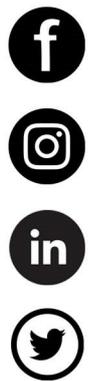




# The Commercial Companies Law Decree law no.(21) of 2001 premulgating



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## **The Commercial Companies Law**

DECREE LAW NO. (21) OF 2001  
PROMULGATING

We, Hamd Ben Essa Al Khalifa,  
Amir of the State of Bahrain

Having reviewed the Constitution;  
And Amiri Order No. (4) 1975;  
And Decree No. (1) finance of 1961 On The Commercial Registry as amended;  
And the Civil and Commercial Proceedings Code promulgated by Decree No. (12) of 1971 as amended;  
And the Notarization Law promulgated by Decree No. (14) of 1971;  
And the Bahrain Monetary Agency Law promulgated by Decree No. (23) of 1973 as amended;  
And the Commercial Companies Law promulgated by Decree No. (28) of 1975 as amended;  
And the Labor Law for the Private Sector promulgated by Decree No. (23) of 1976 as amended;  
And the Bahrain Stock Exchange Law promulgated by Decree No (4) of 1987;  
And the Commerce Law promulgated by Decree No. (7) of 1987 as amended;  
And the Bankruptcy and Composition Law promulgated by Decree No. (11) of 1987;  
And the Insurance Companies and Organizations Law promulgated by Decree No. (17) of 1987, amended by Decree No. (35) of 1996;  
And the Commercial Agency Law promulgated by Decree No. (10) of 1992, amended by Decree No. (8) of 1998;  
And the Auditors Law promulgated by Decree No. (26) of 1996;  
And the Civil Code promulgated by Decree No. (19) of 2001;  
And Upon the submission of the Minister of Commerce and Industry;  
And after consulting the Shura Council;  
And after the approval of the Council of Ministers.

Hereby Decree the following Law

**Article (1)**

The provisions of the attached law with respect to Commercial Companies shall come into effect.

**Article (2)**

The Commercial Companies Law promulgated by Decree No (28) of 1975 shall be repealed as well as any other provision in conflict with the provisions of the attached law.

**Article (3)**

The Minister of Commerce and Industry shall issue the executive regulation and orders necessary to implement the provisions of this law. Until such time this executive regulation and orders are issued, the orders in force at the time when this law was promulgated shall continue to apply to the extent they do not conflict with the provisions of the law.

**Article (4)**

The ministers, each in his respective capacity, shall implement the provisions of this law, which shall come into effect on the beginning of the next month after the lapse of six months from the date of the publication thereof in the Official Gazette.

Hamad Bin Essa Al Khalifa  
Amir of the State of Bahrain

Issued at Al Refaa Palace:  
on 28 Rabie el-Awal 1422H  
Corresponding to 20 June 2001G

**COMMERCIAL COMPANIES LAW**

**PART I  
General Provisions**

**Article (1)**

The company is a contract by which two persons or more undertake to participate in a profit-making economic project, with each of them offering a share in the form of money or work to divide the yield of this project, whether profit or loss.

Notwithstanding the provisions of the foregoing paragraph, a company may consist of a single person in accordance with the provisions of this law.

### **Article (2)**

a- A commercial company incorporated in the State of Bahrain shall take one of the following forms:

- 1-General partnership company
- 2-Limited Partnership company
- 3-Association in participation
- 4-Joint Stock Company
- 5-Limited Partnership By Shares
- 6-Limited Liability Company
- 7-Single person Company
- 8-Holding Company

b-Any commercial company that does not take one of the above forms shall be null and void, and the persons who have entered into contracts in its name shall be personally and jointly liable to third parties for the obligations resulting therefrom.

### **Article (3)**

The provisions applicable to commercial companies shall also apply to civil companies having a commercial form regardless of its purpose.

### **Article (4)**

Any commercial company of whatever type incorporated or based in Bahrain shall be subject to the provisions of this law.

However, notwithstanding some or all of the provisions of this law, companies may be established, by virtue of a decree or law, between governments of other countries or between the government of Bahrain and another country or other countries.

Any company incorporated in Bahrain shall be domiciled therein, and shall be of Bahraini Nationality without necessarily being entitled to the rights exclusive to Bahrainis.

#### **Article (5)**

All commercial companies shall, in general, be subject to the provisions of this Part, without prejudice to the special provisions applicable to each commercial company included in this law.

#### **Article (6)**

Except for Associations in participation, the company's memorandum of association and any amendment thereto shall be drawn up in Arabic and legalized by the Notary Public, or else the Memorandum of Association and its amendments shall be null and void.

Companies may not plead before third parties for the nullity of the memorandum of association or the amendment thereto which has not been formalized in the way mentioned above.

Nullity shall not take effect among partners before a partner files a lawsuit to nullify the company's memorandum of association, and the persons who have entered into contract in its name shall be personally and jointly liable for all their acts.

In all cases, the provisions of the memorandum of association shall apply to the liquidation of the company adjudged null and void and to the settlement of partners' rights towards each other.

#### **Article (7)**

Except for Associations in Participation, the managers or board members shall publish the company's Memorandum of Association and subsequent amendments thereto according to the provisions of this law; otherwise, the Memorandum of Association shall not take effect towards third parties. If failure to make publication applies only to one particular or more of the Memorandum of Association, only such particulars shall not take effect towards third parties.

The company's managers or board members shall jointly be liable for any damages sustained by the company, partners or third parties as a result of non-registration.

### **Article (8)**

Except for Associations of Participation and unless otherwise provided for in the law, all commercial companies acquire a corporate entity upon registration in the Commercial Registry.

### **Article (9)**

The partner's share may be an amount of money (cash share) or in-kind share. It may also be in the form of work in cases not specified in the provisions of this law. However, the partner's share shall not be in the form of his influence or financial standing. Cash and in-kind shares only form the capital of the company.

### **Article (10)**

Unless otherwise agreed upon by way of an agreement or in custom, the partners' shares shall be of equal value and relate to property ownership rather than usufruct.

### **Article (11)**

Each partner shall owe the company the value of his share. If he fails to pay this value on the date agreed upon, he shall be liable to pay compensation to the company for any damages that may result from the delay.

If the partners define the compensation value in advance, such compensation shall be subject to the court assessment.

### **Article (12)**

If a partner's share is in the form of a title, usufruct or any other real right, the sale provisions shall apply in respect of registration procedures and insuring the share against destruction or falling due, or when there appears a defect or a shortage therein.

However, if the share is in the form of usufruct of funds, lease provisions shall apply thereto.

### **Article (13)**

If the partner's share is in the form of a claim on a third party, his obligation towards the company shall be discharged only upon the settlement of this claim. Moreover, the partner shall be liable to pay compensation to the company for any damages that may result from the delay in the settlement of this claim.

#### **Article (14)**

If the partner's share is in the form of work, he shall undertake the services he pledged and submit an account of the return thereon as from the date at which the company started to exercise the services he pledged as his share. All earnings that result from this work shall belong to the company. However, the partner shall not give up to the company what he might have earned from a patent right unless otherwise agreed upon.

#### **Article (15)**

If the company's memorandum of association does not define each partner's dividend in profit and loss, such dividends shall be determined in proportion to the partners' respective shares in the capital.

If the memorandum of association specifies only each partner's dividend in the profit, the same dividend shall apply to the loss, and vice versa.

If a partner's share is in the form of work and the company's memorandum of association does not specify his dividend, he may request for an evaluation of his work, and his dividend shall be determined on the basis of this evaluation unless otherwise provided in an established custom.

If a partner provides cash or an in-kind share, in addition to work, he shall receive a dividend for his work and another for the other share.

#### **Article (16)**

If it is agreed that a partner shall not have a dividend in the company's profits or shall be exempted from the loss, such an agreement shall be null and void.

However, it can be agreed that a partner whose share is in the form of work be exempted from sharing the loss provided that he receives no remuneration for this work.

#### **Article (17)**

A personal creditor of a partner shall not recover his rights out of the partner's share in the company's capital; yet, he may recover his rights out of the partner's dividend in the profits according to the company's balance sheet. If the balance sheet has not yet been prepared, the creditor may garnish the dividend that may accrue to the partner in the profits.

If the company is wound up, the personal creditor may recover his rights from the share of his debtor in the company's assets upon dissolution, and he may, before dissolution, seek a garnishment over this share.

#### **Article (18)**

In all types of commercial companies, the claims against partners shall be time barred after five years from the date of the company's dissolution, or from the date at which a partner withdraws from the company in respect of the claims against this partner.

This period shall start on the date of the company's registration in the Commercial Registry in all cases in which registration is required, and from the date of registering the liquidation in the cases relating to the liquidation itself.

#### **Article (19)**

If fictitious profits are distributed among partners, the company's creditors may request each partner to refund what he has received even if the partner may have acted in good faith.

The partner shall not repay the real profits he has actually received even if the company may have made losses in subsequent years.

#### **Article (20)**

If any of the shareholders or partners or their representatives

withdraws from the meeting of the general assembly after the quorum has been obtained, such withdrawal shall not affect the legality of the meeting or the decisions taken by the general assembly regardless of the number of the withdrawing shares or stakes.

#### **Article (21)**

The Minister of Commerce and Industry may issue in an order a model for the memorandum of association of some or all types of companies or for their articles of association. The model shall comprise all the particulars and conditions required by law or by its Executive Regulation in this respect, and shall specify the conditions that the founding partners must comply with and those which they may not comply with. The partners may also add any other conditions that do not conflict with the provisions of law and its Executive Regulation.

#### **Article (22)**

The particulars that are required by law shall be published as ordered by the Minister of Commerce and Industry in the Official Gazette and in one of the local daily newspapers.

#### **Article (23)**

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If the provisions of this law require a certain quorum to incorporate a company, and if one partner or more withdraws after its incorporation, the company may continue to exist among the remaining partners without prejudice to the obligations it has undertaken before the withdrawal of any partner.

#### **Article (24)**

The provisions of article (333) of the Civil and Commercial Procedures Code shall be observed in the calculation of the periods provided for in this law.

## **PART II**

### **General Partnership Company**

### **Article (25)**

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A General Partnership company is a company established by two persons or more under a certain name, and in which the partners are jointly liable to the extent of their all property for the company's obligations.

Without prejudice to the provisions of laws regulating self-employment professions, general partnership companies may be formed – regardless of its type – among Bahraini or Non Bahraini partners in accordance with the rules and guidelines decreed by the Minister of Commerce and Industry.

### **Article (26)**

The Memorandum of Association of a general partnership company shall comprise the following details:

- i-The company's name and trade mark, if any.
- ii-The company's headquarters and branches.
- iii-The company's objectives.
- iv-The partners' names, titles, nationalities and domiciles.
- v-The names of the executive managers and persons authorized to sign for the company and their competence and power limits.
- vi-The company's capital and the share of each partner therein.
- vii-The manner in which profits and losses are distributed among partners.
- viii-The company's term, if any
- ix-The beginning and end of the company's financial year.
- x-The manner in which the company shall be liquidated and its assets be divided up.

### **Article (27)**

The name of a general partnership company shall consist of the names of all partners or the name of one or more of them accompanied by (& Co.) or by a similar word giving the same meaning. The name of the company, wherever mentioned, shall be followed by (A Bahraini Partnership Company); and shall always conform to its current status.

### **Article (28)**

Any non-partner whose name is included in the company's name with his knowledge and consent shall be jointly liable for its obligations towards any other person who has counted in good faith on this name.

#### **Article (29)**

The partners may draw up in a written and certified official document articles of association for the company, which shall include the detailed provisions they agree upon for managing the company. A copy thereof shall be attached with the Memorandum of Association of the company.

#### **Article (30)**

The company's Memorandum of Association and subsequent amendments thereto shall be notarized by entering it in the Commercial Registry in conformity with the law of this registry. A summary of the company's Memorandum of Association and subsequent amendments thereto shall be published in the Official Gazette at the company's expense.

#### **Article (31)**

The summary of the company's memorandum of association shall specifically include the following details:

- i-The company's name, objective, headquarters and branches, if any.
- ii-The partners' names, domiciles, professions and nationalities.
- iii-The company's capital and sufficient definition of each partner's shares and its due date.
- iv-The names of the managers and the persons authorized to sign for the company.
- v-The date of the company's incorporation and its term.
- vi-The beginning and the end of the company's financial year.

#### **Article (32)**

Each partner shall have the capacity of a merchant who undertakes trade under the company's name. The bankruptcy of the company shall be deemed bankruptcy of all partners.

### **Article (33)**

The partners' shares shall not take the form of tradable instruments, and the partner shall not assign his share in the company to other persons without the consent of all partners or to the prejudice of the provisions of the company's memorandum of association. Procedures of publication and registration of such assignment shall be undertaken in accordance with the provisions of articles (7&30) of this law. Any agreement that permits unconditional assignment of shares shall be deemed null and void.

### **Article (34)**

The company's employees or affiliates who share profits in lieu of their wages for all or part of their work shall not be considered partners.

### **Article (35)**

The company's creditors shall have a claim on the company's assets, and shall have also a claim on the private assets of any partner who used to be a member of the company at the time of contracting.

All partners shall jointly be liable towards the company's creditors, and any agreement to the contrary shall not be valid towards third parties.

### **Article (36)**

i-If a new partner joins the company, he shall be liable jointly with the other partners, to the extent of his property, for the company's preceding and subsequent obligations, and any agreement to the contrary shall have no effect towards third parties.

ii-If any partner withdraws from the company, he shall not be liable for the company's obligations subsequent to the publication of his withdrawal.

iii-If any partner assigns his share in the company, he shall remain liable for the company's obligations towards its creditors unless they approve this assignment.

#### **Article (37)**

A partner's property shall not be subject to execution due to the company's obligations without a court decision against the company and before soliciting the company for the settlement thereof. The court decision shall be evidence against the partner.

#### **Article (38)**

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i-Any partner shall not, without the consent of the other partners, undertake any activity for himself or for other persons in competition with the company, or be a partner in another general partnership company or a partner or a sleeping partner in a limited partnership company or a limited liability company if such companies are exercising competing activities to those of the company.

ii-If any partner fails to honor his obligations under the foregoing paragraph, the company may claim compensation from him or consider the activities he conducted for himself as conducted for the company. He shall then surrender to the company all the profits resulting from these activities without netting them out with the profits he is entitled to from the company.

#### **Article (39)**

i-If any partner takes or retains an amount of money that belongs to the company, he shall refund it without prejudice to the right of compensation if required.

ii-If any partner provides the company with his own money or spends in good faith to its benefit, the company shall refund such money together with compensation equal to the benefit it has gained from such money.

#### **Article (40)**

Management of the company shall be undertaken by all partners unless the partners appoint, in the memorandum of association

or in a separate contract, a manager or more from among the partners or non-partners to manage the company

#### **Article (41)**

The manager shall undertake the day-to-day management of the company as specified in the Memorandum and Articles of Association.

If there is more than one manager without specifying the competence of each of them, and in the absence of a provision confining the management to any of them, each manager may individually take managing actions, provided that the other managers shall have the right to object to these actions before they are completed. In such a case the actions taken shall be passed by the numerical majority of managers and, in the case of equal vote, shall be referred to the partners.

#### **Article (42)**

If there is more than one manager without a stipulation that they shall collectively undertake management, their decisions shall be taken unanimously unless the memorandum of association provides for a specific majority. This condition shall not be violated except in the case of urgency where the company may incur a heavy loss or loose a substantial profit if it fulfills it.

#### **Article (43)**

In the absence of a provision on the way the company shall be managed, each partner shall be considered authorized by the other partners to manage the company, and he shall take the charge of management without recourse to the other partners provided that they shall have the right to object to any action before it is completed. The majority of partners shall have the right to overrule the objection.

#### **Article (44)**

i-If the manager is a partner appointed in the company's memorandum of association, he shall not be dismissed except by a court decision upon application by the majority of partners and on the basis of acceptable justification. Any agreement to the contrary shall be null and void. The company shall be dissolved

if the manager is dismissed unless otherwise provided for in the memorandum of association.

ii-If the manager is a partner appointed in a separate contract, or a non-partner appointed in the memorandum of association or in a separate contract, he may be dismissed by the majority of partners. Such dismissal shall not bring the company to dissolution.

iii-If the manager is paid for his job and has been dismissed at an unsuitable time or for unacceptable reasons, he may claim compensation for any damages he may have sustained.

iv-The dismissal and the appointment of a manager shall be registered in accordance with the provisions of articles (7) & (30) of this law.

#### **Article (45)**

i-If the manager is a partner appointed in the memorandum of association, he shall not resign his office for unacceptable reasons, otherwise, he shall be liable to pay compensation. The manager's resignation shall result in dissolving the company unless otherwise provided for in the memorandum of association.

ii-If the manager – whether he is a partner or not – is appointed in a separate contract, he may resign his office, provided that the time is opportune and that he brings his resignation to the notice of the other partners, otherwise he shall be liable to pay compensation. In this case the company shall not be dissolved.

#### **Article (46)**

The non-manager partner shall not interfere in the company's management. However, he may monitor the performance of the company at its headquarters and inspect its books and documents. He may also get a summary statement of the financial position of the company from its books and documents and provide the manager with his advice. Any agreement to the contrary shall be null and void.

#### **Article (47)**

The company shall be bound by all actions taken by the manager within his powers if he ascribes his actions to the company's commercial name even if he is working for his own interest so long as the third party he deals with is acting in good faith.

#### **Article (48)**

i-The decisions of a general partnership company shall be taken by unanimity of the partners unless the memorandum of association provides for the majority. In this case, majority means simple majority unless otherwise indicated in the memorandum of association.

ii-The decisions pertinent to the amendment of the company's memorandum of association shall not be valid if not taken by the unanimity of the partners.

#### **Article (49)**

i-Profits and losses and the dividend of each partner therein shall be determined at the end of the company's financial year as per the balance sheet and the profit & loss account.

ii-Each partner shall be deemed a creditor of the company with his dividend in profits upon determining it by approving the balance sheet.

iii-Any reduction in the company's capital resulting from losses shall be covered from the profits of subsequent years unless otherwise agreed upon. In any event, no partner shall be obliged to cover the reduction in his share in the capital without his consent.

### **Part III Limited Partnership Company**

#### **Article (50)**

A limited partnership company is a company set up by one or more partners, who shall be jointly liable for the company's obligations to the extent of all their property, and by another or more partners, who have shares therein but are out of its

management. The latter partners are called sleeping partners and shall be liable for the company's obligations only to the extent of their share in the capital.

#### **Article (51)**

The company shall be registered in the Commercial Registry and made published in accordance with the provisions of article (30) of this law.

The names of the sleeping partners may not be included in the summary of the company's contract, which must include however sufficient details of their shares in the capital and the values thereof.

#### **Article (52)**

The rules applicable to the general partnership company shall apply to the limited partnership company, even in respect of the sleeping partners, as regards its incorporation, management, termination and liquidation with due consideration to the following articles.

#### **Article (53)**

The name of the limited partnership company shall only include the names of the joint partners. If there is only one partner who is liable in all his property, the word (& Co.) shall be added to his name.

The name of the sleeping partner shall not be included in the name of the company. If it is included with his knowledge, he shall be liable as a joint partner towards third parties acting in good faith.

#### **Article (54)**

The sleeping partner shall not interfere in the company's management even by a letter of delegation; otherwise he shall be jointly liable with the joint partners for the obligations arising from his management. He may be liable for all or some of the company's obligations depending on the seriousness and frequency of such actions, and depending on the trust held in him by third parties by virtue of such actions.

However, supervision of the acts of the company's managers and the advice given to them and the authority granted to them to act beyond the scope of their powers shall not be deemed interference.

#### **Article (55)**

The joint partners and the sleeping partners shall be specified in the company's memorandum of association. The joint partners shall be Bahrainis and their share in the capital of the company shall not be less than 51%.

### **Part IV Associations in Participation**

#### **Article (56)**

An association in participation (joint venture) is a concealed company. It neither has a corporate entity nor is subject to publication procedures.

#### **Article (57)**

The company's memorandum of association shall specify the Partners' rights and obligations and the manner in which the profits and losses are distributed among them as well as any other terms and conditions.

The company shall not issue shares or tradable instruments.

#### **Article (58)**

The company's memorandum of association may be proved by any means, including evidence and presumptions.

#### **Article (59)**

Third parties shall have no legal connection in respect of the company's activities except with the partner or partners whom they have dealt with. The partners shall thereafter have recourse to each other in connection with the company's activities, their association with it and the dividend of each partner in the profits

and losses as agreed upon in the company's memorandum of association.

#### **Article (60)**

Notwithstanding the provisions of the foregoing article, third parties may insist on the company's memorandum of association if the company has dealt with him in this capacity.

#### **Article (61)**

If the partner who is dealing with third parties is non-Bahraini, a Bahraini national shall sponsor him in these dealings.

#### **Article (62)**

i-Each partner shall remain the owner of the share he has pledged unless otherwise agreed upon.

ii-If the share is a specific asset and the partner who holds it has got bankrupt, the owner shall have the right to restore it from bankruptcy after paying his share in the company's losses. However, if the share is not specified, the owner shall have only to participate in the bankruptcy as a creditor with the remaining part after deducting his share in the company's losses.

### **Part V Joint-stock Company**

#### **General Provisions**

#### **Article (63)**

A joint stock company consists of a number of persons who subscribe in it by way of negotiable shares. They shall be liable for the company's debts and obligations only to the extent of the value of their shares.

#### **Article (64)**

All shareholders in a general joint stock company shall be of

Bahraini nationality, without prejudice to the right of the Gulf Cooperation Council's nationals to establish and own joint stock companies in Bahrain.

#### **Article (65)**

Subject to the provisions of this law, Bahraini public joint stock companies may be founded – by a decision of the Minister of Commerce and Industry in collaboration with the relevant minister – with foreign capital or expertise in accordance with the percentages determined by the Minister of Commerce and Industry.

No dealing in the stocks and shares representing the foreign capital shall be permitted in any way for three years from the date of registering the company in the Commercial Registry unless such dealing is done only among the persons representing the foreign partner.

#### **Article (66)**

Every Joint Stock Company shall have a special commercial name indicating its objectives.

Such name shall not be derived from the name of a natural person unless the objective of the company is to invest a patent registered in the name of that person, or unless the company acquires, upon its incorporation or thereafter, another commercial establishment and uses the name of such establishment as its own. The name of the company shall – whenever mentioned – be followed by the phrase (A Bahraini Joint-Stock Company).

#### **Article (67)**

The company may change its name by a resolution by the extraordinary general assembly. The new name shall be registered in the Commercial Registry in accordance with the provisions of law and be published in the Official Gazette and in one of the local daily newspapers.

The change in the name of the company shall not affect its rights or obligations or legal proceedings taken by or against the company.

### **Article (68)**

i-Except for the case of representing the State in a public company, a public servant shall not in his personal capacity occupy a public position and be at the same time a board member of a joint-stock company or participate in the incorporation thereof or do any paid or unpaid job for it whether permanent or occasional.

ii-The violator shall refund all what he has received from the company to the state without prejudice to the administrative penalties.

### **Article (69)**

i-A board member of a public organization or entity shall not, in his personal capacity or on behalf of a third party, be a board member of a joint-stock company or act as a manager thereof or undertake a permanent or occasional work or consultancy for it if one of its objectives is to exploit any public utility that exists in the jurisdiction of the board of which he is a member, or that is linked with it by a contract of public works or monopoly.

ii-The member shall be deemed resigned from the company as soon as he is elected in the board. The defaulter shall refund what he has received from the company to the State's treasury.

### **Article (70)**

A decree by the Minister of Commerce and Industry shall regulate the Joint stock companies of variable capital.

## **Chapter One Incorporation of the Company**

### **Article (71)**

i-The founder is a person who actually participates in the incorporation of a company for the purpose of shouldering the responsibility arising therefrom.

ii-A person shall be considered a founder if he, in particular, has

offered an in-kind share upon the incorporation of the company or has signed the preliminary contract or has applied for licensing the company.

#### **Article (72)**

The founders shall submit an application for incorporating a company to the Ministry of Commerce and Industry.

#### **Article (73)**

A special registry shall be held at the Department of Commerce and Companies' Affairs at the Ministry of Commerce and Industry to register the applications for incorporating joint stock companies. The applications shall be given serial numbers.

#### **Article (74)**

An adequate statement on the company's particulars, drawn from the company's preliminary Memorandum and Articles of Association, shall be attached with the application for incorporating the company. The statement shall include the name of the founders' agent and his profession and address. Other attachments shall include:

- i-A copy of the company's preliminary Memorandum and Articles of Association duly signed by the founders as shown in the model form referred to in article (21) of this law.
- ii-An evaluation of in-kind shares, if any, as provided for in article (99) of this law.
- iii-An evidence, if the company's name is derived from the name of a natural person, of any intellectual property rights or patents registered in the said person's name the company intends to invest, or an evidence, if the company's name is derived from the name of an acquired commercial entity, of acquiring this entity.
- iv-An evidence, if the company takes another company's name, that the other company is under dissolution and that it agrees to assign its name to the company.
- v-A certified copy, if there is a corporate person among the founders, of the founding document of the said person, and an evidence that the competent authorities approve its participation in incorporating the company.

### **Article (75)**

The company's preliminary contract shall include the following details:

- i-The name of the company.
- ii-The company's head office.
- iii-The company's objectives.
- iv-Names of the founders who shall not be less than seven persons, except for the companies exclusively incorporated by the government or in which the government participates in its incorporation.
- v-The company's authorized, issued and paid-up capital on corporation, and the number of shares that form the capital.
- vi-The term of the company, if any.
- vii-A statement on every in-kind share, including the conditions thereof, the name of its owner and the real rights associated therewith.
- viii-An approximate estimate of the incorporation's expenses fees and costs.

### **Article (76)**

The provisions of this law shall not apply to the companies exclusively incorporated by the government, or those in which the government contributes more than 50% of its capital or those whose shares have been transferred to the government or to any other public entity that is incorporated by an Amiri Decree, except to the extent that these companies are not in conflict with the conditions considered at the time of their incorporation and with the provisions of their articles of association.

### **Article (77)**

Upon submitting the application referred to in article (72) of this law, the Ministry of Commerce and Industry shall ascertain that the company has been incorporated on a sound basis and that the preliminary contract and articles of association do not contravene with the provisions of the law. To this effect, the Ministry may request the founders to provide additional details and supporting documents whenever necessary. It may also request that amendments be made to the company's articles of association to make them consistent with the provisions of this law or compliant with the model form referred to in article (21) herein.

### **Article (78)**

i-The Minister of Commerce and Industry shall decide on the application within thirty days from the date of its submission. If the said period lapses without taking a decision, the application shall be deemed rejected.

ii-The applicant whose application has been justifiably rejected or considered to be rejected shall have the right to appeal before the High Civil Court within thirty days from the date of notifying him of the rejection of his application or from the date his application is deemed rejected. The court decision whether confirming or overruling the application rejection shall be final.

iii-The founders shall not have the right to apply anew for the company's incorporation before removing the reasons of rejection or the lapse of six months from the date of the court's rejection decision.

### **Article (79)**

If the company's draft Memorandum and Articles of Association have been approved, the founders shall notarize them in accordance with the latest amendment with the competent notarization authority and return them to the Ministry of Commerce and Industry for issuing the incorporation order.

### **Article (80)**

If the order of incorporation is issued, it shall be published in the Official Gazette at the expense of the company and a copy thereof shall be sent to the founders.

### **Article (81)**

The company shall have a corporate entity from the date of publication of the incorporation order in the Official Gazette.

### **Article (82)**

The issue of the company's incorporation order represents at the

same time certification of the company's Memorandum and Articles of Association and the other particulars contained in the application.

**Article (83)**

The founders shall begin subscription for the shares following the publication of the incorporation order in the Official Gazette.

**Article (84)**

The founders shall subscribe for shares representing at least 10% and not exceeding 40% of the company's capital and shall pay – before the publication of the subscription prospectus – the amount equal to the percentage required to be paid by the public for each share upon subscription.

However, the founders may be authorized, subject to the approval of the Council of Ministers, to subscribe for more than 40% of the company's capital.

**Article (85)**

The founders shall submit to the Ministry of Commerce and Industry – before inviting the public to subscribe for the company's shares – a certificate from the bank proving that they have subscribed for the company's shares within the limits specified in the foregoing article, and that they have already deposited, in the company's account with the bank, an amount equal to the percentage required to be paid by the public for each share upon subscription as provided for in the company's articles of association. Such amount shall be referred to in the subscription prospectus. The bank certificate shall be accompanied with the subscription invitation prepared by the founders in accordance with the provisions of the following article. Upon the completion of the above, the Ministry of Commerce and Industry shall authorize the publication of the invitation prospectus in one of the local daily newspapers.

**Article (86)**

The founders shall – upon offering shares for public subscription – issue a prospectus approved by the Ministry of Commerce and Industry and Bahrain Stock Exchange calling the public for

subscription and including the particulars specified in the Executive Regulation.

The subscription prospectus shall be published in one of the local daily newspapers at the expense of the company at least five days before the subscription commences.

The founders who signed the application for the company's incorporation shall sign the prospectus and be jointly liable for the accuracy of the particulars contained therein.

#### **Article (87)**

Subscription shall be undertaken at one or more of the commercial banks licensed to operate in Bahrain or at one of its branches or representatives abroad or through securities companies or other parties approved by the Ministry of Commerce and Industry.

#### **Article (88)**

The installments due upon subscription shall be paid at the bank; and the bank shall record such payments in a special account to be opened in the name of the company. Subscription shall remain open for a period of not less than ten days and not exceeding three months.

Subscription shall not close—in case of covering subscription at any period—before the lapse of five days from the date of publication of a notice that subscription for shares has been fully completed, provided that the minimum period of subscription has lapsed.

#### **Article (89)**

Subscription shall be effected by a note indicating the number of shares subscribed for, the subscriber's acceptance of the company's Memorandum and Articles of Association, his selected domicile, and any other details that may be deemed necessary. The subscriber or his deputy shall sign the subscription document.

The subscriber shall submit the note to the bank and shall pay the installments due against a receipt signed by the bank indicating the name of the subscriber, his selected domicile,

nationality, date of subscription, the number of subscribed shares and paid installments.

Subscription shall be deemed final upon receiving such receipt. The subscriber shall not cancel his subscription, without prejudice to the provisions of article (102) of this law.

#### **Article (90)**

Printed copies of the Memorandum and Articles of Association shall be given to each subscriber against an amount determined in the company's articles of association, and such amount shall be mentioned in the receipt provided for in the foregoing article.

#### **Article (91)**

The bank shall keep all funds received from subscribers for the account of the company under incorporation and shall give such funds only to the first board of directors as provided for in this law after refunding excess subscribed capital immediately following the allotment of shares in accordance with article (94) of this law.

#### **Article (92)**

The bank through which subscription is undertaken shall perform related operations according to the company's articles of association and shall be liable for compliance with its provisions and for any violation thereof.

#### **Article (93)**

i-The Joint Stock Company may have upon incorporation or upon increasing its capital one underwriter or more to subscribe the remaining shares.

ii-If the shares have not been fully subscribed for during the subscription period, the underwriters shall purchase the unsubscribed shares and may re-offer these shares to the public without complying with the procedures and restrictions of dealing in shares provided for in this law.

The Minister of Commerce and Industry shall decree the

procedures, requirements and conditions of applying the provisions of this article.

#### **Article (94)**

If subscription exceeds the offered number of shares after closing, the shares shall be allotted among subscribers in the manner agreed upon between the founders and the subscribers or in the manner defined in the company's articles of association.

The Minister of Commerce and Industry may decide at the beginning to allot a number of shares not exceeding 15% of the company's capital among the subscribers, and the allocation proceeds thereafter as provided for in the foregoing paragraph.

#### **Article (95)**

Every subscription undertaken in contravention of the above provisions may be contested before courts by whom it may concern within thirty days from the closing date.

Subscription may be judged null and void even if the company is in a state of liquidation.

#### **Article (96)**

i-The founders shall invite the subscribers for a constituent assembly to be held within twenty-one days from the closing date of subscription. The provisions of article (199) of this law shall apply to the procedures of the invitation.

ii-Each subscriber shall have the right to attend the constituent assembly regardless of the number of shares he owns.

iii-The assembly shall be chaired by the person elected by the absolute majority of the shares represented therein.

#### **Article (97)**

The constituent assembly shall consider, in particular, the founders' report on the company's incorporation, the expenses incurred and the evaluation of the in-kind shares. It shall also elect a board of directors, appoint the auditors and declare the company finally incorporated.

### **Article (98)**

i-For the constituent assembly to be valid, a quorum of at least half the capital shall be available.

ii-If the quorum provided for in the foregoing paragraph has not been fulfilled in the first meeting, an invitation shall be sent for a second meeting to be held within twenty-one days from the date of the first meeting. The second meeting shall be valid regardless of the number of subscribers represented therein.

iii-The constituent assembly's resolutions shall be taken by the absolute majority of the shares represented therein.

### **Article (99)**

If the capital of the company comprised upon incorporation or upon increasing the capital material or intangible in-kind shares, the founders or the board of directors – as the case may be – shall refer to experts to verify the accuracy of the evaluation of the in-kind shares in accordance with the principles and provisions defined in the Executive Regulation of this law. The share evaluation shall only be final after approving it by the constituent assembly or by the majority of shareholders representing two-thirds of the shares mentioned above. The holders of these shares shall have no vote in approving the evaluation thereof even if they are holders of cash shares.

If it appears that the value of an in-kind share has been less than the supposed amount by more than one-tenth, the company shall reduce its capital by an amount equal to the difference. However, the holder of this share may pay the difference in cash or he may withdraw from the company.

If the in-kind share has been presented by all subscribers or partners, their evaluation of it shall be deemed final with no need for any other procedure.

However, if it appears that the estimated value is higher than the real value of the in-kind share, the said subscribers or partners shall be jointly liable towards third parties for the difference between the two values.

The shareholder shall be given fully paid shares.

### **Article (100)**

The first board of directors shall provide the Ministry of Commerce and Industry and the Bahrain Stock Exchange with the following:

- i-A declaration that capital has been subscribed for in full, the amount paid by the subscribers, their names and domiciles and the number of shares subscribed for by each one of them.
- ii-The minutes of the meeting of the constituent assemble signed by its chairman.
- iii-The resolutions of the constituent assembly approving the report of the founders and the evaluation of the in-kind and intangible shares – if any – and the election or appointment of the members of the first board of directors and the appointment of the auditors.
- iv-The supporting documents of the validity of the incorporation procedures.

### **Article (101**

- )
- i-The first board of directors shall register the company and its articles of association in the Commercial Registry in accordance with the provisions of the law.
  - ii-The members of the first board of directors shall be jointly liable for any damages arising from the failure to effect registration as provided for in the foregoing paragraph.

### **Article (102)**

- i-If the company is not incorporated, the subscribers shall get back the amounts they have paid, and the founders shall be jointly liable for refunding these amounts in addition to paying compensation if necessary. The founders shall also bear all the incorporation expenses and shall be jointly liable towards third parties for the acts they made during the period of incorporation.
- ii-If the company is incorporated, the consequences of the acts made by the founders in the course of the company's incorporation shall be born by the company together with all related expenses paid by the founders.

### **Article (103)**

Any act made between the company under incorporation and the founders shall not bind the company after incorporation unless approved by the board of directors, provided that the board members do not have connection with the founder who had made such act or that they shall not profit from this act, or unless such act is approved by the group of partners or by a resolution adopted by the company's general assembly provided that any of the interested founders has no counted votes in the meeting. In all cases the interested founder shall put all related facts before the authority approving such act.

### **Article (104)**

Subject to the provisions of the foregoing article, all contracts and acts made by the founders in the name of the company under incorporation shall bind the company after incorporation if they were necessary for the company's incorporation.

### **Article (105)**

The founder shall exercise, in his dealing with the company under incorporation or for its account, due care and diligence expected from the ordinary man. The founders shall be jointly liable for any damages the company or third parties may sustain as a result of their failure to comply with this provision.

If a founder has received any funds or information pertaining to the company under incorporation, he must repay these funds to the company together with any profits he may have gained as a result of using these funds or information.

### **Article (106)**

The founders shall be jointly liable for what they have undertaken to do.

### **Article (107)**

The company's articles of association shall be kept in its office, and any person may obtain a copy thereof against reasonable fees.

The company's name, form, head office, date of incorporation, authorized, subscribed and paid up capital and its number in the Commercial Registry shall appear in all the company's contracts and correspondence.

#### **Article (108)**

If a joint-stock company is incorporated in a way incompatible with the law, any concerned party may request the company to undertake the necessary correction within one month from the date of his request. If the company does not effect the required correction within this period, the concerned person can claim at the High Civil Court the nullity of the company within one year from the date of incorporation.

However, the shareholders shall not use the nullity of the company as an excuse against third parties. The company shall be liquidated as a going concern without prejudice to the right of any concerned party to institute legal proceedings for joint liability against the founders, the members of the first board of directors and the first auditors.

### **Chapter Two**

#### **The Company's Capital**

#### **Article (109)**

The company's capital must be sufficient enough to achieve its objectives, and be denominated in the Bahraini currency. However, subject to the approval of the Minister of Commerce and Industry, the company's capital may be denominated in another currency valued in the Bahraini currency. The capital shall be divided into equal shares and the Executive Regulation shall specify the minimum capital of the company and the nominal value of the share.

#### **Article (110)**

The company shall have an issued capital, and the company's articles of association may specify an authorized capital not exceeding ten times the issued capital. The Executive Regulation of this law may specify a minimum issued capital for each activity the company undertakes and the portion paid thereof on the company's incorporation. The issued capital shall be fully subscribed for, and each subscriber shall pay at least

one-fourth of the nominal value of cash shares, provided that the remaining amount shall be paid within a period not exceeding five years from the date of the company's incorporation.

#### **Article (111)**

Some privileges to certain types of shares with respect to voting, profits, or liquidation's proceeds or any other rights may be provided for in the company's articles of association on incorporation, or in a resolution by the numerical majority of the partners representing at least two-thirds of the capital in an extraordinary general assembly meeting upon increasing the company's capital, provided that the shares of the same type shall be equal in respect of the advantages, the rights or the restrictions. The privileges, rights or restrictions pertaining to a specific type of shares shall not be amended unless otherwise decided by the extraordinary general assembly with the approval of the majority of votes referred to above. The Minister of Commerce and Industry shall decree the provisions, requirements and conditions of issuing preferred stocks.

#### **Article (112)**

Preferred stocks shall only be issued by the companies whose articles of association provide for the redemption of their shares before the expiry of their term that is linked to a concession to exploit one of natural resources or one of public utilities granted to it for a limited period of time, or to exploit any other non-renewable resource.

#### **Article (113)**

The shares shall be issued in its nominal value, but not in a lower value. If they are issued in a higher value, the deference shall be used to pay issue expenses and the remaining amount shall be added to the statutory reserve.

#### **Article (114)**

The share shall be indivisible. However, two or more persons may jointly own one share or a number of shares provided that only one person shall represent them before the company. The partners in the same share(s) shall be jointly liable for the obligations resulting from such ownership.

#### **Article (115)**

The shares shall be issued in the name of their owners and be negotiable. However, the company may issue bearer shares in accordance with the rules and requirements decreed by the Minister of Commerce and Industry.

#### **Article (116)**

i-The shareholder shall pay the value of the shares on the due dates. Interests shall be charged for the delay in payment once the date falls due without the need for serving a notice.

ii-If a shareholder fails to pay a due installment, the board of directors shall be entitled to sell the share after serving a notice to the defaulting shareholder by registered mail with a delivery note. If the shareholder does not pay the amount within ten days from the date of receiving the notice, the company may sell the share in the Bahrain Stock Exchange or in a public auction. However, the defaulting shareholder may pay the due installment until the date of the auction in addition to the expenses incurred by the company.

iii-The company shall recover from the proceeds of the sale the delayed installments and expenses and refund to the shareholder any excess amounts. If the proceeds fall short of the company's entitlements the company shall claim the difference by using the ordinary methods.

#### **Article (117)**

The first board of directors shall deliver to each shareholder – within three months from the date of the final publication of the company – an interim certificate of the shares he owns. The certificate shall particularly include the name of the shareholder, the number of shares he has subscribed for, the amount paid and the method of payment of its value, the date of payment, the serial number of the interim certificate, the company's capital and its head office.

The board shall deliver, within three months from the date of payment of the last installment or of full payment of the shares value, a final certificate of the shares with a serial number, signed by two board members and stamped with the company's seal. The certificate shall especially contain the registration number of the company in the Commercial Registry, the authorized, issued and paid up capital and the number of the

shares into which the capital is divided, the type and properties of the shares, the company's head office and term, if any. The minister of Commerce and Industry may exclude all or some of such details. No specific form is required for the certificate so long as it contains the details mentioned above.

#### **Article (118)**

The company shall maintain a register to record therein the shareholders' names, their nationalities and domiciles, the number and the serial numbers of the share certificates, and the dealings made thereon. A copy of these details shall be forwarded to the Ministry of Commerce and Industry and the Bahrain Stock Exchange.

### **Chapter Three Transfer, Disposal, Mortgage And Distraint of Shares**

#### **Article (119)**

The shares and the interim certificates may be traded, and the company may purchase its shares in the cases and in accordance with the rules decreed by the Minister of Commerce and Industry.

The disposal of the shares shall be effective against the company or third parties only upon the registration thereof in the relevant register.

Trading in the shares shall be effected in pursuance of the provisions of the law of the Bahrain Stock Exchange and the internal regulation of the market. The purchaser must be a Bahraini national. However, non-Bahrainis may own and trade in shares of the Bahraini joint stock companies in accordance with the provisions of this law and with the rules and the conditions and the percentages decreed by the Minister of Commerce and Industry, except for the companies excluded by a Ministerial decree.

The company may suspend the registration of the shares transfer during the period between the date of the call for a general assembly meeting and the date of this meeting.

The company may refuse to register the disposal of the shares in the following cases:

- i-If the shares are mortgaged or distrained by a court order.
- ii-If the shares or the interim certificates are lost and no other shares or certificates are given in lieu thereof.
- iii-If dealing in the shares or the title transfer is in contravention of the provisions of law or of the rules, the conditions and the percentages decreed by the Minister of Commerce and Industry or of the company's articles of association.
- iv-If the value of the shares has not been fully paid to the company or if the company claims a debt thereon.

#### **Article (120)**

The shares and the interim certificates may be mortgaged, donated, disposed of in any manner. The provisions of the foregoing article shall apply to such disposal.

The share mortgage shall be made by marking it overleaf, and the rank of the mortgagee shall be determined from the date of entering the mortgage in the share register.

The mortgagee shall receive dividends and use the rights attached to the share unless otherwise agreed upon in the mortgage contract. However, the mortgagee shall not attend the general assembly meetings or take part in its deliberation or approve its decisions.

The mortgage shall not be deleted except by a declaration of acceptance of such deletion by the creditor or by a final court order. The deletion shall be marked in the share register.

#### **Article (121)**

No heirs or creditors of a shareholder are entitled for any reason whatsoever to request for the seizure of the company's books, documents, or property, or to demand the winding-up or the sale of the whole company, or to interfere in any way whatsoever in the management of the company's business. In exercising their rights, they shall rely only on the company's records, financial accounts and the general assembly's resolutions.

#### **Article (122)**

The company's property shall not be distrained to discharge debts owed by one of the shareholders. However, the shares of

the debtor and its dividends may be distrained, and such distraint shall be entered in and deleted from the relevant register upon a notice by a competent authority.

The distrainer and the mortgagee shall be subject to all the resolutions passed by the general assembly in the same way they apply to the distrainee or the mortgagor without having membership rights in the company.

#### **Article (123)**

The holders of the in-kind shares shall not dispose of their shares before the elapse of two years from the date of the final incorporation of the company. However, the holders' heirs, in the case of his death, or the bankruptcy trustee, in the case of his bankruptcy, may dispose of his shares during such period.

#### **Article (124)**

The founders shall not trade in the shares they have subscribed for before the publication of the balance sheet and the profit and loss account for a financial year of not less than twelve months from the date of publication of the company's incorporation unless the company's articles of association provides for a longer period. A notation shall be made on these shares indicating its type and the date of the company's incorporation.

However, the titles of the shares may be transferred during the ban period by way of sale from one founder to another or from the heirs of one founder to a third party or from the bankruptcy trustee of the bankrupt founder to a third party. The provisions of this article shall apply to the shares subscribed for by the founders in the case of increasing the capital of the company before the expiry of the ban period.

### **Chapter Four Changing The Capital**

#### **1- Increasing The Capital**

#### **Article (125)**

The extraordinary general assembly may increase the authorized capital; and the ordinary general assembly may increase the issued capital up to the limit of the authorized capital, if any,

provided that the issued capital must be paid in full before the increase. The approved increase in the issued capital must be made within the next three years to the date of the decision authorizing the increase. This period shall be calculated for any increase adopted or authorized before this law has entered into effect as of this date. However, in the cases specified in the Executive Regulation, some companies may issue new shares before the full payment of the value of the previous shares upon the approval of both the ordinary general assembly and the Minister of Commerce and Industry.

The Ministry of Commerce and Industry and the Bahrain Stock Exchange shall be notified of the reports and the reasons requiring such increase.

#### **Article (126)**

The capital may be increased in one of the following ways:

- i-Issuing new shares for the amount of the increase.
- ii-Transferring the reserve into capital through one of the following methods:
  - 1-Increasing the nominal value of the original shares without asking the shareholders to pay the difference, which shall instead be paid from the reserve, and the shares shall be marked with their new value.
  - 2-Issuing new shares for the amount of the increase and distributing them free of charge to the original shareholders in proportion to the original shares each shareholder owns.

#### **Article (127)**

The nominal value of the new shares must be equal to the nominal value of the original shares. The extraordinary general assembly may decide to add a premium to the nominal value of the shares and determine its amount. The net amount of this premium shall be added to the statutory reserve even if it exceeds half the capital.

#### **Article (128)**

- i- The shareholders shall have priority right to subscribe for the new shares, and any condition to the contrary shall be deemed non-existent.
- ii- A statement shall be published in one of the local daily newspapers declaring priority of subscription given to the

shareholders, the starting and closing dates thereof and the value of the new shares. The shareholders may also be notified of this statement by registered mail.

iii- Each shareholder shall express his willingness to exercise his priority right in subscribing for the new shares within fifteen days from the date of publication of the statement referred to in the foregoing paragraph.

iv- The priority right may be assigned to a third party against a quid pro quo, to be agreed upon by the shareholder and the assignee.

#### **Article (129)**

i- The new shares shall be distributed among the shareholders who have applied for subscription in proportion to the shares they own in the company, provided that this proportion shall not exceed the new shares they have applied for.

ii- The remaining new shares shall be distributed among the shareholders who have applied for more than they own in accordance with the provisions of the foregoing paragraph.

iii- Any remaining new shares shall be offered for public subscription, and the same provisions relating to public subscription on the company's incorporation shall apply.

#### **Article (130)**

i- In the case of offering new shares for public subscription, a prospectus shall be issued containing, in particular, the following details:

- 1- The reasons of the capital increase.
- 2- The resolution of the extraordinary or the ordinary general assembly, as the case may be, authorizing the capital increase.
- 3- The capital of the company at the time of issuing the new shares, the amount of the proposed increase, the number of the new shares and the issue premium, if any.
- 4- A statement on the in-kind shares, if any.
- 5- A statement on the average profits distributed by the company during the three years preceding the capital increase.
- 6- A declaration from the auditor certifying the details mentioned in the prospectus.

ii- The chairman of the board of directors and the auditor shall sign the prospectus and shall be jointly liable for the accuracy of

the details contained therein.

### **Article (131)**

The board of directors shall publish the resolution of increasing the capital in the Official Gazette and in one of the local daily newspapers, and the resolution shall be entered in the Commercial Registry within one month from the date of increasing the capital.

## **2- Reducing The Capital**

### **Article (132)**

The company may, by a resolution of the extraordinary general assembly, reduce its capital if it is more than the company needs or if the company has sustained a loss and decides to reduce the capital to the actual value that exists.

The resolution reducing the capital shall be issued only after reading the reports of the board of directors and the auditor on the reasons of the reduction, the obligations of the company and the effect of such reduction on these obligations.

A copy each of the reports of the board of directors and the auditor shall be forwarded to the Ministry of Commerce and Industry.

### **Article (133)**

Capital shall be reduced by one of the following means:

- i- Reducing the nominal value of the share.
- ii- Canceling a number of shares equal to the amount of the decided reduction.

### **Article (134)**

Capital reduction shall be made, if it is more than the company needs, by reducing the nominal value of the shares, either by giving back a part of it to the shareholders equal to the decided percentage of reduction or by discharging them of the unpaid installments of shares' value in proportion to the decided reduction. If the reduction is due to the company's losses, a number of shares equal to the decided amount of reduction shall be cancelled. In all cases the nominal value of the shares must

not be less than the minimum value stipulated by law.

#### **Article (135)**

If the capital reduction is made by way of canceling a number of the company's shares, a number of shares owned by each shareholder shall be cancelled in proportion to the percentage of capital reduction, provided that the shareholder shall not be deprived of sharing in the company. The company shall, within one month from the date of cancellation, redeem the cancelled share certificates from the shareholders and destroy them and enter the same in the shareholders' register and notify the Ministry of Commerce and Industry and the Bahrain Stock Exchange accordingly.

#### **Article (136)**

Any resolution reducing the company's capital shall be entered in the Commercial Registry in accordance with the provisions of the registry law and be published in the Official Gazette and in one of the local daily newspapers.

#### **Article (137)**

Reduction shall not be effective against the creditors who make an objection thereto and submit their documents within sixty days from the publication date in the Official Gazette unless they are paid their due debts or have been provided with adequate guarantees for the payment of their deferred debts.

### **Chapter Five Loans**

#### **Article (138)**

The ordinary general assembly of both the public and closed joint stock companies, in which the government or any other public entity owns at least 30% of capital, may decide, by a resolution, to borrow by issuing loan bonds upon a recommendation by the board of directors showing the extent to which the company needs to borrow and the conditions of issuing these bonds. The company shall obtain the approval of the Bahrain Monetary Agency if the loan bonds are denominated in foreign currency or denominated in local currency but shall be offered for subscription in international markets.

The general assembly may authorize the board of directors to select the issue date, provided that the issue shall be made within the two years following the date of the resolution. The Ministry of Finance and National Economy must approve the company's borrowing by issuing loan bonds. However, the Bahrain Monetary Agency shall be the competent authority if the company is one of those subject to its supervision.

Article (139)

Bonds shall be nominal or for its bearer, negotiable, with equal values and categories and the maturity date shall not be less than two years. The bonds of the same issue shall entail equal rights to their holders towards the company, and any provision to the contrary shall be void.

Article (140)

The company shall not issue bonds except after the issued capital is fully paid up and after the balance sheet and the profits and losses account for at least two financial years have been published unless the state or one of the public entities guarantees such bonds.

Article (141)

The total value of the existing bonds issued by the company shall not exceed the issued and fully paid up capital and the undistributed reserves according to the latest balance sheet approved by the general assembly.

Excluded from this are the bonds guaranteed by the state or by one of the public entities and the bonds issued by banks and companies that are subject to the supervision of the Bahrain Monetary Agency and upon its approval.

Article (142)

The company shall cover the value of the bonds by one of the following means:

- i- Offering the bonds for public subscription. In this case the rules and provisions applicable to the subscription for shares shall apply without prejudice to the nature of the bonds.
- ii- Selling the bonds through banks, investment companies and subscription underwriters. In this case, the rules and practices commonly used in this regard shall be followed in a manner that does not conflict with the provisions of the law.

#### Article (143)

The call for public subscription for the loan bonds shall be made by way of a prospectus approved by the competent

governmental authority and published in one of the local daily newspapers. The prospectus shall contain the following details:

- i- The resolution of the general assembly authorizing the issue, its date and the approval of the competent governmental authority.
- ii- The total amount of the loan.
- iii- The essential details to be included in the bond certificates as provided for in this law.
- iv- A summary of the balance sheet and the profits and losses account for the two financial years preceding the issue of bonds.
- v- The value of the previous bonds issued by the company before and the outstanding unpaid value at the time of issuing the new bonds.
- vi- The entity conducting the subscription in bonds.
- vii- The amount to be paid for each bond in the case of payment in installments.
- viii- The period specified for subscription.
- ix- The period in which the owners of the convertible bonds may express their desire to convert them into shares, provided that such period shall not exceed the fixed term of bond amortization.
- x- The extent to which the shareholder may subscribe for the convertible bonds.
- xi- The extent to which the company may amortize the bond and the conditions thereof.
- xii- A list of the names of the board members.

Such details shall be included in all advertisements and bulletins relating to the loan, and the prospectus shall be signed by the chairman of the board of directors and the auditor, who shall be jointly liable for the accuracy thereof.

#### Article (144)

Subscription shall be deemed complete if 50% or more of the bonds offered for subscription is covered during the specified period or any other extension thereto, otherwise, the general assembly shall have either to retract from concluding the loan and refund the money to the subscribers or to consider the portion of bonds subscribed enough and accordingly cancel the remaining bonds.

#### Article (145)

The following details shall be contained in the bond certificates:

- i- The name of the issuing company, its entry number in the Commercial Registry and the address of its head office.
- ii- The capital of the issuing company.
- iii- The total amount of the loan.
- iv- The name of the bond's owner if the bond is issued in the owner's name.
- v- The nominal value and the serial number of the bond.
- vi- The interest rate or the return and its due dates, or the annual share determined for the bond from the company's profits.
- vii- The bond collateral, if any.
- viii- The conditions and dates of bond amortization.
- ix- If the bonds are convertible into shares, the dates specified for the bond owner to use his right to convert and the conditions thereof shall be mentioned.

#### Article (146)

If the conditions and procedures provided for in this law for the issue of and subscription for bonds are violated, any interested party may initiate legal proceedings to nullify the subscription and to compel the company to refund the value of the bonds and to pay compensation for sustained damages.

#### Article (147)

The bond owner shall have the right to get fixed interest or return in specific times and the right to redeem the nominal value of the bond at its maturity date. The company may issue bonds against a part of the company's annual profits.

#### Article (148)

The company may issue bonds for which subscription is effected for less than its nominal value, and undertake to pay the nominal value of the bond and to calculate the interests on the basis of such value.

#### Article (149)

The company, whose shares are negotiable on the Bahrain Stock Exchange, may issue convertible bonds by a resolution of the extraordinary general assembly upon a justified recommendation by the board of directors in accordance with the following provisions:

- i- Specifying the rules of converting bonds into shares, especially the value of the share on the basis of which the conversion shall be made.

- ii- The bond's issue value shall not be less than the nominal value of the share.
- iii- The value of the convertible bonds in addition to the value of the company's shares must not exceed the authorized capital.
- iv- The period during which conversion of the bonds into shares may be requested.
- v- The right of the bond owner to refund its value if he does not want to convert them into shares.

#### Article (150)

The company's shareholders shall have the priority right to subscribe for the convertible bonds if they express their desire to do so within a period not exceeding fifteen days from the date of calling them to use such right. The shareholder may use his priority right to subscribe for bonds in excess of his share in the company's capital if the offered bonds allow this.

#### Article (151)

The bond owners who desire to convert their bonds into shares shall express their desire to do so within the period provided for in the resolution of bond issue and specified in the subscription prospectus. Bonds shall be converted into shares in accordance with the procedures and conditions specified in the resolution of the extraordinary general assembly and published in the subscription prospectus. The company shall honor the value of the bonds whose owners do not want to convert them into shares at the maturity date.

#### Article (152)

After passing a resolution by the extraordinary general assembly to issue convertible bonds and until the date of conversion or paying their value, the company shall not distribute bonus shares or profits from the reserve or issue new convertible bonds except after taking the necessary measures to safeguard the rights of the holders of the convertible bonds who elect to convert them into shares by granting them bonus shares or profits from the reserve or some of these bonds as if they were shareholders.

Subject to the provisions of article (150) of this law, if the resolution of the general assembly to issue new convertible bonds, referred to in the foregoing paragraph, provides for the cancellation of the preference right of the shareholders to subscribe, the approval of the body representing the holders of the convertible bonds shall be obtained.

#### Article (153)

After passing the resolution of the extraordinary general

assembly for issuing convertible bonds and until the date of conversion or paying their value, the company shall not reduce its capital or increase the percentage to be distributed as minimum profits on shareholders. In the case of reducing the capital due to losses by way of canceling a number of shares or by reducing the share's nominal value, the rights of the bondholders wishing to convert them into shares shall be reduced by the same percentage of capital reduction as if they were shareholders without the need to obtain the approval of the body representing the bondholders.

Article (154)

The converted shares shall have a dividend in the company's distributable profits for the financial year in which conversion has been effected as from the date of conversion until the end of the financial year.

Article (155)

The company may issue bonds that entitle their holders to priority in subscribing for any capital increase, just as the shareholders, and this shall be undertaken for whoever wishes to do so within a period not exceeding fifteen days from the date of notifying him. The priority right shall be limited to subscription for shares the nominal value of which does not exceed the value of bonds owned by whoever uses such right.

Article (156)

If the company issues bonds guaranteed by mortgages on its property or any other collaterals, the legal procedures for mortgage shall be undertaken in favor of the bondholders or a trustee representing them before offering the bonds for subscription. The company itself shall undertake such procedures or they may be undertaken by the party presenting the guarantee, if it is presented by a party other than the company. The company shall, within a period not exceeding one month from the closing date of subscription, take the necessary measures to enter the loan value together with all related details in the register in which the mortgage has been entered.

Article (157)

The company shall not put forward or put back the date of honoring the bonds unless otherwise provided for in the issue resolution and the subscription prospectus. However, in case the company is wound up for reasons other than merging, the bondholders may request to recover the value of their bonds before the maturity date, and the company may also offer to do

so. In both cases the interests shall not be counted for the remaining period of the loan term.

Article (158)

If the payment of the bond value is made in installments and the bondholder fails to pay any installment at the due date, the company may sell the bond and recover its entitlements in accordance with the procedures provided for in article (116) of this law.

Article (159)

The company shall maintain a special register to register the bonds of each issue and the names of their owners if the bonds are issued in the name of their owners, and all acts carried out in relation to these bonds shall be recorded in the register.

Article (160)

The bonds issued in the names of their owners shall be traded in compliance with the procedures provided for in this law regarding dealing in shares, and bearer bonds shall be traded by way of transferring its title from the seller to the buyer. The company shall honor the value of the bond on maturity. The procedures and provisions included in the by-laws of the Bahrain Stock Exchange of dealing on the bonds quoted on the stock exchange shall be observed.

Article (161)

The company may accept its loan bonds as a way of recovering its debts even before maturity. The company shall have the right to resell such bonds unless there is a ban on such sale in the company's articles of association or by a resolution by the general assembly.

Article (162)

A body representing the holders of the bonds of the same issue shall be formed to defend their joint interests, and shall have a legal representative either from among its members or to be elected from non-members, provided that the representative shall not have any direct or indirect interest with the company. The company shall, within one month from the date of the completion of subscription, invite the bondholder's body to approve its statutes and to elect or appoint its representative, and such invitation shall be made by way of publication in a daily newspaper.

If the company does not invite the body to convene within the

period specified in the foregoing paragraph, any interested person may request the Ministry of Commerce and Industry to invite the body to convene within a period not exceeding fifteen days from the date of the application.

#### Article (163)

The body shall convene whenever it is necessary at a request by its representative, by the company or by a number of bondholders owning 10% of its value. The invitation shall be made in the same manner referred to in the foregoing paragraph including the agenda. The resolutions passed by the body shall not be valid unless the meeting is attended by a number of bondholders representing two thirds of the issued bonds. If the quorum is not available, the body shall be invited to convene a second meeting for the same agenda, and such meeting shall be valid if it is attended by bondholders representing one third of the bonds. The resolutions shall be issued by the majority of the bondholders attending the meeting. If the resolution has to do with the extension of the maturity of bonds, reduction of the return or the loan amount or if it has to do with the guarantees or if it prejudices in any way whatsoever the rights of the bondholders, it shall be valid only if it is approved by bondholders representing two thirds of the loan bonds. In all cases, the body shall not issue any resolution that might result in increasing the obligations of its members or prejudicing the principle of equality among them.

#### Article (164)

The representative of the body shall have the right to attend the company's general assembly meetings, and the company shall invite him exactly as it does the shareholders. He shall have the right to take part in the deliberations without voting on the resolutions. The representative shall also have the right to take the necessary measures, whenever required, to protect the rights of the bondholders.

#### Article (165)

If a bond issued to its owner or bearer is lost or damaged, the owner whose name is registered in the company's register or its bearer may request a new bond instead of the lost or the damaged one. The owner shall publish the serial numbers of the lost or damaged bonds and its quantity and numbers in a local newspaper. If no objection is raised to the company within fifteen days from the date of publication, the company shall

provide the owner with a new bond indicating that it is instead of the lost or the damaged bond. The new bond shall confer upon its holder the same rights and shall entail the same obligations related to the lost or damaged bonds.

#### Article (166)

Whoever objects to the issue of a bond instead of the lost or the damaged one referred to in the foregoing article shall initiate his lawsuit before the competent court within fifteen days from the date of submitting his objection to the company, otherwise, his objection shall be deemed as non-existent. The court shall decide on the objection as quickly as possible.

### Chapter Six

#### Membership of the Company

#### Article (167)

Subject to the provisions of the law, the founders signing the company's memorandum of association and the shareholders subscribing for its shares shall be members of the company. They shall be entitled to equal rights and liable for the same obligations.

#### Article (168)

The shares shall confer equal rights and obligations. The member shall in particular have the following rights:

- i- Receiving profit dividends decided for the shareholders.
- ii- Receiving a share of the company's total property on liquidation. The company shall, when distributing dividends to the shareholders, distribute such dividends to the shareholder whose name is registered as the last owner of the share in the company's register when the general assembly approves the financial statements and profit distribution. As regards the company's assets, the last owner of the shares registered in the company's register is the only one entitled to receive the money due for his share in such assets.
- iii- Participating in the company's management, whether through the general assemblies and as a member of the board of directors, according to the company's articles of association.
- iv- Obtaining a printed booklet comprising the company's balance sheet for the past financial year, the profit and loss account and the reports of the board of directors and the auditor.
- v- Filing lawsuits to invalidate any resolution issued by the general assembly or by the board of directors in contravention of the law, the public order or the memorandum or the articles of

association.

vi- Disposing of the shares he owns and having a priority in subscribing for new shares in accordance with the provisions of the law.

vii- The right to examine the company's records and to obtain copies thereof according to the conditions and procedures defined in the articles of association, provided that the use thereof shall not prejudice the company's interests or financial position or third parties.

#### Article (169)

The member shall in particular have the following obligations:

i- Payment of due installments and delay interests following the expiration of the date thereof without the need to serve him a notice.

ii- Payment of expenses incurred by the company in the process of collecting the unpaid installment and sale of shares.

iii- To refrain from doing any act that might harm the company.

iv- Execution of any resolution adopted by the general assembly in a legal manner.

#### Article (170)

The shareholders' general assembly shall not:

i- Increase the financial obligations of the shareholder or increase the share value except as provided for by law.

ii- Reduce the distributable percentages of the net profits specified in the company's articles of association.

iii- Add new conditions other than those prescribed in the company's articles of association regarding the right of the shareholder to attend and to vote in the general assembly meetings.

iv- Restrict the right of the shareholders to file legal actions against all or some of the board members to claim compensation for whatever damage he has sustained in accordance with the provisions of the law.

#### Article (171)

The company shall maintain a register for shareholders to enter therein the members names, addresses, number of shares each one owns, the amount paid for each share, entry date of each member in the register and the date of his separation from the company and the manner of dissociation.

The register shall be kept at the company's head office, and each member shall have the right of access thereto free of charge.

Likewise, any other person shall also have the right of access to

it against the payment of reasonable fees except in the cases forbidden by law. Any interested party shall have the right to request for the necessary correction if a person is recorded in or removed from the register without justification.

## Chapter Seven Joint-stock Company's Management

### 1- Board of Directors

#### Article (172)

The company shall be managed by a board of directors the formation and term of which shall be specified in the company's articles of association. The number of the board members shall be at least five members appointed for a period of three years renewable.

At a request by the board of directors, the Minister of Commerce and Industry may extend the membership term for no more than six months.

#### Article (173)

The member of the board shall fulfill the following conditions:

- i- He must be fully qualified to act,
- ii- He must not have been convicted in a crime involving negligent or fraudulent bankruptcy or a crime affecting his honor or involving a breach of trust or in a crime on account of his breach of the provisions of this law, unless he was reinstated.
- iii- He must personally own a number of shares the nominal value of which shall be at least ten thousand Bahraini dinars or the person he represents must own a number of shares representing not less than 1% of the company's capital whichever is higher, unless the company's articles of association provide for a higher amount.

If the member forfeits any of the above conditions, he shall no longer become member from the date of forfeiture of that condition subject to the provisions of the next article.

#### Article (174)

The aforesaid quorum shares referred to in the foregoing article shall be set aside to guarantee the good conduct of the member, and shall be deposited within thirty days from the date of his election or appointment with one of the banks. The member shall not dispose of these shares in any manner whatsoever

throughout his term until the balance sheet of the last financial year in which he was holding office is approved.

If the quorum shares are not deposited within the period specified in the foregoing paragraph, his membership shall be null. Membership shall also be null if such shares are reduced for any reason whatsoever during his term and are not completed within thirty days from the date of the reduction occurring.

#### Article (175)

Any one who owns 10% or more of the capital shall appoint a person to represent him on the board of directors for the same percentage of the number of the board members. If he exercises this right, he shall lose his right to voting for the percentage for which he appointed a proxy. If the remaining percentage is not enough to appoint another member, he may use this percentage in voting.

In all cases the number of board members shall be subject to the company's articles of association and the rules and procedures decreed by the Minister of Commerce and Industry.

#### Article (176)

The general assembly shall elect the board members by secret ballot and they shall be selected by relative majority of the valid votes. As for the members of the first board, the company's articles of association may stipulate the election of not more than half the members from among the company's founders.

#### Article (177)

The general assembly may appoint a number of experts on the board of directors other than the founders or the shareholders. The Minister of Commerce and Industry shall decree the necessary conditions thereof.

#### Article (178)

i- The company's articles of association shall specify the cases in which board membership is terminated.

ii- The general assembly may dismiss all or some of the board members even if the company's articles of association provide otherwise. A request shall be submitted by a number of shareholders representing ten percent (10%) at least of the company's capital. The board of directors shall refer the request to the general assembly within one month at most from the date it is submitted, otherwise the Ministry of Commerce and

Industry shall make the invitation. The general assembly shall not consider the request if it is not listed on its agenda, unless there appear in the meeting serious matters that require such dismissal. The dismissed member may claim compensation from the company if the dismissal has not been justified or made in an inconvenient time.

iii- The board member may resign his office provided that he resigns in a convenient time otherwise he shall be liable to pay compensation.

#### Article (179)

i- If the office of one of the board members becomes vacant, he shall be replaced by the member next to him in the number of votes in the latest elections of the board. The new member shall complete the unexpired term of his predecessor. In other than this case, the board shall elect by secret ballot a member to replace him from among the candidates nominated by two of the board members at least until the next meeting of the general assembly.

ii- If the vacant offices are equal to one-fourth of the original offices, the board of directors shall invite the ordinary general assembly to convene within two months from the date of the last office becoming vacant to fill them.

iii- If the vacant offices exceed more than half the number of the board members, the board shall be deemed dissolved, and new elections shall be called for to elect a new board of directors for the company.

#### Article (180)

The board of directors shall convene at an invitation by the chairman or by two members at least. The meeting shall be valid only if attended by half the members, provided that three members thereof at least are present, unless the company's articles of association provide for a higher number or percentage.

The board member may not delegate any other person to attend on his behalf unless otherwise stipulated by the company's articles of association. In such case, he shall be one of the board members or the representative of the public entity whom the original member represents. However, proxy may not also be given to more than two members, provided that the present number of members in person shall not be less than half the

board members including the chairman. Proxy shall be personal and in writing and shall be sent to the board of directors three days at least before the meeting. The resolutions of the board of directors shall be passed by the majority of the present members. In case of equal vote, the chairman shall have the casting vote, and any objecting member shall put his objection on the minutes of the meeting.

The board of directors shall meet at least four times in the financial year unless the company's articles of association provide for more times.

#### Article (181)

The board of directors shall elect by secret ballot a chairman and a deputy for one year unless the company's articles of association provide for another period.

The board of directors may elect by secret ballot a managing director or more who shall have the right to sign on behalf of the company either severally or jointly as decided by the board of directors.

The Ministry of Commerce and Industry shall be given a copy of the decisions of electing the chairman, his deputy and the managing directors.

#### Article (182)

The board of directors shall undertake the powers and the acts necessary for the company's management in accordance with its objectives except for those banned by the law, the company's articles of association or the general assembly resolutions.

The company's articles of association shall specify the extent to which the board of directors can borrow for more than three years or sell company's property or business or mortgage such property or provide guarantees for third parties or discharge the company's debtors of their liabilities or reach a compromise with them or donate the company's property. If such matters are not provided for in the company's articles of association, the board shall refrain from carrying out such acts without the approval of the general assembly, unless such acts are falling within the ambit of the company's objectives.

#### Article (183)

The chairman of the board is the company's chairman, and represents it before third parties, and his signature is considered

as a signature of the board of directors before third parties, unless the company's articles of association provide for including another member or another person authorized by the board of directors to co-sign with the chairman. He shall implement the board decisions and abide by its recommendations. The vice-chairman shall act for the chairman in his absence.

#### Article (184)

The board of directors may allocate its duties among its members in accordance with the nature of the company business, and the board shall exclusively have to do the following:

- i- Delegate any of its members or a committee from among its members to carry out a specific assignment or more or to supervise one of the company's activities or to exercise some of the powers or authorities granted to the board.
- ii- Delegate a member or more to perform actual management, and the board shall specify the powers of the member so delegated.

#### Article (185)

The chairman and the members of the board shall be jointly liable before the company, the shareholders and third parties for all acts of fraud and misuse of powers and any violation of the law or the company's articles of association and for mismanagement. Any condition to the contrary shall be null and void.

A decision by the general assembly absolving the board of directors of liability shall not preclude instituting action of liability against it.

#### Article (186)

The liability referred to in the foregoing paragraph shall be either personal relating to a specific member or joint for all board members. In the last case the members shall be jointly liable for paying compensation unless some of them has objected to the decision causing the liability and put their objection on the minutes of the meeting. The absence of a member from the meeting in which the resolution was passed, shall not be a reason for exemption from liability unless he

proves that he was unaware of the resolution or that he was aware of it but was unable to object to it. If more than one member commit the wrongdoing, they shall be jointly liable towards the company. The liability actions shall be time-barred after the elapse of five years from the date of the general assembly meeting at which the board of directors reported on its management.

#### Article (187)

i- The company shall have the right to file an action of liability against the board members whose wrongdoing has caused damages to the shareholders. The general assembly shall pass a resolution to file the action which shall be carried out by the chairman of the board. If the chairman of the board is among those litigated by the company, the general assembly shall appoint another board member to file the action. However, if the action was against all board members, the general assembly shall appoint a non-member to file the action.

ii- In case of the company's bankruptcy, the bankruptcy trustee shall file the action, and if the company is in the process of liquidation, the liquidator shall file the action following a resolution by the general assembly.

#### Article (188)

The company's articles of association shall specify the manner of determining the remuneration of the chairman and members of the board, the total of which shall not exceed 10% of the net profits after deducting the legal reserves and distributing a profit of not less than 5% of the company's paid-up capital. The general assembly may decide to pay an annual remuneration to the chairman and members of the board in the years in which the company has not achieved profits or the years in which no dividends are paid to the shareholders, provided that the Minister of Commerce and Industry approves such payment. The board of directors' report to the general assembly shall include a comprehensive account of all payments to the board members during the financial year, including salaries, profit shares, representation allowances, attendance allowances and expenses and the like. The report shall also include an account of the amounts paid to the members of the board in their capacities as employees and administrators, and what they have received for technical, administrative or consulting services or any other business.

#### Article (189)

i- Any one of the company's board members or managers shall have no direct or indirect personal interest in the business and contracts concluded on behalf of the company unless allowed by the general assembly. Any contract or business concluded in contravention of this provision shall be null and void.

ii- Any member of the board shall notify the board of his direct or indirect personal interest in the matters presented to the board. Such member shall not participate in deliberations or voting on these issues and his declaration shall be recorded in the minutes of the meeting.

iii- The chairman of the board shall notify the general assembly of the results of the permitted works and contracts at the first meeting following the termination of the work or the implementation of the contracts. The notification shall be accompanied by a special report from the auditor. The company shall disclose such dealings and contracts in its financial statements.

iv- Any member who violates this ban shall be liable to pay compensation to the company for any damages it has sustained. However, this provision shall apply neither to the ordinary dealings which the company concludes with its customers nor to those awarded in public tenders if the offer presented by the board member is the best.

#### Article (190)

The public entity shall receive all the amounts due for its representative in the company's board of directors in any manner, and the chairman of the board shall pay these amounts to the public entity within one week from the date they become due. The public entity may determine the remunerations and salaries of those representatives.

#### Article (191)

Subject to the provisions of article (215) of this law, any board member or manager of a joint-stock company shall not exercise any business in competition with the company's activities without special and justified authorization by the general assembly, to be renewed annually, otherwise the company may claim compensation from him, or consider the operations he exercises as conducted for the company.

The chairman and members of the board of directors and the company's managers shall not disclose any of the company's

confidential matters they come to know.

Without prejudice to the provisions of the Penal Code and this law, whoever violate the ban provided for in this article shall forfeit his membership of the board of directors and be liable to pay compensation.

#### Article (192)

The company shall not give cash loans whatsoever to any member of its board or guarantee any loan contracted by any of them with third parties.

Excluded from this ban are banks and other credit companies. In exercising activities falling within the ambit of their objectives under the supervision of the Bahrain Monetary Agency and on the same terms and conditions applied to their clients, they are allowed to lend any board member or to open a credit for him or to guarantee loans he contracts with third parties.

A statement by the auditors shall be placed at the disposal of the shareholders, for their personal information, at the date specified in article (195) of this law declaring that the loans, credits or guarantees mentioned above have been concluded without breach of the provisions of the foregoing paragraph.

Any contract concluded in contravention of the provisions of this article shall be void without prejudice to the shareholders' right to claim compensation from the violator if necessary.

#### Article (193)

i- No person shall be appointed or elected member of the board of directors unless he declares in writing his acceptance. The declaration shall also disclose any business he conducts that competes directly or indirectly with that of the company and the names of the companies and the entities in which he is engaged in such business.

ii- In case the board member has been appointed or elected in breach of the provisions of this law or has misused his membership by conducting works in competition with those of the company thereby causing damages to the company, the general assembly of the company shall convene to consider dropping his membership within forty-five days from the date of discovering the violation.

#### Article (194)

The minutes of the meetings of the board of directors shall be entered in a special register and signed by the members present at the meeting and the secretary of the board.

The member who objects to any of the board's resolutions shall put his objection on the minutes of the meeting, and those who sign the minutes of the meetings shall be liable for the accuracy of the information included in the register.

#### Article (195)

Each company shall prepare, for each year, a detailed list approved by the chairman of the board and the managing director – if any – of the names of the chairman and members of the board and their designation and the names of the company's managers. The company shall maintain a copy of this list and send the original to the Ministry of Commerce and Industry attached with the annual report prepared by the board of directors and the company's balance sheet and the profits and losses account. The company shall notify the said ministry of any changes that may take place in the list during the year.

The board of directors shall prepare for each financial year, within a period not exceeding three months from the end thereof, a report on the company's activities and financial position during the ended year and the company's balance sheet and the profit and loss account. The chairman and another member of the board shall sign the report, the balance sheet and the profit and loss account. The board members shall be responsible for the implementation thereof.

#### Article (196)

The board of directors shall publish the balance sheet, the profit and loss account and an adequate summary of the annual report and the full text of the auditors' report in one of the local daily Arabic language newspapers at least fifteen days before the general assembly meeting.

#### Article (197)

The Minister of Commerce and Industry may dissolve the company's board of directors if the company has encountered severe financial or administrative difficulties, or if it has sustained heavy losses prejudicing the rights of the shareholders or its creditors, or if the provisions of this law have been violated. All such incidents shall be evidenced by whoever the Minister of Commerce and Industry appoints, either from the

staff of the ministry or from amongst others, to inspect the works and accounts of the company. The minister may also dissolve the company if the chairman and board members have resigned their offices, or if the board of directors has lost its quorum so that it becomes unable to convene, or if the general assembly has not been able to elect a new board of directors.

In case of board dissolution, the Minister of Commerce and Industry shall appoint an interim committee composed of specialized experts to manage the company for a six months term renewable only once until the general assembly elects a new board at an invitation by the Minister of Commerce and Industry.

Any interested person shall have the right to appeal against the decision of dissolving the company within fifteen days from the date it is issued before the High Civil Court, and the court shall decide on the case on an urgent basis.

## 2- General Assembly

### A- Ordinary general assembly

#### Article (198)

The ordinary general assembly of the shareholders shall convene at an invitation by the chairman of the board of directors at the time and place designated in the company's articles of association. The general assembly shall convene at least once a year during the six months following the end of the company's financial year.

The board of directors may invite the ordinary general assembly to convene upon a justified request by the auditor or by a number of shareholders representing at least 10% of the company's capital. The auditor may invite the ordinary general assembly to convene in the cases specified in article (218) of this law.

The Ministry of Commerce and Industry may invite the general assembly to convene if a period of one month has lapsed from the date appointed for its meeting without it convening, or if the number of the board members becomes less than the minimum number required for the meeting to be valid, or if a number of shareholders representing at least (10%) of the company's capital so requests for serious reasons.

The Minister of Commerce and Industry may invite the general assembly to convene if he deems the meeting necessary.

Article (199)

i- The invitation to the shareholders shall be published in at least two daily Arabic newspapers; one of them at least must be local. The publication shall be made at least 15 days before the meeting and shall include the agenda of the meeting.

ii- Copies of the invitation documents shall be sent to the Ministry of Commerce and Industry at least (10) days before the general assembly meeting.

Article (200)

The founders shall prepare the agenda for the constituent general assembly, and the board of directors shall prepare the agenda for the ordinary or extraordinary general assembly.

If the general assembly convenes at an invitation by the shareholders, the auditors or the Ministry of Commerce and Industry, the agenda shall be prepared by whoever requests the meeting. The general assembly shall not consider any matters not listed on the agenda.

Article (201)

The chairman of the board of directors or his deputy or whoever is delegated by the board of directors or by the general assembly shall preside over the general assembly meeting.

The meeting shall not be valid unless it is attended by a number of shareholders representing more than half the capital. If this quorum is not available, an invitation shall be sent for a second meeting to be held for the same agenda within 7 to 15 days from the date fixed for the first meeting. The second meeting shall not be valid unless it is attended by a number of shareholders representing more than 30% of the capital at least. The third meeting shall be valid regardless of the number of attendees. Sending a new invitation for the last two meetings may not be necessary if the dates thereof has been fixed in the invitation for the first meeting, provided that publication shall be made in at least two daily Arabic newspapers, at least one of them shall be local, that none of these two meetings has been held.

Article (202)

The Ministry of Commerce and Industry may appoint a

representative to attend the general assembly meetings. The representative shall not have the right to vote on the deliberations and shall submit a report thereon to the Ministry.

#### Article (203)

Each shareholder, regardless of the number of the shares he owns, shall have the right to attend the general assembly, and shall have a number of votes equal to the number of shares he owns in the company. Any provision or decision to the contrary shall be null and void. Any shareholder may delegate a person, from among the shareholders or from among non-shareholders to attend the general assembly on his behalf, provided that this person shall not be the chairman of the board or from among the members of the board of directors or from among the members of the company's staff. However, this shall not prejudice the right to delegate a first-degree relative. The company shall prepare a special written form for this purpose. The delegate shall not represent in this capacity a number of votes exceeding 5% of the issued capital in the general assembly meetings. Legal representatives of the members lacking capacity or under legal incapacity shall represent them in the meetings. The company shall prepare special cards for the shares owned by the shareholder and for the shares he represents on behalf of other shareholders. Delegation shall be made, and delegation capacity shall be shown to the company, twenty-four hours at least before the general assembly meeting. No member shall vote for himself or for whomsoever he represents in matters in which he has a direct interest or on an unsettled dispute between him and the company.

#### Article (204)

Voting at the general assembly shall be conducted in the manner specified in the company's articles of association. Voting must be conducted by secret ballot if the resolution is related to the election or dismissal of the members of the board of directors or to filing liability action against them or if the chairman of the board or a number of members representing at least one-tenth of the present votes at the meeting so requests.

#### Article (205)

The members of the board of directors shall not vote on the general assembly's resolutions relating to the determination of their salaries and remuneration or to discharging them or exempting them from liability for their management.

#### Article (206)

Except for what the law has reserved for the extraordinary general assembly, the ordinary general assembly shall be competent to consider all matters relating to the company and pass the appropriate resolutions thereon. In particular, it shall consider the following:

- i- Election and dismissal of members of the board of directors.
- ii- Determination of the board members' remunerations.
- iii- Consideration and approval of the board's report on the company's activities and financial position during the ended financial year.
- iv- Discharging or refusing to discharge the members of the board from any liability.
- v- Appointment of an auditor or more for the following financial year and determination of his/their fees or authorizing the board to do the same.
- vi- Consideration of the auditor's report on the financial statements of the company for the ended financial year.
- vii- Approval of the profit and loss account and the balance sheet and the statement allocating the net profits and determining dividends.
- viii- Consideration of recommendations relating to bond issue, borrowing, mortgaging and issuing guarantees and deciding thereon.

#### Article (207)

The general assembly shall not consider matters not listed on the agenda, unless they are urgent and have occurred after the agenda has been prepared or during the meeting. If the competent government body or a shareholding public entity or a number of shareholders representing at least 10% of the company's capital requests the board of directors to include a certain subject in the agenda but the board did not do so, the general assembly shall have the right to consider this subject at the request of the interested party. If, in the course of the discussion, it becomes clear that the information relating to some agenda items is not adequate, the meeting shall be adjourned for no more than ten days if so requested by a number of shareholders representing one-fourth of the shares present in the meeting.

The resolutions adopted by the general assembly on the urgent matters, shall be submitted for approval by the Ministry of Commerce and Industry, otherwise they shall be null and void.

#### Article (208)

Adequate minutes of the meeting shall be prepared, reporting

deliberations, proceedings, the quorum, the resolutions adopted, the number of “Yes” and “No” votes and all such matters as the shareholders may request to enter into the minutes.

The names of the attendees, whether for self or by proxy, shall be entered in a special register, to be signed before the meeting by the auditor, the vote counter and the chairman of the meeting. The company shall maintain all documents and instruments evidencing the contents of the minutes and send a copy of the minutes to the competent government authority within fifteen days from the date of the meeting. Each interested shareholder may have a copy of the minutes.

B- Extraordinary General Assembly:

Article (209)

The provisions applicable to the ordinary general assembly shall apply to the extraordinary general assembly, subject to the provisions of the following articles.

Article (210)

The following matters shall be reserved for the extraordinary general assembly:

- i- Amending the company’s memorandum or articles of association and extending the company’s term.
- ii- Increasing or reducing the company’s capital.
- iii- Selling the entire project carried out by the company or disposing of it in any other manner.
- iv- Winding up the company or merging it with another company.

The company’s nationality shall not be changed, nor its Head Office be transferred outside Bahrain, nor the obligations of the shareholders be increased, and any provision to the contrary shall be null and void.

Article (211)

The extraordinary general assembly shall convene at an invitation by the board of directors or a written request to the board of directors by a number of shareholders representing 10% at least of the company’s shares.

In these cases the board of directors shall invite the general assembly to convene an extraordinary meeting within a month from the date of the request. Otherwise, the Ministry of commerce and Industry shall send the invitation within fifteen

days from the date of expiry of that period, subject to the provisions of article 199 of this law.

#### Article (212)

The extraordinary meeting of the general assembly shall not be valid unless it is attended by shareholders representing at least two thirds of the company's capital. If this quorum is not available, an invitation shall be sent for another meeting to be held within fifteen days from the date of the first meeting. The second meeting shall be valid if attended by shareholders representing more than one-third of the capital. If the quorum is not available for the second meeting, an invitation shall be sent for a third meeting to be held within fifteen days from the date of the second meeting. The third meeting shall be valid if attended by one-fourth of the shareholders.

A new invitation for the last two meetings may not be sent if the dates thereof have appeared in the invitation for the first meeting, provided that publication shall be made in at least two daily Arabic newspapers, one of them is local, that none of these meetings has been held.

The extraordinary general assembly's resolutions shall be passed by a two-thirds-majority vote of the shareholders represented in the meeting. However, if the resolution relates to increasing or reducing the company's capital, extending the company's term, winding it up, converting or merging it with another company, the resolution shall not be valid unless adopted by a three-fourths majority of the shares present at the meeting and with whose attendance the meeting is considered valid. The extraordinary general assembly's resolutions shall not become effective except after they are approved by the Ministry of Commerce and Industry.

#### Article (213)

The extraordinary general assembly may pass a resolution falling within the powers of the ordinary general assembly provided that the quorum and majority required for the ordinary general assembly meeting are available and that the matters subject of the resolution are included in the agenda.

C- Common Provisions:

#### Article (214)

i- The resolutions passed by the general assembly in accordance with the provisions of the law and the company's articles of association shall bind all the shareholders whether they attended the meetings at which the resolutions are passed or not and whether they voted for or against them.

ii- The board of directors shall implement the general assembly's resolutions.

#### Article (215)

Without prejudice to the rights of bona fide third parties, any resolution passed by the general assembly in contravention of the provisions of the law, the company's memorandum of association or articles of association shall be null and void. The court may overrule any resolution passed to the advantage or disadvantage of a certain class of shareholders or to the benefit of the members of the board of directors or others without taking the company's interests into account. In this case, only those shareholders whose objection to the resolution has been put in the meeting's minutes or failed to attend the meeting for acceptable reasons may file the nullity action. The Ministry of commerce and Industry may act on behalf of the said shareholders in filing the nullity action if serious reasons are given.

A resolution adjudged by the court as null and void shall be deemed inexistent for all the shareholders, and the board of directors shall publish the judgment in a daily local newspaper. Filing the nullity action shall not entail suspension of the implementation of the resolution unless otherwise ordered by the court. A nullity action shall be barred after the lapse of one year from the date of the resolution.

#### Article (216)

The names of the shareholders shall be entered in a special register to be prepared for this purpose at the company's head office at least twenty-four hours before the meeting. This register shall include the names of the shareholders, the number of shares they own, the number of shares they represent and the names of their owners together with letters of attorney. The shareholder shall be given an attendance card in which the number of votes he is entitled to either in person or by proxy is written.

#### 3- Auditors

#### Article (217)

a- The company shall have an auditor or more to be appointed from those licensed to practice auditing by the ordinary general assembly, which shall determine their remuneration and term of appointment. The founders of the company may appoint an auditor to carry out auditing until the constituent general assembly is held. If more than one auditor is appointed, each of them shall exercise auditing separately. If the auditor appointed by the general assembly has not assumed his duties for any reason, the board of directors may, if necessary, appoint another auditor to replace him, provided that the matter shall be presented to the general assembly at its next meeting to resolve it.

b- If there is more than one auditor, they shall be jointly liable for auditing.

c- The auditor shall not be the chairman or a member of the board of directors of the company the accounts of which he is auditing, nor a managing director nor a person assuming any administrative work or supervising its accounts; nor a second-degree relative of a person supervising the company's management or accounts. He shall not also buy or sell shares in the companies the accounts of which he is auditing during his term.

In all cases the company's auditor shall not become a member of the company's board of directors or staff before the lapse of two years from the date of discharging him of his liability.

#### Article (218)

a- The auditor shall have at any time the right of access to the company's books, registers and documents, and of requesting any details he deems necessary. He shall also have the right to verify the company's assets and liabilities.

b- The board of directors shall enable the auditor to carry out his duties specified in the foregoing paragraph. If the auditor is unable to exercise such rights, he shall report this in writing to the board of directors, and if the board does not facilitate his task, the board shall invite the ordinary general assembly to consider the matter.

c- In all cases the auditor shall provide the Ministry of Commerce and Industry with copies of his reports and remarks whatsoever, whether they are financial or administrative and

whether they are presented to the company's general assembly or to the board of directors.

#### Article (219)

The Auditor shall attend the general assembly and express his opinion in all matters pertinent to his work, and in particular, the company's balance sheet. He shall read his report to the general assembly. The report shall be prepared in accordance with the international auditing principles and standards or the standards approved by the competent authority; and shall include in particular the following details:

- a- Whether the auditor obtained the information he deemed necessary for doing his work satisfactorily.
- b- Whether the balance sheet and the profit and loss account are conforming to the facts, and are prepared according to the international accounting standards or to the standards approved by the competent authority; and whether they include all what is provided for in the law and in the company's articles of association and honestly and clearly reflect the actual financial position of the company.
- c- Whether the company maintains regular accounts.
- d- Whether the stock taking undertaken by the company has been carried out in accordance with the accepted practices.
- e- Whether the data included in the report of the board of directors are in conformity with what is stated in the company's books.
- f- Whether there have been violations of the provisions of the law or the company's articles of association during the financial year in a way that affects the activity of the company or its financial position, and whether these violations are still existing to the extent of the information made available to him.

If the company has more than one auditor and they do not submit a joint report, each of them shall prepare an independent report.

The auditor's report shall be read at the general assembly, and each shareholder shall have the right to discuss the report and request clarifications on its contents.

#### Article (220)

The auditor shall be responsible for the accuracy of the details included in his report in his capacity as the representative of all the shareholders, and each shareholder shall have the right to discuss, at the meeting of the general assembly, the report of the auditor and seek clarifications on its contents. The auditor shall

be liable towards the company for any damages sustained by the company as a result of his mistakes. If the company has more than one auditor and they were involved in the mistake they shall become jointly liable towards the company.

The civil liability action referred to in the foregoing paragraph shall be barred after the lapse of one year from the date of the general assembly meeting at which the auditor's report was read. If the act attributed to the auditor constitutes a crime, the civil liability action shall not lapse except with the lapse of the general action.

The auditor shall also be liable to pay compensation for any damage that may be sustained by any bona fide shareholder or third parties as a result of his professional error or of not complying with the accounting principles and standards.

#### Article (221)

The board of directors or a number of shareholders representing at least 25% of the capital may request the replacement of the auditor during the financial year. The board of directors shall invite the ordinary general assembly to convene to consider the request after the lapse of fifteen days from the date it is submitted. The request shall be sent during this period to the auditor to prepare his reply thereto in writing, and such reply shall be sent to the company at least five days before the general assembly meeting. The chairman of the board of directors or the board member representing him shall read the request and the reasons thereof and the auditor's reply thereto before the general assembly in order to pass a resolution thereon. Any resolution passed for replacing the auditor in breach of these procedures shall be null and void.

#### Article (222)

The auditor may resign, at a suitable time, during the term of his appointment by submitting a written application to the board of directors. If there are matters he must bring to the notice of the company's shareholders and creditors, he shall submit a report thereon to the general assembly. The board of directors shall invite the ordinary general assembly to convene to consider the report within a period not exceeding thirty days from date of its submission. The auditor shall be liable for any damages sustained by the company as a result thereof.

#### 4- Financial System

Article (223)

The company shall have a financial year that starts on the first of January and ends on the 31st of December of each year, unless otherwise provided for in the company's articles of association.

The first financial year shall be an exception. It shall begin at the date of the final incorporation of the company and end with the end of the financial year.

Article (224)

A 10% of the net profits shall be deducted every year and set aside for the statutory (legal) reserve, unless the articles of association specify a higher percentage.

Such deduction may be suspended if the reserve amounts to 50% of the paid-up capital, unless the articles of association provide for a higher percentage. Yet, if the statutory reserve falls below the said percentage, deduction shall be resumed until the reserve reaches the said percentage.

The statutory reserve shall not be distributed to the shareholders, but may be used to ensure the distribution of dividends to the shareholders not exceeding 5% of the paid-up capital in the years in which the company's profits do not allow to ensure such limit.

Subject to the approval of the general assembly, a percentage of the company's net profits that results from the sale of fixed assets or any compensation in lieu thereof may be distributed, provided that this shall not lead to the company's inability to restore the original condition of its assets or to buy new ones.

Article (225)

The general assembly may, upon a recommendation by the board of directors, decide every year to deduct a part of the net profits for the voluntary reserve.

The voluntary reserve shall be used for the depreciation of the company's assets or for compensation of the fall in its value or for such purposes as may be decided by the general assembly.

Closed Joint-stock Company

Article (226)

A closed joint-stock company consists of a number of persons – not less than two – who subscribe for negotiable shares that are not offered to the public for subscription.

Article (227)

All provisions contained in this law in respect of public joint-stock companies, which do not conflict with the provisions of this part, shall apply to the closed joint-stock company.

Article (228)

The capital of the company shall be adequate to realize its objectives. The Executive Regulation shall determine the minimum limit of capital.

Article (229)

a- The founders shall subscribe for all the capital shares.

b- The founders shall deposit with one of the accredited banks the full value of the shares or at least 50% thereof, provided that they shall pay the remaining amount within a period not exceeding three years.

Article (230)

A closed joint-stock company shall not acquire a corporate entity and shall not commence its operations before it being registered in the Commercial Registry and the publication of its incorporation decision in the Official Gazette at the company's expense.

Article (231)

a- The founders shall call for a constituent assembly to be convened within seven days from the date of the incorporation approval by the Ministry of Commerce and Industry, and the provisions provided for in article (199) of this law apply to the procedures of invitation.

b- The meeting shall be presided over by whoever is elected by the numerical majority of the present members.

Article (232)

The constituent assembly shall, in particular, consider the report prepared on the company's incorporation process, the incurred expenses and the evaluation of the in-kind shares. It shall also elect a board of directors and appoint the auditors and announce the company's final incorporation.

Article (233)

The provisions of article (116) of this law shall apply to the due installments of shares, and in case shares are sold, priority of purchase shall be given to the shareholders of the company in accordance with the provisions of this Part.

Article (234)

The shares of closed joint-stock companies shall not become tradable before the lapse of three years from the date of registering the company in the Commercial Registry and the payment of the full value of the shares. Excluded from this shall be trading in shares among the founders during this period.

Article (235)

Except for the companies listed on the Bahrain Stock Exchange, the articles of association of a closed joint-stock company shall not restrict the shareholder's right to dispose of his shares by containing one or all of the following restrictions:

- a- The stipulation that preference shall be given to the company's shareholders to purchase the shares the owner of which wish to sell.
- b- The stipulation that the board of directors shall approve the buyer of the shares.

Excluded from these two restrictions shall be the disposal of shares among shareholders, spouses, ascendants and descendants.

If the company's articles of association include any of these two restrictions, the company shall not be listed on the Bahrain Stock Exchange.

Article (236)

If the articles of association of a closed joint-stock company provide for preference to shareholders to buy the shares, the shareholder shall, before the disposal thereof, notify the company of the sale conditions. The disposal of the shares shall not become effective before the lapse of fifteen days from the date of notification without any shareholder requesting to buy the shares.

If any shareholder so requests this shall be for the declared price, and in case of disagreement, the price shall be determined in accordance with the rules of the Bahrain Stock Exchange.

Article (237)

If the articles of association of a closed joint-stock company provide that the board of directors must approve the shares'

purchaser, the board shall, in case of rejecting the purchaser, purchase the shares for the company's account within fifteen days from the date of notifying the board of the request for approval. In this case, the purchase shall be concluded for the declared price without prejudice to the provisions regulating the purchase of a company of its shares.

#### Article (238)

a- In case the company's capital is to be increased, the shareholders shall have priority right to subscribe for the new shares, and any provision to the contrary shall be null and void.

b- The shareholders shall be notified by registered mail of their priority to subscribe for the new shares of the date of opening subscription and the date of closing thereof and of the price of the new shares.

c- Each shareholder shall express his wish to exercise his right of priority to subscribe for the new shares within fifteen days from the date of sending the registered letter referred to in the foregoing paragraph.

d- The priority right may be assigned to third parties against money to be agreed upon between the shareholder and the assignee if the company's articles of association so provide or if the general assembly so decides.

#### Article (239)

a- The new shares shall be distributed on the shareholders who requested to subscribe for them in proportion to the shares they own, provided that this proportion shall not exceed the new shares they have requested to subscribe for.

b- The remaining new shares shall be distributed on the shareholders who requested more than they were allocated in proportion to the shares they own. If all the new shares are not distributed to the shareholders the board of directors may allocate them to new shareholders, provided that its value shall be paid in cash. The unallocated shares shall be considered as cancelled if three months lapse from the date of opening subscription without them being subscribed for.

#### Article (240)

a- The company shall be managed by a board of directors, the

composition and membership term of which shall be specified in the company's articles of association. The number of the board members shall not be less than three and membership term shall not exceed three years renewable.

b- The members of the board of directors shall not be subject to the quorum conditions and the restrictions of multiple memberships provided for in this law.

#### Article (241)

The board of directors shall meet at an invitation by its chairman or by any of its members, and the quorum shall be available with the presence of half the members, provided that the number of those present shall not be less than two.

#### Article (242)

The invitation for the general assembly meeting shall be sent by registered mail at least fifteen days before the meeting. However, the invitation may be conveyed by taking the signature of the shareholders indicating their knowledge of the time, venue and the agenda of the meeting.

#### Article (243)

The meeting of the ordinary general assembly shall not be valid unless attended by a number of shareholders representing more than half the shares. If such quorum is not available, the meeting shall be valid with those present after half an hour from the time fixed for the first meeting.

#### Article (244)

The meeting of the extraordinary general assembly shall not be valid unless attended by shareholders representing two-thirds of company's shares. If such quorum is not available, an invitation shall be sent for a second meeting to be held within ten days from the date of the first meeting, and this meeting shall be valid if attended by the representatives of more than one-third of the capital.

If this quorum is not available an invitation shall be sent for a third meeting to be held within ten days from the date of the second meeting. The third meeting shall be valid if attended by the representatives of a quarter of the capital.

A new invitation may not be sent for the last two meetings if their dates were determined in the invitation for the first

meeting, provided that the shareholders are notified that the first meeting has not been held. Resolutions shall be passed by a majority of two-thirds of the shares represented in the meeting.

#### Article (245)

A closed joint-stock company may turn into a Public joint-stock company if it has fulfilled the following provisions:

- a- The nominal value of issued shares have been fully paid.
- b- At least two financial years must have already elapsed.
- c- The company must have realized, through exercising the activities for which it was established, distributable net profits of not less than 10% of the capital on average during the two financial years preceding the application for conversion.
- d- The conversion resolution shall be issued by the extraordinary general assembly of the company by a majority of three-quarters of the shares of those present.
- e- The issue of a decision by the Ministry of Commerce and Industry declaring the conversion of the company into a public joint-stock company, and this decision shall be published together with the company's Memorandum and Articles of Association at the expense of the company.

The Minister of Commerce and Industry may, in some cases, stipulate on the incorporation of the closed joint-stock company the conversion thereof into a public joint-stock company if the public good so requires.

### Part VI

#### Limited Partnership By Shares

#### Article (246)

A limited partnership by shares is a company that consists of two categories of partners, one of which is that of joint partners who are jointly liable to the extent of all their property for the company's obligations, and the other category is that of sleeping partners who are not liable for the company's obligations except to the extent of their shares in the capital.

#### Article (247)

The capital of a limited partnership by shares shall be divided into negotiable and indivisible equal value shares. The sleeping partner shall be subject to the same rules that apply to the shareholder in the joint-stock company to the extent that these rules do not conflict with the provisions of a limited partnership by shares.

The shares of the joint partners shall not be negotiable, but may be assigned in accordance with the provisions regulating the assignment of shares in the general partnership company.

Article (248)

The name of the limited partnership by shares shall consist of the name of a joint partner or more. However, an innovative name or a name derived from the company's objective may be added to the name of the company.

The name of the shareholding partner shall not be mentioned in the company's name. If it is mentioned with his knowledge he shall be considered a joint partner towards bona fide third parties.

Article (249)

The provisions of Articles (86) to (107) of this law shall apply to the limited partner by shares with due consideration to the following:

- a- The license provided for in these articles shall not be needed for the company's incorporation.
- b- The number of the founders shall not be less than four.
- c- All the joint partners and other founders shall sign the company's articles of association, and their responsibility shall be the same as that of the founders of joint-stock companies.
- d- The names of the joint partners, their titles, nationalities and residences shall be mentioned in the company's articles of association.
- e- The company's capital shall not be less than that determined by the Executive Regulation of this law.
- f- The director of the company shall publish its articles of association and he shall be liable for any damages resulting from failure to comply with this provision.

Article (250)

The Share warrants issued by limited partnership by shares shall be subject to the provisions applicable to the share certificates issued by joint-stock companies.

Article (251)

A joint partner or more shall manage the limited partnership by shares, and their names shall be mentioned in the company's

articles of association, and they shall be liable in their capacity as founders of the company.

The provisions applicable to the dismissal of managers of general partnership companies and their authorities and responsibilities shall apply to those in the limited partnership by shares.

#### Article (252)

The shareholding partner shall not interfere in the management of the company's business related to third parties, even with an authorization.

However, he may participate in the internal management within the limits specified in the company's memorandum of association.

If a shareholder violates the ban provided for in the first paragraph he shall be liable to the extent of all his property for any obligations arising from his management.

The shareholding partner may be liable for all the obligations of the company if the acts he has undertaken make the others believe that he is one of the joint partners. In this case the provisions relating to the joint partners shall apply to the shareholding partner.

If the shareholding partner exercises the banned management with an explicit or implicit authorization from the joint partners, those partners shall be jointly liable with him for the obligations arising from this management.

#### Article (253)

The company's articles of association shall specify the way managers are remunerated. If this remuneration is a percentage of the company's profits it shall not exceed 10% of the net profits after deducting the amount mentioned in article (244) of this law.

#### Article (254)

a. Every limited partnership by shares shall have a control board consisting at least of three members to be elected by the constituent general assembly from among the shareholding partners if the number of the sleeping partners exceeds ten (10).

b. The control board shall make sure that the procedures of the

company's incorporation have been undertaken in accordance with the provisions of the law, and its members shall be jointly liable for this.

c. The term of the first control board shall terminate with the ordinary meeting of the ordinary general assembly. The election of the control board shall thereafter be the responsibility of this assembly in accordance with the provisions of the company's articles of association.

d. The joint partners shall have no vote in the election of the control board.

#### Article (255)

a. The control board shall supervise the company's activities, and have the right – to this end – to request the managers to submit an account of their management, to examine the company's books and documents, and to request for a stock-taking of its assets. The board shall have also to advise on the issues referred to it by the company's manager and to authorize the manager to perform the acts for which the company's articles of association stipulate the authorization of the board. The board shall have the right to invite the general assembly to convene if it discovers severe wrongdoings in the company's management.

b. The board shall submit to the shareholders' general assembly a report on the results of its supervision of the company's activities at the end of each financial year.

c. The members of the control board shall receive no remuneration for their jobs.

d. The control board shall not be liable for the managers' acts or the results thereof except if members knew of the managers' wrongdoing and did not inform the general assembly thereof.

#### Article (256)

A limited partnership by shares shall have an auditor or more. The auditor shall be subject to the provisions set out in articles (217) to (222) of this law.

#### Article (257)

A limited partnership by shares shall have a general assembly

consisting of all the joint and shareholding partners. The provisions regulating the general assembly in the closed joint-stock companies shall apply to the general assembly of the limited partnership by shares. The company's manager shall replace the chairman of the board of directors in calling the general assembly to convene. The general assembly shall not perform any acts relating to the company's relationship with third parties or approve them without the managers' approval.

#### Article (258)

The extraordinary general assembly shall not introduce amendments to the articles of association of a limited partnership by shares without the approval of all the joint partners and without the quorum and majority provided for in article (212) of this law being available.

#### Article (259)

A limited partnership by shares shall be subject to the provisions of article (64) and articles (125) to (166) and articles (214) to (225) of this law.

#### Article (260)

If the position of manager of a limited partnership by shares becomes vacant the control board shall appoint an acting manager to carry out urgent matters until the general assembly convenes. The acting manager shall invite the general assembly to convene within fifteen days from the date of his appointment in accordance with the procedures set out in the company's articles of association. If this period elapses without inviting the general assembly to convene, the control board shall send the invitation immediately. The acting manager shall only be liable for his mandate.

### Part VII

#### Limited Liability Company General Provisions

#### Article (261)

A Limited Liability Company is a company in which the number of partners does not exceed fifty partners, and each of them shall only be liable to the extent of his share in the capital. If the number of the partners falls below two, the company shall turn, by force of law, into a single person company unless the company completes the number within thirty days from the date of pooling the company's shares into the hands of one partner.

The company shall not be incorporated nor its capital be increased nor any borrowing be made through public subscription. It shall not issue negotiable shares or bonds, and the transfer of partners' shares in it shall be subject to their right of retrieval and to the special terms and conditions included in the company's memorandum of association as well as to the provisions of this law.

#### Article (262)

A Limited Liability Company shall not undertake insurance or banking activities or fund investment for the account of third parties in general.

#### Article (263)

A Limited Liability Company may have a special name, and such name may be derived from its purposes, and it may include the name of a partner or more. The name of the company shall be followed by the phrase (with Limited liability).

Such particulars shall be mentioned in all the company's contracts, invoices, advertisements, papers and publications, or else the company's managers shall be jointly liable to the extent of their private property towards third parties.

#### Article (264)

The company's capital must be adequate for realizing its objectives. It shall not be less than what is determined in the Executive Regulation of this law. In all cases the minimum capital must not be less than twenty thousands Bahraini Dinars.

### Chapter One

#### Incorporation of the Limited Liability Company

#### Article (265)

a- The memorandum of association of a Limited liability company shall include the following details:

- 1- The names, titles and nationalities of partners.
- 2- The company's headquarters.
- 3- The company's name and address, with the addition of the phrase (a limited liability Company).
- 4- The company's objectives.
- 5- The company's capital, and the cash and in-kind shares provided by each partner with a detailed description of the in kind shares and its value.
- 6- The conditions of shares assignment.
- 7- The term of the company, if any.

8- The names of those entrusted with the company's management from among the partners or from others, and the names of the members of the control board in the cases in which law stipulates the existence of such board.

9- Distribution methods of profits and losses.

b- The partners may include in the company's memorandum of Association special provisions regulating the right of retrieval of partners' shares and the evaluation methods thereof when this right is exercised, and the formation of reserves other than the statutory reserve and the organization of the company's finance and accounts and the reasons of the dissolution thereof.

c- The Minister of Commerce and Industry may decree the inclusion of other details than those included in paragraph (A) of this Article.

#### Article (266)

A limited liability company shall not be incorporated unless all the cash shares are distributed among partners and the value thereof are fully paid and the in-kind shares are delivered to the company.

The cash shares shall be deposited with one of the licensed banks in Bahrain and shall only be withdrawn by the company's managers upon the submission of a certificate proving its registration in the Commercial Registry.

#### Article (267)

If the share presented by a partner is an in-kind share, the company's memorandum of association shall specify its type, value, agreed upon price by the other partners, and the name of the partner and the amount of his share in the capital against what he has paid.

The provider of the in-kind share shall be liable towards third parties for the estimated value thereof in the company's memorandum of association. If it is overestimated, he shall pay the difference to the company, and the other partners shall be jointly liable for such difference unless they prove that they were not aware of it.

The liability action provided for in the foregoing paragraph shall be barred after the lapse of five years from the date of entering the company in the Commercial Registry.

#### Article (268)

The company's manager, or whomever the partners delegate, shall register the company in the Commercial Registry and shall publish it in the Official Gazette and in one of the local daily newspapers at the company's expense. The company shall not acquire a corporate entity before registering it, and it shall not undertake its activities before registration. Any act undertaken for the company before registration shall only bind the person who undertakes it, and he shall be liable for it to the extent of all his property. If more than one person undertakes the act, they shall be jointly liable for it.

#### Article (269)

The capital of a limited liability company shall be divided into equal shares the value of which shall not be less than fifty Bahraini dinars. The share shall be indivisible. However, two persons or more may jointly own one share, provided that one person shall represent them towards the company. The partners in the same share shall be jointly liable for the obligations resulting therefrom.

#### Article (270)

The capital shares of a limited liability company shall be non-tradable. However, shares may be sold by a written instrument the signatures on which are certified unless otherwise provided for in the company's memorandum of association. Whoever intends to sell his share, or a part of it, shall notify the other partners of the offer he has received and its conditions – in particular the price and the name of the buyer – otherwise the act shall be ineffective. After the lapse of two weeks from the date of notification the partner may sell his share to third parties for the offered price at least if none of the partners requests to buy it. If more than one partner requests to buy the share, it shall be divided among them in proportion to their respective shares in the company's capital. If the assignment of the shares is free of charge, the assigned shares shall not be transferred without the approval of the majority of the partners owning shares of no less than seventy five percent (75%) of the capital after excluding the shares under assignment.

#### Article (271)

The assignment of a share shall be effective towards the partners and third parties as of the date of the registration thereof in the Commercial Registry and the publication thereof in the Official Gazette.

Article (272)

The share of a partner shall devolve to his heirs or beneficiaries in a will. If the share devolves by way of inheritance or will to more than one person, which increases the number of the partners than fifty, the shares of the heirs or beneficiaries shall be considered one share towards the company unless the heirs or the beneficiaries agree to transfer the share to a number of them falling within the maximum number of the partners. If all the company's shares are concentrated in the hands of one person, the company shall turn into a single person company unless it is dissolved.

Article (273)

If a personal creditor of a partner institutes execution proceedings against the share of his debtor, the share shall be offered for sale in a public auction unless the creditor agrees with the debtor and the company on the way and terms of the sale. In the case of sale by public auction, the creditor shall notify the company of the terms and conditions of the sale and the date of the session to be held for considering the objections thereto.

The company may, within ten days from the date of the decision approving the highest bid offered, find a buyer other than the successful bidder to buy the share on the same terms and conditions.

These provisions shall apply in the case of the partner's bankruptcy.

Article (274)

The company shall prepare a special register for the partners at its head office including their names, domiciles, professions, nationalities and the number of shares each one of them owns. It shall also show the assignment of the shares and the date thereof.

Each partner and any interested person shall have the right of access to this register. The details contained in the register and any changes therein shall be forwarded to the ministry of Commerce and Industry.

## Chapter Two Management Of The Company

### Article (275)

One manager or more, to be appointed from among the partners or non-partners by the founders for the first time and by the general assembly thereafter, shall manage the company.

In all cases the manager(s) may be dismissed with the approval of the partners who own the majority of the capital.

The duties, obligations and responsibilities of the manager(s) shall be the same as those of the members of the board of directors in a joint-stock company.

### Article (276)

The company's managers shall have full powers to represent it unless otherwise stipulated in the company's memorandum of association. Any decision issued by the company restricting the powers of the managers or changing them after it has been registered in the Commercial Registry shall not take effect towards third parties before the lapse of five days from the date of it being registered in this registry.

### Article (277)

The company's memorandum of association may provide for the constitution of a board for the managers and specify the manner in which the board shall operate and the majority by which its resolutions shall be passed.

### Article (278)

The managers shall be jointly liable towards the company, the partners and third parties for their breach of the provisions of the law or of the company's memorandum or articles of association and for any mismanagement in accordance with the rules regulating the joint-stock company. Any condition to the contrary shall be deemed non-existent.

### Article (279)

The manager shall not, without the consent of the partners' general assembly, assume the management of a company competing with or having similar objectives to those of the company, nor may he conduct, for his own account or for the account of third parties, any transactions that are competitive or similar to the company's activities.

Violation of this may lead to the removal of the manager and to obliging him to pay compensation.

#### Article (280)

If the number of the partners is more than ten, and the company does not have a board of managers, a control board, consisting of at least three partners, shall be appointed for a specific period in the company's memorandum of association. The partners' general assembly may reappoint them or appoint others from among the partners after the expiration of this period. The managers shall not have the right to vote on the election or dismissal of the members of the control board.

The control board shall have the right to examine the company's books and documents, to make an inventory of the cash money, the stock, securities and documents establishing the company's rights and to request the managers at any time to submit reports on their management.

The board shall also oversee the balance sheet, the profit distribution and the annual report, and shall submit its report in this regard to the partners' general assembly at least fifteen days before its meeting.

The board shall authorize the acts which the company's memorandum of association requires its authorization to undertake them.

#### Article (281)

The members of the control board shall not be liable for the actions of the managers or the results thereof, unless they knew about the wrongdoings and did not mention them in their report to the partners' general assembly.

#### Article (282)

If the number of the partners does not exceed ten and the memorandum of association does not provide for the establishment of a control board, the non-manager partners shall have the right to control the managers' acts. They may also examine the company's books and documents in accordance with the rules laid down in article (46) of this law. Any condition to the contrary shall be void.

#### Article (283)

a- A limited liability company shall have a general assembly

consisting of all partners.

b- The general assembly shall convene at a call by the managers at least once a year within the four months following the end of the company's financial year.

c- The general assembly may convene at any time at an invitation by the managers, the control board, the auditor, the Ministry of Commerce and Industry or a number of partners representing one-fourth of the capital.

d- The call for the general assembly to convene shall be made by registered mail with a delivery note or by any way proving the knowledge of partners of it at least one week before the date of the meeting.

e- The call for the general assembly to convene shall specify the date, the venue and the agenda of the meeting. The agenda shall particularly include the reports of the managers, of the auditor and of the control board, if any, the approval of the balance sheet and the profit and loss account, and consideration of the managers' recommendations with respect to profit distribution.

Each partner may request the managers to include any issue on the agenda, and if such request is rejected, the partner may take the matter to the general assembly.

The general assembly meeting shall not debate any matters other than those listed on the agenda; unless serious matters arise during the meeting that require debate.

#### Article (284)

i- Each partner shall have the right to attend the meetings of the general assembly either in person or by his proxy, provided that the proxy shall not be the company's manager or from among the members of the control board. The proxy shall represent no more than one partner, and each partner shall have a number of votes equal to the shares he owns in the company.

ii- The general assembly meeting shall not be valid unless attended by a number of partners owning more than half the capital, and the resolutions thereof shall be valid if passed by the majority of the shares represented in the meeting unless the company's memorandum of association provides for a bigger majority. If the quorum is not available, the general assembly shall be invited to hold a second meeting within the ten days

following the first meeting for the same agenda. This meeting shall be valid regardless of the number of the shares represented thereat. In this case, resolutions shall be passed by the majority of the shares represented in the meeting unless otherwise provided for in the memorandum of association. The company's manager, the auditor and at least one member of the control board, if any, may attend the meeting, however, none of them shall have the right to vote on the resolutions discharging them of responsibility. The competent government authority may send its representative to attend the general assembly meeting.

iii- Minutes shall be drafted for each meeting including an adequate summary of the deliberations and resolutions of the general assembly, and shall be signed by the meeting chairman. Such minutes shall be entered in a special register to be kept at the company's headquarters. The provisions regulating the commercial books shall apply to this register, and the company's manager shall be liable for the accuracy of the data contained therein.

#### Article (285)

The company's memorandum of association shall not be amended, nor its capital be increased or reduced without a resolution by the company's general assembly to be passed by the numerical majority of the partners who own three fourths of the capital unless the company's memorandum of association provides for a higher percentage. However, the partners' obligations shall not be increased without their unanimous approval.

### Chapter Three

#### Company's Accounts

#### Article (286)

i- The managers shall prepare, for each financial year and within at least three months from the end thereof, the company's balance sheet, profit and loss account and a report on the company's activities and financial position together with their recommendations as regards profit distribution. The managers' report, the balance sheet, the profit and loss account and the other reports shall reflect the company's true financial position.

ii- The managers shall sign the report, the balance sheet and the profit and loss account.

iii- The managers shall forward to the ministry of commerce and industry a copy each of the balance sheet, the profit and loss account, the annual report and the auditor's report within ten days from the date of preparing such documents.

iv- The managers shall not vote on the resolutions discharging them of responsibility for their management.

#### Article (287)

The company's memorandum of association must provide for the appointment of an auditor or more by the ordinary general assembly every year.

In respect of their powers, responsibilities and terms of reference, the auditors shall be subject to the provisions of articles (217) to (222) of this law.

#### Article (288)

The company shall maintain a statutory reserve in accordance with the provisions of article (224) of this law applicable to joint-stock companies.

### PART VIII

#### Single Person Company

#### Article (289)

A single person company means, for the purposes of applying the provisions of this law, every economic activity the capital of which is fully owned by one natural or corporate person.

#### Article (290)

A single person company shall have articles of association specifying its provisions, particulars and procedures of incorporation and publication. Such articles of association shall be issued by a decree by the Minister of Commerce and Industry. The company shall have a corporate entity after the lapse of thirty days from the date of its publication.

#### Article (291)

The company shall have a special commercial name, which may be derived from its objectives. The name of the company shall be associated with the name of its owner followed by the phrase (A single Person Company) (SPC). The company shall have its head office in the State of Bahrain and shall undertake its main

activities therein.

Article (292)

The owner of the company's capital shall be liable for its obligations only to the extent of its capital.

Article (293)

The company's capital shall not be less than that specified in the Executive Regulation of this law, and shall be fully paid. The capital may comprise in-kind shares to be evaluated by a specialized expert. In all cases the minimum capital shall not be less than twenty thousand Bahraini dinars.

Article (294)

The capital owner shall manage the company, and he may appoint a manager or more to represent the company before the courts and third parties, and he/they shall be responsible for its management before the owner.

Article (295)

The company shall terminate on the death of its owner unless the shares of the heirs are gathered in one person or if the heirs choose to continue the company in any other legal form within six months at most from the death of the owner. The company shall also terminate on the termination of the corporate person owning its capital.

Article (296)

If the capital owner liquidates the company or suspends its activities, in a mala fide manner, before the expiry of its term or before the realization of its objectives he shall be liable for its obligations to the extent of his personal property.

He shall also be liable to the extent of his personal property if he does not separate his personal interests from the interests of the company.

Article (297)

Apart from the provisions of the foregoing articles, the provisions regulating the limited liability company shall apply to the single person company to the extent they do not conflict with its nature.

## PART IX

### Holding Company

#### Article (298)

A holding company is a company, the purpose of which is to own shares in Bahraini or foreign joint stock companies and to own shares or stakes in Bahraini or foreign limited liability companies, or to participate in the establishment of such companies and to manage them and provide loans thereto and guarantees them before third parties.

#### Article (299)

A holding company must own more than half the capital of the affiliated company. It may take one of the following forms:

- i- A joint-stock company
- ii- A limited liability company
- iii- A single person company

The phrase (Holding Company) shall appear in all documents, notices, correspondence and other documents issued by the company besides its commercial name.

#### Article (300)

The affiliated company shall not own shares or stakes in the holding company, and the holding company shall appoint its representatives on the boards of directors of the affiliated companies in proportion to its holdings or as agreed upon with other shareholders or partners in the affiliated companies.

#### Article (301)

The purposes of a holding company shall be:

- i- To manage its affiliated companies or to participate in the management of other companies in which it has shares, and to provide the necessary support for such companies.
- ii- To invest its funds in shares, bonds and other securities.
- iii- To own real estates and other assets necessary for undertaking its activities within the limits permitted by law.
- iv- To offer loans, guarantees and financing to its affiliated companies.
- v- To own industrial property rights including patents, trade and industrial marks, concession and other intellectual rights, and to use and lease them to its affiliated companies or to other companies.

#### Article (302)

A holding company shall be established in one of the following methods:

i- The establishment of a company the objectives of which shall be confined to one or all of the activities provided for in the foregoing article or by the establishment of affiliated companies or by owning shares in joint-stock companies or stakes in limited liability companies to undertake these objects.

ii- The amendment of the purposes of an existing company to become a holding company in accordance with the provisions of this law.

#### Article (303)

A holding company shall prepare at the end of each financial year an aggregated balance sheet and profit and loss accounts for it and all its affiliated companies together with the notes and statements thereon in accordance with the international accounting principles.

#### Article (304)

The holding company shall be subject to the provisions regulating the company which it has taken its form as well as its provisions set out in this law to the extent that they do not conflict with the provisions of this Part.

### PART X

#### Conversion of Companies

#### Article (305)

Any company may convert from one legal form to another. If conversion is to a joint-stock company, at least two financial years must have lapsed since the company was registered with the Commercial Registry. The conversion decision shall not issue before the company's managers prepare a report on the company's assets and liabilities and the results of the balance sheet for the preceding two financial years, to be signed by the auditor and ratified by the Ministry of Commerce and Industry.

#### Article (306)

Conversion shall be effected by a resolution passed in accordance with the provisions and procedures governing the amendment of the company's Memorandum and Articles of Association. Such resolution shall not be effective before the lapse of sixty days from the date of its publication in the Official Gazette and in at least one of the local daily newspapers and after the completion of the incorporation procedures of the form into which the company is to convert and after the annotation

thereof in the Commercial Registry.

Article (307)

The partner who objects to the resolution of conversion may withdraw from the company and recover the value of his share or stake by submitting a written application to the company within sixty days from the date of the publication of the conversion resolution in accordance with the foregoing article. The value of the share or stake to be paid shall be either the actual or the market value at the conversion date whichever is higher.

Article (308)

For companies to convert, they must repay their loans and banking facilities before conversion or obtain the creditors' approval of such conversion before the competent authorities approve it.

Article (309)

A converted company shall not acquire a new corporate entity, but shall maintain its rights and obligations established before conversion. Conversion shall discharge the joint partners from the company's obligations before conversion unless the creditors object to the conversion within sixty days from the date of notifying each of them, by a registered letter with a delivery note, of this decision. The objection shall be submitted by using the normal procedures of filing legal actions, and shall be heard by the High Civil Court. The joint partners shall continue to be liable towards the objecting creditors until the objection is finally decided on.

Article (310)

Every partner, in the case of conversion, shall have a number of shares or stakes in the converted company equal to the value of the share or stake he owned before conversion. If the conversion was to a limited liability company and the value of the share or stake of a partner is less than the minimum limit for the nominal value of the share in the limited liability company, the partner shall complete the value in cash.

Article (311)

For a joint-stock company that has issued loan bonds to convert it must repay the value of the bonds before the Ministry of Commerce and Industry approves such conversion.

Part XI  
Merger of Companies

Article (312)

i- Merger shall be effected in one of the following two methods:

1- Acquisition, which is winding up a company or more and transferring its patrimony to an existing company.

2- Consolidation, which is winding up two or more companies and incorporating a new one to which the patrimony of the merged companies shall be transferred.

ii- Each company shall pass a resolution of merging in accordance with the amendment procedures of its Memorandum and Articles of Association.

In all cases, merger shall not result in monopolizing an economic activity, a commodity or a certain product.

Article (313)

The following provisions shall apply to merger by way of acquisition:

i- The merged company shall pass a resolution to dissolve itself.

ii- The merged company shall be evaluated in accordance with the provisions of this law governing the evaluation of in-kind shares.

iii- The merging, or emerging, company shall pass a resolution to amend its capital in accordance with the evaluation results of the merged company.

iv- The capital increase shall be distributed among the partners in the merged company in proportion to their respective shares therein.

v- If the stakes are represented in shares, they may be traded upon their issue if one year has lapsed since the incorporation of the merging or emerging company.

Article (314)

The following provisions shall apply to merger by way of consolidation:

i- Each merged company shall pass a resolution dissolving itself.

ii- A new company shall be incorporated in accordance with the provisions of this law. However, if the new company is a joint-stock company, the experts' report on the evaluation of the in-kind shares shall be relied upon according to article (99) of this law.

iii- Each merged company shall be allotted a number of shares or stakes equal to its shareholding in the new company's capital. These shares shall be distributed among partners in each merged company in proportion to their respective shares therein.

#### Article (315)

Merger shall be published in the Official Gazette and in one of the local daily newspapers, and shall be recorded in the Commercial Registry.

Holders of rights established before the publication of merger may object thereto within sixty days from the publication date by a registered letter with a delivery note. In this case, the merger results shall not be binding them unless the creditor gives up his objection, or the court, upon filing an action by the company, rejects it, or the company pay the debt if it is due or provide adequate guarantees for its settlement if it is not due.

If no objection is made within the period referred to in the preceding paragraph, the merger shall be effective towards the creditors, and the merging or emerging company shall subrogate the merged companies in all their rights and obligations.

#### Article (316)

In the case of merger by way of acquisition, the capital shares of the merged company, if it is one of those companies whose shares are tradable, may be traded upon their issue if one year has lapsed since the incorporation thereof.

In case of merger by way of consolidation, the shares of the new company may be traded upon its issue if one year has lapsed since the incorporation of each of the merged companies.

#### Article (317)

For a joint-stock company, which has borrowed by issuing bonds, to merge, the board of bondholders shall approve the merger resolution by the majority of those representing two-thirds of the loan bonds, otherwise the company shall settle the debt in a way the board accepts by the majority referred to above.

If the board does not approve the merger or the settlement, or if it is impossible for the board to convene, the representative of the board must object to the merger resolution in accordance with the provisions of article (315) of this law.

#### Article (318)

If the joint-stock company under merger has issued bonds convertible into shares, the bondholders shall have the right to request for converting their bonds into shares in the merging company or the new company as the case may be within the time limit specified in the bond issue. The conversion principles shall be set by determining the exchange rate mentioned in the issue system in light of the percentage specified in the merger agreement for the replacement of the shares in the merged or emerging company with shares in the company issuing the bonds.

#### Article (319)

The merging company or the new company shall replace the company issuing the bonds convertible into shares in all its obligations arising from these bonds. The merging company or the new company shall also comply with the provisions of articles (160) and (161) of this law.

### Part XII

#### Termination of Company

##### 1- Company dissolution

#### Article (320)

The company shall be dissolved for any of the following reasons:

- a- Expiry of its specified term unless the company's memorandum or articles of association provides for its renewal.
- b- Achieving the objectives for which the company was incorporated.
- c- Destruction of all or most of its assets to the extent that it becomes useless for it to continue.
- d- A unanimous resolution by all partners to dissolve it before the expiry of its term, unless the company's memorandum or articles of association provides for certain majority.
- e- Merging the company with another company.

The registration of the company shall be struck off by an explained decree by the Ministry of Commerce and Industry if the company does not undertake its activities for one year from the date of the completion of its incorporation procedures or if it suspends its activities for a continued period exceeding one year without acceptable justification.

The Ministry of Commerce and Industry shall notify the company the registration of which is to be struck off in accordance with the procedures decreed by the Minister of Commerce and Industry.

Any interested party shall have the right to appeal against the decree to the Minister of Commerce and Industry within a period of no more than thirty days from the date of publication of the decree in the Official Gazette or from the date of notification of the concerned person of that action.

Such appeal shall be decided on within thirty days from the date of its submission, and the lapse of such period without taking a decision shall be deemed rejection thereof.

The appealing party may object to the rejection of his appeal before the High Civil Court within forty-five days from the date of his knowledge of the rejection or from the date of deeming it as rejected.

Striking off the registration shall not terminate the responsibility of the members of the board of directors, the managers, the partners and the shareholders. This responsibility shall remain as if the company is still going.

#### Article (321)

a- Except for public joint-stock companies, the court may decide, at a request by a partner, to dissolve any company if it finds serious reasons justifying such dissolution, and any provision depriving partners from using this right shall be deemed null and void. If such reasons have to do with the acts of any partner, the court may decide to discontinue his membership and to evaluate his share according to the latest inventory, unless the company's memorandum of association provides for another method of evaluation. In this case the company shall continue among the other partners.

b- The court may also decide to dissolve the company at a request by a partner if a partner has not honored his obligations.

#### Article (322)

a- General partnership companies, limited partnership companies and associations in participation shall be dissolved for any of the following reasons:

1- Withdrawal of a partner from the company if its term is indefinite. However, the partner shall withdraw in good faith and notify the other partners of his withdrawal in a suitable time,

failing which a court order may be obtained obliging the partner to continue in the company and to pay compensation if necessary. If the company's term is definite the partner shall not withdraw from the company without a court order.

2- Death of a partner or if a court passes a distraint order against him or if he adjudged bankrupt or insolvent.

b- The company's memorandum of association may provide for its continuation with the heirs of a deceased partner even if all or some of them are minors. If the deceased partner was a joint partner and the heir is a minor, the minor shall be considered a sleeping partner to the extent of his share in that of his legator. In this case the continuation of the company shall not require a court order to keep the minor's money in the company.

c- The company's memorandum of association may provide for its continuation with the remaining partners in case of withdrawal or death of a partner or if an order of distraint is passed against him or if he adjudged bankrupt or insolvent. If the company's memorandum of association does not contain such a provision, the partners may, within sixty days from the date of withdrawal, death or the order of distraint or adjudication of bankruptcy or insolvency unanimously agree to continue the company among them. Such agreement shall not be binding third parties before the date of entering it in the Commercial Registry.

d- In all cases of continuation of the company among the remaining partners, the share of the withdrawing partner shall be evaluated by an accredited auditor unless the company's memorandum of association provides for another method of evaluation. Such partner or his heirs shall not have a share in subsequent rights except for those resulting from operations performed before his withdrawal from the company.

#### Article (323)

A limited partnership by shares shall be dissolved if a joint partner withdraws therefrom or deceased or if a distraint order is passed against him or if he adjudged bankrupt or insolvent, unless otherwise provided for in the company's memorandum of association.

If the company's memorandum of association does not contain a provision in this respect, the extraordinary general assembly may decide to continue the company, and the procedures governing amendments to the company's memorandum of

association shall apply.

If all joint partners in a limited partnership by shares withdraw or deceased or if distraint orders are passed against all of them or if they are adjudged bankrupt or insolvent, the company shall be dissolved unless its memorandum of association provides for the conversion thereof into another form of company.

#### Article (324)

A limited liability company shall not be dissolved if a partner or more withdraws or deceased or if a distraint order is passed against him or if he is adjudged bankrupt or insolvent, unless otherwise provided for in the memorandum of association.

### 2- Liquidation of the Company and Division of its Assets

#### Article (325)

a. Every company shall be in a state of liquidation upon dissolution.

b. The powers of the managers or the board of directors shall terminate upon the dissolution of the company. However, the managers shall continue to manage the company, and shall be considered towards third parties as liquidators until a liquidator is appointed and they give him their accounts and all the company's assets, books and documents.

#### Article (326)

a. The company shall maintain its corporate entity during the liquidation period to the extent necessary for liquidation.

b. The phrase (under liquidation) shall be added to the name of the company during the period of liquidation.

c. The company's bodies shall remain during the period of liquidation, but their powers shall be confined to the liquidation measures falling outside the liquidators' competence.

#### Article (327)

Relevant provisions in the company's memorandum or articles of association shall apply to liquidation. If they do not contain such provisions, the provisions of the following articles shall apply.

#### Articles (328)

a. The partners or the extraordinary general assembly shall appoint, from among the partners or non-partners, a liquidator or more to undertake the company's liquidation, and determine his remuneration. The liquidator shall be appointed by the simple majority by which the company's resolutions are passed.

b. If the company's dissolution or nullity is decided by the court, the court shall specify the manner of liquidation and appoint the liquidator and determine his remuneration. The liquidator's job shall not terminate upon the partners' death or if they are adjudged bankrupt or insolvent or if a distraint order is passed against them even if he was appointed by them.

#### Article (329)

a. The liquidator's name and the partners' agreement on the liquidation manner or the court decision thereon shall be marked in the Commercial Registry and shall be published in one of the local daily newspapers. The liquidator shall follow up the entry procedures.

b. The liquidator appointment or the manner of liquidation shall not be effective towards third parties before the day following the date of publication.

#### Article (330)

a. The liquidator shall be dismissed in the same way he was appointed.

b. In all cases, the court may, at a request by a partner and for acceptable reasons, decide to dismiss the liquidator.

c. Any decision dismissing the liquidator shall appoint whoever replaces him.

d. The dismissal of the liquidator shall be entered in the Commercial Registry and shall be published in one of the local daily newspapers, and it shall not be effective towards third parties before the day following the date of publication.

#### Article (331)

a- The liquidator shall, on his appointment and in agreement with the board of directors or the managers, carry out an inventory of the company's rights, assets and liabilities. A detailed list thereof and a balance sheet shall be prepared and signed by the liquidator, the board of directors and the managers.

b- The board of directors or the managers shall submit their accounts to the liquidator and hand him over the company's property, books and documents.

c- The liquidator shall maintain a register to enter therein the liquidation acts, and such register shall be subject to the provisions of the Commerce Code regulating the commercial books.

#### Article (332)

a- The liquidator shall take the necessary actions to safeguard the company's property and rights.

b- He shall recover the company's rights with third parties; however, he shall not request the partners to pay the unpaid part of their shares unless liquidation so requires and provided that all partners shall be equally treated.

c- The liquidator shall immediately deposit the amounts he receives in the account of the company under liquidation with any of the banks.

#### Article (333)

The liquidator shall undertake all tasks required for liquidation, and in particular the following:

a- Representing the company towards third parties before the courts of law and accepting reconciliation and arbitration.

b- Selling the company's movable and immovable property by public auction or by any other method unless the liquidator's appointment document provides for other methods of sale.

c- Paying the company's due debts and setting aside the deferred or disputed debts.

#### Article (334)

a- The liquidator shall not initiate new activities unless they are necessary for the completion of previous activities. If he initiates new activities that are not necessary for liquidation he shall be liable to the extent of all his property for such activities. If there is more than one liquidator they shall be jointly liable.

b- The liquidator shall not sell the assets of the company as a whole without permission from the partners or the ordinary general assembly.

Article (335)

a- The liquidator shall notify all the creditors of the commencement of liquidation and invite them to submit their claims. The notification shall be made by a registered letter with a delivery note or by publishing it in a local daily newspaper if the creditors are not known or if their domiciles are not known.

b- Without prejudice to the rights of the privileged creditors, the liquidator shall pay the company's debts in proportion thereto.

c- If some creditors fail to submit their claims, their debts shall be deposited with the court's treasury.

d- Funds adequate enough to pay the disputed debts shall be deposited with the court's treasury, unless the owners of these debts obtain adequate guarantees or unless the distribution of the company's funds is deferred until the dispute on the said debts is resolved.

Article (336)

If there is more than one liquidator, their acts shall not be valid unless they unanimously agree thereon in case the document of their appointment does not provide otherwise. This provision shall not be effective towards third parties before the date of its publication in one of the local daily newspapers.

Article (337)

The company shall be bound by the liquidator's acts undertaken in its name if such acts are necessary for liquidation purposes, even if he uses the company's signature for his own account unless the person he contracted with is mala fide.

Article (338)

Debts arising from liquidation shall have priority in payment from the company's funds over other debts.

Article (339)

a- The liquidator shall complete liquidation within the period specified in his appointment document. If such period is not specified, each partner may take the matter to the competent court to specify the period within which liquidation shall be completed.

b- However, the period specified for liquidation may be extended by a resolution by the partners or by the general assembly after considering the liquidator's report in which he

states the reasons justifying the incompleteness of liquidation in the specified period. If the liquidation period is specified by the court, it shall not be extended without the permission thereof.

Article (340)

a- The liquidator shall submit every six months to the partners or to the general assembly an interim account on liquidation.

b- He shall furnish the partners with the details and information they request to the extent that does not cause any harm to the company's interests or delay liquidation.

Article (341)

a- The company's funds shall be distributed on all partners after the payment of the debts referred to in article (338) of this law and after honoring the rights of the company's creditors.

b- Each partner shall receive an amount equivalent to the value of the share he provided in the capital as stated in the memorandum of association or in the resolution of the general assembly approving its evaluation, or equivalent to the value of this share at the time of subscription if the value is not stated in the memorandum of association.

c- If the partner's share is in the form of work or usufruct he shall get nothing.

d- The remaining part of the company's funds shall be distributed among partners in proportion to their respective dividends in profits.

e- If the net value of the company's assets is not sufficient to pay the partners' shares in full, the loss shall be distributed among them with the same percentages specified for loss distribution.

Article (342)

The relevant provisions in the company's memorandum or articles of association shall apply to the distribution of the company's funds. If the memorandum or articles of association does not include such provisions, the provisions of the Civil Code regulating the distribution of common funds shall apply.

Article (343)

a- The liquidator shall submit to the partners or to the general assembly a final account on liquidation.

b- Liquidation shall be completed on the approval of the final accounts.

c- The liquidator shall enter the completion of liquidation in the Commercial Registry and publish it in one of the local daily newspapers. Completion of liquidation shall not be effective towards third parties before the date of publication.

d- The liquidator shall, on the completion of liquidation, apply for striking off the company from the Commercial Registry.

#### Article (344)

The company's books and documents shall be maintained for ten years from the date of striking off its name from the Commercial Registry at the place specified by the partners or the general assembly.

### Part XIII

#### Foreign Capital Companies

#### Article (345)

Notwithstanding the provisions of this law and with due consideration of the competence of the Bahrain Monetary Agency in respect of banking and financial institutions, the Minister of Commerce and Industry, in agreement with the relevant minister, may decide to incorporate companies provided for in this law, to be fully or partially owned to Bahraini or non-Bahraini partners. They may be in non-Bahraini currencies, provided that they shall be denominated in the Bahraini currency. The activities of these companies shall be specified in an order of the Ministry of Commerce and Industry.

The Minister of Commerce and Industry may also exempt the companies provided for in this article from the minimum limit of capital specified in the Executive Regulation of this law. He may authorize the board of directors and the ordinary and extraordinary general assemblies of these companies to convene outside the State of Bahrain, provided that such companies shall comply in all their meetings with the provisions of this law.

### Part XIV

#### Branches, Offices and Agencies of Foreign companies

#### Article (346)

Without prejudice to the special agreements concluded by the

government and some companies, the provisions of this law, except for those governing the incorporation of companies, shall apply to the foreign companies incorporated abroad and undertaking its activities in Bahrain.

Article (347)

a- Subject to other legislations that are not in conflict with this law, the companies incorporated abroad may establish branches, agencies or offices in the State of Bahrain on the following conditions:

1- The foreign company shall obtain a license to establish a branch, an agency or an office from the Minister of Commerce and Industry.

2- The foreign company incorporated abroad shall have a Bahraini sponsor, who may be a businessman or a company. However, the minister of Commerce and Industry may exempt the company from this provision if the company's branch or office shall use Bahrain as a regional center or a representative office for the company's activities.

b- The branch, agency or office shall be registered in the Commercial Registry in accordance with the provisions of law.

c- If the branch, agency or office undertakes its activities before the completion of the procedures provided for in the foregoing paragraph, the persons who have undertaken such activities shall be liable personally and jointly therefor.

Article (348)

a- The branch, agency or office must provide a guarantee to ensure performance of its obligations

b- The guarantee shall be either a sponsorship by the Head Office or by the Bahraini sponsor or a bank deposit. The Minister of Commerce and Industry shall define the guarantee required from each branch, agency or office and he shall designate the bank with which the money shall be deposited if the guarantee is a deposit.

c- If the guarantee is a deposit, it shall be in the name of the branch, the agent or the office representative and to the order of the Minister of Commerce and Industry.

d- The depositor shall in all cases complete any reduction in the deposit if an attachment is placed thereon as a result of actions related to its commercial activities.

#### Article (349)

Each branch, agency or office of a foreign company must print on all its papers, documents and publications, in a legible Arabic, the full name of the company and its address and head office and the name of the agent.

#### Article (350)

The provisions of articles (21) and (68) of this law shall apply to the branches, agencies and offices referred to in the foregoing article.

### Part XV

#### Control and Inspection

#### Article (351)

Without prejudice to the companies being subject to the rules and regulations governing supervision and licensing by the authorities concerned with their respective activities, the Ministry of Commerce and Industry shall supervise the companies subject to the provisions of this law in respect of the implementation thereof and the proper enforcement of its provisions and the provisions of the articles of association of these companies.

The duties of supervision, attendance of the general assemblies and drafting reports on violations of the provisions of this law shall be undertaken by whomever the Minister of Commerce and Industry designates for this purpose, who shall have the powers of judicial enforcement. The reports shall be submitted to the general prosecutor upon a decision by the Minister of Commerce and Industry or by whomever the Minister designates.

#### Article (352)

The minister of Commerce and Industry may, when necessary or at a request by partners representing one fourth of the company's capital, designate a staff member of the Ministry of Commerce and Industry or any other person to inspect the accounts and all activities of the companies subject to the provisions of this law.

#### Article (353)

Partners owning at least one fourth of the capital may apply with the Minister of Commerce and Industry to inspect a company in respect of any violations they attribute to the chairman and members of the board of directors and managers or auditors in performing the duties assigned to them by law or in the articles of association, if there are serious reasons justifying their request. After paying the fees defined in an order by the Minister of Commerce and Industry, the Ministry of Commerce and Industry shall, after verifying the reasons included in the request, inspect the company according to the foregoing provisions.

#### Article (354)

If the Ministry of Commerce and Industry responds to the partners' request to inspect the company, it shall designate a person from among its staff or others to inspect the company's activities and accounts to ensure that the company is not in breach of the provisions of law. The person entrusted with inspection shall have the right of access to the company's books, records, documents, and all the data he deems necessary for inspection. He may also request the chairman or the members of the board or any other staff member of the company to provide him with data and information he deems appropriate for inspection. On the completion of inspection, the Ministry of Commerce and Industry shall notify the company and the applying partners of the results thereof.

#### Article (355)

If the Ministry of Commerce and Industry rejects the partners' request to inspect the company or if it did not take a decision in this regard within thirty days from the date of submitting the request, the partners may apply with the judge of summary proceedings court to order the requested inspection and to commission an expert to undertake this task and determine his fees, which shall be born by the inspection applicants or by whoever is proved to have committed the violations mentioned in the application. In this case the provisions of this law shall apply to such inspection.

#### Article (356)

Any interested party may appeal against the results of inspection before the High Civil Court within thirty days from the notification date.

If the appellant is the inspection applicant, the appeal must

contain evidence substantiating the reasons justifying his appeal and that he has not filed his appeal to inflict damage or defamation.

#### Article (357)

The members of the board of directors, the managers, the staff members and the auditors of the company shall make available to whoever is charged with the task of inspection in accordance with the provisions of the foregoing articles everything related to the company's activities, including books, documents and papers which they have in their custody or those which they have the right of access thereto.

In all cases, the board of directors, the managers or the auditors shall submit to the Ministry of Commerce and Industry any documents, papers, balance sheets or business results at any time the Ministry may need.

#### Article (358)

If the Minister of Commerce and Industry or the competent court finds that what the applicants for inspection have attributed to the members of the board of directors or the auditors is untrue, they may order the publication of all this in the Official Gazette and charging the applicants with the expenses without prejudice to their liability for paying compensation, if necessary. However, if they find that the violations attributed to the chairman and members of the board or the managers or the auditors are true, they shall order taking immediate measures and call the general assembly to meet. The meeting in this case shall be chaired by whoever is delegated by the Minister of Commerce and Industry.

The general assembly may decide to dismiss the chairman and the members of the board or the managers or the auditors, and to file liability action against them. The decision shall be valid if approved by the partners holding half the capital after excluding the shares of the board members or managers who are considered for dismissal.

The dismissed persons shall not be reelected members of the board of directors or appointed managers before the lapse of five years from the date of the decision dismissing them.

#### Article (359)

a- Any concerned party may apply to have access to the data kept at the Ministry of Commerce and Industry in respect of the

companies subject to its supervision and control and may have copies thereof against fees to be determined in a decision by the Minister of Commerce and Industry.

b- The Ministry of Commerce and Industry may reject the request referred to in the foregoing paragraph if disclosing the requested data inflicts damages to the company or to any other party or to the public interest.

Article (360)

The Minister of Commerce and Industry shall specify in a decision the party who shall bear the inspection expenses of whoever he delegates from other than the Ministry staff in case the articles (352), (353), and (354) of this law are enforced.

## Part XVI

### Penalties

Article (361)

Without prejudice to any severer penalty provided for in the Penalties Code or in any other law, imprisonment and a fine not less than five thousands Bahraini Dinars and not exceeding ten thousands Bahraini Dinars or either of these two penalties shall be imposed on:

a- Any person who has stated in the company's memorandum or articles of association or in the subscription prospectus or in any other documents of the company false data or data in violation of the provisions of this law and any person who has willfully signed these documents or distributed them.

b- Any founder, manager or board member who has invited the public to subscribe for shares or bonds in contravention of the provisions of this law and whoever has offered these shares or bonds for subscription for the account of the company with his knowledge of this violation.

c- Any partner or non-partner who has fraudulently evaluated in-kind shares at more than their real value.

d- Any board member, manager or auditor who has participated in preparing or approving a balance sheet that does not reflect the true financial position of the company or a profit and loss account that does not properly represent the profits or the losses of the company for the financial year.

e- Any board member, manager or auditor who has distributed profits or interests that are not true or are in contravention of the provisions of this law or the company's articles of association or has approved the distribution thereof.

f- Any manager or board member who has taken remuneration more than that provided for in this law or in the company's memorandum or articles of association.

g- Any manager, board member, liquidator or auditor who has stated false or untrue data in the balance sheet or in the profit and loss account or in the reports he has prepared for the partners or for the general assembly or who has failed to submit these reports or who has willfully ignored essential facts in these statements which renders the company's financial position untrue.

h- Any manager, member of the board of directors, member of the control board, consultant, expert, auditor or any of his assistants or employees, or any government officer or any person entrusted with the task of inspecting the company who has disclosed what he has known ex-officio of the company's secrets or has exploited these secrets to serve his own interest or that of others.

i- Any person appointed by the Ministry of Commerce and Industry to inspect the company and has willfully stated false facts about inspection in his reports or has willfully ignored in these reports essential data, which affects the results of inspection.

#### Article (362)

Without prejudice to any severer penalty provided for in the Penalties Code or in any other law, a fine not exceeding five thousands Bahraini Dinars shall be imposed on:

a- Any person who has issued shares, subscription receipts, interim certificates or bonds or has offered them for trading in contravention of the provisions of this law.

b- Any person who has been appointed member of the board of directors or managing director of a joint stock company and has remained in office or has been appointed controller therein, and any person who has held an office in it and who has obtained a guarantee or a loan therefrom in contravention of the provisions of this law.

c- Any person who has established a company contrary to the provisions of this law governing the percentage requirements for the Bahraini capital.

d- Any manager, board member, auditor or liquidator who has willfully ignored essential facts in the balance sheet or in the profit and loss account that affects the company's financial position.

e- Any person who has willfully ignored to call the general assembly or the partners to convene if the company has sustained losses to the extent provided for in this law or in the company's memorandum of association with his knowledge of such loss.

f- Any person who has refrained from inviting the general assembly to convene or from listing matters on its agenda in the cases in which the law requires the general assembly to convene or the said issues to be included in the agenda.

g- Any board member who has prepared a report or a balance sheet or an account contrary to the decision referred to in article (195) and any auditor who has prepared a report contrary to the data referred to in article (219) of this law.

h- Any board member, manager, or employee of any of the companies subject to the provisions of this law who has issued orders for spending or has spent an amount of the company's funds without supporting documents indicating the reasons of spending and the receiving party.

i- Any person assigned by the Ministry of Commerce and Industry or the court to inspect the company who has ignored essential facts that affect the results of inspection.

j- Any person who has willfully refrained from enabling the partners, the auditors or the staff of the Ministry of Commerce and Industry delegated by the Minister of Commerce and Industry or those who have the powers to undertake inspection to have access to the books and documents which they are permitted to have access thereto in accordance with the provisions of this law.

k- Any person who has willfully refrained from enforcing any order provided for in this law.

Article (363)

The partners of any company established before the provisions of this law come into effect contrary to its provisions shall amend its memorandum of association to conform to the provisions of this law within a period not exceeding three years from the date of the law coming into effect, otherwise, the partners shall liquidate its activities, except for the companies exempted by a resolution by the Council of Ministers.