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**Transfer of Property Act 1882 Chapter I –  
Preliminary**

**1. Short title:**

**This Act may be called the Transfer of Property Act, 1882.**

**It shall come into force on the first day of July, 1882.**

**It extends in the first instance to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States or in the States of Bombay, Punjab and Delhi. But this Act or any part thereof may by notification in the Official Gazette be extended to the whole or any part of the said territories by the State Government concerned. And any State Government may from time to time, by notification in the Official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such State Government from all or any of the following provisions, namely: -**

**Sections 54, paragraph 2 and sections 3, 59, 107 and 123. Notwithstanding anything in the foregoing part of this section, sections 54 paragraphs 2 and 3, 59,107 and 123 shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1908, (16 of 1908) under the power conferred by the first section of that Act or otherwise.**

**2. Repeal of Acts - Saving of certain enactments, incidents, rights, liabilities, etc:**

**In the territories to which this Act extends for the time being the enactments specified in the schedule hereto annexed shall**

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be repealed to the extent therein mentioned. But nothing herein contained shall be deemed to affect-

(a) the provisions of any enactment not hereby expressly repealed:

(b) any terms or incidents of any contract or constitution of property which are consistent with the provisions of this Act, and are allowed by the law for the time being in force;

(c) any right or liability arising out of a legal relation constituted before this Act comes into force, or any relief in respect of any such right or liability; or

(d) save as provided by section 57 and Chapter IV of this Act, any transfer by operation of law or by, or in execution of, a decree or order of a Court of competent jurisdiction;

and nothing in the second chapter of this Act shall be deemed to affect any rule of Muhammadan law.

3. Interpretation-clause:

In this Act, unless there is something repugnant in the subject or context,-

"immoveable property" does not include standing timber, growing crops or grass:

"instrument" means a non-testamentary instrument;

"attested", in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal

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acknowledgment of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary:

"registered" means registered in any part of the territories to which this Act extends under the law for the time being in force regulating the registration of documents:

"attached to the earth" means-

- (a) rooted in the earth, as in the case of trees and shrubs;**
- (b) imbedded in the earth, as in the case of walls or buildings;**
- or**
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached;**

"actionable claim" means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;

"a person is said to have notice" of a fact when he actually knows that fact, or when, but for willful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it.

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Explanation I. -Where any transaction relating to immoveable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration or, where the property is not all situated in one sub-district, or where the registered instrument has been registered under sub-section (2) of section 30 of the Indian Registration Act, 1908 (16 of 1908), from the earliest date on which any memorandum of such registered instrument has been filed by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated:

Provided that-

- (1) the instrument has been registered and its registration completed in the manner prescribed by the Indian Registration Act, 1908 (16 of 1908), and the rules made thereunder,**
- (2) the instrument or memorandum has been duly entered or filed, as the case may be, in books kept under section 51 of that Act, and**
- (3) the particulars regarding the transaction to which the instrument relates have been correctly entered in the indexes kept under section 55 of that Act.**

Explanation II. -Any person acquiring any immovable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof.

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**Explanation III. -A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that fact is material:**

**Provided that, if the agent fraudulently conceals the fact, the principal shall not be charged with notice thereof as against any person who was a party to or otherwise cognizant of the fraud.**

**4. Enactments relating to contracts to be taken as part of Contract Act and supplemental to the Registration Act:**

**The Chapters and sections of this Act which relate to contracts shall be taken as part of the Indian Contract Act, 1872 (9 of 1872).**

**And sections 54, paragraphs 2 and 3, sections 59, 107 and 123 shall be read as supplemental to the Indian Registration Act, 1908 (16 of 1908).**

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