

EU Agency Regulations Guide

In 1993 the EU introduced an important set of regulations designed to govern relationships between Agents and their Principals.

The regulations apply throughout the EU (including the UK) and are overriding (i.e. the parties cannot contract out of the regulations to the detriment of the Agent). However, the regulations tend to be applied with differing force in different territories.

So what is an agent and why should this type of relationship require governance?

An agent is *'a self-employed intermediary who has the continuing authority to negotiate the sale or purchase on behalf of another person (the Principal) or to negotiate and conclude the sale of goods on behalf of and in the name of that Principal'*. The regulations were introduced to protect the agent against the temptation on the part of the Principal to deal directly with the client and cut the agent out. The regulations take the view that the customer relationship is not simply the property of the Principal.

N.B. Agents who sell services are excluded from the regulations, as is what is deemed 'secondary' e.g. where a distributor occasionally acts as an agent.

The Principal owes certain duties to the agent:

- Provide necessary supporting documentation
- Obtain information the agent needs to perform the agency contract
- Notify the agent if the volume of commercial transactions will be lower than the agent might normally have expected.

The Agent owes certain duties to the Principal

- Look after the interests of the Principal and act in good faith
- Make proper efforts to negotiate and conclude transactions
- Communicate all necessary information to the Principal
- Comply with reasonable instructions given by the Principal.

The parties cannot contract out of these duties.

The following modules offer a deeper insight into this topic:

Contractual issues

Legal Considerations

You can find them either in the SavvyAcademy or in the 'Find and Manage Partners' area of 'Create Your Plan'.

Information you complete as part of the Module will be automatically entered into your Plan. The more modules you complete, the more your Plan will build.

Commissions fall due when the transaction is completed and must be paid not later than the last day of the month following the quarter in which it became due.

You can get the full text of the Regulations by following the link in the Links Store.

N.B. Changes made after enactment are not incorporated in the text. You must take legal advice on your contract.