a reasonable time before the date of fulfillment, then the debtor may choose the obligation by notice to the debtor.

Choice Between Alternative Obligations

52. When the fulfillment of an obligation has become impossible and the debtor accordingly has a right to compensation or indemnification against a third party, the debtor will transfer that right or whatever he has received under it to the creditor, to the extent of the value of the obligation.

Substituted Fulfillment

53. (a) Mutual monetary obligations, which arise out of one transaction the time of fulfillment of which has not yet arrived, may be set off by notice from one party to the other. The same applies to

monetary obligations that do not arise out of one transaction, if they are liquidated obligations.

(b) An obligation, in respect of which the right to fulfillment is not attachable, will not be set off.

(c) The provisions of sections 49 and 50 will also apply, mutatis mutandis, to discharge by way of set off.

Set Off

Chapter Six : Several Debtors and Creditors

54. When two persons are under one obligation, it is assumed that they are liable jointly and severally.

Several Debtors

55. (a) When two persons are jointly and severally liable, the creditor may demand fulfillment of all or part of the obligation from both together or from each separately, but he will not recover more than is due to him.

(b) If the obligation of one of the debtors becomes void or is voided, the obligation of the other also becomes void, unless the voidance arises out of a defect in the competence or representation of the first debtor.

(c) If the creditor discharges one of the debtors of all or part of the obligation, by way of waiver, remission, compromise or otherwise, the other is discharged to the same extent, unless a different intention appears from the discharge.

Joint and Several Liability

56. (a) When two persons are under one obligation, it is presumed that, between themselves, they bear it in equal shares.

(b) When one debtor has paid to the creditor more than his share of the burden of the obligation, he is entitled to recover from the other debtor in accordance with their respective shares.

(c) When there are more than two debtors and there is no reasonable possibility of recovering from one of them, his share will be borne by the other debtors in accordance with their respective shares.

(d) When the obligation of one debtor becomes void under section 55(b), the

voidance arising from a defect in his competence or representation, the other is not entitled to recover from him. When one debtor is discharged under section 55(c) and the discharge does not include the other, the discharge does not affect the right of recovery against the other under this section.

Apportionment of Obligation Between Debtors

57. A debtor who has fulfilled the obligation in excess of his share is not entitled to recover from another debtor, insofar as he could have been discharged towards the creditor by virtue of a plea which was known to him, but of which he did not avail himself.

Restriction on Right to Recovery

58. (a) Any charge or other right given to a creditor as security for the obligation will pass, insofar as the creditor is not adversely affected by such passing, to a debtor who has fulfilled his obligation in excess of his share, as security for his right to recover from another debtor.

(b) When a charge or right has passed under subsection (a), the parties will - on demand of the debtor who has fulfilled the obligation, do whatever is necessary so that the transfer is valid in all respects.

Transfer of Securities

59. (a) When one obligation exists towards two persons, it is presumed that each of them may demand its fulfillment, but they will not recover more from the debtor than is due from him. The debtor may, at his choice, fulfill the obligation toward one of his creditors, as long as judgment has not been given in favor of the other.

(b) Creditors as aforesaid are presumed to be entitled in equal shares. If the obligation has been fulfilled towards one of them, the other may demand his share from him.

Chapter Seven : Miscellaneous

60. (a) Notice under this law will be given in the manner customary in the circumstances of the case.

(b) Notice under this law will be taken to have been served when it reaches the addressee or his address.

Manner and Time of Giving Notice

61. (a) The provisions of this law will apply where no other law includes special provisions on the matter in question.

(b) The provisions of this law will, as far as is appropriate and mutatis mutandis, apply also to legal acts other than contracts and to obligations that do not arise out of a contract.

Scope of Application

62. The following are hereby repealed:

(1) articles 658, 948, 949 and 1003 to 1007, and the twelfth book of the Mejlle;

(2) article 64 of the Ottoman Code of Civil Procedure, of 2 Rewjeb 1296 (June 21, 1879).

Repeal

63. Article 46 of the Palestine Order in Council 1922–1947 will not apply to matters dealt with by this law.

Independence of Law

64. This law will come into effect on August 29, 1973. Contracts concluded before this law came into effect will be governed by the previous law.

Commencement and Transitional Provision

Levi Eshkol Dov Joseph Shneur Zalman Shazar

Prime Minister Minister of Justice President of the State of Israel

Passed by the Knesset on the 9th Nisan, 5733 (11th April, 1973) and published in Sefer Ha-Chukkim No. 694 of the 17th Nisan, 5733 (19th April, 1973), p.118; the Bill and an Explanatory Note were published in Hatza'ot Chok No.880 of 5730, p. 129.