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B.Com Honours | Semester III | Calicut University

# Business Regulations

Course Code: COM3CJ201 • Module 2 Notes

# 1. Overview of Special Contracts: Indemnity, Guarantee, Bailment, and Agency

Special contracts are specific types of contracts governed by dedicated legal provisions under the Indian Contract Act. They govern commercial relationships involving risk protection, credit security, safekeeping of goods, and business representation. This module covers Contracts of Indemnity, Contracts of Guarantee, Bailment & Pledge, and Contracts of Agency.

## Indemnity vs. Guarantee

| Feature | Contract of Indemnity (Sec 124) | Contract of Guarantee (Sec 126) |
|---|---|---|
| **Parties Involved** | Two parties: Indemnifier and Indemnity Holder. | Three parties: Principal Debtor, Creditor, and Surety. |
| **Primary Objective** | Reimburse or save a party from financial loss. | Provide security for the repayment of a debt or performance of a duty. |
| **Nature of Liability** | Indemnifier's liability is primary and unconditional. | Surety's liability is secondary and conditional on debtor's default. |

## Contracts of Bailment and Pledge

### Bailment (Sec 148)

Delivery of goods by one person (Bailor) to another (Bailee) for a specific purpose upon a contract to return them once the purpose is accomplished.
**Duties of Bailee:** Take reasonable care, not make unauthorized use, and return goods upon completion.

### Pledge (Sec 172)

Bailment of goods specifically as security for the payment of a debt or performance of a promise.
**Pledgee Rights:** Retain goods until debt is cleared and sell goods after giving reasonable notice if debtor defaults.

## Contracts of Agency

An Agency is created when a person (Principal) authorizes another (Agent) to represent them in legal and commercial dealings with third parties.

- **Creation of Agency:** By express agreement, implied agreement, necessity, or ratification.
- **Delegation of Authority:** An agent cannot delegate authority (*Delegatus non potest delegare*), except in custom of trade or emergencies (Sub-agents vs. Substituted agents).
- **Termination of Agency:** By act of parties (revocation), or by operation of law (death, insanity, insolvency, expiry of time).