

Law No.(35) of 2012 With Respect to Consumer Protection

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LAW NO.(35) OF 2012 WITH RESPECT TO CONSUMER PROTECTION

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain,
Having reviewed the Constitution,
Decree No.(1) Finance of 1961 with respect to the establishment of
the Commerce Registry, as amended,
Legislative Decree No.(14) of 1973 with respect to the Organisation
of Advertising,
Law No.(3) of 1975 with respect to Public Health, as amended,
Legislative Decree No.(18) of 1975 with respect to Fixing Prices and
Control thereof ,as amended by Legislative Decree No.(11) of 1977,
The Penal Code promulgated by Legislative Decree No.(15) of 1976,
as amended,
Legislative Decree No.(6) of 1977 with respect to Weights, Measures,
and Pints, as amended by Legislative Decree No.(8) of 1983,
Legislative Decree No.(3) of 1985 with respect to Control of Imported
Foodstuffs,
Legislative Decree No.(16) of 1985 with respect to Standards and
Specifications ,as amended by Legislative Decree No.(13) of 1992,
The Law of Commerce promulgated by Legislative Decree No.(7) of
1987, as amended,
Legislative Decree No.(6) of 1990 with respect to Control of Precious
Metals,
Legislative Decree No.(10) of 1990 with respect to Control of Pearls
and Stones of Value,
Legislative Decree No.(10) of 1992 with respect to Commercial
Agency, as amended,



Legislative Decree No.(7) of 1994 with respect to Ratifying the Document of the Establishment of the World Trade Organisation,
The Law of Evidence promulgated by Legislative Decree No.(14) of 1996, as amended by Law No.(13) of 2005,
Legislative Decree No.(18) of 1997 with respect to the Organisation of Pharmacology and Pharmaceutical Centres,
The Civil Code promulgated by Legislative Decree No.(19) of 2001,
The Code of Criminal Procedure promulgated by Legislative Decree No.(46) of 2002, as amend by Law No.(41) of 2005,
And Law No.(11) of 2006 with respect to Trade Marks,
The Consultative Council and the Council of Deputies approved the following Law which we ratified and enacted:

Preliminary

Definitions

Article (1):

In the application of the provisions of this Law, the following words and sentences shall have the meanings assigned against each unless the context otherwise requires:

Products: Goods and services except for medicines, health preparations and health foods authorised to be imported by the concerned authority at the Ministry of Health and are sold in licensed pharmacies and health centres as well as the services provided by professionals involved in medicine, engineering, law, accounting and insurance.

Consumer: Every natural or corporate person who obtains products to satisfy his/its needs or the requirements of persons belonging thereto.



Supplier: All those providing products as wholesalers, retail sellers, merchants, commercial agents, manufacturers or service providers.

Advertiser: Every natural or corporate person who advertises and promotes products by himself/itself or through another with the use of any means necessary.

Ministry: Ministry concerned with commerce affairs.

Concerned Directorate: Directorate concerned with consumer protection at the Ministry.

Concerned Administrative Authority: Any government ministry, authority, bureau or directorate concerned with consumer protection and is not affiliated to the Ministry.

Minister: Minister concerned with commerce affairs.

Chapter One Consumer Rights

Article (2):

This Law aims to protect and guarantee the rights of the consumer before and after entering into a contract, particularly the following rights:

1. Right to health and safety in his normal use of products.
2. Right to obtain accurate data and information about the products purchased, used or provided thereto.
3. Right to free choice of products that fulfil the conditions of quality that conforms to legally approved specifications.
4. Right to obtain knowledge of the protection of his legitimate rights and interests.
5. Right to respect the consumer's privacy, to maintain his personal information and not to exploit them for other purposes.



6. Right of the consumer to live in a healthy environment.

Chapter Two Supplier's Obligations

Article (3):

A supplier shall comply with the laws, regulations and technical requirements or any other requirements concerning the product, guarantee of its safety and suitability for use according to the guidelines and conditions to be determined by a Minister's resolution.

Article (4):

A supplier shall display on all correspondents, documents and instruments issued thereby in its dealings or contracts with a consumer, including electronic documents and instruments, such information that can identify its business identity.

Article (5):

(a) A supplier shall advertise the product's price, promote it and indicate the warranty period according to the rules and guidelines to be determined by a Minister's resolution. A consumer shall have the right to obtain a dated invoice showing the type of product, price and warranty period, if any.

(b) Upon advertising for the sales of any products, the warranties concerning them shall be available during the sales period and prices shall be advertised before and during the sales period.

Article (6):

Each supplier or advertiser shall provide the consumer with accurate information about the nature and features of the product and shall



avoid giving a false or misleading impression to the consumer or causing confusion or misunderstanding thereto
a supplier shall be exempted from liability if he/it is not a manufacturer or producer of the goods or service, unless the producer or manufacturer has provided him/it with such information. Further, an advertiser shall be exempted from liability where the information provided in the advertisement is technical so that it is not possible for an advertiser to ascertain its authenticity as provided thereto by the supplier.

Article (7):

Upon learning about the existence of a defect in the product and where such defect results in damage to the consumer's health or safety, the supplier shall announce his/its cessation to produce it or dealing therewith and shall warn the consumer against using the product and shall inform the concerned Directorate of such defect and its likely harms and the actions taken in this matter.

In such cases, a supplier shall replace or return the product with refund of the value thereof without any additional cost at the consumer's request.

The invoice shall not include wording on the non-return or replacement of the product and it shall be prohibited to erect any billboard to this effect.

The implementing regulation of this Law shall provide for the procedures of applying this Article.

Article (8):

- (a) A supplier shall do the following at the consumer's request:
1. Replacement of the goods, subject to the contract, or recovery thereof with the return of its price without any



additional cost where the goods have a defect or if it does not conform to the legally approved specifications or to the purpose for which the contract has been entered into.

2. Replacement of the consideration for the service, subject to the contract, or consideration that makes up for the reduction thereof or its reproduction to the consumer without any additional cost in case there is a defect or reduction therein according to the nature of the service, contract conditions and business or professional custom and usage.

(b) In case of a dispute related to the performance of such obligations, it shall be referred to the Directorate to issue a binding decision upon the parties thereto according to the provisions and procedures to be determined by a Minister's resolution.

Article (9):

A supplier shall provide the necessary spare parts and maintenance for use of the product for a reasonable period proportionate to the product's nature. An agreement in writing may be entered into with the consumer for a specific period. A supplier shall be exempted from such obligation upon giving the consumer written notice concerning the unavailability of spare parts for the product and the consumer's agreement thereto.

Article (10):

Subject to Article (9), every condition contained in a contract, document, deed or otherwise related to entering into contract with a consumer shall be invalid where such condition results in prior exemption of the supplier from its obligations under this Law.



Chapter Three

Duties of the Directorate Concerned with Consumer Protection

Article (11):

The concerned Directorate shall, in co-ordination and co-operation with the competent authorities, supervise the implementation of the provisions of this Law and the resolutions issued for its implementation with the aim of facilitating for the consumer to obtain products at a reasonable quality and suitable price in addition to protecting him from commercial fraud and harmful monopolistic practices. For this purpose it shall do the following:

1. Implementing the general policy concerning the measures ensuring the protection of free competition and prevention of harmful monopolistic practices.
2. Receiving and investigating complaints made by consumers and societies.
3. Taking measures to ensure the prevention of commercial fraud. Looking into the disputes that may arise between suppliers and consumers and seeking to settle them amicably, if possible, and laying down the necessary regulations and procedures for the settlement of disputes between suppliers and consumers.
4. Ensuring the suppliers' compliance with all the resolutions issued with respect to the protection of consumers, their health and safety.
5. Contributing to providing consumer awareness programmes to inform them about their rights and duties.
6. Introducing and enforcing the rules and procedures concerning consumer protection in co-ordination and co-operation with the concerned administrative authorities.



7. Co-ordinating with universities, scientific research centres, public and private institutions in the area of research and exchange ideas related to consumer protection.

The concerned Directorate shall exercise the prescribed powers thereof according to the rules, guidelines and procedures set forth in the Implementing Regulation.

Chapter Four

Rules of Competition and Monopoly

And Manifestations of Breach of their Rules

Article (12):

The exercise of the right to produce or distribute products shall be in such a manner as not to lead to prevention or restriction of free competition or the unlawful damage to third parties in accordance with the provisions of this Law and the relevant laws and regulations without prejudice to the terms of international conventions and agreements in force in the Kingdom of Bahrain.

Article (13):

It shall be prohibited to conclude any agreement designed or results in breach of the rules of free competition such as the following:

1. Manipulating the prices of products being traded by increasing or reducing them without justification.
2. Restricting the free flow of products to the markets or procuring the total or partial disappearance thereof by unlawfully concealing or storing or refraining from trading in them.
3. Artificially creating a sudden abundance of products resulting in selling them at an unreal price that affects the economies of the remaining competitors.



4. Concealing the available products in the market either totally or partially from a certain person.
5. Concealing the necessary information or misleading with regard to a certain product.

Excluded from such prohibition shall be agreements that restrict competition designed to result in reduction of costs or improvement of production or distribution conditions where the benefit to the consumer is far more than the effects of reduction of free competition subject to the rules and guidelines laid down in the Implementing Regulation of this Law.

Article (14):

Subject to free trade, no harmful commercial or monopolistic practices shall take place. The Implementing Regulation shall set forth the rules and procedures identifying such practices.

Article (15):

- (a) In the event of a crisis or exceptional circumstances in the market resulting in an unusual increase in the prices of the necessary goods, the Minister shall be empowered to adopt a substantiated decision for taking temporary measures for the curtailment of such increase.
- (b) The Minister may take any action which may result in violation or prejudicing the rights of consumers and causing damages thereto. In all cases, he shall take the appropriate measures for the prevention of monopolistic practices.
- (c) The Implementing Regulation of this Law shall determine the principles relied upon by the Minister in the assessment of the unusual increase of prices and the measures taken for the



curtailment of such increase and shall determine the details and guidelines ensuring the prevention of monopoly.

Article (16):

In case of immediate or imminent threat based upon certain information and specific criteria laid down in the Implementing Regulation of this Law, the Minister may issue a resolution for suspending the import or export of a certain product or display thereof on the market, its withdrawal from it or destruction thereof if destruction is the only means for putting an end to the threat arising from it. The Minister shall be empowered to issue alerts or to take any precautions to be announced thereby ensuring that the consumer becomes aware thereof.

Chapter Five

Reporting Violations and Acting upon Them

Article (17):

The officers designated by the Minister to ensure the implementation of the provisions of this Law and the resolutions issued for its implementation shall have the power to enter the relevant premises. Officers who are designated by the Minister of Justice in agreement with the Minister shall have judicial summary powers in respect of the offences that take place within the ambit of their powers and where they relate to their job duties.

Statements drawn up in respect of such offences shall be referred to the Public Prosecution by a resolution of the Minister or anyone authorised by him.



Chapter Six

Penalties

Article (18):

Without prejudice to a harsher penalty provided for in the Penal Code or in any other law, a prison sentence and a fine not exceeding five thousand Dinars , or either penalty, shall be inflicted upon each of the following:

1. Anyone who has produced, possessed with the intent to sell or sold materials, packages or packaging used in misrepresenting or copying any commodity while being aware thereof and anyone who incites and abets in such action with the use of flyers, publications or by any other method.
2. Anyone who deliberately promotes a product by any means of publication, media or by any other method intended to inform the public by means of false information about the truth of such product, its elements, ingredients, specifications or origin.
3. Anyone who deliberately cheats in respect of a commodity by changing its nature, one of its qualities or labelling details.
4. Anyone who deceives or uses methods which are likely to defraud a consumer in any manner.

Article (19):

A penalty of imprisonment for a period of at least one year and a fine of no more than ten thousand Dinars shall be inflicted upon anyone who imports or brings into the Kingdom goods that are hazardous to safety while being aware thereof. The Court may pass a judgement for re-export of the goods to their original source or destruction thereof at the expense of the offender.



Article (20):

Without prejudice to a harsher penalty provided for in the Penal Code or in any other law, a fine not exceeding ten thousand Dinars shall be inflicted upon anyone who violates any of the provisions of Articles (3), (4), (5)(a), (6), (7), (8) and (9).

Article (21):

Without prejudice to a harsher penalty provided for in the Penal Code or in any other law, a prison sentence for a period of no more than five years and a fine not exceeding five thousand Dinars, or either penalty, shall be inflicted upon anyone who violates the provision of Article (13) or Article (14) of this Law.

Article (22):

In case of a conviction judgement, the Court shall in addition to inflicting the prescribed penalty rule for confiscation or destruction of the goods subject to the crime, materials and items used in the commission thereof at the expense of the convicted person. The Court may order the publication of the judgement in two daily newspapers of which one shall be in Arabic at the expense of the convicted person.

In case of recurrence within 3 years from the date of handing down the final conviction judgement, the Court shall pass a judgement for inflicting the maximum prescribed penalty and suspension of the business for a period not exceeding 3 months or finally striking off the registration in the Commerce Registry.



Chapter Seven General Provisions

Article (23):

Without prejudice to criminal or civil liability, the Minister shall be entitled, upon a recommendation from the relevant Directorate, to give a warning to the concerned persons by a registered letter with a note of delivery to remedy the activities that are contrary to the provisions of this Law during a reasonable period to be fixed for this purpose. Should they fail to comply, the Minister shall be empowered to issue a resolution for closing the establishment for a period of at least 7 days and not exceeding 3 months or striking off the registration in the Commerce Registry. In this case, re-registration in the Commerce Registry shall not be permitted except upon the lapse of 6 months from the date of issuing the strike off resolution. Appeals of such resolutions may be submitted to the concerned Minister within 15 days from the date of notifying the concerned persons. The Minister shall reply to the appeal within 7 days, otherwise this shall be deemed as a rejection of the appeal.

The Minister's resolutions shall be appealed before the competent court within sixty days from the date of giving notice to the concerned persons concerning rejection of the appeal or from the date of considering the appeal rejected.

Article (24):

The Minister shall issue the Implementing Regulation for this Law within 6 months from the date of its coming into effect.



Article (25):

The Prime Minister and the Ministers, each in his respective capacity, shall implement this Law which shall come into effect from the day following the date of its publication in the Official Gazette.

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

Issued at Riffa Palace
On 22nd Shaaban, 1433 Hijra,
Corresponding to 12th July, 2012 AD

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