

Amended by:

- Law No. (35) of 2005; and
- Law No. (12) of 2006.

As per Law No. (12) of 2006, the "Minister of Commerce" was substituted by the "Minister concerned with Intellectual Property", in both articles (5) and (8) of this law.

LAW NO. (7) OF 2003  
ON THE TRADE SECRETS

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

- Having reviewed the Constitution,
- And the Civil and Commercial Procedures Act promulgated by Legislative Decree No.(12) of 1971, as amended,
- And the Law of Commerce promulgated by Legislative Decree No.(7) of 1987, as amended,
- And Legislative Decree No.(7) of 1994 with respect to Ratifying the Document of the Establishment of the World Trade Organization,
- And Legislative Decree No.(31) of 1996 with respect to Accession to the Paris Agreement for Protection of Industrial Property,
- And the Civil Code promulgated by Legislative Decree No.(19) of 2001,
- And the Criminal Procedures Law promulgated by Legislative Decree No.(46) of 2002,
- And Decree No.(1) of 1995 with respect to Accession by the State of Bahrain of the Agreement with respect to the Establishment of the World International Property Organization (WIPO),
- The Consultative Council and Council of Representatives ratified the following Law which we approved and enacted:

Article 1

"As amended by Law No. (12) of 2006"

It shall be prohibited for every natural or corporate person to disclose information in his possession if it is characterized by the following:

1. If the information is confidential. Confidentiality is thereto fulfilled if the information in its final form or its specifics is neither unknown nor circulated and is not accessible for those who usually deal with such type of information.
2. If it was of a commercial value due to its confidentiality.
3. 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. It shall not be regarded a violation of this herein law, if the competent administrative authority undertakes measures to disclose such information due to a compelling need to protect the public, or if the said competent authorities undertook the necessary measures to guarantee suspension of unfair commercial usage of such information.

Article 2

"As amended by Law No. (12) of 2006"

1. All data or tests submitted to the competent administrative authority that are the result of considerable efforts with an aim of obtaining an official approval for marketing pharmacological or agricultural product in which new chemical components are used shall be considered trade secrets.
2. Pursuant to provisions of Articles 2 bis to 2 bis (b) of this herein Law, the competent administrative bodies shall be obliged not to disclose received data or tests of those mentioned in the previous paragraph until same become no longer confidential.

#### Article 2 bis

"Added by Law No. (12) of 2006"

1. If any person submitted to the competent administrative authority for the purpose of obtaining a permission to market a pharmaceutical product-which encompasses a chemical compound previously permitted to market within another pharmaceutical product – new clinical information besides such data related to biological equivalence, it is not permitted to market a similar or identical product by any other person before the elapse of three years from the date of granting the marketing permit, based on the clinical information previously disclosed by the first person, or according to other evidences pertaining to the marketing permit based on such information without the written consent of the first person.
2. If any person submitted to the competent administrative authority for the purpose of obtaining a permission to market a pharmaceutical product of the type prescribed in Paragraph (a) of this article not submitted by another person in another country in terms of evidences representing new clinical information contrary to the information related to biological equivalence, it is prohibited to allow marketing by any other person within three years of the date of granting the marketing permit in the Kingdom, to market a similar or identical product being marketed in another country according to the said clinical information or any other evidences related to granting a permit to market the product in another country based on such information without the written consent of the person concerned in the other country.
3. For purposes of this Article, the new Pharmaceutical product is that which does not entail a chemical component that was permitted to market in the Kingdom by means of use within a pharmaceutical product. The agricultural product also means the product which does not encompass a chemical agent that was permitted for use in the Kingdom in an agricultural product.

#### Article 2 bis (A)

"Added by Law No. (12) of 2006"

1. If any person submitted to the competent administrative authority for purposes of attaining a permission to market a new pharmaceutical product, or a new agricultural-chemical product the marketing of which was permitted in another country based on the evidences previously submitted by that person pertaining to the safety and the efficiency of that product, same body shall refrain from permitting the marketing of an identical or similar product to another person without the written approval of the first person for a period of five years as of the date of the permission to market the new pharmaceutical product in the Kingdom of Bahrain, and ten years as of the date of the permission to market the new agricultural-chemical product in the Kingdom.
2. If any person submitted to the competent administrative authority with a purpose of attaining a permission to market a new pharmaceutical product, or a new agricultural-chemical product the marketing of which was permitted in another country based on the evidences previously submitted by that person pertaining to the safety and the efficiency of that product, same body shall refrain from permitting the marketing of an identical or similar product to another person without the written approval of the first person for a period of five years as of the date of the permission to market the new pharmaceutical product in the Kingdom of Bahrain, and for ten years as of the date of the permission to market the new agricultural-chemical product in the Kingdom based on previous information submitted in another country pertaining to the safety or efficiency of the product or any other evidences related to allowing the marketing of the product in another country without the written consent of the said person in the other country.

## Article 2 bis (B)

"Added by Law No. (12) of 2006"

1. If any person submitted to the competent administrative authority for purposes of attaining a permission to market a new use of an agricultural-chemical product which was previously permitted in the Kingdom, information pertaining to the safety or efficiency of the product, same authority shall refrain from permitting the marketing the new use by another person without the written approval of the first person for a period of ten years as of the date of the permission to market the new usage without the written consent of the first person.
2. If any person submitted to the competent administrative authority, for purposes of attaining a permission to market a new use of an agricultural-chemical product which was previously permitted in the Kingdom, information pertaining a new use of an agricultural-chemical product which was permitted in the Kingdom, which was not submitted by any other person in another country pertaining to the safety and efficiency of that product, same authority shall refrain from permitting the marketing of an identical or similar product by another person for a period of ten years based on the submitted information on the safety and efficiency of the new use of the produce or on other evidences to market the use of that product in another country without the written approval of the first person.

## 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:

1. Breach of contacts, if any of the parties discloses confidential information that came to his knowledge through the information contained in the contract
2. Disclosure of confidential information and the inducement of its disclosure.
3. Acquiring information from the places where same is reserved in any illegal manner such as fraud, espionage, robbing, bribery, or other.
4. 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

"As amended by Law No. (35) of 2005"

The Employees appointed by the Minister concerned with Intellectual Property to verify implementation of this herein Law provisions and the relevant decisions shall have the authority of entering the relevant stores.

The employees appointed and duly authorized by the Minister of Justice in agreement with the Minister concerned with Industrial Property shall have the capacity of Judicial Control Commissioners concerning the offenses taking place within their own jurisdiction and that pertain to their functions.

The written minutes concerning these offenses shall be transferred to the Attorney General by virtue of a decision by the Minister concerned with Intellectual Property or the one he delegates for this purpose.

## Article 6

1. In the case of infringement or to avoid any infringement upon any of the rights provided for in this Law, a person who has a claim to such right shall seek the issue of a writ from the president of the court that has jurisdiction to hear the dispute in question to take one or more of the appropriate precautionary actions including the following:
  1. Making a detailed description of the products, including the imported products following the supply thereof, materials, machinery and tools that are used or may have been used for this purpose and to safeguard the evidence relating to the matter in question.
  2. Effecting cautionary seizure on the items mentioned in the preceding paragraph.
  3. Putting an end to the infringement.
2. 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.
3. 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 (500) five Hundreds 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 (1000) One Thousand 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 concerned with Intellectual Property 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