

Regulations for the Protection of Confidential Commercial Information

Issued by
The Minister of Commerce and Industry's decision no.
(3218) dated 25/03/1426H (4 May 2005)

and as amended by
His Excellency's decision no. (431) dated 01/05/1426H (8
June 2005)

as authorized by
The Council of Ministers Decision no. (50) dated
25/02/1426H (4 April 2005)

Unofficial Translation

Article (1):

Any information shall be deemed a commercial secret in any of the cases stated below:

- (1) If it is usually not known in its final form, or in any of its minute constituents or if it is not usually easily obtainable by those engaged in this type of business.
- (2) If it is of commercial value due to its confidentiality.
- (3) If the rightful owner takes reasonable measures to maintain its confidentiality under its current circumstances.

Article (2):

- (1) The rightful owner shall be any person entitled to disclose, use or retain a commercial secret.
- (2) The rightful owner may keep the information in his possession and refrain from disclosing it.
- (3) The rightful owner may take the necessary measures to prevent any person from using the commercial secret protected in accordance with these Regulations.

Article (3):

- (1) Obtaining, using or disclosing any commercial secret in a way that is inconsistent with honest commercial practices and without the consent of the rightful owner shall be deemed an abuse of the commercial secret. In all cases, it may not be disclosed in a way inconsistent with its reality.
- (2) For the purposes of implementing the provisions of Paragraph (1) of this Article, the following, in particular, shall be deemed violations of honest commercial practices:
 - (a) Breach of contracts relating to commercial secrets.

- (b) Breach of confidentiality of entrusted information or encouraging its breach.
 - (c) A person obtaining the commercial secrets from a third party if such a person knows or is capable of knowing that the third party has obtained the same as a result of a violation of honest commercial practices.
- (3) Reaching a commercial secret, independently or through reverse engineering, shall not be deemed, in particular, a violation of honest commercial practices.

Article (4):

The competent authorities shall protect the commercial secrets submitted to them against disclosure and protect them against unfair commercial use. Said authorities may not disclose them unless disclosure is deemed necessary for protecting the public.

Article (5):

Where an official competent authority requires the submission of information about secret tests or any data obtained as a result of substantial efforts, as a precondition for approving the marketing of drugs or chemical agricultural products in which new chemical substances are used, the said authority shall undertake to protect such information against unfair commercial use, for a minimum period of five years from the date of obtaining the approval.

Article (6):

The competent registration authority – during the protection term of commercial secrets – may permit third parties to use the undisclosed data of secret tests submitted by another applicant in the following cases:

- (1) If the product first registered in the Kingdom has not been subject of trading within a reasonable period of time determined by the registration authority, after approving its marketing.

- (2) If this is required by a pressing necessity determined by the competent authority to protect the public.

Article (7):

These Regulations shall not protect commercial secrets inconsistent with Islamic Shari'ah (public order) and public morality.

Article (8):

Any person harmed as a result of violating the provisions of these Regulations may file a lawsuit before the competent judicial authority to claim compensation for damages sustained.

Article (9):

These Regulations shall be published in the Official Gazette and shall come into force after thirty days from the date of its publication.