

Law of Contract in Maldives

Contract Law

In Maldives, the law of contracts is contained in the “Contract Law” (No. 4 of 91).

“Contract” is referred to a formal agreement entered into between one or more parties and as such, it should be legally valid or acceptable by law (section 2).

Acceptance

“Executors” of a contract (i.e., acceptors) should show their willingness to the contents, without being forced. Executors should also be acceptable by law, i.e., they should be persons over 16 years of age and of sound state of mind (section 3).

Format and formation

Format of a contract need not be of a particular pattern, unless otherwise specified by law (section 4). “Submission” (offer) should be followed by acceptance. Then it becomes a contract in law (section 5).

Offer

The submission (offer) should not be confusing or uncertain and should form into a concrete idea so as to bind legally. An invitation to offer should not be treated as an offer.

An offer can be made to a particular person (or persons) or generally to all (section 6).

Acceptance and revocation of offer

When the offer is understood by whom it is to be accepted, then it is completed. Before acceptance, the offer can be cancelled. But it will be treated as cancelled, only when the party to whom it was made is made aware of the cancellation [section 7(a), (b), (c)].

Irrevocability

Where validity of an offer is specified, then, until such time the validity is expired, it cannot be withdrawn [section 7(d)].

[It should be noted that this is a departure from the common law rule and seems to have been suggested by the U.N. Convention on Sale of Goods.]

Acceptance

Acceptance of an offer can be conveyed specifically, or by conduct [section 8(a)].

For acceptance of an offer, no condition should be imposed [section 8(b)].

If the offer is to be accepted in a specified manner, acceptance should be conveyed in that particular manner; otherwise, acceptance should be conveyed in the generally practised manner [section 8(c)].

Completion of acceptance

“On confirmation of acceptance of the submission, acceptance thereof is completed” (section 9).

[Probably, “confirmation” here means communication.]

Offer beyond acceptance

A offer is beyond acceptance in the following cases:–

- (i) where a specific time limit is given to convey acceptance and lapse occurs prior to acceptance ;
- (ii) where a condition is imposed for acceptance, and the same is fulfilled before acceptance of the offer or occurrences of similar nature ;
- (iii) withdrawal of the offer on legal grounds ;
- (iv) non-acceptance of the offer (section 10) ;

Change of circumstances

An interesting provision in the Maldives Act deals with change of circumstances, as under:

- (a) the contract will become void, when the circumstances on which the contract is based change, whether within or without the reach of the contractors ;
- (b) change of circumstances, mentioned in (a) above, refers to “changing of an important portion of the contract” [section 11(a) and (b)].

The word “portion” here seems to refer to, an aspect or component of a contract.

This provision seems to go beyond the common law. At common law an event within the control of a contracting party does not terminate the contract.

It may also be mentioned there is some overlap between section 11 and section 22.

Ignorance of law

Ignorance of the laws in force is not a reason to nullify a contract [section 11(c)].

This is an interesting provision, codifying a rule which already exists at common law.

Consent vitiated

A contract made “forcibly on false grounds” or through threat or by using undue influence is not a valid contract (section 12).

Threats and force

If a contract is “forcibly” entered into, it becomes an invalid contract.

“Threat” here refers to (acts which) show intention of torturing or using influence of any kind (sections 13 and 14).

Undue influence

Undue influence refers to using influence or position (section 15).

False grounds

Something which is obviously unreal (but) deceitfully shown real, means false grounds (section 16).

Illegality

In the following circumstances, a contract becomes unlawful:–

- (i) contracts prohibited by law ;
- (ii) contract to achieve illegal objectives ;
- (iii) a contract specifying illegal acts to be acted upon (i.e., a contract whose object is unlawful) (section 17).

Restraint of trade

Where a clause of a contract prohibits refrain from carrying out of a person’s occupation or urging a person to indulge in prohibited activities, that particular clause will be treated invalid, unless otherwise specified activity is proved to be reasonable. [section 18(a)].

The section has been quoted above as contained in the (unofficial) transaction of the Maldives Act.

Legal proceedings

Where a clause prohibits legal action, that particular clause is invalid.

If arbitration is allowed by any clause, that particular clause is valid [section 18(b)(c)].

Implementing international law

In case of any dispute arising out of any clause in the contract, if implementation of international law is allowed, that particular clause is valid [section 18(d)].

Completion of a contract

In following circumstances a contract may be treated as completed:–

(i) contractors fulfilling their obligations, as per contract ;

(ii) contractors agreeing that the particular contract is acted upon ;

(iii) due to legal or unforeseen constraints, it becomes absolutely obligatory on the part of the contractors to wind up the contract (section 19).

This section seems to provide for release, novation, accord, etc.

Adherence to the contract: (performance)

Unless otherwise deviated, a contract should be adhered to strictly as per laid down in the contract” [section 20(a)].

A contract can be carried out by the contracted parties or their nominees or Attorneys. However, if the contract strictly requires the contractor to fulfil his/her obligations, it is absolutely necessary on the part of her/him to do so (personally).

Unless otherwise specified, the contract should be acted upon within a reasonable period.

Where a condition is imposed to act upon, then, unless the condition is fulfilled it not obligatory to act upon the contract (section 20).

This section seems to refer to contingent contracts.

Mutual agreement

Obligations under a contract can be fulfilled as per mutual agreement of all contractors agreement.

Such agreements should be within the legal framework (section 21).

Impossibility or illegality

It will be treated as the contract is acted upon (discharged) if adherence thereto becomes impossible due to legal constraints or otherwise.

If it becomes “difficult” or expensive to adhere to the contract it will be treated as difficulty to adhere to the contract.

But a difficult situation arising out of negligence of the contractors will not be treated as difficulty to adhere the contract.

Claims under a contract may be lodged before contracted party becomes aware of difficulty in continuation of the contract. After the situation arises, the contractor will not be binding to pay back such claims (section 22).

It should be pointed out that this section 22 overlaps section 11.

Compensation for breach etc:–

(a) The contractor who “does a detrimental act” will have to pay reasonable compensation.

(b) Detrimental acts, as per (a) above, for which compensation is payable, are:

(i) Direct losses by violating the contract.

(ii) Losses “that may be aware of by the contractors, by violating the contract.”

[The idea seems to be to cover contemplated losses].

(c) For losses that may be arising out of inadequate security measures no compensation is payable (sections 23-24).

Specific performance

A contractor suffering losses due to detrimental acts can request the court to order the other party to act upon in a particular manner, in case compensation paid is considered to be insufficient to cover the losses.

Courts can issue such orders that the defendant should act upon in a “particular manner”, in case the court feels the compensation given is insufficient.

“Particular manner” herein refers to such acts that may be laid down in the agreement that can be enforced by the court (section 25).

This simple provision is intended to deal with the whole law of specific performance.

Joint and several responsibility of the contractors

Unless specified in the contract, liabilities arising out of the contract by more than one person, can be a responsibility of all contractors or individual contractors (section 26).

Enforcement and practising of regulations

President of Maldives has the authority to make regulations for enforcement and practising of this law (section 27).

Definitions:–

(a) Unless specified in law, “The President” refers to the President of Maldives.

(b) Except in the case of section 3(b) (age and mental incapacity) this law is common and includes companies and associations.

(c) Any word used in singular form here, includes plural of the same. Like wise, any word in plural form also includes its singular (section 28).



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