

(c) Section 14 (3) (a) shall come into force on the 7th Tevet, 5734 (1st January, 1974).

30. Where a person entitled to compensation under this Law was on reserve service on or after the 28th Adar Bet, 5733 (1st April, 1973), this Law and the regulations thereunder shall apply in respect of the period of service beginning with that day and in respect of a continuous period of service immediately preceding that day. Transitional provision

GOLDA MEIR YOSEF ALMOGI
Prime Minister *Minister of Labour*

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(No. 46)

CONTRACTS (GENERAL PART) LAW, 5733—1973 *

CHAPTER ONE: MAKING OF CONTRACT

1. A contract is made by way of offer and acceptance in accordance with the provisions of this chapter. Mode of making contract.
2. A person's proposal to another person constitutes an offer if it attests to the offeror's resolve to enter into a contract with the offeree and is sufficiently definite to enable the contract to be concluded by acceptance of the offer. A proposal may be to the public. Offer.
3. (a) The offeror may withdraw the offer by notice to the offeree, provided that the notice of withdrawal is delivered to the offeree before he has given notice of acceptance. Withdrawal of offer.
(b) Where the offeror has declared that the offer is irrevocable or has set a time for its acceptance, he may not withdraw it after it has been delivered to the offeree.

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

- Lapse of offer. 4. An offer lapses —
- (1) when the offeree has rejected it or the time for its acceptance has elapsed ;
 - (2) when before notice of acceptance is given the offeror or offeree dies or becomes legally incompetent or a receiving order or winding-up order is made against him.
- Acceptance. 5. Acceptance shall be by notice by the offeree delivered to the offeror and attesting to the offeree's resolve to enter into the contract with the offeror in accordance with the offer.
- Acceptance by way of conduct. 6. (a) Acceptance may be by an act in implementation of the contract or by some other conduct if these modes of acceptance are implied in the offer ; and for the purposes of sections 3(a) and 4(2), conduct as aforesaid is treated as notification of acceptance.
- (b) A declaration by an offeror that the absence of any response on the part of the offeree shall be regarded as acceptance is of no effect.
- Presumption of acceptance. 7. An offer which is exclusively for the benefit of the offeree is presumed to have been accepted by him unless he notifies the offeror of his opposition to it within a reasonable time after it comes to his knowledge.
- Time for acceptance. 8. (a) An offer can only be accepted within the period fixed therein or, if no period has been fixed, within a reasonable time.
- (b) Where an offeree gives notice of acceptance in due time, but its delivery to the offeror is delayed for a reason not dependent upon the offeree and unknown to him, the contract is regarded as having been made unless the offeror notifies the offeree of the rejection of the acceptance immediately after the notice of acceptance is delivered to him.
- Acceptance after lapse. 9. Acceptance of an offer after it has lapsed is tantamount to a new offer.
- Withdrawal of acceptance. 10. The offeree may withdraw his acceptance by notice to the offeror, provided that notice of the withdrawal is not delivered to the offeror after the notice of acceptance has been delivered to him or after he has become aware of the acceptance in the manner indicated in section 6(a).
- Acceptance with variation. 11. Acceptance involving an addition to or a limitation or some other variation of the offer is tantamount to a new offer.

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

(b) A party who does not act in customary manner and in good faith shall be liable to pay compensation to the other party for the damage caused to him in consequence of the negotiations or the making of the contract, and the provisions of sections 10, 13 and 14 of the Contracts (Remedies for Breach of Contract) Law, 5731—1970¹⁾, shall apply *mutatis mutandis*.

CHAPTER TWO: RESCISSION OF CONTRACT BY REASON OF DEFECT IN MAKING IT

13. A contract made merely for appearance sake is void. This provision shall not affect a right acquired by a third party in *bona fide* reliance on the existence of a contract. Contract made for appearance sake.

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

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

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

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

15. A person who has entered into a contract in consequence of a mistake resulting from deceit practised upon him by the other party or a person acting on his behalf may rescind the contract. For this Deceit.

¹⁾ *Sefer Ha-Chukkim* of 5731, p. 16 — *LSI* vol. XXV, p. 11.

purpose, "deceit" includes the non-disclosure of facts which according to law, custom or the circumstances the other party should have disclosed.

Clerical error. 16. Where a clerical or similar error has occurred in a contract, the contract shall be rectified in accordance with the presumed intention of the parties and the error shall not be a ground for rescission of the contract.

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

(b) A *bona fide* warning of the exercise of a right does not constitute a threat within the meaning of this section.

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

Partial rescission. 19. Where a contract is severable and the ground for rescission relates only to one part thereof, such part alone shall be capable of rescission. But if it is to be assumed that the party entitled to rescind would not have entered into the contract but for that ground, he may either rescind the said part or the whole contract.

Mode of rescission. 20. Rescission of a contract shall be by notice by one party to the other party given within a reasonable time after becoming aware of the ground for rescission or, in the case of duress, within a reasonable time after becoming aware that the duress has ceased.

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

Saving of remedies. 22. The provisions of this chapter shall not derogate from any other remedy.

CHAPTER THREE: FORM AND CONTENTS OF CONTRACT

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

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

25. (a) A contract shall be interpreted in accordance with the intention of the parties as appearing therefrom or, in so far as it does not so appear, as appearing from the circumstances. Interpretation of contract.

(b) Where a contract is capable of different interpretations, an interpretation preserving its validity is preferable to an interpretation according to which it is void.

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

(d) Sections 2, 3, 5, 9 (a) and 36 of the Interpretation Ordinance¹⁾ shall apply *mutatis mutandis* to the interpretation of a contract.

26. Particulars not determined by or under the contract shall be in accordance with the practice obtaining between the parties or, in the absence of such a practice, in accordance with the practice customary in contracts of that kind, and such particulars shall also be regarded as having been agreed. Supplementary particulars.

27. (a) A contract may depend on the fulfilment of a condition (hereinafter referred to as a "suspensory condition") or may cease upon the fulfilment of a condition (hereinafter referred to as a "resolatory condition"). Conditional contract.

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

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

28. (a) Where a contract is subject to a suspensory condition and one party prevents fulfilment of the condition, such party is not entitled to rely on the non-fulfilment. Frustration of condition.

(b) Where a contract is subject to a resolatory condition and one party causes fulfilment of such condition, such party is not entitled to rely on such fulfilment.

(c) The provisions of this section shall not apply where the condition is something that according to the contract a party is at liberty to do or not to do or where a party does not prevent or cause the fulfilment of the condition wilfully or negligently.

¹⁾ *Dinei Medinat Yisrael (Nusach Chadash)* No. 1, p. 2; *NV* vol. I, p. 5.

Avoidance of contract or condition. 29. Where a contract is subject to a condition and the condition is not fulfilled within the period fixed therefor or, where no period has been fixed, within a reasonable time after the making of the contract, then, in the case of a suspensory condition, the contract or, in the case of a resolatory condition, the condition shall become void.

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

Application of provisions. 31. The provisions of sections 19 to 21 shall apply *mutatis mutandis* to the avoidance of a contract under this chapter: Provided that in the case of avoidance under section 30 the Court may, if it deems it just so to do and on such conditions as it sees fit, relieve a party of the whole or part of the duty under section 21 and, in so far as one party has fulfilled his obligation under the contract, require the other party to fulfil the whole or part of the corresponding obligation.

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

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

Contract for giving marks. 33. Where under any contract a mark, title, prize or the like is to be given according to a decision or evaluation by one of the parties or a third party, such decision or evaluation shall not be the subject of court proceedings.

CHAPTER FOUR: CONTRACT IN FAVOUR OF THIRD PARTY

Conferment of right. 34. An obligation assumed by a person by contract in favour of a person who is not a party to the contract (such person hereinafter referred to as "the beneficiary") confers on the beneficiary the right to demand fulfilment of the obligation if the intention to confer this right on him is apparent from the contract.

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

Termination of right. 36. (a) So long as neither of the parties has informed the beneficiary of his right under the contract they may vary or terminate such right by varying the contract.

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

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

38. The beneficiary's right shall not derogate from the creditor's right to demand from the debtor the fulfilment of the obligation in favour of the beneficiary. Saving of creditor's right.

CHAPTER FIVE: PERFORMANCE OF CONTRACT

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

40. An obligation may be fulfilled by a person other than the debtor unless according to the nature of the obligation or to the agreement between the parties the debtor must fulfil it personally. Performance by whom.

41. An obligation the date for the fulfilment of which has not been agreed upon shall be fulfilled within a reasonable time after the making of the contract, at a date of which the creditor has given the debtor reasonable notice in advance. Date for performance.

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

43. (a) The date for the fulfilment of the obligation is postponed — Postponement of performance.

(1) if its fulfilment at the due date is prevented by a circumstance depending on the creditor — until the obstacle has been removed ;

(2) if its fulfilment is conditional upon the prior fulfilment of an obligation of the creditor — until such obligation has been fulfilled ;

(3) if the parties must fulfil their obligations *pari passu* — so long as the creditor is not prepared to fulfil the obligation imposed on him.

(b) Where the date for the fulfilment of an obligation has been postponed under subsection (a), the Court may, if it deems it just so

to do, require the creditor to pay compensation for the damage caused to the debtor by the postponement even if no infringement of the contract by the creditor is involved and, if the debtor is bound to make periodical payments until the fulfilment of the obligation, release him from these payments during the period of postponement.

Place of performance.

44. (a) An obligation the place for the fulfilment of which has not been agreed upon shall be fulfilled at the creditor's place of business or, if he has no place of business, at his permanent place of residence.

(b) Where the creditor changes his place of business or place of residence after the making of the contract, he shall bear the additional expenses arising out of the fulfilment of the obligation at the new place.

Medium performance.

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

Performance by paying appropriate amount.

46. An obligation to make for a commodity or service a payment the amount of which has not been agreed upon shall be fulfilled by paying an amount which according to the circumstances at the time the contract was made it would have been appropriate to pay.

Israel currency.

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

Conditional fulfilment.

48. Where for the purpose of fulfilling an obligation the debtor assumes another obligation towards the creditor or transfers to him a right in respect of a third party, it is presumed that it is not intended to terminate such first-mentioned obligation unless the other obligation has been fulfilled or the right realised.

Appropriation of payments in the case of one obligation.

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

Appropriation of payments in the case of several obligations.

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

Choice between alternative obligations.

51. (a) In the case of alternative obligations, the debtor may, by notice to the creditor within the period fixed therefor or, where no period has been fixed, within a reasonable time prior to the date of

fulfilment, choose the obligation which he will fulfil. If he does not do so, the creditor may choose the obligation by notice to the debtor.

(b) Where it has been agreed that the creditor shall have the right of choice and he does not exercise it within the period fixed therefor or, where no period has been fixed, within a reasonable period prior to the date of fulfilment, the debtor may choose the obligation by notice to the creditor.

52. Where the fulfilment of an obligation has become impossible, and the debtor has accordingly a right to compensation or indemnification against a third party, the debtor shall transfer the right or what he has received thereunder to the creditor to the extent of the value of the obligation. Substituted fulfilment.

53. (a) Mutual monetary obligations arising out of one transaction the time for the fulfilment of which has arrived may be set off by notice by one party to the other. The same applies to monetary obligations not arising out of one transaction if they are liquidated obligations. Set-off.

(b) An obligation the right to the fulfilment of which is not attachable shall not be set off.

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

CHAPTER SIX: SEVERAL DEBTORS AND CREDITORS

54. Where two persons are under one obligation, it is presumed that they are liable jointly and severally. Several debtors.

55. (a) Where two persons are jointly and severally liable, the creditor may demand fulfilment of the whole or part of the obligation from both of them together or from each of them separately, but he shall not recover more than is due to him. Joint and several liability.

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

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

Apportionment of obligation between debtors.

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

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

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

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

Restriction on right of recovery.

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

Transfer of security.

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

(b) Where a charge or right has passed under subsection (a), the parties shall, on the demand of the debtor who has fulfilled the obligation, do the acts necessary in order that the transfer may be valid in all respects.

Several creditors.

59. (a) Where one obligation exists *vis-à-vis* two persons, it is presumed that each of them may demand its fulfilment, but they shall not recover from the debtor more than is due from him. The debtor may at his choice fulfil the obligation towards one of his creditors so long as judgment has not been given in favour of the other.

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

CHAPTER SEVEN: MISCELLANEOUS

Manner and time of giving notice.

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

(b) Notice under this Law shall be taken to have been served when it reached the addressee or his address.

61. (a) The provisions of this Law shall apply where no other Law contains special provisions regarding the matter in question. Scope of application.

(b) The provisions of this Law shall, as far as appropriate and *mutatis mutandis*, apply also to legal acts other than contracts and to obligations not arising out of a contract.

62. There are hereby repealed — Repeal.

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

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

63. Article 46 of the Palestine Order in Council, 1922—1947¹⁾, shall not apply to matters dealt with by this Law. Autarky of Law.

64. This Law shall come into force on the 1st Elul, 5733 (29th August, 1973). Contracts made before the coming into force of this Law shall continue to be governed by the previous law. Commencement and transitional provision.

GOLDA MEIR
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SHNEUR ZALMAN SHAZAR
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¹⁾ *Laws of Palestine* vol. III, p. 2569 (English Edition).