

**LEGISLATIVE DECREE NO. (62) OF 2014
WITH RESPECT TO ANTI-COMMERCIAL FRAUD**

We, Hamad Bin Isa Al Khalifa,

King of the Kingdom of Bahrain,

- Having reviewed the Constitution,
- And Law No. (3) of 1975 with respect to Public Health, as amended,
- And Legislative Decree No. (18) of 1975 Fixing Prices and Controls Thereon, amended by Legislative Decree No. (11) of 1977,
- And the Penal Code, promulgated by Legislative No. (15) of 1976, as amended,
- And Legislative Decree No. (6) of 1977 for Balances, Measures and Weights, amended by Legislative Decree No. (8) of 1983,
- And Legislative Decree No. (3) of 1985 with respect to the Control of Imported Foodstuffs,
- And Legislative Decree No. (16) of 1985 with respect to Specifications and Measures, amended by Law No. (13) of 1992,
- And the Law of Commerce, promulgated by Legislative No. (7) of 1987, as amended,
- And Legislative Decree No. (18) of 1997 with respect to Organizing the Pharmacy Profession and Pharmacy Centres,
- And the Law of Criminal Procedures, promulgated by Legislative Decree No. (46) of 2002, amended by Law No. (41) of 2005,
- And Law No. (7) of 2003 with respect to Trade Secrets, as amended,
- And Law No. (11) of 2006 with respect to Trade Marks,
- And Law No. (35) of 2012 with respect to Consumer Protection,
- 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:

1. **Ministry:** The Ministry concerned with trade affairs.
2. **Minister:** The Minister concerned with trade affairs.
3. **Competent Authority:** The competent Authority or Authorities responsible for the enforcement of the provisions of this Law.
4. **Commodity:** All types of foodstuffs, basic and luxury products, medical drugs, medicines, medical plants, pharmaceutical preparations, cosmetic preparations used for medical purposes, agricultural produce, animal and vegetable products, manufactured and semi-manufactured raw materials and the like, which is produced, manufactured, planted or cultivated.
5. **Fraudulent Commodities:** They are every commodity to which change or manipulation has been made, in a certain way, making it lose some of its material or intangible value, whether by way of addition, reduction, changing its essence or its nature, type, kind, properties, shape, components, weight, measure, number, capacity,

caliber, origin or source. Goods shall be considered fraudulent in case they violate the national technical regulations, or if the particulars written on their packages are contrary to their composition, or if their corruption or rottenness is concealed or their validity period has expired.

6. **Corrupted Commodity:** It is the commodity the properties of which have changed due to chemical or microbic decomposition, or if it contains larva, worms, insects or animal waste or leftovers, or its validity period has expired.
7. **Provider:** Any natural person or juristic entity who imports, exports, re-exports, manufactures, markets, disposes, sells, stores or offers goods for sale for his account or for the account of others, whether he is a wholesale or retail trader, manufacturer, commercial agent or a roving salesman.

Article (2)

Without prejudice to any severer penalty provided for in another Law, a prison term of not more than two years and a fine of not more than BD 3,000, or either, shall be imposed on anyone who defrauds or attempts to defraud his contracting party by any means in one of the following:

1. The commodity's essence, nature, kind or essential features or its contents of useful components, and in general the components which are part of its composition, if what has been delivered from such commodity is other than what has been contracted for.
2. The type of the commodity or its origin or source in the cases where the type, origin or source fraudulently attributed to the commodity under an agreement or custom and usage is considered a main source of contracting.
3. The description of the commodity, whether in the quantity, weight, gauge, measure, capacity or number.

The penalty provided for in this Article shall be doubled if the offense is committed or is about to be committed by using balances, measures, gauges, stamps or seals or other testing machines which are counterfeited or methods, means or documents which would make the weighing of the commodity or measuring, gauging or testing it not correct.

Article (3)

Without prejudice to any severer penalty provided for in another Law, a prison term of not more than five years and a fine of not more than BD 5,000, or either, shall be imposed on anyone who:

1. Defrauds or attempts to make fraudulent something prepared for sale from human or animal food, drugs, medical plants, medicines, agricultural produce or natural or industrial products.
2. Offers or puts on sale or sells something from human or animal food, drugs, medical plants, medicines, agricultural produce or natural or industrial products if they are fraudulent or corrupted or their validity period, knowing about this event.
3. Manufactures, re-manufactures, offers, puts on sale or sells materials or packages, packaging which are used in making fraudulent the human or animal food, drugs,

medical plants, medicines, agricultural produce, or natural or industrial products in a manner that precludes their use in a lawful way or for the intention of fraud, and everyone who has instigated or assisted in using them in fraud through brochures, publications or any other method of whatever kind.

The penalty shall be doubled if the human or animal food, drugs, medical plants, medicines, agricultural products or natural or industrial products, or materials, packages or packaging referred to under (1), (2) and (3) of this Article are harmful to human or animal wealth.

Article (4)

Without prejudice to any severer penalty provided for in another Law, a prison term of not more than one year and a fine of not more than BD 1,000, or an amount equal to the value of the commodity subject of the offense, whichever is higher, or either, shall be imposed on anyone who has possessed, for the intention of circulation, something from human or animal food or agricultural produce or natural or industrial products which are fraudulent or rotten, or the validity period of which has expired, or materials, packages or packaging used in making any of them fraudulent.

The penalty shall be doubled for anyone who possesses, for the intention of circulation for an unlawful purpose, something of foods, produce, drugs, medical plants or medicines used in human or animal treatment.

The penalty shall a prison term of not more than five years and a fine of not less than BD 5,000 and not more than BD 10,000, or an amount equal to the value of the commodity subject of the offense, whichever is higher, if the goods, produce, products, drugs or medical plants or medicines or materials referred to in the preceding articles are harmful to human or animal health.

Article (5)

Without prejudice to any severer penalty provided for in another Law, a prison term of not more than five years and a fine of not more than BD 5,000, or an amount equal to the value of the commodity subject of the offense, whichever is higher, or either, shall be imposed on everyone who has imported or procured to the country something of human or animal food, drugs, medical plants, drugs, agricultural produce or natural or industrial products which are fraudulent or rotten, knowing about this event. They shall also be considered so if they are not conforming to the natural technical regulations or not fit for use, or if the validity date written on them from the date of production in the country of origin has expired.

With due regard to the provisions of Article (10) of this Law, the competent Authority shall destroy the materials referred to in the previous paragraph at the expense of the consignee, if he knows that they are fraudulent or rotten, and shall fix a time limit for him to re-export them abroad if he does not know that they are fraudulent or rotten. If he does not do so within the time limit prescribed, such materials shall be destroyed at his own expense.

Article (6)

If, as a result of committing any offense of those provided for under Articles (2), (3) and (4) of this Law, a person sustains permanent disability, the penalty shall be a prison term of not more than ten years and a fine of not more than BD 10,000, or an amount equal to the value of the commodity subject of the offense, whichever is higher. If the Court applies the provisions of Article (72) of the Penal Code, the freedom-restricting penalty shall not be less than a prison term of one year.

If the offense leads to the death of one person or more, the penalty shall be life imprisonment and a fine of not more than BD 20,000, or an amount equal to the value of the commodity subject of the offense, whichever is higher.

Article (7)

The Minister shall issue administrative orders in respect of the following:

1. The obligation to use certain utensils, vessels, packages or packaging in preparing or making available what is ready for sale from animal or human food, drugs, medical plants, medicines, agricultural produce or natural or industrial products and organizing their packaging, binding, preservation, distribution, manufacturing or transportation for the purpose of offering them for sale or for selling them.
2. Prescribing the conditions and methods of use or consumption of the commodities and materials referred to in the previous paragraph and the cases in which they are unfit for consumption, stating their name, source, place of manufacture, the name of the manufacturer and such other particulars necessary to identify them.
3. Determining the manner in which the particulars referred to in the preceding paragraph are recorded.
4. Prescribing the method of organizing registers and books of the commodities or the materials referred to under (1) of this Article, the method of maintaining such registers and books and auditing them and issuing certificates thereof or approving them.
5. Determining the components and percentages to be fulfilled in the composition of commodities and materials referred to under (1) above of this Article after specifying them by specialists in accordance with the provisions of laws and regulations in force, to sell them or offer them for sale or for their use or consumption.
6. Determining the method of exporting such commodities and importing, manufacturing or possessing them for the purpose of sale or for offering them for sale or for selling them.

7. Determining the method of disposing of the commodities referred to under (1) of this Article which are contravening the provisions of this Law and the regulations and orders issued in implementation thereof, and prescribing the necessary period necessary for their disposal.

Everyone who violates the provisions of such orders referred to in the preceding paragraphs shall be punishable by a prison term of not more than one year and a fine not exceeding BD 2,000, or either.

Article (8)

Without prejudice to any sterner penalty provided for in another Law, the penalty shall be a prison term of not more than one year and a fine of not more than the maximum limit of the penalty prescribed for the offense, or either, if any of the offenses referred to under Articles (2), (3) and (4) of this Law are committed through negligence or due to failure to take precautions or care or due to default on the control duty.

Article (9)

Without prejudice to the responsibility of the natural person, the juristic entity shall be held criminally if any of offense of those provided for in this Law is committed in his name or for his account or through one of his organs or representatives or those working for him, and a fine shall be imposed on him equal to the fine prescribed for the offense which has been committed. The Court may order the suspension of the juristic entity's activity related to the offense for a period not exceeding one year. In case of recurrence, an order may be passed suspending the activity for a period not exceeding five years or permanently cancelling the license issued to conduct the activity.

Article (10)

In case a conviction judgment is issued in one of the offenses provided for in this Law, a judgment may be passed ordering, in addition to the penalty prescribed for the offense, as follows:

1. Confiscating the commodities and materials subject of the offense or destroying them at the convicted person's expense.
2. Publishing a summary of the judgment in two local daily newspapers at the convicted person's expense.

Article (11)

Without prejudice to the provisions of the Penal Code and the provisions of Article (8) of this Law, the penalty prescribed for any of the offenses provided for in this Law shall be doubled in case of its recurrence. There shall be considered similar, in terms of recurrence, the offenses provided for in this Law and the offenses provided for in Legislative Decree No. (18) of 1975 Fixing Prices and Controls Thereon, Legislative Decree No. (6) of 1977 for Balances, Measures and Weights, Legislative Decree No. (3) of 1985 with respect to the Control of Imported Foodstuffs, Legislative Decree No. (16) of 1985 with respect to Specifications and Measures and Law No. (11) of 2006 with respect to Trade Marks.

Article (12)

Employees designated 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.

These employees shall have the power to enter upon the related premises and access the records and documents and seek the information and particulars necessary to verify the implementation of the provisions of this Law and the regulations and orders issued in implementation thereof.

If the employees referred to in this Article have strong reasons to believe that there has been a breach of the provisions of this Law, they may recover the commodities and suspected materials on a temporary basis, and the concerned parties shall be invited to attend, and at least three samples of the recovered commodities and materials shall be held in custody for the purpose of analyzing them and shall all be sealed, and one of these samples shall be delivered to the concerned parties. A minutes shall be prepared therefor, containing all the particulars necessary to verify the same samples, commodities and materials taken from them. An order shall be issued by the Minister regulating the process of taking such samples and safekeeping and analyzing them.

The recovery minutes shall be submitted to the Judge of the Minor Court or the Investigating Judge, as the case be, within seven days from the date of recovery to determine whether to uphold the recovery or release the recovered materials. If the minutes are not submitted to the competent Authority within the prescribed period, the goods shall be released by force of the law.

Article (13)

A prison term of not more than (6) months and a fine of not exceeding BD 500, or either, shall be imposed on everyone who has prevented the employees referred to in Article (12) of this Law from performing their duties, whether by preventing them from entering stores, factories or shops where the commodities and materials subject of the violation are kept, or from taking samples thereof, or by any other method.

Article (14)

The Minister, in conjunction with the competent Authorities, shall issue the regulations and orders necessary to implement this Law within six months from the date the Law comes into force.

Pending the issuance of these orders, the regulations and orders in force for the time being shall remain in force in as much as they do not conflict with the provisions of this Law.

Article (15)

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

Article (16)

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

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