

## 'Identification of Act and the Agency Contracts' (Malay Version)

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### Book Review

Written by Saudah Sulaiman, this book showcases the style and clear language that is easily understood by all segments of society, especially for those who want to know about the position of Contract Law and Agency in Malaysia. In addition, this book can also be used as a reference for students who want to understand more in this field. Given that Malaysia is still short of the bill book published in English, the author feel compelled to add a number of publications and this genre.

Contract law can be found either by decisions of the Court from time to time or from the statute. In this book we will refer to the Contract Act 1950 (Revised 1974) for the purpose of discussing the law of contract. Originally Contract Act 1950 only applies in the Malay States only, i.e., on 23 May 1950. Later this Act revised in 1974 and known as the Contract Act 1950 (Revised 1974) and subsequently expanded its application to Penang, Malacca, Sabah and Sarawak from 1 July 1974. Before that date, four states have used English contract law to the extent appropriate to local conditions.

Although the principle of contract law brought from England, but the Malaysian Contract Law is fundamentally similar to the Indian Contract Act. This is because the origin of the Contract Act 1950 which was adapted from the Indian Contract Act, 1872 which was modelled on English law but modified in certain respects. Contract Act is an agreement that is enforceable by law is a contract. This means, a contract will exist when the parties have reached an agreement or if they are deemed to have reached an agreement and the law recognize the rights and obligations arising from the agreement. When we use the word contract in terms of the law it would imply that agreement binding on the parties involved in the law. Therefore have pressed here that all contracts must according to an agreement even though not all the agreement automatically becomes a contract. To create a contract that is valid and enforceable in law, there must be important elements of such a proposal or offer, acceptance, consideration, intention, capability, conditions or certainty, the existence of free volition and that the agreement does not violate any laws [1].

Agency relationship can be made by mutual consent of the parties

concerned. As with other contracts, agency contract can be either express or implied. No one special formalities need to be followed in the establishment of an agency contract. Only in circumstances or particular cases according to the will and consent of the parties involved, the agency contract made in writing or formal affairs, namely principal in particular through a Power of Attorney or a Power of Attorney authorizing the agent to act on its behalf. According to Section 138 of the Contract Act, a reply was not necessary in the agency contract.

Agencies can be categorized into various types. Agents who work in certain transactions are named according to the powers granted, for example, universal agent, general agent and special agent. Some of these agents named or categorized according to their assigned duties such as del credere agent, broker and auctioneer. Normally when principal and agent to create an agency contract, both express or implied, duties and rights set out in one of the conditions contained in the agency contract. However, there are contracts in respect of the agencies do not allocate rights and responsibilities between them. In the absence of these things in the agency contract, the duties and rights of the agent to the principal and vice versa, may be referred to sections 164-178 of the Contract Act.

Principals can be divided into three, namely principal named reference when an agent acting on behalf of the principal named, this means that the agent tell or explain to a third party or person dealing with the name of the principal, the principal notified refers in an agent acting principal notified or disclosed, at the time the contract was made between the agent and the third party, the agent has indicated to third parties of the existence of his principal without telling his name and finally the principal was not informed referring to the time the contract was made between the third party and agent, directly does not disclose the fact that he was a representative in the matter. In fact, the agent also does not touch the existence of the principal or his identity. For third parties, it seems to have been encouraged to believe that the agent is not representing anyone or in other words it acts for itself. Only after the contract was made before third parties know the truth. Agency relationship can be terminated in two ways, namely action involved parties and by operation of law.

### References

1. (2000) Kuala Lumpur: Dewan Bahasa dan Pustaka, pp:195.

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