

# [Pre incorporation contracts](https://assignbuster.com/pre-incorporation-contracts/)

Analyse the major problems surrounding the pre-incorporation contracts and evaluate how fare these problems have been resolved by the provisions of section 36C of the Companies Act 1985, as amended by the Companies Act 2006. 1) what are pre-incorporation contracts 2) problems surrounding pre-incorporation contracts 3) how fare have these problems been resolved A company cannot enter into a contract before it exists as a legal person by being incorporated on its registration by the Registrar of Companies after the steps required by the Companies Act 1985 have been carried out.

Likewise, a company cannot exercise any of its powers or functions, such as appointing agents or representatives to negotiate and conclude contracts in its name or on its behalf, before it has been incorporated by registration under Companies Act 1985. 2 A contract which purports to be made on a company's behalf before it is incorporated takes effect as a contract between the persons who purport to act on behalf of the future company and the other contracting parties. Consequently, the persons who purport to contract on the company's behalf are liable personally for ulfilment of the contract and they may correspondingly enforce the contract against the other contracting parties, subject to any provisions in the contract limiting or excluding their personal liability.

The result is that a pre-incorporation contract must be treated for all purposes as one made by the person who purports to contract in the company's name or on its behalf. The purpose of either provision is to protect a third party who may suffer if the company subsequently refuses to honour the contract, and to provide it with a respondent to sue.