

## EXECUTIVE PROGRAMME

# ECONOMIC, COMMERCIAL & INTELLECTUAL PROPERTY LAWS

Every legislation, especially in economic matters, is essentially empiric, and it is based on experimentation or what one may call the trial and error method. It may not provide for all possible situations or anticipate all possible abuses. There can be crudities or inequities in complicated experimental economic legislation but on that account alone it cannot be struck down as invalid. (*R.K. Garg v. Union of India and Others (1981) 4 SCC 675*). Commercial law is also known as 'trade law', 'mercantile law' or 'business law'. It encompasses business organizations and individuals who are engaged in the buying, selling or trading of merchandise goods. It is imperative that commercial activities being economic activities exerting an impact on the economic development, national income, per capita income and other vital economic and financial variables, needs to be regulated to ensure transparency thereby fostering growth of business activities.

Conceptual understanding and application of compliance mandates of Economic and Commercial legislation is vital for professionals like Company Secretaries specifically from the perspective of compliance risks and especially when it involves foreign exchange, foreign investments, competition law aspects, consumer rights etc. This study aims to provide conceptual and application oriented understanding of the subject and will also equip the student with skills to stand up-to-date with industries need and the economic changes.

Further, Company Secretary plays advisory, compliance and representative roles with respect to various Economic and Commercial Laws including Foreign Exchange Management Act, FDI Policy, Foreign Trade Policy, Competition Law, Consumer Protection Act, law relating Real Estate Regulation etc. It is important for a Company Secretary to be well versed with Economic and Commercial Laws. It is also vital for students to have working knowledge of various Economic and Commercial legislations.

Intellectual Property Rights (IPRs) are private rights which are applied for, and enforced, by the owner of the concerned Intellectual Property (IP). While IPRs are becoming increasingly important in the global arena, there is a need to increase awareness on IPRs in India, be it regarding the IPRs owned by oneself or respect for others' IPRs. The importance of IPRs as a marketable financial asset and economic tool also needs to be recognised. In the Intellectual Property Rights regime Company Secretary is also authorized to act as a Trade Marks Agent.

This study material has been prepared to provide an understanding of certain Economic, Commercial and Intellectual Property legislations which have direct bearing on the functioning of companies. The study material has been divided into two parts consisting of twenty study lessons. Part I dealing with Economic and Commercial Laws consists of Study Lessons I to XIV, whereas Part II dealing with Intellectual Property Laws consists of Study Lesson XV to XX.

This study material has been published to aid the students in preparing for the Economic, Commercial & Intellectual Property Laws paper of the CS Executive Programme under ICSI Syllabus 2022. It has been prepared to provide understanding of the Economic, Commercial & Intellectual Property laws thereunder, which have a bearing on the conduct of corporate affairs. It is part of the educational kit and takes the students step by step through each phase of preparation stressing key concepts, principle, pointers and procedures.

The legislative changes made upto November, 2024 have been incorporated in the study material. The students are advised to refer to the updates at the Regulator's website, Supplement relevant for the subject issued by ICSI and ICSI Journal Chartered Secretary and other publications. Specifically, students are advised to read "Student Company Secretary" e-Journal which covers regulatory and other relevant developments relating to the subject. In the event of any doubt, student may contact the Directorate of Academics at [academics@icsi.edu](mailto:academics@icsi.edu).

***The amendments to law made upto 31st May of the Calendar Year for December Examinations and upto 30<sup>th</sup> November of the previous Calendar Year for June Examinations shall be applicable.***

Although due care has been taken in publishing this study material, the possibility of errors, omissions and/or discrepancies cannot be ruled out. This publication is released with an understanding that the Institute shall not be responsible for any errors, omissions and/or discrepancies or any action taken in that behalf.

**Important Note:**

The new criminal laws i.e. Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Sanhita 2023 and Bharatiya Sakshya Adhiniyam 2023 have repealed Indian Penal Code 1860, Criminal Procedure Code 1973 and Indian Evidence Act 1872 (old criminal laws) respectively.

Therefore, by virtue of Section 8 of General Clauses Act 1897, the references to the old criminal laws, unless a different intention appears, be construed as references to the provision of new criminal laws.