

Introduction: What is Agency

When one party delegates some authority to another party whereby the latter performs his actions in a more or less independent fashion, on behalf of the first party, the relationship between them is called an agency. Agency can be express or implied. Chapter X of the Indian Contract Act, 1872 deals with the laws relating to Agency. It is important to know the law relating to agency because nearly all business transactions worldwide are carried out through agency. All corporations, big or small, carry their work out through agency. Therefore, laws relating to the agency are an important area of Business Law. Relationships relating to principal and agent involve three main parties: The Principal, the Agent, and a Third Party.

Who is an Agent?

The Indian Contract Act, 1872 defines an 'Agent' in Section 182 as a person employed to do any act for another or to represent another in dealing with third persons.

Who is a Principal?

According to Section 182, The person for whom such act is done, or who is so represented, is called the "principal". Therefore, the person who has delegated his authority will be the principal.

Illustrations

- A, a businessman, delegates B to buy some goods on his behalf. Here, A is the principal and B is the agent, and the person from whom the goods are bought is the 'Third Person'.
- Joe appoints Mary to deal with his bank transactions. In this case, Joe is the Principal, Mary is the Agent and the Bank is the Third Party.
- Lavanya lives in Mumbai, but owns a shop in Delhi. She appoints a person Susan to take care of the dealings of the shop. In this case, Lavanya has delegated her authority to Susan, and she becomes a Principal while Susan becomes an agent.

Who can appoint an Agent?

According to Section 183, any person who has attained the age of majority and has a sound mind can appoint an agent. In other words, any person capable of contracting can legally appoint an agent. Minors and persons of unsound mind cannot appoint an agent.

Who may be an Agent?

In the same fashion, according to Section 184, the person who has attained the age of majority and has a sound mind can become an agent. A sound mind and a mature age is a necessity because an agent has to be answerable to the Principal.

Creation of Agency

An agency can be created by:

Direct (express) appointment– The standard form of creating an agency is by direct appointment. When a person, in writing or speech appoints another person as his agent, an agency is created between the two.

Implication– When an agent is not directly appointed but his appointment can be inferred from the circumstances, an agency by implication is created.

Necessity– In a situation of necessity, one person can act on behalf of another to save the person from any loss or damage, without expressly being appointed as an agent. This creates an agency out of necessity.

Estoppel– An agency can also be created by estoppel. In a situation where one person behaves in such a manner in front of a third person, as to make someone believe he is an authorized agent on behalf of someone, an agency by estoppel is created.

Ratification– When an act of a person, who acted as another person's agent (on his behalf) without his knowledge is later ratified by that person, this creates an agency by ratification between the two.

Types of Agents

1. Special Agent- Agent appointed to do a singular specific act.
2. General Agent- Agent appointed to do all acts relating to a specific job.
3. Sub-Agent- An agent appointed by an agent.
4. Co-Agent- Agents together appointed to do an act jointly.
5. Factor- An agent who is remunerated by a commission (one who looks like the apparent owner of the things concerned)
6. Broker- An agent whose job is to create a contractual relationship between two parties.
7. Auctioneer- An agent who acts a seller for the Principal in an auction.

8. Commission Agent- An appointed to buy and sell goods (make the best purchase) for his Principal
9. Del Credere- An agent who acts as a salesperson, broker and guarantor for the Principal. He guarantees the credit extended to the buyer.

Authority of an Agent

Authority of an agent can be both express or implied.

Express authority

According to Section 187, the authority is said to be express when it is given by words spoken or written.

Implied authority

According to Section 187, authority is said to be implied when it is to be inferred from the facts and circumstances of the case. In carrying out the work of the Principal, the agent can take any legal action. That is, the agent can do any lawful thing necessary to carry out the work of the Principal.

An agent's authority can be terminated at any time. If the trust between the agent and the principal has broken down, it is not reasonable to allow the principal to remain at risk in any transactions that the agent might conclude during a period of notice.

Agency can be terminated by the following ways:

By Agreement

On the basis that agency relationship is created by agreement between the principal and the agent, such a relationship can also be brought to an end by mutual agreement between the parties, either in writing or orally^[i] .

Termination by agreement may also occur if the agency relationship is terminated pursuant to the provisions of the agreement itself. The following situations may arise in this context:

If the agreement provides for the appointment of the agent for a specified period of time, the agency will come to an end automatically when that period of time expires.

If the agreement provides for the agency to terminate upon the occurrence of a specified event, the agency will come to an end upon the happening of the specified event.