

THE LAW OF COMMERCIAL REGISTER

**Royal Decree No. M/1
21 *Safar* 1416 / 17 July 1995**

Article 1:

The Ministry of Commerce shall create a Register in the cities specified by a decision issued by the Minister of Commerce covering all the provinces of the Kingdom, in which the names of the merchants and companies and all the data specified in this Law are registered.

Article 2:

Every merchant, once his capital reaches one hundred thousand riyals, shall, within thirty days of the date of opening his place of business or the date of owning one or of the date on which his capital reaches the said sum, shall submit an application to register his name in the Commercial Register of the area where his place of business is located, whether it is a head office or a branch or an agency. The application shall include the following data:

- 1- The full name of the merchant, his title, place and date of birth, nationality, a specimen of his signature and a specimen of the signature of his agent (if any).
- 2- The trade name (if any).
- 3- The type of business activity engaged in by the merchant and the starting date.
- 4- The merchant's capital.
- 5- The name of the manager, his place and date of birth, nationality, place of residence in the Kingdom and the extent of his powers.
- 6- The name of the head office of the merchant, address, registration number, the branches and agencies inside or outside the Kingdom and the business activity of each.

Article 3:

The managers of companies formed in the Kingdom shall apply for registration in the Commercial Register within thirty days of the date on which its articles of association are recorded by the notary public and shall apply to

register any branch within thirty days of the date on which it was formed. A copy of the company's articles of association and its bylaws, if applicable, shall be enclosed therewith. The application shall also include the following data:

- 1- The type of the company and its trade name.
- 2- The company's activity.
- 3- The company's capital.
- 4- The date of the company's incorporation and expiration.
- 5- The names of general partners in general or limited partnerships and the place and date of birth, address and nationality of each of them.
- 6- The names of the managers of the company and the signatories on its behalf and the place and date of birth of each, his address, nationality and a specimen of his signature, and a statement specifying the extent of their powers with respect to management and signature, and specifying the actions which they are not authorized to take (if any).
- 7- The addresses of the head office of the company and its branches and agencies, inside and outside the Kingdom.

Article 4:

The merchant, the manager of the company or the liquidator shall apply to make an entry on the Commercial Register for any amendment relating to the data already registered, within thirty days of the date of amendment in accordance with the procedure specified by the implementing regulations.

Article 5:

Every one registered in the Commercial Register shall deposit with the Commercial Register Office within thirty days of the date of registration, a certificate of membership in the Chamber of Commerce and Industry.

Article 6:

Foreign companies licensed to open a branch or an office in the Kingdom shall apply to register this branch or office in the Commercial Register within

thirty days of the date of its opening, enclosing all the documents specified by the implementing regulations.

Article 7:

The merchant, his heirs or the liquidator, as the case may be, shall apply to the Commercial Register Office to strike off the registration in the following cases:

- 1- Upon the merchant's permanently abandoning his business.
- 2- Upon the merchant's death.
- 3- Upon the completion of the liquidation of the company.

The application shall be submitted within ninety days of the occurrence of the cause of cancellation of registration. If the parties concerned did not apply for cancellation, the Commercial Register Office, after investigating the cause and ascertaining its occurrence and after giving notice to the parties concerned by registered mail, shall automatically effect the cancellation, after thirty days of the date of notice, unless the (Commercial Register) Office receives from the party concerned, during this period, evidence to the contrary.

In case of a final judgment or decision to cancel the registration, pursuant to the applicable laws, the competent Commercial Register Office shall effect the cancellation immediately upon notification of the judgment or decision.

Article 8:

The Commercial Register Office shall ascertain the fulfillment of conditions required for registration, entry, or cancellation. It may ask the applicant to submit documents supporting the data given in his application. The (commercial) Register Office may reject the application by a reasoned decision within thirty days of the date of submission.

Article 9:

Everyone registered in the Commercial Register shall indicate in all correspondence, printed materials, stamps and sign boards his commercial registration number, in addition to his name, and the name of the city where he is registered. All the data shall be provided in Arabic.

Article 10:

The judicial authorities which issue the following judgments and orders shall inform the competent Commercial Register Office thereof, within thirty days of the date on which the judgment or order becomes final.

- 1- Judgments of declaration of bankruptcy and cancellation thereof.
- 2- Judgments of rehabilitation.
- 3- Judgments to interdict a merchant or to attach his property, or removals thereof.
- 4- An order issued to revoke permission to engage in business or to restrict the permission in relation to a minor or a person under interdiction.
- 5- Judgments concerning separation of partners or dismissal of managers.
- 6- Judgments of dissolution of a company or of its invalidity and appointment of liquidators or their dismissal.
- 7- Judgments validating, rescinding or invalidating a judicial settlement.
- 8- An order issued to start the procedures of a settlement to avoid bankruptcy, and a judgment issued to validate, cancel or invalidate it.
- 9- Judgments of conviction in cases of fraud, forgery and bribery.

The competent Commercial Register Office shall make an entry of the above judgments and orders immediately upon notification thereof.

Article 11:

Anyone may obtain a copy extracted from the Commercial Register of any merchant or company. In case there is no registration, a certificate to that effect shall be given to the person concerned. Such an extract shall not include judgments of declaration of bankruptcy if judgment of rehabilitation was rendered. Neither shall it include judgments of interdiction or attachment, in case of removal thereof.

Article 12:

Officials named by a decision of the Minister of Commerce shall investigate and record violations of the provisions of this Law and decisions for its implementation. The procedures of investigation and recording shall be specified by regulations to be issued by the Minister of Commerce. Such regulations shall provide for the observance of good conduct by the investigating officers in executing their duties, and they shall present to the person concerned a proof of their identification, official capacity and the purpose of their visit. The regulations shall specify the times during which places of business may be visited for the purpose of investigation and the authority that has the right to grant permission to enter such places for the purpose of inspection, when necessary.

Article 13:

The data provided in the Commercial Register is considered evidence for or against the merchant as of the date on which it was registered. No data obligatorily registered or entered shall be used against any other party, unless such an action is taken. However, this party may use this data against the merchant or the company if such a party has an interest therein.

Article 14:

Anyone who submits an application to an official authority, in his capacity as a merchant, his application shall not be accepted in such capacity unless he is registered in the Commercial Register.

Article 15:

Without prejudice to any more severe punishment provided for by another law, a party that violates the provisions of this Law shall be punished by a fine of not more than fifty thousand riyals. In determining the fine, the gravity of the violation, repetition thereof, the capital of the merchant and the injury suffered by others as a result of that violation shall be taken into account.

Article 16:

The penalties provided for in this Law shall be imposed by a committee, formed by a decision issued by the Minister of Commerce, of three members one of whom, at least, must be an expert in commercial laws.

Article 17:

A resolution by the Council of Ministers shall specify the application fees for registration, entries to amend data previously registered or for extracting data from the Register or for obtaining a certificate to the effect that there is no registration. No fees shall be charged for an application to cancel registration nor for extracts required by governmental agencies for official purposes.

Article 18:

Parties concerned may object before the Minister of Commerce against decisions taken by the Commercial Register Office and the decisions of the committee responsible for imposing penalties, within thirty days of the date of notification of the decision. The refusal of the Commercial Register Office to take a decision or its failure to take a decision, which it should have taken in accordance with laws and regulations, shall be deemed a decision.

Parties concerned may also file a grievance with the Board of Grievances against the decisions of the Minister of Commerce issued in connection with their objections, within thirty days of the date of their notification of the Minister's decision. If a decision is not made by the Minister in connection with the objection submitted to him, within a maximum of sixty days from the date of objection, the person objecting may file a grievance with the Board of Grievances against the decision of the Commercial Register Office or the decision of the committee responsible for imposing penalties, within thirty days of the expiration of the period specified for the Minister to issue a decision.

Article 19:

This Law shall hereby repeal the Law of Commercial Register issued by the Royal Order No. 21/1/4470 dated 9/11/1375H and its implementing regulations as well as all provisions that are inconsistent with this Law.

Article 20:

This Law shall be published in the Official Gazette and shall come into force after ninety days of the date of publication. Those registered in the Commercial Register, prior to the coming into effect of this Law, shall be given a grace period of one year from the date of this Law's coming into effect to adjust their status in accordance with its provisions. The Minister of Commerce shall issue the regulations and decisions necessary for its implementation.

Explanatory Note of the Law of Commercial Register

Article 1 of the Law of Commercial Court issued by High Order No. 32, dated 15 Muharram 1350 [2 June 1931], defined the merchant as: “a person engaged in commercial transactions and makes such engagement his profession”. The Law subjected merchants to a number of obligations aimed at organizing commercial activities, such as the obligation to book-keeping and the requirement of registration in the Commercial Register. Article 4 of the Law of Commercial Court permits any adult, or any person who reaches adulthood, to engage in all types of commerce. For this reason the Law of Commercial Register, as is the case with the Law of Commercial Books and other laws relating to merchants, provides no definition for the merchant to whom it applies. The definition provided by the Law of Commercial Court is taken to be sufficient.

The Law of Commercial Court, obligated the merchant to keep certain commercial books and provided a set of regulations for their organization. However, due to the development of commercial activity and the resulting insufficiency of the organization stated in the Law of Commercial Court in connection with commercial books, a new law for commercial books was issued by Royal Decree No. M/61, dated 17 Dhu al-Hijjah 1409 [20 July 1989], embodying a comprehensive organization of commercial books.

In the year 1375 Hijri [1955-1956], the Law of Commercial Register was issued. As indicated in its provisions, the objective of this Law was to list the merchants and companies engaged in commerce in each city in the Kingdom, and to gather data on merchants in order to give any interested party access to information he is interested in having about them. The Law did not establish any important legal effects for registration in the Commercial Register, as the information entered in the Register was not considered to be evidence for or against the merchant. Likewise, the Register had no publicizing function. The Law

also failed to mention some data relating to the commercial activity, which third parties would be interested to have. Moreover, since it was the desire of the Government to be lenient with merchants, due to the fact that the Law was newly introduced, the Law intentionally prescribed few fines, of no more than the maximum of five hundred riyals, to be imposed by a decision of the Director General of Internal Commerce at the Ministry of Commerce.

In line with modern trends, which consider the Commercial Register not only a statistical tool and a source of information about the status of merchants but also a method of legal publication for parties to whom the Law applies, it has become necessary to amend the Law of Commercial Registration in order to meet these trends, remedy its failure to mention some of the information that must be recorded as well as reconsider the specified penalties and the authority that imposes them.

Article 1 of the Law required the Ministry of Commerce to set up a Register in the cities to be specified by a decision of the Minister of Commerce, covering all the provinces of the Kingdom. The names of the merchants and companies shall be entered in that Register in addition to the information provided for in the Law. According to Article 2, each merchant whose capital reaches one hundred thousand riyals shall, within thirty days of the date on which his capital reaches the said sum or the date on which he opens or owns a place of business, apply to enter his name in the Commercial Register of the area where his place of business is located. The application shall include the information provided for in this article. This article remedied the previous law's failure to require certain information by requiring that the capital of the merchant and the extent of the manager's authorities be stated, to be known to others so that they may deal with him on the basis thereof. The purpose of specifying the sum mentioned in this article is to exempt small merchants from the obligation of registration to make things easy for them. This, however, does not mean barring them from applying for registration in the Register if they think it is in their interest, since such exemption is just a license in their favor. Likewise, Article 3

requires the managers of companies incorporated in the Kingdom to apply for recording these companies in the Commercial Register within thirty days of the date on which the Notary Public records their articles of association; and to apply for recording any branch thereof within thirty days of the date of establishment of the branch. With the application shall be attached the documents required by this article, and it shall provide the information specified therein. This article has required the provision of information which was not included in the previous Law and which practical experience showed the importance thereof, such as the extent of authorities of the company's manager, the persons authorized to sign on its behalf and the actions they are not authorized to take, if any. This way, others will have full knowledge when dealing with them, especially since the Law considers the information recorded in the Register evidence for or against the merchant.

Moreover, in order to make others be aware of any amendment of the information recorded in the Commercial Register, the Law adopted the idea of continuous updating of the information recorded in the Register. Article 4 requires the merchant, the manager of the company or the liquidator to apply for entering any amendment of the information previously recorded in the Commercial Register within thirty days of the date of amendment.

The Law of the Chambers of Commerce and Industry requires each merchant registered in the Commercial Register to become a member of the Chamber of Commerce and Industry of the area where his head office is located. Therefore, in order to implement this rule, and to ensure the performance of this obligation, in addition to the desire to enable the Chambers of Commerce and Industry to rely on their own resources, Article 5 requires every person registered in the Commercial Register to deposit with the Commercial Register Office, within thirty days of the date of registration, a certificate of his membership in the Chamber.

Since the Law permits the licensing for a foreign company to open a branch or a representative office to supervise its activities in the Kingdom and to

facilitate communications with the head office, and in order to confine these companies to the licensed activity without being engaged in any other activity, Article 6 requires these companies to apply for registering such a branch or office within thirty days of the date of its opening, enclosing with their applications the documents specified by the implementing regulations.

Article 7 provides for the cancellation of registration in the Commercial Register in four cases: final abandonment by the merchant of his commercial activity, death of the merchant, liquidation of the company, or issuance of a ruling or judgment by the competent authority to cancel the registration, as in the case of cover-up. This article has given the merchant, his heirs or the liquidator in the first three cases, a longer period to apply for cancellation; i.e., ninety days instead of thirty days to allow them ample time to apply for cancellation. If they do not apply within this period, the competent Commercial Register Office, after verifying the cause of cancellation and after notifying the persons concerned and the expiration of thirty days after the notification, shall cancel the commercial registration automatically unless the Office receives from the person concerned a denial of the event. In the fourth case, the Commercial Register Office shall cancel the registration immediately upon notification of the cancellation judgment or decision.

To ensure confidence and trust by others in the accuracy of the information recorded in the Commercial Register, Article 8 requires the Commercial Register Office to ascertain the fulfillment of the conditions necessary for registration, entering or cancellation of the information. To enable the Office to do so, this article authorizes it to require the applicant for registration, entering or cancellation to present the supporting documents of the accuracy of the information required to be registered; otherwise, the Office may reject the application by a reasoned decision.

To give effect to the publicizing function of the Commercial Register, Article 9 requires that each merchant or company state the commercial

registration number and the name of the city in which either is registered in all correspondence, printed materials, stamps and sign boards, and shall place the commercial registration number at the front of his business, next to his business name, provided that all information be written in Arabic in order to make it easy for others to peruse the information recorded in the Commercial Register. Moreover, Article 10 requires the judicial authorities that issue any of the judgments or orders specified in this article to inform the Commercial Register Office of such judgment or order, and it requires the Office to make an entry of the judgment or order in the Commercial Register as soon as it is informed of it. Article 11 allows every person – in order to know the position of the merchant or company – to obtain from the Commercial Register Office an extracted copy of the page of the Register assigned for each merchant or company. In case there is no registration, the applicant shall be given a certificate to that effect. However, to protect the reputation of the merchant or company, the Commercial Register Office is prevented by this article from including in the extracted copy judgments of declaration of bankruptcy, if a rehabilitation judgment is rendered, and judgments of interdiction or of attachment of property, if revoked, on the grounds that the disclosure of such information injures the reputation of the merchant without benefiting others.

Article 12 entrusted the Minister of Commerce with the task of naming of the employees who would ensure the execution of the provisions of the Law of Commercial Register and the decisions made for the implementation thereof, in addition to the task of investigating any violation, similar to other Commercial Laws like the Law of Commercial Books and the Law of Commercial Agencies. In order to ensure proper conduct by these employees in discharging their duties, and for them to know the extent of their authorities, this article provides that the procedures of investigation shall be specified by rules to be issued by the Minister of Commerce. Regulations should provide for some of the issues specified in this article, the times during which the commercial places may be visited for the purpose of investigation and the authority entitled to give permission to enter the places for the purpose of inspection where necessary.

In accordance with the modern trend of giving certain legal effects to the registration in the Commercial Register, Article 13 recognizes the determinative effect of the information recorded in the Commercial Register as of the date of registration. Nevertheless, this article allows any other person to use as evidence data which should have been recorded or entered but was not, if such person has an interest in doing so.

Accordingly, if a merchant or a company records the name of the manager in the Commercial Register and specifies his authorities by stating that he may conclude contracts the value of which is one million riyals, for example, then all contracts concluded by that manager within his authorities are binding on the merchant or the company as long as no entry has been made in the Register indicating the change of the manager' name or amendment of his authorities. On the other hand, if such merchant or company appoints a new manager without recording his name in the Commercial Register and this manager, in this capacity, concludes a contract with another person on behalf of the merchant or the company and this other person was aware of the manager's capacity and the extent of his authorities, then this person is entitled to require performance of such a contract if he has an interest in doing so, on the grounds that this manager is the legal representative of this merchant or company, even if his name is not entered in the Commercial Register.

To encourage merchants to register in the Commercial Register, Article 14 requires that in order for a person to claim the capacity of a merchant in dealing with official authorities he must be registered in the Commercial Register.

In order that merchants may not neglect to apply for registration in the Commercial Register and to prevent them from giving incorrect information, the penalties prescribed for violating the provisions of the Law of Commercial Register have been amended by making them severer, to reach fifty thousands riyals, as provided in Article 15 of the Law, in line with other laws that govern

commercial activities such as the Law of Commercial Books and the Law of Commercial Agencies where the penalty for violating their provisions reaches fifty thousands riyals. This article provides also for the factors which should be taken into consideration when determining the fine, namely the seriousness and frequency of the violation, the capital of the merchant and the damage suffered by others as a result of the violation.

To conform with other commercial Laws and for the sake of necessary objectivity, Article 16 entrusts the imposition of the penalties provided for in the Law of Commercial Register to a committee, to be formed by a decision of the Minister of Commerce, of three members one of whom at least shall be a specialist in commercial laws, instead of imposing these penalties by decisions of the Director General of the Internal Trade Department, according to Article 19 of the previous Law of Commercial Register.

In accordance with the general rule which requires that fees shall be imposed only by or pursuant to a law and to ensure the flexibility required for amending these fees whenever necessary, and in conformity with the current practice of specifying the fees of the Commercial Register by a resolution of the Council of Ministers, Article 17 authorizes the Council of Ministers to specify the fees due for every application for registration or for making an entry indicating amendment of information previously entered or for any extracted copy of the pages of the register and also for any certificate to the effect that there is no registration.

To protect the interest of parties to whom this Law applies, and to ensure its proper application, Article 18 gives the right to the parties concerned to object to the decisions of the Commercial Register Office and the decisions of the committee responsible for the imposition of penalties before the Minister of Commerce and to file a grievance against the decisions of the Minister with the Board of Grievances.

To avoid any confusion arising from the repeal of the previous Law of Commercial Register and its replacement by the new Law, Article 19 provides for the repeal of the Law of Commercial Register issued by Royal Order No. 21/1/4470 dated 9 Dhu al-Qa'dah 1375 [18 June 1956], and its implementing regulations and all provisions that are inconsistent therewith.

Article 20 specifies the date on which the Law becomes effective to be ninety days from the date of its publication in the Official Gazette. To enable those registered in the Commercial Register prior to the effective date of this Law to make the necessary adjustments to conform with its provisions, they are given a grace period of one year from the date of its coming into effect to do so. Moreover, this article also authorizes the Minister of Commerce to issue the regulations and decisions necessary to implement the provisions of this Law.