

# Trademark Law of OMAN

**Sultani Decree No. 38/2000**: The law of Trademarks, Trade Data Undisclosed Trade Information and Protection from Unfair Competition

**Sultani Decree No. 40/2000**: The law of Protection of Geographical Data

**Sultani Decree No. 68/1987**: The Law of Trademarks & Trade Indications

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## **Sultani Decree No. 38/2000**

### **The law of Trademarks, Trade Data Undisclosed Trade Information and Protection from Unfair Competition**

Sultani Decree

No. 38/2000

For issuing the law of trademarks, trade data undisclosed trade information and protection from unfair competition

We Kabous Bn Said, Sultan of Oman

after reviewing the public order law issued by the Sultani Decree No. 101/96

the trademarks and trade data law issued by the Sultani Decree No. 68/87 and its amendments and according to what the public interest necessitates.

Decreed what follows

Article 1: The rules of the law of trademarks, trade data, undisclosed trade information and protection from unfair competition shall be put into effect.

Article 2: The minister of commerce and industry shall issue the bylaws and regulations needed to implement the rules of this law.

Article 3: Cancellation of the mentioned Sultani Decree No. 68/87.

Articles 4: This decree shall be published in the official gazette and shall take effect from its publication date.

Kabous Bn Said

Sultan of Oman

Issued: 17th of Safar 1421 A.H

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## **Official gazette No. (672)**

### **Law of Trademarks, Trade Data Undisclosed Trade Information and Protection from Unfair Competition**

#### **Part One**

#### **Trademarks and their registration procedures**

#### **Chapter One**

#### **Trademarks and their registration**

#### **Article 1**

A trademark is any distinguished shape which can be perceived by sight such as words, signatures, personal names, letters, numbers, drawings, symbols, signboards, stamps, seals, engravings, combinations of colors, pictorial elements or any other sign or a combination thereof if it is used or is intended to be used to distinguish goods, products or services to indicate that they belong to the owner of the trademark because of their manufacture, their selection, the trade in them or their display for sale.

#### **Article 2**

The following shall not be considered as trademarks and shall not be registered as such:

- a. Signs void of any distinctive character, signs consisting of data which is nothing but appellation given by usage to goods and products, familiar drawings or ordinary pictures of goods and products.
- b. Every expression, drawing or sign conflicting with morality or public order.
- c. Signs identical to honorary emblems, flags, other emblems, names, abbreviated names, initials of a name, official symbols, or sanctioned stamp of any country, international governmental organization or any organization established according to an international treaty or a sign which is an imitation of any of the above or contained any of the above as one of its elements unless the competent authority of that country or organization approves such usage.
- d. Signs identical or similar to symbols of a purely religious character.
- e. Marks which are likely to mislead the public or commercial quarters specially as it pertains to the geographical origin of goods and services, or those containing false data as to the origin of the products or other characters or features thereof as well as signs containing a fictitious commercial name.
- f. Name, surname, photo, emblem of others unless they consent beforehand to this use.
- g. If the mark is identical, similar to a degree which causes confusion, or a translation of a trademark or a commercial name known in the Sultanate of Oman with respect to identical or similar goods or services belonging to another business, or if it is known and registered in the Sultanate of Oman on goods and service which are neither identical nor similar to those for which the mark is sought to be registered provided that the usage of the mark on those goods or services in this last case will suggest a connection between those goods or services and the owner of the known trademark and such use will cause damage to the interests of the owner of the known trademark.
- h. If the trademark is identical to a trademark of another owner which was recorded in the register, or if there is a prior application to this specific application for registration with respect to the filing date or the priority date covering the same goods or services or closely related goods or services or goods or services which are similar to a degree which leads to deception and confusion.

### **Article 3**

Whoever desires to use a mark to distinguish goods which are produced or chosen by him, provided that he trades in these goods, offers them for sale or intends to do so has the right to seek the registration of the said mark under the provisions of this law.

### **Articles 4**

The registrant of a trademark is deemed the sole proprietor thereof excluding others from this ownership unless it is unlawfully registered. This ownership may not be disputed if the mark has been in continuous use by the registrant for at least five years as from the date of registration without an action been filed concerning its ownership.

### **Chapter two**

#### **Registration Procedures**

### **Article 5**

A register shall be prepared at the department of commercial agencies and intellectual property at the ministry of commerce and industry to be named the register of trademarks in which all marks, names and addresses of their owners, and description of the associated goods and any transfer, assignment or abandonment that may take place with respect to the trademarks. The public has the right to review this register and to acquire an authenticated copy thereof after payment of the required fees according to the bylaw.

### **Article 6**

The head of the department mentioned in the above article shall have the authorities invested in the

Registrar according to the subsequent provisions.

#### **Article 7**

The application for the registration of a trademark is to be submitted to the department of commercial agencies and intellectual property according to the procedures, conditions and after payment of the fees established by the bylaw. The application must contain the shape of the mark and the list of goods or services the registration of the trademark is seeking to cover to be included in the applicable class or classes according to the international classification.

The application may contain a request for claim of priority for a prior application filed by the applicant in a member country in the World Trade Organization (WTO) or the Paris convention. The applicant will have priority in this respect on others according to the conditions specified by the bylaw.

#### **Article 8**

If two or more persons request at the same time the registration of an identical or a similar trademark covering identical or similar goods or services, the Registrar should suspend all applications until the contenders relinquish their requests in an authenticated assignment to one of them or until a final judgment is issued from the commercial court in favor of one of them.

#### **Article 9**

The Registrar may impose any restrictions or modifications he deems needed to specify and clarify the trademark in a way as to avoid confusion with another mark, which is already registered or filed or for any other reason he may consider.

#### **Article 10**

If the Registrar refused the trademark, or made acceptance conditional on certain limitations or conditions, he must notify the applicant in writing of the reasons of his decision.

#### **Article 11**

Each decision issued by the Registrar refusing registration or making acceptance conditional, may be contested by the applicant at the commercial court within thirty days from the date of notification of the applicant. The court may sustain, cancel or modify the decision.

If the applicant does neither contest the decision by the due date nor satisfy the conditions set by the Registrar by the set date, he shall be deemed to have abandoned the application.

#### **Article 12**

If the Registrar accepts the trademark, he must before registering it, publish it by any publication means specified by the bylaw. Any interested party may file a written apposition with the Registrar within two months from the publication date. The Registrar shall notify the applicant with a copy of the apposition. The applicant shall within two months from his notification date, file with the Registrar a written response to this apposition. If the response is not received by the set date, the applicant shall be deemed to have abandoned his application.

#### **Article 13**

After listening to both sides or just one of them if such hearing is requested, the Registrar shall arrive at a resolution regarding the opposition and issue a decision accepting or rejecting the registration.

In the former case the Registrar may make acceptance subject to such conditions as he may deem fit. Interested parties may appeal the decision within thirty days from the notification date before the commercial court. The Registrar may despite the opposition, if he feels that the opposition against the

registration of the trademark is not serious, issue a reasoned decision to continue the registration process of the trademark.

#### **Article 14**

Once trademark is registered, the registration shall become effective from the filing date of the application. The owner of the trademark shall be given, upon the completion of the registration, a certificate containing the following particulars:

- a. Serial number of the application.
- b. Date of application and date of registration.
- c. Name of the owner of the trademark, surname, place of residence and his nationality.
- d. An identical reproduction of the mark.
- e. A list of the goods, products or services for which the mark is designated.

#### **Article 15**

The owner of an already registered trademark may file a request to the Registrar for the insertion of any addition or modification to the trademark, which does not substantially affect its essence. The Registrar's decision shall be issued in accordance with the same procedures and conditions prescribed for decisions regarding original applications for registration and may be appealed in the same way.

### **Chapter Three**

#### **Renewal and Cancellation**

#### **Article 16**

The period of protection of the registered mark is ten years. The owner of the right in the mark shall have the right for similar periods of protection if he submitted during the final year of protection an application for renewal in accordance to the procedures and conditions prescribed in the bylaw. During the month following the expiry of the protection period, the Registrar shall give a notice in writing to the proprietor of the mark at his recoded address at the register, informing him of the expiry of the protection period of the mark. If on termination of six months following the date of expiry of the protection period the proprietor has not yet filed a renewal application, the Registrar on his own accord shall cancel the mark from the register.

#### **Article 17**

Without prejudice to article (4) the Registrar and any concerned party shall have the right to petition for the cancellation of those trademarks that have been unlawfully registered. The Registrar shall cancel the registration once presented a final judgment from the commercial court to that effect.

The commercial court may, upon the request of the Registrar or any concerned party, issue a decision effecting the addition to the register of any statement that was overlooked or the omission or modification of any statement already entered therein unlawfully or if untruthfully made.

#### **Article 18**

The court may, upon the request on any concerned party, order the cancellation of the registration if it is proved to the court that the mark has not been effectively used for five consecutive years unless the proprietor of the mark submits a justification of non-use.

#### **Article 19**

Renewal shall be published in the manner prescribed by the bylaw. In compliance with articles (16 and 24), the Registrar shall publish a notice regarding the registration or cancellation of marks or any changes in any particulars of a registered mark.

## **Article 20**

If a trademark is cancelled for non-renewal, it may not be registered in the name of others for the same goods or services or similar goods or services before the elapse of three years from the cancellation date.

## **Article 21**

No mark shall be assigned, mortgaged, seized except together with the business or the enterprise for which the mark is used to distinguish its goods or services unless agreed otherwise.

In all cases the assignment or mortgage of the mark shall not be legally binding for others unless it is recorded in the register of the trademarks and published by the means prescribed by the bylaw.

## **Article 22**

The transfer of the ownership of a business or an enterprise includes the marks registered in the name of the assignor and which may be regarded as closely connected with the business or enterprise unless agreed otherwise.

If the ownership of the business or the enterprise is transferred without the assignment of the said mark, the transferor of ownership (assignor) may continue manufacturing the same goods or offering the same services for which the mark was registered unless agreed otherwise.

## **Chapter four**

### **Contracts and licenses**

## **Article 23**

The owner of the mark may license any natural or juridical person to use the mark on all or part of the goods or services for which the mark was registered. The owner of the mark shall have the right to license others to use the same mark. He himself may also use the mark unless agreed otherwise. The license period may not exceed the protection period of the mark.

The licensee shall have the rights invested by the registration of the mark.

The licensee shall not assign the license to others or give a sublicense unless agreed otherwise.

## **Article 24**

The license contract must contain the following:

- a. Defining the geographical area covered by the license contract and the period of use of the mark.
- b. Conditions necessitated by the requirements of the effective quality control of the goods or services.
- c. Obligations of the licensee regarding refraining from all actions that may damage the reputation of the mark.

## **Article 25**

The license shall be recorded at the trademark office's register. The license shall not produce any effect towards others until after its recordal in this register and the publication thereof according to the proceedings and conditions specified by the bylaw.

## **Article 26**

The recordal of the license in the register shall be cancelled pursuant to a request from the owner of the mark or the licensee after providing proof of the termination or revocation of the license contract. The Registrar shall inform the other party of the request for the cancellation of the license and the said party may oppose this cancellation according to the conditions and procedures specified by the bylaw.

## **Section two**

### **Trade data**

#### **Article 27**

A trade data is any clarification related directly or indirectly to the following:

- a. The number, quantity, dimension, volume, weight or capacity of the goods.
- b. The place or country where the goods were manufactured or produced.
- c. The method of manufacture or production of the goods.
- d. The elements incorporated in the goods.
- e. The name and particulars of the producer or manufacturer.
- f. The existence of patents or any other industrial property rights, any privileges, prizes or any commercial or industrial characteristics.
- g. The name or form by which the goods are generally known or valued.

#### **Article 28**

The commercial data should be true in all aspects whether it is laid down on the products themselves, on the shops, on the stores, on the addresses, on packaging, in invoices, on letters, in means of advertisements, or any other means used in displaying of the goods to the public.

#### **Article 29**

It is not permissible to put the seller's name or address on products coming from countries other than those where the sale takes place, unless it is accompanied with a precise statement written in clear letters indicating the country or place where the products were manufactured or produced.

Persons who reside in places of special reputation in producing or manufacturing some products and they trade in similar products of different origin are not allowed to put their marks on such products if this is liable to mislead or confuse the public as to the source of such products even though such marks do not contain the names or addresses of those persons unless measures to avoid confusion were taken.

#### **Article 30**

The manufacturer shall not use the name of the locality at which his principal factory is situated attached to the products made to his account in another locality unless this name is accompanied by a statement of the latter locality in a manner that precludes any doubt.

#### **Article 31**

Mention shall not be made to prizes, medals, diplomas, prizes or honorary degrees of any kind except for products for which these grants were given and for the persons and commercial addresses to whom these grants were given or the persons who acquired the rights thereof and it will also be necessary to include a true statement as regarding their dates, types and exhibitions or contests where the grant have been made.

Anyone who has been a partner with others in the exhibition of products shall not make use of the grants which were given to the joint exhibited articles for his own products unless he shows clearly the source and nature of these privileges.

#### **Article 32**

If the quantity, dimension, volume, capacity, weight, source or constituents are among the factors that are important in evaluation of the worth of a product, a ministerial decree may be issued from the ministry of commerce and industry banning the importation, sale or display for sale of the product unless it bears one or more statement of the above- mentioned items.

A decree of the ministry of commerce and industry shall define the manner of putting these statements on the products and the likely alternative procedures in case of unfeasibility of doing so. These statements shall be written in Arabic.

### **Part three**

#### **Protection against Unfair Competition and Protection of Trade Secrets**

##### **Article 33**

Natural and Juridical persons are prohibited from engaging in any competitive practices in violation of the fair practices of industry and commerce. This prohibition specially includes:

- a. Practices, which may lead to confusion with another establishment, goods or services when engaging in any industrial or commercial activity.
- b. Allegation without justification and contrary to truth against any commercial or industrial product for the purpose of harming the reputation, goodwill or the trust in the said product.
- c. Use of statements or allegations when practicing any industrial or commercial activity which lead to misleading the public as regard the distinctive characteristics of goods or services.

##### **Article 34**

Natural and Juridical persons are prohibited from disclosure of commercial secrets, which they have in their possession in a manner, which is incompatible with fair conduct of trade. A trade or industrial activity is considered a secret if its nature is unknown, if its commercial value stems from being a secret, if reasonable measures were taken to keep it a secret or if it is not easy for a person with ordinary knowledge in this field to achieve this knowledge.

It is considered as divulson of commercial data, making use of the data of tests or other secret data which is filed at the competent authorities in order of obtain the marketing authorization needed for the pharmaceutical preparations or agricultural products containing new chemicals, if considerable effort has been made to order to attain these products.

### **Part four**

#### **Penalties**

##### **Article 35**

Punishment by imprisonment for a period not exceeding two years and a fine not exceeding two thousand Omani riyals or either of the two penalties shall be imposed on:

- a. Everyone who counterfeits a lawfully registered mark or imitated it in such a manner as to deceive the public or mala fide uses a counterfeit or imitated trademark.
- b. Everyone who sells or offers for sale or circulation or posses for the purpose of sale products bearing a counterfeit mark, an imitated mark or unlawfully placed mark while knowing of this fact.
- c. Everyone who uses with bad intent a mark, which is identical or similar to a degree, which causes confusion to a well-known, registered or unregistered mark. In case the well-known mark is not registered the goods or services must be identical or similar.
- d. Everyone who violates with bad intent the rules regarding trade data.
- e. Everyone who intentionally violates rules regarding unfair competition and the protection of trade secrets.

##### **Article 36**

The proprietor of the mark may, at any time, even before instituting any commercial or criminal action, apply for and receive based on a petition supported by an official certificate testifying to the registration of the mark, an injunction from the president of the commercial court to effect the needed

precautionary procedures, specially seizure of instruments or any apparatus being used or was used to commit the offences as well as products, goods, signboards, packaging, paper etc on which the mark or the data, subject of the offence may have been put.

The same seizure may be effected when the goods are imported from abroad. The injunction may include delegating one expert or more to help those effecting the seizure in their work as well as obligating the petitioner to place bail.

#### **Article 37**

The seizure procedure mentioned in the previous article is considered void if not followed within eight days from the enforcement of the seizure by filing a compensation lawsuit or informing the public prosecution against whom this seizure procedure was effected.

#### **Article 38**

The competent court may in any civil or criminal action, issue and order for the confiscation of seized things or which may be seized later for the deduction of their price from the awarded damages or the imposed fines or for the disposal thereof in any other manner the court sees fit.

It may as well order the destruction of the unlawful marks or where necessary order the destruction of the products, the envelopes, the packaging apparatus, the signboards, the catalogues or other things which bear these mark or illegal data as well as the destruction of instruments and materials used particularly in the counterfeit process. The court may issue an order for all the above-mentioned actions even in the case of acquittal.

The court may order that the ruling be published in the official gazette at the expense of convicted.

#### **Part five**

#### **Concluding provisions**

#### **Article 39**

Natural or Juridical persons whether or not they have industrial or commercial capacity, who undertake the control or examination of special products or services with respect to their source, constituent elements, method of manufacturing, performance, qualities, nature or any other peculiarities may be authorized to register a mark devoted to signify the execution of the quality check or examination if the minister of commerce and industry deems that such authorization is in the public interest.

#### **Article 40**

The bylaw of this law shall provide provisions insuring the temporary protection needed for the marks to be put on products or goods to be displayed in national or international exhibitions to be held in Oman or any other country, which offers reciprocal treatment to Oman. These exhibitions shall be specified by a special decree issued by the minister of commerce and industry.

#### **Article 41**

Under this law the provisions of the multilateral and bilateral conventions and agreements which Oman is a party to or will be a party to in the future and which organize the rights of the citizen of countries which are parties to such conventions and agreement or persons which are treated as citizens of such countries with respect to trademarks and trade data, are considered in effect and applicable.

#### **Article 42**

Foreigners shall have the same rights guaranteed by this law to the citizens of the Sultanate of Oman provided they are citizens or residents of countries that offer reciprocal treatment to the citizens of Sultanate of Oman.

## **Article 43**

The bylaw shall establish the detailed provisions of this law and in particular the following:

- a. Organization of the control of trademarks registration and the manner of keeping registers and archives of such marks.
- b. The measures, conditions, and deadlines concerning the registration procedures.
- c. The classification of all goods, for the registrations purposes, into classes according to their type or category.
- d. The fees payable on copies, certificates, the different jobs and endorsements provided for in this law for each one of the procedures of implementing the law.

## **Article 44**

The employees specified by a decree of the minister of commerce and industry shall have the right of inspection and supervision as it relates to the implementation of this law.

They are authorized to effect the procedures specified for them by the bylaw.

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## **Sultani Decree No. 40/2000 The law of Protection of Geographical Data (indications)**

Sultani Decree No. 40/2000  
For issuing the law of protection of geographical data (indications)

We Kabous Bn Said, Sultan of Oman  
after reviewing the public order law issued by the Sultani Decree No. 101/96  
and according to what the public interest necessitates  
Decreed what follows:

Article 1: The rules of the enclosed law of the protection of geographical data (indications) shall be put into effect.

Article 2: The minister of Commerce and industry shall issue the bylaws and regulations needed to implement the rules of this law.

Article 3: This decree shall be published in the official gazette and shall take effect from its publication date.

Kabous Bn Said  
Sultan of Oman  
Issued: 17th of Safar 1421 A.H  
21th of May 2000 A.D  
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## **The Law of Protection of Geographical Data (Indications)**

### **Article 1**

In applying the rules of this law, a geographical data (indication) is what distinguishes one commodity from another as to its origin and geographical environment in any country, region or location. The natural or human factor or either contribute to the determination of this data.

### **Article 2**

The competent authorities, natural persons or interested groups of producers or consumers of any natural, agricultural, industrial, or handicraft products which have distinctive characteristics or reputation due to its geographical origin and those who trade in them have the right to enjoy the protection afforded by this law.

### **Article 3**

- a. The geographical data (indication) enjoys the protection afforded by this law whether or not it been registered. In case registration is sought, this is done in the special register of the geographical data (indications) at the competent department at the ministry of commerce and industry. The bylaw shall specify the procedure of filing, examination, registration and publication of the application as well as the required fees.
- b. Protection is also granted against geographical indications, which although they are literally correct about territory, region, location or place of origin of goods, they falsely give the impression that the goods originated at another territory.
- c. In case of geographic data (indications) containing similar names, protection is given to each data (indication) taking into consideration the rules of paragraph (B). In case of simultaneous permitted use of such data (indications) the director of the competent department at the ministry of commerce and industry shall specify the practical conditions by which differentiation is achieved among data (indications) of similar names taking into consideration the need to ensure treating the concerned producers fairly as well as ensuring not to mislead the consumers.
- d. Producers, who carry out their activities only in the geographical territory specified in the register, shall have the right to use a geographical indication registered in the field of commerce with respect to the products specified in the register, provided that these goods satisfy the qualities, reputation or other characteristics specified in the register.

### **Article 4**

The established protection is not enjoyed by:

- a. Geographical data (indications), which do not satisfy the definition contained in article (1).
- b. Geographical data (indications), which violate morality or public order.
- c. Geographical data (indications) which are not protected or which has become unprotected in the country of origin or which is not effectively used in that country.

### **Article 5**

A commodity shall not be designated or displayed to the public in such a way as to suggest that its geographical origin is different than its true origin, which misleads the public or results in unfair competition. Examples are the use of untrue geographical data (indication) together with listing the current origin of the commodity or the use of the geographical date (indication) translated or accompanied with phases such as, style, type or imitation.

### **Article 6**

Any interested party may according the text of article (2) obtain an order from the head of the competent court or whoever he deputizes from the judges of the court to effect the precautionary procedures specially seizure of instruments, apparatus, products, envelopes or paper etc.

Action regarding the origin of the dispute must be brought to the competent circuit of the commercial court within fifteen days from the issuance date of the order, otherwise all effects of the adopted measure shall vanish.

### **Article 7**

Any person may review the register stipulated in article (3) of this law and may obtain extracts thereof according to the conditions and fees specified by the bylaw.

#### **Article 8**

The applicant for registration may complain against the rejection of his application before a committee to be formed by a decree from the minister. The bylaw shall specify the needed procedures. The decision of the committee may be appealed at the competent circle of the commercial court within sixty days from the notification date of the committee's decision through a registered letter.

#### **Article 9**

Any interested party may petition the competent circle of the commercial court for the cancellation of a geographical data (indication), if it is proven that it is intrinsically not worthy of protection according to article (4). It is also possible to request correction of the geographical data (indication) to conform to reality and truth according to the procedures specified by the bylaw.

#### **Article 10**

Previous continuous usage in Oman of a geographical data of a certain country is considered lawful use, if the usage took place in good faith and for a sufficient period of time before this law took effect. This applies also to trademarks, which are identical or similar to geographical indications, which were registered in good faith.

#### **Article 11**

Every person who intentionally commits any of the acts listed in article (5) of this law shall be punished by imprisonment for a period not exceeding two years and a fine not exceeding two thousand Omani Riyal or either of the two penalties.

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### **Sultani Decree No. 68/1987** **The Law of Trademarks & Trade Indications**

Pursuant to Sultani Decree No. 68/1987, the Omani legislator regulates the protection of marks and trade indications in 41 Articles. Articles 1-25 include the defining of the true nature of the trademarks, their registration procedures, appeal and objection on the disputes concerning these marks as well as their renewal and deletion. Whereas Articles from 26-30 regulate the trade designations and the articles from 31-41 regulates the penalties on those who commit one of the trademark offences as well as the competent court's decision and the appeal. Then finally come the final and the transitional provisions which are necessary for the implementation to the law as well as the officials who are responsible for implementing its provisions.

#### **Part I**

#### **Trade Marks and their Registration Procedures**

#### **Section I**

#### **Trademarks**

#### **Article 1**

The trademark is any distinguished words, signatures, letters, numbers, drawings, symbols, titles, stamps, pictures, paintings or any other mark or a group of these used or intended to be used to distinguish goods, products or services to indicate that they belong to the owner of the mark for reasons of their manufacture, choice, trading in them or offering them for sale.

## **Article 2**

The following may not be a trademark and may not be registered as such:

- a. Marks devoid of any distinguished feature or marks made up of statements which are only names used commonly for goods, products, familiar drawings or ordinary pictures of goods and products.
- b. Any expression, drawing or mark which runs counter to morals or contravenes the law.
- c. General logos, banners or other symbols of the state or of international organizations or of any of the states with which Oman has a dealing of reciprocity and also the marks which imitate them.
- d. Symbols of the Red Cross and the Red Crescent or other similar symbols and also the marks which imitate them.
- e. Marks conforming with or similar to the symbols bearing a sheer religious style.
- f. Geographical name if their use creates a confusion in respect to the source or origin of the merchandise.
- g. Name, title, picture or emblem of a third party unless he agrees on their use in advance.
- h. Statements concerning the degrees of honor, the legal entitlement of which is not proved by the applicant.
- i. Marks which may mislead the public or which contain erroneous statements about the source of the products or their other qualities and also the marks which contain an imaginary, imitated or forged trade name.
- j. Any mark for which the state decides that its use is unlawful pursuant to boycott or other provisions

## **Article 3**

Any person who wants to use a mark to distinguish a merchandise produced or selected by him, shall seek its registration in accordance with the provisions of this law if he is trading in it, offering it for sale or is intending to do so.

## **Article 4**

A person who has a trademark registered shall be considered its exclusive owner. The ownership of the mark may not be questioned if it is used by the person registering it, continuously for at least five years from the date of registration without a suit having been filed in respect to its accuracy.

## **Section II**

### **Registration Procedures**

## **Article 5**

A Register shall be prepared at the Department of Agencies and Trademarks, Ministry of Commerce and Industry to be called "Trademarks Register". In it shall be entered all the marks, the names and addresses of their owners, the particulars of their goods and the transfers or relinquishments made in respect to such marks. The public shall have the right to go through this register and obtain an attested copy after paying the prescribed fees, as specified in the implementing regulations.

## **Article 6**

The head of this department shall have the authority of registrar according to provisions hereunder.

## **Article 7**

The application for the registration of mark shall be submitted to the Department of Agencies and Trademarks in accordance with the terms and conditions specified in the executive regulation.

## **Article 8**

The mark shall only be registered for one or more categories of the products specified by the implementing regulations.

## **Article 9**

If two or more persons simultaneously seek the registration of the same mark or of similar or nearly similar marks for one category of products, the registrar shall suspend all the applications until the

opponents submit approved condescension in favor of one of them or a final judgment is issued in his favor by the Authority for the Settlement of Commercial Disputes.

#### **Article 10**

The registrar may, impose whatever restrictions he deems necessary or may make amendments to determine and explain the trademark in a way that prevents its being confused with another mark, already registered or for any other reason he considers appropriate.

#### **Article 11**

Should the registrar reject the trademark or impose restrictions or amendments on the registration, he shall convey the reasons for his decision to the applicant in writing.

#### **Article 12**

Any decision, issued by the registrar rejecting the registration or withholding it on a particular condition may be appealed by the applicant to the Authority for the Settlement of Commercial Disputes within thirty days of the date of his notification of the decision. The Authority may support, cancel or amend the decision. If the applicant does not appeal against the decision within the specified time or does not carry out the restrictions imposed by the registrar within such a period, he shall be deemed to have abandoned his application.

#### **Article 13**

If the registrar accepts the trademark, he shall, prior to its registration, advertise it in three consecutive issues of the Official Gazette and in a daily newspaper published in the Sultanate. All concerned parties may, within thirty days of the last announcement, submit to the registrar a written objection to the registration. The registrar shall provide the applicant with a copy of the objection. The applicant shall submit to the registrar a written reply to the objection within thirty days. If the reply does not reach within the period specified above, the applicant shall be deemed to have abandoned his application.

#### **Article 14**

The registrar shall decide on the objection after hearing the two parties or one of them, if so required. The registrar shall issue a decision accepting the registration or reflecting it. In the first case, he shall fix the restrictions he deems necessary. All concerned parties may appeal the decision to the Authority for the Settlement of Commercial Disputes within a period of ten days from the date of their notification of it. The Authority may support, cancel or amend the decision. The registrar may, despite the objection, issue a decision, explaining, explaining reasons to continue with the registration of the trademark, if he considers that opposition to the registration is not based on any serious reasons.

#### **Article 15**

If the mark is registered, the registration shall be in force in retroactive effect from the date of submission of application and the owner of the mark shall be given, soon after the registration is completed, a certificate containing the following statements is issued:

- (a) The serial No. of the mark.
- (b) Date of application and date of registration.
- (c) Name of owner of the mark, his title, the place of residence and his nationality.
- (d) An exact copy of the mark.
- (e) Statement of the goods or products with the mark is concerned.

#### **Article 16**

The owner of the mark already registered shall submit an application to the registrar to make any additions or amendments to his mark, which do not make any vital change to its features. The registrar's decision in these regard shall be issued in accordance with the conditions set for the decisions related with the original registration applications. It shall be appeal able through the same methods.

## **Section 3**

### **Renewal & Deletion**

#### **Article 17**

The period of protection resulting from the registration of the mark shall be for ten years. The person entitled to it shall ensure the continuation of protection for another period if he submits an application for renewal during the last year under the terms and conditions provided for in Article (7). During the month following the expiry of the protection period, the registrar shall notify the owner of the mark in writing about the expiry of its period on his address entered in the register. If the three months following the date of the expiry of the protection period pass without the owner of the mark submitting the renewal application, the registrar shall delete the mark from the register on his own.

#### **Article 18**

Notwithstanding the provisions of Article (4), the registrar and other concerned parties shall have the right to seek judgment for the deletion of marks which have been registered unlawfully. The registrar shall delete the registration if provided with a judgment to this effect from the Authority for Settlement of Commercial Disputes. The Authority may at the request of the registrar or of the concerned party rule the addition of any statement to the Registrar, the entry of which might have been missed or the omission or amendment of any statement included in the register, if it is entered unlawfully or if it is not in conformity with the reality. The registrar shall decide on the deletion of the marks, the deletion of which is provided for in the boycott regulations.

#### **Article 19**

The Authority for Settlement of Commercial Disputes may, at the request of a concerned party, order the deletion of the registration if it is proved that the mark has not been used seriously for five consecutive years unless the owner of the mark submits the justification for not using it.

#### **Article 20**

The deletion or renewal of the registration shall be published in the official Gazette and in a daily newspaper published in the Sultanate.

#### **Article 21**

If the registration of the mark is deleted, it can only be re-registered for a third party for the same products after three years from the date of deletion.

#### **Article 22**

The ownership of the mark may not be transferred, mortgaged or withheld unless it is done together with the trade or the utilized project using the mark to distinguish products.

#### **Article 23**

The Transfer of the ownership of the trademark or the utilized project shall include the marks registered in the name of the transfer of the ownership which may be regarded as having a strong link with the trade or the utilized project unless otherwise is agreed. If the ownership of the trade or a utilized project is transferred without the mark, the transfer of the ownership may continue with the manufacture of the same products for which, or for trading in which, the mark has been registered unless otherwise is agreed.

#### **Article 24**

The transfer of the mark or its mortgage shall not be an evidence against a third party unless indicated in the register and advertised in the Official Gazette.

## **Part II**

### **Trade Indications**

#### **Article 25**

Any explanation related directly or indirectly with the following shall be considered a trade indication.

- a. (a) Number of goods, their amounts, measurement, size, weight or capacity.
- b. (b) The place or the country where the goods were manufactured or produced.
- c. (c) Method of their manufacture or production.
- d. (d) Components included in its formation.
- e. (e) Name or description of the producer or manufacturer.
- f. (f) Having invention patents or other industrial ownership rights or any privileges, prizes or commercial or industrial characteristics.
- g. (g) Names or shapes by which some goods are generally known or valued.

#### **Article 26**

The trade indications must be in conformity with the reality from all aspects, whether given on the products themselves or on the shops, stores, their titles, covers, lists, letters, advertisements or any other thing used for offering the goods to the public.

#### **Article 27**

The name of the seller or his title may not be put on the products coming from countries other than those, where the sale takes place, unless accompanied by an exact, clearly worded statement about the country or the place where they were manufactured or produced. Persons staying at a place reputed for the production or manufacture of certain products, who are trading in similar products coming from other places, shall not put on them their marks if they are liable to mislead the public about the source of such products, even if the marks do not include the names or titles of such persons, unless arrangements have been made to prevent any confusion.

#### **Article 28**

The manufacturer shall not use the name of the place in which he has a principal of products manufactured for him at another place, unless such a name is accompanied by a mention of the latter place in a manner that prevents all confusion.

#### **Article 29**

Mention shall not be made of prizes, medals, diplomas or honorary degrees of any kind except in respect to the products on which these characteristics are applicable, in respect to the persons and commercial titles to whom their rights are granted or reverted, provided this includes an accurate statement of their date and kind and of the exhibitions or competitions in which they were granted. A person who offers his products in partnership with others may not use for his own products the characteristics granted to joint exhibits unless he specifies the source and kind of these characteristics in a clear cut manner.

#### **Article 30**

If the amount of the products, their measurements, size, capacity, weight, source and components included in their formation are among the factors taken due account in of the assessment of their value, a decision from the Ministry of Commerce and Industry shall prohibit the import of such products, their sale or their offering for sale, unless they bear or make such statements. A decision from the Minister or Commerce and Industry shall specify how to put the statements on the products and the substitute procedures if it is not possible to do so. These statements must be in Arabic.

## **Part III**

### **Penalties**

#### **Article 31**

The following persons shall be punishable with imprisonment for a term not exceeding three years and shall be liable to a fine not exceeding 500 Omani Riyals or one of the two penalties.

(a) A person who forges a mark, registered in accordance with the law or imitates it in a way designed to mislead the public and a person who used a forged or imitated mark with an ill intention.

(b) A person who knowingly sells, offers for sale or circulation or possesses with the intention of selling products bearing a forged, imitated or unlawfully prepared mark.

(c) A person who, with an ill intention, violates the provisions concerned with the trade indication, a judgment may be issued for the closure of the shop in which the violation takes place for a period not exceeding three months. The Ministry of Commerce and Industry may order the administrative closure pending the settlement of the case.

#### **Article 32**

The owner of the mark, at any time, even if it is prior to the filing of a trade or penal case, shall on the basis of an application accompanied by an official certificate implies the registration of a mark, seek the issuance of an order from the chairman of the Authority for Settlement of Commercial Disputes for taking the necessary preventative measures particularly the distraint of machinery or any instruments which are or might be given used to commit crime as also the products, goods, titles of the shops, covers, papers and other things on which the mark or indication subject of the crime, might have been placed. Such a distraint may be effected at the time of the import of the goods from abroad. The order, issued by the chairman of the Authority may include the assigning of one or more experts to assist the distrainer in his job and making it incumbent upon the applicant to submit a bond.

#### **Article 33**

The distraint measures provided for in the previous Article shall be the considered null and void if not followed, within eight days from the imposition of the distraint, by the filing of a compensation case or the notification of the concerned penal prosecution officer about the person against whom these measures have been taken.

#### **Article 34**

The concerned court shall, in any trade or penal case, decree the confiscation of the distrained articles or the articles to be distrained later to deduct their value from the compensations or fines, or to dispose them by any other means the court may deem appropriate. The court may also order the destruction of illegal marks and may, if needed, order the destruction of the products, covers, packing equipment, titles of the shops, catalogues and other items bearing these marks or bearing illegal data and also the destruction of the machinery and the equipment used specially for the purpose of forgery. It may order all the aforementioned measures even in the case of an acquittal sentence.

The court may order the publication of the judgment in the Official Gazette at the expense of the judgment debtor.

## **Part IV**

### **Final & Transitional Provisions**

#### **Article 35**

Natural or juristic persons, whether having an industrial or commercial status or not, who are in charge of monitoring or examining specified products in respect to their source, the components of their formation, the method of their manufacture, their features, reality or any other characteristics of theirs, shall be authorized to register a specified mark in order to provide evidence for carrying our monitoring or examination if the Minister of Commerce and Industry considers that such authorization is in the interest of the general public. The registration of such mark shall lead to all the repercussions provided for in this law.

However, its ownership may only be transferred by a special authorization from the Minister of Commerce and Industry.

**Article 36**

The executive regulation of this law shall contain the provisions guaranteeing the provisional protection for the marks placed on products or goods displayed at natural or international exhibitions staged in Oman or in a country with which Oman has dealings of reciprocity. Such exhibitions shall be specified in a decision issued by the Minister of Commerce and Industry.

**Article 37**

The marks which are in use at the beginning of the enforcement of this law shall have to be registered within two years as from this date and shall be considered to have been registered as from the date of the, beginning of the enforcement of this law according to Article 4.

However, the period of ten years mentioned in Article 17 shall only start from the date of submitting the registration application.

**Article 38**

The provisions of multilateral and unilateral international treaties and agreements, to which Oman is, or may subsequently become, a party and which regulate the rights of the nationals of the countries which are parties to such treaties and agreements or of persons treated as such in respect to trademark and trade indications, shall be considered to be in force and be applicable by virtue of this law.

**Article 39**

The foreigners shall have the rights similar to those guaranteed by this law for the nationals of the Sultanate of Oman, provided they are nationals of the countries which have reciprocity with the Sultanate of Oman.

**Article 40**

The Ministry of Commerce and Industry shall issue the implementing regulations for the provisions of this law, explaining detailed provisions, particularly the following:

- (1) Regulating of the controlling of the registration of marks and maintaining of registers and files related therewith.
- (2) Terms, conditions and the dates related with the registration formalities.
- (3) Classification of all the products, for the purpose of registration, into categories on the basis of their kind and nature.
- (4) Fees for the delivery of copies and certificates and the different actions and approvals provided for in this law, provided they do not exceed 25 Omani Riyals for each of the formalities for the implementation of this law.

**Article 41**

Employees, appointed by a decision of the Minister of Commerce and Industry, shall have the right to make inspections and observations in implementation of the provisions of this law. They shall take the incesures specified for them in the executive regulation.