

Creation of the Commercial agency committee: A long awaited event

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The Agency Law (Federal Law no. 18 of 1981) as amended by Federal Law no. 2 of 2010 is the law regulating commercial agencies in the UAE. The new amendment incorporated in Federal Law no. 2 of 2010 re-instated the Commercial Agency Committee ("The Committee"); however it took some time before the Committee became operational.

Nowadays and in 10 April 2011, H.H Mohammad Bin Rashid Al Maktoum, the Vice President of the UAE and Ruler of Dubai issued Decree No. 3 of 2011 ("The Decree") Establishing the Committee of Commercial Agency and its role is to review any dispute pertaining to any commercial agency registered with the Ministry of Economy.

This article will address the establishment of this Committee, procedures to be followed before the committee in the event of disputes regarding termination, de-registration of an agency agreement and time prescribed to challenge the Committee's decision before the courts. In the next edition of the Law Update we will address some noteworthy and important issues which arise as a result of the creation of the Committee

Establishment, membership and meetings of the Committee:

According to The Decree, the Committee shall be chaired by the Director General of the Ministry of Economy and shall be comprised of the following members: Executive Director of Commercial Affairs at the Ministry, Undersecretary of the Department of Economic Development in Abu Dhabi, Director General of the Dubai Chamber of Commerce & Industry, a member of the Board of Directors of the Sharjah Chamber of Commerce & Industry to be nominated by the Chamber, a representative of the Department of Legal Affairs at the Ministry of Economy and the Director of the Agencies Department at the Ministry or other person deputizing for him as member and 'rapporteur'.

According to The Decree a member shall cease to serve on the Committee in one the following case:

- he is absent for 3 consecutive meetings of the Committee without an excuse acceptable to the Chairman of the Committee;
- his service terminates for the office he holds;
- death or illness prevents him from performing his duties,
- he is convicted of a crime involving breach of honor or trust or he is removed by a decision from the Cabinet.

Furthermore, the Decree states that should, for any reason, a member's seat becomes vacant or his membership terminate, the Minister of Economy shall nominate a replacement taking into account the member's official title, in coordination with the body he used to represent and shall submit the matter to the Cabinet for approval.

The Decree further states that the Committee shall meet upon the Chairman or Vice-chairman's invitation. The invitation shall state the time and place of the meeting and shall be in writing. However, the Decree permits at the discretion of the Chairman or Vice-Chairman to invite Committee members by any other

means of communication. The required quorum for the Committee meeting shall be the majority of its members, including the Chairman or Vice-Chairman.

The Committee shall issue its decisions by majority vote of members attending the meeting. In case votes are equal, the Chairman shall have the casting vote. Voting may not be done by proxy or correspondence

Filing an application before the Committee

The Decree sets out the procedure for filing and recording applications which are filed with the Committee.

According to the Decree any Application (standard form approved by the Committee) to be filed with the Committee shall be filed directly with the rapporteur. The application shall include the following documents and particulars:

- Name, details and address of the applicant,
- Names, details and addresses of the disputed parties,
- Summary of the dispute and the relief sought from the Committee along with the supporting documents.

At a later stage, the rapporteur registers the received Applications under serial number on the “Special Register” and inserts the filing date and particulars of the Application. A receipt shall then be issued confirming the receipt and the recording of the Application.

Once the Committee decide on the Application such decision along with the number and date of notification of the decision to the applicant are then entered on the Applications Register. The applicant shall pay a fee of AED 6,000 to the Ministry of Economy for the Application to be entered on the Applications Register.

Applicable Procedures by the Committee

According to the Decree the Committee shall fix a date for the hearing of the dispute within 60 days after the filing of the Application and shall notify the date to the parties. The Committee may, at its own initiative or at the request of the parties, allow the disputing parties to appear before the Committee. If neither the applicant nor his opponent appears in person or through an attorney, the Committee may decide on the dispute.

The Committee may allow a party to file any new documents that were not originally filed with his Application provided that he presents a “good cause” in this regard.

When performing its duties the Committee may seek assistance from experts and specialists. The Committee shall specify the amount that is to be provisionally paid towards the expert’s fees along with costs and determine the party that shall bear these costs.

In concluding, it is important to note that the Committee is required to commence the examination of the dispute within 60 days after the date of filing a complete Application. The Committee’s decision can be challenged before a competent court within 30 days of the date of the Committee’s decision, otherwise, the Committee’s decision shall be deemed final.

The Award issued by the Committee

According to the decree the Committee shall issue a decision on the merits of the case. Such award shall contain a summary of the dispute and reasoning of the Committee’s decision.

However, The Committee, at its discretion, may decide to refer the parties to the Court. Any decision issued by the Committee must specify the party bearing the expert’s fees and costs. The Committee’s decision shall be signed by the Chairman and members and the parties shall be served with a copy of the decision within 15 days after issuance thereof.

Rules for De-Registering the Agency agreement

With regard to Committees' decisions to deregister commercial agencies, the Decree stipulates that any Committee decision to de-register a commercial agency is enforceable. However, if any party to the dispute appeals/challenges the Committee's decision, within 30 days from the issuance of this decision, the Ministry may not register the agency in the name of another party before a final decision is rendered on the merits of the dispute provided that the appellant, within one week after the expiration of the 30 days appeal period, furnish the Ministry with proof that he has appealed the Committee's decision to the competent court.

If parties failed to appeal to the competent court the Committee's decision within 30 days after the notification of such decision the latter shall be deemed final and binding.

Last but not least, the Decree also states that the Committee shall submit to the Minister of Economy a semi-annual report showing the number of disputes brought before it, the grounds of those disputes and the decisions thereon, together with the Committee's recommendations on the best possible solutions to minimize such disputes.

Possible questions that might rise with the establishment of this Committee

In the next edition we will discuss the possible issues which arise as a result of the creation of the Committee. Stay tuned!