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# B.B.A. SEM – 6 MATERIAL


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# BBA SEM 6
# FINANCIAL INSTITUTIONS AND MARKETS



| UNIT No. | UNIT NAME |
|---|---|
| 1 | MONEY MARKET |
| 2 | CAPITAL MARKET |
| 3 | RESERVE BANK OF INDIA |
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## UNIT 1 MONEY MARKET

**TOPIC: What is Money Market? Discuss the characteristics and functions of Money Market**

**(A) MONEY MARKET:**

- The money market is short term in nature, money market is essentially a market for the financial assets ranging from one day to maturity Of 1 for less than 1 year
- it does not require a physical location, but primary it is an activity that is carried out over the telephone as well.
- it is a set of several markets for various instruments, each instrument has a separate market of its own; and each of these markets is comprehensive market for short term debt instruments
- rates of interest applied on instruments are also decided by demand and supply forces

**(B) Detailing:**

**Introduction to money market**

- The money market is essentially a market for the financial assets which are close substitute for money.
- The term close substitute normally denotes those assets which can be quickly converted into money with minimum transaction cost.
- It is basically a short term market for transactions ranging from one day to maturity of 1 or less than 1 year.
- Like other few markets, it does not require a physical location, but primary it is an activity that is carried out over the telephone as well.

According to RBI, money market may be defined as," **the centre for dealings, mainly of a short-term character, in monetary assets, it meets the short-term requirements of borrowers and provide liquidity to the lenders. It is the place where short term surplus investible funds at the disposal of financial and other institutions and individuals are bid by borrowers, again comprising institutions and individuals and also by the government"**

According to J.S.C Wilson, **"Money market is a centre in which financial Institutions Congregate for the purpose of dealing impersonally in monetary assets"**

**CHARACTERISTICS OF MONEY MARKET**

**A) Collection of markets**

- The money market basically is not a single market but it is a set of several markets for various instruments.
- Each and every instrument that is traded in money market has a separate market of its own.
- For instance, call money market, treasury bills market, repo market, etc.
- Thus, it is not a single market butter collection of various sub markets instrument wise

**B) Wholesale volume of transactions**

- As mentioned above, each instrument has a separate market of its own; and each of these markets is comprehensive market for short term debt instruments.
- Each of these markets is characterized by huge volume of transactions.
- In spite of being a short term instrument market, the money traded is huge and number of players participating is also quite high.
- Thus, the money market is characterized by huge volume of transactions at any point of time

**C) Open market**

- Primarily, the money market is a need based market where in the demand and supply of money fosters the market.
- Over a period of time, many instruments may lose the importance and may get thrown out of the market due to lack of demand or supply.
- Thus, the market is open. Even the various rates applied on instruments are also decided by demand and supply forces.

**D) No physical presence required**

- Normally to perform the exchange or transaction, a formal place like other market is not a necessity.
- It can also be done on phone calls or personal visits and the documents can be transferred subsequently.
- This in turn saves lots of cost for both the borrower and lender and ultimately lowers the transaction cost for the economy as a whole.

**E) Short term market**

- The money market is short term in nature.
- All the instruments which are traded in money market have a maturity of at the most one year.
- So, instruments that are traded in money market ranges from one day to one year maturity.

**F) Participants players**

- The major players who access this market are :
  - Reserve Bank of India(RBI),
  - discount and Finance house of India(DFHI),
  - corporate investors,
  - non-banking finance Companies,
  - state government,
  - mutual funds,
  - Non-resident Indians and few others.

**Functions of money MARKET**

- To balance the demand and supply of short term funds
- Provide an excellent platform for Central Bank to intervene in the process and influence the liquidity and interest rate structure in the economy
- To provide access to purveyors and uses of short term funds to carry out their borrowing and investment requirements in a well organized system and Efficient market earring price

**(C)One Word question answers:**

| Sr.No | Question | Answer |
|---|---|---|
| 1. | The money market is essentially a market for the financial assets which are close substitute for _______ | Money |
| 2 | money market is basically a short term market for transactions ranging from one day to maturity of__________ | 1year or less than 1 year |
| 3 | The money market basically is not a single market but it is a set of several markets for ________ | various instruments |
| 4 | the money market is a ______based market where in the demand and supply of money fosters the market | Need |
| 5 | the exchange or transaction will be done on _______ ,the documents can be transferred subsequently | phone calls or personal visits |
| 6 | The money market is _____term in nature | Short |
| 7 | The interest rates applied on instruments are decided by ________forces. | demand and supply |

**TOPIC: What is Money Market? Discuss the importance of Money Market**

**(A) MONEY MARKET:**

- Money market is an important source of financing trade and industry
- the development of capital depends upon the existence of a development of capital money market.
- The banks can get back the funds quickly, in times of need, by resorting to the money market
- Money market facilities effective implementation of the monetary policy of a central bank.
- serves as a guide to the Government in formulating and revising the monetary policy

**(B)Detailing:**
**Importance of money market**

- **Developing trade and industry :**
  - Money market is an important source of financing trade and industry.
  - The money market, through discounting operations and commercial papers, finances the short-term working capital requirements of trade and industry and facilities the development of industry and trade both – national and international.
- **Development Of Capital Market:**
  - The short-term rates of interest and the conditions that prevail in the money market influence the long-term interest as well as the resource mobilization in capital market.
  - Hence, the development of capital depends upon the existence of a development of capital money market.
- **Smooth Functioning of Commercial Banks:**
  - The money market provides the commercial banks with facilities for temporarily employing their surplus funds in easily realizable assets.
  - The banks can get back the funds quickly, in times of need, by resorting to the money market.
  - The commercial banks gain immensely by economizing on their cash balances in hand and at the same time meeting the demand for large withdrawal of their depositors.
  - It also enables commercial banks to meet their statutory requirements of cash reserve ratio (CRR) and Statutory Liquidity Ratio (SLR) by utilizing the money market mechanism.

- **Effective Central Bank Control:**
  - A developed money market helps the effective functioning of a central bank .
  - It facilities effective implementation of the monetary policy of a central bank.
  - The central bank, through the money market, pumps new money into the economy in times of depression and fetches out the same in times of inflation.
  - The central bank, thus, regulates the flow of money so as to promote economic growth with stability.
- **Formulation Of Suitable Monetary Policy:**
  - Conditions prevailing in a money market serve as a true indicator of the monetary state of an economy.
  - Hence, it serves as a guide to the Government in formulating and revising the monetary policy then and there depending upon the monetary conditions prevailing in the market.
- **Non-Inflationary Source Of Finance To Government:**
  - A developed money market helps the Government to raise short-term funds through the treasury bills floated in the market.
  - In the absence of a developed money market, the Government would be forced to print and issue more money or borrow from the central bank.
  - Both ways would lead to an increase in prices and the consequent inflationary trend in the economy.

**(C)One Word Question Answers:**

| Sr.No. | Question | Answer |
|---|---|---|
| 1 | The _______market, through discounting operations and commercial papers, finances the short-term working capital requirements of trade and industry and facilities the development of industry and trade | Money |
| 2 | The short-term rates of interest and the conditions that prevail in the money market influence the long-term interest as well as the resource mobilization in _______market. | Capital |
| 3 | The money market provides the commercial banks with facilities for temporarily employing their surplus funds in ________assets. | easily realizable |
| 4 | _________ facilities effective implementation of the monetary policy of a central bank. | Money market |
| 5 | Money market serves as a guide to the Government in formulating and revising the ______policy then and there depending upon the monetary conditions prevailing in the market. | Monetary |
| 6 | A developed money market helps the Government to raise short-term funds through the ____floated in the market. | treasury bills |
| 7 | The central bank, through the money market, pumps ____into the economy in times of depression and fetches out the same in times of inflation. | new money |

**TOPIC: Discuss the structure of Money Market in detail.**
**(A) MONEY MARKET STRUCTURE:**

- Money market is basically divided into i) Organized Sector and ii)Unorganized Sector
- Organised Sector is said to be formal or organized as it has various regulators such as RBI, SEBI etc, which regulates or controls the operations undertaken in this market

- Unorganised Sector works on its own without any authority or regulators to control its operations.
- Unorganised Sector includes Moneylenders, Chit Funds, Nidhis, Local bankers etc.

**(B)Detailing:**
**Structure of money market**
Money market is basically divided into i) Organised Sector and ii)Unorganised Sector

**Unorganized sector**

a. **Loan companies**
   - The main business of loan companies is to advance loan to individuals or firms.
   - Generally, these are small partnership firms who gather funds either from their own pockets or from public deposits and advances this money in the form of loan to wholesalers, retailers, small scale industries, cottage industries and self employed persons or group.
   - Generally , they pay a handsome return on the public deposits in order to attract more funds and give this money to traders at a little higher rate of interest than the interest which is paid to the depositors.
   - They are different from local banker or a commercial bank in a way that it does not accept the deposits in the form of current or savings account.
   - Only the fixed public deposits are used to gather money.
   - Mostly, the funds come from their own pockets, i.e. the contribution from the partners

b. **Chit funds**
   - Chit funds are voluntary but loose Association(members are not very serious or there is no existence of even an Formal Code of conduct) for mobilizing rural credit .
     - Chit funds is a kind of Saving Scheme practiced in India.
     - These schemes are generally conducted by and between friends and family.
     - Chit funds play a very crucial role in financial development of South Indian states.
     - There are thousands of chit funds operating on big or small scale in many villages and weaker sections of India.
     - The central banking enquiry committee had also suggested that there should be a" nidhi and Chit Fund act" today regulate and control the activities and formalized this important segment of financial system.

c. **Nidhis**
   - The term "Nidhi" from Indian perspective means" treasure".
   - These are one of the common non-institutional sources of finance available in India, especially in Southern India.
   - Nidhis are basically mutual loan societies or Association.
   - Nidhi is also known as mutual benefit Finance Company.
   - The main objective of this setup is to cultivate the habit of savings among its members.
   - The capital resources include share capital and deposits from public, but the main source of capital is the contribution of members in the Nidhi Company.
   - Generally, then it is a advance money to the members at reasonable rates of interest for the purpose like marriages, repayment of old debts, construction of house or cottage industry etc.
   - The Nidhis cannot deal with anyone else other than its members.

- They are best source of finance available to those who do not get Finance through official channels of financing viz. Banks, finance Companies etc. Lately, they are added to the official channel of Financing and are being regulated by ministry of Corporate Affairs

d. **Money lenders**
- Moneylenders are advancing loans to small borrowers
- Borrowers like marginal and small farmers, agricultural laborers, artisans, factory and mine workers, low paid staffs, small traders etc.
- Borrowings are given at very high rates of interest
- Money lenders also adopt various malpractices for manipulating loan records of these poor borrowers

e. **Indigenous bankers**
- Indigenous bankers include those individuals and private firms which are engaged in receiving deposits and giving loans and thereby acting like a mini bank.
- Their activities are not at all regulated.
- Indigenous bankers are classified into four main sub groups, i.e., Gujarati Shroffs, Multani-or Shikarpuri Shroffs, Chettiars and Marwari, Kayast. Gujarati Shroffs are mostly operating in Mumbai, Kolkata and in industrial and trading cities of Gujarat.
- The Multani or Shikarpuri Shroffs are operating mainly in Mumbai and Chennai.
- The Chettiars are mostly found in the South.
- The Marwari Shroffs are mostly active in Mumbai, Kolkata, tea gardens of Assam and also in different other parts of North-East India.
- Among the four aforesaid groups, the Gujarati indigenous bankers are considered as the most powerful groups in respect of its volume of business.
- The indigenous bankers are mostly engaged in both banking and non-banking business which they do not want to separate.
- Their lending operations remain mostly unregulated and unsupervised. They charge high rate of interest and they are not influenced by bank rate policy of the RBI

**Organized sector**

a. **Call money**
- Call and Notice Money exist in the market.
- With respect to Call Money, the funds are borrowed and lent for one day, whereas in the Notice Market, they are borrowed and lent up to 14 days, without any collateral security.
- The commercial banks and cooperative banks borrow and lend funds in this market.
- However, the all-India financial institutions and mutual funds only participate as lenders of funds.

b. **T- bills**
- Issued by the Central Government, Treasury Bills are known to be one of the safest money market instruments available.
- However, treasury bills carry zero risk. i.e. are zero risk instruments.
- Therefore, the returns one gets on them are not attractive.
- Treasury bills come with different maturity periods like 3-month, 6-month and 1 year and are circulated by primary and secondary markets.
- Treasury bills are issued by the Central government at a lesser price than their face value.

- The interest earned by the buyer will be the difference of the maturity value of the instrument and the buying price of the bill, which is decided with the help of bidding done via auctions.
- Currently, there are 3 types of treasury bills issued by the Government of India via auctions, which are 91-day, 182-day and 364-day treasury bills.

**c. Repo market**

- Repurchase Agreements, also known as Reverse Repo or simply as Repo, loans of a short duration which are agreed upon by buyers and sellers for the purpose of selling and repurchasing.
- These transactions can only be carried out between RBI approved parties Repo / Reverse Repo transactions can be done only between the parties approved by RBI.
- Transactions are only permitted between securities approved by the RBI like treasury bills, central or state government securities, corporate bonds and PSU bonds.

**d. Commercial bill market**

- Commercial Papers are can be compared to an unsecured short-term promissory note which is issued by highly rated companies with the purpose of raising capital to meet requirements directly from the market.
- CPs usually feature a fixed maturity period which can range anywhere from 1 day up to 270 days.
- Highly popular in countries like Japan, UK, USA, Australia and many others, Commercial Papers promise higher returns as compared to treasury bills and are automatically not as secure in comparison.
- Commercial papers are actively traded in secondary market.

**e. Short term loan market**

- Short term loan market is a market where short term loans are advanced to the corporate customers for meeting their working capital needs.
- Commercial bank provides the short term loans in the form of overdraft and cash credit facility.
- Overdraft is nothing but a temporary facility given to the current account holder in order to impart them more liquidity than the balance in their account.
- Cash credit is also very popular facility given to Industrialist to manage their cash requirements for the routine payments arising out of business operations.
- In case of short term loan market, the instrument is generally not tradable and the borrower has to fulfill its commitment as and when it is due.
- In other words, the short loan does not have the possibility of creating a secondary market.

**(C) One word Question Answers:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | The main business of ______is to advance loan to individuals or firms | loan companies |
| 2 | ______Sector is said to be formal or organized as it has various regulators such as RBI, SEBI etc, which regulates or controls the operations undertaken in this market | Organised |
| 3 | _____Sector works on its own without any authority or regulators to control its operations. | Unorganised |
| 4 | loan companies are different from local banker or a commercial bank in a way that it does not accept the deposits in the form of current or savings account but only | Fixed |

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| | | |
|---|---|---|
| | ______public deposits are used to gather money. | |
| 5 | ____is a kind of Saving Scheme practiced in India between friends and family | Chit fund |
| 6 | The term "Nidhi" from Indian perspective which means _____? | Treasure |
| 7 | _______include those individuals and private firms which are engaged in receiving deposits and giving loans and thereby acting like a mini bank. | Indigenous bankers |

**TOPIC: Discuss about the Participating institutions of Money Market in detail.**

**(A) PARTICIPATING INSTITUTIONS OF MONEY MARKET:**
- There are various institutions which play an important role in Money market
- These institutions provides liquidity short term liquidity to borrowers and gives decent returns to lenders
- Thus, they act as a bridge between borrowers and lenders

**(B)Detailing:**
**Participating institutions**

**A) RBI**
- Reserve Bank of India is the central bank of our country.
- The bank is entrusted with the task to regulate the issue of currency notes, maintain reserves to stabilize money supply in the market, supervisor natural system, and to operate the credit and currency system of the country towards best possible advantage.
- The Reserve Bank of India uses repo as one of the money market instruments which have significant influence on short term liquidity position of the economy.
- Propose a money market instrument is used by RBI as a tool to regulate money supply in the market. The RBI uses Repo and reverse repo to fulfill the short-term requirements of money market.
- For instance, in India, when the RBI conducts the Repo, it actually leads money to commercial banks and other Financial Institutions by purchasing their and selling it back to them after a specific period.
- This increases the money supply in the market. Exactly opposite happens when the RBI does reverse repo, where it enables the commercial banks to deploy surplus funds for short term with the RBI.
- The excess funds get deposited with RBI which intern regulate the money supply in the market.

**B) Discount and finance house of India(DHFI)**
- The discount and Finance house of India was set up by RBI in April 1988 with the major objective to widen and deepen the money market.
- It was the Vaghal committee who recommended setup of discount and financing house of India.
- It started its operations from July 28, 1988. DFHI is established as a joint stock company which is jointly owned by RBI, public sector banks and all India Financial Institutions by contributing to its paid up capital of Rs. 200 crores in the proportion of 5:3:2,
- The main task of DFHI is to work as a specialized intermediary in money market for increasing activity in the money market instruments and developing secondary markets in those instruments.
- It mobilizes funds from various Financial Institutions to money market in order to stimulate money market activity.
- As a discount house, it not only deals in commercial bills but also T-bills, commercial papers, call/ notice money, certificate of deposits, etc.

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- It also undertakes short-term buyback operations in the form of repo, in the government and approved dated securities also.
- In fact, it is an authorized institution to undertake Repo transactions in treasury bills and all dated government securities to impart greater liquidity to these instruments.

**C) Mutual funds**

- Mutual funds offer varieties of schemes for the different investment objectives of the public.
- There are many schemes known as Money Market Mutual Fund Schemes or Liquid Schemes.
- These schemes have the investment objective of investing in money market instruments.
- They ensure highest liquidity to the investors by offering withdrawal by way of a day's notice or encashment of units through Bank ATMs. Naturally, mutual funds invest the corpus of such schemes only in money market.
- They do not borrow, but only lend or invest in the money market.

**D) IFC**

- The international Finance Corporation was established in July 1956, with the specific object of providing finance to private sector.
- Though It is affiliated to World Bank, it is a separate legal entity with separate funds and functions. Members of World Bank are eligible for its membership.
- The main objective of IFC is to promote development by encouraging private Enterprises.
- In addition, it also serves as a clearing house in underdeveloped or developing countries.
- IFC is authorized to invest its funds in many forms it deems appropriate, but with an exception of capital stocks and shares.
- This means, IFC is more probable to invest their funds in money market instruments.
- In fact it is ideal to put the scares resources the short term use and generate decent return.
- Generally, IFC makes investments in those companies or investment avenues that have substantial experience and have competent management and also prefers a private Enterprise as far as possible due to its efficiency and effectiveness.
- IFCI has played a key role in strengthening the microfinance sector in India through timely and vital Investments and wide-ranging advisory involvement.
- Financial Service customized to the needs of deprived section is a powerful tool to reduce poverty.
- From microfinance institutions to Housing Finance Companies, women entrepreneurs, and other stakeholders, IFC is helping expand access to finance to households and business.

(C)One word Question Answer:

| Sr.No | Question | Answer |
|---|---|---|
| 1 | institutions provides short term liquidity to ________and gives decent returns to lenders | Borrowers |
| 2 | _______act as a bridge between borrowers and lenders | Institutions |
| 3 | __________is the central bank of our country | Reserve Bank of India |
| 4 | The RBI uses ______to fulfill the short-term requirements of money market. | Repo and reverse repo |
| 5 | _______committee who recommended setup of discount and financing house of | Vaghal |

| | | |
|---|---|---|
| | India. | |
| 6 | DFHI was established as a joint stock company which is jointly owned by RBI, ________and all India Financial Institutions by contributing to its paid up capital of Rs. 200 crores in the proportion of 5:3:2 | public sector banks |
| 7 | Mutual funds offer varieties of schemes for the different investment objectives of the_____. | Public |
| 8 | ______has played a key role in strengthening the microfinance sector in India through timely and vital Investments and wide-ranging advisory involvement. | IFCI |

**TOPIC: Discuss about the various Instruments of Money Market in detail.**

**(A) MONEY MARKET:**

- Trading in Money Market is done through various Instruments.
- Instruments varies in maturities, denominations etc.,
- Various instruments in Money Market are call/notice money, treasury bills(T-bills), repo/reverse repo, commercial papers, commercial bills, certificate of deposits

**(B)Detailing:**

**Instruments of money market**

1) **Call/notice money**
    - The call/notice/term money market facilitates lending and borrowing of funds between banks and entities like Primary Dealers.
    - An institution which has surplus funds may lend them on an uncollateralized basis to an institution which is short of funds.
    - Money market transactions are categorized as follows:
        - Borrowing/Lending for 1 day is known as Call Money
        - Borrowing/Lending for 2-14 days is known as Notice Money
        - Borrowing/Lending for more than 14 days is known as Term Money
    - The interest rates on such funds depend on the surplus funds available with lenders and the demand for the same which remains volatile.
    - This market is governed by the Reserve Bank of India which issues guidelines for the various participants in the call/notice money market.
    - The entities permitted to participate both as lender and borrower in the call/notice money market are Scheduled Commercial Banks (excluding RRBs), Co-operative Banks (other than Land Development Banks) and Primary Dealers (PDs).

**Concept and meaning**

- The call/notice money market forms an important segment of the Indian Money Market. Under call money market, funds are transacted on an overnight basis and under notice money market, funds are transacted for a period between 2 days and 14 days.
- The money market primarily facilitates lending and borrowing of funds between banks and entities like Primary Dealers (PDs). Banks and PDs borrow and lend overnight or for the short period to meet their short term mismatches in fund positions. This borrowing and lending is on unsecured basis.
- Call Money is the borrowing or lending of funds for 1day.
- If money is borrowed or lend for period between 2 days and 14 days it is known as Notice Money
- Term Money refers to borrowing/lending of funds for period between 15 days and one year.

- Scheduled commercial banks (excluding RRBs), co-operative banks (other than Land Development Banks) and Primary Dealers (PDs), are permitted to participate in call/notice money market both as borrowers and lenders.
- Eligible participants are free to decide on interest rates in call/notice money market.
- The Call/Notice Money transactions can be executed either on NDS-Call(Negotiated dealing system call), a screen–based, negotiated, quote-driven electronic trading system managed by the Clearing Corporation of India (CCIL), or over the counter (OTC) through bilateral communication.
- Deals in the Call/Notice/Term money market can be done from 9:00 am to 5:00 pm on each business day or as specified by RBI from time to time.

**Purpose/objective**

- The major objective behind the growth of this instrument is due to Commercial banks requirements.
- Generally, this instrument is used by commercial banks in order to fulfill the statutory requirement of the RBI.
- The central bank regulates the money flow in the market through one of the credit control instruments namely CRR and SLR. In order to fulfill the is mandatory requirements of RBI, the commercial banks borrow money from other banks and institutions for a day or more.
- Thus, this has led to growth of call money market.
- The Indian call money market is presently going through a historic alteration or transformation.
- Instead of acting as a mechanism for ensuring liquidity among the players it is switching to perform a more dynamic and active role in conducting the operations of call money market.
- This transformation was indeed necessary because of the extreme volatile conditions prevailing in this market.
- Apart from this, many a times there arises for short-term mismatches in banks with reference to maturity of deposit which are deployed by the bank for a long time duration and withdrawals of deposits by customers.
- Thus, banks borrow money from call money market to meet this short term deficits.

**Participants**

- All scheduled commercial banks,
- development financial Institutions,
- primary dealers,
- selected insurance companies and
- selected mutual funds operate in call money market.
- Further, discount and Finance house of India,
- securities Trading Corporation of India Limited also take part in call money market.

The involvement of Corporate participants in call money market is relative less.

**Call rates**

- The interest paid on call money loans is called call rate.
- The call rate is quite fluctuating.
- It varies only daily, hourly and even on a minute to minute basis.
- Majorly, the rate is governed by the forces of demand and supply in the market.

- High rate indicates the tight liquidity condition while a low rate suggest that the funds are available and there is considerable liquidity with the Financial Institutions

**How it operates**

- The borrowers and lenders in call money market contact each Other over telephone, thus the name call money or money at call.
- Over the phone, both the parties negotiate and arrive at a deal which specifies the amount of loan and rate of interest. Generally, the current rate of interest(call rate) is taken into consideration.

2) **Treasury bills(T-bills)**

- A treasury bills nothing but promissory note issued by the Government under discount for a specified period stated therein.
- The Government promises to pay the specified amount mentioned therein to the bearer of the instrument on the due date. The period does not exceed one year.
- It is purely a finance bill since it does not arise out of any trade transaction.
- It does not require any “grading” or “endorsement” or “acceptance” since it claims against the Government.
- Treasury bill issues only by the RBI on behalf of the Government.
- Treasury bills issue for meeting temporary Government deficits.
- The Treasury bill rate of discount is fixed by the RBI from time-to-time.
- It is the lowest one in the entire structure of interest rates in the country because of short-term maturity and degree of liquidity and security.

**Characteristics /essential elements of t-bills**

- Treasury bills, being short term instrument, are highly liquid and thus can be advantage in case of urgent needs.
- No/Very marginal chances of default risk and provide and assured yield. As the bills are issued by RBI on behalf of government, there are bound to be risk free and also provide a sure return because the amount collected will be used in some productive purpose for the development of the country.
- One of the unique features of treasury bills is that they are negotiable in nature. The subscriber of the bill can freely transfer, by a mere delivery, to the person.
- Treasury bills are generally available for minimum amount of Rs. 25,000 and in multiples there of.
- Currently, treasury bills are available in the following Trend:
  - 91 day treasury bills - auctioned every Friday
  - 182 day treasury bills - auctioned every alternate Wednesday
  - 364 day treasury bills

**Types of t-bills**

i. **On-tap bills**

These are the bills which could be purchased from RBI at anytime at a specific interest rate fixed by RBI. These were withdrawn / discounted by RBI since april 1997, as they had lost much of the significance.

ii. **Ad-hoc bills**

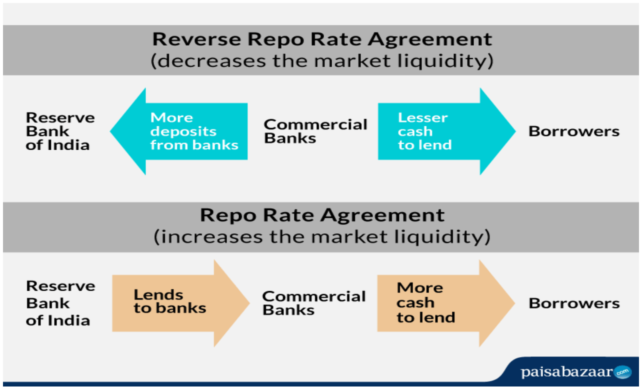
There is an arrangement between RBI and government that the government may perhaps maintain Rs 50 crores on Fridays and Rs. 4 crores on other days and which shall be interest free. Now, whenever this balance Falls below the required amount, the amount would be replenished by issuing the ad-hoc bills in favor of RBI. Ad hoc 91 day treasury bills were created to replenish the governments cash balance with RBI. Ad hoc Bills adjust and accounting measure in RBI's book of accounts

**iii. Auctioned bills**

These bills were first introduced in April 1992.In This type of bills, the RBI invites and receive bids in the auction from subscribers and issues the bill to the highest bidder, again, it would be subject to some cut off limits or minimum bid

**3) Repo/reverse repo**

- Repo rate refers to the rate at which commercial banks borrow money by selling their securities to the Central bank of our country i.e Reserve Bank of India (RBI) to maintain liquidity, in case of shortage of funds or due to some statutory measures.
- It is one of the main tools of RBI to keep inflation under control.
- When you borrow money from the bank, the transaction attracts interest on the principal amount. This is referred to as the cost of credit. Similarly, banks also borrow money from RBI during a cash crunch on which they are required to pay interest to the Central Bank.
- This interest rate is called the repo rate.
- Technically, repo stands for 'Repurchasing Option' or 'Repurchase Agreement'.
- It is an agreement in which banks provide eligible securities such as Treasury Bills to the RBI while availing overnight loans.
- An agreement to repurchase them at a predetermined price will also be in place.
- Thus, the bank gets the cash and the central bank the security.
- Reverse Repo Rate is a mechanism to absorb the liquidity in the market, thus restricting the borrowing power of investors.
- Reverse Repo Rate is when the RBI borrows money from banks when there is excess liquidity in the market. The banks benefit out of it by receiving interest for their holdings with the central bank.
- During high levels of inflation in the economy, the RBI increases the reverse repo.
- It encourages the banks to park more funds with the RBI to earn higher returns on excess funds. Banks are left with lesser funds to extend loans and borrowings to consumers.




**Importance/significance**

- Repo and reverse repo are the monetary measures used by the Reserve Bank of India to deal with the deficiency of funds and liquidity in the market. It is a vital money flow control mechanisms used by the central bank.
- Bank lending rates are impacted by repo rate and reverse repo rate.
- Repo and reverse repo are the most effective and efficient tools used by the Reserve Bank of India to achieve price stability and to boost economic development.
- Repo and reverse repo agreements help banks manage their liquidity requirements easily and with a high degree of safety.

4) **Commercial papers**

- Commercial paper is an unsecured form of promissory note that pays a fixed rate of interest.
- It is typically issued by large banks or corporations to cover short-term receivables and meet short-term financial obligations, such as funding for a new project.
- As with any other type of bond or debt instrument, the issuing entity offers the paper assuming that it will be in a position to pay both interest and principal by maturity.
- It is seldom used as a funding vehicle for longer-term obligations because other alternatives are better suited for that purpose.
- The commercial paper provides a convenient financing method because it allows issuers to avoid the hurdles and expense of applying for and securing continuous business loans, and the Securities and Exchange Commission (SEC) does not require securities that trade in the money market to be registered.
- It is usually offered at a discount with maturities that can range from one to 270 days, although most issues mature in one to six months.

**Characteristics of commercial paper**

- It is a negotiable instrument.
- Generally does not carry any charge on Assets of the issue or and thus are unsecured
- The discount at which Commercial paper is issued is determined freely by demand and supply forces in the market
- Pricing of commercial generally circles around the lending rate of commercial banks. The bank rate and Prime lending rate prevailing in the market forms the base for pricing the commercial paper.
- Commercial paper can be issued up to 100% of the requirements. Generally, when an organisation applies for a loan from the bank, the bank keeps certain amount of margin on the loan amount applied. For example say 80%.Thus organisation apply for a loan of Rs 1,00,000 it will receive at most a loan of Rs 80,000 only. This barrier is not there when one issues commercial paper
- Commercial paper needs to be stamped
- The maturity period Ranges from 90 days to 180 days

**Advantages of commercial paper**

- Relative simple and easy to issue. Documentation is quite nominal and simple. No requirement to follow elaborate procedure for an issuance. Thus, it is beneficial for both the issuer and subscriber
- Fixation of maturity of commercial can be customized by issue over to match their funding requirement since there are no regulations imposed on as to fixing the maturity.
- Issuing commercial cheaper than obtaining Finance from the banks or from other sources. It is a good source to exercise which helps in diversification of portfolio of sources of finance issued by the company. It reduces the over dependence on certain specific source of finance.
- issuing commercial papers, help in creation of a secondary market that provides an opportunity to others to earn a return by exchanging the same in an organized mechanism

**5) commercial bills**

- A Commercial Bill is one which arises out of a genuine trade transaction, i.e. credit transaction.
- As soon as goods are sold on credit, the seller draws a bill on the buyer for the amount due.
- The buyer accepts it immediately agreeing to pay the amount mentioned therein after a certain specified date.

- Thus, a bill of exchange contains a written order from the creditor to the debtor, to pay a certain sum, to a certain person, after a creation period.
- A bill of exchange is a “self-liquidating” paper and negotiable/it is drawn always for a short period ranging between 3 months and 6 months

**characteristics of commercial bills**

- Commercial bills are tradeable
- They are major sources of short term funds for the forms operating either in manufacturing or trading unit
- It imparts liquidity to both the buyer and seller
- It is fully secured, negotiable and can also be endorsed

**Major types of commercial bills**

**a) demand bill v/s usance bill**

- Demand bills are others call sight bills.
- These bills are payable immediately as soon as they present to the drawer.
- No time of payment specify and hence they are payable at sight. Using bills call time bills.
- These bills are payable immediately after the expiry of the period mentioned in the bills.
- The period varies according to the established trade custom or usage prevailing in the country.

**b) inland v/s foreign bill**

- Inland bills are those drawn upon a person resident in India and are payable in India.
- Foreign bills draw outside India and they may be payable either in India or outside India.
- They may draw upon a person resident in India also. Foreign boils have their origin outside India.
- They also include bills draw on India make payable outside India.

**c) export bill v/s import bill**

- Export bills are those draw by Indian exports on importers outside India and
- import bills draw on Indian importers in India by exports outside India.

**Certificate of deposits**

- The Certificate of Deposit (CD) is an agreement between the depositor and the bank where a predetermined amount of money is fixed for a period and the bank pays interest on it.
- It is a money market instrument issued against some funds for a specific tenure, a promissory note by the bank and insured by the Federal Deposit Insurance Corporation (FDIC).
- The Reserve Bank of India (RBI) issues guidelines for the CD from time to time.
- The Certificate of Deposit is issued in dematerialised form i.e. issued electronically and may automatically be renewed if the depositor fails to decide what to do with the matured amount during the grace period of 7 days.
- It also restricts the holder from withdrawing the amount on demand or pay a penalty, otherwise. When the Certificate of Deposit matures, the principal amount along with the interest earned is available for withdrawal.

**Characteristics of certificate of deposits**

- Unsecured and negotiable instrument
- Specific maturity

- The return on certificate of deposits is derived from the difference between issue price and reduced price
- Cost involved in issuing certificate of deposits are quite low and thus feasible medium for the issue or in the borrower
- The certificate of deposits attracts stamp duty
- These are majorly issued by banks in periods of tight liquidity conditions

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | The call/notice/term money market facilitates lending and borrowing of _____between banks and entities like Primary Dealers. | Funds |
| 2 | Borrowing/Lending for 1 day is known as ________ | Call Money |
| 3 | Borrowing/Lending for 2-14 days is known as ________ | Notice Money |
| 4 | The _______regulates the money flow in the market through one of the credit control instruments namely CRR and SLR | central bank |
| 5 | The interest paid on call money loans is called _______ | call rate |
| 6 | Treasury bill are issued only by the ____on behalf of the Government. | RBI |
| 7 | Repo and reverse repo are the _________used by the Reserve Bank of India to deal with the deficiency of funds and liquidity in the market. | monetary measures |
| 8 | Commercial paper is an _____form of promissory note that pays a fixed rate of interest. | Unsecured |
| 9 | _____bills are those drawn upon a person resident in India and are payable in India. | Inland |

**TOPIC: Discuss Reforms/Measures taken to strengthen money market in detail.**

**(A) Reforms/Measures:**

- To eliminate the imperfections, RBI has been implementing many reforms to extend and amplify Money Market from time to time
- Important step to strengthen the money market was to deregulate the money market interest rates
- The Government announced the establishment of Money Market Mutual Funds (MMMFs) with the sole objective to bring money market instruments within the reach of individuals.
- The Discount and Finance House of India (DFHI) was set up as a part of the reform package for strengthening money market.

**(B)Detailing:**

**Reforms/Measures taken to strengthen money market**

**A) Deregulation of interest rates**

- Important step to strengthen the money market was to deregulate the money market interest rates since May, 1989.
- This will bring interest rate flexibility and transparency in money market transactions.
- Again in November, 1991 as per the recommendations of the Narasimham Committee, the interest rates have been further deregulated and the banks and other financial institutions have been advised to determine and adopt market related rates of interest as far as practicable.

**B) money market mutual funds**

- The Government announced the establishment of Money Market Mutual Funds (MMMFs) in April 1992 with the sole objective to bring money market instruments within the reach of individuals.

- The MMMFs have been set up by different scheduled commercial banks and public financial institutions.
- The shares or units of MMMFs have been issued only to individuals.
- Thus the aforesaid measures to reform Indian money market have helped it to become more advanced, solvent and vibrant. With the introduction of new instruments, the secondary market has also developed considerably.
- Moreover, with the setting up of DFHI and MMMFs, the lot of Indian money market has achieved considerable progress in recent rimes and is also expected to achieve further progress in the years to come.

**C) Establishment of discount and Finance house**

- The Discount and Finance House of India (DFHI) was set up on April 25, 1988 as a part of the reform package for strengthening money market.
- The main function of DFHI is to bring the entire financial system consisting of the scheduled commercial banks, co-operative banks, foreign banks and all- India financial institutions, both in the public and private sector, within the fold of the Indian money market.
- This House will normally buy bills and short term papers from different banks and financial institutions in order to invest all of their idle funds for short periods. DFHI has also started to buy and sell government securities from April 1992 in limited quantity with the necessary refinance support from the RBI.

**D) Liquidity adjustment facility**

- Liquidity adjustment facility is an instrument used to through monetary policy that allows the commercial banks borrow funds REPO.
- Actually is used by banks to resolve their short term cash shortage during the period of liquidity crisis.
- the bank wishing to borrow money for the temporary crisis may engage in REPO agreements and the one with surplus capital will engage in reverse REPO. The RBI remains connected with participant of money market through REPO transactions.
- LAF helps in stabilization of liquidity in the money market through either absorption of money or injection of money

**E) development of new instruments**

- The RBI has introduced certain money market instruments for strengthening the market conditions. These instruments are—182 days treasury bills, longer maturity treasury bills, Certificates of Deposits (CDs), Commercial Paper (CP) and dated Government securities.
- Discount and Finance House of India (DFHI) promoted the 182-day treasury bills systematically and these bills were the first security sold by auction for financing the fiscal deficit of the Central Government.
- Again, the DFHI has also developed a secondary market in these bills and they become popular with the commercial banks.
- Again in 1992-93, the Government decided to introduce 364 day treasury bills and discontinued the 164-day treasury bills.
- The 364 day treasury bills can be held by commercial banks for meeting its statutory liquidity ratio. CDs received a considerable market during 1995-96.
- The volume of outstanding CDs gradually rose from Rs 6,385 crore in January 1995 to Rs 20,815 crore on July 5, 1996. CPs are another instrument which made considerable progress in 1992-93 and 1993-94.

- Outstanding amount of CPs increased from Rs 64.70 crore in June 1991 to Rs 3,264 crore in March 1994.
- Again the activity of CP market declined sharply in 1995-96 and thereby the outstanding CPs as on April 30. 1996 was only Rs 71.3 crore.

**(C)One word Question answers:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | Important step to strengthen the money market was to _____the money market interest rates | Deregulate |
| 2 | the setting up of DFHI and MMMFs led to considerable progress in Indian _______in recent times and is also expected to achieve further progress in the years to come. | money market |
| 3 | ______ will normally buy bills and short term papers from different banks and financial institutions in order to invest all of their idle funds for short periods | DFHI |
| 4 | _________is an instrument used to through monetary policy that allows the commercial banks borrow funds REPO | Liquidity adjustment facility |
| 5 | Discount and Finance House of India (DFHI) promoted the ____treasury bills systematically and these bills were the first security sold by auction for financing the fiscal deficit of the Central Government | 182-day |
| 6 | The ______remains connected with participant of money market through REPO transactions. | RBI |

# UNIT 2 CAPITAL MARKET

**TOPIC: What is Capital Market? Discuss the structure of Capital Market**

**(A) Capital Market:**

- Capital market is a market for long-term funds
- It refers to all the facilities and the institutional arrangements for borrowing and lending term funds (medium-term and long-term funds).
- Capital market can be classified into various categories such as:
  - financial Institutions
  - Securities market

**(B)Detailing:**

**Introduction to capital market**

- Capital markets are venues where savings and investments are channeled between the suppliers who have capital and those who are in need of capital.
- The entities who have capital include retail and institutional investors while those who seek capital are businesses, governments, and people.
- Capital markets are composed of primary and secondary markets. The most common capital markets are the stock market and the bond market.
- Capital market is a market for long-term funds, just as the money market is the market for short-term funds.
- It refers to all the facilities and the institutional arrangements for borrowing and lending term funds (medium-term and long-term funds).
- It does not deal in capital for purpose of investment.
- Capital markets seek to improve transactional efficiencies.
- These markets bring those who hold capital and those seeking capital together and provide a place where entities can exchange securities.

**Structure of capital market**

Capital market can be classified into various categories such as:

- financial Institutions
- Securities market

**I. Financial Institutions**

- Financial Institutions at the most active component of Indian capital market.
- These institutions provide long term and medium term loans to business Enterprises.
- They help in promoting new companies, expansion and development of established companies and meeting financial requirements of Companies during the period of crisis.
- After independence, number of Financial Institutions have been set up at all India and reach levels for accept meeting the process of industrialisation in the country.

**a. IFCI**

- It is the oldest SFI set up in 1948 with the primary objective of providing long-term and medium-term finance to large industrial enterprises. It provides financial assistance for setting up of new industrial enterprises and for expansion or diversification of activities.

- It also provides support to modernisation and renovation of plant and equipment in existing industrial units. It can grant loan or subscribe to debentures issued by companies repayable in not more than 25 years.
- It can also guarantee loans raised from other sources or debentures issued to the public, and take up underwriting of the public issue of shares and debentures by companies.
- For ensuring greater flexibility to meet the needs of the changing financial system IFCI now stands transformed to IFCI Ltd. with effect from 1 June 1993.

**b. IDBI**

- It was set up in 1964 as a subsidiary of Reserve Bank of India for providing financial assistance to all types of industrial enterprises without any restriction on the type of finance and the amount of funds.
- It could also refinance loans granted by other financial institutions and offer guarantees for the loans raised from the capital market or scheduled banks.
- It also discounts and rediscounts the commercial bills of exchange and undertakes underwriting of the public issues. IDBI, like ICICI, has also transformed into a commercial bank and has been retitled as IDBI Ltd. with effect from 1 October 2004 with IDBI Bank merged into it.

**c. Exim Bank**

- The Export and Import Bank of India was set up on January, 1982 to take over the operations of international finance wing of the IDBI and act as apex institutions in the field of financing foreign trade. The main functions of the Bank are:

(i) financing of export and import of goods and services;
(ii) granting deferred payment credit for medium and long term duration;
(iii) providing loans to Indian parties to enable them to contribute to share capital of joint ventures in foreign countries and;
(iv) extending refinance facilities to commercial banks in respect of export credit.

Recently it has introduced production equipment finance programme under which it provides rupee term finance to export oriented units for acquisition of equipment. Apart from these, the Exim Bank also undertakes merchant banking and development banking functions as considered necessary to finance promotional activities and providing counseling services to persons engaged in export-import business.

**d. SIDBI**

- It was set up in 1990 as a principal financial institution for the promotion, financing and development of small-scale industrial enterprises.
- It is an apex institution of all the banks providing credit facility to small-scale industries in our country. It offers refinancing of bills, rediscounting of bills, and several other support services to Small Scale Industries (SSI).
- It undertakes a wide range of promotional and development activities for improving the inherent strength of SSI units and creating avenues for the economic development of the rural poor.

**e. IDFC**

- IDFC was established in 1997 as a specialised financial institution as specialised financial institution to facilitate the financing of commercially viable infrastructure projects.

- It provides financial assistance by way of debt and equity support and advisory services. The current areas of operations of IDFC include telecom, power, roads, ports, railways, urban infrastructure, environment friendly infrastructure and food and Agriculture related infrastructure.
- It actively involves itself in policy formulation of Govt. of India

**f. SFCs**

- In order to provide financial assistance to all types of industrial enterprises (proprietary and partnership firms as well as companies) most of the states of our country have set up SFCs.
- The primary objective of these corporations is to accelerate the pace of Industrial development in their respective states.
- SFCs provide finance in the form of long-term loans or through subscription of debentures, offer guarantee to loans raised from other sources and take up underwriting of public issues of shares and debentures made by companies.
- However, they cannot directly subscribe to the shares issued by the companies.
- The SFC (Amendment) Act, 2000 has provided greater flexibility to SFCs to cope with the changing economic and financial environment of the country.

**g. LIC**

- It was set up in 1956 on nationalization of life insurance business in India.
- Primarily it carries on the business of life insurance and deploys the funds in accordance with national priorities and objectives.
- It invests mainly in government securities and shares, debentures and bonds of companies. It also extends financial assistance to banks and other institutions for social development and infrastructure facilities.
- It also underwrites new issues of shares and grant loans to the corporate sectors. Its performance with regard to assistance to corporate sector has been significant both in terms of sanctions and disbursements.

**II. Securities market**

- Securities market is divided into government Security market and industrial for corporate securities market
- The government securities market or gilt- edged market refers to the market for government and semi government securities that are backed by RBI.
- The securities are much sought after by banks and financial institutes and they are stable in value.
- Corporate security market refers to the market for shares and debentures issued by new and established companies.
- This market is further bifurcated into new issue market and old capital market meaning stock market.

**a. government Security market**

- The government raises long term and short term funds by issuing securities. We securities are referred as "gilt edged securities" as they do not carry on a risk and are as good as gold.
- This is because government guarantees the payment of interest and the repayment of principal.

- The Government Security market is benchmark for other markets as it is the largest Market in any economic system. Government securities are eligible securities for maintenance of SLR ratio by the banks.
- This is the reason why they are also called as SLR securities.

Following points Explain the importance of Government securities in any economy:

- It provides resources to government for fulfilling it short term and long term requirements
- It acts as a benchmark for pricing corporate securities of varying maturities.
- It integrates Various segments of domestic financial market.
- It establishes link between domestic and external financial market.
- It is instrumental in implementing fiscal policy of the government.
- It provides highest type of collateral for borrowing.
- Depending upon the investment and liquidity preference of investors, they are traded for both long term and short term periods.

The securities are issued by
- The central government,
- State governments, and
- Semi government authorities(including local government authorities such as )

**The investors in government securities can be classified into three parts:**
1. **wholesale segment:**
It comprises institutional investors such as **Financial Institutions, banks, insurance companies, primary dealers and mutual funds.**
2. **Middle segment:**
It consists of **Corporates, provident funds,NBFCs, trust and small cooperative banks.**
3. **Retail segment:**
It comprises of less active investors such as **individuals and non institutional** investors.

**Government securities are of two types**:
- Treasury bills and
- government dated securities.

**Treasury bills:**
- Treasury bills are sources of short term funds for the government.
- They are of maturity period of 91 days, 182 days and 364 days.

**Government dated securities**
- Government dated securities or Government Bonds are for meeting long term financial requirements.
- Government securities market can also be divided into two parts primary market and secondary market.

**b. corporate securities market:**
Corporate security market refers to the market for securities issued by industrial Enterprise in capital market. This market is further subdivided into:
- New issue market which is called primary market and
- old issue market that is known as secondary market

**Primary market:**

- Primary market is concerned with the flotation of new issue of corporate securities.
- New companies or existing companies can float new issue for raising funds in capital market.
- This market brings together the" the supply and demand' or'sources and uses' for New Capital funds.
- There are two ways to issue securities in primary market:
  - Initial public offering(IPO) and
  - Further public offer(FPO).
- When a company makes a public offer a for the very first time with the investors it is called IPO.
- It enables the company to raise funds and investors to invest in the company for the first time.
- When already listed company offers fresh equity to the public, it is called as FPO. It is used for raising additional funds from the general public.

**Secondary market:**

- The market that deals in existing securities in secondary market.
- It provides marketability and liquidity to the existing securities.
- Thus, secondary market deals with purchase and sale of old securities.
- The secondary market is also known as' aftermarket' as it is the market for the securities that have already been issued. It is also called share market.
- The securities that are offered first intramural market are then traded in the secondary market.
- Trade between a buyer and a seller is facilitated by Stock Exchange and the issuing company is not involved in any way in the process.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | _____at the most active component of Indian capital market | Financial Institutions |
| 2 | ______was set up in 1964 as a subsidiary of Reserve Bank of India for providing financial assistance to all types of industrial enterprises without any restriction on the type of finance and the amount of funds | IDBI |
| 3 | The ______Bank of India was set up on January, 1982 to take over the operations of international finance wing of the IDBI | Export and Import |
| 4 | ______was established in 1997 as a specialised financial institution as specialised financial institution to facilitate the financing of commercially viable infrastructure projects. | IDFC |
| 5 | In order to provide financial assistance to all types of industrial enterprises (proprietary and partnership firms as well as companies) most of the states of our country have set up______. | SFCs |
| 6 | The government securities market or gilt- edged market refers to the market for government and semi government securities that are backed by ______ | RBI |
| 7 | Corporate security market refers to the market for shares and debentures issued by new and established ____ | Companies |

**TOPIC: Discuss the difference between Primary and Secondary Markets**

**(A) Primary and Secondary Markets**

- The market place for new shares is called primary market. It supplies funds to budding enterprises and also to existing companies for expansion and diversification.

- The place where formerly issued securities are traded is known as Secondary Market.It gives liquidity to investors

**(B)Detailing:**

**The main points of difference between primary and secondary markets can be summarised as follows:**

| BASIS FOR COMPARISON | PRIMARY MARKET | SECONDARY MARKET |
|---|---|---|
| Meaning | The market place for new shares is called primary market. | The place where formerly issued securities are traded is known as Secondary Market. |
| Another name | New Issue Market (NIM) | After Market |
| Type of Purchasing | Direct | Indirect |
| Financing | It supplies funds to budding enterprises and also to existing companies for expansion and diversification. | It does not provide funding to companies. |
| How many times a security can be sold? | Only once | Multiple times |
| Buying and Selling between | Company and Investors | Investors |
| Who will gain the amount on the sale of shares? | Company | Investors |
| Intermediary | Underwriters | Brokers |
| Price | Fixed price | Fluctuates, depends on the demand and supply force |
| Organizational difference | Not rooted to any specific spot or geographical location. | It has physical existence. |

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | The market place for new shares is called _____market | Primary |
| 2 | The market place for new shares is also called ________market. | New Issue |
| 3 | The prices in Primary market Are _______ | Fixed |
| 4 | ____________ supplies funds to budding enterprises and also to existing companies for expansion and diversification. | Primary market |
| 5 | The place where formerly issued securities are traded is known as _______Market | Secondary |
| 6 | _________market performs two important functions: Bringing together investor holding capital and company seeking capital | Primary capital |

**TOPIC: Discuss the role and growth of Capital Market in detail**

**(A) Capital Market:**

- Capital Market brings together investor holding capital and company seeking capital
- Two types of instruments i.e. equity and debt are traded in Capital Market

**(B)Detailing:**

**Role of capital market**

Capital Market plays a major role in growth and economic development of the Economic system of a country.

**Primary capital market reforms two important functions:**

- Bringing together investor holding capital and
- company seeking capital.

**Functions are made possible through two types of financial instruments:**

- Equity and
- debt

Secondary markets make it possible for the holders of securities to exchange them at a market price.

**Capital market plays an important role in the development of the economy as it performs the following functions:**

- The functions of financial market which comprise capital and money market involve the ex-change of one financial asset for another e.g., sur-plus economic units exchange money into another financial asset that provides future return in the form of interest, dividend and capital appreciation.
- They bring savers and borrowers together by sell-ing securities to savers and lending that money to the borrowers.
- The efficiency of finance market depends upon how efficiently the flow of funds is managed in an economy. As Prof. Schimpeter in his book, "The Theory of Economic Development", has put it, 'with-out the transfer of purchasing power to him an entrepreneur cannot become an entrepreneur'.
- It is equally important that financial market should in-duce people to become entrepreneurs and motivate individuals and institutions to save more.
- Capital and money markets are the means for allocating the savings in the most desirable way so that we can achieve the desired national objectives and priorities.
- This facilitates in the efficient pro-duction of goods and services, thus it contributes to the society's wellbeing and raises the standard of living of not only of borrowers but also of others in the economy.
- Financial markets perform this function by transmitting the nation's savings into best possible productive uses which in turn raises the output and employment level in a country.
- The proper development and growth of finance markets play a vital role for the fast growth of the economy. For meeting the growing financial needs of a developing economy, financial ark should also grow at a faster rate.
- Moreover, it should be efficient and more diversified. Van Home in r book, Financial Management and Policy has rightly said. The more varied the vehicle by which savings can flow from ultimate savers to ultimate users of funds' the most efficient the financial markets of an economy tend to be.
- Financial markets satisfy the needs of both savers and borrowers. In financial markets, there are different financial instruments which are bought and sold daily.
- These instruments differ in liquidity, marketability, maturity, risk, return, tax conci-sions etc. Investors differ in their attitudes towards risk, return and liquidity.

**Growth of capital market in India**

I. **corporate securities market**

**a. reforms in primary market**

Major reforms in primary market are enumerated below:

- CapitaI Issues Control Act, 1 947 was abolished and requirement for taking approval from any authority for making the issue and for pricing it was done away with.
- Based on the recommendations of Malegam Committee, 1955,SEBI introduced guideIines for issuing shares through book buiIding process.
- Green Shoe Option was introduced and according to it, one of the lead book runners is to be appointed as a Stabilizing Agenr (SA) who takes the responsibility of price stabilization if required.
- Provision of Application Supported by Blocked Amount (ASBA) was put in place according to which investors have to pay the entire money upfront to the banker when they apply in IPO and this amount remains blocked until the shares are allotted.

**b. reforms in secondary market**

- 1.The Board of directors of stock exchange has to be reconstituted so as to include non-members, public representatives, government representatives to the extent of 50% of total number of members.
- 2. Capital adequacy norms should be complied with regard to members of various stock exchanges on the basis of their turnover of trade.
- Working hours of stock exchanges should be from 12 noon to 3 p.m.
- All recognized stock exchanges should report about their transactions within 24 hours.

**II. government securities market**

- The Reserve Bank was established in 1935, after which it issued government securities on behalf of the government and sold them to various institutions and the public at large. In the 1930s, the government issued securities at interest rates as low as 2.5 per cent, as the cheap money policy was adopted.
- After independence, the Reserve Bank was nationalized; since then, it frames the monetary policy, structure of interest rates, programme of borrowing through government securities, and so on instructions from the government. The programme of borrowing was gradually stepped up in the 1950sto finance development projects in various sectors of the economy.
- The rates of interest on government securities were also gradually stepped up to enable resource mobilization.
- To facilitate this programme of higher borrowings, the Reserve Bank carried out open market operations which helped in creating a genuine market for government securities.
- Till the 1950s, government securities were more popular with individuals than with institutions.
- Since the 1960s and until the 1990s, the government securities market remained dormant.
- The government was borrowing at pre-announced coupon rates from banks which were the predominant group of investors.
- During the 1980s, the volume of both long-term and short-term debt expanded considerably, especially the latter due to automatic accommodation through the issue of ad hoc T-bills.

- The Reserve Bank had also little control over some of the essential facets of debt management such as volume and maturity structure of securities to be marketed and the term structure of interest rates.
- The maturity structure of market loans remained highly skewed in favor of a longer term of more than 15 years.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | ______markets perform this function by transmitting the nation's savings into best possible productive uses which in turn raises the output and employment level in a country. | Financial |
| 2 | _____markets makes it possible for the holders of securities to exchange them at a market price. | Secondary |
| 3 | _____ bring savers and borrowers together by selling securities to savers and lending that money to the borrowers. | Capital Market |
| 4 | In financial markets, there are different ______which are bought and sold daily. | financial instruments |
| 5 | Based on the recommendations of Malegam Committee, 1955,SEBI introduced guidelines for issuing shares through______ process. | book building |
| 6 | _______Option was introduced and according to it, one of the lead book runners is to be appointed as a Stabilizing Agenr (SA) who takes the responsibility of price stabilization if required. | Green Shoe |
| 7 | _______ issues government securities on behalf of the government and sold them to various institutions and the public at large | RBI |
| 8 | the Reserve Bank frames the monetary policy, structure of interest rates, programme of borrowing through government securities, and so on instructions from the____. | government |

**TOPIC: Discuss the Factors contributing to the growth of capital market**

**(A)Factors:**

- The performance of the companies or rather corporate earnings is one of the factors which has direct impact or effect on capital market in a country
- The macroeconomic numbers indicate the state of the economy and the direction in which the economy is headed and therefore impacts the capital market in India
- capital market in India is also affected by developments in other parts of the world as various economies are interdependent and interconnected
- capital market also reacts to the nature of government, attitude of government, and various policies of the government.
- growth prospects of an economy does have an impact on capital markets because when an economy is growing at a good pace capital market of the country attracts more money from investors, both from within and outside the country and vice –versa

**(B)Detailing:**

**Factors contributing to the growth of capital market**

I. **Performance of domestic companies**
   - The performance of the companies or rather corporate earnings is one of the factors which has direct impact or effect on capital market in a country.

- Weak corporate earnings indicate that the demand for goods and services in the economy is less due to slow growth in per capita income of people .
- Because of slow growth in demand there is slow growth in employment which means slow growth in demand in the near future.
- Thus weak corporate earnings indicate average or not so good prospects for the economy as a whole in the near term. In such a scenario the investors (both domestic as well as foreign ) would be wary to invest in the capital market and thus there is bear market like situation.
- The opposite case of it would be robust corporate earnings and it’s positive impact on the capital market.
- The corporate earnings for the April – June quarter for the current fiscal hasbeen good. The companies like TCS, Infosys, Maruti Suzuki, Bharti Airtel, ACC, ITC,Wipro,HDFC,Binani cement, IDEA, Marico Canara Bank, Piramal Health, India cements , Ultra Tech, L&T, Coca-Cola, Yes Bank, Dr. Reddy’s Laboratories, Oriental Bank of Commerce, Ranbaxy, Fortis, Shree Cement ,etc have registered growth in net profit compared to the corresponding quarter a year ago.
- Thus we see companies from Infrastructure sector, Financial Services, Pharmaceutical sector, IT Sector, Automobile sector, etc. doing well.
- This across the sector growth indicates that the Indian economy is on the path of recovery which has been positively reflected in the stock market( rise in sensex & nifty) in the last two weeks(July 13-July 24).

**II. Macroeconomic indicators**

- The macroeconomic numbers also influence the capital market.
- It includes Index of Industrial Production (IIP) which is released every month, annual Inflation number indicated by Wholesale Price Index (WPI) which is released every week, Export –Import numbers which are declared every month, Core Industries growth rate ( It includes Six Core infrastructure industries – Coal, Crude oil, refining, power, cement and finished steel) which comes out every month, etc.
- This macro –economic indicators indicate the state of the economy and the direction in which the economy is headed and therefore impacts the capital market in India. A case in the point was declaration of core industries growth figure.
- The six Core Infrastructure Industries – Coal, Crude oil, refining, finished steel, power & cement –grew 6.5% in June , the figure came on the 23rd of July and had a positive impact on the capital market with the sensex and nifty rising by 388 points & 125 points respectively.

**III. Global developments**

- In this world of globalisation various economies are interdependent and interconnected.
- An event in one part of the world is bound to affect other parts of the world, however the magnitude and intensity of impact would vary.
- Thus capital market in India is also affected by developments in other parts of the world i.e. U.S., Europe, Japan , etc. Global cues includes corporate earnings of MNC’s, consumer confidence index in developed countries, jobless claims in developed countries, global growth outlook given by various agencies like IMF, economic growth of major economies, price of crude –oil, credit rating of various economies given by Moody’s, S & P, etc.
- An obvious example at this point in time would be that of subprime crisis & recession. Recession started in U.S. and some parts of the Europe in early 2008.

- Since then it has impacted all the countries of the world- developed, developing, less-developed and even emerging economies.

**IV. Political factors**

- For any economy to achieve and sustain growth it has to have political stability and pro-growth government policies.
- This is because when there is political stability there is stability and consistency in government's attitude which is communicated through various government policies.
- The vice- versa is the case when there is no political stability .
- So capital market also reacts to the nature of government, attitude of government, and various policies of the government.
- The above statement can be substantiated by the fact the when the mandate came in UPA government's favour ( Without the baggage of left party) on May 16 2009, the stock markets on Monday , 18th May had a bullish rally with sensex closing 800 point higher over the previous day's close.
- The reason was political stability. Also without the baggage of left party government can go ahead with reforms.

**V. growth prospects of an economy**

- When the national income of the country increases and per capita income of people increases it is said that the economy is growing .
- Higher income also means higher expenditure and higher savings.
- This augurs well for the economy as higher expenditure means higher demand and higher savings means higher investment.
- Thus, when an economy is growing at a good pace capital market of the country attracts more money from investors, both from within and outside the country and vice -versa. So we can say that growth prospects of an economy does have an impact on capital markets.

**VI. Investors sentiments and risk appetite**

- Another factor which influences capital market is investor sentiment and their risk appetite .
- Even if the investors have the money to invest but if they are not confident about the returns from their investment, they may stay away from investment for some time.
- At the same time if the investors have low risk appetite , which they were having in global and Indian capital market some four to five months back due to global financial meltdown and recessionary situation in U.S. & some parts of Europe , they may stay away from investment and wait for the right time to come

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | performance of the ______ is one of the factors which has direct impact or effect on capital market in a country | Companies |
| 2 | Weak _______indicate that the demand for goods and services in the economy is less due to slow growth in per capita income of people | corporate earnings |
| 3 | ___________includes Index of Industrial Production (IIP) which is released every month, annual Inflation number indicated by Wholesale Price Index (WPI) which is released every week, Export –Import numbers which are declared every month, Core Industries growth rate ( It includes Six Core infrastructure | macro – economic indicators |

| | | |
|---|---|---|
| | industries – Coal, Crude oil, refining, power, cement and finished steel) which comes out every month, etc | |
| **4** | Higher ___income also means higher expenditure and higher savings. | National |
| **5** | Investors may have the money to invest but if they are not confident about the returns from their investment , they may stay away from investment for some time due to _________ | investor sentiment and their risk appetite |

**TOPIC:**

**(A)Discuss the Problems of capital market in detail**

- Insider trading has become an inevitable practice in capital market in India
- artificial increase in price done by some buyers and sellers among themselves or among group which engages itself in such type of activities
- Even though there are more than ten thousand companies listed in Indian stock markets, the shares of only few companies are actively traded in the market
- in spite of SEBIs efforts to preserve transparency in the Indian markets, there has not been 100 % success in this respect
- number of companies queue up for raising the capital at a time, then the market gets crowded due to which the investors get divided and the company may not get entire subscription
- Various participants in the market viz. existing companies, new companies, entrepreneurs, brokers and other intermediaries are sometimes involved in unethical practices in various ways

**(B)Detailing:**

**Problems of capital market (debt and equity)**

I. **Insider trading**
   - Insider trading has become an inevitable practice in capital market in India.
   - In the organizational structure, there are some persons who have access to price sensitive information by virtue of their position in the company.
   - If these people use this sensitive information for their own advantage, it results in insider trading.
   - SEBI has introduced some regulations against insider trading but still it is difficult to entirely eliminate this drawback.
   - In the market operators, it is commonly argued that preventing insider trading is as difficult as controlling black money.

II. **Price rigging**
   - This drawback is normally observed when companies come up with capital issue in the primary market. The prices of shares are artificially pulled up before issue of securities by companies.
   - This artificial increase in price is done by some buyers and sellers among themselves or among group which engages itself in such type of activities.
   - This push-up results into bull movement in the market.

III. **Lack of liquidity**
   - Even though there are more than ten thousand companies listed in Indian stock markets, the shares of only few companies are actively traded in the market.
   - Out of the total turnover taking place in the stock exchanges more than 50 % of such trade is concentrated in just 10 corporate stocks.
   - Hence investors of other companies find it difficult to perform the trade.

- This results into severe problem of liquidity which prevails in the Indian market. It can also be proved from the trade volumes of 'A' and 'B' Group trades in BSE. While trades in 'A' group companies increase in volume, trades in 'B' group companies decline in volume.
- Hence only actively traded shares have the liquidity. But overall, in nearly 90 % of the companies there is no liquidity. It clearly shows that Indian markets are suffering from poor skewed liquidity.

**IV. Lack of transparency**

- During this phase, there has been emergence of SEBI as a regulating authority in Indian Capital market.
- But in spite of its efforts to preserve transparency in the Indian markets, there has not been 100 % success in this respect.
- Many brokers are involved in unethical practices, violating regulations imposed in the market.
- Some of the data relating to opening, closing, high and low prices are reported, but regarding volumes of trade carried out at the highest and lowest prices, the proper information is not provided to the investors.
- The time taken to execute a transaction is also not reported.
- This may lead to price distortions and undue advantage is taken by the brokers.
- Due to this genuine investors find it difficult to have full and perfect knowledge about the market, leaving lack of transparency in the market.

**V. Timing of new issue**

- Due to the advantages of primary market, the companies are interested to raise the capital through primary market.
- But if number of companies queue up for raising the capital at a time, then the market gets crowded.
- When the secondary market performs well, primary market gets flooded with new issues by the companies.
- It also has been experienced in the last decade that sometimes, in one week there are 8 to 10 new issues in the market at a time.
- This is hazardous to the companies as well as the investors. Since a number of companies come up with the issue at a time, the investors get divided and the company may not get entire subscription.
- From investor's point of view also it is difficult for them to opt for a particular company. If at a time there are a number of issues ongoing, research, analysis and risk assessment becomes difficult. Investors may get confused.

**VI. Volatility**

- During the recent past, Indian markets have experienced high volatility.
- Over the last twenty years, there has been huge increase in the popular indices like Sensex or Nifty.
- But in the mean while, there have been large amount of fluctuations.
- This volatility has two important reasons.
    - Firstly, the increasing influence of FIIs in the market which is permitted during this phase only.
    - Another thing which is associated with this is that delivery-based-trading is declining while the day-trading activities are increasing.

- Delivery based trading is normally a genuine investment activity while day-trading is speculative in nature.
- As more and more trades are in the form of day-trading, it makes the market volatile. In the recent past, the banks and financial institutions, foreign institutional investors and domestic mutual funds have pumped in huge funds in the market. But whenever there are negative sentiments, all such funds are withdrawn which make the markets even more volatile and unpredictable.

**VII. Unethical practices**

- Various participants in the market viz. existing companies, new companies, entrepreneurs, brokers and other intermediaries are sometimes involved in unethical practices in various ways.
- Mergers and acquisitions through malpractices, entering into insider trading, rigging up of price before a new issue, spreading misinformation or rumours, promoting fake shares are some unethical practices prevailing in the market. In spite of SEBI's continuous check against such practices, total control on such activities is remote.
- To some extent, SEBI has been successful in controlling unethical practices, but still a lot needs to be done to control these practices.

**VIII. Thin and restricted trading**

- In the stock exchanges, the number of hours for which trading is open for participants, is very less.
- On an average only six hours of trade per day is permitted in the stock exchanges. Apart from this, there are number of holidays due to which an investor finds it difficult to have liquidity throughout a month.
- A study has observed that about 64% of the listed scrips were not traded at all on BSE during 1995-97.

**IX. Speculation**

  - An excessive speculation in the stock exchanges has now become a well settled/established fact.
  - Share prices in the market are determined by the speculative forces and these prices have very low references of fundamentals or performance of economy, industry or company.
  - The dealers, merchants, insiders, fund managers etc. try to speculate the prices of share. As this has nothing to do with the performance of company/industry, a genuine and studied investor tries to be aloof from the trading.
- This reduces the presence of genuine investors and thereby increases the speculative motive among the other market participants also.

**X. Other problems**

- There are other problems prevailing in the Indian markets like inflating project costs and fixing unreasonable premium in the primary market, preferential and reserved allotment of substantial part of capital, benami traders, rackets and tampering with public issue application forms, badla finance etc.
- Some of these problems have been sorted out, but in general, this results into loss of confidence among small and retail investors.
- If the secondary markets are healthy, primary markets are attractive.
- Hence, primary markets, most of the times do not go along the fundamentals of company, industry in particular and economy in general.
- Lack of protection to the small and genuine investors is also one of the drawbacks of the Indian markets.
- During this phase itself, there has been emergence of SEBI as a regulator in the Indian capital markets. Initially, SEBI looked just like a 'Tiger without teeth'.

- But as the time progressed, SEBI became more and more strict and slowly, it became a strong regulator.
- But still, SEBI has not been successful in all respects. Especially, speculation, insider trading and inefficiency of information are the drawbacks which are still affecting the health of market.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | ________has become an inevitable practice in capital market in India. | Insider trading |
| 2 | In the organizational structure, there are some persons who have access to price sensitive information by virtue of their position in the company, If these people use this sensitive information for their own advantage, it results in_______. | insider trading |
| 3 | ____has introduced some regulations against insider trading but still it is difficult to entirely eliminate this drawback. | SEBI |
| 4 | The prices of shares are artificially pulled up before issue of securities by companies. This artificial increase in price is called ______ | Price rigging |
| 5 | __________is drawback is normally observed when companies come up with capital issue in the primary market | Price rigging |
| 6 | there are more than ten thousand companies listed in Indian stock markets, the shares of only few companies are actively traded in the market, this leads to _____ | Lack of liquidity |

## UNIT 3 RESERVE BANK OF INDIA

**TOPIC: What is RBI? Discuss in detail its History, formation, organization and management**

**(A)RBI:**

- The Reserve Bank of India (RBI) was set up in 1935 under the Reserve Bank of India Act,1934 as India's central bank, which controls the issue and supply of the Indian rupee
- RBI is the regulator of entire Banking sector in India
- The RBI carries out India's monetary policy and exercises supervision and control over banks and non-banking finance companies in India.

**(B)Detailing:**

**Introduction**

- The Reserve Bank of India (RBI) is India's central bank, which controls the issue and supply of the Indian rupee.
- RBI is the regulator of entire Banking in India. RBI plays an important part in the Development Strategy of the Government of India.
- RBI regulates commercial banks and non-banking finance companies working in India.
- It serves as the leader of the banking system and the money market.It regulates money supply and credit in the country.
- The RBI carries out India's monetary policy and exercises supervision and control over banks and non-banking finance companies in India. RBI was set up in 1935 under the Reserve Bank of India Act,1934.

**History and formation**

- The Reserve Bank of India was established following the Reserve Bank of India Act of 1934.
- Though privately owned initially, it was nationalised in 1949 and since then fully owned by Government of India (GoI).

**1935–1949**

- Reserve Bank of India-10 Rupees (1938), first year of bank note issue .
- The Reserve Bank of India was founded on 1 April 1935 to respond to economic troubles after the First World War.
- The Reserve Bank of India was conceptualised based on the guidelines presented by the Central Legislative Assembly which passed these guidelines as the RBI Act 1934.
- RBI was conceptualised as per the guidelines, working style and outlook presented by Dr. B. R. Ambedkar in his book titled “The Problem of the Rupee – Its origin and its solution” and presented to the Hilton Young Commission.
- The bank was set up based on the recommendations of the 1926 Royal Commission on Indian Currency and Finance, also known as the Hilton–Young Commission.
- The original choice for the seal of RBI was the East India Company Double Mohur, with the sketch of the Lion and Palm Tree.
- However, it was decided to replace the lion with the tiger, the national animal of India.
- The Preamble of the RBI describes its basic functions to regulate the issue of bank notes, keep reserves to secure monetary stability in India, and generally to operate the currency and credit system in the best interests of the country.

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- The Central Office of the RBI was established in Calcutta (now Kolkata) but was moved to Bombay (now Mumbai) in 1937.
- The RBI also acted as Burma's (now Myanmar) central bank until April 1947 (except during the years of Japanese occupation (1942–45)), even though Burma seceded from the Indian Union in 1937.
- After the Partition of India in August 1947, the bank served as the central bank for Pakistan until June 1948 when the State Bank of Pakistan commenced operations.
- Though set up as a shareholders' bank, the RBI has been fully owned by the Government of India since its nationalisation in 1949. RBI has monopoly of note issue.

**1950–1960**

- In the 1950s, the Indian government, under its first Prime Minister Jawaharlal Nehru, developed a centrally planned economic policy that focused on the agricultural sector.
- The administration nationalised commercial banks and established, based on the Banking Companies Act, 1949 (later called the Banking Regulation Act), a central bank regulation as part of the RBI.
- Furthermore, the central bank was ordered to support economic plan with loans.

**1961–1968**

- As a result of bank crashes, the RBI was requested to establish and monitor a deposit insurance system.
- Meant to restore the trust in the national bank system, it was initialised on 7 December 1961.
- The Indian government founded funds to promote the economy, and used the slogan "Developing Banking".
- The government of India restructured the national bank market and nationalised a lot of institutes. As a result, the RBI had to play the central part in controlling and supporting this public banking sector.

**1969–1984**

- In 1969, the Indira Gandhi-headed government nationalised 14 major commercial banks. Upon Indira Gandhi's return to power in 1980, a further six banks were nationalised.
- The regulation of the economy and especially the financial sector was reinforced by the Government of India in the 1970s and 1980s. The central bank became the central player and increased its policies a lot for various tasks like interests, reserve ratio and visible deposits.
- These measures aimed at better economic development and had a huge effect on the company policy of the institutes.
- The banks lent money in selected sectors, like agricultural business and small trade companies.
- The Banking Commission was established on Wednesday, 29 January 1969, to analyse banking costs, effects of legislations and banking procedures, including non banking financial intermediaries and indigenous banking on Government of India economy; with Mr. R.G. Saraiya as the chairman.
- The branch was forced to establish two new offices in the country for every newly established office in a town.
- The oil crises in 1973 resulted in increasing inflation, and the RBI restricted monetary policy to reduce the effects.

**1985–1990**

- A lot of committees analysed the Indian economy between 1985 and 1991.
- Their results had an effect on the RBI.
- The Board for Industrial and Financial Reconstruction, the Indira Gandhi Institute of Development Research and the Security & Exchange Board of India investigated the national economy as a whole, and the security and exchange board proposed better methods for more effective markets and the protection of investor interests.
- The Indian financial market was a leading example for so-called "financial repression" (Mckinnon and Shaw).
- The Discount and Finance House of India began its operations in the monetary market in April 1988; the National Housing Bank, founded in July 1988, was forced to invest in the property market and a new financial law improved the versatility of direct deposit by more security measures and liberalisation.

**1991–1999**

- The national economy contracted in July 1991 as the Indian rupee was devalued.
- The currency lost 18% of its value relative to the US dollar, and the Narsimham Committee advised restructuring the financial sector by a temporal reduced reserve ratio as well as the statutory liquidity ratio.
- New guidelines were published in 1993 to establish a private banking sector.
- This turning point was meant to reinforce the market and was often called neo-liberal.
- The central bank deregulated bank interests and some sectors of the financial market like the trust and property markets.
- This first phase was a success and the central government forced a diversity liberalisation to diversify owner structures in 1998.
- The National Stock Exchange of India took the trade on in June 1994 and the RBI allowed nationalised banks in July to interact with the capital market to reinforce their capital base.
- The central bank founded a subsidiary company—the Bharatiya Reserve Bank Note Mudran Private Limited—on 3 February 1995 to produce banknotes.

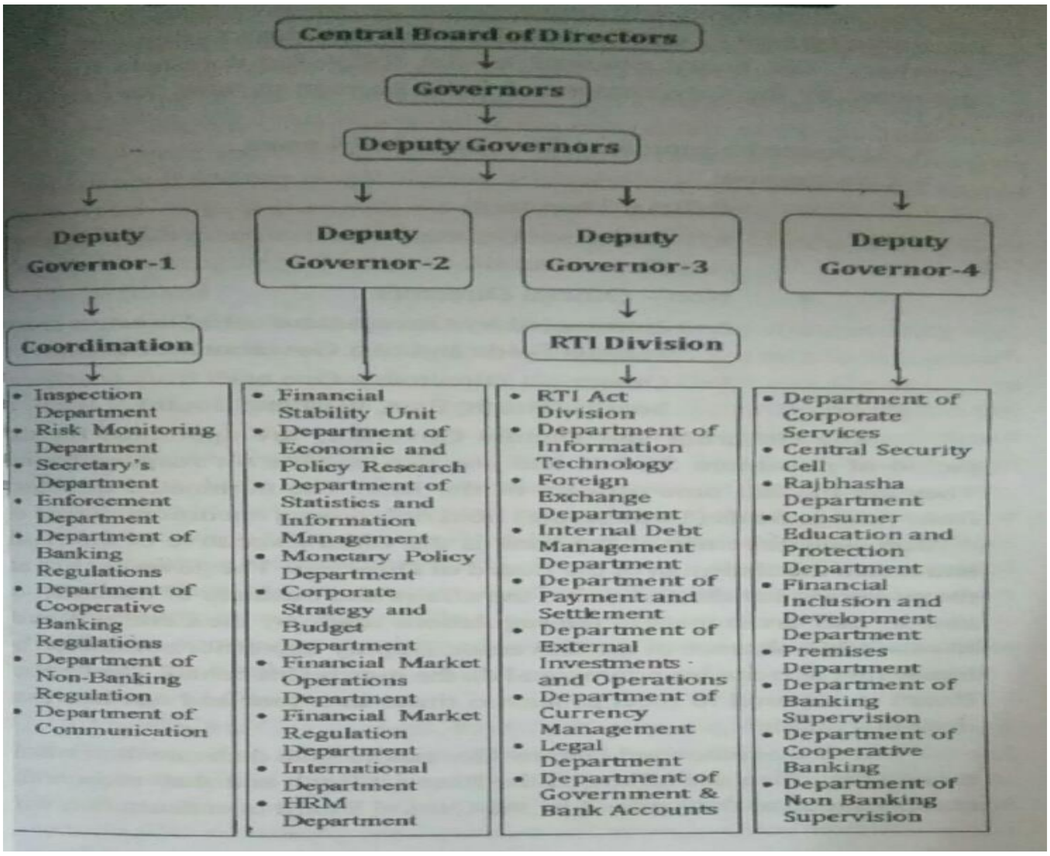
**Since 2000**

- The Foreign Exchange Management Act, 1999 came into force in June 2000.
- It should improve the item in 2004–2005 (National Electronic Fund Transfer).
- The Security Printing & Minting Corporation of India Ltd., a merger of nine institutions, was founded in 2006 and produces banknotes and coins.
- The national economy's growth rate came down to 5.8% in the last quarter of 2008–2009 and the central bank promotes the economic development.
- In 2016, the Government of India amended the RBI Act to establish the Monetary Policy Committee (MPC) to set.
- This limited the role of the RBI in setting interest rates, as the MPC membership is evenly divided between members of the RBI (including the RBI governor) and independent members appointed by the government.
- However, in the event of a tie, the vote of the RBI governor is decisive.

**Organization and management**

I. **The board composition and term of office**
    - The central board of directors is the main committee of the central bank.

- The Government of India appoints the directors for a four-year term.
- The board consists of a governor, and not more than four deputy governors; four directors to represent the regional boards; two — usually the Economic Affairs Secretary and the Financial Services Secretary — from the Ministry of Finance and ten other directors from various fields.




**II. Local board**

- Local board is set up at regional areas of the country viz., east, west, north and south. Headquarters are established in each area in the following cities; kolkata, mumbai, Delhi and Chennai.
- The local board consists of 5 members which are appointed by Central government. The members are appointed for the period of maximum four years and are eligible for reappointment as well.
- The local boards main functions for task is to advise the Central Board on such matters as may be referred to them, and; perform other duties delegated by central board from time to time.
- The board has entrusted some of its functions to the committee named committee of Central Board. The committee mainly consist of the Governor, the Deputy Governor and the directors representation area a resident of that area in which the meeting is held.
- The committee is required to meet at least once in a week at the office of the bank.

**III. The central government**

- The central government, by default, comes under the Management and Organisation of RBI.
- Of course, the central government is at top level and the main task is to give directions, which are necessary for public interest, to RBI from time to time after consulting the governor of the bank.

- Once this directions are given by central government, they are passed onto the central board of directors who will further implement the suggestions given by the central bank.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | The central board of _________is the main committee of the central bank | Directors |
| 2 | The Government of India appoints the directors for a ______year term | Four |
| 3 | ____board is set up at regional areas of the country | Local |
| 4 | _______are established in each area in the following cities; Kolkata, Mumbai, Delhi and Chennai. | Headquarters |
| 5 | The local boards main functions for task is to advise the Central Board on such matters as may be referred to them, and perform other duties delegated by _____from time to time. | central board |
| 6 | RBI was conceptualised as per the guidelines, working style and outlook presented by ______in his book titled "The Problem of the Rupee – Its origin and its solution" and presented to the Hilton Young Commission. | Dr. B. R. Ambedkar |
| 7 | RBI was conceptualized as per the guidelines, working style and outlook presented by Dr. B. R. Ambedkar in his book titled "The Problem of the Rupee – Its origin and its solution" and presented to the ______Commission. | Hilton Young |

**TOPIC: Discuss the Functions of Reserve Bank in detail.**

**(A)Functions:**

- The Reserve Bank of India has the sole right to issue currency notes
- Reserve Bank manages the banking needs of the government - collects receipts of funds and makes payments on behalf of the government.
- The Reserve Bank also serves as an agent and advisor to the government.
- Credit is controlled by the Reserve Bank in accordance with the economic priorities of government.
- RBI maintains banking accounts of all scheduled banks.
- Reserve Bank, as the lender of last resort, give funds to the commercial banks in the periode of tight liquidity emergency or when the commercial not able to secure the finance from any other source.
- The Reserve Bank of India Act as a clearing house or an agent for all the commercial actions routed through banks

**(B)Detailing:**

**Functions of Reserve Bank**

I. **Issue of currency notes**

- The Reserve Bank of India has the sole right to issue currency notes except one rupee notes which are issued by the Ministry of Finance.
- Currency notes issued by the Reserve Bank are declared unlimited legal tender throughout the country.
- This concentration of notes issue function with the Reserve Bank has a number of advantages:
  - it brings uniformity in notes issue
  - it makes possible effective state supervision
  - it is easier to control and regulate credit in accordance with the requirements in the economy; and
  - it keeps faith of the public in the paper currency.

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**II. Banker to government**

- As banker to the government the Reserve Bank manages the banking needs of the government. It has to-maintain and operate the government's deposit accounts.
- It collects receipts of funds and makes payments on behalf of the government.
- It represents the Government of India as the member of the IMF and the World Bank.

III. **Advisor to the government**

- The Reserve Bank also serves as an agent and advisor to the government.
- The RBI, from time to time, gives Advice to the government on a wide range of economic issues.
- Bank advises government in the matters related to commercial banking, resource mobilization, agricultural credit, industrial finance, international finance and so on.
- Many a times, government also seeks the advice of RBI on formulation of five year plans as well.
- The bank has build up quite a large Research Organization in order to perform the above mentioned functions.
- As an agent of government, it is entrusted with the task of managing public debt and issue of new loans and treasury bills on behalf of government.
- It also underwrites government securities.
- The RBI also functions as a representative of the central and state government for financial matters, both domestic and international

**IV. controller of credit**

- Since credit money forms the most important part of supply of money, and since the supply of money has important implications for economic stability, the importance of control of credit becomes obvious.
- Credit is controlled by the Reserve Bank in accordance with the economic priorities of government.

**V. Bankers Bank**

- Reserve Bank of India also works as a central bank where commercial banks are account holders and can deposit money.
- RBI maintains banking accounts of all scheduled banks.[57] Commercial banks create credit. It is the duty of the RBI to control the credit through the CRR, bank rate and open market operations.
- As banker's bank, the RBI facilitates the clearing of cheques between the commercial banks and helps the inter-bank transfer of funds.
- It can grant financial accommodation to schedule banks. It acts as the lender of the last resort by providing emergency advances to the banks

**a. Custodian of cash reserves of commercial banks**

- all the commercial and cooperative banks which come under the purview of RBI have to maintain a certain level of cash Reserves with RBI.
- This is popularly known as CRR or legal reserve. This is mandatory in nature.
- Reserve Bank requires every commercial bank to maintain, at all the time, a certain prefixed percentage of there are outstanding deposits with RBI.
- This is generally mentioned in monetary policy and the RBI revised the same as and when it thinks fit in order to stabilize money supply in the market.
- The RBI keep the safe custody of these Reserves and helps the banks the time of economic crisis or depression.

**b. Lender of last resort**

- Reserve Bank, as the lender of last resort, give funds to the commercial banks in the periode of tight liquidity emergency or when the commercial not able to secure the finance from any other source.
- The RBI is the ultimate source of money in the economy.
- Thus, RBI assume the responsibility of arranging the required finance for commercial banks directly or indirectly in the crisis Times.

**c. Clearing Agent**

- The Reserve Bank of India Act as a clearing house or an agent for all the commercial actions routed through banks.
- It is quite logical that the RBI serves as clearing house because it holds the accounts of all the commercial banks and thus, is in very good position to make clearance, settlement and transfer of funds among different banks.
- RBI can settle claims and counter claims of the banks by making transfer entries in their accounts.
- Generally, in order to operate smoothly, RBI set up clearing houses at various cities or centers which provides convenience for payment and settlement.
- Where the RBI could not reach, SBI works as an agent for RBI in performance Bank clearance and transfer.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | The Reserve Bank of India has the sole right to issue currency notes except _____which are issued by the Ministry of Finance | one rupee notes |
| 2 | ________ represents the Government of India as the member of the IMF and the World Bank. | RBI |
| 3 | The Reserve Bank also serves as an ______to the government. | agent and advisor |
| 4 | RBI advises _________in the matters related to commercial banking, resource mobilization, agricultural credit, industrial finance, international finance and so on | Government |
| 5 | ____is controlled by the Reserve Bank in accordance with the economic priorities of government. | Credit |
| 6 | Reserve Bank of India also works as a _____where commercial banks are account holders and can deposit money | central bank |
| 7 | Reserve Bank, as the lender of___, give funds to the commercial banks in the period of tight liquidity emergency or when the commercial not able to secure the finance from any other source. | last resort |

**TOPIC: Discuss monetary policy of RBI in detail**

**(A) Monetary policy**

- Monetary policy refers to the credit control measures adopted by the central bank of a country
- The monetary policy refers to a regulatory policy whereby the central bank maintains its control over the supply of money to achieve the general economic goals

- RBI is the sole monetary authority which decides the supply of money in the economy through Monetary policy

**(B)Detailing:**
**Monetary policy**
- The monetary policy refers to a regulatory policy whereby the central bank maintains its control over the supply of money to achieve the general economic goals.
- Main instruments of the monetary policy are: Cash Reserve Ratio, Statutory Liquidity Ratio, Bank Rate, Repo Rate, Reverse Repo Rate, and Open Market Operations.
- Monetary policy refers to the credit control measures adopted by the central bank of a country.
- In case of Indian economy, RBI is the sole monetary authority which decides the supply of money in the economy.

**OBJECTIVES OF MONETARY POLICY**
**Price Stability:**
- Price Stability implies promoting economic development with considerable emphasis on price stability.
- The centre of focus is to facilitate the environment which is favorable to the architecture that enables the developmental projects to run swiftly while also maintaining reasonable price stability.

**Controlled Expansion Of Bank Credit:**
- One of the important functions of RBI is the controlled expansion of bank credit and money supply with special attention to seasonal requirement for credit without affecting the output.

**Promotion of Fixed Investment:**
- The aim here is to increase the productivity of investment by restraining non essential fixed investment.

**Restriction of Inventories:**
- Overfilling of stocks and products becoming outdated due to excess of stock often results is sickness of the unit.
- To avoid this problem the central monetary authority carries out this essential function of restricting the inventories.
- The main objective of this policy is to avoid over-stocking and idle money in the organization

**Promotion of Exports and Food Procurement Operations:**
- Monetary policy pays special attention in order to boost exports and facilitate the trade.
- It is an independent objective of monetary policy.

**Desired Distribution of Credit:**
- Monetary authority has control over the decisions regarding the allocation of credit to priority sector and small borrowers.
- This policy decides over the specified percentage of credit that is to be allocated to priority sector and small borrowers.

**Equitable Distribution of Credit:**
- The policy of Reserve Bank aims equitable distribution to all sectors of the economy and all social and economic class of people

**To Promote Efficiency:**

- It is another essential aspect where the central banks pay a lot of attention.
- It tries to increase the efficiency in the financial system and tries to incorporate structural changes such as deregulating interest rates, ease operational constraints in the credit delivery system, to introduce new money market instruments etc.

**Reducing the Rigidity:**

- RBI tries to bring about the flexibilities in the operations which provide a considerable autonomy. It encourages more competitive environment and diversification.
- It maintains its control over financial system whenever and wherever necessary to maintain the discipline and prudence in operations of the financial system.

**TOPIC: Discuss the Instruments to control credit (monetary policy instruments )**

**(A) monetary policy instruments:**

- Monetary policy is a central bank's actions and communications that manage the money supply
- The money supply includes forms of credit, cash, checks, and money market mutual funds
- The RBI implements the monetary policy through open market operations, bank rate policy, reserve system, credit control policy, moral persuasion and through many other instruments

**(B)Detailing:**

**Instruments to control credit monetary policy instruments**

**A) Quantitative instruments**

**a. Bank rate**

- The rate at which the RBI lends to commercial banks. Bank rate is defined in Section 49 of the RBI Act of 1934 as the 'standard rate at which RBI is prepared to buy or rediscount bills of exchange or other commercial papers eligible for purchase'.
- When banks want to borrow long term funds from the RBI, it is the interest rate which the RBI charges to them. It is currently set to 5.65%.
- The bank rate is not used to control money supply, but penal rates continue to be linked to the bank rate.
- If a bank fails to meet SLR or CRR requirements then the RBI will impose a penalty of 300 basis points above bank rate.

**b. Open market operations**

- Open market operation is the activity of buying and selling of government securities in open market to control the supply of money in banking system.
- When there is excess supply of money, central bank sells government securities thereby sucking out excess liquidity.
- Similarly, when liquidity is tight, RBI will buy government securities and thereby inject money supply into the economy.
- In well-developed economies, central banks use open market operations—buying and selling of eligible securities by the central bank in the money market—to influence the volume of cash reserves with commercial banks and thus influence the volume of loans and advances they can make to the commercial and industrial sectors.
- In the open money market, government securities are traded at market-related rates of interest.

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- The RBI is resorting increasing to open market operations in recent years

**c. Legal Reserve Requirement**

- It is the ratio at which commercial banks is required to keep a certain percentage of its demand and time liabilities with the RBI.

**d. Statutory liquidity requirements**

- Apart from the CRR, banks are required to maintain liquid assets in the form of gold, cash and approved securities.
- Higher liquidity ratio forces commercial banks to maintain a larger proportion of their resources in liquid form and thus reduces their capacity to grant loans and advances, thus it is an anti-inflationary impact.
- A higher liquidity ratio diverts the bank funds from loans and advances to investment in government and approved securities.

**Qualitative instruments**

**a. Change in margin requirement**

- Under this method, the central bank effects a change in the marginal requirement to control and release funds.
- When the central bank feels that prices are rising on account of stock-piling of some commodities by the traders, then the central bank controls credit by raising the marginal requirements. (Marginal requirement is the difference between the market value of the assets and its maximum loan value).
- Let us suppose, a borrower pledged goods worth Rs. 1000 as security with a bank and gets a loan amounting to Rs. 800.
- Thus marginal requirement is Rs. 200 or 20 percent.
- If this margin is raised, the borrower will have to pledge goods of greater value to secure loan of a given amount.
- This would reduce money supply and inflation would be curtailed. Similarly, in case of depression, central bank reduces margin requirement.
- This will in turn raise the credit creating capacity of the commercial banks.
- Therefore, margin requirement is a significant tool in the hands of central authority during inflation and depression.

**b. Differential interest rates**

- Yet another important selective tool to control credit is differential interest rate across the sectors.
- RBI may prescribe different rates of interest for loans to different sectors of the economy.
- For instance, RBI may reduce the interest rate for priority sectors such as agriculture, exports, small scale industries etc., while it may set higher interest rates for the sections which is the central bank intense to reduce credit.
- This is how the funds get diverted to more important sectors or areas and thus will lead to stability and human welfare.

**c. Restrictions on clean advances**

- Reserve Bank of India may put a restriction on clean advances in the sectors or Areas where the speculation or hoarding is common.
- There are few traders who engage themselves in unfair trade practices by holding vital goods and create artificial scarcity in the environment and do get the benefit of price rise.

**d. Rationing of credit**

- Under this method, the central bank fixes a limit for the credit facilities to commercial banks.
- Being the lender of the last resort, central bank rations the available credit among the applicants.

**Generally, rationing of credit is done by the following four ways.**

(i)Central bank can refuse loan to any bank.
(ii) Central bank can reduce the amount of loans given to the banks.
(iii) Central bank can fix quota of the credit.
(iv)Central bank can determine the limit of the credit granted to a particular industry or trade.

**e. Regulation of consumer credit**

- During inflation, this method is followed to control excess spending of the consumers.
- Generally the hire purchase facilities or installment methods are used to reduce to the minimum to curb the expenditure on consumption.
- On the contrary, during depression period, more credit facilities are allowed so that consumer may spend more and more to pull the economy out of depression

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | Monetary policy is a central bank's actions and communications that manage the ________supply | money |
| 2 | __________is the rate at which the RBI lends to commercial banks | Bank Rate |
| 3 | Open market operation is the activity of buying and selling of government securities in open market to control the _______in banking system | supply of money |
| 4 | ____is the ratio at which commercial banks is required to keep a certain percentage of its demand and time liabilities with the RBI. | Legal Reserve Requirement |

# UNIT 4 INSTITUTIONAL FINANCING

**TOPIC: Explain the term Development Financial Institutions. Discuss in detail history, objectives, functions and modus operandi of IFCI**

**(A) Development Financial Institutions:**

- Development financial institution (DFI) is an institution promoted or assisted by government with a view to provide Development Finance to all for some sectors of the economy
- Development financial institution balance between commercial norms of operation and their developmental obligations
- **Development Financial Institutions are classified as :**
    - All India development Financial Institutions catering to the financial needs of Indian industrial sector in general and
    - Specialised Financial Institutions catering to financial requirements of industrial units in a specific area of an economy

**(B)Detailing:**

**Introduction and classification of financial institutes:**

- After India acquired independence, the need for having development financial institutes was strongly felt as the time demanded strengthening capital goods sector for Rapid industrialization .
- The need for huge long term financial resources for both existing and new industries.
- Existing industry is needed it for investing in reconstruction, modernization, diversification and expansion projects whereas new industries required funds for initiating big projects in capital goods sector.
- Capital market and banking system had some limitations in fulfilling this huge demand of funds and thus came into existence and development Financial Institutions - new institutional machinery to fill this gap of enormous requirement of fund.

Development financial institution (DFI) is an institution promoted or assisted by government with a view to provide Development Finance to all for some sectors of the economy. Development financial institution balance between commercial norms of operation and their developmental obligations .DFIs act as 'partners' rather than only ' financers ' for other clients. Objectives of DFIs include investing in sustainable private sector projects mobilizing private sector capital, maximizing impact on development, among many.

**Development Financial Institutions are classified as under:**

a) All India development Financial Institutions catering to the financial needs of Indian industrial sector in general and

b) Specialized Financial Institutions catering to financial requirements of industrial units in a specific area of an economy

**Industrial Finance Corporation of India (IFCI)**

Industrial Finance Corporation of India (IFCI) is actually the first financial institute the government established after independence. The main aim of the incorporation of IFCI was to provide long-term finance to the manufacturing and industrial sector of the country. Let us study more about IFCI.

**I. History**

- Initially established in 1948, the Industrial Finance Corporation of India was converted into a public company on 1 July 1993 and is now known as Industrial Finance Corporation of India Ltd.
- The main aim of setting up this development bank was to provide assistance to the industrial sector to meet their medium and long-term financial needs.
- The IDBI, scheduled banks, insurance sector, co-operative banks are some of the major stakeholders of the IFCI.
- The authorized capital of the IFCI is 250 crores and the Central Government can increase this as and when they wish to do so.

**II. Objectives**

- Industrial unit in which the investment in plant and machinery does not exceed Rs.10 million are small scale industries.
- SSI sector is the backbone of Indian economy as it contributes towards manufacturing sector output, exports and Employment generation is very substantial.
- The roadblocks in the development of SSI sector technology obsolence, incidence of sickness, substandard quality, delayed payments, lack of adequate infrastructure, and lack of marketing network.
- This sector needs strong support in order to ensure its long-term profitable growth.

With the same idea in view, four basic objectives are identified in the character of SIDBI:

**1. Financing:**
To offer financing scheme in two ways:
a) direct financing mechanism and
b) indirect financing mechanism

**2. Promotion:**
To help promoting new projects, expansion, diversification, modernization, technology up gradation and quality improvement. To help rehabilitating Sick small scale units.

**3. Development:**
To extend development to ensure enterprise promotion, human resource development, environmental and quality management, information distribution and market promotion.

**4. Coordination:**
To act as an Apex Institution and make use of network of banks and state Financial Institutions for coordinating the development of SSI sector .

**III. Functions**

- First, the main function of the IFCI is to provide medium and long-term loans and advances to industrial and manufacturing concerns. It looks into a few factors before granting any loans. They study the importance of the industry in our national economy, the overall cost of the project, and finally the quality of the product and the management of the company. If the above factors have satisfactory results the IFCI will grant the loan.
- The Industrial Finance Corporation of India can also subscribe to the debentures that these companies issue in the market.
- The IFCI also provides guarantees to the loans taken by such industrial companies.

- When a company is issuing shares or debentures the Industrial Finance Corporation of India can choose to underwrite such securities.
- It also guarantees deferred payments in case of loans taken from foreign banks in foreign currency.
- There is a special department the Merchant Banking & Allied Services Department. They look after matters such as capital restructuring, mergers, amalgamations, loan syndication, etc.
- It the process of promoting industrialization the Industrial Finance Corporation of India has also promoted three subsidiaries of its own, namely the IFCI Financial Services Ltd, IFCI Insurance Services Ltd and I-Fin. It looks after the functioning and regulation of these three companies.

**IFCI as a Business Facilitator**

In the last few decades, the Industrial Finance Corporation of India has made a significant contribution to the development of our economy. Also, it is responsible for the growth, expansion, and modernization of our industrial sector.

The Industrial Finance Corporation of India has also been beneficial for the import and export industry, the cause of pollution control, energy conservation, import substitution, and many such initiatives and industries. Some sectors, in particular, have seen a lot of benefits. Some of these are

- Agricultural Based Industries like paper, sugar, rubber, etc.
- Service Industries like restaurants, hospitals, hotels, etc.
- Basic industries in any economy like steel, cement. Chemicals etc.
- Capital and goods industries like electronics, fibers, telecom services, etc

**IV. Operations / modus operandi**

Government set its priorities for investment through industrial policy statements. In that accordance, IFCI set priorities for investment. The factors considered while selecting a financial proposal are:

- expected contribution of the project in development of the economy
- Employment oriented nature of the project
- Export potential of the project
- Contribution of the project in reducing imbalance in the regional development
- Initiation of the project by new or technician entrepreneurs
- Capability of the project to harness indigenous Technology, know how and raw materials.
- Contribution of the project in rural development
- Projects to produce renewable energy system or devices and projects conserving energy
- Cooperative sector projects

**Following types of industrial units are eligible for financial assistance under IFCI act**

- Limited companies incorporated in India in public, private or joint sector
- Cooperatives registered in India and engaging activities related to
- Manufacturing, preservation or processing of goods
- Shipping
- Hotel industry
- Mining
- Transport(passengers or goods)
- Generation and distribution of electricity or power in any other form

- Maintenance and repair of machinery
- Assembling, repairing or packing of articles
- Fishing or providing shore facilities for fishing
- Development of connecting area of land as an Industrial Estate
- Providing knowledge (special or technical) for the promotion of industrial growth
- Research and development of the product or process in relation to any of the matters mentioned above

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| **1** | What is the abbreviation of IFCI? | Industrial Finance Corporation of India |
| **2** | ______ is the first financial institute the government established after independence. | IFCI |
| **3** | The main aim of the incorporation of IFCI was to provide long-term finance to the ______sector of the country | manufacturing and industrial |
| **4** | _____ acts as an Apex Institution and make use of network of banks and state Financial Institutions for coordinating the development of SSI sector. | IFCI |
| **5** | IFCI has also been _____for the import and export industry, the cause of pollution control, energy conservation, import substitution, and many such initiatives and industries. | Beneficial |
| **6** | IFCI set priorities for investment according to Government priorities for investment through_______. | industrial policy statements |

**TOPIC: Discuss in detail history, objectives, functions and modus operandi of Small industries Development Bank of India**

**(A) SIDBI:**

- SIDBI was formed for administering Small Industries Development Fund and National Equity Fund that were administered by IDBI before
- SIDBI focused on the development of the Micro, Small and Medium Enterprise sector
- SIDBI also promotes cleaner production and energy efficiency
- SIDBI helps MSMEs in acquiring the funds they require to grow, market, develop and commercialize their technologies and innovative products

**(B)Detailing:**

**Small industries Development Bank of India (SIDBI)**

- SIDBI was made responsible for administering Small Industries Development Fund and National Equity Fund that were administered by IDBI before.
- SIDBI is the Primary Financial Institution for promoting, developing and financing MSME (Micro, Small and Medium Enterprise) sector.
- Besides focussing on the development of the Micro, Small and Medium Enterprise sector, SIDBI also promotes cleaner production and energy efficiency.
- SIDBI helps MSMEs in acquiring the funds they require to grow, market, develop and commercialize their technologies and innovative products.
- The bank provides several schemes and also offers financial services and products for meeting the individual’s requirement of various businesses.

**I. Mission**

To facilitate and strengthen credit flow to MSMEs and address both financial and developmental gaps in the MSME eco-system

**II. Vision**

To emerge as a single window for meeting the financial and developmental needs of the MSME sector to make it strong, vibrant and globally competitive, to position SIDBI Brand as the preferred and customer - friendly institution and for enhancement of share - holder wealth and highest corporate values through modern technology platform

**III. History**

- The Small Industries Development Bank of India was set up on April 2, 1990 through an act of parliament;
- it was incorporated initially as a wholly Owned subsidiary of Industrial Development Bank of India.
- Current Shareholding is widely spread among various state-owned banks, insurance companies and financial institutions.
- Beginning as a refinancing agency to banks and state level financial institutions for their credit to small industries, it has expanded its activities, including direct credit to the SME through 100 branches in all major industrial clusters in India.
- Besides, it has been playing the development role in several ways such as support to micro-finance institutions for capacity building and on lending.
- Recently it has opened seven branches christened as Micro Finance branches, aimed especially at Dispensing loans up to Rs.5.00 lakh.

**IV. objectives :**

- For orderly growth of industry in the small scale sector.
- The Charter has Provided SIDBI considerable flexibility in adopting appropriate Operational Strategies to meet these objectives.
- The activities of SIDBI, as they have evolved over the period of time, now meet almost all the requirements of Small scale industries which fall into a wide spectrum constituting modern and technologically superior units at one end and traditional units at the other end.
- Four basic objectives are set out in the SIDBI Charter. They are:

**a. Financing**

Financing orderly growth of industry in the small-scale sector. SIDBI has put in place financing schemes either through its direct financing mechanism or through indirect assistance mechanism and special focus programmes under its P&D initiatives.

**b. Promotion**

Promotional activities of SIDBI includes new projects, expansion, Diversification, technology upgradition, modernization, quality improvement, Environmental management, marketing and rehabilitation of sick small scale Sectors.

**c. Development**

Besides financing, SIDBI provides developmental and support Services to SSI'S under its Promotional and Developmental (P&D) Schemes. The focus of such assistance is to ensure

· Enterprise Promotion
· Human Resource Development
· Technology Up Gradation
· Environmental and Quality Management
· Information Disseminations and
· Market Promotion

**d. Coordination**

- SIDBI makes use of the network of the banks and state level financial Institutions, which have retail outlets.
- SIDBI supplements the efforts of existing institutions through its direct assistance schemes to reach financial assistance to the ultimate borrowers in the small-scale sector.
- Refinancing, bills rediscounting, Lines of credit and resource support mechanism have evolved over the period of time to route SIDBI'S Assistance through the network of other retail instititutions in the financial System, Improved levels of co-ordinations for development of small scale Sector is also achieved through a system of dialogue and obtaining feedback From the representatives of institution of small scale industries who are on The SIDBI'S National Advisory committee and Regional Advisory Committee.

**V. Functions**

SIDBI provides assistance mainly to the small scale units through the channel of assistance. SIDBI provide financial assistance to small scale industries have three major dimension.

1- Indirect Assistance to Primary Lending Institution (PLIs).
2- Direct Assistance to small scale units

**1. Indirect assistance to primary lending institutions (PLIs)**

Under this, SIBDI accident financial support in the following way:

a) Assistance is provided by way of refinance, granting of line of credit and discounting bills of exchange to eligible PLIs including banks, state financial corporations and State Industrial Development Corporation.
b) SIDBI refinances loans sanctioned and disbursed by PLIs to start a new SSI projects in for expansion, diversification, modernization, technology up gradation, quality improvement and rehabilitation of sick units.
c) SIDBI extends short term loans to scheduled banks in respect of the outstanding SSI sector portfolio against which no financial assistance has been away from the other institutions.
d) It rediscounts bills of suppliers to SSI units and bills arising out of sale/ purchase of machinery discounted by schedule commercial banks.

**2. Direct assistance to small units:**

SIDBI directly provide financial assistance to small scale units to different screens:

•National equity fund scheme provides equity supports to small entrepreneurs to set up projects in tiny sector
•Technology development and modernization fund scheme extend fund to existing SSI units for modernization or Technology upgrade.
•Mahila Udhyan nidhi scheme providing equity support to women entrepreneurs to start units in tiny sector.
•Single window scheme provides term loans for long term Assets and short term loans for financing working capital requirement to the same agency.
•Composite loan scheme is for equipments and working capital as well as loans for work shed to artesian, village and cottage industries in tiny sector.
•Equipment finance scheme is for procurement of machinery or equipment.

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•Scheme for financing activities related to marketing of SSI product extends funds from undertaking various marketing activities marketing research, product development, branding, advertising, participation in trade fairs etc,.
•Capital schemes is for encouraging SSI ventures or subcontracting units
•ISO 9000 scheme provides your meeting all expenses to acquire ISO 9000 certification.

**VI. Modus operandi**

- SIDBI provides direct credit for establishing new project in MSME sector as well as for growth, diversification, modernization and marketing of existing MSME units.
- Apart from this, it extends credit for preparing land and construction of factory for MSME units as they relocate to industrial areas

**General terms and conditions for loan and discuss here under:**

- Assistance provided by banks is need based
- The interest rate is based on risk rating and it is linked to SIDBI PLR
- There is flexibility for security of loan
- The time period Loan is given cannot exceed 7 years
- The bank also provides financial assistance to existing medium or small scale sector units auto promoters having an experience in the similar line of activities for starting new project.
- General terms and conditions for service sector assistance are as under
- Financial assistance to service sector units can be provided according to section 2(h) of the SIDBI act
- For service sector projects, the project cost limit is kept at Rs. 75 crore and bank can provide assistance to individual projects up to Rs. 50 crores
- In case of service sector units where the investment in the core equipment is is within the limits set for medium scale service sector units under MSME act ,viz,Rs. 5 crore, it could continue to remain up to Rs. 250 crores.
- Financial assistance Can be provided for both capital expenditure and working capital requirements of the units of the sector

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | ____is the Primary Financial Institution for promoting, developing and financing MSME (Micro, Small and Medium Enterprise) sector. | SIDBI |
| 2 | SIDBI helps ______in acquiring the funds they require to grow, market, develop and commercialize their technologies and innovative products | MSMEs |
| 3 | ________activities of SIDBI includes new projects, expansion, Diversification, technology upgradition, modernization, quality improvement, Environmental management, marketing and rehabilitation of sick small scale Sectors. | Promotional |
| 4 | SIDBI provides _____Services to SSIs under its Promotional and Developmental (P&D) Schemes | developmental and support |
| 5 | SIDBI makes use of the network of the banks and state level financial Institutions, which have _______outlets | Retail |
| 6 | SIDBI extends short term loans to _____banks in respect of the outstanding SSI sector portfolio against which no financial assistance has been away from the other institutions. | scheduled |

**TOPIC: Discuss in detail history, objectives, functions and modus operandi of Industrial Development Bank of India**

**(A) Industrial Development Bank of India**

- Industrial Development Bank of India was set up as a wholly owned subsidiary of the RBI on July 1st 1964 under an act of parliament.
- The Industrial Development Bank of India (IDBI) was established in 1964 under an Act of Parliament as a wholly owned subsidiary of the Reserve Bank of India.
- IDBI played a prime role in setting up of the Entrepreneurship Development Institute of India for fostering entrepreneurship in the country
- IDBI also extends financial support to various organizations in conducting studies or surveys of relevance to industrial development
- Form of assistance determines the requirement of security for availing financial assistance from IDBI.

**(B)Detailing:**

**Industrial Development Bank of India (IDBI)**

Industrial Development Bank of India was set up as a wholly owned subsidiary of the RBI on July 1st 1964 under an act of parliament. In February 1976, it became an independent and autonomous bank.

**I. History**

- The Industrial Development Bank of India (IDBI) was established in 1964 under an Act of Parliament as a wholly owned subsidiary of the Reserve Bank of India.
- In 1976, the ownership of IDBI was transferred to the Government of India and it was made the principal financial institution for coordinating the activities of institutions engaged in financing, promoting and developing industry in India.
- IDBI provided financial assistance, both in rupee and foreign currencies, for green-field projects and also for expansion, modernisation and diversification purposes.
- In the wake of financial sector reforms unveiled by the government since 1992, IDBI also provided indirect financial assistance by way of refinancing of loans extended by State-level financial institutions and banks and by way of rediscounting of bills of exchange arising out of sale of indigenous machinery on deferred payment terms.
- After the public issue of IDBI in July 1995, the government shareholding in the bank came down from 100% to 75%.
- IDBI played a pioneering role, particularly in the pre-reform era (1964–91), in catalyzing broad based industrial development in India in keeping with its Government-ordained ‘development banking’ charter.
- Some of the institutions built with the support of IDBI are the Securities and Exchange Board of India (SEBI), National Stock Exchange of India (NSE), the National Securities Depository Limited (NSDL), the Stock Holding Corporation of India Limited (SHCIL), the Credit Analysis & Research Ltd, the Exim Bank (India), the Small Industries Development Bank of India (SIDBI) and the Entrepreneurship Development Institute of India.

**II. Objectives**

- The main objectives of the Industrial Development Bank of India are as follows:
- To provide credit, team finance, and financial services for the establishment of new projects.
- To expansion, diversification modernization and technology upgradation of existing Industrial concern.
- To provide several diversified financial products.

- To undertake merchant banking activities.

**Functions**

**a. Financial assistance**

**i. Direct assistance**

- The IDBI grants loans and advances to industrial concerns.
- There is no restriction on the upper or lower limits for assistance to any concern itself.
- The bank guarantees loans raised by industrial concerns in the open market from the State Co-operative Banks, the Scheduled Banks, the Industrial Finance Corporation of India (IFCI) and other 'notified' financial institutions.

**ii. Indirect assistance**

- The IDBI can refinance term loans to industrial concerns repayable within 3 to 25 years given by the IFCI, the State Financial Corporation and some other financial institutions and to SIDCs (State Industrial Development Corporations), Commercial banks and Co-operative banks which extend term loans not exceeding 10 years to industrial concerns.
- IDBI subscribes to the shares and bonds of the financial institutions and thereby provide supplementary resources.

**b. Developmental activities**

**i. Promotional activities**

- In fulfillment of its developmental role, the bank continues to perform a wide range of promotional activities relating to developmental programmes for new entrepreneurs, consultancy services for small and medium enterprises and programmes designed for accredited voluntary agencies for the economic upliftment of the underprivileged.
- These include entrepreneurship development, self-employment and wage employment in the industrial sector for the weaker sections of society through voluntary agencies, support to Science and Technology Entrepreneurs' Parks, Energy Conservation, Common Quality Testing Centers for small industries.

**ii. Technical consultancy organisation**

- With a view to making available at a reasonable cost, consultancy and advisory services to entrepreneurs, particularly to new and small entrepreneurs, IDBI, in collaboration with other All-India Financial Institutions, has set up a network of Technical Consultancy Organisations (TCOs) covering the entire country.
- TCOs offer diversified services to small and medium enterprises in the selection, formulation and appraisal of projects, their implementation and review.

**iii. Entrepreneurship Development Institute**

- Realising that entrepreneurship development is the key to industrial development;
- IDBI played a prime role in setting up of the Entrepreneurship Development Institute of India for fostering entrepreneurship in the country.
- It has also established similar institutes in Bihar, Orissa, Madhya Pradesh and Uttar Pradesh. IDBI also extends financial support to various organizations in conducting studies or surveys of relevance to industrial development

**III. Modus operandi oblique operations**

**a. Policy on sanction and utilisation of funds for project financing**

- Financial assistance for the project is sanctioned once the project is found fulfilling all the criteria satisfactorily.

- IDBI has a policy to keep a watch on the progress of the project to ensure that the assistance is utilised for the purpose for which it was sanctioned, to see to it that the project is progressing according to the schedule and to access whether the project could be completed within the original estimates of time and cost

b. **Policy and institutional projects to be assisted**
   - IDBI focuses on financing the projects that involve huge capital outlay or sophisticated Technology and the projects promoted by technician and to produce located in less developed areas of the country.
   - IDBI assistance is usually made available to new projects as well as for expansion, modernization or innovation of existing units.

c. **Policy on forms of assistance**
   - IDBI exchange financial support to the both new and existing projects
   - directly by the way of project Finance, equipment Finance, corporate loan, working capital loan, direct discounting of bills, equipment lease, venture capital fund and
   - indirectly by way of refinance to medium scale industries, bill rediscounting

d. **Policy and size of assistance**
   - IDBI as a policy of assisting small and medium projects.
   - However, the degree and the amount of assistant difference depend upon the form of assistance.
   - For example, corporate loan can be granted to the extent of 70% of the cost of capital goods or raw materials, parts etc., to be purchased or imported with a minimum limit of Rs.5 crores.

e. **Policy on security of loan**
   - Form of assistance determines the requirement of security for availing financial assistance from IDBI.
   - Corporate loan is provided on these grounds: It is given against demand promissory note and first charge on movable and immovable property by way of extension or executive charges, kannada MP3 song with the margin of 30% or hypothecation of raw materials are components to be acquired out of the loan or pledge of marketing securities with 50% margin based on average of high and low of market quotations during the preceding six months and personal guarantee of promoters/ directors wherever considered necessary.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| **1** | The Industrial Development Bank of India (IDBI) was established in 1964 under an Act of Parliament as a wholly owned subsidiary of the___________. | Reserve Bank of India |
| **2** | _______provided financial assistance, both in rupee and foreign currencies, for green-field projects and also for expansion, modernisation and diversification purposes | IDBI |
| **3** | IDBI also provided _________financial assistance by way of refinancing of loans extended by State-level financial institutions and banks and by way of rediscounting of bills of exchange arising out of sale of indigenous machinery on deferred payment terms. | Indirect |
| **4** | IDBI played a pioneering role, particularly in the pre-reform era (1964–91), in | Industrial |

| | | |
|---|---|---|
| | catalyzing broad based ________development in India | |
| **5** | The main objectives of the Industrial Development Bank of India is to provide credit, team finance, and financial services for the establishment of ____projects | New |
| **6** | __________ guarantees loans raised by industrial concerns in the open market from the State Co-operative Banks, the Scheduled Banks, the Industrial Finance Corporation of India (IFCI) and other 'notified' financial institutions. | IDBI |

**TOPIC: Discuss in detail history, objectives, functions and modus operandi of Industrial credit and Investment Corporation of India (ICICI)**

**(A) ICICI**

- It was established in 1955 as public limited company under Indian Company Act.
- It was established for developing medium and small industries of private sector.
- It grants medium and long term loans on debenture basis.
- Since 1973, ICICI entered into international capital market for obtaining loans in foreign currency.

**(B)Detailing:**

**I. History**

- ICICI Bank was established by the **Industrial Credit and Investment Corporation of India (ICICI)**, an Indian financial institution, as a wholly owned subsidiary in 1994. The parent company was formed in 1955 as a joint-venture of the World Bank, India's public-sector banks and public-sector insurance companies to provide project financing to Indian industry.
- The bank was founded as the Industrial Credit and Investment Corporation of India Bank, before it changed its name to the abbreviated ICICI Bank.
- The parent company was later merged with the bank.
- ICICI Bank launched internet banking operations in 1998.
- ICICI's shareholding in ICICI Bank was reduced to 46 percent, through a public offering of shares in India in 1998, followed by an equity offering in the form of American Depositary Receipts on the NYSE in 2000.
- ICICI Bank acquired the *Bank of Madura Limited* in an all-stock deal in 2001 and sold additional stakes to institutional investors during 2001-02.
- In the 1990s, ICICI transformed its business from a development financial institution offering only project finance to a diversified financial services group, offering a wide variety of products and services, both directly and through a number of subsidiaries and affiliates like ICICI Bank.
- In 1999, ICICI become the first Indian company and the first bank or a financial institution from non-Japan Asia to be listed on the NYSE.
- In October 2001, the Boards of Directors of ICICI and ICICI Bank approved the merger of ICICI and two of its wholly-owned retail finance subsidiaries, ICICI Personal Financial Services Limited and ICICI Capital Services Limited, with ICICI Bank.
- The merger was approved by shareholders of ICICI and ICICI Bank in January 2002, by the High Court of Gujarat at Ahmedabad in March 2002 and by the High Court of Judicature at Mumbai and the Reserve Bank of India in April 2002.
- In 2008, following the 2008 financial crisis, customers rushed to ICICI ATMs and branches in some locations due to rumors of an adverse financial position of ICICI Bank.

- The Reserve Bank of India issued a clarification on the financial strength of ICICI Bank to dispel the rumors.

**II. Objectives**

The major objective of the ICICI was to meet the needs of the industry for permanent and long term funds in the private sector. In general, the major objectives of the Corporation are:

1. To assist in creation, growth and modernization of business enterprises in the non-public sector.
2. To encourage and promote the involvement of internal and external capital sources, in such enterprises.
3. To motivate private ownership of industrial investment and to promote and assist in the expansion of markets.
4. To provide equipment finance.
5. To provide finance for rehabilitation of industrial units.

**III. Functions**

In order to accomplish the above objectives, the Corporation performs the following functions:

1. Providing finance in the form of long-term or medium term loans or equity participation.
2. Sponsoring and underwriting new issues of shares and other securities,
3. Guaranteeing loans from other private investment sources.
4. Making funds available for reinvestment by revolving investment as rapidly as possible.
5. Providing project advisory services i.e. offering advice –
   - to private sector companies in the pre-investment stages on Government policies and procedures, feasibility studies and joint venture search, and
   - to Central and State Governments on specific policy related issues.

**IV. Modus operandi/ operations**

**a. Project Finance**

- It is provided to industries for cost of establishment, an expansion of manufacturing and processing activities in the form of rupees and foreign currency loans; underwriting; and subscription to securities issued by such firms.
- The object of providing Rupee loan is to facilitate the purchase of equipment and machinery, construction and preliminary expenses whereas foreign currency loans are given to avail the imported capital equipment.

**b. leasing**

Leasing assistance is provided for computerization, replacement/ modernization, equipment of energy conservation, export orientation, pollution Control etc.,

**c. Project advisory services**

This service is provided to government, private and public sector companies. The advice to the government is on policy matters and that to private sector companies is on strategic management.

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | _________was established in 1955 as public limited company under Indian Company Act. | ICICI |
| 2 | The major objective of the ICICI was to meet the needs of the industry for permanent and long term funds in the _________sector | Private |
| 3 | _________is provided to industries for cost of establishment, an expansion of | Project |

| | | |
|---|---|---|
| | manufacturing and processing activities in the form of rupees and foreign currency loans; underwriting; and subscription to securities issued by such firms | Finance |
| **4** | _______Provides project advisory services to private sector companies in the pre-investment stages on Government policies and procedures, feasibility studies and joint venture search, and to Central and State Governments on specific policy related issues. | ICICI |
| **5** | __________ is provided to industries for cost of establishment, an expansion of manufacturing and processing activities in the form of rupees and foreign currency loans; underwriting; and subscription to securities issued by such firms. | **Project Finance** |

## Specialized Financial Institutions

**TOPIC: Discuss in detail history, objectives, functions and modus operandi of EXIM Bank**
**(A) Exim Bank**

- Export–Import Bank of India is a finance institution in India, established in 1982 under Export-Import Bank of India Act 1981.

**Main objective is** To facilitate sustained growth in exports from India and import in India.

- Finances import and export of goods and services from India

**(B)Detailing:**

**I. history**

Export–Import Bank of India is a finance institution in India, established in 1982 under Export-Import Bank of India Act 1981. Since its inception, Exim Bank of India has been both a catalyst and a key player in the promotion of cross border trade and investment. Commencing operations as a purveyor of export credit, like other export credit agencies in the world, Exim Bank India has, over the period, evolved into an institution that plays a major role in partnering Indian industries, particularly the Small and Medium Enterprises, in their globalisation efforts, through a wide range of products and services offered at all stages of the business cycle, starting from import of technology and export product development to export production, export marketing, pre-shipment and post-shipment and overseas investment.

**II. Objectives**

To facilitate sustained growth in exports from India and import in India.

To stimulate sustained economic growth by providing access to essential raw materials, intermediates, components, consumables and capital goods scheme required for augmenting production and providing services.

To enhance the technological strength and efficiency of Industry Agriculture industry and services, thereby improving their competitive strength while generating new employment opportunities, and to encourage the attainment of internationally accepted standards of quality.

To provide clients with high-quality goods and services at globally competitive rates. Canalization is an important feature of Exim Policy under which certain goods can be imported only by designated agencies. For an example, an item like gold, in bulk, can be imported only by specified banks like SBI and some foreign banks or designated agencies.

**III. Vision**

The gist of vision is "Together Towards Tomorrow". Export Import Bank of Bangladesh Limited (Exim Bank) believes in togetherness with its customers, in its march on the road to growth and progress with service. To achieve the desired goal, there will be constant pursuit of excellence in compliance with the Islamic Shariah. We believe the advantages of Islamic economy can best be extended to the people with a technology-driven modern banking system that upholds the Islamic values, and Exim Bank envisages making itself a perfect instance of that kind. The Bank's strategic plans and networking will strengthen its competitive edge over others in rapidly changing competitive environment. Its personalized quality services to the customers with trend of constant improvement will be the cornerstone to achieve our operational success.

**IV. Functions**

1. Finances import and export of goods and services from India
2. It also finances the import and export of goods and services from countries other than India.
3. It finances the import or export of machines and machinery on lease or hires purchase basis as well.
4. Provides refinancing services to banks and other financial institutes for their financing of foreign trade
5. EXIM bank will also provide financial assistance to businesses joining a joint venture in a foreign country.
6. The bank also provides technical and other assistance to importers and exporters. Depending n the country of origin there are a lot of processes and procedures involved in the import-export of goods. The EXIM bank will provide guidance and assistance in administrative matters as well.
7. Undertakes functions of a merchant bank for the importer or exporter in transactions of foreign trade.
8. Will also underwrite shares/debentures/stocks/bonds of companies engaged in foreign trade.
9. Will offer short-term loans or lines of credit to foreign banks and governments.
10. EXIM bank can also provide business advisory services and expert knowledge to Indian exporters in respect of multi-funded projects in foreign countries

**V. Modus operandi operations**

**a. Export credit**

It includes following:

- It gives export credit on deferred payment terms for exports of Indian manufacturing goods, machinery, technology and Consultancy Services.
- Lines of credit/ buyers credit are provided to Overseas entities for enabling buyers in those countries to import developmental and infrastructural projects, equipments, good and services from India on deferred credit terms. These Overseas entities can be sovereign governments, central banks, commercial banks, regional Development Banks and development Financial Institutions.
- It also provides project finance and trade Finance.

**b. Export capability creation**

It includes:

- Export product development
- Export marketing Finance
- Financing export oriented units(project Finance, working capital, production equipment Finance)
- European community investment partners(ECIP)
- Asian country investment partners
- Oversea investment finance
- Export facilitation programs

**c. Export services**

Bank provides a range of information an advisory services Indian companies apart from Finance. It aims at supplementing. their efforts of globalization.

**(C)One Word Question Answer:**

| Sr.NO | Question | Answer |
|---|---|---|
| 1 | ________Bank of India is a finance institution in India, established in 1982 under Export-Import Bank of India Act 1981. | Export–Import |
| 2 | Exim bank Finances import and export of goods and services from _______ | India |
| 3 | Exim Bank provides a range of information and advisory services to Indian companies apart from Finance. It aims at supplementing their efforts of_____. | Globalization |
| 4 | _________will also provide financial assistance to businesses joining a joint venture in a foreign country. | EXIM bank |
| 5 | EXIM bank can also provide business advisory services and expert knowledge to Indian exporters in respect of multi-funded projects in ____countries | foreign |

**TOPIC: Discuss in detail history, objectives, functions and modus operandi of IDFC**

**(A) IDFC**

- IDFC was incorporated on 30 January 1997 with its registered office in Chennai and started operations on 9 June 1997
- Mission of IDF Leading private capital to commercially viable infrastructural projects by advocating solutions that deliver efficient services to consumers
- It functions as policy advisor and provides leadership in rationalizing regulatory and policy frameworks and removes obstacles in the movement of capital to infrastructural projects.

**(B)Detailing:**

**Infrastructure Development Finance Company Limited (IDFC)**

**I. History**

- IDFC was incorporated on 30 January 1997 with its registered office in Chennai and started operations on 9 June 1997.
- In 1998 the company registered with the Reserve Bank of India (RBI) as a non-banking financial company and in 1999 it formally became a Public Financial Institution. IDFC registered with the Securities and Exchange Board of India (SEBI) as a merchant banker and as an underwriter in 2000 and in 2001 as a debenture trustee.
- The company also set up Infrastructure Development Corporation (Karnataka) Ltd (IDECK) pursuant to a shareholders agreement between IDECK and the State of Karnataka, HDFC and IDFC.
- In 2002, the company incorporated IDFC Asset Management Company Ltd as a subsidiary company and Uttaranchal Infrastructure Development Company Ltd, a joint venture with the Government of Uttarakhand. In 2003 it became an investor in and sponsor of the India Development Fund.
- In August 2005 the company's equity shares were listed at the National Stock Exchange of India (NSE) and Bombay Stock Exchange (BSE) after an initial public offering.
- In 2006 IDFC raised $450 million for their second infrastructure focused private equity fund. In June 2006, the company agreed a memorandum of understanding with SBI Capital Markets for syndication of debt financing for Infrastructure projects.

- In 2006-07, the company increased its stake in National Stock Exchange of India Ltd from 2.2% to 8.2% and acquired an 8.71% stake in the Asset Reconstruction Company (India) Ltd. The company along with Citigroup, India Infrastructure Finance Company Ltd. and the global private equity company Blackstone, launched a USD 5 billion initiative for financing infrastructure projects in India.
- During the year, the company also set up IDFC Project Equity Company Ltd to manage the proposed USD 2 billion third party equity component of the 'India Infrastructure Initiative', the company acquired 33.33% stake in SSKI Securities Pvt Ltd (SSKI), which is a domestic mid-size investment bank and an institutional brokerage and research platform, with membership of the BSE and the NSE.
- In May 2008, the company entered into asset management by acquiring the AMC business of Standard Chartered Bank in India, namely Standard Chartered Asset Management Company Pvt Ltd and Standard Chartered Trustee Company Pvt Ltd; the acquired companies was re-branded as IDFC Asset Management Company Pvt Ltd and IDFC AMC Trustee Company Pvt Ltd respectively.
- In 2008-09, the company subscribed 100% of equity shares of IDFC Capital (Singapore) Pte Ltd. During the year, the company established IDFC Foundation to focus on capacity building, policy advisory and sustainability initiatives.
- The company increased their equity stake from 80% to 100% in IDFC Securities Ltd. Also, the company along with their wholly owned subsidiary subscribed 100% equity shares of IDFC Pension Fund Management Company Ltd. IDFC Capital Ltd subscribed 100% of equity shares of IDFC Fund of Funds Ltd and IDFC General Partners Ltd. Company
- In January 2009, IDFC Projects Ltd signed a Memorandum of Understanding with Gujarat State Energy Company Ltd and Bharat Heavy Electricals Ltd (BHEL) to establish a 1600 MW Thermal Power plant at Sarkhadi based on supercritical technology. During the year 2010-11, Jetpur Somnath Highway Ltd (earlier known as IDFC Capital Company Ltd and a direct subsidiary of IDFC) became a subsidiary of IDFC Projects Ltd. A company under the name of Jetpur Somnath Tollways Ltd was incorporated as a Subsidiary of IDFC Projects Ltd. IDFC Projects, along with the other companies, further floated Dheeru Powergen Ltd, which was converted from Private Limited Company to a Public Limited Company.
- IDFC Asset Management Company Ltd further floated IDFC Pension Fund Management Ltd, one of the Pension Fund Managers appointed by the Pension Fund Regulatory and Development Authority (PFRDA) to manage retirement funds under the New Pension Scheme (NPS) open to individuals in the private sector, and IDFC Investment Advisors Ltd. A company under the name of IDFC Investment Managers (Mauritius) Ltd has been incorporated as a Subsidiary of IDFC Asset Management Company Ltd.
- During the year, IDFC Foundation (a Non-Profit Organisation) was incorporated as a wholly owned subsidiary company of IDFC. The shares of the three Joint ventures Infrastructure Development Corporation (Karnataka) Ltd, Uttarakhand Infrastructure Development Company Ltd, and Delhi Integrated Multi-Modal Transit System Ltd, which were initially held by IDFC, was transferred to IDFC Foundation.
- Similarly, the units of the Trust, namely India Infrastructure Initiative Trust & India PPP Capacity Building Trust which were initially held by IDFC was also transferred to the IDFC Foundation. Further during the year, Uniquest Infra Ventures Pvt Ltd was incorporated as a direct subsidiary of the company and IDFC Capital USA Inc. was also incorporated as a subsidiary company of IDFC Securities Ltd

**II. Mission**

Leading private capital to commercially viable infrastructural projects by advocating solutions that deliver efficient services to consumers

**III. Objectives**

- To facilitate the flow of private finance to commercially viable infrastructure projects
- Innovative products and services to address the specific needs of infrastructure financing
- To mobilize domestic as well as International capital for financing infrastructural projects

**IV. Functions**

IDFC performs following important functions:

- It functions as policy advisor and provides leadership in rationalizing regulatory and policy frameworks and removes obstacles in the movement of capital to infrastructural projects.
- It identifies the best products, draws on expertise of policy advisor boards and initiates policy dialogues amongst key players in the various infrastructural projects.
- It Provides finance by the way of equity and debt support.
- It establishes and strengthens link between Financial Institutions and infrastructure projects by stimulating financial institution to participate in infrastructure projects.

**V. Operations/ modus operandi**

**Project Finance**

- The core financing business of IDFC is project Finance. IT consists of the capital intensive balance sheet business that includes the loan book.
- Different financial instruments like corporate loans, project loans, launch against shares, sub-debt, mezzanine finance and equity are provided by IDFC to its clients. This business generates the company's base income stream.
- It is more suitable but That depends on loan growth, asset quality and spreads.

**a. Principal investments and treasury**

Broadly Three Types of principal investments are done by IDFC directly from its on balance sheet forming a part of proprietary Investments. They are:

**i. Infrastructure Investments :**

The objective of structural investments is to build long term relationship with sponsors for providing project finance with some direct equity stake in project and companies and extending support to them by sharing risk involved in the projects. Here, exit becomes easier when capital markets are buoyant and clear exit route is available to IDFC which is based on appreciation of equity value.

**ii. Financial Investments**

Investment in NSC, STCI and ARCIL financial investment which am at generating return.

**iii. Investment in venture capital units**

These are the Investments in various third party funds that are launched and managed by IDFC

Income from principal investments is generated in two forms:

- Dividend and
- capital appreciation (gains)

Treasury has dual responsibility: To provide liquidity to various business that need capital and to generate returns on the proprietary book that it managers. It invest in fixed income securities to generate profits.

b. **Investment banking and institutional brokerage**
IDFC - sski drive this business. Primarily related business of investment banking in was taking companies public and providing advice on corporate capital raising and structuring the Deals. All the returns are high in this business, it is subject to volatility of capital market.

c. **Asset Management**
In this business, the company ties is third party funds and manages them. It is one of the IFDCs non capital intensive business.
IDFCs group of alternative third party funds include:
- Private equity which is undertaken through its wholly owned subsidiary, IDFC private equity Company Limited. It acts as investment manager for funds dedicated to private equity Investments in the infrastructure space.
- Project equity which is focused on investing in operating Assets of medium size projects. Many of these investment have lower risk return profiles as they are in the post of construction stage.

**(C)One Word Question Answer:**

| **Sr.No** | **Question** | **Answer** |
|---|---|---|
| **1** | _______ functions as policy advisor and provides leadership in rationalizing regulatory and policy frameworks and removes obstacles in the movement of capital to infrastructural projects | **IDFC** |
| **2** | **IDFC** Provides finance by the way of _____and debt support. | Equity |
| **3** | **IDFC** establishes and strengthens link between Financial Institutions and infrastructure projects by stimulating financial institution to participate in ________projects. | Infrastructure |
| **4** | **Investment in ____units** are the Investments in various third party funds that are launched and managed by IDFC | **venture capital** |
| **5** | _________equity which is undertaken through its wholly owned subsidiary, IDFC private equity Company Limited | Private |

**TOPIC: Discuss in detail history, objectives, functions and modus operandi of TFCI**
**(A) TFCI**
- TFCI provides all forms of financial assistance to enterprises for setting and developing travel and travel related activities, facilities and services.
- Tourism Finance Corporation of India Ltd.(TFCI) has been set-up as an All India Financial Institution, pursuant to the recommendations of "National Committee on Tourism" set-up under the aegis of Planning Commission in 1988.

- The main object of setting-up the specialized financial institution was to expedite the growth of tourism infrastructure in the country by providing dedicated line of credit on long term basis to tourism related projects in the country.

**(B)Detailing:**

**Tourism Finance Corporation of India Limited (TFCI)**

**I. History**

Tourism Finance Corporation of India Ltd.(TFCI) has been set-up as an All India Financial Institution, pursuant to the recommendations of "National Committee on Tourism" set-up under the aegis of Planning Commission in 1988. The main object of setting-up the specialized financial institution was to expedite the growth of tourism infrastructure in the country by providing dedicated line of credit on long term basis to tourism related projects in the country. TFCI has successfully played the role of investment catalyst for the tourism sector and has cumulatively sanctioned assistance aggregating Rs.10,887 crores up to 31st March, 2018 to 863 projects mainly in tourism and other related sectors. TFCI provides financial assistance by way of rupee loan, subscription to equity / debentures and corporate loans mainly to hotel projects, amusement parks, ropeways, multiplexes, restaurants etc. With a view to diversify in other related areas, TFCI has expanded the scope of its activities by including financing of infrastructure projects, real estate projects and manufacturing projects to a limited extent, within the scope of its activities.

TFCI, as a specialized financing institution, has contributed significantly in terms of creation of tourism infrastructure throughout the country and thereby generating direct employment opportunities. The assistance sanctioned so far has helped in creating over 46000 rooms in approved category of hotels which represents approximately 1/3rd of the total room capacity in the country. The assistance sanctioned by TFCI has helped in catalysing investment to the tune of Rs.30,182 crore in tourism sector till 31st March, 2018 over a period of time.

**II. Mission and objectives**

- To commence and carry on the business of assisting industrial, commercial, professional and trading enterprises – corporate bodies, partnership firms, trust, individuals or other concern whosoever constituted and engaged or to be engaged in setting up and development of tourism, hotel, and tourism-related activities.
- To commence and carry on the business of lending or granting by way of loans or advances in rupees and/or foreign currency or in any other form money with or without interest or with or without security for the purpose of assisting enterprises in India.
- To commence and carry on the business of facilitating, through the grant of loans and other financial, technical and professional assistance, the acquisition, maintenance, modification, construction, reconstruction, refurbishing and renovation of tourism and travel related activities.
- To commence and carry on the activities of coordinating and formulating guidelines and policies relating to the financing of all such projects in the tourism and tourism-related activities, facilities and services.
- To commence and carry on the development and promotional functions with regard to tourism and tourism-related activities.
- To commence and carry on the business of merchant banking and other allied activities.

- To commence and carry on the business as assessors, designers, draftsman, estimators, surveyors and other materials.
- To commence and carry on or be interested in the business of buying, selling, distributing, leasing, exporting and importing of furniture, machinery, equipment, and other material.
- To carry on business as share brokers and agents of insurance for all kinds and for all of the risks.
- To carry on the business of agents for the central or state government or any other international or national institution or organization in the transaction of any business concerned with tourism and tourism-related activities, facilities and services.

**III. Functions**

TFCI provides all forms of financial assistance to enterprises for setting and developing travel and travel related activities, facilities and services. It also coordinates and formulates policies and strategies related to the financing of tourism projects. Since its inception, the company has been playing a catalytic role in providing all forms of financial assistance for new, expansion, diversification and modernization project in the tourism industry and related activities.

The major function of TFCI is following as:

**Rupee loans**

- Underwriting of public issue of share/debenture and direct subscription on such securities.
- Guarantee for deferred payments and credits raised in India and/ or abroad.
- Equipment finance and equipment leasing.
- Assistance under suppliers credit.
- Merchant Banking and Advisory services.
- TFCI is operating on similar lines as other all India Financial Institutions. It provides financial assistance for the project in the tourism industry on its own and in consortium with other all India Financial Institutions, namely IFCI, IDBI, and ICIC.
- The tourism projects financed by TFCI include inter alia Hotel restaurants, Holiday Resorts, Amusement Parks and Sports, Safari Park Ropeways, Convention Halls, Transport, Travel, and Tour operating agency, Air Taxi Services, Tourist Emporia, Sports facilities etc.
- TFCI is a financing non-conventional and small project which was not eligible for institutional finance earlier but is heaving great importance from tour point of view. Hence, TFCI is playing a developmental role for promote of tourism within the overall policies of the Government of India.

**The present product line of TFCI consists following main areas:**

a. Project financing
b. Other financing
c. Advisory services

**(C)One Word Question Answer:**

| Sr.No | Question | Answer |
|---|---|---|
| 1 | Tourism Finance Corporation of India Ltd.(TFCI) has been set-up as a_________, pursuant to the recommendations of “National Committee on Tourism” set-up under the aegis of Planning Commission in 1988 | All India Financial Institution |
| 2 | main object of setting-up the specialized financial institution (TFCI) was to expedite the growth of ___infrastructure in the country by providing dedicated | Tourism |

| | | |
|---|---|---|
| | line of credit on long term basis to tourism related projects in the country. | |
| **3** | TFCI provides ______assistance by way of rupee loan, subscription to equity / debentures and corporate loans mainly to hotel projects, amusement parks, ropeways, multiplexes, restaurants etc | Financial |
| **4** | TFCI, as a specialized financing institution, has contributed significantly in terms of creation of tourism infrastructure throughout the country and thereby generating direct ________opportunities. | Employment |
| **5** | _______ provides all forms of financial assistance to enterprises for setting and developing travel and travel related activities, facilities and services | TFCI |

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# B.B.A. SEM -6

# LEGAL ASPECTS IN BUSINESS

| SR NO. | UNIT NAME |
|---|---|
| 1 | Negotiable Instrument Act 1881 |
| 2 | Sales Of Goods Act |
| 3 | Factories Act |
| 4 | Others Act |

# Unit 1. Negotiable Instrument Act 1881.

## Theme.

*The theme of this unit is to let us know about the meaning of negotiable instrument & the various types of negotiable instruments.*

**Justification.**

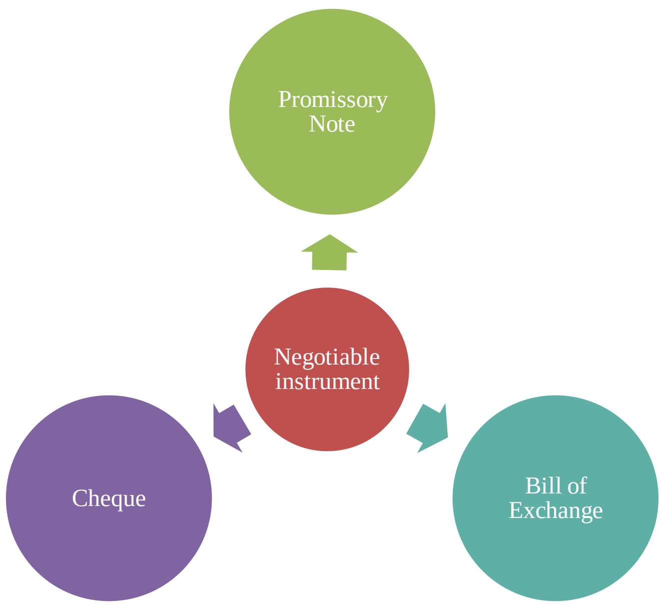
*The unit justifies the uses characteristics & importance of the various negotiable instrument in a common man life.*

**Q-1 Explain in details a term " negotiable instrument" and its characteristics of negotiable instrument.**

- The Negotiable Instruments Act was enacted, in India, in 1881. Prior to its enactment, the provision of the English Negotiable Instrument Act were applicable in India, and the present Act is also based on the English Act with certain modifications. It extends to the whole of India except the State of Jammu and Kashmir.
- The Act operates subject to the provisions of Sections 31 and 32 of the Reserve Bank of India Act, 1934.
- Section 31 of the Reserve Bank of India Act provides that no person in India other than the Bank or as expressly authorized by this Act, the Central Government shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand. This Section further provides that no one except the RBI or the Central Government can make or issue a promissory note expressed to be payable or demand or after a certain time.
- Section 32 of the Reserve Bank of India Act makes issue of such bills or notes punishable with fine which may extend to the amount of the instrument. The effect or the consequences of these provisions are:
  1. A promissory note cannot be made payable to the bearer, no matter whether it is payable on demand or after a certain time.
  2. A bill of exchange cannot be made payable to the bearer on demand though it can be made payable to the bearer after a certain time.
  3. But a cheque {though a bill of exchange} payable to bearer or demand can be drawn on a person's account with a banker.
- For the clearance of the word negotiable instrument, the first word that we have to clear is instrument, it means written document by which rights are created in favor of one and obligations are created by another. And the word negotiable denotes the transferable from one person to another person.
- According to Section 13 (a) of the Act, "Negotiable instrument means a promissory note, bill of exchange or cheque payable either to order or to bearer, whether the word "order" or " bearer" appear on the instrument or not."
- In the words of Justice, Willis, "A negotiable instrument is one, the property in which is acquired by anyone who takes it bonafide and for value notwithstanding any defects of the title in the person from whom he took it".
- As per the negotiable instrument Act, A negotiable instrument means:
  1. A promissory note;
  2. A bill of exchange;
  3. Cheque

Payable to order or to bearer.

- A promissory not or bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person and does not contain word prohibiting transfer or indicating an intention that it shall not be transferable.
- A promissory note, bill of exchange or cheque, either originally or by endorsement , is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.
- A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.




- **Characteristics of Negotiable Instruments:**

1. Property: The possessor of the negotiable instrument is presumed to be the owner of the property contained therein. A negotiable instrument does not merely give possession of the instrument but right to property also. The property in a negotiable instrument can be transferred without any formality. In the case of bearer instrument, the property passes by mere delivery to the transferee. In the case of an order instrument, endorsement and delivery are required for the transfer of property.
2. Title: The transferee of a negotiable instrument is known as 'holder in due course.' A bona fide transferee for value is not affected by any defect of title on the part of the transferor or of any of the previous holders of the instrument.
3. Rights: The transferee of the negotiable instrument can sue in his own name, in case of dishonor. A negotiable instrument can be transferred any number of times till it is at maturity. The holder of the instrument need not give notice of transfer to the party liable on the instrument to pay.

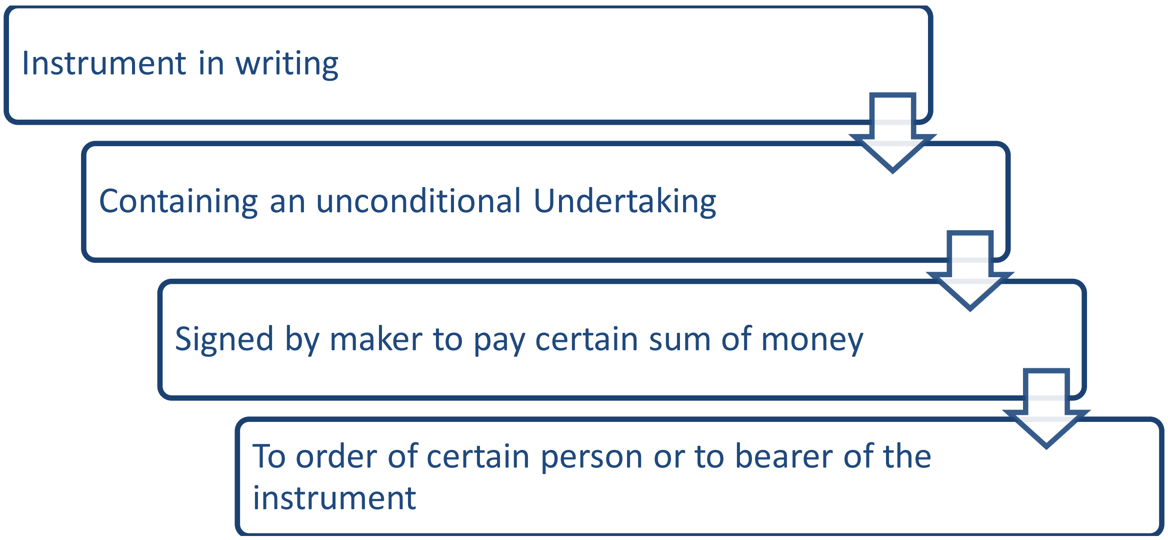
4. Presumptions: Certain presumptions apply to all negotiable instruments e.g., a presumption that consideration has been paid under it. It is not necessary to write in a promissory note the words 'for value received' or similar expressions because the payment of consideration is presumed. The words are usually included to create additional evidence of consideration.
5. Prompt payment: A negotiable instrument enables the holder to expect prompt payment because a dishonor means the ruin of the credit of all persons who are parties to the instrument.
6. It must be in writing: A negotiable instrument must be in writing . this includes handwriting, typing, printing and computer recording, etc.
7. Unconditional order: in every negotiable instrument there must be an unconditional order or promise of payment.
8. The beneficiary must be a specific person: the person in whose favor the instrument is made must be named or described with the reasonable certainty. The term ' person' includes, individuals, corporate corporations, unions, including a secretary, director or president of an institution. The beneficiary can also be more than one person.
9. Signature: a negotiable instrument must bear the signature of its creator. Without the signature of the drawer or the maker, the instrument will not be valid.

## Characteristics.

- ***Property.***
- ***Title.***
- ***Rights.***
- ***Presumptions.***
- ***Prompt Payment.***
- ***Must be in writing.***
- ***Unconditional order.***
- ***Must be of specific person.***
- ***Signature.***

**Q- 2 Explain in details about the promissory note and essentials elements of it.**

- Section 4 of the Act defines, "A promissory note is an instrument in writing (note being a bank-note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money to or to the order of a certain person, or to the bearer of the instruments."




❖ **Essential Elements of the promissory note :**

An instrument to be a promissory note must possess the following elements:

1. It must be in writing: A mere verbal promise to pay is not a promissory note. The method of writing (either in ink or pencil or printing, etc.) is unimportant, but it must be in any form that cannot be altered easily.
2. It must certainly an express promise or clear understanding to pay: There must be an express undertaking to pay. A mere acknowledgment is not enough.

The following are not promissory notes as there is no promise to pay.
If A writes:
(a) "Mr. B, I.O.U. (I owe you) Rs. 500"
(b) "I am liable to pay you Rs. 500".
(c) "I have taken from you Rs. 100, whenever you ask for it have to pay" .

The following will be taken as promissory notes because there is an express promise to pay:
If A writes:
(a) "I promise to pay B or order Rs. 500"
(b) "I acknowledge myself to be indebted to B in Rs. 1000 to bepaid on demand, for the value received".

(3) Promise to pay must be unconditional: A conditional undertaking destroys the negotiable character of an otherwise negotiable instrument. Therefore, the promise to pay must not depend upon the happening of some outside contingency or event. It must be payable absolutely.

(4) It should be signed by the maker: The person who promise to pay must sign the instrument even though it might have been written by the promisor himself. There are no restrictions regarding the form or place of signatures in the instrument. It may be in any part of the instrument. It may be in pencil or ink, a thumb mark or initials. The pronote can be signed by the authorised agent of the maker, but the agent must

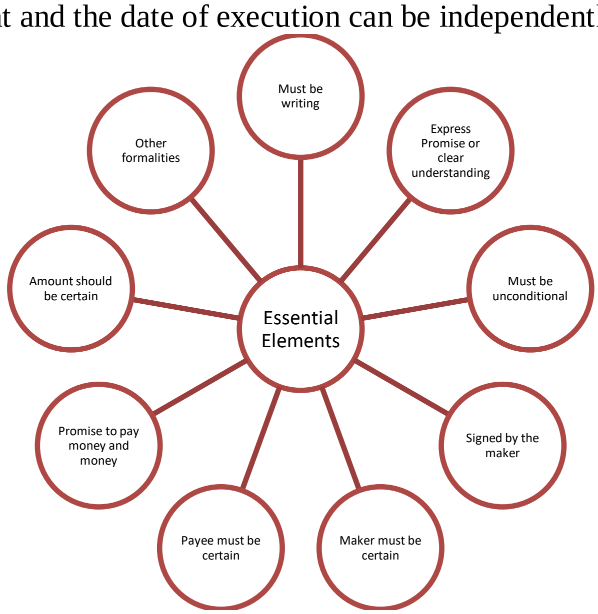
expressly state as to on whose behalf he is signing, otherwise he himself may be held liable as a maker. The only legal requirement is that it should indicate with certainty the identity of the person and his intention to be bound by the terms of the agreement.

(5) The maker must be certain: The note self must show clearly who is the person agreeing to undertake the liability to pay the amount. In case a person signs in an assumed name, he is liable as a maker because a maker is taken as certain if from his description sufficient indication follows about his identity. In case two or more persons promise to pay, they may bind themselves jointly or jointly and severally, but their liability cannot be in the alternative.

(6) The payee must be certain: The instrument must point out with certainty the person to whom the promise has been made. The payee may be ascertained by name or by designation. A note payable to the maker himself is not pronate unless it is indorsed by him. In case, there is a mistake in the name of the payee or his designation; the note is valid, if the payee can be ascertained by evidence. Even where the name of a dead person is entered as payee in ignorance of his death, his legal representative can enforce payment.

(7) The promise should be to pay money and money only: Money means legal tender money and not old and rare coins. A promise to deliver paddy either in the alternative or in addition to money does not constitute a promissory note.
(8) The amount should be certain: One of the important characteristics of a promissory note is certainty—not only regarding the person to whom or by whom payment is to be made but also regarding the amount.

(9) Other formalities: The other formalities regarding number, place, date, consideration etc. though usually found given in the promissory notes but are not essential in law. The date of instrument is not material unless the amount is made payable at a certain time after date. Even in such a case, omission of date does not invalidate the instrument and the date of execution can be independently ascertained and proved.



**Q-3 Explain in detail definition and essential elements of bill of exchange.**

- Section 5 of the Act defines, "A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of a certain person or to the bearer of the instrument".
- A bill of exchange, therefore, is a written acknowledgement of the debt, written by the creditor and accepted by the debtor. There are usually three parties to a bill of exchange drawer, acceptor or drawee and payee. Drawer himself may be the payee.

Essential conditions of a bill of exchange

- It must be in writing.
- It must be signed by the drawer.
- The drawer, drawee and payee must be certain.
- The sum payable must also be certain.
- It should be properly stamped.
- It must contain an express order to pay money and money alone.

Elements Of Bills Of Exchange.

- In writing.
- Signed by the drawer.
- Drawer, drawee & payee must be certain.
- Properly Stamped.
- Must Contain An Express Order To Pay Money & Money Alone.

For example, In the following cases, there is no order to pay, but only a request to pay. Therefore, none can be considered as a bill of exchange:
(a) "I shall be highly obliged if you make it convenient to pay Rs. 1000 to Suresh".
(b) "Mr. Ramesh, please let the bearer have one thousand rupees, and place it to my account and oblige"
However, there is an order to pay, though it is politely made, in the following examples:
(a) "Please pay Rs. 500 to the order of 'A'.
(b) 'Mr. A will oblige Mr. C, by paying to the order of' P".

**Q-4 Elaborate the difference between promissory note and bill of exchange.**

| Short Points | Promissory note | Bill of exchange |
|---|---|---|
| **No. of Parties** | There are only two parties : the maker (debtor) and the payee (creditor) | There are three parties drawer, drawee and payee. |
| **Payment to the maker** | Can not be made payable the maker himself | Drawer and payee and drawee and payee may be the same person |

| | | |
|---|---|---|
| **Unconditional Promise** | Unconditional promise by the maker to pay the payee or his order | Unconditional order to the drawee to pay according to the direction of the drawer |
| **Prior acceptance:** | Note is presented without prior acceptance by the maker | It can be presented for payment |
| **Primary or absolute liability** | Liability is prior and absolute | Liability is secondary and conditional |
| **Relation** | Maker of promissory note stands immediate relation with the payee | Maker of bill of exchange is in immediate relation with acceptor |
| **Protest of dishonor** | No protest is needed in the case of promissory note | In case of foreign bill of exchange there must be a protested dishonor. |
| **Notice of dishonor** | Due notice is not to be given | Due notice is to be given |

**Q-5 Explain in detail about concept of cheque and difference between cheques and bill of exchange.**

A cheque is bill of exchange with two more qualifications, namely, (i) it is always drawn on a specified banker, and (ii) it is always payable on demand. Consequently, all cheque are bill of exchange, but all billsare not cheque. A cheque must satisfy all the requirements of a bill of exchange; that is, it must be signed by the drawer, and must contain an unconditional order on a specified banker to pay a certain sum of money to or to the order of a certain person or to the bearer of the cheque. It does not require acceptance.

| No. of points | Bill of exchange | Cheque |
|---|---|---|
| **Specified Person** | Drawn on the same person or firm | Always drawn on a bank |
| **Acceptance** | Must be accepted before payment | Does not require any such acceptance |
| **Payable on demand** | Also payable on demand or on expiry of certain period | Payable on demand |
| **Gracing period** | Three days of gracing period is allowed | No gracing period is allowed |
| **Discharge of liability** | The drawer of bill of exchange is discharged from his liability , if not presented for payment | Drawer of the cheque is discharged only if he suffers from any damages by delay in presenting the cheque from payment |
| **Notice of dishonor** | It is necessary | Not necessary |
| **Crossed sign** | Not required | Required |
| **Stamped** | Must be properly stamped | Not required |
| **Countermanded by the drawer** | Not possible | Possible |

**Q-6 Explain in detail the following terminology:**

1. Holder
2. Holder in due course

**1. Holder :**

- Section 8 of Negotiable Instruments Act 1881defines the term Holder as The holder of a negotiable instrument is any person who is for the time being entitled in his own name and right to the possession of the instrument and to receive and recover the amount due on the instrument.
- A person is said to be held only if he has possession and entitled for that possession along with entitled to claim money under it.
- In the case of an order instrument, the name of the holder appears on the document as payee or endorsee.
- In the case of a bearer document, a payee claims the money without having his name mentioned on the cheque.
- According to this section, the holder has the capacity to receive payment or recover the amount by filing a suit in his own name against other parties, to negotiate the instrument and to give a valid discharge.
- If the promissory note, cheque or bill is destroyed or lost by any chance then it is the holder so entitled at the time of such destruction or loss.

- Kinds of Holder:
  (a) De jure- The holder of a negotiable instrument as a matter of legal right.
  (b) De facto- The holder of a negotiable instrument by the virtue of possession but not entitled in his own name.


**Holder's Rights and Powers:**

• In Special Endorsement, the holder of a cheque endorsed in blank may convert the blank endorsement, by writing above the endorser's signature which gives direction to pay the cheque to or to the order of himself or any other person.
In Crossings, a cheque may be crossed generally or specifically; when it's uncrossed whilst when it's crossed generally, the holder may cross it specifically.

• In Duplicate of Cheque, in case of misplacing of the cheque, the holder can ask to the drawer to give him another cheque of the same tenor, but holder must give security to the drawer to indemnify him for all the loses if the lost cheque has been found again.
• In Negotiation, a holder of a cheque has a right to negotiate to another person. Moreover, in some cases, a holder has a power of negotiation even though cheque has no title or faulty title.
• In Presentation, if a cheque is an open cheque then the person can take it to the drawee bank and request payment in cash; but in case of crossed cheques one cannot anticipate drawee bank to pay in cash, and he should, therefore, present it to the drawee bank for payment.
• In Notice of Dishonour, a cheque holder presents the cheque for payment and it does not get paid then he may give notice of dishonour outright to prior parties in order to hold back their liability to him.
• In Right of Action, a holder can sue on it in his own name. whether his action on the cheque succeeds or not is depended on whether he is a holder or holder in due course.

2. Holder in due course :

According to Section 9, "Holder in due course means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque is payable to bearer, or the payee or endorsee thereof, if payable to order before the amount mentioned in it became payable and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title".

The phrase "in good faith and for value" has split into 4 rudiments under sec 9-

• The instrument taken by the holder is should be for value.
• It's necessary to obtain the instrument before its maturity.
• The instrument should be complete and regular on its face.
• The instrument should have been received in a good faith without noticing any defect or error neither in the instrument, title nor in the person negotiating it to him.

Case- SukhanRajkhim Raja a Firm of Merchants, Bombay V. N. Raja Gopalan-
The Hon'ble court held that the plaintiff was cognizant that the cheque had been dishonoured and endorsement in his favour was only after it was returned by the bank. Furthermore, it has lost its negotiability. Hence, the plaintiff cannot beholder in due course

Q-7 Elaborate the difference between holder and holder in due course.

| No. of points | Holder | Holder in due course |
|---|---|---|
| **Possession of negotiable instrument** | Holders holds the negotiable instrument | Holders in due course incurs the instrument for value and in good faith without knowledge of defect in the title of the person transferring the instrument. |

| | | |
|---|---|---|
| **Consideration** | It is not necessary | It is necessary in holder in due course |
| **Subject matter for sue** | Holder can not sue all the earlier parties | Holder in due course can sue all the earlier pareties |
| **Good faith** | Instrument is obtained regardless of the goodfaith | Instrument is obtained in the good faith only |
| **Conditions to obtained instrument** | A person can become a holder before or after the maturity of instrument | A person can become holder in due course only before maturity. |
| **Defective title** | If the title of the instrument is defective then holder can noy acquire good title | Even if the title is defective then also holder in due course acquire a good title. |

Q-8 Explain in detail about the discharge of negotiable instrument.

Negotiable Instruments: Section 13 of Negotiable Instruments Act says- negotiable instrument means a promissory note, cheque (payable either to bearer or order) or bill of exchange. A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one or two, or one or some of several payees.

## Dishonor of negotiable instrument

Dishonor means not honoring the obligation. A negotiable instrument may be dishonored by-

(a) Non acceptance
(b) Non-payment
A bill of Exchange is dishonored either by non-acceptance or by non-payment but a cheque and promissory notes can be dishonored by non-payment.

## Section 91: Dishonor by non-acceptance

The following cases say when a bill of exchange is dishonored:

i. When the acceptance of the bill is not done within 48 hrs from the time of presentment for acceptance by the drawee.
ii. When drawee is a fictitious person and cannot be traced (Section 61)
iii. When drawee is incompetent to contract.
iv. When drawee accepts with qualified acceptance.

v. When drawee is insolvent or dead.
vi. When the presentment for acceptance is excused and the bill is not accepted i.e., remains unaccepted.

## Section 92: Dishonour by non payment

i. When a bill is accepted then it has to be presented on the date of its maturity.
ii. When the acceptor fails to pay when it is due, the bill is dishonoured by non-payment.
iii. When the holder of a bill or pro-note may treat it as dishonoured, without placing for payment when presentment for payment is excused expressly by the maker of the pro-note, or acceptor of the bill and the note or bill when overdue remains unpaid.
iv. When the banker refuses to pay then the cheque is dishonoured by non-payment.

## Section 93: Effect of dishonour

i. When a negotiable instrument is dishonoured either by non-acceptance or non-payment, the holder has all the rights to sue the parties liable to pay.
ii. It is compulsory for the holder to give notice of dishonour to every party against whom he intends to proceed.
iii. Holder of the instrument has to give the notice.
iv. Notice is given to all the parties, it may be given to endorser or argent.
v. The notice may be in oral or in writing (must be sent by post).
vi. The notice should be given in a reasonable time.
vii. Except in the cases which notice is dispensed with Section 98 is to discharge all parties who are entitled to such notice.

## Discharge of instrument

Discharge means to release from the obligation. When the Negotiable Instrument is issued, there is a liability to pay at a certain time and amount and when the liability is satisfied, the instrument is discharged. Discharge means the discharge of the instrument and the discharge of one or more parties liable on the instrument. When the Instrument is discharged then it will not be negotiable but when a particular party is discharged then the instrument is negotiable.
A party to a negotiable instrument is discharged in the following ways

- By cancellation of the name of a party to the instruments
- By the release of any party to the instruments
- By payments
- By allowing drawee more than 48 hours to accept
- By delay in presenting a cheque for payment
- By payment in due course of a cheque (payable to order)
- By taking qualified acceptance
- By non-presentment for acceptance of a bill of exchange
- By operation of law
- By material alteration

# Unit 2. Sales Of Goods Act.

**Theme.**
*The theme of this unit is to let us know behavior pattern of the seller*

**Justification.**
*The unit justifies the us how to regulate sales of your product.*

**Q-1 Explain in detail contract of sale of goods and also give a difference between sale and agreement to sell.**

The law relating to sale of goods is contained in the Sale of Goods Act, 1930. It has to be read as part of the Indian Contract Act, 1872 [Sections 2(5) and (3)].

Contract of Sale of Goods

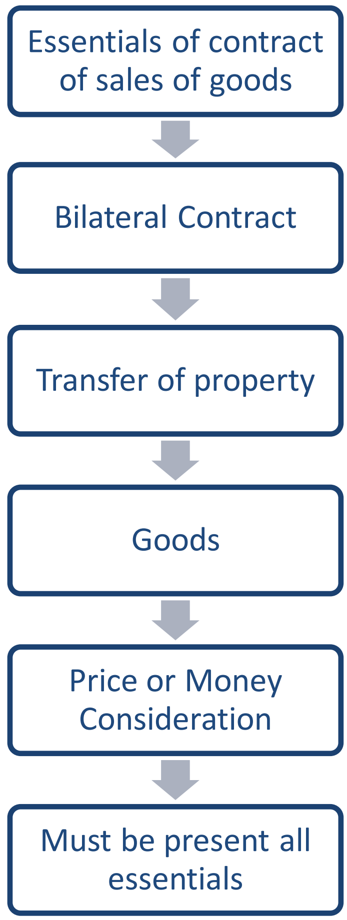
According to Section 4, a contract of sale of goods is a contract whereby the seller:

(i) transfers or agrees to transfer the property in goods,
(ii) to the buyer,
(iii) for a money consideration called the price.

It shows that the expression "contract of sale" includes both a sale where the seller transfers the ownership of the goods to the buyer, and an agreement to sell where the ownership of goods is to be transferred at a future time or subject to some conditions to be fulfilled later on.

The following are thus the essentials of a contract of sale of goods:

(i) Bilateral contract: It is a bilateral contract because the property in goods has to pass from one party to another. A person cannot buy the goods himself.
(ii) Transfer of property: The object of a contract of sale must be the transfer of property (meaning ownership) in goods from one person to another.
(iii) Goods: The subject matter must be some goods.
(iv) Price or money consideration: The goods must be sold for some price, where the goods are exchanged for goods it is barter, not sale.
(v) All essential elements of a valid contract must be present in a contract of sale.




Distinction between Sale and Agreement to Sell

| No. of points | Sale | Agreement to sell |
|---|---|---|
| Ownership | In goods of sale the property passes to the buyer so that he can become the owner of the goods | In Agreement to sell ownership does not pass to the buyer at the time of contract. |
| Type of contract | Executed contract | Executor contract |
| Conveyance | Sale is contract plus conveyance | Agreement to sell is a contract which is pure and simple |
| Loss in case of accident | In a sale loss falls on a buyer | In agreement to sale loss falls on a seller |
| In case of breach of delivery of goods | Buyer has personal remedy and as well other remedies | Buyer has only a personal remedy namely, claim for damages. |

**Q-2 Explain difference between sale and hire purchase agreement.**

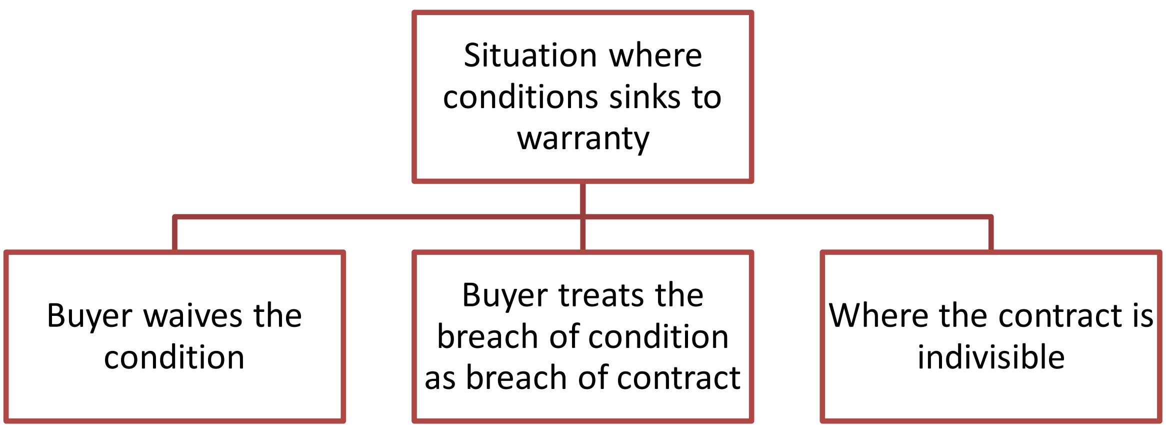
| No. of points | Sale | Hire purchase Agreement |
|---|---|---|
| Meaning | Sale is a contract by which property in goods passes from the seller to the buyer for a price | Basically a hire purchase agreement and give an option to hirer to purchase the goods at the end of hiring period. |
| Essence of agreement | In sale there is a agreement to buy at the certain period of time | There is no agreement to buy , but only an option is given to the hirer to buy by paying all the installments or put an end to the hiring. |
| Payment of consideration | In sale the payment will be made at the time title passes to the buyer. | In hire purchase agreement , the payment of consideration will be paid in the installments. |
| Loss of goods | In sale the loss or deterioration of the stands with the buyer . | In hire purchase loss will be stand with the owner of the goods. |

**Q-3 Explain in details the concept of conditions and warranties and implied conditions or warranties.**

- The parties are at liberty to enter into a contract with any terms they please. As a rule, before a contract of sale is concluded, certain statements are made by the parties to each other. The statement may amount to a stipulation, forming part of the contract or a mere expression of opinion which is not part of the contract.
- If it is a statement by the seller on the reliance of which the buyer makes the contract, it will amount to a stipulation. If it is a mere commendation by the seller of his goods it does not amount to a stipulation and does not give the right of action.
- The stipulation may either be a condition or a warranty. Section 12 draws a clear distinction between a condition and a warranty. Whether a stipulation is a condition or only a warranty is a matter of substance rather than the form of the words used.
- A stipulation may be a condition though called a warranty and vice versa.

Conditions:
If the stipulation forms the very basis of the contract or is essential to the main purpose of the contract, it is a condition. The breach of the condition gives the aggrieved party a right to treat the contract as repudiated. Thus, if the seller fails to fulfill a condition, the buyer may treat the contract as repudiated, refuse the goods and, if he has already paid for them, recover the price. He can also claim damages for the breach of contract.

Warranties:
The stipulation is collateral to the main purpose of the contract, i.e., is a subsidiary promise, it is a warranty. The effect of a breach of a warranty is that the aggrieved party cannot repudiate the contract but can only claim damages.
Thus, if the seller does not fulfill a warranty, the buyer must accept the goods and claim damages for breach of warranty.
Section 11 states that the stipulation as to time of payment are not to be deemed conditions (and hence not to be of the essence of a contract of sale) unless such an intention appears from the contract.
Whether any other stipulation as to time (e.g., time of delivery) is of the essence of the contract or not depends on the terms of the contract.
When Condition Sinks to the Level of Warranty In some cases a condition sinks or descends to the level of a warranty. The first two cases depend upon the will of the buyer, but the third is compulsory and acts as estoppels against him.
(a) A condition will become a warranty where the buyer waives the condition; or
(b) A condition will sink to the level of a warranty where the buyer treats the breach of condition as a breach of warranty; or
(c) Where the contract is indivisible and the buyer has accepted the goods or part thereof, the breach of condition can only be treated as breach of warranty.




The buyer can only claim damages and cannot reject the goods or treat the contract as repudiated.
Sometimes the seller may be excused by law from fulfilling any condition or warranty and the buyer will not then have a remedy in damages.
Implied Warranties/Conditions Even where no definite representations have been made, the law implies certain representations as having been made which may be warranties or conditions.
An express warranty or condition does not negative an implied warranty or condition unless inconsistent therewith.
There are two implied warranties: Implied Warranties [Section 14(b), 14(c) and 16(3)]
(a) Implied warranty of quiet possession: If the circumstances of the contract are such as there is an implied warranty that the buyer shall have and enjoy quiet possession of the goods.

(b) Implied warranty against encumbrances:

There is a further warranty that the goods are not subject to any right in favor of a third-party, or the buyer's possession shall not be disturbed by reason of the existence of encumbrances.


This means that if the buyer is required to, and does discharge the amount of the encumbrance, there is breach of warranty, and he is entitled to claim damages from the seller. Implied Conditions [Sections 14(a), 15(1), (2), 16(1) and Proviso 16(2), and Proviso 16(3) and 12(b) and 12(c)].

Different implied conditions apply under different types of contracts of sale of goods, such as sale by description, or sale by sample, or sale by description as well as sample. The condition, as to title to goods applies to all types of contracts, subject to that there is apparently no other intention.

Implied Conditions as to Title :

There is an implied condition that the seller, in an actual sale, has the right to sell the goods, and, in an agreement Lesson 10 Sale of Goods Act, 1930 311 to sell, he will have a right to sell the goods at the time when property is to pass.

As a result, if the title of the seller turns out to be defective, the buyer is entitled to reject the goods and can recover the full price paid by him.

In Rowland v. Divall (1923) 2 K.B. 500, 'A' had bought a second hand motor car from 'B' and paid for it. After he had used it for six months, he was deprived of it because the seller had no title to it. It was held that 'B' had broken the condition as to title and 'A' was therefore, entitled to recover the purchase money from 'B' Implied Conditions under a Sale by Description

In a sale by description there are the following implied conditions:

(a) Goods must correspond with description: It is provided under Section 15 of the Act that when there is a sale of goods by description, there is an implied condition that the goods shall correspond with description. In a sale by description, the buyer relies for his information on the description of the goods given by the seller, e.g. in the contract or in the preliminary negotiations. Where 'A' buys goods which he has not seen, it must be sale by description, e.g., where he buys a 'new Fiat car' from 'B' and the car is not new, he can reject the car. Even if the buyer has seen the goods, the goods must be in accordance with the description (Beale v. Taylor (1967) All E.R. 253).

(b) Goods must also be of merchantable quality: If they are bought by description from dealer of goods of that description. [Section 16(2)] Merchantable quality means that the goods must be such as would be acceptable to a reasonable person, having regard to prevailing conditions.

They are not merchantable if they have defects which make them unfit for ordinary use, or are such that a reasonable person knowing of their condition would not buy them. 'P' bought black yarn from 'D' and, when delivered, found it damaged by the white ants.

The condition of merchantability was broken. But, if the buyer has examined the goods, there is no implied condition as regards defects which such examination ought to have revealed. If, however, examination by the buyer does not reveal the defect and he approves and accepts the goods, but when put to work, the goods are found to be defective, there is a breach of condition of merchantable quality.

The buyer is given a right to examine the goods before accepting them. But a mere opportunity without an actual examination, however, cursory, would not suffice to deprive him of this right.

(c) Condition as to wholesomeness: The provisions, (i.e., eatables) supplied must not only answer the description, but they must also be merchantable and wholesome or sound. 'F' bought milk from 'A' and the milk contained typhoid germs. 'F's wife became infected and died. 'A' was liable for damages. Again, 'C' bought a bun at 'M's bakery, and broke one of his teeth by biting on a stone present in the bun. 'M' was held liable.

(d) Condition as to quality or fitness for a particular purpose: Ordinarily, in a contract of sale, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied. But there is an implied condition that the goods are reasonably fit for the purpose for which they are required if:

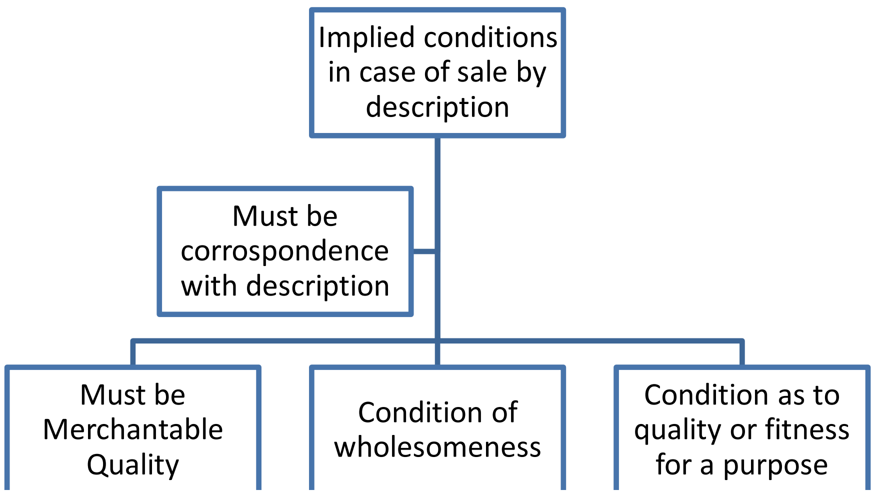
(i) the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required, so as to show that he relies on the seller's skill and judgement, and

(ii) the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not). There is no such condition if the goods are bought under a patent or trade name.

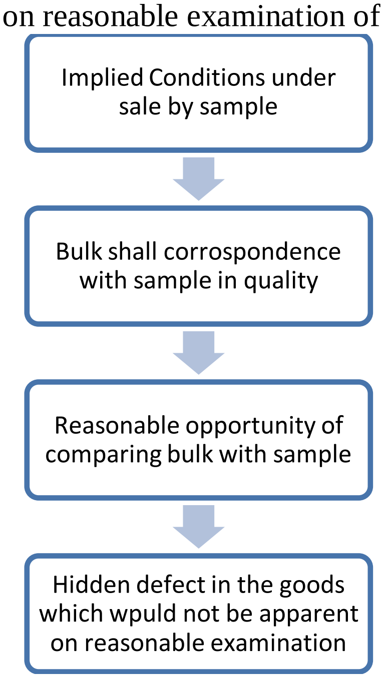
In Priest v. Last (1903) 2 K.B. 148, a hot water bottle was bought by the plaintiff, a draper, who could not be expected to have special skill knowledge with regard to hot water bottles, from a chemist, who sold such articles stating that the bottle will not stand boiling water but was intended to hold hot water. While being used by the plaintiff's wife, the bottle bursted and injured her. Held, the seller was responsible for damages as the bottle was not fit for use as a hot water bottle.

In Grant v. Australian Knitting Mills (1936) 70 MLJ 513, 'G' a doctor purchased woollen underpants from 'M' a retailer whose business was to sell goods of that description. After wearing the underpants, 'G' developed some skin diseases.

Held, the goods were not fit for their only use and 'G' was entitled to avoid the contract and claim damages.




Implied Conditions under a Sale by Sample (Section 17)
In a contract of sale by sample:
(a) there is an implied condition that the bulk shall correspond with the sample in quality;
(b) there is another implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;
(c) it is further an implied condition of merchantability, as regards latent or hidden defects in the goods which would not be apparent on reasonable examination of the sample.




"Worsted coating" quality equal to sample was sold to tailors, the cloth was found to have a defect in the fixture rendering the same unfit for stitching into coats.

The seller was held liable even though the same defect existed in the sample, which was examined. Implied Conditions in Sale by Sample as Well as by Description In a sale by sample as well as by description, the goods supplied must correspond both with the samples as well as with the description.

Thus, in Nichol v. Godis (1854) 158 E.R. 426, there was a sale of "foreign refined rapeoil having warranty only equal to sample". The oil tendered was the same as the sample, but it was not "foreign refined rape-oil" having a mixture of it and other oil. It was held that the seller was liable, and the buyer could refuse to accept.

**Implied Warranties**

Implied warranties are those which the law presumes to have been incorporated in the contract of sale in spite of the fact that the parties have not expressly included them in a contract of sale.

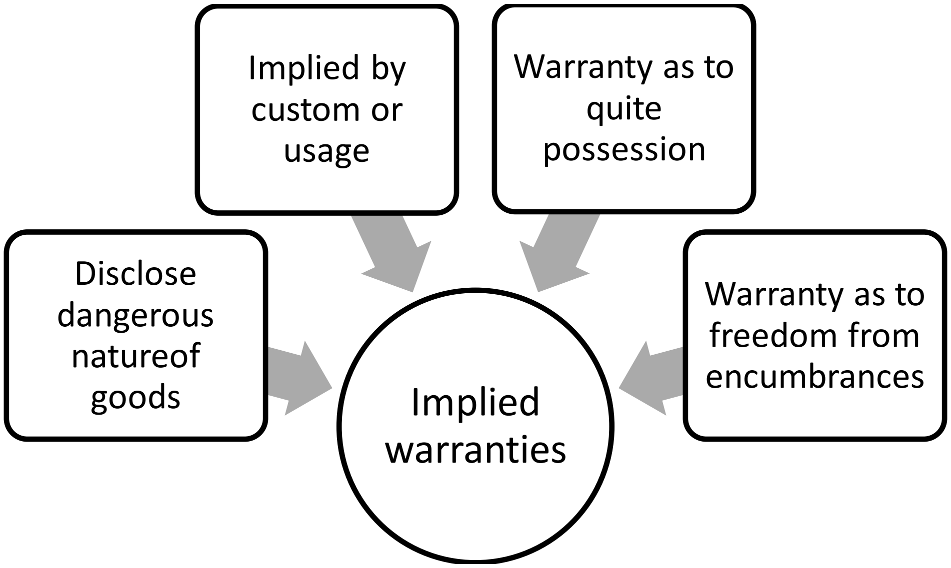
Subject to the contract to the contrary, following are the implied warranties in a contract of sale:

(i) Warranty as to Quiet Possession: Section 14(b) of the Sale of Goods Act provides that there is an implied warranty that the buyer shall have and enjoy quiet possession of goods. If the buyer's possession is disturbed by anyone having superior title than that of the seller, the buyer is entitled to hold the seller liable for breach of warranty.

(ii) Warranty as to Freedom from Encumbrances: Section 14(c) states that in a contract of sale, there is an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made. But if the buyer is aware of any encumbrance on the goods at the time of entering into the contract, he will not be entitled to any compensation from the seller for discharging the encumbrance.

(iii) Warranty to Disclose Dangerous Nature of Goods: If the goods are inherently dangerous or likely to be dangerous and the buyer is ignorant of the danger, the seller must warn the buyer of the probable danger.

(iv) Warranties implied by the custom or usage of trade: Section 16(3) provides that an implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.



**Q-4 Explain in detail concept of " UNPAID SELLER" .**

Who is an unpaid seller?(Section 45)

The seller of goods is deemed to be unpaid seller:

(a) When the whole of the price has not been paid or tendered; or

(b) When a conditional payment was made by a bill of exchange or other negotiable instrument, and the instrument has been dishonored.


Rights of an Unpaid Seller against the Goods

An unpaid seller's right against the goods are:

(a) A lien or right of retention

(b) The right of stoppage in transit.

(c) The right of resale.

(d) The right to withhold delivery.

(a) Right of Lien (Sections 47-49 and 54) :An unpaid seller in possession of goods sold, may exercise his lien on the goods, i.e., keep the goods in his possession and refuse to deliver them to the buyer until the fulfillment or tender of the price in cases where:

(i) the goods have been sold without stipulation as to credit; or

(ii) the goods have been sold on credit, but the term of credit has expired; or

(iii) the buyer becomes insolvent. The lien depends on physical possession. The seller's lien is possessory lien, so that it can be exercised only so long as the seller is in possession of the goods. It can only be exercised for the non-payment of the price and not for any other charges.

A lien is lost –

(i) When the seller delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer, without reserving the right of disposal of the goods;

(ii) When the buyer or his agent lawfully obtains possession of the goods;

(iii) By waiver of his lien by the unpaid seller.

(b) Stoppage in transit (Sections 50-52) :

The right of stoppage in transit is a right of stopping the goods while they are in transit, resuming possession of them and retaining possession until payment of the price.

The right to stop goods is available to an unpaid seller:

(i) when the buyer becomes insolvent; and

(ii) the goods are in transit. The buyer is insolvent if he has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due. It is not necessary that he has actually been declared insolvent by the court.

(iii) The goods are in transit from the time they are delivered to a carrier or other bailee like a wharfing or warehouse keeper for the purpose of transmission to the buyer and until the buyer takes delivery of them.

The transit comes to an end in the following cases:

(i) If the buyer obtains delivery before the arrival of the goods at their destination; (ii) If, after the arrival of the goods at their destination, the carrier acknowledges to the buyer that he holds the goods on his behalf, even if further destination of the goods is indicated by the buyer;

(iii) If the carrier wrongfully refuses to deliver the goods to the buyer. If the goods are rejected by the buyer and the carrier or other bailee holds them, the transit will be deemed to continue even if the seller has refused to receive them back. The right to stop in transit may be exercised by the unpaid seller either by taking actual possession of the goods or by giving notice of the seller's claim to the carrier or other person having control of the goods. On notice being given to the carrier, he must redeliver the goods to the seller who must pay the expenses of the redelivery. The seller's right of lien or stoppage in transit is not affected by any sale on the part of the buyer unless the seller has assented to it.

A transfer, however, of the bill of lading or other document of seller to a bona fide purchaser for value is valid against the seller's right.

(c) Right of re-sale (Section 54):

The unpaid seller may re-sell:

(i) where the goods are perishable;

(ii) where the right is expressly reserved in the contract;

(iii) where in exercise of right of lien or stoppage in transit, the seller gives notice to the buyer of his intention to re-sell, and the buyer, does not pay or tender the price within a reasonable time. If on a re-sale, there is a deficiency between the price due and amount realised, he is entitled to recover it from the buyer. If there is a surplus, he can keep it. He will not have these rights if he has not given any notice and he will have to pay the buyer profit, if any, on the resale.

(d) Rights to withhold Delivery: If the property in the goods has passed, the unpaid seller has right as described above. If, however, the property has not passed, the unpaid seller has a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit.

Rights of an unpaid seller against the buyer (Sections 55 and 56)

An unpaid seller may sue the buyer for the price of the goods in case of breach of contract where the property in the goods has passed to the buyer or he has wrongfully refused to pay the price according to the terms of the contract.

The seller may sue the buyer even if the property in the goods has not passed where the price is payable on a certain day.

Under Section 56, the seller may sue the buyer for damages or breach of contract where the buyer wrongfully neglects or refuses to accept and pay for the goods.
Thus an unpaid sellers rights against the buyer personally are: (a) a suit for the price. (b) a suit for damages.

# Unit 3 Factories Act .

**Theme.**
*The theme of this unit is to let us know about the meaning of negotiable instrument & the various types of negotiable instruments.*
**Justification.**

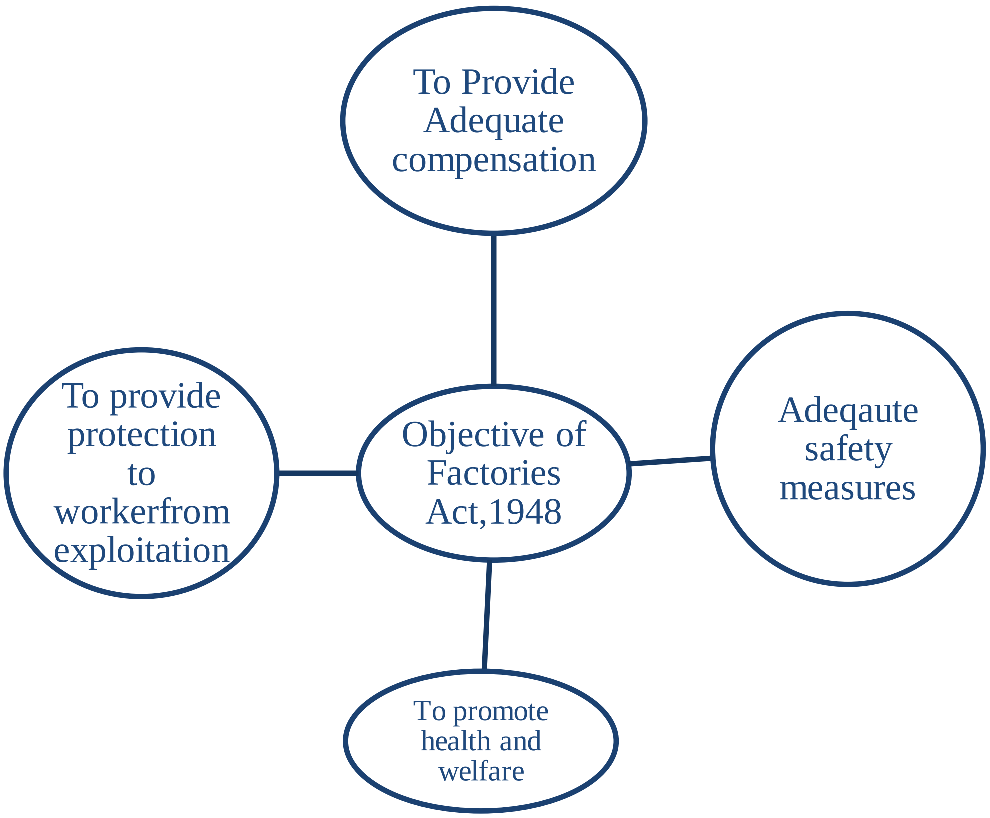
*The unit justifies the uses characteristics & importance of the various negotiable instrument in a common man life.*

**Q-1 Explain in detail the object and Scope of the act.**

- There has been a constant struggle going on between labour and capital. Capital has been exploiting the labour to their own maximum benefit for they have better economic footing and power to dictate their terms.
- The industrial unrest and economic discontent led to a number of strikes and labour troubles. In Pre-Independence era, the workers were generally illiterate, poor and unconscious of their rights. Neither the government nor the Law Court took notice to these labour problems arising in the country as they believed in the policy of non-interference in employer and employees relation.
- The situation, with lapse of time, became so worse and the society was so much adversely affected that the government was forced to take some measures. In the post-independence period, the national government paid attention to the improvement in conditions of labour health in industry as the prosperity of the country lies upon the development of industrial growth.
- There were two basic concept on which the labour legislation were framed, first was that the wage earner is a partner in the production hence should be allowed due share of the profits in production.
- Secondly, individual employer as well as community as a whole is under obligation to protect the well-being of the workers. The first Factories Act was enacted in 1881 which was replaced by the Act of 1934.
- The 1934 Act revealed a number of defects and weaknesses which hampered effective administration of the Act, therefore the Factories Act, 1948 was passed. The Act is in tune with the spirit of the Constitution of India i.e. article 24, 39(e), 39(f), 42 and 48A.
- The Factories Act, 1948 has been amended from time to time, especially after the Bhopal gas disaster, which could have been prevented. The amendment demanded a shift away from dealing with disaster (or disease) to prevention of its occurrence. The Factories (Amendment) Act came into force on December 1, 1987. A special chapter on occupational health and safety to safeguard workers employed in hazardous industries was added.
- In this chapter, pre-employment and periodic medical examinations and monitoring of the work environment are mandatory for industries defined as hazardous under the Act. A maximum permissible limit has been laid down for a number of chemicals.

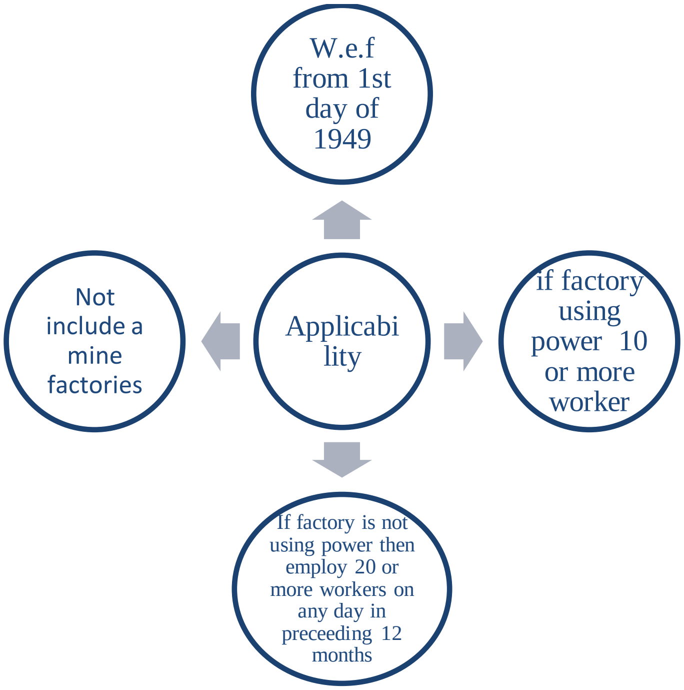
Object of the Act:

- The Factories Act, 1948 was, therefore, enacted and came into force with the objective to provide adequate compensation to the affected persons.
- The Act extends to the whole of India and persons employed in factories, mines, plantation, construction, mechanically propelled vehicles and in some hazardous occupations are covered under the provisions of the Act. It is an Act to consolidate and amend the law regulating labour in factories (Preamble of the Act).
- The main object of the Factories Act, 1948 is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. In the case of Ravi Shankar Sharma v. State of Rajasthan, AIR 1993 Raj. 117, Court held that Factories Act is a social legislation and it provides for the health, safety, welfare and other aspects of the workers in the factories.
- In short, the Act is meant to provide protection to the workers from being exploited by the greedy business establishments and it also provides for the improvement of working conditions within the factory premises. In BhikusaYamasa Kshatriya (P.) Ltd. v. UOI, the court observed that the Act has been enacted primarily with the object of protecting workers employed in factories against industrial and occupational hazards.
- For that purpose, it seeks to impose upon the owner or the occupier certain obligations to protect the workers and to secure for them employment in conditions conducive to their health and safety.




- Applicability:

- It extends to the whole of India w.e.f. the lst day of April, 1949.
- It applies to factories as defined under the Act. Applicable to all factories using power and employing 10 or more workers, and if not using power, employing 20 or more workers on any day of the preceding 12 months.
- But it does not include a mine subject to the operation of the Mines Act, 1952 or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.
- The benefits of this Act are available to persons who are employed in the factory and be covered within the meaning of the term "worker" as defined in the Act. But the definition of worker excludes any member of the armed forces of the Union.




**Q-2 Define the various terminology as specified in the factories Act, 1948.**
Section 2 provides for definition of certain words used in the Act as –"In this Act, unless there is anything repugnant in the subject or context,-

**"Adult" {Section 2(a)}** Adult means a person who has completed his eighteenth year of age;
**"Adolescent" {Section 2(b)}** Adolescent means a person who has completed his fifteenth year of age but has not completed his eighteenth year;
**"Calendar Year" {Section 2(bb)}** Calendar Year means the period of twelve months beginning with the first day of January in any year;

**"Child" {Section 2(c)}** Child means a person who has not completed his fifteenth year of age;

**"Competent Person" {Section 2(ca)}** Competent Person, in relation to any provision of this Act, means a person or an institution recognized as such by the Chief Inspector for the purposes of carrying out tests, examinations and inspections required to be done in a factory under the provisions of this Act having regard to-(i) the qualifications and experience of the person and facilities available at his disposal; or (ii) the qualifications and experience of the persons employed in such institution and facilities available therein, with regard to the conduct of such tests, examinations and inspections, and more than one person or institution can be recognized as a competent person in relation to a factory;
**"Hazardous Process" {Section 2(cb)}** Hazardous process means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, byeproducts, wastes, or effluents thereof would-(i) cause material impairment

to the health of the persons engaged in or connected therewith, or(ii) result in the pollution of the general environment: It is provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry, specified in the said Schedule;

**“Young Person” {Section 2(d)}** Young person means a person who is either a child or an adolescent;

**“Day” {Section 2(e)}** Day means a period of twenty-four hours beginning at midnight;

**“Week” {Section 2(f)}** Week means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

**“Power” {Section 2(g)}** Power means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

**“Prime mover” {Section 2(h)}** Prime mover means any engine, motor or other appliance which generates or otherwise provides power;

**“Transmission Machinery” {Section 2(i)}** Transmission Machinery means any shaft, wheel drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;

**“Machinery” {Section 2(j)}** Machinery includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;

Q-3 Explain in detail manufacturing process and what is included in the manufacturing process and what is not included in manufacturing process?

“Manufacturing Process” {Section 2(k)} Manufacturing Process means any process for –

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

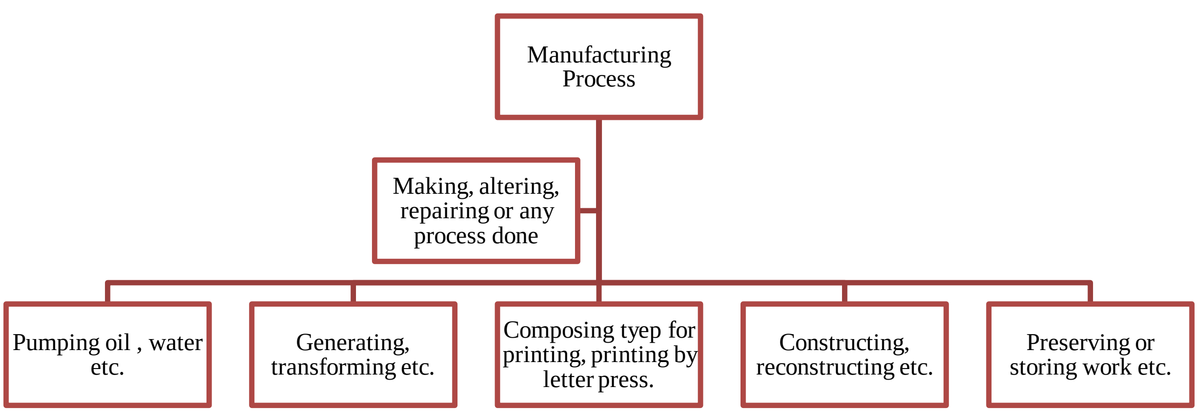
(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage;



- An important necessity for any premises to be regarded as a 'factory' is, that a "manufacturing process" should be conducted within the premises.
- Therefore, the definition is quite important and it has been the subject of judicial interpretation in large number of cases:

(i) What is manufacturing process The definition of manufacturing process is exhaustive. Under the present definition even transporting, washing, cleaning, oiling and packing which do not involve any transformation as such which is necessary to constitute manufacturing process in its generic sense, are nonetheless treated as manufacturing process.

(ii) The definition is artificially projected beyond the scope of natural meaning of what the words might convey thus covering very wide range of activities.

(iii) Madras High Court in the case of In re. SeshadrinathaSarma, 1966 (2) LLJ 235, held that to constitute a manufacture there should not be essentially some kind of transformation of substance and the article need not become commercially as another and different article from that at which it begins its existence so long as there has been an indisputable transformation of substance by the use of machinery and transformed substance is commercially marketable.

(iv) Division Bench of A.P. High Court held that to determine where certain premises is factory, it is necessary that it should carry on manufacturing process and it does not require that the process should end in a substance being manufactured (Alkali Metals (P) Ltd. v. ESI Corpn., 1976 Lab.I.C.186).

(v) In another case it was observed that manufacturing process merely refers to particular business carried on and does not necessarily refer to the production of some article.

(vi) The works of laundry and carpet beating were held to involve manufacturing process. A process employed for purpose of pumping water is manufacturing process.

(vii) Each of the words in the definition has got independent meaning which itself constitutes manufacturing process.

- Following processes have been held to be manufacturing processes:

(1) Sun-cured tobacco leaves subjected to processes of moistening, stripping, breaking up, adaption, packing, with a view to transport to company's main factory for their use in manufacturing cigarette (V.P. Gopala Rao v. Public Prosecutor, AIR 1970 S.C. 66).
(2) The operation of peeling, washing etc., of prawns for putting them in cold storage is a process with a view to the sale or use or disposal of the prawns (R.E. DSouza v. Krishnan Nair, 1968 F.J.R. 469).
(3) Stitching old gunny bags and making them fit for use.
(4) In paper factory, bankas grass packed into bundles manually and despatched to the factory.
(5) Work of garbling of pepper or curing ginger.
(6) Process carried out in salt works in converting sea water into salt. In Ardeshir v Bombay State [AIR 1962 SC 29] the process carried out in the salt works comes within the definition of `manufacturing process' in Section 2 (k) in as much as salt can be said to have been manufactured from sea water by the process of treatment and adaptation of sea water into salt.
(7) Conversion of latex into sheet rubber.
(8) A process employed for the purpose of pumping water.
(9) The work done on the bangles of cutting grooves in them which later would be filled with colouring, is clearly a stage in ornamentation of the bangle with view to its subsequent use for sale.

(10) Preparation of soap in soap works.
(11) The making of bidies. (State of Bombay v Ali Saheb KashimTamboli, [(1995) 2 LLJ 182)]
(12) The raw film used in the preparation of movies is an article or a substance and when by the process of tracing or adapting, after the sound are absorbed and the photos imprinted, it is rendered fit to be screened in a cinema theatre, then such a change would come within the meaning of the term treating or adapting any article or substance with a view to its use. (re K.V.V. Sharma [(1950) 1 LLJ 29]
(13) Composing is a necessary part of printing process and hence it is a manufacturing process. It cannot be said that the definition should be confined to the process by which impression is created on the paper and to no other process preceding or succeeding the marking of the impression on the paper to be printed. Everything that is necessary before or after complete process, would be included within the definition of the word 'manufacturing process'.
(14) Preparation of food with aid of various electrical appliances in kitchen of a hotel is a manufacturing process, as decided in the case of "Poona Industrial Hotel v. I.C. Sarin, 1980, Lab IC 100.
(15) In New Taj Mahal Cafe Ltd., Mangalore v. Inspector of Factories, Mangalore, 1956 1 LLJ 273 the preparation of foodstuffs and other eatable in the kitchen of a restaurant and use of a refrigerator for treating or adapting any article with a view to its sale were also held to be manufacturing process.
(16) The work of mere packing cannot be called as a manufacturing process; {ref-AIR 1955 NUC2710}.
(17) The business of sale of diesel oil, motor spirit, lubricant, servicing of cars and lorries, repairing vehicles and charging batteries with the aid of power, by employing more than 20 workers / labourers amount to manufacturing process, as noted in the case of "Baranagar Service Station v. E.S.I Corporation (1987) 1 L.L.N 912(Cal)(Divisional Bench) &LabI. C. 302.
(18) Decorticating groundnuts in electric mill is a manufacturing process (AIR 1959 Madras30).
(19) Construction of railway - use of raw materials like sleepers, bolts, loose rails etc. to adaptation of their use for ultimately for laying down railway line (LAB IC 1999 SC 407; Lal Mohmd. v. Indian Railway Construction Co. Ltd.).
(20) Hon'ble Supreme Court in G.L. Hotels Limited and Ors. v. T.C. Sarin and Anr. (1993) 4 SCC 363 where it was held that since the manufacturing process in the form of cooking and preparing food is carried on in the kitchen and the kitchen is a part of the hotel or a part of the precinct of the hotel, the entire hotel falls within the purview of the definition of 'factory'.

- The definition takes in all acts which bring in not only some change in the article or substance but also the act done for the protection and maintenance of such article by packing, oiling, washing, cleaning, etc. (P. Natrajan v. E.S.I. Corporation (1973) 26 FLR 19), Preparation of food and beverages and its sale to members of a club (CCI v. ESIC, 1992 LAB IC 2029 Bom.), receiving products in bulk, in packing and packing as per clients requirements (LLJ I 1998 Mad. 406).

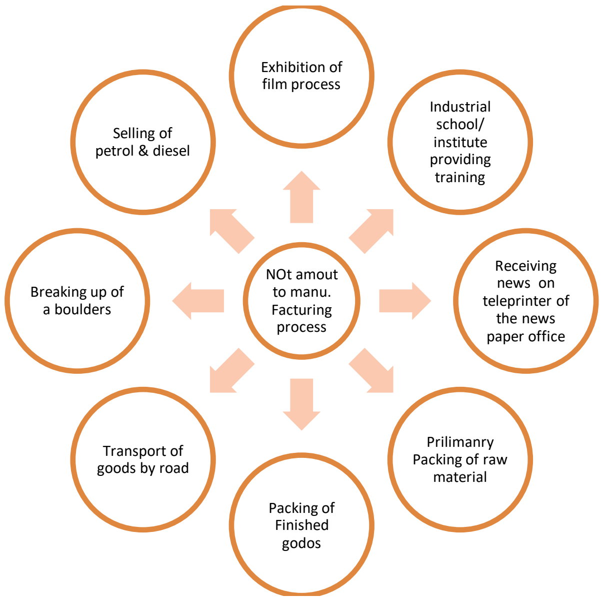
- What is not a manufacturing process:

- No definite or precise test can be prescribed for determining the question whether a particular process is a manufacturing process. Each case must be judged on its own facts regard being had to the nature of the process employed, the eventual result achieved and the prevailing business and commercial notions of the people.

- In deciding whether a particular business is a manufacturing process or not, regard must be had to the circumstances of each particular case. To constitute a manufacturing process, there must be some transformation i.e. article must become commercially known as something different from which it acquired its existence.

- Following processes are not manufacturing processes:

(1) Exhibition of films process.
(2) Industrial school or Institute imparting training, producing cloth, not with a view to its sale.
(3) Receiving of news from various sources on a reel in a tele printer of a newspaper office, is not a manufacturing process in as much as news is not the article or substance to which Section 2(k)(i) has referred.
(4) Any preliminary packing of raw material for delivering it to the factory (AIR 1969 Mad. 155).
(5) Finished goods and packing thereof: F. Hare v. State AIR 1955, 2710.
(6) Transportation of goods on contract basis from one place to another by road with the assistance of transport carriers is not a manufacturing process- as decided in the case of regional Director E.S.I.C v. Jaihind Roadways, Bangalore(2001),1 L.L.J 1187 (Karnataka).
(7) Breaking up of boulders is a manufacturing process – as decided in case of "Larsen & Toubro v. state of Orissa, 1992 Lab IC 1513 (Orissa- Divisional Bench).
(8) Selling of petrol or diesel by a petrol dealer or repairing of motor vehicle will not come within the term "manufacturing process", as noted in the case of : National Service Centre and Petrol Pump v. E.S.I. Corporation, 1983 LabI.C. 412 (P&H). Supreme Court has held that the process undertaken in zonal and sub-stations and electricity generating stations, transforming and transmitting electricity generated at the power station does not fall within the definition of manufacturing process and could not be said to be factories… (Workmen of Delhi Electric Supply Undertaking v. Management of D.E.S.U., AIR 1973 S.C. 365).




Q-4 Define the term " Worker" and its ingredients.

- "Worker" {Section 2(l)} Worker means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not], in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the Union;
- A person to be a worker within the meaning of the Factories Act must be a person employed in the premises or the precincts of the factory.
- As held by the court in the State of Uttar Pradesh v. M. P. Singh (1960) 2 SCR 605: (AIR 1960 SC 569) field workers who are employed in guiding, supervising and controlling the growth and supply of sugar cane to be used in the factory are not employed either in the precincts of the factory or in the premises of the factory.
- Hence the provisions of the Factories Act do not apply to them. AIR 1978 SUPREME COURT 849, RohtasIndustries Ltd v. Ramlakhan Singh.
- The definition contains following ingredients:
  (i) There should be an 'employed person'
  (a) Meaning of the word "employed": The concept of "employment" involves three ingredients, viz. employer, employee, and contract of employment.
- The 'employer' is one who employs, i.e., one who engages the services of other persons. The 'employee' is one who works for another for hire. The employment is the contract of service between employer and employee where under the employee agrees to serve the employer subject to his control and supervision.

- The prima facie test for determination of the relationship between the employer and employee is the existence of the right of the employer to supervise and control the work done by the employee not only in the matter of directing what work the employee is to do but also the manner in which he shall do his work (Chintaman Rao v. State of M.P. AIR 1958 S.C. 388).
- Therefore, 'supervision and control' is the natural outcome when a person is employed by another person. Moreover, the 'employment' referred to in the section is in connection with a manufacturing process that is carried on in the factory which process normally calls for a large measure of coordination between various sections inside a factory and between various individuals even within a section.
- The persons will have to be guided by those placed in supervisory capacity. A certain amount of control is thus necessarily present in such a case.
- In Shankar Balaji Waje v. State of Maharashtra, AIR 1963 Bom. 236, the question arose whether bidi roller is a worker or not. The management simply says that the labourer is to produce bidies rolled in a certain form. How the labourer carried out the work is his own concern and is not controlled by the management, which is concerned only with getting bidies rolled in a particular style with certain contents.
- The Supreme Court held that the bidi roller is not a worker. The whole conception of service does not fit in well with a servant who has full liberty to attend to his work according to his pleasure and not according to the orders of his master.
- Where the employer did retain direction and control over the workers both in manner of the nature of the work as 'also its details, they will be held as workers.
- In State of Kerala v. V M Patel, [1961(1) LLJ 549 (SC)] the Supreme Court held that the work of garbling pepper by winnowing, cleaning, washing and drying in lime and laid out to dry in a warehouse are manufacturing processes and therefore the persons employed in these processes were workers within the meaning of Section 2(I) of the Act.
- A day labourer, where there was no evidence to show that he was free to work for such period as he likes, free to come and go whenever he chose and free to absent himself at his own sweet will, was held to be a worker. Similarly, women and girls employed in peeling, washing etc., of consignment of prawns brought on the premises at any time of the day or night, without any specified hours of work and without any control over their attendance or the nature, manner or quantum of their work and who after finishing the work go to other premises in the locality where similar consignment of prawns are received, are not Workers (State of Kerala v. R.E. DSouza).

(b) Whether relationship of master and servant necessary:

- The expression "employed" does not necessarily involve the relationship of master and servant. There are conceivable cases in which where no such relationship exists and yet such persons would be workers.
- The expression a person employed, according to Justice Vyas, means a person who is actually engaged or occupied in a manufacturing process, a person whose work is actually utilised in that process.
- The definition of worker is clearly enacted in terms of a person who is employed in and not in terms of person who is employed by. It is immaterial how or by whom he is employed so long as he is actually employed in a manufacturing process.

- In Birdh Chand Sharma v First Civil Judge, Nagpur, [AIR 1961 SC 644] where the respondents prepared bidis at the factory and they were not at liberty to work at their homes. They worked within certain hours which were the factory hours.
- They were, however, not bound to work for the entire period and they could go whenever they like. Their attendance was noted in the factory. They could come and go away at any time they liked.
- However no worker was allowed to work after midday even though the factory was closed at 7 p.m. and no worker was allowed to continue work after 7 p.m. There were standing orders in the factory and, according to these orders a worker who remained absent for eight days presumably without leave could be removed.
- The payment was made on piece rate according to the quantum of work done, but the management had the right to reject such bidis as dad not come up to the proper standard. On these facts the Supreme Court held that respondents were workers under section 2 (1) of the Act.

(c) Piece-rate workers –

- Whether workers: Piece-rate workers can be workers within the definition of 'worker' in the Act, but they must be regular workers and not workers who come and work according to their sweet will (Shankar Balaji Wajev. State of Maharashtra, AIR 1967 S.C. 517).
- In another case workmen had to work at bidi factory when they liked. The payment was made on piecerate according to the amount of work done. Within the factory, they were free to work. But the control of the manner in which bidies were ready, by the method of rejecting those which did not come up to the proper standards.
- In such a case it was exercised which was important (Birdhi Chand Sharma v. First Civil Judge, Nagpur, AIR 1961 SC 644). Therefore, whatever method may be adopted for the payment of wages , the important thing to see is whether the workers work under supervision and control of the employer.
- It makes no difference whether the worker employed in the manufacturing process is paid time rate wages or piece rate wages.

(d) The partners of a concern, even though they work on premises in the factory cannot be considered to be workers within Section 2(1): (1958 (2) LLJ 252 SC).

(e) An independent contractor:

- He is a person who is charged with work and has to produce a particular result but the manner in which the result is to achieved is left to him and as there is no control or supervision as to the manner in which he has to achieve the work, he is not a worker.

(ii) Employment should be direct or through some agency:

- The words directly or by or through any agency in the definition indicate that the employment is by the management or by or through some kind of employment agency. In either case there is a contract of employment between the management and the person employed.
- There should be a privity of contract between them and the management. Only such person can be classified as worker who works either directly or indirectly or through some agency employed for doing his works of any manufacturing process or cleaning, etc., with which the factory is concerned. It does

not contemplate the case of a person who comes and that too without his intervention either directly, or indirectly, and does some work on the premises of factory.

(iii) Employment should be in any manufacturing process etc:

- The definition of "worker" is fairly wide. It takes within its sweep not only persons employed in manufacturing process but also in cleaning any part of the machinery and premises used for manufacturing process.
- It goes far beyond the direct connection with the manufacturing process by extending it to other kinds of work which may either be incidental to or connected with not only the manufacturing process itself but also the subject of the manufacturing process (Works Manager, Central Rly. Workshop Jhansi v. Vishwanath and others), the concept of manufacturing process has already been discussed.
- The meaning of the expression employed in cleaning any part of machinery, etc." and employed in work incidental to..... process, are discussed below:
 (a) Employed in cleaning any part of machinery etc.: If a person is employed in cleaning any part of the machinery premises which is used for manufacturing process, he will be held as worker.
 (b) Employed in work incidental to process: This clause is very important because it enlarges the scope of the term, manufacturing process.
- Following illustrative cases will clarify the meaning of this clause:
 (1) In Shinde v. Bombay Telephones, 1968 (11) LLJ 74, it was held that whether the workman stands outside the factory premises or inside it, if his duties are connected with the business of the factory or connected with the factory, he is really employed in the factory and in connection with the factory.
 (2) In Works Manager, Central Rly. Workshop Jhansi v.Vishwanath and others, it was held that the definition of worker does not exclude those employees who are entrusted solely with clerical duties, if they otherwise fall within the definition of 'worker.
- Timekeepers employed to maintain attendance of the staff, job cards particularly of the various jobs under operation, and timesheets of the staff engaged in production of spare parts, repairs, etc.; and head time-keeper who supervise the work of the time-keepers, perform work which is incidental to or connected with the manufacturing process carried on in the factory and would therefore, fall within the definition of the worker in the Act.
 (3) Munim in a factory is a worker.
 (4) Workmen in canteen attached to a factory are employees.
 (5) A person employed by a gas manufacturing works as a coolie for excavating and digging trenches outside the factory for laying pipes for transporting gas to consumers, cannot be held to be a worker (AIR 1961 Bomb. 184).
 (6) Person employed to supply material to a mason engaged in construction of furnace will be deemed to be employed by the factory to a work incidental to or connected with manufacturing process.
 (7) In a soap-works, a carpenter preparing the packing cases is a worker because he might legitimately be considered to be engaged in a kind of work incidental to or connected with the subject of the manufacturing process, viz., packaging of soap for being sent out for sale.
 (8) In the case of Rohtas Industries Ltd. v. Ramlakhan Singh and others, A.I.R. 1971 SC 849, a person was employed in a paper factory. He was engaged in supervising and checking quality and weighment of waste papers and rags which are the basic raw material for the manufacture of paper. He used to deal

with receipts and maintain records of stock and pass the bill of the supplier of waste paper and rags. He used to work in the precincts of the factory and in case of necessities had to work inside the factory. The Supreme Court held that he was working in the factory premises or its precincts in connection with the work of the subject of the manufacturing process, namely the raw material.

(9) It was held by the Madras High Court in Elangovan M. and Others v. Madras Refineries Ltd. (2005) II L.L.J. 653 (Mad.)., that the employees of a canteen run in compliance to statutory duty are workmen of the establishment running the canteen for the purposes of Factories Act, 1948 only and not for all purposes.

(10) In Haldia Refinery Canteen Employees Union and Another v. Indian Oil Corporation Ltd. and Others (2005) II L.L.J. 684 (SC)., the respondent corporation was running a statutory canteen through a contractor. The workmen employed by the contractor in the canteen claimed regularization in service of the corporation. The Supreme Court held their claim as not sustainable because the control that the respondent corporation exercised over the contractor was only to ensure that the canteen was run in efficient manner. Further the corporation was not reimbursing to the contractor the wages of the workmen. Secondly two settlements had been made between the contractor and the canteen workmen and the respondent was not a party to either of them. Therefore, it was held that the workmen in canteen became workers of the respondent corporation only for the purposes of the Factories Act, 1948 and not for any other purpose.

(iv) Employment may be for remuneration or not:

- A person who receives wages as remuneration for his services, a person who receives remuneration on piecework basis, a person may be working as an apprentice, and a person who is a honorary worker, all come within the definition of a worker.
- Therefore to be a worker, it is immaterial whether a person is employed for wages or for no wages.

(v) Any member of the armed forces of the Union is excluded from the definition of worker

(vii) Whether all employees are workers? Since the word employee has not been defined in the Act it follows that all the workers within the ambit of the definition under the Act would be employees, while all employees would not be workers (Harbanslal v. State of Karnataka, (1976) 1 Karnt.J. 111).

- All persons employed in or in connection with a factory whether or not employed as workers are entitled to the benefits of the Act (Union of India v. G.M. Kokil, 1984 SCC (L&S) 631). Once it is established prima facie that premises in question is a factory within the meaning of the Act, the provisions of Section 103 as to the presumption of employment are immediately attracted and onus to prove the contrary shifts to the accused (PrafulbhaiPatadia v. The State, 1976 (12) E.L.R. 329).

Q-5 Evaluate the term “ Factory”.

- “Factory” ;{Section 2(m)}
- Factory means any premises including the precincts thereof-

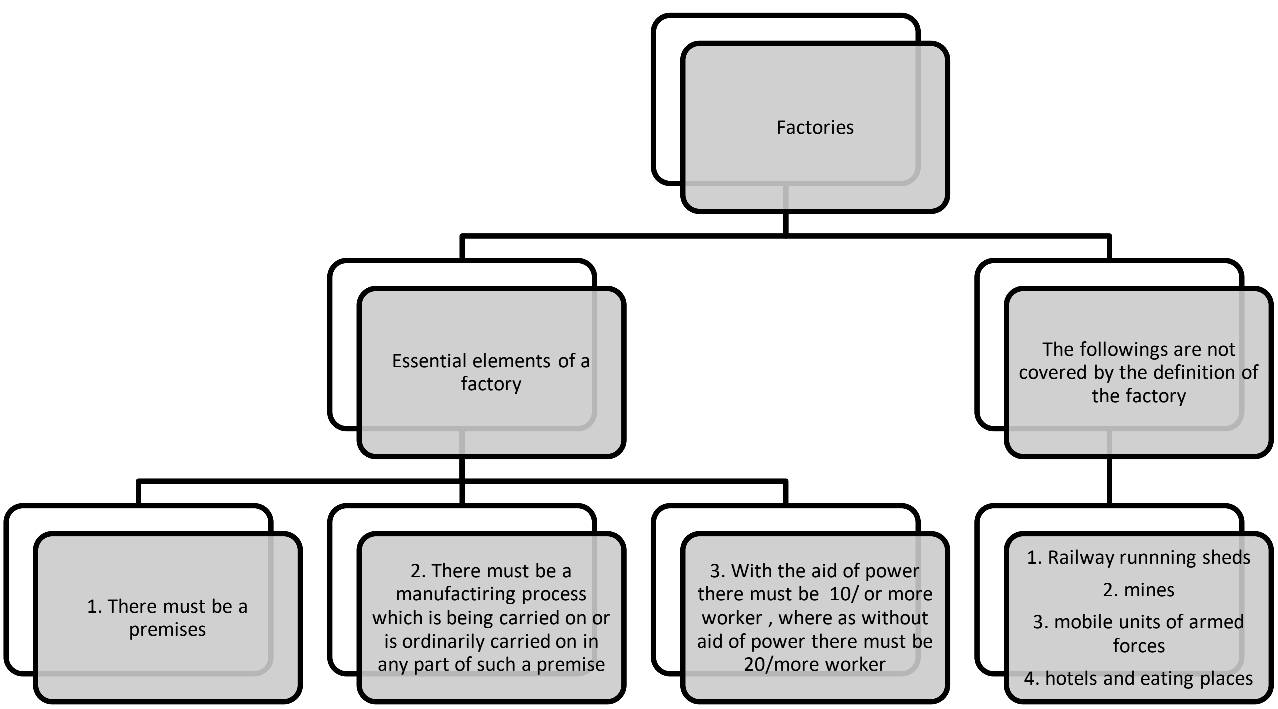
(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) Whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

(iii) The definition of factory specifically excludes from its purview a mine subject to the operation of the Mines Act, 1952 or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.

(iv) Explanation I : For computing the number of workers for the purposes of this clause all the workers in different groups and relays in a day shall be taken into account;

(v) Explanation II: For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof;




**(ii) Meaning of words "premises and precincts":**

- The word "premises" is a generic term meaning open land or land with building or building alone. The term 'precincts' is usually understood as a space enclosed by walls.

- Expression 'premises' including precincts does not necessarily mean that the premises must always have precincts. It merely shows that there may be some premises with precincts and some premises without precincts.
- The word 'including is not a term' restricting the meaning of the word 'premises', but is a term which enlarges its scope. All the length of railway line would be phase wise factories (LAB IC 1999 SC 407). Company engaged in construction of railway line is factory. (LAB IC 1999 SC 407).
- The case law of K.V.V.Sharma AIR , 1953, Mad 269, stated precincts as; "a space enclosed by walls or fences. A place solely used for some purpose other than the manufacturing process carried on in a factory or a workshop does not constitute a factory." The Supreme Court in Ardeshir H. Bhiwandiwala v. State of Bombay, AIR 1962 S.C. 29, observed that the legislature had no intention to discriminate between workers engaged in a manufacturing process in a building and those engaged in such a process on an open land and held that the salt works, in which the work done is of conversion of sea water into crystals of salt, come within the meaning of the word 'premises'.
- It was held that the word 'premises' is a generic term meaning open land or land with buildings or building alone. The expression, "premises including precincts" does not necessarily mean that the premises must always have precincts.
- Even buildings need not have any precincts. The word 'including' is not a term restricting the meaning of the word 'premises' but is a term which enlarges its scope.
- The use of the word 'including', therefore does not indicate that the word 'premises' must be restricted to main building and not to be taken to cover open land as well.
- As decided in the case of 'Workmen, Delhi electricity Supply Undertaking /vs/ Management, AIR 1973 SC 365; "Factory" is a premise where manufacturing process is carried on.".
- No manufacturing process was held to take place either in the sub-stations or in the zonal stations of the Delhi Electricity Supply Undertaking, because the workmen employed therein have no part in any manufacturing process".

**(iii) Manufacturing process is being carried on or ordinarily so carried on:**

- The word ordinarily came up for interpretation in the case of Employers Association of Northern India v.Secretary for Labour U.P. Govt. The question was whether a sugar factory ceases to be a factory when no manufacturing process is carried on during the off-season.
- It was observed that the word 'ordinarily' used in the definition of factory cannot be interpreted in the sense in which it is used in common parlance. It must be interpreted with reference to the intention and purposes of the Act.
- Therefore, seasonal factories or factories carrying on intermittent manufacturing process, do not cease to be factories within the meaning of the Act.

(iv) Ten or twenty workers:

- The third essential content of 'factory' is that ten or more workers are employed in the premises using power and twenty or more workers are employed in the premises not using power.
- Where seven workers were employed in a premises where the process of converting paddy into rice by mechanical power was carried on and in the same premises, three persons were temporarily employed for repairs of part of the machinery which had gone out of order but the manufacturing was going on, it

was held that since three temporary persons were workers, consequently there were ten workers working in the 'premises' and the premises is a factory (AIR 1959, AII. 794).

- According to explanation to Section 2(m), all the workers in different relays in a day shall be taken into account while computing the number of workers.
- Bombay High Court held that the fact that manufacturing activity is carried on in one part of the premises and the rest of the work is carried on in the other part of the premises cannot take the case out of the definition of the word 'factory' which says that manufacturing process can be carried on in any part.
- The cutting of the woods or converting the wood into planks is essentially a part of the manufacturing activity (Bharati Udyog v. Regional Director ESI Corpn., 1982 Lab. I.C. 1644).
- A workshop of Polytechnic Institution registered under the Factories Act imparting technical education and having power generating machines, was carrying on a trade in a systematic and organised manner. Held, it will come under the definition of factory as defined under Section 2(m) read with Section 2(k) (1981 Lab. I.C. NOC 117).

Q-6 What do you understand by the term " Occupier"? Explain the duties of the occupier and exemption of his liability.

"Occupier" ;{Section 2(n)}:

- Occupier of a factory means the person who has ultimate control over the affairs of the factory;
- PROVIDED that –

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;
(ii) in the case of a company, any one of the directors shall be deemed to be the occupier;
(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier.
(iv) It is provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,-
(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under (a) section 6, section 7, section 7A, section 7B, section 11 or section 12;
(2) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;
(3) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;
(4) the owner of the ship or his agent or master or other office-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44, or section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to-

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person;

Case:

J.K. INDUSTRIES LIMITED versus THE CHIEF INSPECTOR OF FACTORIES AND BOILERS &ORS .SLP (C) No. 12498/96, Supreme Court held that :
(i) In the case of a company, which owns a factory, it is only one of the director of the company who can be notified as the occupier of the factory for the purposes of the Act and the company cannot nominate any other employee to be the occupier of the factory:
(ii) Where the company fails to nominate one of its directors as the occupier of the factory, the Inspector of Factories shall be at liberty to proceed against any one of the directors of the company, treating him as the deemed occupier of the factory, for prosecution and punishment in case of any breach or contravention of the provisions of the Act or for offences committed under the Act.

(iii)Therefore an employee of company or factory cannot be occupier.
(iv)Proviso (ii) to Section 2(n) does not travel beyond scope of main provision and is not violative of Article 14 of Constitution of India. Proviso (ii) is not ultra vires main provisions of Section 2(n). No conflict exists between main provisions of Section 2(n) and proviso (ii).
(v)Further, proviso (ii) to Section 2(n) read with Section 92, does not offend Article 21.

(vi)Under Section 2(n)(iii), for the purpose of deciding who is an occupier of the factory, the test to be applied is who has ultimate control over its affairs in a government company, in fact the ultimate control lies with government though the company is separate legal entity by having right to manage its affairs. Persons appointed by central government to manage its affairs of factories (of government companies) were therefore deemed to be appointed as occupiers under the Act (IOC v. CIF, LLJ II SC 1998 604)

(vi) In Indian Oil Corporation vs. Chief Inspector of Factories [1998(4) SCALE 116], it was observed that it is the Government which looks after the successful implementation of the Factories Act and, therefore, it is not likely to evade its implementation.
(vii) That appears to be the reason why the legislature thought it fit to make a separate provision for the Government and local authorities, and so on. The legislature has provided that in the case of a factory owned or controlled by any of these authorities the person or persons appointed to manage the affairs of the factory shall be deemed to be the occupier.
(viii) Therefore, if it is a case of a factory, in fact and in reality, owned or controlled by the Central Government or other authority, the person or persons appointed to manage the affairs of the factory shall have to be deemed to be the occupier even though for better management of such a factory, a corporate form is adopted by the Government.

(ix)It was held in the case that the relevant provisions regarding the establishment of the appellant corporation and its working leave no doubt that the ``ultimate control'' over all the affairs of the corporation, including opening and running of the factories, is with the Central Government.
(x) Acting through the corporation is only a method employed by the Central Government for running its petroleum industry. In the context of Sec. 2(n), it will have to be held that all the activities of the corporation a really carried on by the Central Government with a corporate mask.

- Duties of the occupier :

Duties of Occupier /Manufacturer :

(i) Notice by occupier (Section 7) According to sub-section (1),:
- a written notice shall be sent by the occupier ,at least fifteen days before he begins to occupy or use any premises as a factory, to the Chief Inspector.
- The notice shall contain following details:-

(a) The name and situation of the factory;
(b) the name and address of the occupier;
(bb) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93;
(c) the address to which communications relating to the factory may be sent;
(d) the nature of the manufacturing process- (i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act; and (ii) to be carried on in the factory during the next twelve months in the case of all factories;
(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;
(f) the name of the manager of the factory for the purposes of this Act;
(g) the number of workers likely to be employed in the factory;
(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;
(i) such other particulars as may be prescribed.

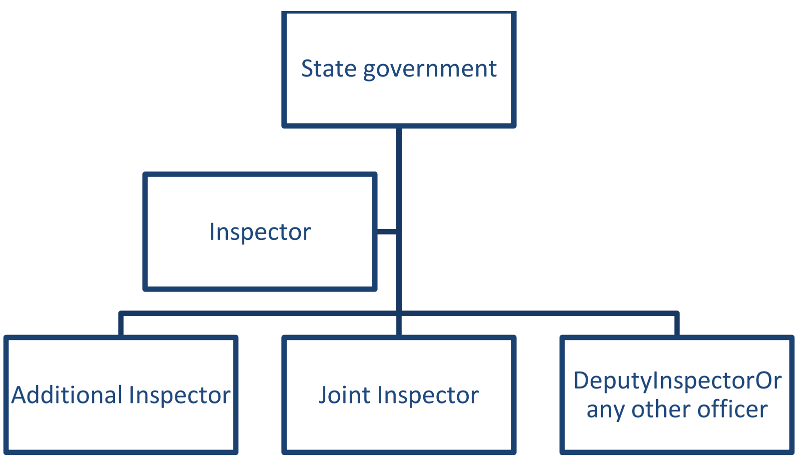
- Sub-section (2) states that in respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in subsection (1) within thirty days from the date of the commencement of this Act.
- In pursuance to sub-section (3), the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) at least thirty days before the date of the commencement of work, in case of a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working,
- Notice of appointment of new manager: Whenever a new manager is appointed, the occupier shall send to the Inspector a written notice and to the Chief Inspector a copy thereof within seven days from the date on which such person takes over charge.
- Occupier, deemed manager: During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as a

manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

- General duties of the occupier (Section 7A):
- Sub-section (1) mandates that every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory.
- Apart from general provisions of subsection 1, sub-section (2) provides the matters covered under this duty of the occupier:
  (a) the provision and maintenance of plant and systems of work in the factory that are safe and without risks to health;
  (b) the arrangements in the factory for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  (c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers at work;
  (d) the maintenance of all places of work in the factory in a condition that is safe and without risks to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risks;
  (e) the provision, maintenance or monitoring of such working environment in the factory for the workers that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.
- Except in such cases as may be prescribed, every occupier shall prepare, and, as often as may be appropriate, revise, a written statement of his general policy with respect to the health and safety of the workers at work and the organization and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision thereof to the notice of all the workers in such manner as may be prescribed.
- Exemption of occupier or manager from liability in certain cases :
- Section 101 provides exemptions from liability of occupier or manager.
- It permits an occupier or manager of a factory who is charged with an offence punishable under the Act to bring into the Court any other person whom he charges actual offender and also proves to the satisfaction of the Court that:
  (a) he has used due diligence to enforce the execution of this Act; and
  (b) that the offence in question was committed without his knowledge, consent or connivance, by the said other person.
- The other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory. In such a case occupier or manager of the factory is discharged from liability.
- The Section is an exception to principles of strict liability, but benefit of this would be available only when the requirements of this section are fully complied with and the court is fully satisfied about the proof of facts contemplated in (a) and (b) above.

**Q-7 Give a detail about the Inspecting staff , certifying surgeon and their powers and duties.**

- Inspectors Appointment: Section 8 empowers the State Government to appoint Inspectors, Additional Inspectors and Chief Inspectors, such persons who possess prescribed qualifications.
- Section 8(2) empowers the State Government to appoint any person to be a Chief Inspector.
- To assist him, the government may appoint Additional, Joint or Deputy Chief Inspectors and such other officers as it thinks fit. Every District Magistrate shall be an Inspector for his district.
- The State Government may appoint certain public officers, to be the Additional Inspectors for certain areas assigned to them. The appointment of Inspectors, Additional Inspectors and Chief Inspector can be made only by issuing a notification in the Official Gazette.
- When in any area, there are more inspectors than one, the State Government may by notification in the Official Gazette, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.
- Inspector appointed under the Act is an Inspector for all purposes of this Act. Assignment of local area to an inspector is within the discretion of the State Government.
- A Chief Inspector is appointed for the whole State. He shall in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the State.
- Therefore, if a Chief Inspector files a complaint, the court can legally take congnizance of an offence. Even assignment of areas under Section 8(6) does not militate in any way against the view that the Chief Inspector can file a complaint enabling the court to take congnizance.
- The Additional, Joint or Deputy Chief Inspectors or any other officer so appointed shall in addition to the powers of a Chief Inspector, exercise the powers of an Inspector throughout the State.




- Powers of inspector:
- Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, exercise the following powers-
  (a) enter, with such assistants, being persons in the service of the government, or any local or other public authority, or with an expert as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

(b) make examination of the premises, plant, machinery, article or substance;
(c) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;
(d) require the production of any prescribed register or any other document relating to the factory;
(e) seize, or take copies of, any register, record or other document or any portion thereof as he may consider necessary in respect of any offence under this Act, which he has reason to believe, has been committed;
(f) direct the occupier that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (b);
(g) take measurements and photographs and make such recordings as he considers necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment;
(h) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health or safety of the workers, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of this Act), and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;
(i) exercise such other powers as may be prescribed.

- Certifying surgeons:

- According to section 10, the State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.
- A certifying surgeon may, with the approval of the State Government, authorize any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the State Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorized.
- No person shall be appointed to be, or authorized to exercise the powers of a certifying surgeon, or having been so appointed or authorized, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory.
- It is provided that the State Government may, by order in writing and subject to such conditions as may be specified in the order, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.
- The certifying surgeon shall carry out such duties as may be prescribed in connection with-
  (a) the examination and certification of young persons under this Act;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;
(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where –
(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;
(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process;
(iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

- Explanation: In this section "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, or in Schedules to the Indian Medical Council Act, 1933.

**Q-8 Explain in detail about the health of workers.**

A. Health Chapter III of the Act deals with the following aspects:
(i) Cleanliness: Section 11 of the Act makes provisions for ensuring cleanliness in the factory. It states that every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular-
• accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;
• the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;
• Where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
• all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall-

(i) where they are painted otherwise than with washable water-paint or varnished, be repainted or revarnished at least once in every period of five years;

(ia) Where they are painted with washable water-paint, be repainted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;
(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed; (iii) in any other case, be kept whitewashed or colour washed, and the whitewashing or colour washing shall be carried out at least once in every period of fourteen months;

• all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years;

• the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

- Power of State Government to exempt: If the State Government finds that a particular factory cannot comply with the above requirements due to its nature of manufacturing process, it may exempt the factory from the compliance of these provisions and suggest some alternative method for keeping the factory clean.

(iii)Disposal of wastes and effluents (Section 12):

- Every occupier of a factory shall make effective arrangements for the treatment of wastes and effluents due to the manufacturing process carried on in the factory so as to render them innocuous and for their disposal. Such arrangements should be in accordance with the rules, if any, laid down by the State Government.
- If the State Government has not laid down any rules in this respect, arrangements made by the occupier should be approved by the prescribed authority, if required by the State Government.

(iv) Ventilation and temperature (Section 13):

- Section 13 provides that every factory should make suitable and effective provisions for securing and maintaining

(1) adequate ventilation by the circulation of fresh air; and

(2) such a temperature as will secure to the workers reasonable conditions of comfort and prevent injury to health. What is reasonable temperature depends upon the circumstances of each case.

- The State Government has been empowered to lay down the standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof.
- It may direct that proper measuring instruments at such places and in such position as may be specified shall be provided and prescribed records shall be maintained.
- Measures to reduce excessively high temperature: To prevent excessive heating of any workroom following measures shall be adopted:

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers there from, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means. The Chief Inspector is empowered to direct any factory to adopt such methods which will reduce the excessively high temperature. In this regard, he can specify the measures which in his opinion should be adopted.

(iii)Dust and fume (Section 14) :

- There are certain manufacturing processes like chemical, textile or jute, etc., which generates lot of dust, fume or other impurities. It is injurious to the health of workers employed in such manufacturing process. Therefore, section 14 provides for the following measures to be adopted in this respect:
- Effective measures should be taken to prevent the inhalation and accumulation of dust, fumes etc., in the work-rooms.

- Wherever necessary, an exhaust appliances should be fitted, as far as possible, to the point of origin of dust fumes or other impurities. Such point shall also be enclosed as far as possible.
- In stationery internal combustion engine, exhaust should be connected into the open air.
- In cases of other internal combustion engine, effective measures should be taken to prevent the accumulation of fumes therefrom. It may be pointed that the evidence of actual injury to health is not necessary.
- If the dust or fume by reason of manufacturing process is given off in such quantity that it is injurious or offensive to the health of the workers employed therein, the offence is committed under this Section.
- The offence committed is a continuing offence. If it is an offence on a particular date is does not cease to be an offence on the next day and so on until the deficiency is rectified.

(iv) Artificial humidification (Section 15):

- Humidity means the presence of moisture in the air. In certain industries like cotton, textile, cigarette, etc., higher degree of humidity is required for carrying out the manufacturing process. For this purpose, humidity of the air is artificially increased.
- This increase or decrease in humidity adversely affects the health of workers.
- In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules,-

(a) prescribing standards of humidification;
(b) regulating the methods used for artificially increasing the humidity of the air;
(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;
(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

- In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.
- If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified is not effectively purified, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion would be adopted, and requiring them to be carried out before specified date.

(v) Overcrowding (Section 16):

- Overcrowding in the work-room does not only affect the workers in their efficient discharge of duties but their health also.
- Section 16 has been enacted with a view to provide sufficient air space to the workers. The section prohibits the overcrowding in the work-rooms to the extent it is injurious to the health of the workers.
- Apart from this general prohibition, the section lays down minimum working space for each worker as 14.2 cubic metres of space per worker in every workroom.
- For calculating the work area, the space more than 4.2 metres above the level of the floor, will not be taken into consideration.

- Posting of notice: If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the Provisions of this section, be employed in the room.
- According to Section 108, notice should be in English and in a language understood by the majority of the workers. It should be displayed at some conspicuous and convenient place at or near, the entrance. It should be maintained in clean and legible conditions.
- Exemptions : The chief Inspector may by order in writing, exempt any work-room from the provisions of this section, subject to such conditions as he may think fit to impose, if he is satisfied that non-compliance of such provision will have no adverse effect on the health of the workers employed in such work-room.

(vi) Lightening(Section 17):

- Section 17 made it mandatory to provide and maintain sufficient and suitable lighting, natural or artificial, or both in every part of a factory where workers are working or passing.
- In every factory all glazed windows and skylights used for the lighting of the workroom shall be kept clean on both the inner and outer surfaces and so far as compliance with the provisions of any rules made under section 13 will allow, free from obstruction.
- In every factory effective provision shall, so far as is practicable, be made for the prevention of-

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;
(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

- The State Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

(vii) Drinking water (Section 18):

- Section 18 deals with the provisions relating to arrangements for drinking water in factories.
- It provides that in every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.
- All such points shall be legibly marked “drinking water” in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within six meters of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination] unless a shorter distance is approved in writing by the Chief Inspector.
- In every factory wherein more than two hundred and fifty workers are ordinarily employed, provisions shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.
- In respect of all factories or any class or description of factories the State Government may make rules for securing compliance with the provisions of this section and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

(viii) Latrines and urinals (Section19):

- The section made it mandatory that in every factory-

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;
(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;
(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;
(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

- For the factories employing more than two hundred and fifty workers ordinarily, there shall be provided all latrine and urinal accommodation of prescribed sanitary types; the floors and internal walls, up to a height of ninety centimeters, of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface; the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.
- The State Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

(ix) Spittoons (Section20):

- According to the section, there shall be provided, in every factory, a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.
- The State Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.
- A notice containing the provision shall be prominently displayed at suitable places in the premises that no person shall spit within the premises of a factory except in the Spittoons provided for the purpose. The notice shall also stipulates the penalty for its violation which shall exceeding five rupees.

**Q-9 Explain in detail rules regarding safety of the worker.**

Chapter IV of the Act contains provisions relating to safety. These are discussed below:

(i) Fencing of machinery (Section21):

- According to the section, fencing of machinery in use or in motion is obligatory. This Section requires that following types of machinery or their parts, while in use or in motion, shall be securely fenced by safeguards of substantial construction and shall be constantly maintained and kept in position, while the parts of machinery they are fencing are in motion or in use.
- Such types of machinery or their parts are:

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;
(ii) the headrace and tailrace of every water-wheel and water turbine;
(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and
(iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely,-
(a) every part of an electric generator, a motor or rotary convector;

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery; It is provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when-

(i) it is necessary to make an examination of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion, or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery), it is necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts or lubrication or other adjusting operation while the machinery is in motion, and such examination or operation is made or carried out in accordance with the provisions section 22.

- The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

(ii) Work on or near machinery in motion (Section 22) :

- Section 22 lays down the procedure for carrying out examination of any part while it is in motion or as a result of such examination to carry out the operations mentioned under Section 21.
- Such examination or operation shall be carried out only by specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of appointment and while he is so engaged.
- No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime-mover or any transmission machinery while the prime-mover or transmission machinery is in motion or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication and adjustment thereof would expose the woman or the young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

(iii) Employment of young persons on dangerous machines (Section 23):

- According to the section, any young person shall not be required or allowed to work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and-

  (a) has received sufficient training in work at the machine, or

  (b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine. The above provision shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young person's ought not to work at them unless the foregoing requirements are complied with.

(iv) Striking gear and devices for cutting off power (Section 24) :

- The section provides that in every factory suitable striking gears or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on the fast pulley.
- Further, driving belts when not in use shall not be allowed to rest or ride upon shafting in motion. Suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room in every factory.
- It is also provided that when a device which can inadvertently shift from 'off' to 'on position in a factory', cutoff power arrangements shall be provided for locking the devices on safe position to prevent accidental start of the transmission machinery or other machines to which the device is fitted.

(iv) Self-acting machines (Section 25):

- The section provides further safeguards to the workers injured by self-acting machines.
- It provides that no traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of forty-five centimeters from any fixed structure which is not part of the machine.
- It is provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

(v) Casing of new machinery (Section 26):

- The section provides for mandatory casing of new machinery to safeguard the lives of workers, It makes it mandatory to provide in all machinery driven by power and installed in any factory after the commencement of this Act,-

  (a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;

  (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.
- The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.
- A statutory punishment has been prescribed for everyone who sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions this section or any rules made under there under.
- It has prescribed imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(vi) Prohibition of employment of women and children near cotton-openers (Section 27):

- No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work.
- It is provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

(vii) Hoists and lifts (Section 28):

- Section 28 (1) requires that in every factory every hoist and lift shall be-(i) of good mechanical construction, sound material and adequate strength;

    (ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months and a register shall be kept containing the prescribed particulars of every such examination;

- Every hoist way and lift way shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;
- the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon; the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;
- Every gate referred to shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.
- The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load; (b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running. The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with above provisions upon such conditions for ensuring safety as he may think fit to impose.

- If State Government it is of opinion that it would be unreasonable to enforce any of above requirement in respect of any class or description of hoist or lift, it may, by order, direct such requirement shall not apply to such class or description of hoist or lift. Explanation: For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.

(viii) Lifting machines, chains, ropes and lifting tackles (Section 29):

- The section provides for that the following provisions shall be complied in any factory in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:

(a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be-

(i) of good construction, sound material and adequate strength and free from defects;

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing; and a register shall be kept containing the prescribed particulars of every such examination;

(b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register; and where this is not practicable, a table showing the safe working loads of every kind and size of lifting machine or, chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;
(c) while any person is employed or working on or near the wheel track of a traveling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within six meters of that place.

- The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories-

(a) prescribing further requirements to be complied with in addition to those set out in this section;
(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

- For the purposes of this section a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined.
- Explanation: In this sections, (a) “lifting machine” means a crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway; (b) “lifting tackle” means any chain, sling, rope sling, hook, shackle, swivel, coupling, socket, clamp, tray or similar appliance, whether fixed or movable, used in connection with the raising or lowering of persons, or loads by use of lifting machines.

(ix) Revolving machinery (Section 30):

- This section prescribes for permanently affixing or placing a notice in every factory in which process of grinding is carried on. Such notice shall indicate maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon such shaft or spindle necessary to secure such safe working peripheral-speed.
- Speed indicated in the notice shall not be exceeded and effective measures in this regard shall be taken to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

(x) Pressure plant (Section 31):

- The section provides for taking effective measures to ensure that safe working pressure of any plant and machinery, used in manufacturing process operated at pressure above atmospheric pressure, does not exceed the limits.
- The State Government may make rules to regulate such pressures or working and may also exempt any part of any plant or machinery from the compliance of this section.

(xi) Floors, stairs and means of access (Section 32):

- The section provides that in every factory

(a) all floors, steps, stairs passages and gangways shall be of sound construction and properly maintained and shall be kept free from obstruction and substances likely to cause persons to slip and where it is necessary to ensure safety, steps, stairs passages and gangways shall be provided with substantial handrails,
(b) there shall, be so far as is reasonably practicable, be provided, and maintained safe means of access of every place at which any person is at any time required to work;
(c) when any person has to work at a height from where he is likely to fall, provision shall be made, so far as is reasonably, practicable, by fencing or otherwise, to ensure the safety of the person so working.

(xii) Pits, sumps, opening in floors, etc.( Section 33):

- The section requires that in every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction, or contents is or may be source of danger shall be either securely covered or securely fence.
- The State Government may exempt any factory from the compliance of the provisions of this Section subject to such conditions as it may prescribe.

(xiii) Excessive weights (Section 34):

- This section provides that no person shall be employed in any factory to lift, carry or make any load so heavy as to be likely to cause him injury.

- The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

(xiv) Protection of eyes (Section 35):

- The section requires the State Government to make rules and require for providing the effective screens or suitable goggles for the protection of persons employed on or in immediate vicinity of any such manufacturing process carried on in any factory which involves

(i) risk of injury to the eyes from particles or fragments thrown off in the course of the process or;
(ii) risk to the eyes by reason of exposure to excessive light.

(xv) Precautions against dangerous fumes, gases, etc.(Section 36) :

- In order to prevent the factory workers against dangerous fumes, special measures have been taken under the Factories Act.
- The Act prohibits entry in any chamber, tank, vat, pit, pipe, flue, or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present, to such an extent as to involve risk to persons being overcome thereby, except in cases where there is a provision of a manhole of adequate size or other effective means of egress. [Section 36 (1)].
- No person shall be required or allowed to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to actually remove the gas, fumes or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust; or
(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person outside the confined space. [Section 36 (2)].

(xvi) Precautions regarding the use of portable electric light (Section 36-A) :

➢ The Act prohibits use of portable electric light or any other electric appliance of voltage exceeding 24 volts inside any chamber, tank, vat, pit, pipe, flue or other confined space in any factory unless adequate safety devices are provided; and

➢ if any inflammable gas, fume or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space ,no lamp or light other than that of flame proof construction shall be permitted to be used therein unless adequate safety devices are provided.

(xvii) Explosive or inflammable dust, gas, etc. (Section 37):

➢ The section provides for mandatory requirement to take all practicable measure in every factory where any manufacturing process produces dust, gas, fume or vapour of such character and to such extent to be likely to explode on ignition, to prevent any such explosion.

➢ These practical measures include
(a) effective enclosure of the plant or machinery used in the process (b) removal or prevention of the accumulation of such dust, gas fume or vapour, and
(c) exclusion or effective enclosure of all possible sources of ignition.

(xix) Precautions in case of fire (Section 38):

➢ In every factory all practicable measures shall be taken to outbreak of fire and its spread, both internally and externally and to provide and maintain
(a) safe means of escape for all persons in the event of fire, and
(b) the necessary equipment and facilities for extinguishing fire. Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the outline to be followed in such case.

➢ The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions.

➢ The Chief Inspector may, having regard to the nature of the work carried on in any factory, the construction of such factory, special risk to life or safety, or any other circumstances, by order in writing, require that such additional measures as he may consider reasonable and necessary, be provided in the factory before such date as is specified in the order.

(xx) Power to require specifications of defective parts or tests of stability (Section 39):

➢ If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the occupier or manager or both of the factory an order in writing requiring him before a specified date-
(a) to furnish such drawings, specifications and other particulars as maybe necessary to determine whether such buildings, ways, machinery or plant can be used with safety, or
(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

(xxi) Safety of buildings and machinery (Section 40.):

- If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures, which in his opinion should be adopted and requiring them to be carried out before a specified date.
- If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety he may serve on the occupier or manager or both of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

(xxii) Maintenance of buildings (Section 40-A):

- If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

(xxiii) Safety Officers (Section 40-B)

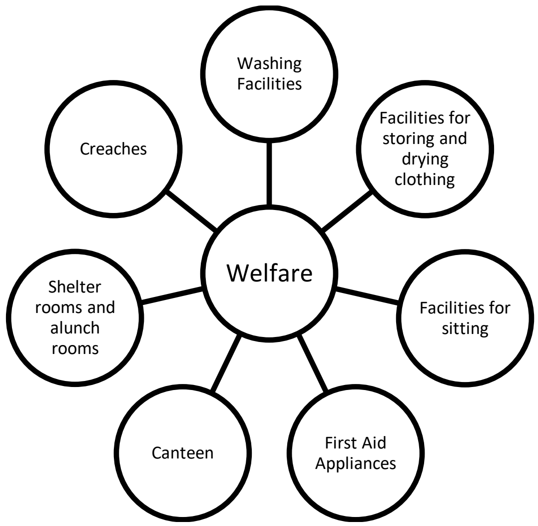
- If State Government requires, by notification in Official Gazette, the occupier shall employ such number of Safety Officers as may be specified in that notification in every factory-
  (i) wherein one thousand or more workers are ordinarily employed, or
  (ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease or any other hazard to health, to the person employed in the factory. The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.

(xxiv) Power to make rules to supplement this Chapter (Section 41):

- This section vests in the State any class or description of factories of such further devices and measures for securing safety of persons employed therein as it may deem necessary.

**Q-10 Explain in detail concept of welfare of the workers.**

WELFARE (SECTIONS 42 TO 50):




(1) washing facilities (Section 42):

- In every factory , there shall be provided
  (a) adequate and suitable facilities for washing shall be provided and maintained for use of the workers therein;
  (b) separate and adequately screened facilities shall be provided for the use of male and female workers;
  (c) such facilities shall be conveniently accessible and shall be kept clean.
- The State Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

(2) Facilities for storing and drying clothing (Section 43):

- The State Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable place for keeping clothing not worn during working hours and for the drying of wet clothing.

(3) Facilities for sitting (Section 44) :

- There shall be suitable arrangements for sitting in every factory and they shall be maintained for all workers obliged to work in a standing position.
- The provision ensures such worker may take advantage of any opportunities for rest which may occur in the course of their work.
- If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room, are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.
- The State Government is vested with the power to exempt, by notification in the Official Gazette, any specified factory or class or description of factories or to any specified manufacturing process from compliance of the provisions of this section.

(4)First-aid-appliances (Section 45):

- In every factory, there shall be provided and maintained so as to be readily accessible during all working hours' first-aid boxes or cupboards equipped with the prescribed contents.
- At least one such box or cupboard shall be provided and maintained for every one hundred and fifty workers ordinarily employed at any one time in the factory.
- It is also mandatory that nothing except the prescribed contents shall be kept in a first-aid box or cupboard. Each first-aid box or cupboard shall be kept in the charge of a separate responsible person, who holds a certificate in first-aid treatment recognized by the State Government and who shall always be readily available during the working hours of the factory.
- There shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment in every factory wherein more than five hundred workers are ordinarily employed. The ambulance shall be in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

(5)Canteens (Section 46):

- The State Government may make rules requiring that the occupier shall provide and maintain a canteen or canteens for the use of the workers in any specified factory wherein more than two hundred and fifty workers are ordinarily employed.
- Without prejudice in the generality of the foregoing power, such rules may provide for-
  (a) the date by which such canteen shall be provided;
  (b) the standard in respect of construction, accommodation, furniture and other equipment of the canteen;
  (c) the foodstuffs to be served therein and the charges which may be made therefore;
  (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;
  (dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer ;
  (e) the delegation to Chief Inspector subject to such conditions as may be prescribed, of the power to make rules under clause (c).

(6)Shelters, rest-rooms and lunch-rooms (Section 47):

- It is mandatory to provide and maintain adequate and suitable shelters or rest-rooms and a suitable lunch-room, with provision for drinking water, where workers can eat meals brought by them in every factory wherein more than one hundred and fifty workers are ordinarily employed.
- It is provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this section. It is also provided further that where a lunch-room exists no worker shall eat any food in the work-room.
- The shelters or rest-room or lunch-room to be provided shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.
- The State Government may

(a) prescribe the standards, in respect of construction accommodation, furniture and other equipment of shelters, rest-rooms and lunch-rooms to be provided under this section;
(b) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.

(7) Creches (Section 48):

- It is compulsory to provide and maintain a suitable room or rooms for the use of children under the age of six years of women in every factory wherein more than thirty women workers are ordinarily employed.
- Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.
- The State Government may make rules-
  (a) prescribing the location and the standards in respect of construction, accommodation; furniture and other equipment of rooms to be provided, under this section;
  (b) requiring the provision in factories to which the section applies, of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;
  (c) requiring the provision in any factory of free milk or refreshment or both for such children;
  (d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

(8) Welfare Officers (Section 49):

- In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.
- The State Government may prescribe the duties, qualifications and conditions of service of officers so employed.
- In the case of Associated Cement Cos. Ltd. v. Sharma, A.I.R. 1965 S.C. 1595, the Supreme Court held that Rule 6 of Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952, requiring the concurrence of the Labour Commissioner before the management can dismiss or terminate the services of Welfare Officer is not ultra vires.

(9)Power to make rules to supplement this Chapter (Section 50) :

- The State Government may make rules-
  (a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter,
  (b) requiring in any factory or class or description of factories that representatives of the workers employed in the factories shall be associated with the management of the welfare arrangements of the workers.

**Q-11 Explain in detail the provisions regarding working hours for adult.**

WORKING HOURS OF ADULTS (SECTIONS 51 TO 66)

(1)Weekly hours (Section 51):

- No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

(2)Weekly holidays (Section 52):

- There shall be holiday for the whole day in every week and such weekly holiday shall be on the first day of the week.
- However, such holiday may be substituted for any one of the three days immediately before or after the first day of the week provided the manager of the factory has:
  (i) delivered a notice at the office of the Inspector; and
  (ii) displayed a notice in the factory to this effect. The effect of all this is that subject to above said conditions (i) and (ii) there shall be a holiday during ten days.
- In other words no adult worker shall work for more than ten days consecutively without a holiday for the whole day.
- It is not possible for an employer to change the weekly off solely on the ground that there was no material available for work to be provided on a particular date, avoiding requirements to be fulfilled under Section 25(m) of Industrial Disputes Act regarding lay off (LAB IC 1998 Bom. 1790).
- Such notices of substitution may be cancelled by an appropriate notice but not later than the day of weekly holiday or the substituted holiday whichever is earlier.

(3)Compensatory holidays (Section 53):

- Where, as a result of the passing of an order of the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.
- The State Government may prescribe the manner in which the holidays for which provision is made shall be allowed.

(4) Daily hours (Section 54) :

- An adult worker, whether male or female shall not be required or allowed to work in a factory for more than 9 hours in any day. Section 54 should be read with Section 59.
- In other words, the daily hours of work should be so adjusted that the total weekly hours does not exceed 48.
- The liability of the employer under this Section cannot be absolved on the ground that the workers are willing to work for longer hours without any extra payment.
- The daily maximum hours of work specified in Section 54 can be exceeded provided
  (i) it is to facilitate the change of shift; and
  (ii) the previous approval of the Chief Inspector has been obtained.

(5) Intervals for rest (Section 55):

- The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.
- The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reason specified therein, exempt any factory from compliance of this section so however that the total number of hours worked by a worker without an interval does not exceed six.

(6)Spread over (Section 56):

- The period of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day.
- It is provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over up to twelve hours.

(6) Night shifts (Section 57) :

- Where a worker in a factory works on a shift which extends beyond midnight,-
  (a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;
  (b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

(7)Prohibition of overlapping shifts (Section 58):

- Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.
- The State Government or subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of this section.

(8)Extra wages for overtime (Section 59):

- Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.
- The ordinary rate of wages here means the basic wages plus such allowances, including the cash equivalent of the advantage accuring through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.
- House rent allowance, though payable to employers who were not provided with accommodation, cannot be taken into account to calculate overtime wages of employees provided with such accommodation (Govind Bapu Salve v. Vishwanath Janardhan Joshi, 1995 SCC (L&S) 308).
- An employer requiring the workman to work for more than the maximum number of hours overtime work postulated by Section 64(4)(iv) cannot merely on this ground, deny him overtime wages for such excessive hours (HMT v. Labour Court, 1994 I LLN 156).

- Where any workers in a factory are paid on a piece-rate basis, the time-rate shall be deemed to be equivalent to the daily average of their full- time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar months during which the overtime work was done, and such time-rates shall be deemed to be the ordinary rates of wages of those workers.
- Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time-rate shall be deemed to be equivalent to the daily average of the earnings of the worker for the days on which he actually worked in the week in which the overtime work was done.
- Explanation. - For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked, such allowances including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.
- The cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food grains and other articles admissible to a standard family.
- Explanation I. - "Standard family" means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.
- Explanation 2. - "Adult consumption unit" means the consumption units of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 8 and 6, respectively of one adult consumption unit.
- The State Government may make rules prescribing-
  (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed; and
  (b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

(9)Restriction on double employment (Section 60):

- No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

(10)Notice of periods of work for adults (Section 61):

- There shall be displayed and correctly maintained in every factory in accordance with the provisions for sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.
- The periods shown in the notice shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, 55, 56 and 58.
- Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

- Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in such group.
- For each group, which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.
- Where any group is required to work on system of shifts and the relays are to be subject to pre-determined periodical changes or shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.
- Where any group is to work on a system of shifts and the relays are to be subject to pre-determined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts, where under the period during which any relay or group may be required to work and the relay which will be working at any time of the day shall be known for any day.
- The State Government may prescribe forms of the notice and the manner in which it shall be maintained. In the case of a factory beginning work after the commencement of this Act, a copy of the notice shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.
- Any proposed change in the system of work in any factory which will necessitate a change in the notice shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since that last change.

(10) Register of adult workers (Section 62):

- The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing-
  (a) the name of each adult worker in the factory;
  (b) the nature of his work;
  (c) the group, if any, in which he is included;
  (d) where his group works on shift, the relay to which he is allotted; and (e) such other particulars as may be prescribed:
- It is provided that if the Inspector is of opinion that any muster-roll or register maintained as a part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster-roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.
- No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.
- The State Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

(11)Hours of work to correspond with notice under section 61 and register under section 62 (Section 63):

- No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

**Q-12 Explain in detail the provisions for the employment of young person.**

EMPLOYMENT OF YOUNG PERSONS (SECTIONS 67 TO 77)

(1)Prohibition of employment of young children (Section 67):

- There cannot be employed any child who has not completed his fourteenth year in any factory.

(2)Non-adult workers to carry tokens (Section 68):

- A child who has completed his fourteenth year or an adolescent can required or allowed to work in any factory only if
  (a) a certificate of fitness granted with reference to him under section 69, is in the custody of manager of the factory, and
  (b) such child or adolescent carries while he is at work, a token giving a reference to such certificate.

(3) Certificate of fitness (Section 69):

- A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory, in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.
- The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew-
  (a) certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;
  (b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year and is fit for a full day's work in a factory:
- It is provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.
- A certificate of fitness granted or renewed
  (a) shall be valid only for a period of twelve months from the date thereof
  (b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring reexamination of the young person before the expiry of the period of twelve months.
- A certifying surgeon shall revoke any certificate granted or renewed if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.
- Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.
- Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions, the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

- Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

(4) Effect of certificate of fitness granted to adolescent (Section 70):

- An adolescent who has been granted certificate of fitness to work as an adult in a factory by the Certifying Surgeon u/s 69 of the Act, is to be treated as an adult for the purposes of working hours and annual leave with wages.
- But in case, such certificate has not been granted to him then irrespective of his age he is to be treated as child for the purpose of this Act. But an adolescent who has not attained the age of seventeen years but has obtained a certificate of fitness to work in a factory as an adult shall be required or allowed to work between 6 a.m. and 7 p.m. only.
- However, the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories: "vary the limit laid down in this sub-section. So, however, that no such sub-section authorise the employment of any female adolescent between 10 p.m. and 5 a.m.;"
- State Government may grant exemption from the provision of this sub-section in case of serious emergency where national interest is involved. Section 71.
- Working hours for children. A child is not permitted to be employed or work in any factory for more than four and a half hours in any day and during the night.
- Here, "night" shall mean a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 A.M.
- The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.
- The provisions of section 52 dealing with weekly holidays shall apply also to child workers and no exemption from the provisions of that section may be granted in respect of any child.
- A child shall be not be required or allowed to work in any factory on any day on which he has already been working in another factory. A female child shall not be required or allowed to work in any factory except between 8 A.M. and 7 P.M.

(5)Notice of period of work for children (Section 72):

- It is mandatory in every factory to display and maintain correctly a notice of periods of work for children in accordance with the provisions of section 108.
- The notice shall show clearly for every day the periods during which children may be required or allowed to work. This requirement is applicable in factories employing children.
- The periods shown in the notice shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.
- The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by this section.

(6)Register of child workers (Section 73):

- It is mandatory for the manager of every factory in which children are employed to maintain a register of child workers.
- This register shall be available to the Inspector at all times during working hours or when any work is being carried on in a factory.
- The register shall contain the following particulars –
  - the name of each child worker in the factory,
  - the nature of his work,
  - the group, if any, in which he is included,
  - where his group works on shifts, the relay to which he is allotted, and
  - the number of his certificate of fitness granted under section 69.
- A child worker shall neither be required nor allowed to work in any factory unless his name and other particulars have been entered in the register of child workers.
- The State Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

(7)Hours of work to correspond with notice under section 72 and register under section 73 (Section 74):

- A child shall not be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory.

(8)Power to require medical examination. (Section 75):

- Where an Inspector is of opinion –
  (a) that any person working in factory without a certificate of fitness is a young person, or
  (b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein, he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be shall be, examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

(9) Power to make rules (Section 76):

- This section has vested power in the State Government to make rules covering the following:
  (a) prescribing the forms of certificate of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificate, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;
  (b) prescribing the physical standards to be attained by children and adolescents working in factories;
  (c) regulating the procedure of certifying surgeons under this Chapter; (d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in

factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

(10)Certain other provisions of law not barred (Section 77):

- The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.

**Q-13 Explain in details Penalties and Procedure of workmen.**

The Factories Act, 1948 was enacted for betterment of condition of workmen in factories. Yet some employers have still not applied the prescribed guidelines. Hence the act prescribes fines and imprisonment if the employers fail to apply factory act in true spirit. Section 92 – 106 provide for Penalties and Procedure along with procedural matters.

| SR. NO | SECTION | PROVISION | PENALTY |
|---|---|---|---|
| 1 | Section 92. General penalty for offences. Who shall be liable? The occupier or manager of the factory | • Except as otherwise expressly provided in this Act and subject to the provisions of section 93<br>• Contravention (i) of the provisions of this Act or (ii) of any rules made thereunder or (iii) of any order in writing given thereunder | Imprisonment-Max. 2 years<br>OR<br>Fine- Max. 1 lakh rupees<br>OR<br>Both |
| | | •Continued Contravention | Further fine which may extend to one thousand rupees for each day on which the contravention is so continued. |
| | | If any of following contravention has resulted in an accident causing death or serious bodily injury: • the provisions of Chapter IV or any rule made thereunder or • under section 87 | (i) Min. Fine Rs.25,000 in the case of an accident causing death (ii) Min. Fine Rs.5,000 in the case of an accident causing serious bodily injury |
| 2 | Section 94. Enhanced penalty after previous conviction. | (i) Contravention of the same provision of Sec. 92. | (i) Imprisonment which may extend to 3 years or with fine, not < Rs.10,000 but which may extend to Rs.2 Lakh or both Provided that the Court |

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| | | | may, for any adequate and special reasons to be mentioned in the judgement impose a fine of less than Rs. 10,000 |
| | | (ii) If contravention of any of the provisions has resulted in an accident causing death or serious bodily injury • of Chapter IV or any rule made thereunder or • under Section 87. | The fine shall not be less than Rs. 35,000 in case of death and Rs. 10,000 in the case of an accident causing serious bodily injury. |
| | | Note: No cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently convicted. | |
| 3 | Section 95. Penalty for obstructing inspector. | Whoever willfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any register or other documents kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any workers, in a factory from appearing before, or being examined by, an inspector | Imprisonment for a term which may extend to six months or with fine which may extend to Rs.10,000 or with both. |
| 4 | Section 96. Penalty for wrongfully disclosing results of analysis under section 91. | Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91. | Imprisonment for a term, which may extend to six months or with fine, which may extend to Rs.10,000 or with both. |
| 5 | Section 96A. Penalty for contravention of the provisions of sections 41B, 41C and 41H.- | (i) in respect of such failure or contravention, (ii) in case the failure or contravention continues (iii) If the failure or contravention continues beyond a period of one year | (i) Imprisonment for a term which may extend to seven years and with fine which may extend to two lakh rupees (ii) with additional fine which may |

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| | | after the date of conviction. | extend to five thousand rupees for every day during which such failure or contravention continues, after the conviction for the first such failure or contravention. (iii) Imprisonment for a term which may extend to ten years |
| 6 | Section 97. Offences by workers. | (1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, (2) Where a worker is convicted of an offence punishable under subsection (1) the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention. | Fine which may extend to five hundred rupees. |
| 7 | Section 98. Penalty for using false certificate of fitness. | Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allow it to be used, or an attempt to use it to be made by, another person, | Imprisonment for a term, which may extend to two months or with fine which may extend to one thousand rupees or with both. |
| 8 | Section 99. Penalty for permitting double employment of child. | If a child works in a factory on any day on which he has already been working in | Fine which may extend to one thousand rupees, unless it appears to the |

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| | | another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, | Court that the child so worked without the consent or connivance of such parent, guardian or person. |

# Unit 4. Other Acts

- *Consumer Protection*
- *Right To Information.*
- *IPR*

**Q-1 Explain the term define in the consumer protection act.**

**DEFINITION OF CONSUMER**

SECTION 2(7) OF CONSUMER PROTECTION ACT DEFINES
(1) CONSUMER AS :

ANYONE WHO,

A. BUYS ANY GOODS FOR A CONSIDERATION WHICH HAS BEEN PAID OR PROMISED OR PARTLY PAID OR PROMISED OR UNDER SYSTEM OF ANY DEFFERED PAYMENT AND INCLUDES ANY USER OF SUCH GOODS OTHER THAN THE PERSON WHO BUYS SUCH GOODS FOR CONSIDERATION PAID OR PROMISED OR PARTLY PAID OR PARTLY PROMISED OR UNDER ANY SYSTEM OF DEFFRED PAYMENT WHEN SUCH USE IS MADE WITH THE APPROVAL OF SUCH PERSON, BUT DOES NOT INCLUDE A PERSON WHO OBTAINS SUCH GOODS FOR RESALE OR FOR ANY COMMERCIAL PURPOSES.

B. Hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised , or partly paid or partly promised , or under any system of deferred payment , when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purposes.

Section 2(1) of the Act defines various terms used in the Act. Some of the definitions are given hereunder:
(2) Complainant means
(i) a consumer, or
(ii) any voluntary consumer association registered under the Companies Act, 1956, or under any other law for the time being in force; or
(iii) the Central Government or any State Government, who or which makes a complaint; or
(iv) one or more consumers where there are numerous consumers having the same interest;
(v) in case of death of a consumer, his legal heir or representative; who or which makes a complaint [Section 2(1)(b)].
(vi) An association of persons, to have locus standi as consumer, it is necessary that all the individual persons forming the association must be consumers under Section 2(1)(d) of the Act having purchased the same goods/ hired the same service from the same party i.e. they should have a common cause of action.
(3) Complaint means:

- any allegation in writing made, with a view to obtaining any relief, by a complainant that

(i) an unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider;
(ii) the goods bought by him or agreed to be bought by him suffer from one or more defects;
(iii) the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
(iv) a trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price– –
(v) fixed by or under any law for the time being in force; –
(vi) displayed on the goods or any package containing such goods;
(vii) displayed on the price list exhibited by him by or under any law for the time being in force – agreed between the parties.
(viii) goods which will be hazardous to life and safety when used are being offered for sale to the public,– –
(ix) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force; –
(x) if the trader could have known with due diligence that the goods so offered are unsafe to the public.
(xi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety. [Section 2(1)(c)].

(4)Goods, :

- in terms of Section 2(1)(i) has been defined to mean goods as defined in the Sale of Goods Act,1930.
- As per Section 2(7) of the Sale of Goods Act, 1930 Goods means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale.
- Therefore, most consumer products come under the purview of this definition. In Morgan Stanley Mutual Fund v. Kartik Das (1994) 3 CLJ 27, the Supreme Court held that an application for allotment of shares cannot constitute goods.
- It is after allotment, rights may arise as per the articles of association of the company.
- At the stage of application there is no purchase of goods for consideration and again the purchaser cannot be called the hirer of services for consideration.

(5)Service:

- The term ‘service’ is defined under Section 2(1)(o) as to mean service of any description which is made available to potential users and includes, but not limited to the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.
- Passengers travelling by trains on payment of the stipulated fare charged for the ticket are ‘consumers’ and the facility of transportation by rail provided by the railway administration is a ‘service’ rendered for consideration as defined in the Act Subscribers of telephones would also be ‘consumer’ under the Act.

(6) Defect means:

- any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or as is claimed by the trader in any manner whatsoever in relation to any goods [Section 2(1)(f)].
- It is clear from the above definition that non-fulfilment of any of the standards or requirements laid down under any law for the time being in force or as claimed by the trader in relation to any goods fall under the ambit of defect. Therefore, contravention of any of the provisions of enactments such as the Drugs & Cosmetics Act, 1950, , the Prevention of Food Adulteration Act, 1955, the Indian Standards Institution (Certification Marks) Act, 1952 etc. or any rules framed under any such enactment or contravention of the conditions or implied warranties under the Sale of Goods Act, 1930 in relation to any goods have also been treated as a defect under the Act.
- Fault, imperfection or shortcoming in quality, quantity, potency, purity or standard as claimed by the trader in any manner whatsoever in relation to goods is to be determined with reference to the warranties or guarantees expressly given by a trader.

(7) Deficiency means:

- any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service [Section 2(1)(g)].
- Failure to maintain the quality of performance required by the law or failure to provide services as per warranties given, by the provider of the service would amount to 'deficiency'.

(8) Restrictive trade practice:

- The Monopolies and Restrictive Trade Practices Act, 1969, has as one of its objects the prohibition of restrictive trade practices. In order to ensure that the benefits of free and fair competition in a market reach the ultimate consumer, it is essential that the process of competition should not be distorted by any trade practice, either by a single manufacturer or a group of manufacturers or dealers.
- For instance, if a manufacturer stipulates a condition that the wholesale purchaser shall sell only his products and not of others or shall resell the goods only at the prices stipulated by him or forces the wholesale purchaser to procure the entire line of manufacture from him, the result may be a distortion of competition in the market.
- The MRTP Act is concerned with promoting fair and free competition in the market, the securing of consumer interest being the ultimate goal.
- The Monopolies Inquiry Commission in its report observed that a restrictive trade practice means a practice which obstructs the free play of competitive forces or impedes the free flow of capital or resources into the stream of production or of the finished goods in the stream of distribution at any point before they reach the hands of the ultimate consumer.
- The Commission list out the following types of restrictive trade practices pursued not only in India but also in many other countries.
- These include

(i) horizontal fixation of price;
(ii) vertical fixation of price and re-sale price maintenance;

(iii) allocation of markets between purchasers;
(iv) discrimination between purchasers;
(v) boycott;
(vi) exclusive dealing contracts; and
(vii) tie-up arrangements.

- The Monopolies Inquiry Commission made a wee-bit of distinction between a monopolistic trade practice and a restrictive trade practice.
- It observed every monopolistic trade practice is on the face of it a restrictive trade practice. Indeed, sometimes the two words are used indiscriminately.
- Thus the report of Macquarrie Committee which was set up to study Canadian Combines Legislation treats all combines or common policy among several firms designed to strengthen the market position of a group of firms as monopolistic practices.
- In our opinion, every practice whether it is by action or understanding or agreement, formal or informal, to which persons enjoying monopoly power resort in exercise of the same to reap the benefits of that power and every action, understanding or agreement tended to or calculated to preserve, increase or consolidate such power should properly be designated as monopolistic trade practice.

(9) Unfair Trade Practice:

- Unfair trade practices in trade and commerce were prevalent even in older days. Priests in Sumaria and Babylon are on record to have lent money to the needy at high rates of interest.
- During the period of Tudors, practices of forestalling (meaning pushing up prices by buying up supplies before they reached market), regrating (buying up supplies in the market), and engrossing (buying up supplies wherever available) were prevalent.
- Thus exploitation at market place is not a new phenomena of modern civilisation.
- At present various types of unfair trade practices are prevalent at National as well as at International markets. The legislative history of countries the world over bears redeeming testimony to the endeavours of the National Governments to enact suitable legislations to curb such unfair trade practices.
- The underlying objective of such legislative endeavours has been to make the behaviour at market place conducive to righteous dealings so that the ultimate consumer gets a fair deal. Senator Murphy, the then Australian Attorney General, introducing the Restrictive Trade Practices Bill of the Commonwealth of Australia in the Senate said: In consumer transactions, unfair practices are widespread.
- The existing law is still founded on the principle known as ‘Caveat Emptor meaning ‘let the buyer beware.
- That principle may have been appropriate for transactions conducted in village markets, it has ceased to be appropriate as a general rule. Now the marketing of goods and services is conducted on organised basis and by the trained business executives.
- The untrained consumer is no match for the businessman who attempts to persuade the consumer to buy goods or services on terms and conditions suitable to the vendor.
- The consumer needs protection by the law and this Bill will provide such protection. It is often said that consumers need no special protection; all can be safely left to the market.
- But the concept of perfect market is an economists dream and consumers sovereignty a myth. In real life products are complex and of great variety and consumers and retailers have imperfect knowledge.

- Suppliers may often have a dominant buying position. As a consequence bargaining power in the market is generally weighed against the consumer.
- Thus consumers have felt the need to create organisations to identify their interests and to supply information and advice. The Federal Trade Commission of US is stated to have labelled under the Federal Trade Commission Act, 1914 numerous practices not known before.
- It was because a need was felt to ensure that the public was prevented from being made victims of false claims of products blatantly advertised even though it may not have an adverse effect on the competition.
- The effort was to shift the emphasis on detention and eradication of fraud against the consumers, particularly those belonging to the weaker sections of the society.

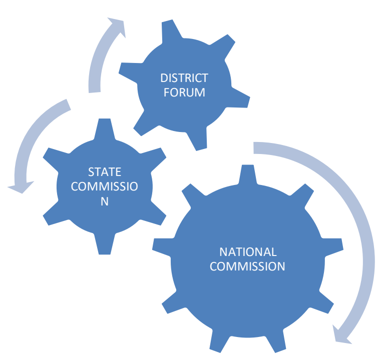
**Q-2 Explain the basic rights of the consumer as specified in the consumer protection act.**

BASIC RIGHTS OF CONSUMER

- The right to be protected against marketing of goods and services which are hazardious to life and property.
- The right to be informed about the quality, quantity, potency, purity, standard and price of goods, or services so as to protect the consumer against unfair trade practices;
- The right to be assured, wherever possible, access to variety of goods and services at competitive prices;
- The right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums;
- The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumer; and
- Right to consumer education

**Q-3 Explain the redressal machinery as defined in the consumer protection act.**

REDRESSAL FORUMS UNDER THE CONSUMER PROTECTION ACT




DISTRICT FORUM

- SECTION 9 OF THE ACT PROVIDES FOR THE ESTABLISHMENT OF THE DISTRICT FORUM BY THE STATE GOVEERNMENT IN EACH DISTRICT .
- However state government may establish more than one district forum in each district.

- Section 10(1) of the act prescribes that district forum may consist of :
  (a) Person who is, or who has been, or is qualified to be, a District Judge, who shall be its President;
- (b) Two other members one of whom shall be a woman, who shall have the following qualifications, namely:

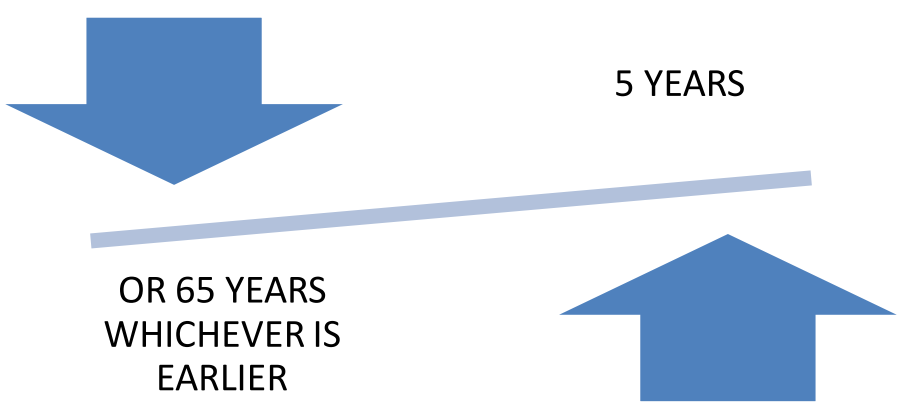
i) be not less than thirty-five years of age,
ii) possess a bachelor's degree from a recognised university,
iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration

DISQUALIFICATION

- Provided that a person shall be disqualified for appointment as a member if he–

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the State Government involves moral turpitude; or
(b) is an undischarged insolvent; or
(c) is of unsound mind and stands so declared by a competent court; or
(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
(e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or
(f) has such other disqualification as may be prescribed by the State Government.

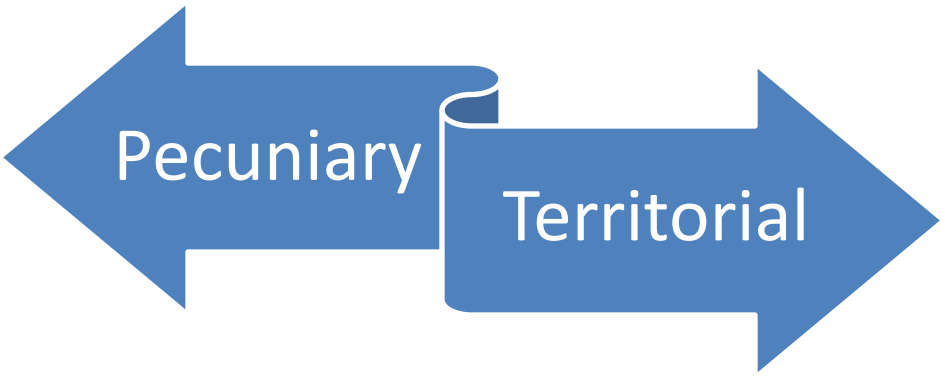
TENURE TO HOLD OFFICE




REAPPOINTMENT PROCEDURE& RESIGNATION

- shall be eligible for reappointment for another term of five years or upto the age of sixty-five years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in Section 10(1)(b) and such re-appointment is also made on the basis of the recommendation of the Selection Committee. A member may resign his office in writing under his hand addressed to the State Government.

JURISDICTION OF DISTRICT FORUM




PECUNIARY LIMITS

- Section 11(1) empowers the District Forum to entertain complaints where the value of goods or services and the compensation, if any, claimed does not exceed rupees twenty lakhs.

TERRITORIAL LIMITS

- Section 11(2) requires a complaint to be instituted in the District Forum within the local limits of whose jurisdiction the opposite party or the defendant actually and voluntarily resides or carries on business or has a branch the opposite party or the defendant actually and voluntarily resides or carries on business or has a branch (where there are more than one) actually and voluntarily resides or carries on business or has a branch office or personally works for gain, at the time of institution of the complaint, provided that the other opposite party/ parties acquiesce in such institution or the permission of the Forum is obtained in respect of such opposite parties; or the cause of action arises, wholly or in part.

EXAMPLE OF CASE

- In the case of Dynavox Electronic Pvt. Ltd. v. B.J.S. Rampuria Jain College, Bikaner (Appeal No. 4/89 before the Rajasthan CDRC), it was held that where in a contract, the machinery was supplied and installed at a particular place, a part of cause of action would be deemed to have arisen at that place, therefore, the complaint could be instituted in the District Forum within whose jurisdiction that place falls.

STATE COMMISSION

- Section 16 of the Act empowers the State Government to establish the State Consumer Disputes Redressal Commission consisting of:

(a) a person who is or has been a judge of a High Court appointed by the State Government (in consultation with the Chief Justice of the High Court) who shall be its President.

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Raiya Road, Rajkot - 360001
Ph.No–(0281)2440478, 2472590

(b) not less than two and not more than such number of members, as may be prescribed, one of whom shall be a woman, who shall have the following qualifications, namely:
(i) be not less than thirty-five years of age,
(ii) possess a bachelor's degree from arecognised university, and
(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

IMPORTANT CONDITION

- It is required that not more than fifty per cent of the members be from amongst persons having a judicial background.
- "Persons having judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level.

DISQUALIFICATION

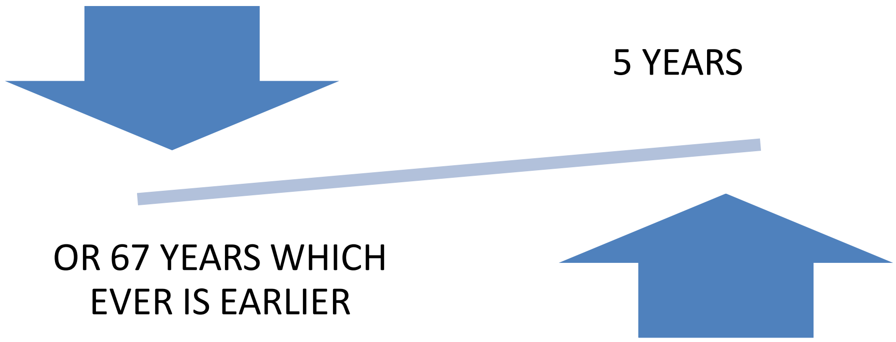
- A person shall be disqualified for appointment as a member if he

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the State Government involves moral turpitude; or
(b) is an undischarged insolvent; or
(c) is of unsound mind and stands so declared by a competent court; or
(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
(e) has in the opinion of the State Government, such financial or other interest, as is likely to affect prejudicially the discharge by him of his functions as a member; or
(f) has such other disqualification as may be prescribed by the State Government.

APPOINTMENT PROCEDURE

- Every appointment shall be made by the State Government on the recommendation of a Selection Committee consisting of the President of the State Commission, Secretary Law Department of the State and Secretary in charge of Consumer Affairs in the State.
- The proviso to this clause states that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.
- Section 16(2) empowers the State Government to decide on the salary or honorarium and other allowances payable to the members of the State Commission and the other terms and conditions of service.

TENURE TO HOLD OFFICE




REAPPOINTMENT PROCEDURE

- shall be eligible for reappointment for another term of five years or up to the age of sixty-seven years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in Section 16(1)(b) and such re-appointment is made on the basis of the recommendation of the Selection Committee.

JURISDICTION OF STATE COMMISSION

Section 17 of the Act provides for the jurisdiction of the Commission as follows:
(a) the State Commission can entertain complaints where the value of the goods or services and the compensation, if any claimed exceed rupees twenty lakhs but does not exceed rupees one crore;
(b) the State Commission also has the jurisdiction to entertain appeals against the orders of any District Forum within the State. However, under second proviso to Section 15 no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty percent of the amount or rupees twenty-five thousand, whichever is less;
(c) the State Commission also has the power to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, if it appears to it that such District Forum has exercised any power not vested in it by law or has failed to exercise a power rightfully vested in it by law or has acted illegally or with material irregularity.

INSTITUTION OF COMPLAINT

A complaint shall be instituted in a State Commission within the limits of whose jurisdiction, -
(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain; or
(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally work for gain, as the case may be, acquiesce in such institution; or
(c) the cause of action, wholly or in part, arisesThe State Commission’s jurisdiction may be original, appellate or revisional. In respect of (c)above, the State Commission may reverse the orders passed by the District Forum on any question of fact or law or correct any error of fact or of law made by the Forum.

TRANSFER OF CASES

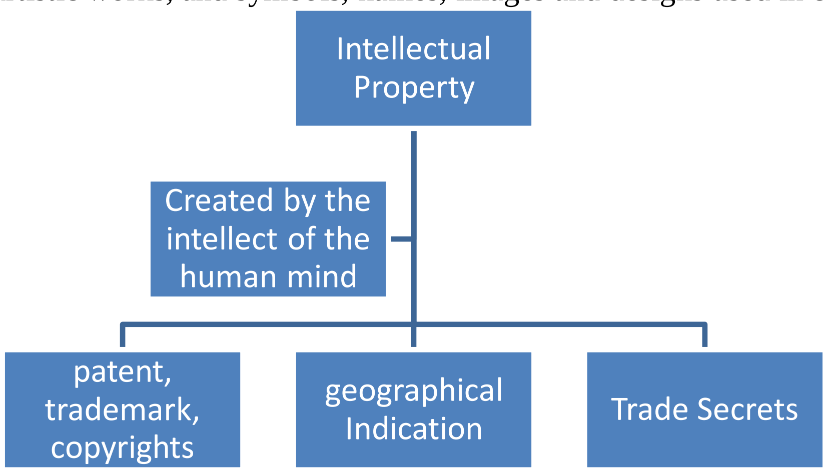
- Section 17A empowers the State Commission on the application of the complainant or of its own motion to transfer, at any stage of the proceeding any complaint pending before the District Forum to another District Forum within the State if the interest of justice so requires.

**INTELLECTUAL PROPERTY RIGHTS :**

**Q-1 Intellectual property rights have a historic background in India. Explain the historical background of intellectual property rights .**

- Over the decades, the scope of the subject of Intellectual Property Rights (IPR) has been expanded and grown to a great extent and has risen to a stature wherein it plays a major role in the development of the Global Economy.
- Since the early 1990s, many developed countries unilaterally strengthened their laws and regulations in this area, and many others were poised to do likewise. At the multilateral level also, the successful conclusion of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the World Trade Organization enhanced the protection and enforcement of IPRs to the level of solemn international commitment.
- The new global IPR system comes with both benefits as well as some costs. The domain of Intellectual Property is vast. Its manifestation in the form of Copyright, Patent, Trademark and Design as some of the Intellectual Property Rights is very well known to have received recognition for a fairly long period of time.
- Newer forms of the protections are also emerging particularly stimulated by the exciting developments in scientific and technological activities.
- This study lesson provides an in-depth understanding to the students about the various forms of the Intellectual Property Rights, its relevance and business impact in the changing global business environment. Besides this, the students will also be acclimatized with the leading International Instruments concerning Intellectual Property Rights.
- As you are aware that the domain of intellectual property is quite vast. Among other domains of intellectual property, Copyrights, Patents
- Trademarks and Designs are known to have received recognition for a long time. Apart from this, newer forms of the protection are also emerging particularly stimulated by the exciting developments in scientific and technological activities.
- In the light of the varied and diversified domains of the intellectual property, the study lesson aims to provide an in-depth understanding to the students about the various forms of the intellectual property, its relevance and business impact in the changing global business environment. Besides, the students will also be acclimatized with the leading International Instruments concerning Intellectual Property Rights.
- Human Beings are distinguished from animals by the intellectual capability endowed on them by the Almighty. The Human Beings have thus elevated themselves to the present 'Civilized State' solely on account of exercise of their intellectual capabilities.
- The property which comes into existence by application of human intellect is termed as Intellectual Property.

- It is product of
  1) Intellectual Capabilities and
  2) Labour Intellectual Property relates to information which can be incorporated in tangible objects and reproduced in different locations.
- For Example, Patents, Designs, Trade Marks and Copyright. The rights accrued on the owner of such property (Intellectual Property) are termed as Intellectual Property Rights (IPR).
- As stated above, Intellectual Property (IP) refers to the creations of the human mind, like inventions, literary and artistic works, and symbols, names, images and designs used in commerce.




- It can be divided into two categories:-
  1. Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and
  2. Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works, such as, drawings, paintings, photographs and sculptures, and architectural designs.
- Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs.
- Intellectual property rights protect the interests of creators by giving them property rights over their creations.
- The most noticeable distinction between Intellectual Property and other forms of properties is that:- Intellectual Property is intangible, that is, it cannot be defined or identified by its own physical parameters.
- It must be expressed in some discernible way to be protectable. Generally, it encompasses four separate and distinct types of intangible properties, namely
  a) Patent
  b) Trademark
  c) Copyright and
  d) Trade Secret,
  which collectively are referred to as "Intellectual Property." However, the scope and definition of Intellectual Property is constantly evolving with the inclusion of newer forms under the ambit of Intellectual Property.

- In recent times, a) Geographical Indications b) Protection of plant varieties c) Protection for semi-conductors and integrated circuits, and d) Undisclosed have been brought under the umbrella of Intellectual Property.
- Intellectual Property Rights are like any other property rights. They allow the creators (or owners) of Patents, Trademarks or Copyrighted works (as the case may be) to benefit from their own respective work or investment in a creation.
- These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.
- The importance of Intellectual Property was first recognized in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the World Intellectual Property Organization (WIPO).
- In short, Property Rights in ideas are no different than the ownership of houses, cars and other forms of private property.
- The rhetoric it builds upon seems convincing at first i.e. you ought to be the exclusive owner of your idea to have the incentive to develop it, the very same way you ought to be the exclusive owner of your land to have incentive to develop it.

**Q-2 write a short note on copyright.**

- Copyright is used to protect works like original creative works, published articles, sound recordings, films, and broadcasts.
- The right exists independent of the medium on which the work is recorded, and therefore buying a copy thereof does not confer a right to copy the work.
- Limited copying in the form of photocopying, scanning, and downloading without permission of the copyright owner is however permissible but only for research activities.
- Further, publication of excerpts or quotes from the work requires a due acknowledgement of the source from which such excerpts or quotes have been taken.
- However, a mere idea is outside the domain of the protection of copyright and thus a mere idea cannot be copyrighted, i.e., only the expression of the idea.
- Copyright also does not exist for a title, slogan or a phrase, although all these can be registered as a trade mark.
- Copyright extends to the internet medium as well like the matter published through web pages which are protected by the copyright law, such that permission is required before copying the matter contained therein or even to insert a hyperlink to it.
- Unlike many other Intellectual Property Rights, Copyright is not necessarily registrable and it arises automatically upon creation of the work itself.
- Further, Copyright can be enforced through the court of law.
- Copyrights protect original works of authorship, such as literary works, music, dramatic works, pantomimes and choreographic works, sculptural, pictorial, and graphic works, sound recordings, artistic works, architectural works, and computer software.
- With copyright protection, the holder has the exclusive rights to modify, distribute, perform, create, display, and copy the work. Section 14 of the Act defines the term Copyright as to mean the exclusive

right to do or authorise the doing of the following acts in respect of a work or any substantial part thereof, namely

- In the case of literary, dramatic or musical work (except computer programme):
  - (i) reproducing the work in any material form which includes storing of it in any medium by electronic means;
  - (ii) issuing copies of the work to the public which are not already in circulation;
  - (iii) performing the work in public or communicating it to the public;
  - (iv) making any cinematograph film or sound recording in respect of the work; making any translation or adaptation of the work. Further any of the above mentioned acts in relation to work can be done in the case of translation or adaptation of the work.
- In the case of a computer programme:
  - (i) to do any of the acts specified in respect of a literary, dramatic or musical work; and
  - (ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme. However, such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.
- In the case of an artistic work:
  - (i) reproducing the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;
  - (ii) communicating the work to the public;
  - (iii) issuing copies of work to the public which are not already in existence;
  - (iv) including work in any cinematograph film; making adaptation of the work, and to do any of the above acts in relation to an adaptation of the work.
- In the case of cinematograph film and sound recording:
  - (i) making a copy of the film including a photograph of any image or making any other sound recording embodying it;
  - (ii) selling or giving on hire or offer for sale or hire any copy of the film/sound recording even if such copy has been sold or given on hire on earlier occasions; and
  - (iii) communicating the film/sound recording to the public. In the case of a sound recording:
- To make any other sound recording embodying it
- To sell or give on hire, or offer for sale or hire, any copy of the sound recording •
- To communicate the sound recording to the public. The main objective of the Act is to give protection to the owner of the copyright from the dishonest manufacturers, who try to confuse public and make them believe that the infringed products are the products of the owner.
- Further, it wants to discourage the dishonest manufacturers from enchasing the goodwill of the owner of the copyright, who has established itself in the market with its own efforts [Hawkins Cookers Ltd. v. Magicook Appliances Co., 00(2002) DLT698].
- Unlike the case with patents, copyright protects the expressions and not the ideas.
- There is no copyright in an idea. In M/s Mishra BandhuKaryalaya& Others v. ShivaratanlalKoshal AIR 1970 MP 261, it has been held that the laws of copyright do not protect ideas, but they deal with the particular expression of ideas. In order to qualify under copyright laws, the work must be fixed in a tangible medium of expression, such as words on a piece of paper or music notes written on a sheet.

- A copyright exists from the moment the work gets created, so registration is required to provide proper protection to one's work and also to prevent the chances of its misuse and unauthorized use. Copyright in India is governed by Copyright Act, 1957.
- This Act has been amended several times to keep pace with the changing times. As per this Act, copyright grants author's lifetime coverage plus 60 years after death under certain classes whereas in other classes it is 60 years in toto.
- Copyright and related rights on cultural goods, products and services, arise from individual or collective creativity.
- All original intellectual creations expressed in a reproducible form will be connected as" works eligible for copyright protections". Copyright laws distinguish between different classes of works such as literary, artistic, dramatic, musical works; and sound recordings; and cinematograph films.
- The work is protected irrespective of the quality thereof and also when it may have very little in common with accepted forms of literature or art.
- Copyright protection also includes novel rights which involve the right to claim authorship of a work, and the right to oppose changes to it that could harm the creator's reputation (Moral Right).
- The creator or the owner of the copyright in a work can enforce his right administratively and in the courts by inspection of premises for evidence of production or possession of illegally made "pirated" goods related to protected works.
- The owner may obtain court orders to stop such activities, as well as seek damages for loss of financial rewards and recognition. A vital field which gets copyright protection is the computer industry.
- The Copyright Act, 1957, was amended in 1984 and computer programming was included with the definition of "literary work.'
- The new definition of" computer programme" introduced in 1994, means a set of instructions expressed in works, codes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result.
- Copyright Protection Enforcement Civil remedies for infringement of copyright.—

(1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction,damages, accounts and otherwise as are or may be conferred by law for the infringement of a right:

(2) Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(3) Where, in the case of a literary, dramatic, musical or artistic work, or, subject to the provisions of sub-section (3) of section 13, a cinematograph film or sound recording, a name purporting to be that of the author, or the publisher,as the case may be, of that work, appears on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(4) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court. Protection of separate rights.— Subject to the provisions of this Act, where the

several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right,been titled to the remedies provided by this Act and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit, action or proceeding.

(5) The greatest fear and challenges to the copyright industry is the piracy of works whether, books, musical works, films, television programmes or computer software or computer database. The special nature of infringement of copyrights in computer programmes has again been taken note of by the Copyright (Amendment) Act, 1994 by inserting a new section 63 B.

(6) The new section provides that any person who knowingly makes use on a computer of an infringed copy of a computer programme will be punishable with imprisonment for a term of not less than seven days, which may extend to three years and with a fine of not less than ` 50,000/- and which may extend to `2,00,000/-. Proviso to section 63 B, however, provides that where computer programme has not been used for gain or in the course of trade or business, the court may at its discretion and for reasons mentioned in the judgment not impose any sentence of imprisonment and impose only fine up to ` 50,000/-.

(7) The Copyright (Amendment) Act, 1999 makes it free for purchaser of a gadget/equipment to sell it onwards if the item being transacted is not the main item covered under the Copyright Act. This means computer software which is built in the integral part of a gadget/equipment can be freely transacted without permission of copyright owner.

(8) This amendment also ensures fair dealing of 'broadcasting' gaining popularity with the growth of the Internet. With this amendment India has updated the Act to meet the concerns of the copyright industries mainly consisting of Book Industry, Music Industry, Film and Television Industry, Computer Industry and Database Industry.

(9) The Copyright Act, 1957 amended in 2012 with the object of making certain changes for clarity, to remove operational difficulties and also to address certain newer issues that have emerged in the context of digital technologies and the Internet.

(10) Moreover, the main object to amendments the Act is that in the knowledge society in which we live today, it is imperative to encourage creativity for promotion of culture of enterprise and innovation so that creative people realize their potential and it is necessary to keep pace with the challenges for a fast growing knowledge and modern society.

**Q-3 Explain the concept of patent and salient features of patent.**

- An invention relating to a product or a process, involving inventive step and capable of industrial application can be patented in India. However, it must not fall into the category of inventions that are non-patentable as provided under Section 3 and 4 of the (Indian) Patents Act, 1970. In India, a patent application can be filed, either alone or jointly, by true and first inventor or his assignee.
- In the United States, patent laws were introduced in 1760. Most European countries developed their Patent Laws between 1880 to 1889. The chronology of Indian Patent Act is as follows :

i) 1856 - The Act of 1856 on protection of inventions based on the British Patent Law of 1852. Certain exclusive privileges granted to inventors of new manufactured for a period of 14 years.

ii) 1859 – The Act modified as act xv Patent monopolies called exclusive privileges (making, selling and using inventions in India and authorizing others to do so for 14 years from the date of filling specifications)

iii) 1872- The patterns & Designs Protection Act

iv) 1883- The protection of Inventions Act

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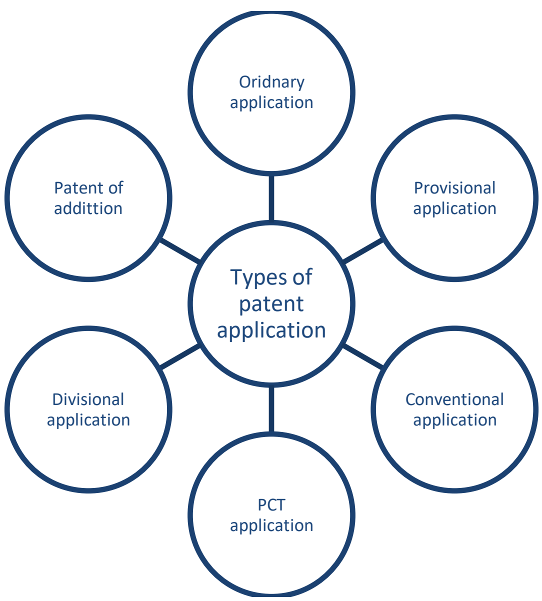
v) 1888- Consolidation as the Inventions & Designs Act
vi) 1911- The Indian Patents & Designs Act
vii) 1970 - The Patents Act, 1970
viii) 1999- On march 26,1999 Patents( Amendment) Act, (1999) came into force from01-01-1995
ix) 2002- The Patents (Amendments ) Act 2002 came into force from 20th May 2003.
x) 2005 - The Patents (Amendment ) Act 2005 effective from 1st January 2005 In India Patent Act was introduced in the year 1856 which remained in force for over 50 years, which was subsequently modified and amended and was called “The Indian Patents and Designs Act, 1911”.

- After Independence a comprehensive bill on patent rights was enacted in the year 1970 and was called “The Patents Act, 1970”.
- Later, India became signatory to many international arrangements with an objective of strengthening its patent law and coming in league with the modern world.
- One of the significant steps towards achieving this objective was becoming the member of the Trade Related Intellectual Property Rights (TRIPS) system.
- Significantly, India also became signatory of the Paris Convention and the Patent Cooperation Treaty on 7th December 1998 and thereafter signed the Budapest Treaty on 17th December 2001.
- Salient Features of the Patent (Amendment) Act, 2005
- In the definition of what are not inventions, the amendment now says “Mere new use or a known substance” is not an invention. In other words, if the applicant can substantiate that it is a new use for a known substance with some technical input such new use can be patented.
- A computer program per se is not patentable but its “technical application to industry or a combination with hardware” is patentable. The scope of patentability of a computer program has now been widened and is more or less on lines with US Patent grant.
- The provision prohibiting product patent for food, medicine, drug and chemical processes has been removed.
- In India with effect from 1st January 2005 product patent is available for medicine, drug, chemical processes and food. This is the most important amendment introduced by the new Ordinance. Product patent regime in respect of drug, medicine, food and chemical processes is implemented in India.
- If a patent application is accompanied by a provisional specification, the complete specification should be filed within 12 months of the filing of the application. Otherwise, the application shall be deemed to be abandoned.
- A patent application shall be examined only on a request in a prescribed manner. Without a request, the patent applications would not be examined as a matter of routine, as it was prior to the year 2003.
- Provisions relating to Exclusive Marketing Rights (EMR) have been removed. EMR provision was introduced in India in the year 1999 in compliance with TRIPS as product patent for drug and medicine was not available in the Indian Act.
- As product patents can now be granted for Drugs, medicines, food, and chemical processes the EMR provision has become redundant and has been repealed.
- When a patent has been published but has not been granted, any person can make a representation to the Controller of Patents requesting him to refuse the application on the ground of lack of novelty, inventive steps, and industrial applicability.

- The Controller shall consider such representation and dispose it off. The person making the representation is not a party to the proceeding. After the grant of a patent but before the expiry of the period of one year from the date of publication of grant of a patent, any person interested may give notice of opposition to the Controller.
- Only after the grant of the patent the application, specification and documents related thereto are opened for public inspection.
- The Act now provides for the compulsory license for manufacture and export of patented pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems provided compulsory license has been granted by such country.
- To avail of this provision, the applicant should satisfy two conditions: 1. The country to which export has to be made has insufficient or no facility to manufacture. 2. The recipient country should grant the compulsory license for the import and sale of the drug
- The Act also provides for an appeal from the order of decision of the Controller to Intellectual Property Appellate Board (IPAB). The power of revocation is also conferred with IPAB.

**Q-4 Explain in details the types of patent application and concept of infringement of patent.**




Types of Patent Applications.-

1. Ordinary Application, i.e., an Application which has been filed directly in the Indian Patent Office and which is non provisional

2. Provisional Application - It is an application which is filled when the invention is under progress and not finalized .

3. Convention Application.- it is filled in the patent office claiming a priority date based on the same or substantially similar application filled in one or more convention countries. For giving status of convention

application an application must be filled in Indian Patent office within 12 months from the date of first filling of a similar application in the convention country.
4. PCT Application- it an international application governed by the patent cooperation treaty and hence can be validated in 142 countries.
5. Divisional Application, which can result from division of a Patent Application.
6. Patent of Addition, which may be filed subsequent to the Filing of an Application for Patent, for an improvement or modification. [Section 7, 54, 135].

**Q-4 Explain the concept of trademark**.

- A trade mark (popularly known as brand name in layman's language) is a visual symbol which may be a word to indicate the source of the goods, a signature, name, device, label, numerals, or combination of colours used, or services, or other articles of commerce to distinguish it from other similar goods or services originating from another.
- It is a distinctive sign which identifies certain goods or services as those produced or provided by a specific person or enterprise. Its origin dates back to ancient times, when craftsmen reproduced their signatures, or "marks" on their artistic or utilitarian products.
- Over the years these marks evolved into today's system of trade mark registration and protection.
- The system helps consumers identify and purchase a product or service because its nature and quality, indicated by its unique trade mark, meets their needs.
- A trade mark provides protection to the owner of the mark by ensuring the exclusive right to use it or to authorize another to use the same in return for payment.
- The period of protection varies, but a trade mark can be renewed indefinitely beyond the time limit on payment of additional fees.
- Trade mark protection is enforced by the courts, which in most systems have the authority to block trade mark infringement.
- In a larger sense, trade marks promote initiative and enterprise worldwide by rewarding the owners of trade marks with recognition and financial profit.
- Trade mark protection also hinders the efforts of unfair competitors, such as counterfeiters, to use similar distinctive signs to market inferior or different products or services.
- The system enables people with skill and enterprise to produce and market goods and services in the fairest possible conditions, thereby facilitating international trade
- A trade mark is a word, phrase, symbol or design, or combination of words, phrases, symbols or designs used in the course of trade which identifies and distinguishes the source of the goods or services of one enterprise from those of others.
- As stated above, the definition of "trade mark" under Section 2(1)(zb) has been enlarged to mean a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from others and may include shape of goods, their packaging and combination of colours and covers both goods and services.
- "Mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof". [Section 2(1)(m)].

- Being an inclusive definition it will thus include any mark within the definition of trade mark so long as the mark is – – capable of being represented graphically;and – capable of distinguishing the goods or services of one person from those of others.

**Q-5 Explain the concept of geographical indication and its salient features.**

- A product's quality, reputation or other characteristics can be determined by where it comes from. Geographical indications (GIs) are place names (in some countries also words associated with a place) used to identify products that come from these places and have these characteristics (for example, "Champagne", 'Scotch whisky' "Tequila" or "Roquefort"). Geographical indications serve to recognize the essential role geographic and climatic factors and/or human know-how can play in the end quality of a product.
- Like trademarks or commercial names GIs are also IPRs, which are used to identify products and to develop their reputation and goodwill in the market.
- The Agreement on Trade Related Aspects of Intellectual Property (TRIPS), prescribes minimum standards of protection of GIs and additional protection for wines and spirits.
- Articles 22 to 24 of Part II Section III of the TRIPS prescribe minimum standards of protection to the geographical indications that WTO members must provide.
- Moreover, TRIPS leaves it up to the Member countries to determine the appropriate method of implementing the provisions of the Agreement (including the provisions on GIs) within their own legal framework (Article1.1).
- Notably, under the Agreement on Trade Related Aspects of Intellectual Property (TRIPS), countries are under no obligation to extend protection to a particular geographical indication unless that geographical indication is protected in the country of its origin.
- India did not have such a specific law governing geographical indications of goods which could adequately protect the interest of producers of such goods.
- This resulted into controversial cases like turmeric, neem and basmati. In the case of turmeric, in March 1995, a US Patent was granted to two NRIs at the University of Mississippi Medical Centre Jackson, for turmeric to be used as wound healing agent.
- This patent was challenged by CSIR at the USPTO on the ground of "Prior Art" claiming that turmeric has been used for thousand years for healing wounds and rashes and hence this was not a new invention.
- Even CSIR presented an ancient Sanskrit text and a paper published in 1953 in the Journal of the Indian Medical Association as documentary evidence. Upholding the objections, the US patent office cancelled thePatent.
- In the case of neem, patents were granted to the US Company WR Grace & Co. for extraction and storage processes.
- The Indian Government filed a complaint with the US Patent Office accusing WR Grace of copying an Indian Invention but later on they realized that the US based company had in fact created a new invention for the neem extraction process and the patent was not based on traditional knowledge and hence government withdrew its complaint.

SALIENT FEATURES

- The salient features of Geographical Indications of Goods (Registration & Protection) Act, 1999 are as under:
  (a) Definitions and interpretations of several important terms like "geographical indication", "goods", "producers", "packages", "registered proprietor", "authorized user"etc.
  (b) Provision for the maintenance of a Register of Geographical Indications in two parts-Part A and Part B and use of computers etc. for maintenance of such Register. While Part A will contain all registered geographical indications, Part B will contain particulars of registered authorized users.
  (c) Registration of geographical indications of goods in specified classes. (d) Prohibition of registration of certain geographical indications.
  (e) Provisions for framing of rules by Central Government for filing of application, its contents and matters relating to substantive examination of geographical indication applications.
  (f) Compulsory advertisement of all accepted geographical indication applications and for inviting objections.
  (g) Registration of authorized users of registered geographical indications and providing provisions for taking infringement action either by a registered proprietor or an authorized user.
  (h) Provisions for higher level of protection for notified goods.
  (i) Prohibition of assignment etc. of a geographical indication as it is public property.
  (j) Prohibition of registration of geographical indication as a trademark. (k) Appeal against Registrar's decision would be to the Intellectual Property Appellate Board established under the Trade Mark legislation. (l) Provision relating to offences and penalties.
  (m) Provision detailing the effects of registration and the rights conferred by registration.
  (n) Provision for reciprocity powers of the registrar, maintenance of Index, protection of homonymous geographical indications etc.

**Q-5 Explain in detail the Offences and Penalties as included in the geographical indication and infringement of the same.**

- Chapter VIII of the Act details certain acts as offences punishable by imprisonment or with fine or with both.
- The legislature has taken a strong view of infringement, piracy, falsification, misrepresentation and has now made them penal offences. The chapter apart from listing penalties for the above-mentioned offences also details the penalty and procedure of prosecution.
- The following are the acts deemed as offences: In the context of offences, what constitutes the meaning of "applying geographical indication has been dealt with in Section 37 and the expression geographical indication has been defined in Section 2 (1) (e).
- Section 38 list two kinds of offences namely:- (a) falsifying a GIand (b) falsely applying aGI.
- The penalty for falsification of GIs and the circumstances in which a person applies false GI are enumerated in Section39. •
- Selling goods to which false GI is applied as outlined in Section40. •
- Enhanced Penalty for subsequent convictions for the offences of falsifying, falsification of GIs or selling goods with falseGIs.

- Falsely representing a GI as registered as listed in Section 42. Misrepresenting the GI as Registered, which has not been actually registered is anOffence.
- Improperly describing a place of business as connected with the GIs Registry as listed in Section 43. •
- Falsification of entries in the Register as listed in Section44.
- No offence in certain cases as provided under Section45. •
- Exemption of certain persons employed in ordinary course of business as provided under Section46.
- Procedure where invalidity of registration is pleaded by the accused as provided in Section18.

## RIGHT TO INFORMATION ACT,2005

**Q-1 Explain in details origin and trend on the right to information act.**

- Throughout the world, the is seen by many as the key to strengthening participatory democracy and ensuring more people-centred development.
- Nearly 70 countries around the world have now adopted comprehensive Freedom of Information Acts to facilitate access to records held by government bodies and another fifty have pending efforts.
- In India also, the Government enacted Right to Information (RTI) Act in 2005 which came into force w.e.f. October 12, 2005.
- Before dwelling on the RTI Act, 2005, mention should be made that in R.P. Limited v Indian Express Newspapers, the Supreme Court read into Article 21 the right to know.
- The Supreme Court held that right to know is a necessary ingredient of participatory democracy.
- In view of transnational developments when distances are shrinking, international communities are coming together for cooperation in various spheres and they are moving towards global perspective in various fields including Human Rights, the expression "liberty" must receive an expanded meaning.
- The expression cannot be limited to mere absence of bodily restraint. It is wide enough to expand to full range of rights including right to hold a particular opinion and right to sustain and nurture that opinion.
- For sustaining and nurturing that opinion it becomes necessary to receive information.
- Article 21 confers on all persons a right to know which include a right to receive information. It may be pointed out that the right to impart and receive information is a species of the right to freedom of speech and expression.
- Article 19(1) (a) of our Constitution guarantees to all citizens freedom of speech and expression.
- At the same time, Article 19(2) permits the State to make any law in so far as such law imposes reasonable restrictions on the exercise of the rights conferred by Article 19(1) (a) of the Constitution in the interest of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency, morality, contempt of court, defamation and incitement of offence.
- Thus, a citizen has a right to receive information and that right is derived from the concept of freedom of speech and expression comprised in Article 19(1) (a).
- The State is not only under an obligation to respect the Fundamental Rights of the citizens, but it is equally under an obligation to ensure conditions under which these rights can meaningfully and effectively be enjoyed by one and all. Right to freedom of speech and expression in Article 19 (1)(a) carries with it the right to propagate and circulate one's views and opinions subject to reasonable restrictions as mentioned above.
- The prerequisite for enjoying this right is knowledge and information. Information adds something "new to our awareness and removes vagueness of our ideas".

- The Right to Information Act, 2005 provides an effective framework for effectuating the right to information recognized under Article 19 of the Constitution.
- It may be pointed out that the Right to Information Bill was passed by the Lok Sabha on May 11, 2005 and by the Rajya Sabha on May 12, 2005 and received the assent of the President on June 15, 2005.
- The Act considered as watershed legislation, is the most significant milestone in the history of Right to Information movement in India allowing transparency and autonomy and access to accountability.

**Q-2 Explain in detail salient features of the right to information act,2005.**

Salient feature

↓

Extends to whole of India except Jammu & Kashmir

↓

It provides for definite day for its commencement i.e 120 days from enactmet

↓

Shall apply to Public Authority

↓

All the citizen have the right to information

↓

The Public Infromation Officers / Assistant Public Information officers will be responsible to deal with the request

↓

Fee will be as per the nature of the information sought

↓

certain information has been exempted as specified under sectio n 8 & 9 of the act

↓

Intelligence and security agencies as specified in Schedule II is exempted

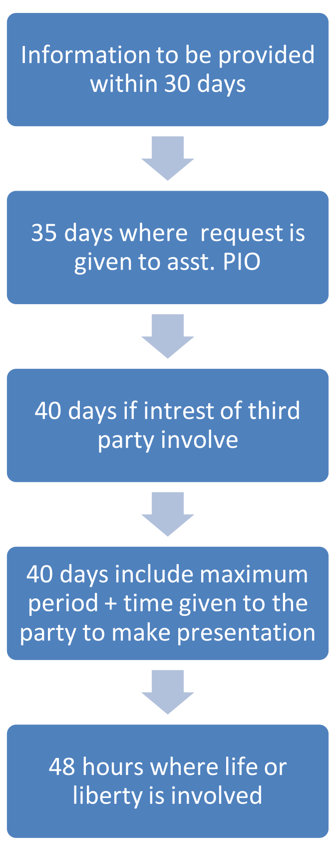
**Q-3 Give the definition of Information and right to Information as per the right to information act, 2005.**

"Information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. [Section 2(f)]

"Right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to– (i) taking notes, extracts, or certified copies of documents or records; (ii) inspection of work, documents, records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device; [Section 2(j)] Section 3 of the Act provides that subject to the provisions of this Act, all citizens shall have the right to information.

**Q-4 Give the key provisions as specified in the right to information act.**

The Act specifies the manner in which requests may be made by a citizen to the authority for obtaining the information. It also provides for transferring the request to the other concerned public authority who may hold the information. Application is to be submitted in writing or electronically, with prescribed fee, to Public Information Officer (PIO).



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# B.B.A. SEM -6
# RETAIL MANAGEMENT

| SR NO. | UNIT NAME |
|---|---|
| 1 | Introduction to Retail Management |
| 2 | Key Decision in Retail Business |
| 3 | Merchandise Management |
| 4 | Some Issues Relating to Retail Business |

# Unit – 1

# Introduction To Retail Management

## Explain concept of Retailing:

- ✓ **The distribution of products begins with the producer and ends at the ultimate consumer. Between the producer and consumer there is a middle man – who is retailer.** Who links the producer and ultimate consumers.
- ✓ The word 'retail' is derived from **The Frenchword retailer which means ' to cut a piece off' or to break bulk.**
- ✓ India has often been called a **Nation of Shopkeepers**. Presumably the reason for this is; that, a large number of retail enterprises exist in India. In 2004, there were 12 million such units of which 98% are small family businesses, utilizing only household labour.

## Characteristics

The followings are some of the essential characteristics of a retailer:

- He is regarded as the **last link in the chain of distribution.**
- He **purchases goods in large quantities from the wholesaler** and **sell in small quantity to the consumer.**
- He deals in **general products** or **a variety of merchandise**.
- He develops **personal contact** with the consumer.
- He aims at **providing maximum satisfaction** to the consumer.
- He has a **limited sphere** in the market.

## Functions

Retailers perform a number of functions. These are:

- The retailer buys a variety of products from the wholesaler or a number of wholesalers. He thus performs two functions like **buying ofgoods and assembling of goods**.
- The retailer performs **storing function** by stocking the goods for a consumer.
- He develops **personal contact** with the consumers and gives them goods on credit.
- He bears the risks in connection with Physical **Spoilage of goods and fall in price.** Besides he bears risks on account of **fire, theft, deterioration in the quality and spoilage of goods**.

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- He resorts to **standardizationand grading of goods** in such a way that these are accepted by the customers.
- He makes **arrangementfor delivery of goods and supply** valuable market information to both wholesaler and the consumer.

## What is retail Management?

- ✓ **Retail Management is the process which helps the customers to procure the desired merchandise form the retail stores for their personal use.** It includes all the steps required to bring the customers into the store and fulfill their buying needs.
- ✓ Retail management **savestime** and **ensures** the customers easily locate their **desiredmerchandise** and **returnhomesatisfied**.
- ✓ Retail management makes shopping a pleasurable experience and ensures the customers leave the store with a smile. In simpler words, retail management helps customers **shop**

## Need for Retail Management

**Example to understand the concept:**Peter wanted to gift his wife a nice watch on her birthday. He went to the nearby store to check out few options. The retailer took almost an hour to find the watches. This irritated Peter and he vowed not to visit the store again.-An example of poor management.

You just can't afford to make the customer wait for long. The merchandise needs to be well organized to avoid unnecessary searching. Such situations are common in mom and pop stores (kirana stores). One can never enjoy shopping at such stores.

**Retail management saves time and ensures the customers easily locate their desired merchandise and return home satisfied**.

- The retailer must keep **a record of all the products** coming into the store.
- The products must be **well arranged on the assigned shelves** according to size, color, gender, patterns etc.

- Plan the **store layout** well.
- The range of products available at the store must be **divided into small groups comprising of similar products.** Such groups are called **categories**. A customer can simply walk up to a **particular category and look for products** without much assistance.
- A unique **SKU** code must be assigned to each and every product for easy tracking.
- Necessary **labels** must be put on the shelves for the customers to locate the merchandise on their own.
- Don't keep the customers **waiting**.
- Make sure the **salesrepresentatives** attend the customers well. **Assist** them in their shopping. Greet them with a **smile**
- The retailer must **ensureenoughstock** is available at the store.
- Make sure the store is **keptclean**. Don't stock unnecessarysmilel furniture as it gives a cluttered look to the store. The customers must be able to **move freely.**
- The store manager, department managers, cashier and all other employees should be trained from time to time to extract the best out of them. They should be well aware of their **roles and responsibilities and customer oriented**. They should be experts in their respective areas.
- The store manager must make daily sales reports to keep **a track of the cash flow**. Use software or maintain registers for the same.
- Remove the **unsoldmerchandise** from the shelves. Keep them somewhere else.
- Create an **attractive** display.
- Plan things well in **advance** to avoid **confusions** later on.
- Ask the customers to produce bills in **caseofexchange**. Assign fixed timings for the same. Don't entertain customers after a week.

## Challenges of Retail Management

Growth of organized retail in India is affected due to following limitations:

1. **Poor Logistic and Infrastructure:**

- ✓ Well-developed transport and communication, facility of warehousing are pre-requisite for the growth of organized retail. **India has poor infrastructure, road connectivity between rural and market centers is not developed. Warehouse facility is poor and it is dismal in case of cold storage.**
- ✓ Due to poor warehousing, **large amount agricultural products are damaged**, that neither benefits consumer or farmer. Banking and insurance is growing but growth is not enough to cover the rural India which is the supplier of inputs and raw- materials for retail industry.

**2. Low per Capita Income:**

- ✓ Around **30% of Indian** Population in middle and rich income category. **Rest 70%** is poor; approximately 30% is classified as below poverty line i.e., they do not have income to buy a day's meal. People in rural India lack liquidity; they do not have adequate cash to enjoy luxuries.
- ✓ Organized retail will have limited scope of growth when large percentage of population is kept outside the system **Indian economy is growing at 6% (GDP) at this level of GDP touch poverty cannot be removed. GDR should constantly touch 10%** to ensure faster economic growth that in turn increase income levels of people and help for better consumption habits.

**3. Complicated Tax Regime:**

- ✓ Tax regime is complicated. There is no unified and single system. Although VAT has come into force, still every state has its own system of taxation. Tax rate is high and there is complication in complying tax formalities. These are creating problems for promoters who want to promote a large retail outlet. It becomes further complicated for an MNC that wants to promote organized retail.

**4. FDI Policies:**

- ✓ **India needs huge Investment** in Retail Logistics like Warehouse, Transportation and Management. It is not only **money** but also necessary **technology** that can only come in the form of FDI (Foreign direct investment) **Politicians and policy** makers are not unanimous for entry of FDI in retail sector.
- ✓ Some section say FDI in retail will kill small retailer and other says growth in retail infrastructure is possible through FDI only.
- ✓ **There is confusion in the states regarding 100% FDI in retail**, FDI in multi brand and single brand unless clear policies are laid down at the center and state, growth of organized retail is difficult.

**5. Education and Training:**

- ✓ Organized retail is described as **semi hospitability Industry**. A Customer must be well treated to ensure repeat sale. (A study says that labour productivity in Indian retail sector is only 6% of its counterpart in America). CRM that is customer relationship management can ensure systematic growth of organized retail.
- ✓ The salesmen who come in personal touch with customer must have the art of managing and satisfying the customer. There are no adequate numbers of institutions in India that educate and train people to handle customers at retail.

**6. Real Estate Prices:**

- ✓ Real estate prices in India for land and building is **exorbitant** cities like Mumbai, Delhi and Bangalore have high land value.
- ✓ Since organized retail needs large area for **amenities like parking, amusement and also to accommodate big building**, major portion of investment is tied up in land and building. This may increase cost of operation. It may be difficult to operate the store economically and profitably.

## Classification of Retailer:

**The retail sector can be primarily classified as:**

1. Unorganized and
2. Organized retailing

## 1. Unorganized Retail:

- ✓ The Indian retail industry was **traditionallydominated** by small family- run kirana stores or neighborhood mom-and-pop store.
- ✓ These shops are **characterized by very small area and limited assortment and varieties stacked in a small place, inefficient upstream processes**, poor infrastructure and lack of modern technology, inadequate funding, and absence of skilled manpower.
- ✓ This **traditional way of retailing** is known as unorganized retailing.
- ✓ In India, unorganized retailing includes units whose activity is not registered by any statute or legal provision, and/or those that do not maintain **regularaccounts**. Hence, this sector is characterized by small and scattered units that sell products or services out of a fixed or mobile location.
- ✓ It consists of **unauthorized** small shops—conventional kirana shops, general stores, corner shops, among various other small retail outlets—but these small shops remain as the radiating force of Indian retail industry. These traditional units generally include

haats, mandis, melas, and the local baniyas/kiranas, paanwalas, and others like cobblers and vegetable/fruit vendors and are termed as the unorganized retailers.

## 2. Organized Retail:

- ✓ **Organized retailers are those who are licensed for trading activities and registered to pay taxes to the government**. Organized retail is nothing but a retail place where all the items are classified and segregated according to their utility, form, and nature and brought under one roof.
- ✓ They are placed in **differentdepartments** and **displayedverysystematically** with their **pricepoints**. These items are then selected by **the customer and billed at point of sale (POS) with a computerized receipt of payment.**
- ✓ Meanwhile, the customer is assisted by the sales staff with a **professionalapproach**. Organized retailing thus provides merchandise with wide variety and deep assortment with a **large number of stock-keeping units (SKUs).**
- ✓ An SKU is a single item of merchandise for which **separatestock** and records of sales are maintained.
- ✓ Organized retail deals with **multipleformats**, which is typically a multi-owner chain of stores or distribution centers run by **professionalmanagement**. Today, organized retailing has become an **experiencecharacterized** by comfort, service assistance, convenience, style, and speed.
- ✓ It is something that offers a customer more pleasure, brand association, variety and choice for selection, loyalty benefits, entertainment, and, hence, a complete shopping experience.

## Importance of Retailing in an Indian Economy

## Retailing in India

- ✓ Retailing in India is one of the pillars of its **economy and accounts for 14 to 15 percent of its GDP.** The Indian retail market is estimated to be US$ 500 billion and one of the top five retail markets in the world by economic value. **India is one of the fastest growing retail markets in the world, with 1.2 billion people.**
- ✓ As of 2013, India's retailing industry was essentially owner manned small shops. In 2010, larger format convenience stores and supermarkets accounted for about 4 percent of the industry, and these were present only in large urban centers. India's retail and logistics industry employs about 40 million Indians (3.3% of Indian population).

- ✓ As a **major source of employment retailing offers a wide range of career opportunities** including; store management, merchandising and owning a retail business.
- ✓ Until 2011, Indian central government denied foreign direct investment (FDI) in multi-brand retail, forbidding foreign groups from any ownership in supermarkets, convenience stores or any retail outlets.
- ✓ As the Indian retailing is getting more and more organized various retail formats are emerging to capture the potential of the market.
    - **Mega Malls**
    - **Multiplexes**
    - **Large and small supermarkets**
    - **Hypermarkets**
    - **Departmental stores** are a few formats which flourishing in the both big and small regional markets
- ✓ "Retailing is a part of the continuous process going in between the farm and the factory and household in which goods are changed in form, packed, transported and subdivided".
- ✓ The importance of retail trade runs through the entire story of human race. From the very beginning of human history, it is found that people traded with one another for necessities of their lives. And throughout, the objective has the same – the struggle of mankind to satisfy his wants.
- ✓ The **Indian retail industry** is the fifth largest industry in the world. It comprises organized and unorganizedsectors; Indian retail industry is one of the fastest growing industries in India, especially over the last few years. Retail is India's largest industry, accounting for over 10 percent of the country's GDP and around eight percent of employment.

**Also, more and more companies are willing to invest in India due to significant growth forecasts based on:**

1. The fact that two-thirds of the country's population is below 35 years of age and more than 50% of the country comprises middle class consumer which adds to the willingness to consume. According to Business Monitor International middle and upper class consumer base has set vast opportunities in India's tier-II and tier-Ill cities.

2. The growth of well-travelled Indians coupled with huge media exposure is creating new needs in the minds of consumers. **Improved mobility and better tourism has made Indian consumers to demand more.**

3. Indians **naturaltendency** to experiment with modern concepts without losing out on **traditionalbehavior**.

4. The greater availability of personal credit has significantly contributed to growing demand for cars, houses, and white goods.
5. India is showing **goodgrowthrate** in terms of gross domestic product (GDP). An agency predicts average annual GDP growth of 7.6 per cent through 2015. Growth means more income and greater availability of things which retailers distribute and make available.
6**. Entry of large diversified business houses** into retail has created a plethora of new and modern retail offering to the consumers.
7. Possibility of FDI in multiband retail and the recent opening up of single brand retail is surely leading to diversified brand offerings to consumers and high competition for retailers. More and more of **foreigncompanies want to establish their stores in India.**
8. The creation of malls across the country and new high streets has suddenly urged traditional retailers to modernize themselves or take risk, otherwise they will be outdated. Development of retail is happening across tier 1, tier 2 and tier 3 towns and this **makes chain store retail interesting.**
9. Technology including technology for more **sophisticated logistics, retail systems, and new payment mechanisms including mobile payments**, sophisticated Customer Relationship capabilities and social media allows for consumers to experiment with multichannel shopping. The government's aim to introduce **GST (Goods and Services Tax)** will also bring in entirely **new logistics system** in the country which would structure stocking points based on transportation and not based on tax impact on goods. This would **create a new level of optimized stock availability** across the supply chain.
Small and regional brands are tying up with retail giants to push their merchandise, as middle class Indians shift from mom-and pop stores to the comfort and variety of modern retail. **BaidyanathAyurvedBhawan** will use Future Supply Chain's network to sell its ayurvedic medicines, tonics, hair oils and toothpastes on more than **2000 outlets** in the country. Future Supply Chain serves several large retailers besides the parent group's Big Bazaar.
10. Retailing is a big source of **employment** in India.

## 10Major Factors Responsible for the Growth of Organized Retailing in India or Drivers of Retail change in India

Some of the factors responsible for the growth of organized retailing are as under:

3- Vaishalinagar
Nr. Amrapali Railway Crossing
Raiya Road, Rajkot – 360001
Ph. No–(0281)2471645 `

2 – Vaishalinagar
Nr. Amrapali Railway Crossing
Raiya Road, Rajkot - 360001
Ph.No–(0281)2440478, 2472590

**1. Growth of middle class consumers**: In India the **number of middle class consumer** is growing rapidly. With **rising consumer demand and greater disposable income** has given opportunity of retail industry to grow and prosper.

They expect quality products at decent prices. Modern retailers offer a **wide range of products and value added services** to the customers. Hence this has resulted into growth of organized retailing in India.

**Growing consumerism** would be a key driver for organized retail in India. Rising incomes and **improvements in infrastructure** are enlarging consumer markets and accelerating the convergence (meeting) of consumer tastes.

2. **Increase in the number of working women***:* Today the urban women are **literate and qualified.** They have to maintain a balance between **home and work.** The purchasing habit of the working women is different from the home maker.

They do not have sufficient time for leisure and they expect everything under one roof. They prefer one-stop shopping Modern retail outlets therefore offers one store retailing.

**3. Value for money**: Organized retail deals in **high volume and are able to enjoy economies of large scale production and distribution**. They eliminate intermediaries in distribution channel.

Organized retailers offer **quality products at reasonable prices**. Example: Big Bazaar and Subhiksha. Opportunity for profit attracts more and more new business groups for entering in to this sector.

**4. Emerging rural market:** Today the rural market in India is facing **stiff competition in retail sector** also. The rural market in India is **fast emerging as the rural consumers** are becoming quality conscious.

Thus due to huge potential in rural retailing organized retailers are developing new products and strategies to satisfy and serve rural customers. In India, Retail industry is proving the country's largest source of employment after agriculture, which has the deepest penetration into rural India.

**5. Entry of corporate sector**: business tycoons such as **Tata's, Birla's, and Reliance etc**. have entered the **retail sector. They are in a position to provide quality products and entertainment.**

**As the corporate – the Piramals, the Tatas, the Rahejas, ITC, S.Kumar's, RPG Enterprises, and mega retailers- Crosswords, Shopper's Stop, and Pantaloons race to revolutionize the retailing sector**.

6. Entry of foreign retailers: Indian retail sector is catching the interest of foreign retailers. Due to liberalization multinationals have entered out country through joint ventures and franchising. This further is responsible for boosting organized retailing.

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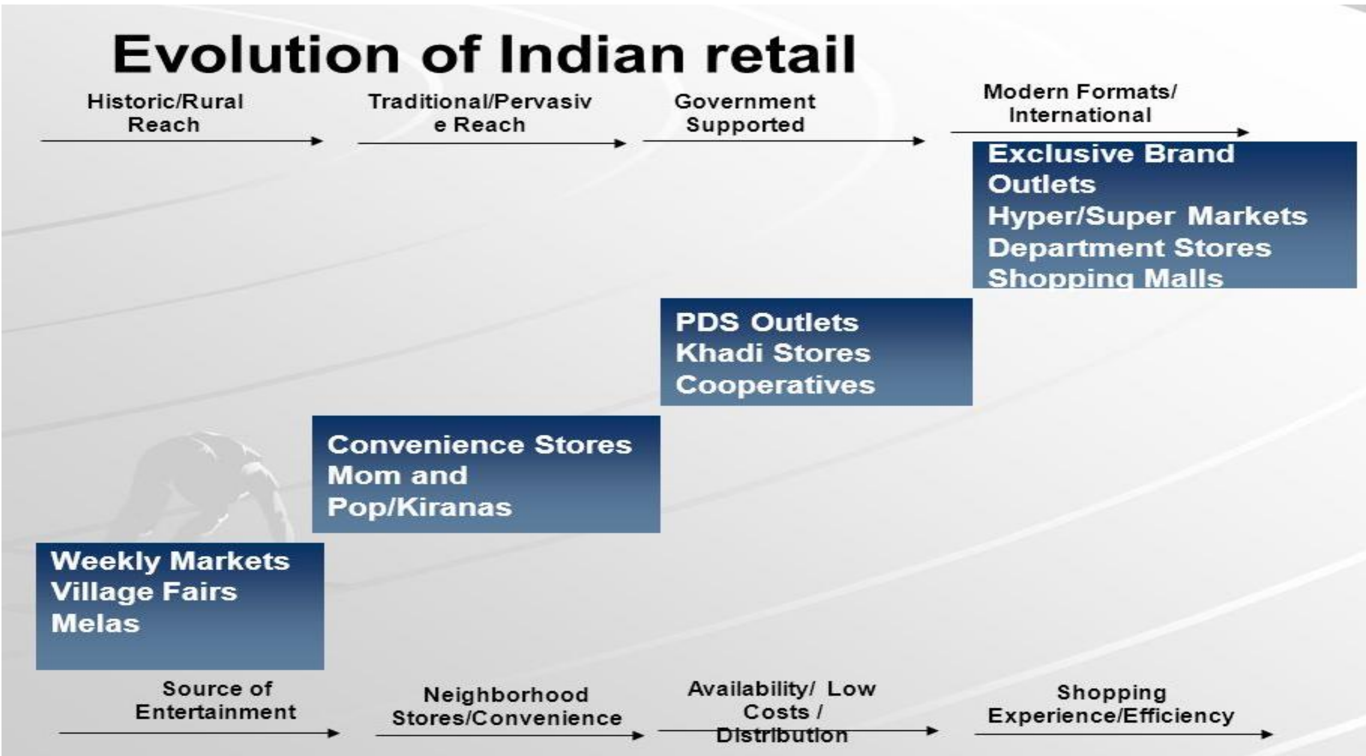
7. Technological impact: Technology is one of the dynamic factors responsible for the growth of organized retailing. Introduction of computerization, electronic media and marketing information system have changed the face of retailing. Organized retailing in India has a huge scope because of the vast market and the growing consciousness of the consumer about product quality and services. One of the major technological innovations in organized retailing has been the introduction of Bar Codes. With the increasing use of technology and innovation retailers are selling their products online with the help of Internet.
8. Rise in income: Increase in the literacy level has resulted into growth of income among the population. Such growth has taken place not only in the cities but also in towns and remote areas.
As a result the increase in income has led to increase in demand for better quality consumer goods. Rising income levels and education have contributed to the evolution of new retail structure. Today, people are willing to try new things and look different, which has increased spending habits among consumer.
**9. Media explosion:** There has been an explosion **in media due to satellite television and internet**. Indian consumers are exposed to the lifestyle of countries. Their expectations for quality products have risen and they are demanding more choice and money value services and conveniences.
**10. Rise of consumerism:** With the emergence of consumerism, the retailer faces a more knowledgeable and demanding consumer. As the business exist to satisfy consumer needs, the growing consumer expectation has forced the retail organizations to change their format of retail trade. Consumer demand, convenience, comfort, time, location etc. are the important factors for the growth of organized retailing in India.
**11. Increase in the number of working women:** Today the **urban women are literate and qualified**. They have to maintain a balance between home and work. The purchasing habit of the working women is different from the home maker. They do not have **sufficient time for leisur**e and they expect everything under one roof. They prefer one-stop shopping Modern retail outlets therefore offers one store retailing.



Evolution of Indian retail
Historic/Rural Reach
Traditional/Pervasive Reach
Government Supported
Modern Formats/ International
Exclusive Brand Outlets
Hyper/Super Markets
Department Stores
Shopping Malls
PDS Outlets
Khadi Stores
Cooperatives
Convenience Stores
Mom and Pop/Kiranas
Weekly Markets
Village Fairs
Melas
Source of Entertainment
Neighborhood Stores/Convenience
Availability/ Low Costs / Distribution
Shopping Experience/Efficiency

# UNIT – 2 KEY DECISION IN RETAIL BUSINESS

## Retail modes and formats

- **Retail Sales by Ownership in India: he term 'retail sales by ownership'** refers to the basic system or basic format of doing business. In India, around 12 million retail outlets are covered under this format. Under this format, proprietor is responsible for the success and failure of the store. It is a type of format, which legally has no separate existence from its owner.
- Opportunities in retail ownership are in **plenty**. From market positioning and operating perspectives, each ownership format serves a particular market and has its own advantages and disadvantages.
- Over Ninety percent retail firms / outlets in India are independent and hence unorganized. With the **globalization** and **borderless economies**, this percentage is coming down but still unorganized stores (mom and pop stores) are in plenty.
- This number may be because of ease of entry. Ownership pattern has its own **competitive advantages** and **disadvantages**. Among independent competitive advantages, main are flexibility, low investments, less interference, quick decisions, direct strategic control, image, consistency, personal attention and entrepreneurial spirit.
- Among disadvantages, common are **limited finance**, less bargaining power, labor intensity, reduced media access, few economies of scale, less expertise, over-dependence on the owner, excess workload and limited planning and supervision due to individual's limitations.

## A. Store based retailer:

Store based retailer is again classified,

## I. On the basis of ownership:

**1. Independent retailer:**

- ✓ An independent retailer is one who owns and operates only one retail outlet. Such stores can be seen under proprietorship. The individual retailer can easily enter into a retail market. The owner is assisted by local staff or his family members. These kinds of shops are passed from one generation to other generation.
- ✓ The independent retailer maintains a good relationship with the customers. Small scale retail business: Single owners can easily start and manage small business units profitably with the help of one or two assistants. It can be a grocery store, stationery shop, or a cloth store, etc.

**2. A chain retailer:**

- ✓ When two or **more retail outlets are under a common ownership it is called a retail chain**. For example: One of a number of retail stores under the same ownership and dealing in the same merchandise. It is called chain retailing.
- ✓ Chain Stores are groups of retail stores engaged in the same general field of business that operate under the same ownership or management, chain stores are retail outlets owned by one firm and spread nationwide. For example, Van Heusen, Food world, Shopper's stop etc.

**3. Franchise:**

- ✓ A franchise is a **contractual agreement between franchisor and a franchisee** in which the franchisor allows the franchisee to conduct a business under an established name as per the business format. In return the franchisee has to pay a fee to the franchiser. For example: Pizza hut, McDonalds, etc.

**4. Leased Department:**

- ✓ **These are also known as Shop in Shops.** When a section or a department in a retail store is rented to the outside party it is called leased department. The licensor permits the licensee to use the property and in turn the licensee pays a fee to the licensor for using his property.

**5. Consumer Co-operatives:**

- ✓ A consumer co-operative is a retail organisation owned by its member customers. The objective is to provide commodities at a reasonable price. For example: SahakariBhandar, Apna Bazaar etc.

## II. On the Basis of Merchandise offered

**1. Departmental Stores:**

- ✓ A departmental store is a large scale retail institution that offers several products from a pin to plane such as clothing, grocery etc. Retail establishment that sells a wide variety of goods.
- ✓ Departmental stores are the largest form of organized retailing today, located mainly in metro cities, in proximity to urban outskirts.
- ✓ They lend an ideal shopping experience with an amalgamation of product, service and entertainment, all under a common roof. Examples include Shoppers Stop, Piramyd, Pantaloon.

**2. Convenience stores:**

- ✓ These are relatively small stores located near the residential area. They offer limited line of convenient products such A ` store is a small store or shop that sells items such as candy, ice-cream, soft drinks, lottery tickets, cigarettes and other tobacco products, newspapers and magazines, along with a selection of processed food and perhaps some groceries, etc.

- ✓ Such stores enable the customers to make quick purchase and offer them few services. They stock a limited range of high-turnover convenience products and are usually open for extended periods during the day; Prices are slightly higher due to the convenience premium.

**3. Super Market:**

- ✓ These are **retail organisations that provide low cost high volume self-service operation to meet consumer requirements.** Most of the super market charge lower price**. Example: Subhiksha**.
- ✓ They are the large self-service outlets, catering to varied shopper needs. These are located in or near residential high streets. A supermarket, also called a grocery store, is a self-service store offering a wide variety of food and household merchandise, organized into department.
- ✓ It is larger in size and has a wider selection than a traditional grocery store and it is smaller than a hypermarket or superstore. Supermarkets usually offer products at low prices by reducing their economic margins.


**3. Hyper Market:**

- ✓ A hypermarket is a **superstore which combines a supermarket and a department store**. Hyper markets are huge retail stores that offer various products such as clothes, jeweler, stationery, electronic goods at cheaper price. Example: Big Bazaar, Star Bazaar, Giant Stores etc. They focus on high volume.

**4. Specialty stores:**

- ✓ A specialty store is a store, usually retail, **that offers specific and specialized types of items**. They offer a narrow product line that concentrates on specialized products such as jeweler, fabrics, furniture etc. Customer service and satisfaction are given due importance.

- ✓ For example, a store that exclusively sells cell phones or video games would be considered specialized  A specialty store specializes in one area.

| Products | Core want | Secondary want |
|---|---|---|
| Glasses | Protection to eyes | It should look goo |
| Shoes | Protection to feet | Elegance in style |

## B. Non-Store Retailing:

**A direct relationship of the retailer with his customer is on the basis of non-store Retailing**. In India around twenty percent of retail sale is from non-store. The proportion of non store is growing steadily.

**It is classified as under:**

1. **Direct Selling:** Direct selling is a retail channel for the distribution of goods and services. There is no fixed retail location. In direct selling there is a direct contact of the retailer with his ultimate customers.
   It is highly an interactive form of retailing. Products like cosmetics, jewellery, food items are sold in such manner. The retailers visit home place or work place of the customers to sell the products. It is also known as network marketing where the products and services are sold face to face.

2. **Mail order:** It is a retail format in which offerings are communicated to the customers through a catalogue, letters or brouchers. Such retailing is suitable for specialty products. The buyer places an order for the desired products with the merchant through a telephone call or website. Internet and online payment options, has made shop from home easier.
3. **Tele Marketing:** It is a form of retailing in which the products are advertised on television. Details about the product in regard to its features, price, warranty, direction to use etc. are mentioned and explained. Phone numbers are provided due to which customers can make a call and place an order for the product
4. **Automatic Vending:** This is a form of **non store retailing in which the products are stored in a machine** and dispensed to the customers when they deposit cash. Vending machines are placed at convenient and busy locations like air ports, shopping malls, working place etc. This machine primarily contains products like chocolates, snacks and drinks etc.

5. **Electronic retailing:** It is also called as **e-tailing or internet retailing.** It is a retail format in which products are offered to the customers through **internet**. The customers can evaluate and purchase the products from their homes or office place. This kind of retail is **gaining importance in recent years.**

## Factors Influencing Retail consumer / Retailer

The consumer behavior or buyer behavior is influenced by several factors or forces. They are: 1. Internal or 1. Psychological factors 2. Social factors 3. Cultural factors 4. Economic factors 5. Personal factors:

### 1. Internal or psychological factors:

The buying behavior of consumers is influenced by a number of internal or psychological factors. The most important ones Motivation and Perception.

**a) Motivation:**A need becomes a motive when it is aroused to a sufficient level of intensity. A motive is a need that is sufficiently pressing to drive the person to act. There can be of types of needs:

**1. Biogenic needs:**They arise from physiological states of tension such as thirst, hunger

**2. Psychogenic needs:**They arise from psychological states of tension such as needs for recognition, esteem

- In the words of William J Stanton**, "A motive can be defined as a drive or an urge for which an individual seeks satisfaction. It becomes a buying motive when the individual seeks satisfaction through the purchase of something"**.
- A motive is an inner urge (or need) that moves a person to take purchase action to satisfy two kinds of wants viz. core wants and secondary wants. Let us take two examples…
- So, motivation is the force that activates goal-oriented behavior.
- **Motivation acts as a driving force** that impels an individual to take action to satisfy his needs. So it becomes one of the internal factors influencing consumer-behavior.

**Figure 6.1**
**Corporate 'Mission Statement' Examples**

**ITC**

"To enhance the wealth generating capability of the enterprise in a globalizing environment, delivering superior and sustainable stakeholder value"

**IKEA**

"to create a better everyday life for the many people by developing good quality, functional and well-designed products at prices so low that the many people can afford them".

**Mc Donalds**

"to be the world's best quick service restaurant experience. Being the best means providing outstanding quality, service, cleanliness, and value, so that we make every customer in every restaurant smile."

**Global Gilete**

"We will provide branded products and services of superior quality and value that improve the lives of the world's consumers. As a result, consumers will reward us with leadership sales, profit, and value creation, allowing our people, our shareholders, and the communities in which we live and work to prosper.

**IBM**

"Operating a safe and secure government"

**The McGraw Hill Companies**

"We are dedicated to creating a workplace that respects and values people from diverse backgrounds and enables all employees to do their best work. It is an inclusive environment where the unique combination of talents, experiences, and perspectives of each employee makes our business success possible. Respecting the individual means ensuring that the workplace is free of discrimination and harassment. Our commitment to equal employment and diversity is a global one as we serve customers and employ people around the world. We see it as a business imperative that is essential to thriving in a competitive global marketplace."

***Courtesy:*** *Company Websites*

- The **mission** also involves the way of store's functioning. How a store will work and accomplish its day to day operations? What is the emergency planning? All are answered in the store's mission statement. For example,Vishal Mega Marts, they have philosophy of customer satisfaction through **"manufacturing to retailing".**

- This reflects not only the way it tends to treat its customers, but discusses the secret of its competitive advantage, i.e. the profit saved from absence of intermediaries like agents and brokers, commission saved is distributed to customers by way of low priced items.
- **Once the organization mission has been determined, its objectives, desired future positions that it wishes to reach, should be identified**. Stores' objectives are defined as ends which the store seeks to achieve by its **USP (Unique Selling Preposition) and operations.**

## The store's objectives may be classified into two parts:

(i) External store objectives, and
(ii) Internal Store Objectives.

- External store objectives are those that define the impact of store on its **environment**, e.g., to develop high degree of customer confidence by providing quality goods at lowers prices. Internal store objectives,
- on the other hand, are those that define how much is expected to be achieved with the available resources, e.g. to raise the store turnover by 15% in the coming year.

## 2. Situational Analysis (SWOT Analysis):

The objective of doing store's situation analysis is to determine where the store is at present and to forecast where it will be if formulated strategies are implemented. The difference between current and future position (forecasted) is known as **planning or strategic gap.** Under organizational analysis, normally stores study their **external (environmental) and internal environments.**

### External Analysis:

The purpose of examining the store's external environment is to study the opportunities and threats in the retailing environment. The external analysis studies factors that affect the macro-environment of retailing industry and the task environment.

**Under external analysis, retailer studies these parameters:**

(i) Economic environment of retailing,
(ii) Political environment of retailing,
(iii) Legal environment of retailing,
(iv) Socio-cultural environment of retailing,
(v) Technological environment of retailing, and
(vi) International environment of retailing.

The store's task environment can be influenced directly by retailer's own policies and includes competitors, suppliers and customers.

### Internal Analysis:

The objective of studying internal environment of its own store is to identify the store's strengths and weaknesses. The store will try to **increase its capabilities, and overcome the weaknesses** that deter the business profit. While doing the **internal analysis, store examines the quality and quantity o**f its available resources and critically analyzes how effective these resources are used.

These resources for the purpose of examining are normally grouped into **human resources, financial resources, physical resources (assets) and intangible resources (goodwill, image etc).**

**The types of questions that are enquired under different resources are:**

**<u>Human resource:</u>**

(a) Is present strength of employees at various levels is sufficient for future action?
(b) Are the employees trained and capable to perform the tasks assigned to them?
(c) Are the employees loyal to store?
(d) Are the employees punctual and regular?
(e) Are the employees skilled in their assigned tasks?

**Financial resource:**

(a) What is the total cash flow from store's present activities?
(b) What is the ability of retail store to collect money at the time of requirement/ emergency?
(c) How much effective and stable financial policies are?
(d) What is the ratio between fixed and current assets?
(e) What are the contingency plans in case of negative cash flow?

**Physical resources:**

(a) What is the contribution of fixed assets?
(b) What is the position of abandoned/unused assets?
(c) How effective and update are the store's information systems?

**Intangible resources:**

(a) What is the present capability of the company's management?
(b) How effective is the R & D cell?
(c) How good is the competitor's intelligence system?
(d) How effective store's loyalty programmes are?
(e) What is the capability of retail store manager?
(f) Are customers loyal towards company's products?

**3. Formulation of Retail Strategy:**

- In this stage, after analyzing the store's capabilities in terms of HR, finance, physical and intangible resources, a store manager formulates retail strategy with regard to marketing, retail positioning and retail mix.

- Marketing is the way to achieve the set objectives. Therefore, marketing strategy should be devised according to store's primary and secondary objectives. Generally, marketing strategy is developed on the basis of product and/or market segmentation instead of the market as a whole.
- Retail Positioning is a plan of store's action for how the retailer will enter the target market and will compete with its main competitors.
- Retail positioning from a retail store's point of view, is a step by step plan to create and maintain a unique and everlasting image of the store in the consumers' mind.
- This process reveals the fact that understanding 'what customer wants?' is the success key to retail positioning in the market.
- Under retail positioning, a retailer conveys the message that its products are totally different and as per customers' requirement. The reason here is that customers are attracted towards items that are new for them with the perception that if it is new, it will have some extra/added features.

**Retail positioning is made possible under these circumstances:**

(i) By differentiating the store's merchandise from its competitors,

(ii) By offering high level of after sales services at nominal/no cost, and

(iii) By adopting low pricing policies.

**Retail Mix is the blend of various retail activities which in total present the whole concept of retailing.** The retail marketing and retail positioning strategies are put into effect by this **retail mix – the set of controllable elements that a retailer can use to satisfy customers' needs and to influence** their buying behavior and compete effectively in the target market. **Utmost care is required on the part of retail manager to select the various elements for a perfect retail mix.**

**The main elements a retail store manager has to face are:**

i. **Store's location**
**ii. Merchandise assortment**
**iii. Pricing policy**
**iv. Customer service mechanism**
**v. Visual merchandising**
vi**. Personal selling efforts**
**vii. Advertising efforts and**
**viii. Store's internal and external environments.**

**4. Strategy Implementation and Control:**It is concerned with the designing and management of retail systems to achieve the **best possible combination of human, financial, physical and intangible resources of a retail store to achieve the formulated objectives, without timely and effective** implementation also requires scheduling and coordination of various retail activities. For example, the **coordination between the marketing and sales promotion department** is a must for sales promotion to make success.

Further, **the spirit of team work** is an essential part for the **success of strategy implementation**. If the retail store's strategies are competitive, marketing efforts are as per demand but the sales promotion employees are not taking it seriously or are ineffective, result will not be up to the mark.

**The implementation of new retailing strategies sometimes require changes in the way of functioning and duties that can lead to resistance from employees.** Therefore, stores should take positive steps to reduce this resistance to change and to convince the employees that it in a long term will be beneficial for both the store and employees.

## Factor affecting Retail store location

**The choice of location is the most vital aspect for any business that relies on customers** of which retailing is the classic example. Deciding on location is the most complex of the decisions to be taken by a retailer. Firstly the costs are very high and once a location has been selected there is very little flexibility. choosing a wrong location can lead to losses and even closure of the store. This makes the selection of the appropriate location the most critical aspect of retailing.

### Importance of location decision in retailing

The importance of location decisions is high due to the following factors:

1. **Location choice** is a major cost factor.
2. It **involves large capital investment** (the high cost of land or building if it is being purchased of recurring cost of rent if it is leased).
3. It **affects the transportation cost structure** (Distance from the manufacturer, distributor etc. affects the total cost of transportation).
4. It has a **significant bearing on human resources cost** (if the retail store is located away from central locations i.e. areas where public transport is weak the cost of employees will be higher as employees will have to be provided with transportation or paid for transport).
5. It is **dependable on the quantum of customer traffic** (depending on the number of consumers who frequent the area).

6. It **affects the volume of business** (if the number of customers visiting the store are low then the volume of business done by the retail store is obviously affected)

## Influencing factors of location

The following factors play a significant role in the location choice of a particular city:

- **Size of the City's Trading Area:** A city's trading area is the area from which customers come to the city for shopping. A city's trading area could include its suburbs as well as its neighboring cities and towns.
- **The Population of the Trading Area:** High growth in the population of an area can also increase the retail potential.
- **The Purchasing Power of the Customers**: Cities with a large population of affluent and upper middle class customers can be an attractive location for stores selling high priced products such as designer clothes or even high value cars which have limited retail outlets.
- **Distribution Networks:**A city may become specialized in certain lines of trade and attract customers from other city.
- **Number, Size and Quality of Competition:**It is important to undertake a detailed study about the number of retail players across segments, their sales and quality of services before selecting a city.
- **Cost of Land, Rent and Other Retail Development Costs:**This is one of the key factors affecting the attractiveness of a city as a prospective retail location. If the cost of rental or the cost of land is very high it would be difficult for a retailer to break even especially if he is dealing in products with lower margins.

# UNIT – 3 MERCHANDISE MANAGEMENT

**Merchandise management** is the process through which each retailer decides what items to carry, how much to have on hand to meet the needs of customers, where they should be displayed in the store to maximize sales, and how they should be priced to sell the best and maximize profits.

The process of merchandising involves **understanding consumer needs**, identifying & sourcing of right merchandise, deciding the right assortment, planning distribution of merchandise to different locations in the right quantities, deciding on the pricing, communicating merchandise offerings to the target customers, and taking feedback of consumers.

## Understanding consumer needs:

1 Identifying and sourcing of **right merchandise**
2 Planning the **right assortment**
3 Planning **distribution** to different locations
4 **Providing** right quantities
5 Deciding the **pricing**
6 Communicating offerings to **target consumers**
7 Taking/understan ding **feedback** of consumers

## Visual Merchandising Defined:

Visual merchandising refers to anything that can be seen by **the customer inside and outside a store**, including displays, decorations, signs and layout of space. The overall purpose of visual merchandising is to get **customers to come into the store and spend money**. Visual merchandising includes how merchandise is presented as well as the store's total atmosphere.

Visual merchandising starts on **the outside of the store or itsexterior presentation** and **carries on to the interior presentation.** It may involve the **ability to create window displays** in fashionable colors and patterns that make customers think the store has what they're looking for and the art of creating other types of displays or dressing mannequins. Keeping up with trends and fashions in the design industry can be useful for these purposes.

## Visual Merchandising store Layout:

Relationship Between **Merchandising** and **Store Layouts**. ... **Store layouts** speak to the design of a **store's retail** floor space and **merchandising** is the display of items, within the **store layout**, in such a way that shoppers are enticed to purchase. The **layout** and the **merchandising** of a **store** are both critical and connected.

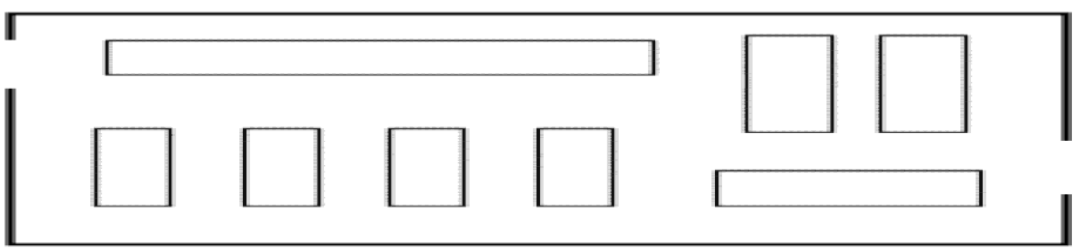
- ☐ A store layout is the design in which a store's interior is set up.

- They are designed to create an attractive image for consumers.
- Encourage customer exploration and help customers move through the stores, by
  - Using a layout that facilitates a specific traffic pattern
  - Providing interesting design elements
  - Making ease of finding merchandise

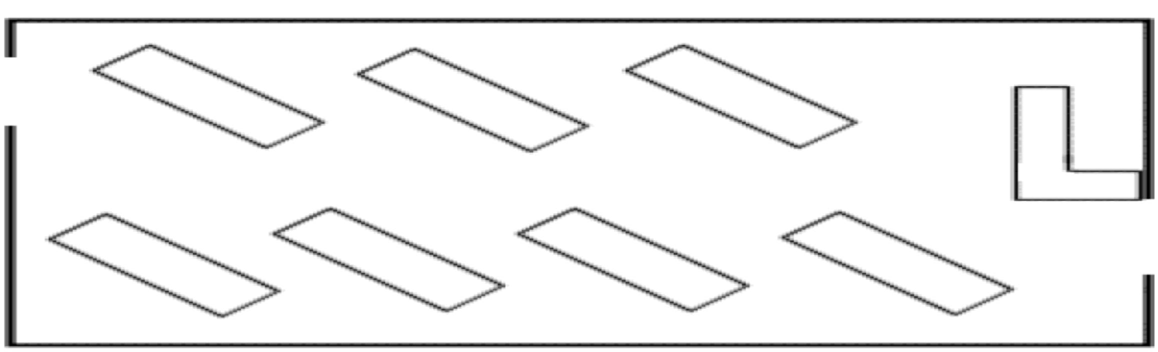
Giving customers adequate space to shop.

- **Straight Floor Plan:** The straight floor plan is an **excellent store layout** for most any type of retail store. It makes use of the walls and fixtures to create small spaces within the retail store. The straight floor plan is one of the most economical store designs.

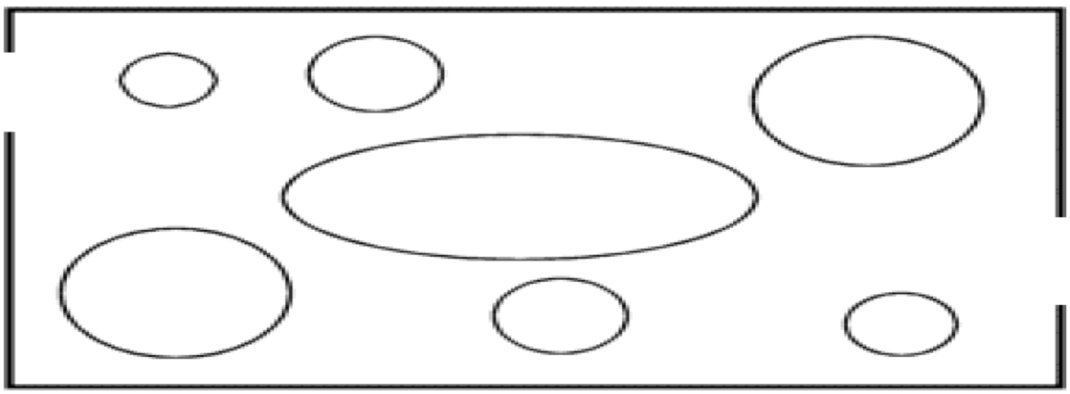
  The downside to this plan is the **sight lines in the store**. Depending on the front entrance, it may be difficult for a customer to see the variety of merchandise you have. **Customers might not quickly find the products they want to purchase.**



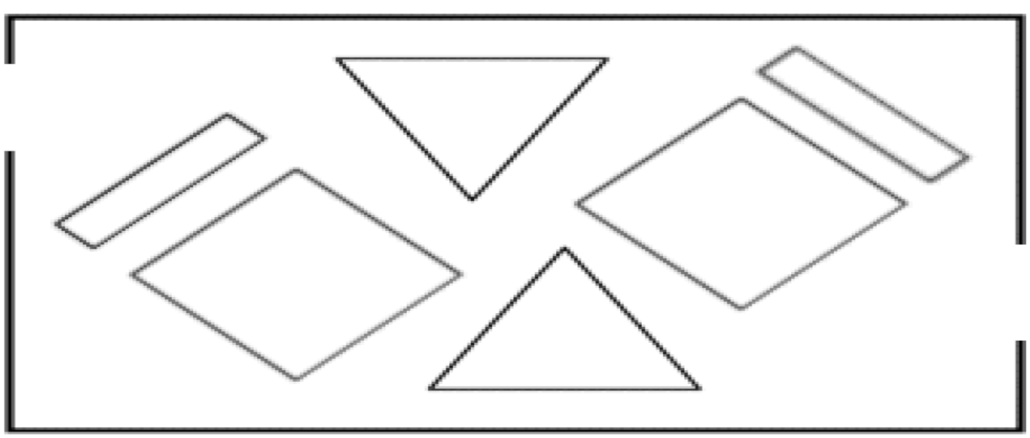
- **Diagonal Floor Plan:** The diagonal floor plan is a good store layout for self-service types of retail locations. It offers **excellent visibility for cashiers and customers**. The diagonal floor plan invites movement and traffic flow to the retail store.
  This plan is more "**customer friendly**." Unlike a **straight plan**, which can feel like a maze, this floor plan offers the customer a more open traffic pattern.



- **Angular Floor Plan:** The angular floor plan is **ideal for high-end specialty stores**. The curves and angles of fixtures and walls makes **for a more expensive store design**. However, the soft angles create better traffic flow throughout the retail store.
  This design has the lowest amount of available display space, so it is best for specialty stores who display edited inventories **versus large section.**

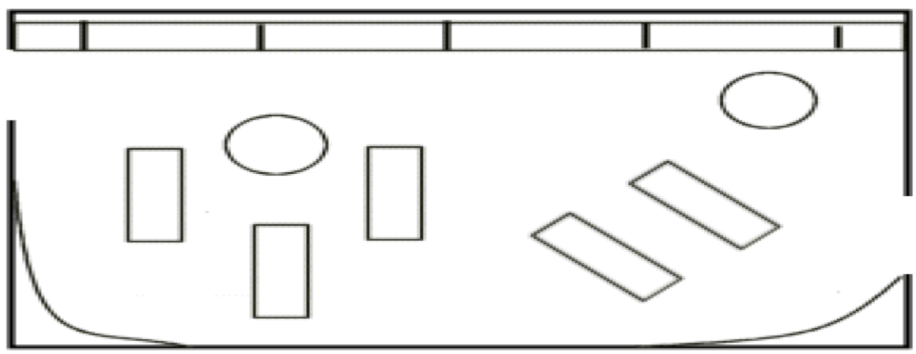


- **Geometric Floor Plan:** The geometric floor plan is a **suitable store design for clothing and apparel** shops. It uses racks and fixtures to create an interesting and **out-of-the-ordinary** type of store design without a high cost.
- This plan makes a statement about the products the store sells and the customers it wants to attract. So make that statement speaks to the message you want to **associate with your brand**.



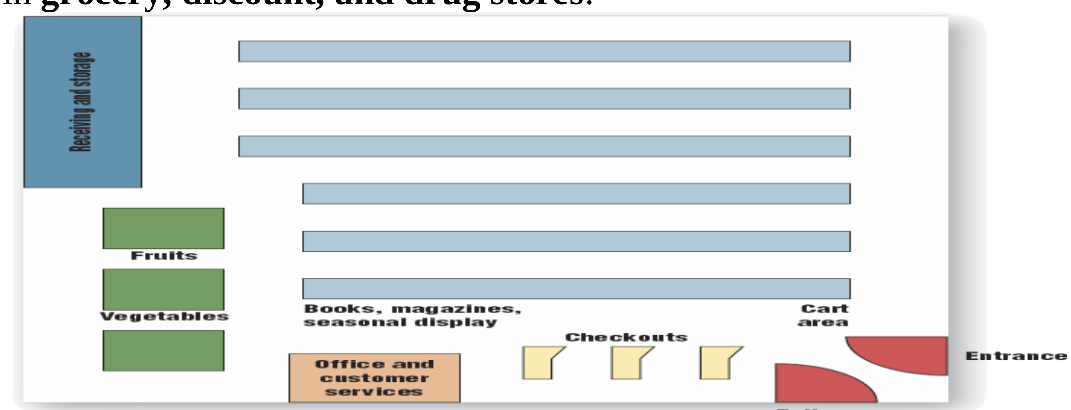
- **Mixed Floor Plan:** As you might have guessed, the mixed floor plan incorporates the straight, diagonal and angular floor plans to create the most functional store design.

The layout moves **traffic towards the walls and back of the store**. It is a solid layout for most any type of retailer. Some of the most-admired examples of customer experience can be attributed to stores that have multiple shapes, elevations, and designs. This appeal to a larger array of customers.



- **Grid flow pattern layout:** Grid flow patterns are **highly structured formats which maximize the available retail space.** The store layout has counters and fixtures placed in long rows or "runs," usually at right angles, throughout the store creating clear aisles for traffic.Examples of stores which often use this are **supermarkets and pharmacies, where customers often shop the whole store.**

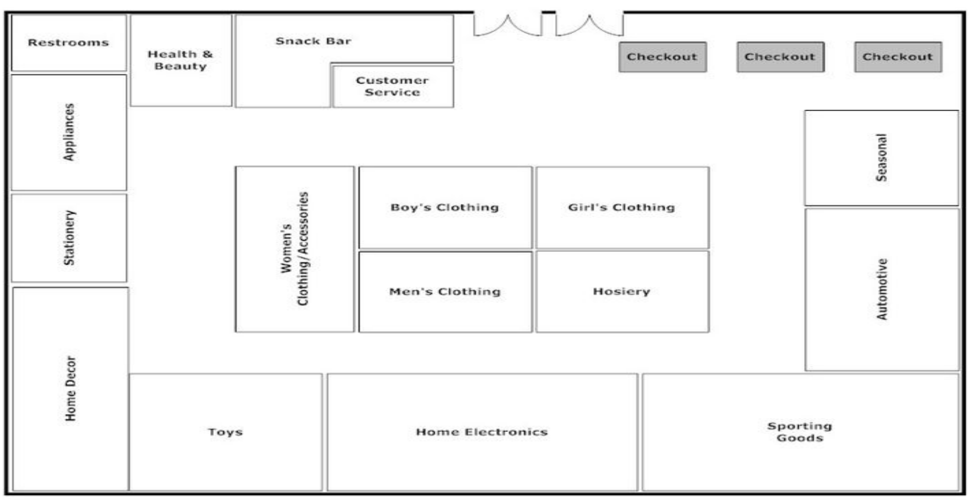
- ☐ Counters and Fixtures are placed in **long rows** or "runs" usually at right angles, throughout the store
- ☐ **Easy to locate** merchandise
- ☐ Allows more merchandise to be **displayed**
- ☐ Cost efficient
- ☐ Does not encourage customers to explore store
- ☐ Used in **grocery, discount, and drug stores**.



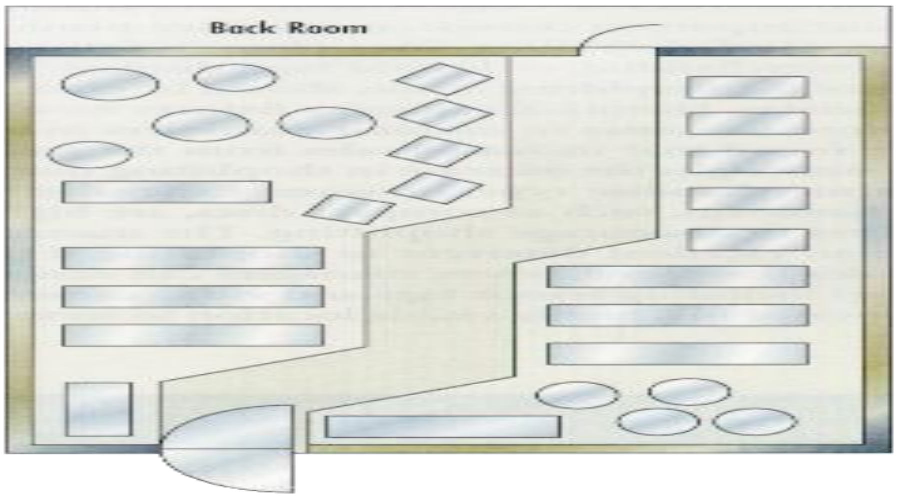
- **Racetrack layout:** The **racetrack layout** is also known as the **loop layout** and emphasizes a perimeter track, thus the name. The idea is to control the path of what the customers see before they get to the checkout. The central area of the store can be put together in a variety of ways to best suit the **merchandise mix.**

  The racetrack layout is also known as **the loop layout and emphasizes a perimeter track**, thus the name. The idea is to control the path of what the customers see before they get to the checkout. The central area of the store can be put together in a variety of ways to best suit the merchandise mix.

  This layout works better than the grid for designing a shopping experience because you can guide the customer past highlighted promotional items. **IKEA** is a big example of the loop layout, which is great for fans of browsing. The downside is that if a customer comes in knowing exactly what they want, he or she may not want to waste their time going through a store's experiential layout.




- **Spine Layout:** **Variation of grid, loop and free-form layouts .Based on single main aisle running from the front to the back of the store** (transporting customers in both directions).On either side of spine, merchandise are kept toward the back or side walls.Heavily used by medium-sized specialty stores ranging from 2,000 – 10,000 square feet




**Trends in store layout:**

- ☐ Sustainable store design
- ☐ Store for intangible products
- ☐ Mobile app to guide customers in store

## Principle of visual merchandising

Visual merchandising is about **presenting your retail space in a way that maximizes your sales**. Strategically presenting your products in your retail space helps you to create **a unique identity for your business**. You can set yourself apart from your competition by making your retail space warm, friendly and approachable.

Retail displays can help your business to achieve sales because these **visual elements make a good first impression on your potential customers.** Retail displays are an element of your **branding**. If customers like the way your store looks and your products are made to look appealing through window, shelf and stock displays, they are likely to spend more time and money at your business.

### Window displays

Create themes for window displays that reflect your **store's style and personality**. Use your window display to make a statement about your business - for example, to say you are elegant, sophisticated, edgy or contemporary. You should:

- be topical and seasonal
- **use props, images, signage and products** to convey an idea and message that will help your customers connect with your products

- **change your window displays regularly** - make sure products in your display are easy to find inside the store but not necessarily at the front, where your customers will need to look no further
- **When you change your window display theme, remember to change your store's interior theme to match.**

## Shelf displays

Plan how you will use your shelf displays to feature your products, and how much shelf space each product will get. You should:

- be careful not to **clutter your products**
- place a **striking or appealing** product in plain view of your entrance
- capitalize on spaces at the end of shelves
- place your popular or targeted products between **eye level and knee level**
- place your **most profitable items at eye level**
- Place products for **children at children's eye levels**.

## Stock displays

Group related stock items together, and use your premium spaces - for example the ends of your aisles - to feature profitable products. You should:

- group **similar products together** to encourage add-on sales - for example, place crockery with cutlery
- group **different but related products together** to help make companion sales - for example, include all components of a bathroom in a bathroom display
- change your product displays **regularly and keep them clean and well ordered**
- **Feature a few product items**, including product blurb and fliers, at your point-of-sale space.

## What Are The Most Important Elements Of Visual Merchandising?

### 1. Color: The Soul

The color palette is the essence of the display. It sets up the **atmosphere and speaks directly to consumers on a subconscious level.** Green signifies health and freshness, orange emanates a feeling of friendliness, red inspires energy, black evokes elegance, blue indicates reliability and yellow shows happiness. Furthermore, **you should ensure that the colors of the display complement the merchandise itself.** Too much of one shade can be detrimental to the overall display, and too little of another may be ineffective.

### 2. Landscaping: The Ups and Downs

The elevation of products is referred to as **landscaping.** This is a great way to seize consumer attention and highlight items. **Consider the size and shape of the merchandise** being displayed when tending to landscaping, as these details will affect how much spotlight is cast on a featured product.

**3. Texture: The Touch and Feel**
Contrast in texture can enhance a display. The smoothness of natural wood can be offset by the textured pattern of manmade wire. Furthermore, textures carry meaning: Wire boasts a modern and industrial feel, wood offers a **local and farm-fresh atmosphere, and metal creates a sleek and durable look**. Figure out the **overall atmosphere** that you'd like to set up and assess which textures will support it, bolstering the effect with contrasting surfaces when possible.

**4. Communication: The story teller**
**Studies have shown that signs has about five seconds to engage customers.** When creating signage, go for legibility and readability. This is controlled through language, colors and font. It doesn't just apply to large signs that feature new or featured items. Assess price tags and store-made product descriptions as well.

**5. Décor: The finishing touches**
The last step in visual merchandising is decor. It **enhances the overall theme of the display** without being distracting. Size, number and color should be considered when incorporating this final element.

## <u>Key challenges in retail branding</u>

In today's world, retail branding implies addressing the following two key challenges:

1. **Online vs. offline brand expectations:** Consumers have altogether different expectations **when they engage with brands online and offline.** This is equally true for retailers. When a consumer is researching or buying a product from an online channel, his or her primary needs are convenience, ease of research (compare, contrast, read feedback & reviews), and the ability to easily access a wide range of products to take a value-driven decision. In an offline channel (physical store), **the primary consumer needs are to physically touch and feel the product, to satisfy a specific shopping occasion and to get a more in-depth evaluation of the product.** In order to satisfy these different consumer needs, it becomes imperative that branding needs to be consistent across this wide variety of needs and channels.
2. **Technology and sensory driven expectations:** When engaging with brands in online channels, consumers are looking for **brand experiences that seamlessly transition between platforms and technologies** (desktops, laptops, tablets, smart phones, etc.).

Superior functionality and ease of use of online channels is a key expectation of consumers, which leads to the need for impressive visual features. In the physical world, consumers are expecting to be impressed by **holistic brand experiences.** This has been the trigger behind retail stores morphing into experience centers – think Samsung Experience Stores – or even places where you only experience brands (and not having the need to buy them).

These diverse, and sometimes contrasting, needs have defined the evolution of retail branding as a discipline. **The successes of brands** like Apple, Starbucks, Hermes, Samsung and Disney are largely driven by the superior retail experience they provide. Premium and luxury brands design physical retail touch points that have the ability to propagate the same exclusivity perception that the brands stand for. This is not only true for single-brand retailers (like the examples above) but also for multi-brand retailers.

**Multi-brand retail is a massive segment,** which includes all supermarket and grocery chains. Branding in this segment has also evolved beyond the mundane, but there is still a significant scope for improvement. Multi-brand retail is predominantly a 'price-tier' driven segment, but those who have been **successful have evolved their branding beyond price-based positioning.** Opening more stores as a strategy for growth is increasingly becoming a thing of the past, with pressure from e-commerce and the rising costs of maintaining an expansive physical presence. The focus has now moved to aspects of trust, community, sustainable sourcing, honesty, choice and value for money.

## Best practices for successful retail branding

Regardless of whether it is single-brand or multi-brand retail, strong branding in the retail industry requires a comprehensive understanding and appreciation of the following key aspects:

1. **Understanding the evolution of consumer decision journeys:** The fundamental premise of branding is to put forward a differentiated positioning at key stages of the consumer decision journey. **The way consumers engage with retailers has seen a fundamental shift in the last few years.** The decision journey is **highly unstructured and non-linear**, there are **multiple points of infraction and brands can enter and exit the consideration set at any stage of the journey.** For effective retail branding, an in-depth understanding of these **decision journeys is critical.** Branding needs to be strong and consistent across all touch points, convey a differentiated positioning and hold the consumer within its universe (i.e. within online and offline channels).
2. **Keeping on top of global trends:** We live in a world where our lives are influenced more by events and people living thousands of miles away from us, rather than our next-door neighbors. The emergence of social media platforms has magnified the pace at which remarks become opinions, opinions become thought-pieces, thought-pieces become voices and voices become trends. Retailers need to stay on top of these trends to be relevant

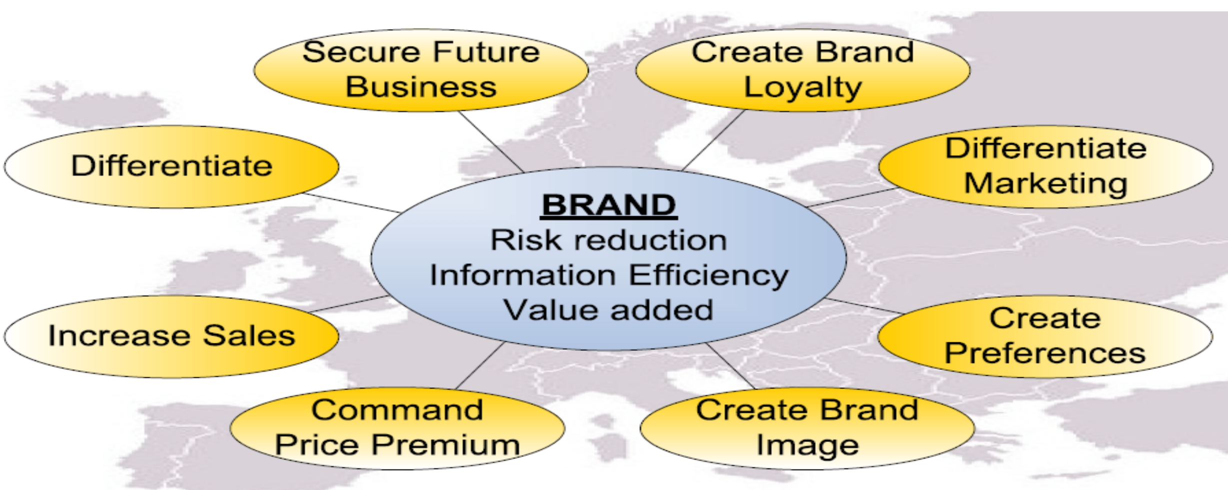
shopping destinations for consumers. **The age old positioning of Zara as the doyen of fast fashion is increasingly under threat from startups that have disrupted traditional fashion retail business models**. Trends will impact the lines that a retailer should carry. Branding needs to be strong enough to encompass these changes and keep a retailer relevant as its product lines evolve.

3. **Embracing technology driven capabilities:** As retailers look at creating and delivering experiences, embracing technology as an enabler of a strong brand is important. The use of digital signs is now commonplace in retail stores, but there is far greater potential. In special Starbucks Reserve stores, arty images are projected on to walls. Each Starbucks Reserve store in the world is designed differently to provide a **"coffee theater"** experience. **Luxury brand Hermes created a virtual e-store to showcase** its silk squares, shawls, twills, scarves and stoles collections. Technology is becoming a core element of branded experiences and retailers need to embrace more of it in their branding strategies.
4. **Political boundaries do not exist:** Retail is **now a seamless global phenomenon.** E-commerce has rapidly dissolved the barriers of purchasing and experiencing global brands. Retailers like Amazon and Alibaba have redefined the way global retail business models need to be developed. **Consequently, any retail branding initiative needs to embrace a global mindset right from the very beginning**. As traditional retailers develop and implement online channels, it is **critical to understand the fact that online does not have the limitations of physical retail.** Alibaba, for example, has the potential to enter any global market using the scalability factor of its platform. Amazon is rapidly expanding globally using a consistent strategy comprising of a brand name with strong equity, expertise in mastering local level logistics and operational challenges and investing heavily in emotional and functional brand building. We still have not seen similar success levels for traditional physical retailers, which illustrates the challenges of managing infrastructure at a global level.
5. **Personalization is the new strategic differentiator:** Today's consumers are spoilt with choices and have more power over where and when they want to exercise these choices. Retail brands that do not invest in creating individual experiences risk being pushed down the consideration set or even out of it**. Consumers are now expecting personalized experiences even when they are shopping at value or discount-pricing retailers.** Successful branding strategies need to be able to provide such experiences at each and every consumer touch point. **The retail industry has embraced big data analytics capabilities to create such experiences, but the link between data analytics and branding continues to be weak**. There are significant opportunities to revamp loyalty card programmes also, which have immense potential to strengthen brand equity.

## The key to a sustainable retail branding strategy

The challenge of mordernretail branding strategies is primarily around maintaining consistency of positioning and communication across all possible touch points. Touch points have proliferated from mere physical stores to **online buying channels available on multiple platforms and devices** (desktops, laptops, tablets and Smartphone). In addition to buying channels, retailers also need to maintain a continuous online presence for visibility and reinforcement of key positioning elements. Fragmentation and proliferation of media vehicles and the emergence of social media as e-commerce platforms (Twitter, Instagram, Pinterest, Snapchat, Tumblr etc.) means that retailers have more touch points to manage. This multiplicity of touch points makes it more difficult for retailers to have a consistent brand image and identity.

## Function of Branding




**Branding is a powerful instrument of promotion which performs the following functions:**

**(i) Distinctiveness:**

A brand name creates a **distinctive impression** among the customers. For instance, different brands of soap such ‘Cinthol’, ‘O.K.’, ‘Lux’, Tears’, ‘Vigil’, etc. create **different impressions** upon the users, though the article is the same, i.e., soap. Thus, **a branded product enjoys distinct or separate identity.**

**(ii) Publicity:**

A brand name enables its holder to **advertise his product without any difficulty**. Once a brand name becomes popular, **people remember it for long.**

**(iii) Protection of Goods:**

Generally, the branded products are packed in suitable containers or wrappers which provide protection to the goods against heat and moisture and facilitate convenient handling. The customers derive many other benefits from the branded products. They are **assured of the quality of the branded products.**

**(iv) Consumer Protection:**

The prices of branded products are fixed by the manufacturers and are printed on the packages. This protects the interest of the consumers because the retailers cannot charge more than the printed prices. **The prices of branded goods remain fixed at different places and over a considerable period of time.** They are not changed so frequently since it involves great inconvenience to the firm and a considerable cost in advertising the new price.

**(v) Wide Market:**

**Branded products are quite popular and have wide market.** The wholesalers and retailers readily handle the branded products which are advertised.

**(vi) Customer Loyalty:**

**Branding ensures better quality at competitive prices.** Branded products are available in all parts of the country at uniform prices. **This tends to create brand loyalty on the part of customers.** They ask for the goods by their brand name such as Taj Mahal (tea leaves), Nescafe (Coffee), Tata (Iodised Salt), Natraj (Pencils), etc.

## Key Challenges of retail branding

**1.Keeping up with ever-changing customer expectations**

**Customer preferences will always change, sometimes even faster than you can imagine.** As a retailer, you should be able to keep up with the **seasonal trends as well as your customer shopping behavior.** You don’t need to **totally change your products in every season,** you just need to add some different elements to your products in accordance with what is trending. In short, you must never forget to innovate!

**2. Maintaining customer loyalty**

Good customer experience is a key factor in **creating brand loyalty.** One of the common mistakes made by retailers is let their existing customers go and think they can easily replace them. If you keep this mindset, you will find it hard to sustain your business growth.

While promotions and special offers are still the mainstay of the retailers to retain their customers, the real key to **an amazing customer experience is personalization.** In order to keep your customers loyal, you need to use a personal approach, for example by sending them mails that have been adjusted to their preferences and needs. **A CRM system can help you maintain your customers' details and send personalized mails more easily.**

**3. Managing internal communication**

**Retail has complex operations and managing its internal communication is not an easy task.** This challenge is mainly faced by large-scale retail companies with multiple divisions. Inefficient communication between divisions can disrupt the business processes.

Retailers should opt for a system that can streamline their internal communication. **An ERP system can be the perfect solution for managing internal communication within retail companies.** The software is able to centralize all of the business operations, generate real-time and comprehensive reports from each division, automate the task distribution across divisions, and **ensure the entire process run properly.**

**4. Retaining and engaging employees**

**Retail is one of the industries with the highest employee turnover rates.** Retaining staff is one of the toughest challenges in the industry. Meanwhile, replacing employees requires a lot of energy and costs.

The solution to this challenge is to increase employee engagement within your company. **Provide regular training to optimize their competencies.** To make it easier for you to cultivate and maximize their potential, consider utilizing the help of automated solutions such as **an HR management system or a competency management system.**

**5. A high-stakes global game of digital disruption**

**Consumer behavior changes very quickly.** Now with the growth of ecommerce, consumers have plenty of choices before making a purchase decision. Although ecommerce has a dramatic impact on consumer behavior, but reports show that consumers still love to make purchases for most products in-store. **They usually go to the internet to search for product information and compare the price, but would still buy it offline.**

The phenomenon of ecommerce growth shouldn't be considered a threat, but an opportunity. **Retailers can merge online and offline businesses.** Deloitte reported that **56%** of in-store retailers involve a **digital website and web-influenced physical store sales are about 5X online sales.** An Omni channel marketing strategy can help retailers reach wider audience for their brands.

**6. Finding the best technology solutions for the retail industry**

There are many technologies developed for **various businesses** that offer various prices and benefits. Retailers have been looking for the best automated solutions to simplify their business processes, yet **their choices often fall on the wrong software, either they're difficult to use or don't really have abilities to overcome retail challenges**.

# UNIT – 4 SOME ISSUES RELATING TO RETAIL BUSINESS

## Definition and characteristics of Services

**The American Marketing Association defines services as - "Activities, benefits and satisfactions which are offered for sale or are provided in connection with the sale of goods."**

The defining characteristics of a service are:

- **Intangibility:** Services are intangible and do not have a physical existence. Hence services cannot be touched, held, tasted or smelt. This is most defining feature of a service and that which primarily differentiates it from a product. Also, it poses a **unique challeng**e to those engaged in marketing a service as they need to attach tangible attributes to an otherwise intangible offering.
- **Heterogeneity/Variability:** Given the **very nature of services**, each service offering is unique and cannot be exactly repeated even by the same service provider. **While products can be mass produced and behomogenous the same is not true of services.** eg: All burgers of a particular flavor at McDonalds are almost identical. However, the same is not true of the service rendered by the same counter staff consecutively to two customers.
- **Perishability: Services cannot be stored, saved, returned or resold once they have been used**. Once rendered to a customer the service is completely consumed and cannot be delivered to another customer. eg: A customer dissatisfied with the services of a barber cannot return the service of the haircut that was rendered to him. **At the most he may decide not to visit that particular barber in the future.**
- **Inseparability/Simultaneity of production and consumption:** This refers to **the fact that services are generated and consumed within the same time frame**. Eg: a haircut is delivered to and consumed by a customer simultaneously unlike, say, a takeaway burger which the customer may consume even after a few hours of purchase. Moreover, **it is very difficult to separate a service from the service provider**. Eg: the barber is necessarily a part of the service of a haircut that he is delivering to his customer.

## Types of Services

1. **Core Services:** A service that is the **primary purpose ofthe transaction.** Eg: a haircut or the services of lawyer or teacher.
2. **Supplementary Services:** Services that are **rendered as a corollary to the sale of a tangible product**. Eg: Home delivery options offered by restaurants above a minimum bill value.

## Difference between Goods and Services

Given below are the fundamental differences between physical goods and services:

| **Goods** | **Services** |
|---|---|
| A physical commodity | A process or activity |
| Tangible | Intangible |
| Homogenous | Heterogeneous |
| Production and distribution are separation from their consumption | Production, distribution and consumption are simultaneous processes |
| Can be stored | Cannot be stored |
| Transfer of ownership is possible | Transfer of ownership is not possible |

## Marketing mix for services:

There are **4 Ps** in Product marketing like **Product, Price, Place and Promotion.** In case of services, there are three additional elements namely **People, Physical evidence and Process**. All the seven elements are the element of service marketing mix.

### 1. Product (service product):

**Services are products, even though intangible**. They are things. In addition, service marketers always remember that consumers do not buy any products. **They buy attributes that are converted into benefits.** The marketing of services can be **successful only when the service product is designed to match the consumer's viewpoint. It becomes,** therefore, **necessary to understand** what benefits costumer gets from the services. In order to understand the customer, provider should think at multi-levels. They are as follows:

**[A]Consumer benefit concept:**While **developing** the service **package**, the starting point is obviously the consumer. **Consumers are not buying the service**; they are only buying **specific benefits and values**. The service products should be designed to benefit consumer needs. For example, the customer joins a club for getting recreation, entertainment, education and status.

**[B]The service concept:** Services offer **specific benefits**. The forms and levels of services vary in reference to **consumer's need, satisfaction, benefits and attributes**. The various levels analyzed by the service provider are **Core benefits level, Expected service level, Increase level and Potential level.**

**[C]The service offer:** Service concept is **closely linked with service offer**. It spells out, in more details those services to be provided, how they will be provided and to whom. Service offer is the element that makes up the **total service package, including both the tangible and intangible components of service.** For example, types of dance, the quality and performance of dancer are intangible aspects of the service offer. Physical facilities like dancing hall, sitting capacity, types of seats, air-conditioning, and toilets are the tangible aspects.

**[D]The service forms:** A service product refers to the **performer of service in connection to the consumer** who buys something from service provider to **satisfy a desire.** The way service is provided refers to service form. **The text may provide knowledge of entire study of a particular subject**.

**[E]The service delivery system:** The way the service is provided to the consumer is known as the **process of service delivery system.** The final dimension of the service product is the service delivery system. The delivery system represents **interaction between the service provider and the consumer and between the consumer and the service facility.**

## 2.Pricing

**Pricing of services is very difficult**. In case of **intangible and people based services, it is difficult to calculate the cost and determine the price.** In professional services, for example, fees of doctors, lawyers, and chartered accountants are not the same. The price policy of service marketers tallies with the general marketing. Most service marketers follow **competitive price policy** pricing their service either at the market price or slightly below it. Sometimes, bargaining **between the seller and buyer may settle prices of services**. The government **fixes prices of public utility service**. The practices used in the pricing of services are as follows:

**[A]Differential pricing:** The pricing objectives of service marketers vary, but typically, **the pricing goal of the most is to maximize profit on each sale.** However, the sale may not necessarily be the wisest pricing practice. It means price differs according to time, place or customer's ability to pay. It causes smooth fluctuations in demand.

**[B]Diversionary pricing:** Sometimes, **main product is having a low price and related services have very high charges.** This is a strategy **to attract to customers.** For example, a restaurant may charge low price of regular dish and compensate the loss by charging high prices for ice creams, and cold drinks.

[C] **Discount price:** It is a practice **of offering a discount to brokers and intermediates** such as stockbrokers, property dealers and advertising agencies for rendering a service. It stimulates demand and promotes services.

[D] **Guaranteed price:** In this strategy, **customer is to pay price if he is satisfied with the service.** For example, a property dealer charges his commission only after the deal.

[E] **High price maintenance:** This strategy goes with **high charged product or branded product**. It includes **high quality services** like that of lawyers, doctors, and other professionals.

## 3. Promotion

Promotion is an important part of the marketing mix for any marketer. The key to successful promotion is beneficial to the product. However, services are intangible and it is difficult to evaluate the quality and nature of a service before buying it. The main methods of promotion are as below:

- **Advertising:** Advertising in **some service lines**, like telephone, solicitation and even direct mail play an increasingly important role. In advertisements of a service, the focus should be on **relevant tangible objects that symbolize the service.**
- **Personal selling:**In the case of services, the **producer and the marketer are virtually inseparable**. It is desirable that sellers should be knowledgeable professionals who can give needed advice and counseling. Service often requires **detailed explanations and continuing relationship or negotiation.** Therefore, personal selling is the **backbone of service marketing.** Customer contract staff needs training to educate and reassure customers.
- **Sales promotion:**The traditional methods of sales promotion are **not very useful in service marketing**. However, service firms do not use premiums and contests on special occasions and festivals. **Use of several sales promotion techniques minimizes intangibility of services.** For example, a hospital may provide some services free of charge along with the main treatment.
- **Publicity:**Service oriented products also use market-oriented publicity. No service marketer would miss the chance for positive public opinion. Publicity is the most significant element of service marketing.

## 4. Physical distribution

Channels of distribution for intangible dominant products such as **services are generally limited to the buyers and sellers**. Due to inseparability, the service provider can serve only a **limited number of consumers.** In addition, many services require the consumer to go to the service centers like hospitals, universities and theatres. Therefore, location is of key importance in services. The importance of service, nature of service and flexibility of service are the main factors to be **considered in deciding the location for services.** The other main issue is whether to sell directly or through intermediaries. Direct sale is the only way if the service is inseparable from the performer.

## 6. People

Service personnel are present at two levels within the organization-contact personnel and support personnel. Contact personnel are those individuals whom the consumers see which as receptionists. **Consumers judge them through the quality of service they provide. Customers are actively involved in service marketing**. The total satisfaction should be more effective because one consumer influences others leading to a chain reaction.

## 7. Physical evidence

Since service is a matter of experience, it is important for **the client to search for tangible or physical clues, which enable them to evaluate the service.** Service firms are aware of the expectations of the customer and so they strive to provide physical facilities too. Physical evidences are of two types as follows:

- **Essential evidence:** Building, interior decoration, logo of the service organization are essential evidences. **It is very difficult to determine the environment of the service provider.**
- **Peripheral evidence**: The purchase of service has little or no independent value. It is **usually a part of peripheral evidence.** For example, a chequebook is useless if it does not transfer or store any fund.

## 8. Process

The process element of **the service marketing mix refers to the delivery of service to the consumer.** Line operations, job shop operations and intermittent operations are the delivery processes used in services. In line operation, the consumer moves through a logically arranged operation in a sequence. **For example, different patients need different services in a hospital.**

**The controllable variables of the firm product, price, place, promotion of product marketing are not equally adequate for marketing services.** The special features of the service marketing have brought about the requirement for the extended **marketing mix like people, physical evidence and process**. Because of the **inseparability** of the service production and consumption, the consumer is subject to direct experience of the production process. This also includes the interaction with the front line staff. **Service being intangible needs to be tangible through the physical evidence.**

Thus, the marketing mix for services consists of seven elements. It is not enough to define each of these elements in a proper manner. Different elements should **function together to achieve a harmonious blend that can fully satisfy the wants of consumers.**

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## Foreign Direct Investment in Retail Sector

- One of the most striking developments in the last two decades has been in the **FDI in the global economic landscape. FDI provides a win-win situation** both to the host as well as home country.
- The rapid expansion in the **FDI by multi-national enterprises since the mid-eighties may be attributed to significant changes in technologies**, greater **liberalization** of trade and investment regime, **deregulation and privatization of markets** in many countries including **developing countries like India.**

  **Initially FDI was not allowed in India in the retail sector** because of the fear of the job losses, procurement from international market, competition and loss of entrepreneurial opportunities. However the government later opened up the retail sector for FDI or FDI in retail sector was allowed. FDI in multi brand retailing is prohibited in India.

**Definition of FDI:An investment made by a company or entity based in one country, into a company or entity based in another country.**

- Foreign direct investments differ substantially from indirect investments such as portfolio flows, wherein overseas institutions invest in equities listed on a **nation's stock exchange.** Entities making direct investments typically have a significant degree of influence and control over the company into which the investment is made.
- **Open economies with skilled workforces and good growth prospects tend to attract larger amounts of foreign direct investment than closed, highly regulated economies.**
- The Foreign Direct Investment (FDI) in any country abroad is the net inflow of investment (capital or other), in order to **acquire management control and profit sharing (10% or more voting stock) or the whole ownership of an accredited company operating in the country receiving investment.** The foreign direct investment generally encompasses the transfer of technology and expertise, and participation in the joint venture and management.
- **Highly productive advantages of foreign direct investment** have been constantly being harvested by both governmental and private companies and organizations of all over the world.

  **The foreign direct investment is profitable** both to the country receiving investment (foreign capital and funds) and the investor**.**
- **For the investor company FDI offers an exclusive opportunity to enter into the international or global business**, new markets and marketing channels, elusive access to

new technology and expertise, expansion of company with new or more products or services, and cheaper production facilities.

- While the host country receives foreign funds for development, transfer of new profitable technology, wealth of expertise and experience, and **increased job opportunities.**

## FDI in Retail Sector

- Foreign direct investment (FDI) in the retail sector in India is restricted. **In 2006, the government easedretail policy for the first time, allowing up to 51 per cent FDI through the single brand retail route. Since then, there has been a steady increase in FDI in the retail sector, and the cumulative FDI in single-brand retail stood at $195 million by the middle of 2010 (DIPP, 2010).** According to the **Department of Industrial Policy and Promotion (DIPP)** of the Government of India, single-brand retail comprises those retailers selling products “of a ‘single brand’ only, such that products should be sold under the same brand internationally; and single-brand product retailing covers only products which are branded during manufacturing.
- **In this category, FDI is allowed to the extent of 51 per cent In contrast**, no FDI is allowed in the multi-brand retail category. This includes all firms in organized retail that seek to stock and sell multiple brands, such as large international retailers like Wal-Mart and Carrefour. This is the sector that is most under dispute.

**The Retail sector of India is vast, and has huge potential for growth and development, as the majority of its constituents are un-organized.** The retail sector of India handles about **$250 billion** every year, and is expected by veteran economists to **reach to $660 billion by the year 2015**. The business in the organized retail sector of India, is to **grow most and faster at the rate of 15-20% every year, and can reach the level of $100 billion by the year 2015.** Here, it is noteworthy that the **retail sector of India contributes about 15% to the national GDP**, and employs a massive workforce of it, after the agriculture sector. **India's growing economy with a rate of approximately 8% per year makes its retail sector highly fertile and profitable to the foreign investors of all sectors of commerce and economy, of all over the world.**

Organized retailing entails trading conducted by **licensed retailers and unorganized retailing** includes all types of **low cost trading** like local shops, small roadside stores and temporary shops or door to door selling of various goods. Until now, according to the Indian retailing laws, Foreign Direct Investment in multi-brand retail market was prohibited. But government is thinking to open the FDI in retail in India which implies that foreign investment in retailing is possible up to 51%. **Now the announcement of retail FDI in India has triggered a series of**

**debates on both positive and negative notes and become political issue.**

## Advantages And Disadvantages:

Advantages of FDI in retail sector in India:

Ø **Growth in economy**: Due to coming of foreign companies' new infrastructure will be build, thus real estate sector will grow consequently banking sector, as money need to be required to build infrastructure would be provided by banks.

Ø **Job opportunities:** Estimates shows that this will create about 80Lakh jobs. These career opportunities will be created mostly in retail, real estate. But it will create positive impact on others sectors as well. Read about career options in Retail sector…..

Ø **Benefits to farmers:** In most cases, in the retailing business, the intermediaries have dominated the interface between the manufacturers or producers and the consumers. Hence the farmers and manufacturers lose their actual share of profit margin as the lion's share is eaten up by the middle men. This issue can be resolved by FDI, as farmers might get contract farming where they will supply to a retailer based upon demand and will get good cash for that, they need not to search for buyers.

Ø **Benefits to consumers:** Consumer will get variety of products at low prices compared to market rates, and will have more choice to get international brands at one place.

**Ø Lack of infrastructure** in the retailing chain has been one of the common issues in India for years which have led the process to an incompetent market mechanism.

Ø In the last years, **the Public distribution system is proved to be significantly ineffective**. In spite of the fact that the government arranged for subsidies, **the food inflation has caused its negative impact continuously and it can be handled by FDI.**

**Disadvantages of FDI in retail sector in India:**

Ø **According to the non-government cult,** FDI will drain out the country's share of revenue to foreign countries which may cause negative impact on India's overall economy.

Ø The domestic organized retail sector **might not be competitive enough** to tackle international players and might lose its market share.

Ø Many of the small business owners and workers from other functional areas may **lose their jobs, as lots of people are into unorganized retail business such as small shops.**

## FDI Policy In India:

**FDI as defined in Dictionary of Economics (Graham Bannock et.al)** is investment in a foreign country through the **acquisition of a local company** or the establishment there of an **operation on a new (Greenfield) site.**

- To put in simple words, **FDI refers to capital inflows from abroad that is invested in or to enhance the production capacity of the economy.**
- Foreign Investment in India is governed by the FDI policy announced by the Government of India and the provision of the **Foreign Exchange Management Act (FEMA) 1999.**
- The Reserve Bank of India ('RBI') in this regard had **issued a notification**, which contains the Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000. **This notification has been amended from time to time.**
- The Ministry of Commerce and Industry, Government of India is the **nodal agency for motoring and reviewing the FDI policy on continued basis and changes in sectoral policy/ sectoral equity cap**. The FDI policy is notified through Press Notes by the **Secretariat for Industrial Assistance (SIA),** Department of Industrial Policy and Promotion (DIPP).
- The foreign investors are free to invest in India, except few sectors/activities, where prior approval from the RBI or **Foreign Investment Promotion Board ('FIPB')** would be required.

**<u>FDI Policy With Respect To Retailing:</u>**

It will be prudent to look into **Press Note 4 of 2006 issued by DIPP and consolidated FDI Policy issued in October 2010** which provide the sector specific guidelines for FDI with regard to the conduct of trading activities.

- FDI up to 100% for cash and carry wholesale trading and export trading allowed under the automatic route.
- FDI up to 51 % with prior Government approval (i.e. FIPB) for retail trade of 'Single Brand' products, subject to Press Note 3 (2006 Series).
- FDI is not permitted in Multi Brand Retailing in India.

**<u>Single Brand And Multi Brand:</u>**

- FDI in "single-brand" retail,While the precise meaning of single-brand retail **has not been clearly defined in any Indian government circular or notification, single-brand retail generally refers to the selling of goods under a single brand name.**
  - Up to 100 percent FDI is permissible in single-brand retail, subject to the **Foreign Investment Promotion Board (FIPB)** sanctions and conditions mentioned in **Press Note 3[8].** These conditions stipulate that:

  · Only single-brand products are sold (i.e. sale of multi-brand goods is not allowed, even if produced by the same manufacturer)

  · Products are sold under the same brand internationally

  · Single-brand products include only those identified during manufacturing

· Any additional product categories to be sold under single-brand retail must first receive additional government approval

**FDI in single-brand retail implies that a retail store with foreign investment can only sell one brand.**

- For example, if Adidas were to obtain permission to retail its flagship brand in India, those retail outlets could only sell products under the Adidas brand.
- For Adidas to sell products under the Reebok brand, which it owns, separate government permission is required and (if permission is granted) Reebok products must then be sold in separate retail outlets.FDI **in "multi-brand" retail**
- While the government of India has also not clearly defined the term "multi-brand retail," FDI in multi-brand retail generally refers to selling multiple brands under one roof. Currently, this sector is limited to a maximum of 49 percent foreign equity participation.

## Rational Behind FDI In Retail:

- It is believed that foreign direct investment (FDI) can prove to be a powerful catalyst which can spur competition in the retail industry. **This in turn will lead to supply chain improvement, development of skill and manpower, betterment in the agricultural segment as well as improved efficiencies in small and medium scale industries.**
- **I**ncreasing FDI in the retail segment is also believed to help expand the market size, which in turn will help enhanced productivity. As a result the government also stands to gain by way of increased GDP, tax income and employment generation.
- **With the consistently growing demand pressure,** the unorganized retail segment will have to make way for the organized markets. In addition, the unorganized segment will fall short of addressing the growing demand for retail given the relatively weak financial state of unorganized retailers as well as the space constraints which restrict their expansion plans.

## Impact on Consumers

- It is believed that the overall consumer spending has witnessed an increase backed by the entry of the organized retail. Even though unorganized retail markets come with their set of benefits which include **consumer goodwill, credit sales, bargain potential, ability to sell loose items, convenient timings, and home delivery, the consumers most certainly stand to gain from the expansion in organized retail on multiple counts.**
- **In addition, proximity remains a major comparative advantage for the unorganized outlets.** However, it has been witnessed that the organized retail outlets have proved to

provide better savings to the less well-off consumers other than providing saving to all the income groups in general.

## Supply Chain Management

**6 components of SCM**

Planning
Sourcing
Making
Delivering
Returning
Enabling

- **Planning**—Enterprises need to **plan and manage all resources required to meet customer demand for their product or service**. They also need to design their supply chain and then determine which metrics to use in order to **ensure the supply chain is efficient, effective, delivers value to customers, and meets enterprise goals.**
- **Sourcing—Companies must choose suppliers to provide the goods and services needed to create their product**. After suppliers are under contract, supply chain managers use a variety of processes to **monitor and manage supplier relationships**. Key processes include ordering, receiving,, and schedule for delivery. Most enterprises measure quality, production output, and worker productivity to ensure the enterprise creates products that meet quality standards.
- **Delivering—Often called logistics, this involves coordinating customer orders, scheduling delivery, dispatching loads, invoicing customers, and receiving payments.** It relies on a fleet of vehicles to ship product to customers. Many organizations outsource large parts of the delivery process to specialist organizations, particularly if the product requires special handling or is to be delivered to a consumer's home.
- **Returning—The supplier needs a responsive and flexible network to take back defective, excess, or unwanted products. If the produce is defective it needs to be reworked or scrapped.** If the product is simply unwanted or excess it needs to be returned to the warehouse for sale.
- **Enabling**—To operate efficiently, the supply chain requires a number of support processes to monitor information throughout the supply chain and assure compliance with all regulations. **Enabling processes include finance, HR, IT, facilities, portfolio management, product design, sales, and quality assurance.**

## Supply chain management examples

- Wal-Mart and Procter & Gamble began to work together in the late 1980s and are the classic example of supply chain collaboration. Before these two companies began working to connect their supply chains, retailers and manufacturers shared little information.
- After Walmart and P&G demonstrated that shared information reduced cost, other retailers became more willing to consider the possibility. In the early 1990s Walmart formalized its Retail Link system and cajoled (some would say strong armed) other retailers to connect.
- Over time, the Wal-Mart POS system was able to aggregate sales of individual P&G products at each store. When the POS indicated that inventory for a particular product had fallen to a predetermined threshold, the Walmart distribution center was notified to ship additional product to the store. As inventory in the Walmart distribution center fell to its threshold, the P&G distribution center was automatically alerted to ship additional product.

**Why is Supply Chain Management is impoetant?**

**Why is supply chain management important?**

- **Over the last twenty years, the supply chains of manufacturers and retailers have become ever more tightly linked.** In many industries, retail sales trigger replenishment orders to manufacturers. Manufacturers with a well-tuned, just-in-time supply chain can automatically restock retail shelves as products are sold. As collaboration has increased, additional data from supply chain partners has allowed companies to use advanced analytic tool to further improve results. Examples include:
- **Identifying potential problems before they occur**. When a customer orders more product than the manufacturer can deliver, the traditional response has been to short the order. This leaves the buyer feeling unimportant and convinced the manufacturer’s service is poor. Manufacturers who anticipate the shortage before the buyer is disappointed may be able to offer a substitute product or other incentive to keep the buyer happy.
- **Optimizing price dynamically.** Seasonal products, particularly fashion products, have a limited shelf life. Any that don’t sell by the end of the season are scrapped or sold at deep discounts to empty the warehouse. Airlines, hotels, and other companies with a limited, but perishable product, adjust prices dynamically to meet demand. While this is more difficult with clothing and other products where the supply can vary widely, similar forecasting techniques can improve margins.
- **Improving the allocation of available to promise inventory.** Today’s tools dynamically allocate resources and schedule work based on the sales forecast, actual orders, and

promised delivery of raw materials. Manufacturers are able to confirm a product delivery date when the order is placed, significantly reducing incorrectly filled orders.

## The main importance of Supply Chain Management is:-

### IMPROVE CUSTOMER SERVICES

- **Right quantity and quality –** Customer expects delivery of right quantity and quality of products.
- **On-time delivery –** Customers expect to receive the correct product mix and quantity to be delivered on time. A reliable supply chain can help in avoiding any bottlenecks and ensure customers get their products in the promised time frame
- **Services –** After sales services is one of the important aspects in any business. If any kind of problem occurs in the product, customer expects it to be fixed quickly. A right supply chain ensures that customers get the service they want.

### IMPROVE FINANCIAL POSITION

- **Insert Profit Leverage** - Businesses value supply chain managers because they help control and decrease supply chain expenditures.
- **Decrease Fixed Assets** - Supply chain managers decrease the use of large fixed assets such as plants, warehouses and transportation vehicles, essentially diminishing cost.
- **Increases Cash Flow** - Firms appreciate the added value supply chain management contributes to the speed of product flows to customers

### REDUCE OPERATING COSTS

- **Decreases Purchasing Cost** - Retailers depend on supply chains to quickly distribute costly products to avoid sitting on expensive inventories.
- **Decrease Production Cost** - Any delay in production can cost a company tens of thousands of dollars. This factor makes supply chain management ever more important. Reliable delivery of materials to assembly plants avoids any costly delays in manufacturing.
- **Decrease Total Supply Chain Cost** - Wholesale manufacturers and retailer suppliers depend on proficient supply chain management to design a network that meets customer service goals. This gives businesses a competitive edge in the marketplace.