



Commercial Agency and Agency Agreements

Type	Gulf Legal Advisor
Date	26 mars 2018
Jurisdiction	Qatar
Copyright	LexisNexis

Document link: https://www.lexismiddleeast.com/pn/Qatar/Commercial_Agency_and_Agency_Agreements



Overview

- In a globalised world where the exportation of goods assumes crucial importance for the financial wealth of numerous companies, an agency agreement is one of the best ways to reduce the distance between the producer and the consumer by using the services of an intermediary.
- The activity of commercial agents is defined by law and almost every country has its own law to define the relationship between Agent and Principal. The stability of the agreement and the rights of the parties are therefore not the same everywhere, and change according to local law standards.
- This Practice Note will cover the requirements and specificities of commercial agency and agency agreements in Qatar.

Definitions

- *Agency agreement*: A consensual relationship created by contract where one party, the Principal, grants authority to another party, the Agent, to act on behalf of the Principal when dealing with a third party in return for remuneration.
- *Agent*: Any individual solely licensed to distribute goods and products, or offer them for sale, or circulate them, or perform specific services in the scope of the agency on behalf of the Principal in return for remuneration.
- *Principal*: In an agency relationship, the Principal is the person who gives authority to another, called an agent, to act on the Principal's behalf.
- *Remuneration*: Profit, commission, or any similar compensation.
- *Ministry*: The Ministry of Economy and Commerce of Qatar.
- *Commercial Agents Register*: Commercial Register and Trade Agents Register.

Practical Guidance

Qatar Law No. 8/2002 on the Organisation of Business of Commercial Agents (the Commercial Agency Law) regulates the business of commercial agents in Qatari territory. Some of its provisions were amended by Qatar Law No. 2/2016, which sets legal procedures for commercial agency in Qatar. Qatar Law No. 27/2006 on the Issuance of the Commercial Transactions Law (the Trading Regulation Law) also has several rules pertinent to commercial agency and agency agreements.

A commercial agency agreement between Principal and Agent must be done in writing (Commercial Agency Law, art. 3 and Trading Regulation Law, art. 291) and must include the following information:

- name and nationality of the Agent and the Principal;
- a description of the goods, or products, or services and also any trade mark of the commodity covered by the agency contract;
- the Agent's area of business;
- fees of the Agent;
- duration of agency (if not for undetermined period) and method of renewal; and
- the Agent's commitment to provide spare parts and perform necessary maintenance of the goods and products included in the agency.

If the agency agreement requires the Agent to provide storage, maintenance, or repair facilities, the agency agreement must be valid and in force for at least five years. The same rule applies to situations where the agent's work is especially time-consuming (Trading Regulation Law, art. 291).

Only Qatari nationals over 18 years or a company with 100% Qatari capital may undertake the business of commercial agent (Commercial Agency Law, art. 11).

Be aware that the Agent may not be represented by another person in its representation of the Principal, unless the agency agreement states otherwise.

A person who has been convicted in a final judgment for a crime of honour or trust (for example, defamation, forgery, embezzlement, theft) may not be appointed as a commercial agent unless the individual has recovered his or her civil rights (Commercial Agency Law, art. 11(44)). The same applies to any trader who has filed for bankruptcy during the trader's first year of trading (unless the person has been rehabilitated by the court), and any trader who has been finally convicted of any bankruptcy crime, of fraud, negligence, theft or scam, dishonesty, false accounting, or use of counterfeit notes, unless the person has been rehabilitated (Trading Regulation Law, art. 20).

Registration obligations

- A commercial Agent must be registered in the Commercial Agents Register, along with the commercial activity for which the agency is to be recorded (Commercial Agency Law, art. 10 and art. 11). Registration must be made at the

Ministry, by completing the application form (in person or by a representative with a power of attorney) along with the supporting documents such a copy of the commercial agency contract with Arabic translation, Qatar ID, and Memorandum of Association if the agent is a company.

- The agency registration must be renewed every two years, at least two months before the end of registration (Commercial Agency Law, art. 13).
- The Ministry will issue a certificate of registration to anyone who is registered in the Commercial Agents Register (Commercial Agency Law, art. 15).
- Any commercial agency not registered in the Commercial Agents Register will not be taken into account in any subsequent lawsuit. (Commercial Agency Law, art. 16).
- When an agency agreement is terminated, regardless the reason, the Agent has 30 days to submit an application to the Ministry to remove the Agent's name from the register. Failing to do so could result in the Agent being fined, imprisoned or both (Commercial Agency Law, art. 20).

Particular aspects

- The 2016 amendment to the Commercial Agency Law added a new paragraph to article 2 stating that "... shall be considered a commercial agent any person who undertakes, under the distribution contract, to promote and distribute facility goods, products and services, provided that is the sole distributor thereof".
- This means that the Commercial Agency Law also applies to distribution agreements that comply with the requirements above (i.e., a distribution contract to promote and distribute facility goods, products, and services on an exclusive basis (sole distributor).
- Third traders registered in the Commercial Agents Register may import goods included in an agency agreement for trading purposes, but the Agent is still entitled to claim from the Principal the payment of commission agreed in the agency contract. On the other hand, if the third party imports the goods for personal use or to re-export, the Agent has no right to remuneration (Commercial Agency Law, art. 4(2) and art. 5).

Termination of an agency agreement

- The requirements for terminating an agency contract under the Qatari law differ according to type of contract (fixed duration or indeterminate duration), but Qatari Law is very strict and with significant financial consequences.
- A fixed duration agency agreement terminates if the parties do not agree to renew it. The Agent will nevertheless have the right to claim compensation from the Principal, despite any agreement to the contrary, if:
 - the Agent's activity has led to a clear success in promoting the product(s) included in the agency agreement or increasing the number of clients of the Principal; and
 - the Agent has not received remuneration for this success because of the refusal to renew the agency contract (Commercial Agency Law, art. 8 and Trading Regulation Law, art. 301).
- The agent has 90 days to demand this compensation before the right lapses.
- An agency contract of indeterminate duration may only be terminated by agreement of the two parties. Under the Commercial Agency Law, "Should a party wish to terminate it despite the other party's objection, this must take place in accordance with a judgment or a decision issued by the competent authority for resolving any dispute arising from the agency contract." (art. 9).
- This strict scenario turns the unilateral termination of an indeterminate duration agency contract into a delicate situation that must be weighted by the party wishing to terminate, as the financial consequences arising from this decision are unpredictable.
- If a party unilaterally ends an indeterminate duration agency contract, the other party may demand compensation for the prejudice incurred (Commercial Agency Law, art. 9(b)). This rule is valid for both the Principal and the Agent.
- Even in cases where the parties agree to terminate the contract, the Agent is entitled to compensation from the Principal if the Agent's activity has led to an increase in clients or to a clear success in promoting the goods included in the agency contract (Commercial Agency Law, art. 9(c)).
- It is important to highlight that when the Principal appoints a new Agent, the Principal remains responsible for paying any compensation awarded to the previous Agent if it is proved that the Agent's removal or the contract's non-renewal was the result of collusion between the Principal and the new Agent.
- In addition, when the Principal appoints a new Agent, the Principal must buy from the first Agent the goods that were covered by the agency agreement at their market price or cost price, whichever is less, increased by 5%.
- The new Agent and the Principal will be both responsible for the commitments assured by the first Agent to third parties under the agency agreement.
- Aside from the foregoing compensation mechanisms, the Commercial Agency Law establishes another mechanism that applies to all the agency contracts (undetermined and fixed duration) and can jeopardise the Principal's interests. Article 17 stipulates that when the Principal terminates the agency agreement or refuses to renew it without a legal justification, the Commercial Registration and Licence Department may block the importation of the goods,

merchandise or services covered by the agency contract. The termination of an agency (or distribution) agreement may thus lead to the eradication of the Principal's goods within Qatar's territory.

- A commercial agency agreement will also end with the death of the Principal or the Agent, the loss of capacity of either Principal or Agent, or the bankruptcy of the Agent (Trading Regulation Law, art. 287).

Related Content

Legislation

- Qatar Law No. 8/2002 on the Organisation of Business of Commercial Agents, amended by Qatar Law No. 2/2016
- Qatar Law No. 27/2006 on the Issuance of the Commercial Transactions Law

Author



Ricardo Jorge Cid Teixeira

Senior Legal Consultant, Essa Al Sulaiti Law Firm (Doha, Qatar)

ricardo@eslaa.com

+974 66237991

Areas of expertise

Corporate Law; Labour Law; Sports Law

Education

- Post-graduate in Sports Law, University of Coimbra, Coimbra, Portugal
- Bachelor of Laws, University of Coimbra, Coimbra, Portugal

Memberships

- Admitted as an Attorney-at-Law in Portugal
- Member of the Disciplinary Committee of the Portuguese Federation of Rowing

Biography

- Ricardo is a Senior Legal Adviser at Essa Al Sulaiti Law Firm. After several years practising as a lawyer in Portugal, where he evolved from junior to partner of his law firm, Ricardo moved to Qatar to embrace the challenge of starting a new project with Essa Al Sulaiti Law Firm and its international clients, focused on his international law expertise and capacity to communicate in numerous languages (Portuguese, English, French and Spanish).