

## LAW NO. (18) OF 2012 WITH RESPECT TO TRADE NAMES

**We, Hamad Bin Isa Al Khalifa, King of the Kingdom of Bahrain,**

- Having reviewed the Constitution,
- And Decree No. (1) Finance, 1961 Concerning the Establishment of the Commercial Register, as amended,
- And the Penal Code, promulgated by Legislative No. (15) of 1976, as amended,
- And the Law of Commerce, promulgated by Legislative No. (7) of 1987, as amended,
- And the Commercial Companies Law, promulgated by Legislative No. (21) of 2001,
- And Legislative Decree No. (28) of 2002 with respect to Electronic Transactions, amended by Law No. (13) of 2006.
- And the Law of Criminal Procedures, promulgated by Legislative Decree No. (46) of 2002, amended by Law No. (41) of 2005,
- And Law No. (11) of 2006 with respect to Trade Marks,
- And the Central Bank of Bahrain and Financial Institutions Law, promulgated by Law No. (64) of 2006,
- The Shura Council and the House of Representatives approved the following Law, and we hereby ratify and promulgate it:

### Article (1)

In the course of implementing the provisions of this Law, and unless the context requires otherwise, the following words and expressions shall have the meaning assigned opposite each:

**Ministry:** The Ministry concerned with trade affairs.

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**Competent Directorate:** The Directorate competent to register trader names at the Ministry.

**Register:** The Register of trade names.

**Trade Name:** The name used by the trader in carrying on his trade in order to distinguish his business from other businesses and on behalf of which he signs his transactions and which he displays on his letterheads so as to inform his customers or others that they are issued by this trader.

**Business:** The place where the trader practices his trade, whether it is a sole proprietorship of company.

**Person:** The natural or corporate body.

### Article (2)

With due regard to the names of foreign companies registered outside the Kingdom and companies of international repute, each person who owns a commercial registration and undertakes a commercial activity shall have his own trade name which distinguishes his

business from other businesses.

A trade name may be comprised of an innovative name or of the person's name, surname, or both. It may also include details pertinent to the type of activity he undertakes or a trademark he owns which is registered in accordance with the Trade Marks Law.

A trade name shall enjoy legal protection once it has been registered unless assigned or struck off administratively or upon a final court judgment.

### **Article (3)**

There shall be established, at the competent Directorate, a register, paper or electronic, which shall be called the (Register of Trade Names), in which all details related to trade names, names of their owners and their addresses and the certificates issued to them shall be entered, as well as the actions or legal acts occurring to such names, including any mortgage or attachment made on the trade name, or any restriction placed on its use or assignment thereof or permission from its proprietor to third parties to use it.

The electronic database of the Register may contain all details mentioned in the preceding paragraph, in addition to the service of inquiry about the availability of a trade name or the possibility of booking it for a period not exceeding three (3) months in accordance with the conditions for which an order is issued from the Minister.

### **Article (4)**

With due regard to the provisions of the Commercial Companies Law, for a trade name to be registered, the following conditions must be satisfied:

1. The name must be new and must not have been used or registered for another person for the same type of trade or for a similar type that creates confusion for the public. The trade name may be a name that has been assigned.
2. It should be innovative and not commonly used in the type of trade for which it is used, unless the trade name consists of the person's name or his surname.
3. The trade name must not be in breach of public order and public morals.

The trade name shall be registered in Arabic language but may also be registered in any acceptable common foreign language accompanied with its translation into Arabic if the name is owned by a person of a foreign or mixed capital and the trade name has been registered and used outside the Kingdom. The translation shall either by literal or in the corresponding meaning in Arabic language, as the case be.

## **Article (5)**

With due regard to the trade names of commercial activities valid before the provisions of this Law comes into force, no registration of any trade name for a commercial firm or company may be accepted, if the name has one of the following descriptions:

1. If it is the same trade name of a company known internationally.
2. If it is the same trade name owned by another person, for the same type of trade or a similar type that may cause confusion for the public.
3. If it contains a meaning or incorporates a political, military or religious content.
4. If it is similar to an honorary name, emblem or insignia or a special symbol for any of the regional, Arab or international organizations or any of their institutions.
5. If it is similar to the name of any of the local, regional or international social or charitable organizations (such as the Red Crescent, the Red Cross and such other similar names).
6. If the use of the trade name would cause confusion, unless it is related to the trade name in terms of the family names or the name of another company or firm owned by the name proprietor or he participates in its ownership or he owns or distributes its products or services.
7. If it would lead to others believing that its owner is of an official capacity or that he enjoys a special care.
8. If it contains an imitated trade mark or similar to another trade mark registered in the Kingdom or well known in it.
9. The names which are copies, imitation or translation of a reputable mark or owned by third parties or of part thereof, whether the name is used for the same activity of the reputable trade mark or for any other activity.
10. If its use is banned or restricted to certain parties by virtue of a legislation.

## **Article (6)**

Priority for registering the trade name, in case more than one person apply to register the same name, shall be given to the most senior in terms of the date of submitting the application.

## **Article (7)**

An application for registering a trade name shall be submitted to the competent Directorate on the form designated by the Ministry for this purpose accompanied with all particulars and documents required by the Ministry and the competent Directorate shall issue to the applicant a proof of receiving his application and the date of receiving the application.

The competent Directorate shall decide on the application by accepting or rejecting it, in a registered letter with a delivery note, or through electronic means within not more than ten (10) working days from the date of receiving the application provided that a decision rejecting the application must contain justifiable reasons for such decision.

In the event of acceptance of an application, it shall be registered immediately and published in the Official Gazette and in one of the local daily newspapers issued in Arabic and on the Ministry's website.

However, In case the competent Directorate does not give a reply within the above specified duration, this shall be deemed as an acceptance by the competent Directorate of the application and the applicant may act on this basis at the Ministry's responsibility. An applicant whose application has been rejected may file a grievance against the rejection to the Minister within thirty (30) days from the date he has been notified in writing of the rejection decision, and the Minister shall issue a decision in respect of this grievance within fifteen (15) working days.

In the event of rejection of the grievance or if the applicant does not receive a reply within the specified duration, the interested person may appeal against it before the competent court within thirty (30) days from the date of notification.

### **Article (8)**

A trade name shall enjoy protection in pursuance of the provisions of this law once it has been registered in the Register, and the proprietor of the trade name shall have the right to prevent third parties from using his trade name or any similar sign which could mislead or confuse the public as regards the products or services associated with his trade name.

### **Article (9)**

A trader may use more than one trade name in order to distinguish the types of various commercial activities he undertakes in accordance with the conditions and requirements prescribed in an order issued by the Minister.

### **Article (10)**

1. The title to a trade name may be transferred, assigned, mortgaged or attached without transferring the title to the business or assigning, mortgaging or attaching it.
2. If the ownership of a business has been transferred without transferring its trade name, the proprietor of the name may continue to use it.
3. Transferring the title to a trade name or mortgaging or disposing of it is not considered a plea against third parties except from the date of proving such act of conveyance in the Register and publishing it on the Ministry's electronic website and in one of the local daily newspapers issued in Arabic language.
4. The ownership of a trade name and all its relevant rights and obligations shall be transferred through inheritance.

5. The procedures of registering the transfer of the title to a trade name, mortgaging or attaching it, as well as all other legal acts of disposal related to it, shall be prescribed in an order issued by the Minister and shall be published in the Official Gazette.

### **Article (11)**

With due regard to the provisions of this Law, the competent Directorate shall automatically, or upon request submitted to the relevant Directorate by an interested party, strike off the trade name, in any of the following instances:

1. If the trade name was registered in contravention of the provisions of this Law.
2. If it is established that the proprietor has continuously failed to carry on business activities over a period of three (3) years.
3. Upon a final verdict from the competent court.

The decision issued striking off a trade name in either cases (a and b) shall be appealable before the competent court within thirty (30) days from the date of notification thereof.

### **Article (12)**

A proprietor of a trade name whose trade name has been struck off in pursuance of the provisions of the preceding Article shall have to remove the signboard of his trade name, advertising material and other promotional materials as well as any traces of using such trade name and shall be held liable for all contracts and engagements arising out of such trade name within thirty (30) days from the date of striking off unless the court has ordered otherwise.

### **Article (13)**

Third parties may, after the lapse of three (3) years from striking off the trade name, apply to register the trade name which has been struck off.

The proprietor of the trade name which has been struck off may apply to re-register it at any time unless it has been registered in the name of a third party.

### **Article (14)**

Every person who carries on a commercial or a service activity shall write his trade name clearly on the front of his business premises and on all of his printed materials and correspondences.

### **Article (15)**

The proprietor of the trade name may change, alter or replace it without contravening the provisions of Article (5) of this Law, after publication in one of the local daily newspapers

issued in Arabic language. In the event that no objection is received by the competent Directorate within fifteen (15) days from the date of publication, a notation effecting the execution of the application for such change, alteration or replacement shall be made in the Register.

### **Article (16)**

All the rights and obligations entailed in the trade name shall be transferred to the transferee of this trade name as a consequence of business. Nevertheless, the predecessor shall remain jointly liable with the successor for performing such obligations. Action shall be time-barred for the successor's liability for the predecessor's obligations after the expiry of five (5) years from the date of transfer of the ownership of the Commercial Registration.

### **Article (17)**

In the event of transfer of the title to the business without the trade name itself, the predecessor shall be liable for the obligations prior to the transfer of the business, unless there is an agreement confirming the successor's joint liability for such obligations.

### **Article (18)**

The proprietor of a trade name may grant a third party the license to use it under an official contract registered with the competent Directorate for this purpose.

### **Article (19)**

If a trade name has been used by someone other than its legal proprietor or if it has been used by the proprietor in a manner contrary to the Law, interested parties may request the competent Directorate to ban the use of the trade name or strike it off from the Register and may also seek damages through the courts, if required.

### **Article (20)**

Every person owning a business may write his trade name and commercial registration number clearly on the front of his business as well as on all his printed materials and correspondences in such a way as to correspond with the licensed trade name in accordance with the license certificate. A resolution shall be issued by the Minister stipulating the conditions and technical specifications to be fulfilled by the trade name signboard.

## **Article (21)**

All owners of commercial registrations must adjust their status in accordance with this Law within six (6) months from the date it comes into force.

## **Article (22)**

Employees appointed by the Minister to ascertain the implementation of the provisions of this Law and the orders issued in implementation thereof shall have the power to enter upon the relevant business premises.

Employees designated in an order by the Minister concerned with Justice affairs, in conjunction with the Minister, shall have the capacity of judicial police officers in respect of the offenses committed in their jurisdictions and related to their duties.

The minutes prepared in respect of such offences shall be referred to the Public Prosecution by an order issued by the Minister or whoever is authorized by him.

## **Article (23)**

Without prejudice to any stiffer penalty provided for in another law, a fine of not less than BD 500 and not more than BD 1,000, shall be imposed on every one who:

1. Has deliberately used a trade name owned by another person in violation of the provisions of this Law.
2. Has deliberately used a trade name owned by him in a way to mislead the public or contravene the provisions of this Law.
3. Has deliberately used a trade name not registered in pursuance of this Law.

In case of recurrence, the fine shall be doubled.

## **Article (24)**

Every provision which is in conflict with the provisions of this Law shall be repealed.

## **Article (25)**

The Minister shall issue the necessary orders to implement the provisions of this Law.

## **Article (26)**

The Chairman of the Council of Ministers and Ministers, each in his respective capacity, shall implement this law, which shall come into force on the day following the date of its

publication in the Official Gazette.

**Hamad Bin Isa Al Khalifa**  
**King of the Kingdom of Bahrain**

Issued at Riffa' Palace on:  
17 Jamadi Al Ula 1433 H  
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