

## **Trade Names Law**

### **Temporary Law No. (22) for 2003<sup>♦</sup>**

#### **Article (1):**

This Law shall be called (Trade Names Law for 2003) and shall come into force as of its publication in the Official Gazette.

#### **Article (2):**

The following words and terms wherever stated in this Law shall have the meanings assigned them hereunder unless the context provides otherwise:

The Ministry:	Ministry of Industry and Trade.
The Minister:	Minister of Industry and Trade.
Commercial Store:	Individual institution or firm.
Trade Name:	The name chosen by a person to distinguish his commercial store from other stores, which is comprised from an innovative name or from a name of a person or his surname or from all and any addition related to the type of trade or activity practiced by same.
Registrar:	Trade Names registrar in the Ministry named by the Minister.
Register:	Trade Names Register at the Ministry.

#### **Article (3):**

a) A Register called the (Trade Names Register) shall be organized at the Ministry under the supervision of the Registrar in which all data related to Trade Names, names of owners and addresses of same and certificates issued thereto and any change that may occur to such names through legal procedures and dispositions including any mortgage or seizure of the Trade Name and any restriction on its use or any assignment thereof or licensing by its owner to other for use.

b) The public may view the Register in accordance with the instructions issued by the Minister for such purpose and published in the Official Gazette.

c) The computer may be used to register Trade Names and data related thereto. Such data and documents reproduced and authenticated by the Registrar shall be considered evidence against all unless the concerned party proves otherwise.

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d) Trade Names of societies, commissions and civil companies may be registered in accordance with the kind of activity practiced by same if the conditions and requirements of registration in accordance with the provisions of this Law subject to the approval of the Minister and upon the recommendation of the Registrar.

e) It shall be permissible for a trade store to have more than one Trade Name for the purpose of differentiating different types of trade provided that the same store has branches practicing other activities.

**Article (4):**

For a Trade Name to be registered it shall be:

a) New whereby it has not been previously used or registered to another person for the same kind of trade or similar kind in a manner that may mislead the public.

b) Innovative whose use is not widespread in the kind of trade in which it will be used unless the Trade Name is comprised from the name or surname of the person.

c) In compliance with public order and ethics.

**Article (5):**

It shall not be permissible to register a Trade Name in any of the following cases:

a) If it corresponds to a Trade Name or trade address and either was owned to another person, and for the same kind of trade or to a similar kind which may mislead the public.

b) If same is similar to a Trade Name or trade address and either was owned to another person to a degree which may mislead the public and for the same kind of trade or to a similar kind which may mislead the public.

c) If it corresponds or is similar to another Trade Name to a degree that may mislead the public.

d) If it corresponds or is similar to a famous Trade Name or famous trade mark whether for the same kind of trade or to another kind.

e) Shall it lead to others thinking that its owner has an official capacity or enjoys special patronage.

f) Shall it contain the civil name of another person without gaining the approval of same or the approval of his/her heirs if former died recently.

g) Shall it mislead the consumer in regard to the kind of trade or its importance or size or mislead in any manner whatsoever.

h) Shall it contain the names of renowned commissions or organizations without their approval.

**Article (6):**

The Trade Name must be registered in Arabic language. It shall be permissible, upon the approval of the Registrar, to register Trade Names in a foreign language if same are owed to foreign persons or companies or companies with a mixed capital registered and utilized abroad. The decision may be objected with the Minister.

**Article (7):**

a) The application for registering a Trade Name shall be presented by its owner or the agent of same to the Registrar on the form prepared in the Ministry for such purpose provided that same is accompanied with all the data and documents stipulated in accordance with the instructions issued by the Minister for such purpose and published in the Official Gazette.

b) The Registrar shall issue his decision to register the Trade Name or reject the registration within ten days as of the date of presenting the application which has fulfilled its conditions and requirements and his decision shall be subject to contestation at the High Court of Justice.

c) If a Trade Name is registered the owner shall be granted a certificate to the same effect after paying the stipulated fee.

**Article (8):**

a) The title of a Trade Name may be assigned, disposed of, mortgaged or seized without transferring the title of the Trade Name or assigning it, mortgaging it or seizing it.

b) If the ownership of a Trade Store is assigned without assigning the ownership of the Trade Name than the owner may continue using same.

c) Assigning the ownership of a Trade Name or mortgaging or disposing of same shall not be considered evidence against others except from the date of recording such in the Register and publishing it in two local daily newspapers.

d) The ownership of a Trade Name and all rights related thereto may be assigned by inheritance.

e) The procedures of assigning the ownership of a Trade Name, its mortgage, seizure and other related legal dispositions shall be set in accordance with instructions issued by the Minister for such purpose and published in the Official Gazette.

**Article (9):**

a) Trade Names registered before the provisions of this Law coming into force shall be considered registered in its accordance provided that owners rectify their positions in accordance with its provisions in the following manner:

1. The owner of a Trade Name shall present the Registrar with a notification confirming his/her wish in keeping the name, on the form prepared by the Ministry for such purpose within three years as of the date of the provisions of this Law coming into force.
2. An indication shall be placed in the Register by the Registrar confirming the wish of the owner of the Trade Name to keep same.

- b)
1. If the period referred to in clause (1) of paragraph (a) of this Article ends, all Trade Names whose owners did not make known their wish to keep same within such period shall be cancelled by a decision of the Registrar. This decision may be contested at the High Court of Justice within sixty days as of the date of his/her notification or his knowledge thereof, and in all cases the lawsuit shall not be acceptable after the passing of one year as of the date of cancellation.
  2. Notwithstanding the provisions of paragraph (a) of Article (4) of this Law, it shall be permissible for others, after the passing of one year, to cancel a Trade Name in accordance with the provisions of clause (1) of this paragraph to present an application to register the Trade Name that was cancelled.

c) Notwithstanding the provisions of paragraph (b) of this Article, the owner of a Trade Name that was cancelled in accordance with the provisions of this Article may request its re-registration at any time provided that same has not been registered under the name of another.

**Article (10):**

The owner of a Trade Name may grant others license to use same in pursuance to a written contract registered with the Registrar on the form prepared in the Ministry for such purpose. The Registrar shall be obliged, at the risk of legal liability, to maintain the confidentiality of the contract.

**Article (11):**

a) The Registrar may of his own initiative or upon a request presented him by a person with an interest decide to cancel a Trade Name from the Register in any of the following cases:

1. If its registration did not confirm with the provisions of this Law and regulations issued in pursuance.
2. Upon the decision of the competent Court.
3. If it is verified that the owner did not practice his trade for five continuous years.

b) Notwithstanding the provisions of clauses (1) and (2) of paragraph (a) of this Article, no Trade Name registered for any person shall be cancelled if the following conditions are present:

1. If its registration does not confirm to the provisions of paragraphs (a, b, c, d, e, f) of Article (5) of this Law.
2. More than five years have passed since the registration.
3. The person in whose name the registration was affected was bona fide.

Same does not affect the right of the original owner of the Trade Name to register same provided the Registrar distinguishes each of them in a manner that prevents the public from being misled.

c) The decision of the Registrar to cancel a Trade Name shall be subject to contest at the High Court of Justice.

**Article (12):**

a) The owner of a Trade Name when filing his civil case to prevent violation of a Trade Name or during the examination of the case, present an application to the competent Court accompanied with a bank or monetary guarantee acceptable to same, to realize any of the following procedures:

1. Stop the violation.
2. Provisional seizure of any merchandise or material related to the violation wherever found.
3. Preservation of evidence related to the violation.

b) 1. The owner has the right, before instituting his lawsuit, to present an application to the Court accompanied with a bank or financial guarantee acceptable to same to realize any of the procedures stipulated in paragraph (a) of this Article, shall any of the following be verified:

- That violation of the Trade Name has occurred.
- That violation has become imminent and may result in inevitable damage that is difficult to rectify.

- Fear of the disappearance of the evidence of the violation or destruction of same.
2. If the owner of the right of a Trade Name does not institute his lawsuit within eight days as of the date of the Court responding to his application than the procedures taken in that regard shall be considered cancelled.
  3. The defendant may contest the decision of the Court to implement precautionary procedures at the Court of Appeal within eight days as of the date of becoming aware thereof or being notified therewith and its decision shall be final.
  4. The defendant may claim compensation for damage befalling him/her if it is proven that the plaintiff was unjust in his claim to realize precautionary procedures or if the latter did not institute his/her lawsuit within the period stipulated in clause (2) of this paragraph.
- c) The defendant may claim compensation for the damage that befell him/her if it is proven in the result of the lawsuit that the plaintiff was unjust in (filing) the lawsuit.
  - d) The Court may resort in all cases to the opinions of experts and specialists.
  - e) The Court may decide to confiscate any material or tools related to the violation or used in a principle manner in the violation on the Trade Name. It may also decide to destroy the material and tools or dispose of same in any non-commercial manner.

**Article (13):**

The Court of first Instance has the jurisdiction of examining any disputes arising in relation to the violation of a Trade Name.

**Article (14):**

- a) Each person wishing to use a Trade Name shall register same in the Register in accordance with the provisions of this Law.
- b) Each person using a Trade Name without registering it in the Kingdom shall be penalized with a fine not less than one-hundred Dinars and not exceeding one-thousand Dinars provided that the penalty is doubled in the event of reoccurrence.
- c) Notwithstanding the provisions of paragraphs (a) and (b) of this Article, not registering a Trade Name shall not deny its owner the right of protection stipulated thereto in accordance with the provisions of Article (11) of this Law.

**Article (15):**

A penalty not less than (500) Dinars and not exceeding (1,500) Dinars shall be imposed on every person who:

- a. Uses a Trade Name owed by another in a manner contrary to the provisions of this Law.
- b. Uses a Trade Name owed by him/her in a manner that may mislead the public or contravene the provisions of this Law.

**Article (16):**

The Registrar upon the approval of the Minister may delegate any of the authorities granted him in pursuance to this Law to any of the managers of the Directorates of the Ministry in the governorates or their aides provided that the delegation is written and detailed.

**Article (17):**

The Minister shall issue instructions in relation to specifying the forms that shall be accredited in pursuance to the provisions of this Law and the fees for services paid to the Ministry in return for issuing documents or data from the Register or authenticating same.

**Article (18):**

The instructions issued in pursuance to the provisions of this Law shall be published in the Official Gazette and in two daily local newspapers.

**Article (19):**

The Council of Ministers shall issue the regulations necessary for the implementation of the provisions of this Law, including:

- a. The fees for registering a Trade Name.
- b. The procedures, periods, fees, data and notifications related to others requesting the cancellation of a Trade Name from the Register.

**Article (20):**

The (Trade Name Registration Law) No. (30) for 1953 and the regulations issued in its pursuance shall be cancelled.

**Article (21):**

The Prime Minister and Ministers shall be responsible for the implementation of the provisions of this Law.