

**Law No. (7) for the Year 2003
On The Trade Secrets**

We, Hamad Bin Isa Al Khalifah, King of the Kingdom of Bahrain

Having reviewed the constitution,

The Law of Civil and Commercial Proceedings enacted by legislative decree No. (12) for the year 1971 ,and its amendments;

The Trade Law enacted by the legislative decree No. (7) for the year 1987 and its amendments,

The legislative decree No. (7) for the year 1994 to ratify the document on the creation of the World Trade Organization (WTO),

The legislative decree No. (31) for the year 1996 approving the accession of the Kingdom to Paris Convention for the Protection of Industrial Property,

The Civil Law enacted by the legislative decree No. (19) for the year 2001,

The Criminal Procedures Law, enacted by the legislative decree No (46) for the year 2002,

Decree No. (1) for the year 1995 regarding accession of the Kingdom of Bahrain's to the Convention establishing the World Intellectual Property Organization,

The Shura Council and the House of Representatives have approved the following law which we have endorsed and enacted:

Article (1)

Any natural or legal person is prohibited from disclosing information in his possession if such an information contains the features hereunder:

- A)** If the information is confidential. Confidentiality is thereto fulfilled if the information in its final form or its specifics are unknown nor circulated and is not accessible for those who usually deal with such type of information.
- B)** If it was of a commercial value due to its confidentiality.
- C)** If its confidentiality was dependable on the effective measures undertaken by its legal holder to preserve it.

Within the course of implementing provisions of this law, the information stipulated in the features hereinabove are thereto regarded as trade secrets.

Article (2)

Disclosure prohibition of the previously prescribed trade secrets in the above Article extends to include confidential tests and data that were the outcome of notable efforts, and which are submitted to the competent authorities at their request for approval of promoting pharmaceutical or agrichemical products in which new chemical components are used.

The competent authorities shall be obliged not to disclose received data or tests of those mentioned in the previous Paragraph until the same is no longer confidential, and prohibit unfair commercial use of the said data or tests by means of not permitting any person without the consent of the owner from depending on it to market his own products or pharmaceutical products until after five years consecutive to the date of marketing approval in the Kingdom of Bahrain.

Article (3)

Owner of the trade secrets right is entitled to prohibit others from violating the same through any act contradictory to lawful commercial practices.

The right owner –or a third licensed party- is at liberty to dispose of trade secrets to others either with consideration or without consideration.

Article (4)

For purposes of this herein law application committing any of the following acts is thereto considered a violation of fair trade practices –in particular:

- a) Breach of contacts, if any of the parties discloses confidential information that came to his knowledge through the information contained in the contract
- b) Disclosure of confidential information and the inducement of its disclosure.
- c) Acquiring information from the places where same is reserved in any illegal manner such as fraud, espionage, robbing, bribery, or other.
- d) Acquiring trade secrets from another person, if the acquirer knows or is capable of knowing that the other person obtained the information through committing any of the acts prescribed in the above provisions.

Acquiring trade secrets by exerting independent self efforts or capabilities shall not prejudice fair trade practices.

Article (5)

The employees appointed by the Minister of Justice upon agreement with the Minister of Trade shall have the capacity of Judicial Control Commissioners concerning the crimes taking place within their own jurisdictions and that pertain to their functions.

Reports issued in relation to these crimes are submitted to the General Persecution by virtue of a decision by the Minister of Trade or the person he delegates for this purpose.

Article (6)

- a) When violating the rights herein prescribed or to prevent any violation thereof, the right owner shall file an order in a petition from the chief of the competent court regarding the origin of dispute in order to take one or more cautionary measures as appropriate, including the following:
 - 1. Submit a detailed description of the products –including the imported products upon arrival, materials, machinery and equipment which are being used or have been used thereof, and to maintain the evidence related to subject matter.
 - 2. Effecting cautionary seizure on the items mentioned in the preceding paragraph.
 - 3. Stop the violation.

- b) The petition shall be attached with sufficient evidence that the applicant is the right owner and that this right is subject to violation or imminent violation. The court chief may ask the applicant to present necessary information to assist the competent authority to implement cautionary measures regarding the products in question.

- c) The court chief, as may be the case, may rule in the request of the petition applicant without summoning the adversary where delay in issuing orders may result in unrealizable damages or that it would render the destruction of evidence. In such a case the adversary must be notified immediately with the verdict.

The issued verdict may include, in addition to undertaking any of the said measures, delegation of one or more experts to assist in its implementation, impose the deposition of a bank or monetary guarantee appropriate to compensate for any damage that may unlawfully arise thereof. The party against whom the order is issued may petition against the order before the competent court within the ten days following the date of its issuance or its notification, as the case may be, in this case the court shall have the right to affirm the order or to repeal it, either fully or partially.

The lawsuit regarding the substance of the dispute must be submitted within 15 days as of the issuance thereof; otherwise any thereto action shall be deemed null.

Article (7)

Without detriment to any harsher penalty prescribed in any other law, any person who unlawfully discloses, acquires or uses trade secrets protected under the provisions of this Law, and was aware of their secrecy or that they were acquired by unlawful methods, shall be punished by an imprisonment of not less than 3 months and not more than one year and by a fine of not less than (5000) five Thousand Bahraini Dinars and not more than (2000) Two Thousand Bahraini Dinars, or by any of those penalties.

The court may instruct the publication of the verdict in a daily newspaper for one time or more at the expense of the party against whom the decision is issued.

In case of repetition of the offense, the punishment shall be imprisonment of not less than 6 months and not more than 2 years and by a fine of not less than (500) Five Hundred Bahraini Dinars and not more than (4000) Four Thousand Bahraini Dinars, or by one of those penalties, with the closing the store or business or stopping the activity –as may be the case- for a period not less than 15 days and not more than 6 months, as well as publishing the judgment in a daily newspaper for once or more at the expense of the party against whom the decision is issued.

In case of a conviction decision, the court shall order the seizure or destruction of products or goods acquired from the offense, including imported goods upon their arrival and machinery and equipment used thereof.

In case of an acquittal decision, the court shall rule the seizure or destruction of the aforementioned items if they caused harm or have been used to infringe the patented rights.

Article (8)

The Minister of Trade shall issue the necessary decisions to implement the provisions of this herein Law.

Article (9)

The Ministers - each in his own capacity – shall implement this Law which shall come into effect as of the next day following the publication thereof in the Official Gazette.

The King of the Kingdom of Bahrain
Hamad Bin Isa Al Khalifa,

Issued in Al Rifa'a Palace on:
14th of Rabee' Al Akhir 1424 A.H.
June, 14th, 2003