

E-Content(2) for the students of B.Com II Semester

Subject- Business Law.

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Topic- Contract of Agency.

Duties of an agent-

1. Duty to follow the instruction of principal

2. Duty to carry work with care and skill

3. Duty to render accounts to the principal

4. Duty of the agent in case of any difficulty to make reasonable efforts to communicate with his principal and to obtain his instruction.

5. Duty not to deal on his own account. If the agent deals on his account without the principal's consent or with full disclosure, the principal may cancel the contract.

6. Duty not to make any secret profit. If the agent, without the knowledge of his principal, deals in the business of the agency on his own account, instead of on account of his principal, the principal is entitled to claim from the agent, any benefit which may have resulted to him from the transaction.

7. Duty to pay some received for the principal- It is the duty of the agent to his principal, all money received on his behalf.

8. Duty to protect interest of the principal in case of his death or insolvency- On the death or insanity of the principal, the agent is terminated. However, in such a case it becomes the duty of the agent to take reasonable steps to protect the interest of the principal.

9. Duty not to delegate-The agent cannot delegate his authority to perform his act in express or implied manner unless the custom of trade or the nature of the agency so requires.

Rights of an agent

1. **Right to retainer-Section 217**- The agent may retain out of any sums received on account of the principal in the business of the agency, all money due to him in respect of the advances made or the expense properly incurred by him . In conducting such business and also such remuneration as may be payable to him for acting as the agent.
2. **Right to receive remuneration –Section 219 & 220**- The agent has the right to receive the agreed remuneration from the principal. If the remuneration is not fixed, the agent is entitled to receive reasonable remuneration.
3. **Right of lien-Section 221**- In the absence of any contract to the contrary, the agent is entitled to retain the goods, papers and other property whether movable or immovable, of the principal received by him, until the amount due to himself .
4. **Right to be Indemnified-Section 222**- The principal is bound to indemnify the agent against the consequences of all the lawful acts within his authority.
5. **Right of compensation- Section 225**- The agent has the right to receive compensation for the loss suffered due to the principal's negligence or want of skill.

When agent is personally liable

Usually, the agent cannot personally be liable for the contract entered into by him on behalf of the principal. However, the agent is personally responsible in the following cases-

- 1- When the agent acts for a foreign principal.
- 2- When the agent acts for an undisclosed principal
- 3- When agent acts for an incompetent principal

- 4- When the agent acts for a principal not in existence
- 5- When the agent signs a contract in his own name
- 6- When the agent acts beyond his authority
- 7- Where there is a misrepresentation or fraud by agent
- 8- Where the trade, usage or custom makes the agent personally liable
- 9- Where authority is coupled with an interest.
- 10- Pretended agent- A person who untruly represents himself to be the authorized agent and induces a third person to enter onto the contract or otherwise deals with him is called a pretended agent.

Termination of agency- The agency relationship maybe terminated by the act of parties. The agency can be terminated by either the principal or the agent in the following manner:

Termination by act of parties:

- 1- By agreement- mutual consent
- 2- By revocation of authority by the principal- The principal can revoke the authority of an agent at any time before the authority has been exercised as to bind the principal.
- 3- By renunciation by the agent- by giving reasonable notice.

Termination by operation of law:

- 1- By performance of contract of agency.
- 2- By death of principal or agent.
- 3- By expiry of time- where agency is for fixed time period.
- 4- By insolvency of the principal.
- 5- By destruction of subject matter- agency was created to sell a house& house destroys.
- 6- By becoming alien enemy- where principal & agent are from different countries.

Irrevocable agency:

The agency which a principal cannot revoke is known as irrevocable agency.

- 1- Where the agency is coupled with interest- the agency coupled with an interest does not come to an end on the death, insanity or the insolvency of the principal. A gives authority to B to sell A's land & to pay himself out of the proceeds, the debt due to him from A. A cannot revoke this authority.
- 2- Where the agent has incurred personal liability- where the agent has bought in his own name and makes himself a personal liability for his act. In such case the agency becomes irrevocable.
- 3- Where an agent has partly exercised an authority, the authority cannot be revoked-X authorizes Y to buy 10 bags of wheat on his account. Y buys 10 bags of wheat in the name of X. X cannot revoke the authority.