

Agency (Sections 182 to 238)

1. Nature and kinds of agency
2. Relations of principal with his agent
3. Relations of principal with third parties
4. Termination of agency

Why agents?

Agent : The person who acts on behalf of some other persons

Principal : The person on whose behalf the agent acts

Agency : The contract which creates the relationship of A & P

- ✓ Definitions u/s 182
 - Agent : “ A person, employed to do any act for another, or represent another in dealing with third persons, is called agent.”
 - Principal: A person for whom such act is done or who is so represented, is called principal.
- ✓ Definition seem to be very wide but...
- ✓ Emphasis on the powers of the agent to represent his principal in dealings with the third parties

Essentials and legal rules

1. There should be an agreement between the principal and the agent :Agreement may be:
Express or implied
2. The agent must act in the representative capacity
3. The principal must be competent to contract
4. The agent need not be competent to contract
Why? But in the interest of the principal?
5. The consideration is not necessary.

Principles of agency

1. Whatever a person can lawfully do himself may also do the same through an agent : subject to exceptions.
2. He who acts through another is considered to have acted personally.

Ways of creating agency (Kinds of agency)

1. Agency by express agreement
2. Agency by implied agreement
3. Agency by operation of law
4. Agency by ratification

A. Agency by express agreement

Appointment in writing or by words of mouth

Usual form of a written agreement : Power of attorney – General power of attorney or Special PA

B. Agency by implied agreement

- ✓ Due to the conduct of the parties or the course of between the parties or the situation of a particular case
- ✓ Agencies by an implied agreement includes:
 1. Agency by estoppel
 2. Agency by holding out
 3. Agency by necessity
 4. Husband and wife relations.

Agency by holding out

- ✓ More than estoppel – positive or affirmative conduct of principal is required

Agency by necessity

- ✓ Due to extraordinary circumstances, person may be compelled to act without requiring the consent or authority
- ✓ Conditions:
 - There must be real emergency to act on behalf of the P.
 - Agent not in a position to obtain instructions
 - Acting honestly and in the interest of the P
 - Adopting reasonable and practicable course of action

Husband and wife relations

- ✓ For the purposes of buying household necessities
- ✓ Agency relationship may be discussed under:
 - a. Wife living with her husband
 - b. Wife living apart from her husband : on her own or v any fault on her side
- c. Agency by operation of law
e.g. The Partnership Act

D. Agency by ratification

- ✓ A person does some acts on behalf of another without his knowledge or authority
- ✓ Another person subsequently accepts the acts Then: by ratification
- ✓ Also known as ex-post facto agency (agency arising a event)
- ✓ Conditions for valid ratification
 1. The agent must act on behalf of the principal
 2. The principal must be competent to contract existence at the time of contract by the agent

3. The principal must have the full knowledge of all material facts
4. The ratification must be of the whole transaction
5. The ratification should not cause any damage to third parties
6. The ratification must be made within a reasonable time
7. The acts to be ratified should be valid and lawful
8. The act to be ratified must be existing at the time of ratification

Termination of agency

End of the relationship of a principal and his agent
Studied under:

1. Termination of agency by act of the parties
2. Termination of agency by operation of law

Termination of agency by act of the parties

1. Agreement between the principal and agent
2. Revocation by the principal : Revocation may be express or implied – There are conditions
3. Renunciation of agency by the agent

Termination of agency by operation of law

Termination of agency by operation of law

1. Completion of agency business
2. Death or insanity of the principal or the agent : later insanity – company
3. Insolvency of the principal
4. Expiry of time
5. Destruction of the subject-matter of the agency
6. Subsequent event rendering the agency unlawful