

# Department of Commerce (CA)

Semester: 3

BUSINESS LAW

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## UNIT III

Contract of Agency - Creation of Agency -  
Classification of Agents - Relation of Principal  
and Agent - Relation of Principal with third  
parties - Personal liability of agent - Agency  
by ratification - Condition and effects -  
Termination of Agency.

REFERENCE Book

BUSINESS LAW

N.D. KAPOOR

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CONTRACT OF AGENCYMeaning of Agency

If one person does his work through another person and the contract between both the parties are called Agency.

Parties to the Contract of Agency

There are 2 parties

Agent: An agent is a person employed to do any act of another

Principal: The person for whom such act is done is called the principal.

Essentials of Agency

- 1) Agreement between the Principal and Agent
- 2) Intention of the agent to act on behalf of principal

Rules of Agency

- 1) Whatever a person can do personally he can do through agent
- 2) He who does an act through another does it by himself

Who can employ Agent

Any person who is having the contractual capacity can employ agent

Who can be an agent.

Any person who is having the contractual capacity can be an agent. Even minor can be an agent.

Creation of Agency

Modes of creation of an agency

- 1) Agency by express agreement
- 2) Agency by implied agreement
  - a) Agency by estoppel
  - b) Agency by holding out
  - c) Agency by necessity

## 3) Agency by ratification

Rules for ratification

- ① The principal must be identifiable
- ② The principal must be in existence
- ③ The principal must have contractual capacity
- ④ Ratification must be with full knowledge
- ⑤ It must be done within a reasonable time

- ⑥ The whole transaction must be ratified
- ⑦ The act to be ratified must be lawful
- ⑧ Ratification must be communicated
- ⑨ It should be for the acts which the principal has power
- ⑩ It should not put the third party to damages
- ⑪ It relates back to the date of act of the agent

## ④ Agency by operation of law

### Types of Agents

- ① Special agent
- ② General Agent
- ③ Universal agent
- ④ Commercial or Mercantile agent
  - a) Factor
  - b) Auctioneer
  - c) Broker
  - d) Commission Agent
  - e) Del credere Agent
- ⑤ Banker
- ⑥ Non-mercantile agent
  - a) Attorneys
  - b) Solicitors
  - c) Insurance Agents
  - d) Clearing and Forwarding Agents
  - e) Wife

## Duties of Agent

- 1) To carry out the work undertaken according to the directions given by the Principal
- 2) To carry out the work with reasonable care, skill and diligence
- 3) To render proper accounts to the Principal
- 4) To communicate with the Principal in case of difficulty
- 5) Not to deal on his own account
- 6) To pay sums received for the Principal
- 7) To protect and preserve the interest of the Principal in case of his death or insolvency
- 8) Not to use information obtained to the course of agency against the Principal
- 9) Not to set up an adverse title
- 10) Not to put himself in a position where interest and duty conflict.
- 11) Not to delegate authority

RIGHTS OF AGENT

- 1) Rights of retainer
- 2) Right to receive remuneration
- 3) Right of lien
- 4) Right of indemnification
- 5) Right of compensation
- 6) Right of Stoppage in transit

DUTIES OF PRINCIPAL

- 1) To indemnify the agent against the consequences of all lawful acts
- 2) To compensate the agent for injury caused
- 3) To pay the agent the commission and other remuneration

RIGHTS OF PRINCIPAL

- 1) To recover damages
- 2) To get back the secret profits
- 3) To get indemnification
- 4) To get compensation

Types of Principal

- a) Named Principal
- b) unnamed Principal
- c) Undisclosed Principal

## Liability of Agent

- 1) when the contract expressly provides
- 2) when the agent acts for a foreign Principal
- 3) when he acts for a undisclosed Principal
- 4) when he acts for a Principal who cannot be sued
- 5) when he signs a contract in his own name
- 6) where he acts for a Principal not in existence
- 7) where he is liable for a breach of authority
- 8) where he receives or pays money by mistake
- 9) where his authority is coupled with interest
- 10) where the trade usage or custom makes him personally liable

## Termination of Agency

