



Setting Up a Business in Abu Dhabi

LAWS REGULATING THE PRACTICE OF ECONOMIC & BUSINESS ACTIVITIES IN ABU DHABI

Article 23 of federal law No.18 of 1993 concerning Commercial dealing provided that:

- “It shall not be permissible for non-UAE nationals to run business unless upon joining a partner or partners holding the UAE nationality in accordance with the terms of, and within the limits specified in the Commercial Company law”.
- With reference to the aforesaid Federal Law No.8 of 1984 and the amending laws thereof ,Article 22 provided as follows:
- “ Observing that Commercial activities are confined to nationals as provided in this law or in any other law, every company incorporated in the state must have one or more national partner whose share must not be less than 51% of the company capital”.
- Article 5 of the said law defined seven types of companies which are (General Partnership, Simple limited Partnership, Joint Participation (“Venture”), Public Joint Stock, private Joint Stock, Limited Liability Company, Partnership Limited with shares).
- Article of 314 of the UAE Company Law also granted foreign companies the right of establishing branches or offices in the country, providing that such a branch or office must have a national services agent. If the agent is a company, it must be a national company in which all partners should be nationals.
- The agents obligations towards the company should, however be confined to rendering necessary services to the company in respect of getting required Licenses without sharing in the capital or management, and without bearing any losses or obligations.
- Article 92 of the UAE Civil Code defined legal entities in such a way that included all associations and enterprises incorporated according to the provisions of the Law.
- Trade License Law No. 5 of 1998 and the amending Laws thereof, also provided that except those exempted by one Ruler, it shall not be permissible for any person to practice any business activity unless upon acquiring the required License, as it is determined.
- Article 13 of Law No. 7 of 1998 concerning Abu Dhabi Chamber of Commerce & Industry provided that those national or foreign individuals; companies or enterprises practicing business; industrial; financial; or contracting activities within the Emirate, or those having branches or offices to practice permanent or temporary activity shall have to join the Chamber.
- It is understood from the sense of all these provisions that it is a must for any natural or legal person ,whether he is national or foreign investor to acquire a license allowing him to practice requested economic activity

A. TYPES OF LICENSES IN ABU DHABI AND APPERTAINING REQUIRED DOCUMENTS:

- **NATIONAL PROPRIETORSHIP (100% NATIONAL):**

1. Selection and approval of trade name (Chamber approval).

2. Lease contract involving the headquarters through which the activity is intended to be practiced.
 3. Passport photocopy plus personal photograph of the national owner.
 4. Definition of activity (Commercial: professional or vocational).
 5. Acquiring competent authority approval whenever required for certain activities.
 6. Completed application forms prepared for the purpose by the Municipality; Commercial Register and Chamber Membership Department.
- **COMMERCIAL COMPANIES (51% MINIMUM NATIONAL SHARE):**
 1. Getting the selected trade name approved in accordance with the requirements provided in the commercial Company Law (Chamber approval).
 2. Partnership agreement duly authenticated by the Notary public. National(s) share should not be less than 51%). This will be without any prejudice to other provisions and requirements provided in the Commercial Company Law, in respect of the Company type or legal status.
 3. Lease contract involving the headquarters through which the activity is intended to be practiced
 4. Passport photocopy plus personal photograph of each partner.
 5. Definition of required activity. Getting it approved by respective competent authority, whenever required for certain types of activities.
 6. Bank certificate, certifying that the company capital has been already paid-up at one of the banks operating in the Emirate, along with a statement showing the cash shares of partners.
 7. Completed application forms prepared for the purpose by the Municipality; commercial Register and Chamber Membership Department.
 8. Registration of the partnership agreement at the Ministry of Economy & Commerce
 - **FOREIGN COMPANY BRANCHES:**
 1. Adopting the same mother Company's name for the branch in Abu Dhabi (Chamber approval).
 2. Detailed statement on the activity required to be practiced by the branch. Getting it approved by respective competent authority whenever required for certain activities, with consideration to that the branch activity must be among those practiced by the mother foreign company.
 3. Contract agreement with a services agent holding the UAE nationality. The agreement must be duly authenticated by the Notary Public.
 4. Submission of a duly attested "Undertaking" issued by the mother country pledging to bear any financial liabilities on behalf of its branches in the UAE.
 5. Duly attested decision taken by the concerned administrative body at the mother Company confirming willingness to open a branch in Abu Dhabi.
 6. Duly attested official certificate issued by the competent authority at the country in which the foreign company is registered. The certificate must state for the company registration; legal status; capital; names; capacities and powers of its representatives.
 7. Duly attested facsimiles of the mother company's letter of incorporation and articles of association.
 8. Latest duly attested couple of balance sheets accredited by the mother company, along with auditor report: profit/loss accounts and other balance sheet-related explanations.

9. Statement, showing main operations and activities practiced by the foreign company outside the UAE, and accounting for its previously accumulated experiences.
10. Duly attested power of attorney in favor of the Company's representative in Abu Dhabi, along with his passport photocopy and personal photocopy.
11. Passport photocopy and personal photograph of the national services agent if he is a natural person. In case he is a legal entity, an official certificate confirming that all partners are UAE nationality holders should be attached along with copies of issued licenses.
12. Statement showing the number of employees expected to be recruited in the company branch in Abu Dhabi.
13. The branch capital amount that was mentioned in the national services agent agreement must not be less than Dhs. **250,000**
14. All documents should be translated into Arabic by an authorized legal translator and duly attested by the UAE Ministry of Justice.

B. APPOINTMENT OF COMMERCIAL AGENT (EXCLUSIVE DISTRIBUTOR):

Foreign companies unwilling to come to Abu Dhabi to acquire License, yet interested in finding access to the UAE markets or seeking to offer their services, may appoint a commercial agent in accordance with the provisions of Federal Law No.18 of 1981 concerning the organization of commercial agencies and amending Law No. 14 of 1988. Such agent may promote the foreign company product and services by means of exclusive sale or distribution within the specified territory of the agency. This can be done by virtue of a relevant agreement which should be duly registered at the Ministry of Economy & Commerce.

However, foreign companies may have one agent to cover the whole UAE territories or one agent in each Emirate.

GENERAL PROCEDURES FOR ACQUIRING LICENSES
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1. Applicant may approach the Abu Dhabi Municipality Department once the required trade name is duly approved by Abu Dhabi Chamber of Commerce & Industry. A special application form should be completed, then attached to other documents.
2. The Abu Dhabi Municipality Licensing committee, thereafter reviews application and supporting documents and determines whether a submitted application requires approval of competent authority. In such a case, the application is referred to the respective competent authority for approval. Applicant should approach the involved competent authority to see whether further documents or certain explanations are still required.
3. Once being approved by respective competent authority and the Municipality, the application is referred by the Municipality which addresses the Chamber for approval and issuance of membership certificate.
4. According to the Municipality letter addressed to the Chamber, the applicant in question should visit the Chamber office in order to sign a membership application form to which copies of all documents submitted to the Municipality should be attached.
5. Once the Chamber Membership Certificate is issued, the applicant should go back to the Municipality requesting registration in the commercial Registration and Municipality License which is not finally acquired unless upon fields visit to the applicant premises and fulfillment of all terms and conditions relating to advertising;

safety and health requirements in accordance with the rules and regulations applied by Abu Dhabi Municipality.

6. In case the applicant is a commercial company, the Municipality shall refer the application to the Ministry of Economy & Commerce after acquired the Chamber Membership Certificate. At the Ministry, relevant procedures required for registration of the company's incorporation are to be completed.
7. In case the applicant is a foreign company branch, he shall have to submit an application, attached to all documents mentioned under "TYPES OF LICENSES" (foreign companies branch) hereinbefore, to the Ministry of Economy & Commerce. The Ministry in cooperation with the Municipality and the Chamber, presents the application before the esteemed Executive Council in Abu Dhabi seeking required approval.
8. Municipality License should be annually renewed.
9. Once the Municipality License is issued, applicant should approach the Ministry of Labor to open a special "Company Card" and apply for required Labour force. The Department of Naturalization & Residence to get required permits.

ACTIVITIES REQUIRING APPROVAL BY COMPETENT AUTHORITIES

There are some activities which require approval from competent authorities such as: Executive Council, Ministry of Interior, etc...

أولاً: القوانين المنظمة لممارسة النشاط التجاري في إمارة أبوظبي

نصت المادة (23) من القانون الاتحادي رقم (18) لسنة 1993 بشأن المعاملات التجارية على:

- لا يجوز لغير مواطني الدولة الاشتغال بالتجارة إلا إذا كان له شريك أو شركاء من مواطني الدولة وفقاً للشروط و في الحدود التي ينص عليها قانون الشركات التجارية رقم (8) لسنة 1984.
- وبالرجوع إلى قانون الشركات التجارية رقم (8) لسنة 1984 و تعديلها نجد أن المادة (22) نصت على: بمراعاة الأنشطة التجارية المقصورة على المواطنين التي ينص عليها هذا القانون أو أي قانون آخر يجب أن يكون في كل شركة تؤسس في الدولة شريك أو أكثر من المواطنين لا تقل حصته عن 51% من رأس مال الشركة.
- وحددت المادة (5) من قانون الشركات أشكال الشركات التجارية المصرح بها و هي (التضامن- ذات المسؤولية المحدودة -التوصية البسيطة- المساهمة العامة- التوصية بالأسم- المساهمة الخاصة- المحاصة). كذلك منحت المادة (314) من قانون الشركات الإماراتي-الشركات الأجنبية المؤسسة خارج الدولة حق فتح فروع أو مكاتب لها بالدولة شرط أن يكون لهذا الفرع أو المكتب وكيل خدمات من مواطني الدولة فإذا كان الوكيل شركة فيجب أن يكون جميع الشركاء فيها من المواطنين، و تقتصر التزامات الوكيل المواطن على تقديم الخدمات الإدارية للحصول على تراخيص الفرع أو المكتب دون أن يساهم في رأس المال أو الإدارة أو تحمل أية خسائر أو التزامات.
- كما نصت المادة (10) من قانون التراخيص في إمارة أبوظبي رقم (5) لسنة 1998 على أنه لا يجوز لأي شخص طبيعي أو معنوي مزاوله أي نشاط قبل الحصول على ترخيص بذلك من السلطة المختصة و يستثنى من ذلك الشركات و المؤسسات العامة أو الخاصة التي يصدر بشأنها قانون أو مرسوم أميري أو قرار من المجلس التنفيذي و يجوز الترخيص بفتح فرع أو أكثر للشركة أو المؤسسة كما يجوز بموافقة السلطة المختصة الترخيص بفتح فروع داخل الإمارة للشركات و المؤسسات العاملة في إمارات الدولة الأخرى.
- كما نصت المادة (13) من القانون رقم (7) لسنة 1998 في شأن غرفة تجارة و صناعة أبوظبي على أنه يجب على المواطنين و الأجانب الذين يمارسون نشاطاً تجارياً أ صناعياً أو مهنياً أو حرفياً داخل الإمارة سواء كانوا شركات أو مؤسسات أو فروع الإنضمام إلى الغرفة و الحصول على عضويتها.

يستفاد من جملة النصوص أنه لا بد لأي شخص طبيعي أو معنوي أن يحصل على ترخيص لممارسة أي نشاط اقتصادي يرغب في القيام به سواء كان مواطناً أو مستثمراً أجنبياً.

أشكال التراخيص:

- **مؤسسة وطنية فردية (100% مملوكة من مواطن) ، الإجراءات:**
 1. اختيار و اعتماد الاسم التجاري (موافقة الغرفة).
 2. تقديم عقد إيجار لمقر المؤسسة المنوي مزاوله النشاط من خلاله.
 3. صور جواز سفر المواطن + صورة شخصية.
 4. تحديد النشاط (زراعي-صناعي-تجاري-مهني-حرفي)
 5. الحصول على موافقة الجهات صاحبة العلاقة في حالة أن النشاط المطلوب يتطلب ذلك.
 6. تعبئة طلبات البلدية و السجل التجاري و عضوية الغرفة.
- **الشركات التجارية التي لا تزيد نسبة تملك الوافد فيها عن 49 %**
 1. اعتماد الاسم التجاري المختار وفقاً لمتطلبات قانون الشركات (موافقة الغرفة).
 2. عقد شراكة موثق أمام كاتب العدل (لاتقل مساهمة المواطن /المواطنين فيه عن 51% في حالة المشاركة مع وافد) مع مراعاة باقي أحكام و متطلبات قانون الشركات التجارية طبقاً لشكل الشركة.
 3. عقد إيجار لمقر الشركة المنوي مزاوله النشاط من خلاله.
 4. صورة جوازات سفر الشركاء + صورة شخصية لكل شريك.
 5. تحديد النشاط المطلوب الحصول عليه و أخذ موافقة الجهات صاحبة العلاقة في حالة أن النشاط المطلوب يتطلب ذلك.
 6. شهادة بإيداع رأس مال الشركة في أحد البنوك العاملة في الإمارة، إذا كان شكل الشركة المختارة يتطلب ذلك.
 7. تعبئة طلبات البلدية و السجل التجاري و عضوية الغرفة.
 8. إشهار عقد الشراكة لدى وزارة الاقتصاد و التجارة.
- **فروع الشركات الأجنبية :**
 1. الحصول على موافقة على الاسم التجاري للفرع في أبوظبي (موافقة الغرفة)
 2. بيان مفصل بالنشاط الذي يرغب الفرع في مزاولته و أخذ موافقة الجهات صاحبة العلاقة في حالة أن النشاط يحتاج ذلك مع ملاحظة أن نشاط الفرع يجب أن يكون من ضمن أنشطة مركز الشركة الرئيسي.
 3. التعاقد مع وكيل خدمات مواطن بموجب عقد موثق أمام كاتب العدل.
 4. تقديم تعهد مصدق من الشركة الأم بتحمل أية التزامات مالية على فرعها في الدولة .
 5. قرار الهيئة الإدارية المختصة في الشركة الأم بفتح الفرع- بحيث يكون مصدقاً حسب الأصول.
 6. شهادة رسمية مصدقة حسب الأصول، من الجهات المختصة في الدولة المسجلة فيها الشركة الأجنبية تبين أنها مسجلة فيها مع بيان الشكل القانوني و رأس المال و أسماء ممثليها و صفاتهم و حدود سلطاتهم.
 7. صورة مصدقة طبق الأصل من عقد تأسيس أو نظام الشركة الأم الأساسي.
 8. آخر ميزانيتين معتمدين للشركة مع تقرير مراجع الحسابات و حساب الأرباح و الخسائر و الإيضاحات الخاصة بالميزانية بحيث تكون مصدقة حسب الأصول.
 9. بيان بأهم العمليات و الأنشطة التي تزاولها الشركة الأجنبية خارج الدولة و الخبرات السابقة لها.
 10. وكالة مصدقة لممثل الشركة في أبو ظبي – مع صورة جواز سفره و صورة شخصية .
 11. صورة جواز سفر وكيل الخدمات المواطن و صورة شخصية اذا كان الوكيل شخصاً طبيعياً، أما إذا كان الوكيل شخصاً اعتبارياً فترفق شهادة رسمية تثبت أن جميع الشركاء هم من مواطني الدولة مع صورة عن الرخص الصادرة.
 12. كشف بعدد العاملين المتوقع احتياجهم في فروع الشركة في أبو ظبي .
 13. يجب ألا يقل رأس مال الفرع المذكور باتفاقية تعيين و وكيل الخدمات المواطن عن 250000 درهم (مائتان و خمسون ألف درهم).
 14. جميع المستندات تترجم للغة العربية من قبل مترجم قانوني و مصدق عليها من وزارة العدل الإماراتية.

تعيين وكيل تجاري (موزع حصري):

يمكن للشركات الأجنبية غير الراغبة في الحضور إلى الدولة و الحصول على ترخيص و في نفس الوقت ترغب في تصريف منتجاتها داخل الدولة أو تقديم خدماتها بالقيام بتعيين وكيل تجاري وفقاً لقانون تنظيم الوكالات التجارية رقم (81) لسنة 1981 و تعديله رقم (14) لسنة 1988 ليقوم هذا الوكيل بمهمة تصريف منتجات الشركة الأجنبية أو خدماتها بالبيع أو التوزيع حصراً في داخل منطقة وكالته بالدولة و يتم هذا الأمر بموجب اتفاقية تعيين و وكيل تجاري يتم تسجيلها لدى وزارة الاقتصاد و التجارة و يمكن للشركات الأجنبية أن تعين وكيلاً واحداً لتغطية كافة أنحاء الدولة أو وكيلاً لكل إمارة.

ثانياً: الإجراءات العامة للحصول على الترخيص :

1. يتوجه طالب الترخيص لدائرة بلدية أبو ظبي بعد حصوله على اعتماد من غرفة تجارة و صناعة أبو ظبي على الاسم التجاري الذي اختاره لمشروعه لاستكمال استمارة طلب الحصول على ترخيص و يرفق معها المستندات السابق الإشارة إليها في باب أشكال التراخيص و المستندات المطلوبة الأخرى.
ملحوظة : يطلب من المستثمر الوافد إحضار موافقة من الجوازات للحصول على ترخيص.
 2. تقوم لجنة التراخيص ببلدية أبو ظبي بفحص الطلب و المستندات المرفقة به و النظر فيما إذا كان النشاط الذي يتضمنه الطلب يحتاج إلى موافقة جهات معينة، و في هذه الحالة يتم تحويل الطلب إلى الجهة المعنية المختصة للحصول على موافقتها بالسماح للطالب بمزاولة النشاط الذي يطلبه و على الطالب مراجعة الجهة المعنية المطلوب الحصول على موافقتها لتقديم أية مستندات أو إيضاحات لازمة لها.
 3. تقوم البلدية بعد موافقتها على الطلب و استلام موافقة الجهات المعنية في حالة ما إذا كانت هناك موافقة مطلوبة بإرسال الطالب مع كتاب موجه إلى غرفة أبو ظبي للحصول على عضويتها.
 4. يراجع الطالب غرفة أبو ظبي بموجب كتاب البلدية لتوقيع طلب الحصول على العضوية مرفقاً به صور من كافة المستندات التي قدمها للبلدية.
 5. بعد الحصول على عضوية غرفة أبو ظبي يراجع الطالب بلدية أبو ظبي للتقيد بالسجل التجاري و الحصول على ترخيص البلدية بالصور النهائية بعد الكشف على مقر الطالب و استيفائه لكافة شروط الإعلان و السلامة و الصحة وفقاً للقوانين والأنظمة المعمول بها لدى بلدية أبو ظبي.
 6. حالة طلب الترخيص لشركة تجارية تقوم البلدية بتحويل الطالب بعد حصوله على عضوية الغرفة إلى وزارة الاقتصاد والتجارة لإتمام إجراءات شهر عقد تأسيس الشركة بالوزارة.
 7. في حالة طلب الترخيص لفرع شركة أجنبية فيتوجب على الطالب تقديم طلب يحتوي على كافة المستندات السابق ذكرها في باب أشكال الترخيص (فروع الشركات الأجنبية) والمستندات المطلوبة إلى وزارة الاقتصاد والتجارة لتقوم هذه الأخيرة بالتعاون مع بلدية و غرفة أبو ظبي برفع الأمر للمجلس التنفيذي الموقر لإمارة أبو ظبي لأخذ موافقته بصفته السلطة المختصة بذلك.
 8. يتوجب تجديد ترخيص البلدية و عضوية الغرفة سنوياً، كما يجوز تجديده لمدة أكثر من ذلك.
- فور صدور ترخيص البلدية يتقدم الطالب إلى وزارة العمل والعمال لفتح بطاقة منشأة و طلب العمالة اللازمة و من ثم إدارة الجوازات و الجنسية للحصول على الإقامة بالنسبة للوافدين.

ثالثاً : أنشطة تحتاج ممارستها الحصول على موافقة جهات مختصة:

هناك بعض الأنشطة تحتاج الى موافقات مسبقة من الجهات المعنية مثل المجلس التنفيذي، وزارة الداخلية.



Law No. (5) of (1998) Concerning Issuance of Licenses in the Emirate of Abu Dhabi

H.H. Sheikh Khalifa Bin Zayed Al Nahyan
President of the United Arab Emirates

H.H. Gen. Sheikh Mohammed Bin Zayed Al Nahyan
Crown Prince of Abu Dhabi, Deputy Supreme Commander of UAE Armed Forces

Introduction

Starting out from its belief in the value of time and from its awareness of a fluent performance in companies and establishments based in the Emirate, the Abu Dhabi Chamber of Commerce & Industry is presenting to its dearest and esteemed members involved in business and industrial activities as well as to those having the intention to do so, the Law No. 5 of 1998 Concerning the Issuance of Licenses in the Emirate of Abu Dhabi, which comprises 21 articles. The aforementioned law has actually dealt with the different types of trading licenses and the terms of how to exercise professions, businesses or industrial activities in the Emirate of Abu Dhabi. It also dealt with the license individuality and the terms of associated renewals. It, further, dealt with how to amend a company's legal status and the relation of the company manager with government supervisors. Finally, the law provided for the penalties imposed in cases of contravention. As we put the said law ready at your hands, we do hope that it would be carefully read and executed. May God grant us success, because He alone is the success giver. With the compliments of the Abu Dhabi Chamber of Commerce and Industry.

**Law No. (5) of (1998)
Concerning
Issuance of Licenses in the
Emirate of Abu Dhabi**

We, Khalifa Bin Zayed Al Nahyan, Deputy Ruler of Abu Dhabi;

By the authority invested in us by the Ruler of Abu Dhabi;

Having reviewed Law No. (1) of 1974, Concerning the Re-organization of the Government Apparatus in the Emirate of Abu Dhabi, and the amending laws thereof;

The Law No. (2) of 1971, Concerning the National Consultative Council, and the amending laws thereof;

The Law No. (9) of 1969, Concerning Trading Licenses, and the amending laws thereof;

The Federal Law No. (5) of 1975, Concerning the Commercial Register;

The Law No. (6) of 1976, Concerning the Abu Dhabi Chamber of Commerce & Industry, and the amending laws thereof;

The Federal Law No. (3) of 1987 on the Issuance of the Penal Code;

The Federal Law No. (35) of 1992 on the Issuance of the Penal Procedures Code;

The Federal Law No. (18) of 1993, Concerning the Issuance of Commercial Dealings Law;

The Law No. (4) of 1994, Concerning the General Industry Corporation and the amending laws thereof;

And upon presentation by the Deputy Chairman of the Executive Council, Chairman of Al Ain Municipality & Town Planning Department and the Chairman of Abu Dhabi Municipality & Town Planning Department, as well as upon the assent of the Executive council thereof;

We, hereby enact the following law:

The Federal Law No. (18) of 1981, Concerning the Commercial Agencies, and the amending laws thereof;

The Federal Law No. (8) of 1984, Concerning Commercial Companies, and the amending laws thereof;

The Federal Law No. (5) of 1985 on the Issuance of the Civil Procedures Code, and the amending laws thereof;

**CHAPTER ONE
GENERAL PROVISIONS
ARTICLE (1)**

Licenses issued by the respective concerned authority shall be categorized as hereunder:

1. Agricultural; Fisheries & Animal Resources License.
2. Industrial License.
3. Commercial License.
4. Professional License.
5. Vocational License.

Executive administrative decisions shall, in implementation of this law, be issued to define the respective concerned authority in each region in the Emirate.

ARTICLE (2)

It shall not be permissible for any natural person or judicial entity to practice any activity or branch of activity of those mentioned in article (1) hereinbefore, unless upon acquiring relevant license from the concerned authority, and provided that he fulfills all the terms and conditions of the laws pertinent to the practice of his own activity.

- However, those public or private companies, corporations or establishments on which a law; an Ameer decree or a resolution may be issued by the Executive Council, shall be excluded from the provision of the previous clause.

accordance with the terms and conditions of the executive administrative decisions to be issued in implementation of this law.

- The concerned authority may, further, issue licenses on opening branches within the Emirate of Abu Dhabi for those companies or establishments operating in the various emirates of the U.A.E.

ARTICLE (3)

The validity period of an entry license shall be one year. However, it may be renewed for one, two, or three calendar years beginning from the date of issuance of the license.

ARTICLE (4)

- It shall not be permissible to lease a license. However, it may be assignable or saleable within the context of the involved trading shop assignment or sale.
- Inheritors shall subrogate their inherited licensee.

ARTICLE (5)

In cases of modifying the legal status of a company; a partner quitting and entering; a capital decrease; dissolution of a company and assignment or cancellation of an establishment license, the following

- Nevertheless, opening one branch or more of the company or establishment may be licensed in

application shall have to be submitted by all company partners or their representatives, or by an establishment owner or his representative.

2. The subject matter of application shall have to be announced once through an Arabic local daily newspaper at the applicant's expense.

In case of receiving no objection to the announcement within a week from the date of publication, the requested modification shall be effected once the fixed fees are duly paid up.

ARTICLE (6)

■ If an objection to the announcement mentioned in the article hereinbefore is submitted by an involved party, supporting documents denoting the seriousness of the objection shall have to be attached thereto. Such documents may either be an official copy of a final judicial judgment on a law-suit relating to the announcing company or establishment, or a certificate from the court of law certifying that a law-suit is already brought before a UAE court on a relevant case, or an order on an urgent precautionary measure issued, by one of the UAE courts concerned with urgent matters, against such a company or establishment or any of its parties for a reason relevant to its practiced activity.

■ Objection shall not be acknowledged in absence of the aforesaid supporting documents, or if it is made against one certain partner for a personal litigation

CHAPTER TWO

LICENSING OF COMPANIES

procedures shall be taken.

1. Approach the concerned authority requesting change or modification.
Relevant

having nothing to do with the activity of the involved company or establishment. In such cases, the concerned authority shall have the right to refuse the objection in question.

ARTICLE (7)

It shall be obligatory for an establishment owner licensee or for an authorized company manager to show the license upon request by the concerned department inspectors who shall also be allowed to have access to the facilities in question, so as to verify that only the licensed activity is duly practiced. However, an owner licensee can request to see the inspector's identity beforehand to make sure of his identity.

ARTICLE (8)

Companies and establishments practicing professional, technical and scientific activities, or any other activity of a special nature shall, prior to submission of application, have to acquire relevant approval by competent authorities having their own terms and conditions, regulating the practice of such requested activities.

However, renewal of a license, issued to permit such activities as those mentioned in the previous clause upon an earlier approval by a competent authority, may not require a fresh approval unless, the concerned authority is notified by the respective competent authority requesting suspension of its permission or non renewal of the license in question.

may be licensed to practice simple professional and vocational activities which shall be determined by the concerned authority under the following terms:

ARTICLE (9)

The concerned authority shall be responsible with license issuance for companies, as well as for the activities of general trading and representation of companies, in accordance with the licensing terms and conditions provided in the executive administrative decisions issued in implementation of the law herein.

However, this shall be made with consideration to the necessity for acquiring prior approval from the Executive Council as regards certain types of commercial companies which shall be specified upon a decision to be taken by the Council itself.

CHAPTER THREE

LICENSING OF ESTABLISHMENTS

ARTICLE (10)

An Establishment is defined to be an individual proprietorship, i.e. owned by a single natural person. Such establishments shall be licensed for UAE nationals, in accordance with the licensing terms and conditions specified in this law.

ARTICLE (11)

Exceptionally, non-UAE nationals

closure of trading facilities, shops, restaurants, cafeterias or any other places supplying and serving foods and beverages in case of any health or licensing contraventions pertinent to the public safety and good health. Such closure shall, however, remain valid until a final judgment is issued on the case.

CHAPTER FIVE

1. Non-UAE national licensee must have a (services agent) holding the UAE nationality and usually be a resident in the Emirate of Abu Dhabi. The services agent shall not be liable for any losses or obligations incurred due to the practice of such professional or vocational activities under his agency.

2. The relevant contract agreement with the services agent must be duly attested by official authorities in the Emirate of Abu Dhabi.

3. However, a non-national may acquire, or be a partner in several licenses issued either in favour of establishments or companies.

CHAPTER FOUR

PENALTIES

ARTICLE (12)

■ Whoever breaches the provision of clause (1) of article (2) of the law hereinbefore shall be imprisoned for a period of not less than three months, not more than one year. Violators of the aforementioned clause shall be fined the amount of not less than (20,000) UAE Dirhams and not more than (50,000) UAE Dirhams, or by one of the two aforesaid penalties.

■ However, the head of the concerned authority shall be empowered to order temporary

Minister of Justice in coordination with the concerned authority, shall nominate the official inspectors who shall have the power of judicial sequestration officers; in respect of those crimes falling within their jurisdictions and pertinent to the duties of their jobs.

ARTICLE (17)

The annexed table of fees shall be effective as from the date this law is enforced.

CONCLUDING PROVISIONS

ARTICLE (13)

In the event a license is lost or damaged, the licensee shall have to approach the concerned authority requesting a substitute license, which may be issued upon payment of the fixed fees.

ARTICLE (14)

In the event of a one-month delay for effecting the renewal of a license following the expiry date of the same, a fine at an amount of (50) UAE Dirhams per each and every month of delay shall be charged, providing that the total fine amount may not exceed (1500) UAE Dirhams.

ARTICLE (15)

Current licenses already obtained shall remain valid until the relevant date of expiry.

ARTICLE (16)

A decision, to be taken by the promulgation.

**Khalifa Bin Zayed Al Nahyan
Deputy Ruler of Abu Dhabi**

Issued by us in Abu Dhabi
on: June 27th, 1998 A.D.
corresponding to: 3 Rabi Al Awal, 1419 A.H.

However, the fees categories may be amended upon a decision to be taken by the Executive Council.

ARTICLE (18)

In implementation of the provisions of this law, executive administrative decisions shall be issued by the Chairmen of the concerned authorities, in their respective jurisdictions.

ARTICLE (19)

Commercial Licenses Law No. (9) of 1969 shall be considered null and void.

ARTICLE (20)

The provisions of this law shall supersede any other contradictory provision.

ARTICLE (21)

This law shall be promulgated in the Official Gazette, and shall come into force as from the date of

**EXECUTIVE BY-LAW NO. (29) OF 1999
ISSUED IN IMPLEMENTATION OF THE
PROVISIONS OF LAW NO. (5) OF 1998
CONCERNING THE ISSUANCE OF
LICENSES
IN THE EMIRATE OF ABU DHABI**

The Chairman of Abu Dhabi Municipality & Town Planning;

Having reviewed Law No. (1) of 1974 Concerning the Re-organization of the Government Apparatus in the Emirate of Abu Dhabi and the amending laws thereof;

And Law No. (5) of 1998 Concerning the Issuance of trade Licenses in the Emirate of Abu Dhabi;

Enacted the following by-law.

**ARTICLE (1)
DEFINITIONS**

In implementation of the provisions of this by-law, the following terms and wordings shall have the meanings as states in association therewith:

1. Concerned authority: Abu Dhabi Municipality & Town Planning Department.

2. Chairman: Chairman of Abu Dhabi Municipality & Town Planning Department.

professional persons who depend for their work on their mental and intellectual potentials or on their studies and scientific talents. (Among such persons are consultants, physicians, lawyers and so on..).

13. Vocational License: That license usually issued in favour of a craftsman; viz., whosoever is independently practicing a profitable craft relying on his own physical capabilities or with the aid of other tools or equipment. Such a craftsman may either do business alone or along with not more than

3. Licensing Department: the department concerned with licensing economic activities at the concerned authority.

4. The law: Law No. (5) of 1998 Concerning the Issuance of Licenses in the Emirate of Abu Dhabi.

5. Commercial Companies Law: Federal Law No. (8) of 1984 Concerning the Commercial Companies and the amending laws thereof.

6. Commercial Procedures Law: Federal Law No. (18) of 1993 Concerning the Issuance of the Commercial Procedures Law.

7. Civil Code: Federal Code No. (5) of 1985 Concerning the Issuance of the UAE Civil Code.

8. Firm: The involved company or establishment.

9. Agricultural license: That License usually issued in favour of agricultural, fisheries and livestock farms, where manufacturing industries are based to produce profitable products.

10. Industrial License: That license usually issued in favour of all factories of manufacturing or productive industries in general.

11. Trade License: That License usually issued in favour of companies and establishments exercising trading businesses in accordance with the definition of Trading Businesses provided in the Commercial Procedures Law mentioned hereinabove.

12. Professional License: That license usually issued in favour of

(2/2) Duly paid-up fees covering the whole period of requested renewal.

(2/3) The concerned authority shall have the right to refuse renewal for more than one anno domini year as long as it deems that a

five workers.

CHAPTER ONE

GENERAL PROVISIONS

LICENSE TERM-SALE OF TRADING
PLACE-GENERAL TRADING-
REPRESENTATION OF COMPANIES-
APPLICANT CAPACITY

ARTICLE (2) LICENSE TERM

The first term of a trade license shall be one anno domini year. However, it may be renewed upon the applicant's request for a further term of one, two or three anno domini years starting from the date of renewal issue, which shall remain subject to the following terms and conditions:

(2/1) Applicant must submit a lease contract involving the place subject matter of renewal. The contract must be still valid for the whole period required for renewal or for a period as deemed appropriate by the concerned authority.

in case the disposition's subject matter is the selling of the place. Also the already paid up portion (earnest money) paid at the time of contract and how the pending balance value shall be paid.

(3/1/5) Agreements concerning contracts and obligations appertaining the trading place, if any.

(3/1/6) Agreements according to which the seller's rights of rescission, termination or concession are reserved, if any.

(3/2) trading place selling registration in the Commercial Register.

(3/2/1) The concerned clerk at the Commercial Register shall, upon the purchaser's request and on his account,

renewal for one year is sufficiently proportionate to the size of the firm in question or for other considerations as per its discretion. The concerned authority's decision in this regard shall be considered final.

ARTICLE (3) SALE & MORTGAGE OF TRADING PLACE

(3/1) Without prejudice to the provisions of the Commercial Procedures Law, any disposition towards transferring the proprietorship of the trading place or initiation of a right in-kind on its account shall have to be dully attested and authenticated before the Notary Public and duly registered in the Commercial Register. Otherwise, it shall be considered void. However, such a disposal shall include the following data and information:

(3/1/1) Names, Nationalities and place of residence of all signatories of a contract.

(3/1/2) The date and type of disposition.

(3/1/3) The type and address of the trading place, as well as the elements agreed thereupon to be covered by the disposition.

(3/1/4) The values of separate corporeal and incorporeal elements

Commercial Procedures Law.

ARTICLE (4) LICENSE MODIFICATION

(4/1) Except for the sale of the trading place mentioned in the previous article, any modification or

amendment required to be introduced to a trading license (e.g. amendments of a company's legal status, a partner's withdrawal, trade name, capital decrease, partnership abrogation, proprietorship transfer, change of services agent...) shall be

advertise a brief on the sale contract through two Arabic local daily newspapers. Advertising shall be made successively one after the other, with a period of one week in between.

(3/2/2) The above-mentioned brief shall include the signatories' names, nationalities and place of residence. It shall also state the total value of the place and an authorization calling creditors to submit their objections within ten days from the date of the latter advertising.

(3/2/3) Objections shall be presented before the concerned civil court where the trading places are falling within its jurisdiction. Objections shall show the debit amount and subject matter.

(3/2/4) Other terms and conditions shall be duly fulfilled in accordance with the provisions of the
OR

(4/3/3) An order on an urgent precautionary measure issued by one of the UAE courts of law concerned with urgent cases against such a company or establishment or any of its parties for a reason relating to its practiced activity.

(4/4) The objection shall not be recognized in absence of the aforesaid supporting documents, or if it is made against one certain partner for a personal litigation having nothing to do with the activity of the involved company or establishment.

(4/5) In all cases in which one of the aforementioned supporting documents is presented, the amendment procedures shall be suspended and shall not be continued unless upon giving the objection up or upon getting a court order from the court of law allowing such procedures to be continued.

(4/6) The chairman of the concerned authority or whoever is duly authorized by him shall have the right to release applicants from the announcement mentioned in clause (4/1) herein before, provided that the

made through an application submitted to the licensing department. A brief on the required amendment shall have to be announced on the applicant's account in one Arabic local daily newspaper for one time only.

(4/2) If no objection to the requested amendment is received within one week from the date of publication, the amendment procedures shall be completed.

(4/3) But, in case a concerned party has an objection to such amendment, his objection shall be supported by the following documents to denote the seriousness of the objection.

(4/3/1) An official copy of a final judicial judgment on a lawsuit involving the announcing company or establishment.

OR

(4/3/2) A certificate issued by the court of law to certify that a lawsuit on a case relevant to the company or establishment activity has been already brought before a UAE court of law.

(5/2) His main business office must be based in Abu Dhabi Emirate.

(5/3) He must have been involved in the line of business activity in Abu Dhabi Emirate for six years at least.

(5/4) That the capital of the company owned by the national is not less than 6,000,000 (six million) UAE Dirhams.

(5/5) That a contract between the company and a duly certified auditor is already concluded.

(5/6) that the company is so structured to comprise technical, financial and managerial bodies.

ARTICLE (6)

REPRESENTATION OF COMPANIES

applicant in question has justifiable reasons for such a release.

ARTICLE (5)
GENERAL TRADING

Applicants requesting "General Trading" license shall have to meet the following terms and conditions:

(5/1) He must be a 100% national individual or firm.

(7/2) An underage, whether being under guardianship or custodianship, shall have the right to practice business activities when he completes (18) anno domini years of age, provided that he is so permitted by the court of law, irrespective of that such a permission is absolute or restricted.

(7/3) National applicant partners or owners of a company or an establishment must, at the time of application, meet either clause (7/1) or (7/2) mentioned herein before.

(7/4) Non-national applicant partners or owners of a profession or a vocation must, at the time of application, meet clause (7/1) mentioned herein before.

CHAPTER TWO

**LICENSING OF COMPANIES, RELEVANT
BRANCHES & FOREIGN COMPANY
BRANCHES**

ARTICLE (8)
LICENSING OF COMPANIES

Terms and documents required for acquiring a company license:

(8/1) Applicant company must adopt one of the types of companies provided in the UAE Commercial Company Law and the

Applicants requesting "Representation of Companies" license shall have to meet the following terms and conditions:

(6/1) He must be a 100% national individual or firm.

(6/2) His main business office must be based in Abu Dhabi emirate.

(6/3) He must keep an integrated financial and managerial body.

ARTICLE (7)
CAPACITATED APPLICANT

According to the provision of article (18) of the Commercial Procedures Law:

(7/1) Having no other prohibition by the force of law, whoever completed (21) anno domini years of age shall be capacitated to practice business activity.

Dhabi Chamber of Commerce & Industry. *1

(8/3) Prior approval by respective competent authority is required for the practice of certain activities, i.e. (Ministry of Health for physicians, Ministry of Economy for certified accountants... etc.).

Such approval shall remain valid over the whole period of a renewed license, unless the respective competent authority otherwise notifies the Licensing Department.

(8/4) Prior approval by the Executive council is required for the practice of other certain activities.

(8/5) A printed (typed) Company License Application Form prepared for the purpose by the licensing Department is to be completed in accordance with the exercised line of business activity.

(8/6) A copy of a valid lease contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) herein before.

amending laws thereof.

(8/2) The company must have a trade name as approved by Abu

(8/7) Copies of partners' passports, still valid at the time of application. Copies of Civil Status Extracts for UAE nationals.

(8/8) Two passport-size photographs for each partner in the license.

(8/9) A preliminary residence-related sponsorship assignment (transfer) to be obtained from the previous sponsor. (For non-nationals only).

*1 Pursuant to the Abu Dhabi government Executive Council's decision, the approval of a trade name has turned out to be within the jurisdiction of the Department of Planning & Economy.

(8/10) A duly authenticated Power of Attorney in favour of an authorized person, in case such a person is required to subrogate the principal in respect of application submission and representation before the concerned authority.

(9/1/2) The decision taken by the involved company board of directors showing the company intention to open a branch in Abu Dhabi City. The said decision must be duly signed by the concerned persons or their legally empowered representative.

(8/11) A copy of the receipt certifying that the company has already taken the required steps towards the promulgation of its memorandum and articles of association in the special publication issued by the Ministry of Economy.

(9/1/3) A copy of each of the following supporting documents: (trade license and the certificate of registration in the Commercial Register).

(8/12) A copy of a valid membership certificate issued by Abu Dhabi Chamber of Commerce & Industry.

(9/1/4) A copy of a valid lease contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) herein before.

(8/13) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

(9/1/5) A copy of the authorized signature of the person legally empowered to represent the company.

ARTICLE (9)

LICENSING OF COMPANY BRANCHES

(9/1) Terms and documents required for licensing a branch of a company registered in Abu Dhabi City:

(9/1/6) A copy of a valid membership certificate issued by Abu Dhabi Chamber of Commerce & Industry in favour of the company branch. This is with consideration to the fact that the trade name has been already adopted by the mother company as approved by the Chamber. *1

A Company Branch Application Form, duly signed by the concerned persons or their authorized person legally empowered to represent the company, must be submitted

(9/1/7) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

(9/2) Terms and documents required for

A Publication of Abu Dhabi Chamber of Commerce & Industry

along with the following documents:

(9/1/1) Other relevant registration and licensing forms prepared by the Licensing Department must be duly completed.

licensing a branch of a company registered in other UAE emirates:

*1 Pursuant to the Abu Dhabi Government Executive Council's decision, the approval of a trade name has turned out to be within the jurisdiction of the Department of Planning & Economy.

A Company Branch Application Form duly signed by the principal(s) or his (their) authorized person legally empowered to represent the company must be submitted along with the following documents.

(9/2/1) The company branch trade name as approved by Abu Dhabi Chamber of Commerce & Industry.*1

(9/2/2) Other relevant registration and licensing forms prepared by the Licensing Department must be duly completed.

(9/2/3) The decision taken by the involved company board of directors showing the company intention to open a branch in Abu Dhabi. The said decision must be duly signed by the concerned persons or their legally empowered representative.

(9/2/4) A facsimile of each of the following supporting documents: (trade license and the certificate of registration in the Commercial Register), which must be duly attested by the issuer in the respective emirate.

(9/2/5) A facsimile of the company memorandum and articles of association, along with the receipt certifying that the memorandum has been duly promulgated through the Ministry of Economy office at which the applicant company has been initially registered.

(9/2/6) A copy of a valid lease contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) herein before.

(9/2/7) A copy of a valid membership certificate issued by Abu Dhabi chamber of Commerce & Industry.

(9/2/8) A copy of the authorized signature of the person legally empowered to represent the company.

(9/2/9) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

(9/3) Automatic abolition of a company branch license:

In implementation of the provision of Article (45) of the UAE Civil code according to which "the branch shall be dropped if the principal is dropped", a company branch license shall be automatically invalidated in case that of the mother company is abolished.

ARTICLE (10) **LICENSING OF FOREIGN** **COMPANY BRANCHES**

Without prejudice to the provisions of the UAE Commercial Company Law concerning the terms and conditions of licensing foreign companies, the terms and documents required for licensing a foreign company branch shall be as follows:

(10/1) The decision taken by the applicant foreign company board of directors, showing the company intention to open a relevant branch in Abu Dhabi. The said decision must be duly attested by the UAE

*1 Pursuant to the Abu Dhabi Government Executive Council's decision, the approval of a trade name has turned out to be within the jurisdiction of the Department of Planning & Economy.
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embassy based in the applicant foreign company mother country.

(10/2) Getting the company activity approved by the Licensing Department before getting that of the Ministry of Economy.

(10/3) The company must have a UAE services agent. In case the said agent is a company, the company and all partners in it must be holding the UAE nationality.

(10/4) The obligations of a services agent vis-à-vis the company and other third parties shall be confined to rendering required services for the company without any liability or financial obligations relating to the businesses or the activity of the company branch whether inside or outside the UAE.

(10/5) A facsimile of the authorization granted by the company to its legal representative in Abu Dhabi. Also, his signature authorization and a copy of his passport.

(10/6) Except clauses (8/1, 8/7, 8/8, 8/10) all other terms and documents enlisted in article (8) herein before shall be passed on any foreign company branch.

(10/7) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

(10/8) The license of a foreign company branch in Abu Dhabi shall be automatically abolished if the mother company abroad is proved

to be insolvent, and/or closed and/or having its license already abolished.

CHAPTER THREE

LICENSING OF ESTABLISHMENT & RELEVANT BRANCHES

ARTICLE (11)

LICENSING OF ESTABLISHMENTS

Terms and documents required for licensing an establishment:

(11/1) Prior approval by respective competent authorities is required for the practice of certain activities, i.e. (Ministry for Health for physicians, Ministry of Economy for accountants. etc.).

Such approval shall remain valid over the whole period of a renewed license, unless the respective competent authority otherwise notifies the Department.

(11/2) Prior approval by the Executive Council is required for the practice of other certain activities.

(11/3) An establishment must have a trade name as approved by Abu Dhabi Chamber of Commerce & Industry.*1

(11/4) A printed (typed) corporate Proprietorship License Application Form prepared for the purpose by the Licensing Department is to be completed in accordance with the exercised line of business activity.

(11/5) A copy of a valid lease

*1Pursuant to the Abu Dhabi Government Executive Council's decision, the approval of a trade name has turned out to be within the jurisdiction of the Department of Planning & Economy.
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contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) herein before.

(11/6) A copy of the applicant valid passport, or the Civil Status extract (for UAE nationals).

(11/7) Two passport-size photographs.

(11/8) A duly authenticated Power of Attorney in favour of an authorized person, in case such a person is required to subrogate the principal in respect of application submission and representation before the concerned authority.

(11/9) A copy of a valid membership certificate issued by Abu Dhabi Chamber of Commerce & Industry.

(11/10) Non-national corporate proprietorship license shall, additionally require to meet the following terms:

(11/10/1) A copy of a contract with a national services agent regularly resident in Abu Dhabi Emirate. The said contract must be duly authenticated by the Abu Dhabi – based Notary Public and attached to a photocopy of the services agent's passport.

(11/10/2) The services agent shall not be liable for any loss/obligations that might be incurred from the practice of the professional or vocational activity subject matter of the license according to which he is acting as agent.

(11/10/3) The definition of a simple profession or vacation shall be specified in accordance with the

(12/1/5) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

(12/2) Terms and documents required for licensing a branch of an establishment registered in other UAE emirates:

schedule annexed to the by-law hereinafter.

(11/11) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

ARTICLE (12)
LICENSING OF ESTABLISHMENTS
Branch(es)

(12/1) Terms and documents required for licensing a branch of an establishment already registered in Abu Dhabi City:

A Corporate Proprietorship Abu Dhabi-based Branch Application Form duly signed by the owner or his authorized person legally empowered to represent person legally empowered to represent the establishment, must be submitted along with the following documents:

(12/1/1) Relevant registration and licensing forms prepared for the purpose by the Licensing Department must be duly completed.

(12/1/2) A copy of each of the following supporting documents: (trade license and the certificate of registration in the Commercial Register).

(12/1/3) A copy of a valid lease contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) herein before.

(12/1/4) A copy of a valid membership certificate issued by the Abu Dhabi Chamber of Commerce & Industry in favour of the establishment branch.

(12/2/6) A copy of the authorized signature of the person legally empowered to represent the establishment, along with a photocopy of his passport.

(12/2/7) Licensing fees shall be charged in accordance with those fixed in the relevant schedule annexed to the Law.

A Corporate Proprietorship Abu Dhabi-based Branch Application Form duly signed by the owner or his authorized person legally empowered to represent the establishment, must be submitted along with the following documents:

(12/2/1) An establishment branch must have a trade name as approved by Abu Dhabi Chamber of Commerce and Industry.*¹

(12/2/2) Relevant registration and licensing forms prepared for the purpose by the Licensing, Department must be duly completed.

(12/2/3) A facsimile of each of the following supporting documents: (trade license and the membership certificate issued and attested by the concerned chamber of commerce & industry in the respective emirate).

(12/2/4) A copy of a valid lease contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) hereinbefore.

(12/2/5) A copy of a valid membership certificate issued by Abu Dhabi Chamber of Commerce & Industry.

(12/3) Automatic abolition of a corporate proprietorship branch license:

In implementation of the provision of Article (45) of the UAE Civil Code according to which "the branch shall be dropped if the principal is dropped", a corporate proprietorship branch license shall be automatically invalidated in case that of the mother establishment is abolished.

ARTICLE (13)
ORIGINAL DOCUMENTS

The concerned employee at the Licensing Department shall have to make sure of the authenticity of submitted copies through comparison with original documents. The copies shall, thereafter, be signed and stamped as FACSIMILE by the said employee.

However, comparison with such original documents shall remain subject to what may be deemed necessary by the Licensing Department.

*¹ Pursuant to the Abu Dhabi government Executive Council's decision, the approval of a trade name has turned out to be within the jurisdiction of the Department of Planning & Economy.

CHAPTER FOUR

LICENSE ISSUANCE & RENEWAL

ARTICLE (14) LICENSE ISSUANCE

A license shall be issued once all licensing terms provided for companies, establishments or branches thereof through articles (8-12) herein before are duly fulfilled. Also, once all professional or technical licensing terms and requirements are fulfilled as required by the ministries, departments and agencies concerned with licensing procedures.

ARTICLE (15) LICENSE RENEWAL

(15/1) A company or an establishment license shall be renewed without prior filed (business place & warehouse) inspection procedures.

Such procedures shall be taken through follow-up by the competent authorities concerned with making sure of that a firm (company or establishment as to the case) is duly meeting the relevant terms and requirements at all times. A firm owner(s) or his (their) legal representative shall have to take the following steps:

(15/1/1) Inquire by fax, addressed to the concerned inquiry employee, about the fees being duly paid up by the firm and covering the whole period of renewal he requires within the limits specified in the law. The said employee shall reply to the firm's fax number effected in the

(15/1/3) Once all the terms and documents mentioned herein before are duly fulfilled, the concerned authority shall immediately renew the license and send it back by return registered mail to the post office box number, as effected in the file of the firm in question.

(15/2) However, interested firms shall have

file of the inquirer firm informing of the would-be charged renewal fees plus those of dispatching the renewed license by mail.

(15/1/2) The enquirer shall, thereafter, send an envelope by registered mail addressed to the Director of the Licensing Department. The envelope must show the license number and the trade name of the firm, and shall enclose the following documents:

(15/1/2/1) A Renewal Application Form signed in conformity with the Signature Authorization deposited in the firm's file kept at the Department.

(15/1/2/2) License renewal fees through a certified cheque made in favour of the concerned authority and payable as from the date of dispatch by registered mail.

(15/1/2/3) A copy of a valid lease contract involving the office/shop intended to be the place of business activity, as per the provision of clause (2/1) herein before.

(15/1/2/4) The original license subject matter of renewal.

(15/1/2/5) A Commitment to be signed in conformity with the Signature Authorization deposited in the firm's file at the Licensing Department. The said Commitment must state that no modification whatsoever has been introduced to the firm's legal status, and that any such modification, amendment or change of address during the renewal period, shall be immediately reported to the Licensing Department.

acknowledgement shall have to be supported with official documents agreeable to the concerned authority.

(15/6) The concerned authority shall have the right to cancel a license if not renewed for a period of five consecutive years. Cancellation shall be made through a one-time announcement to be advertised in an Arabic

the right to take and complete the whole renewal procedures personally through application submission, payment of fees and delivery of renewed license by hand at the Counter of the Licensing Department premises of the concerned authority.

(15/3) In case of delayed license renewal application (more than one month from the date of expiry), the applicant shall be fined the amount of Fifty UAE Dirhams against each month of delay, but provided that the total fine amount may not exceed (Dhs. 1500).

(15/4) In case of failure to renew the license for longer periods, the fixed annual licensing fees multiplied by the number of delayed years shall be collected from the failing applicant. The said fees shall, however, be calculated in accordance with the fixed fees at the time of the license issuance plus the fine amount provided in clause (15/3) hereinbefore.

(15/5) Exceptional from the previous clause herein, no fees against delayed renewal shall be collected if the applicant firm owner(s) present(s) an Acknowledgement affirming that no activity has been exercised and no benefit has been accrued from the license over the whole period of suspension. However, such an

Sub-Decree No. 102, 12/02
Session 12/2004 Concerning
the Assignment of Capacities
for Approving the Practice of Economic
Activities in the
Emirate

During its session convened on 6 July 2004, the Executive Council reviewed the memorandum presented by Abu Dhabi Municipality & town Planning Department, bearing No. BA/3/A/25/357 and dated 6 June 2004, and which was based on a previous decree No. 31, session 8/2002 issued on 10/7/2002 by the Council on a study involving the economic activities that should

local daily newspaper. However, the cancellation procedures may be ceased if the concerned authority receives and objection to the cancellation within a week from the date of advertisement, a case in which clauses (4/3) and (4/4) of article (4) herein before shall be applicable.

ARTICLE (16)

This by-law shall be effective as from the date of issue and shall be promulgated in the Official Gazette.

Mohammed Bin Butti Al Hamed
Chairman
Abu Dhabi Municipality & town Planning
Department

6. Chartering of steamships, battleships and oil tankers.
7. Aircraft charter.
8. Commercial aviation training.
9. Pearl-culture.
10. Pearl-catching.

Second:

Substituting the Municipality & Town Planning Departments in both Abu Dhabi and Al-Ain, the Department of Planning & Economy shall be empowered to issue the licenses required for the following

preliminarily be subject to approval by the Council, And after the pertinent deliberation and review of associated details and suggestions laid to involve the different aspects of the issue, And upon the supreme directives of His Highness Sheikh Khalifa Bin Zayed Al Nahyan (God Bless Him), Crown Prince of Abu Dhabi and Chairman of the Executive Council,

The Council decreed as hereunder.

First:

All applications for licensing the activities provided herein below shall be presented to the Executive Council for approval:

1. Insurance companies.
2. Higher studies and scientific or academic research.
3. University colleges.
4. Domestic and external air transport.
5. Passenger transportation by amphibious aircraft.

25. Mobile-vehicle advertising.
26. All types of shipping works.
27. Steamships and carrier agencies.
28. Cow and poultry farms.
29. Ship fueling works.
30. Automobile clubs.
31. Marketing of oil products.
32. Public transport (passenger transportation back and forth between commercial centers and tourist places).
33. Representation of airlines.
34. Organization of sea and land tours.
35. Licensing private joint-stock companies.
36. Licensing partnerships limited with shares.
37. Licensing foreign company branches.
38. Investment in entertainment projects.
39. Representation offices.
40. Commercial liaison offices.
41. Commercial-governmental liaison offices.

**Ali Bin Ahmed Al-Dhaheeri Executive
Council Member**

economic activities as specified herein below as per the adopted procedures and regulations.

1. Public joint-stock companies.
2. Hotels.
3. Educational investment.
4. Taxis.
5. Cinema houses.
6. Rental of furnished apartments.
7. Hotel management.
8. Electrical games.
9. Rest houses (Motels)
10. Tourist resort management.
11. Transport of cash money, cheques and precious metals.
12. General trading.
13. Representation of companies.
14. Sale of passenger tickets.
15. Travel agency.
16. Tourist office.
17. Electronic games hall.
18. Entertainment centres.
19. Scrap (scrap iron).
20. Manpower recruitment, (outsourcing) services.
21. Employment and hiring.
22. Supply of workers, servants and housemaids.
23. Ship and flat cargo vessel charter and shipping.
24. Fixing advertising signboards on roads and highways in Abu Dhabi.

Choose your type of Company

Published by:
Abu Dhabi Chamber of Commerce & Industry

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Introduction

When a local businessman or an expatriate investor decides to exercise a business or industrial activity in Abu Dhabi Emirate, he may do so through establishing a local or foreign PROPRIETORSHIP, or he may join other natural or legal persons willing to combine efforts, expertise and money so as to initiate a joint company.

In this case, they have to find out which type of those provided for in Federal Law No. (8) of 1984 is more suitable for their would be established company.

Article (5) of the said law provided for seven different types in the following succession:-

It is worth mentioning that any company having any type other than those specified in the said article of Federal Law No. (8) of 1984 would be viewed as null and void, a case in which the signatories to an agreement on such nullified type of company would be jointly and severally liable for any obligation emanating thereby.

Hence, this booklet came to consist of the general terms and conditions required to be fulfilled by any company incorporated in the United Arab Emirates – Emirate of Abu Dhabi; as well as of the characteristics and provisions relating to each type alone. Thus, it may be helpful for any businessman in terms of judging which type would be more appropriate for his company or which one is more eligible to realize his anticipated objectives.

Company Incorporation in the UAE – Abu Dhabi

General Terms & Conditions

1. Any company incorporated in the Emirate of Abu Dhabi should hold the UAE nationality and have its domicile in it. Of course, this should not necessarily entail enjoying the same rights and privileges entitled to nationals or confined to them.
2. Any company incorporated in the Emirate of Abu Dhabi should have one or more national partners having a share or shares of not less than (51%). This is, of course not applicable in case of a General Partnership which should have its capital purely and entirely national.

3. All partners in any company incorporated in the Emirate of Abu Dhabi should sign a pertinent memorandum written in Arabic language and duly authenticated by the Notary Public at the Court Law. However, testimony to prove a matter in variance or in excess of the stipulations in the company memorandum should not be acceptable in case of any dispute arising between the partners.
4. Any company incorporated in the Emirate of Abu Dhabi should have its memorandum and any amendment thereto duly registered in the Commercial Register and the Companies Section at the Ministry of Economy & Commerce. Except for Joint Participation, companies should also obtain the Abu Dhabi Chamber of Commerce & Industry Membership Certificate and the Abu Dhabi Municipality license.
5. Partners may not agree in the company memorandum on depriving any of them from receiving profit nor on exempting any from suffering loss, otherwise the memorandum is to be considered null and void by the force of law.
6. Any company incorporated in the Emirate of Abu Dhabi should be duly licensed by the Department of Planning & Economy. The license should be annually renewed.
7. The memorandum of any company incorporated in the Emirate of Abu Dhabi should contain the following particulars:

Each partner's name; surname; title; nationality; date of birth and domicile. The company's name; purpose; head office; capital; the share of each partner, lifetime; the commencement and end of fiscal year; the terms of profit/loss distribution; dispute-solving party; terms of notification; terms of share assignment and value estimation; terms of joining or leaving by a partner(s); terms of liquidation; partners liabilities and any other information or stipulations agreed among partners who show willingness to include them in the memorandum, providing that such stipulations should be in conformity with the enacted laws.

General Partnership Company – Abu Dhabi

1. Article (23) of Federal Law No. (8) of 1984 concerning commercial companies defined the General Partnership as being a company formed by two or more partners who are jointly liable to the extent of all their assets for the company liabilities.

It is understood from the above provision that the number of partners should not be less than two, but may be more. This is in addition to a main characteristic which makes all partners jointly liable for the company's debts. This means that the company's liabilities should be borne by all partners to the extent of all their assets. Such liability is therefore not limited to the cash or kind shares of the partners in the capital. This is of course unlike to the partner's liability in a limited liability company or to that of a silent (limited) partner in the simple limited partnership or to that of a shareholder in a joint stock company.

However, it is worth mentioning here that in a general partnership, 3execution may not be enforced on the assets of a partner unless upon acquiring an execution decree against the company claiming to discharge a debt in case of failure to do so. In this case only, the execution may be enforced on a partners own assets.

2. Article (25) of the said law also provided that all partners in a general partnership must be holders of the UAE nationality, contrary to the case of all other types of companies in which it is stipulated that any company incorporated in the state should have one or more national partners whose share or shares must not be less than 51% of the capital. But in this single case of a general partnership, the company's ownership is confined to UAE nationals only.
3. In a general partnership, as in any other type of companies, the partners intention should be concentrated on working together in order to realize profit. They also must accept to bear loss

if any. But failure to do so means that the concept of partnership will be prejudiced and the company will be void.

4. The name of a general partnership should consist of the names of all partners, or it may only be confined to the name of one or more of the partners with an addition indicating the existence of a company.

Such indication may be through adding certain words like (... & Brothers), (... & Partners or Company) and (... & Sons).

However, a general partnership may have a special trade name. But, in case the name of an individual non-partner is mentioned in the company name with his knowledge and without objection from his side, then he will be jointly liable for the company liabilities along with other registered partners.

It is a practice in the Emirate de name approval from Abu Dhabi Chamber of Commerce & Industry, and to get the required trade license from Abu Dhabi Municipality Department after having the company memorandum duly registered with the Companies Section at the Ministry of Economy & Commerce. It is also understood from the above that it is prohibited to use the name of a non-partner in the company name. If it so happens without the knowledge of such individual, he may present an objection. Because without such objection, if it is proved that his name was used with his knowledge then he will be liable for the company's debts, just like other duly registered partners and jointly with them.

5. It is stipulated by the law that the memorandum of a general partnership should include:-
 - The name; surname and title (if any) of each partner, also his nationality and date of birth.
 - The company name; purpose of incorporation; headquarters and branches if any; capital and the share undertaken to be presented by each partner whether it is in cash or in kind or merely a right; the estimated value of shares; pertinent terms of presentation and date of maturity; date of incorporation and termination and the terms of management, with a special reference to the names of authorized persons who may sign on behalf of the company and to the extent of their powers.
 - It should also include the commencement and end of the company fiscal year and the percentages of profit/loss distribution among partners.
 - In addition to all these major information required by the law, the memorandum of a general partnership should also include other information agreed upon by all partners such as the formation of the board of directors; terms of share assignment; partners liabilities; terms of completion if allowed or not. Decision terms of issuance; reasons of company dissolution; terms of liquidation; dispute-settlement agency and any other statements agreed upon by the partners, provided that they should not be in contravention to the laws.
6. The memorandum of a general partnership should not provide for an agreement on depriving a partner from profit or exempting him from suffering loss, otherwise the memorandum will be considered void.

However, it may be agreed to exempt the partner who contributes nothing but his work from bearing a loss. This is because the capital of a general partnership may be paid in cash, in kind or merely a work, although the registered capital should be only formed from cash and kind shares, and this is the reason why such a partner with a work share only may be exempted from suffering loss, as he, in such a case, may lose his time and effort without getting a regular salary against his work which is viewed as his contribution to the company capital.

7. Partners should agree on the percentage of profit and loss in the company memorandum, but may not agree on distribution of fictitious profits by over-exaggerating the estimate of the company assets.
8. Each partner in a general partnership will be deemed merchant. The bankruptcy of the company will lead to the bankruptcy of all partners. This is accordingly incurring that each partner in the company should be fully capacitated, whereas incapacitated individuals may not be partners in a general partnership.
9. The shares of partners in a general partnership may not be represented by negotiable instruments and may not be assigned to others unless upon approval by all partners. This restriction is reflecting the private feature of the company.
10. The management of a general partnership may be the responsibility of one or more of the partners or a person who is not a partner.

The competence of the manager(s) should be specified in his letter of appointment. In case the manager is a partner and so appointed in the company memorandum, he may not be dismissed except by the unanimous vote of the partners, otherwise dismissal should result in dissolution of the company unless its continuation is so provided in the memorandum.

- However, a manager may not resign without appropriate justifications, otherwise he will be liable for indemnification. Appropriate justifications here are meant to be those deemed acceptable by all partners. In case of different opinions, the judge at the court of law is to take a rightful decision.
 - The manager may be held responsible for any damage inflicted on the company or caused to the partners or others in case he acts in contravention to the provisions of the company memorandum.
11. The law also provided that joining the company or withdrawal of partners; voidance of the memorandum; dissolution or liquidation of the company should all be effected at the Commercial Register/Abu Dhabi Municipality and at the Company Section/Ministry of Economy & Commerce.
 12. The law did not fix a certain capital amount for a general partnership.

Public Joint Stock Company – Abu Dhabi

Article (64) of Federal Law No. (8) of 1984 concerning commercial companies defined a public joint stock company as that whose capital is divided into equal value negotiable shares and in which partner is only liable up to the extent of his share in the capital.

Any joint stock company should have a name derived from its purpose and showing the statement (PUBLIC JOINT STOCK COMPANY).

The capital of a joint stock company should not be less than (Dhs. 10 million). Its memorandum and articles should also be identical with the form prepared by the Ministry of Economy & Commerce, whereas the share value should not be less than one Dirham and not more than (100) Dirhams. However, the company share should be nominal and negotiable but not issued to holder.

INCORPORATION PROCEDURES

- 1) The founder members who may not be less than ten should elect from among themselves a committee of not less than three and not more than five members in order to implement the incorporation formalities through presenting a pertinent application to the Department of Planning & Economy to which the following should be attached:

- The memorandum and articles of association prepared in conformity with the form of the Ministry and both signed by all founders and authenticated before the Notary Public.
 - A feasibility study on the company activity and the proposed time for implementation.
 - Approved trade name and the premises lease contract.
- 2) Upon a decision by the Department of Planning & Economy a committee should be formed to include representatives from the Ministry of Economy and Commerce and the Department of Planning & Economy in order to view the application and prepare a pertinent report within a couple of weeks from the date of application of the submission, providing that it must fulfill all the requirements and documents that may be requested by the committee. The Department of Planning & Economy will then take a decision on the application. The decision is thereafter promulgated in the official gazette on the founder's expense, and notified to the Ministry of Economy & Commerce within (60) days from the date of promulgation, and in the light of the outcomes included in the Committee's report, otherwise the application shall be considered refused.
 - 3) The founder members must subscribe to a minimum of 20% and a maximum of 45% of the fixed capital of the company. They also must, before inviting to public subscription, present to both the Ministry of Economy & Commerce and the Department of Planning & Economy a certificate from the bank where the capital was deposited.
 - 4) The founder members shall, within (15) days from the date of the decision issued on the company incorporation, commence the public subscription procedures through a publication to be issued in two local Arabic daily newspapers. The publication must appear (5) days at least before the date of subscription which should be conducted through one bank or more of those operating in the Emirate.
 - 5) Whoever is willing to subscribe in the company's share should pay at least one fourth of the nominal value of each share at the time of subscription, providing that the balance of the value should be paid within a period not exceeding five years from the date of incorporation and the paid amount of each share value should be effected in the share.
 - Subscription should remain open for a period of not less than ten days and not more than 90 days. However, the company incorporation may not be considered complete unless all its shares are subscribed to.
 - If the subscription is not completed during this period, the founders may, upon the consent of the Department of Planning & Economy and by a decision to be taken by the Minister of Economy & Commerce, either rescind the incorporation and pay back the shares value to the subscribers, or reduce the capital of their company, a case in which the subscribers may rescind their subscription within a period of not less than the period of initial subscription, i.e. 90 days otherwise their subscription will be final. However, the founders may re-offer rescinded shares to a new public subscription after reducing the company's capital.

Note...

Without prejudice to the above provisions, the founder members may, in addition to their allowed percentage of 20 – 45%, subscribe to the remaining shares that were not subscribed to providing that such over-subscription by them will remain subject to approval by the Department of Planning & Economy and the Minister of Economy & Commerce as well.

However, if the subscription exceeds the number of shares offered, the shares must be proportionately distributed among subscribers, providing that each one of them should have the option of getting such allocated shares whatever was the number of shares he initially subscribed to.

The bank at which the subscription was conducted, should deposit the amounts received from the shareholders for the account of the company under incorporation as a preliminary step. The bank may thereafter deliver the amounts mentioned hereinabove to the company's board of directors once the company is duly registered in the Commercial Register and licensed by the Department of Planning & Economy and Abu Dhabi Chamber of Commerce & Industry.

- 6) Within thirty days after the closure of subscription, the founder members should call the subscribers to a first general assembly meeting. A copy of the invitation should be sent to both the Department of Planning & Economy and the ministry of Economy & Commerce.

In case the period mentioned in this paragraph above expires with failure by the incorporators to make such call to the first general assembly meeting, the Ministry of Economy & Commerce must make the call instead. The quorum for the first general assembly meeting will not be achieved unless upon attendance by the holders of three quarters of the paid up shares or their representatives. In case of failure to meet the above quorum, the founder members should call to a second general assembly within thirty days from the date of the first meeting. The second assembly quorum will be achieved upon presence of those holders of 50% of the total company shares or their representatives. Otherwise, all or any of the shareholders presence shall have the right to demand the dissolution of the company or to call to a third meeting within (15) days from the date of the second meeting. At the third meeting, the quorum will be achieved by the attendance of any number of subscribers.

Resolutions of the first general assembly will be adopted by an absolute majority of the shares represented at the assembly. Both the Ministry and the competent authority shall have the right to send one or more representatives to attend the meeting as observers without the right to vote, but whose attendance shall be recorded in the minutes of the assembly. The said minutes shall, however, contain decisions in the following matters:-

1. Giving opinion on the founders report concerning incorporation formalities of the company and incurred expenses.
2. The lection of the first board of directors for a period of not more than three years and with a number varying between three and fifteen.
3. Appointment of auditors.
4. Ratification of the valuation of stocks in kind, if any.
5. Declaration of the completion of the company incorporation.
6. The decisions in this meeting shall be taken by the majority vote represented in it.
7. After that, the founder members committee shall, within seven days from the date of the first general assembly, present a request to the Ministry of Economy & Commerce to declare the company incorporation. The Ministry shall, thereafter issue a resolution declaring the company incorporation within thirty days from the date of request. The resolution decreed shall, thereafter, be promulgated in the Official Gazette together with the memorandum and articles of association of the company. The board of directors should within fifteen days from the date of declaring the company incorporation, apply for registration in the Commercial Register and for acquiring the Membership Certificate from Abu Dhabi Chamber of Commerce & Industry, as well as the Department of Planning & Economy.

However, despite that the procedures required for incorporating a joint stock company has been already identified, yet the Federal Law No. (8) also provided for another type which is the Private Joint Stock Company. The special difference between the two types is that in the public joint stock company the founder members subscribe in certain number of shares and float the rest to public subscription, whereas in the private joint stock, the founder members should subscribe to the whole shares and close the door before the Public.

Limited Liability Company – Abu Dhabi

Article (218) of Federal Law No. (8) concerning commercial companies has defined the limited liability company as that in which the number of partners may not exceed fifty and should not be less than two. Each partner should only be liable up to the extent of his share in the capital, and partner's participation should not be represented by negotiable deeds. In case the number of partners is more than seven a supervisory board should be formed of three partners at least to supervise the company operation and manager.

Article (220) prohibited a limited liability company from practicing certain activities such as insurance, banking and investment of funds for the account of others.

Whereas Article (227) fixed the capital of a limited liability company to be not less than Dhs. 150 thousand and formed of equal shares of a minimum value of one thousand Dirhams each.

However, a share should not be divisible, whereas the cash and kind shares should be distributed among all partners, and the value of each share should be fully paid up at the time of incorporation. Profits or losses should also be equally divided among them unless it is otherwise provided in the company memorandum. This means that the profits or losses should also be equally divided among them unless it is otherwise provided in the company memorandum. This means that the profits or losses may be distributed according to rates that differ from those of sharing in the capital.

A limited liability company should be represented by one manager or more to be selected from among the natural partners, whether from inside or outside the company, providing that they should not be more than five.

In case the company memorandum did not specify the managers responsibilities, they may have the largest scope of powers.

According to the provision of article (244) of the law, a limited liability company should have a general assembly formed of all partners. It may also be provided that the company may have a board of directors as well.

A limited liability company should have its own trade name derived from its purpose, or formed of the name(s) of a partner(s), or any other innovated name.

All partners should be committed to fulfill payment of the company capital at the time of incorporation. This must be proved by a bank certificate certifying that the company capital has been fully paid up. Each of the partners should, however, be only liable up to the extent of his share in the capital.

In case of loss and insufficient assets to fulfill the company obligations, or if the partners were reluctant to cover such a loss, the company should be dissolved and liquidated. Upon liquidation, the accrued amount should be distributed to fulfill the company debts. However, no partner should be liable for the company obligations in all his own assets, unless otherwise a partner has guaranteed to fulfill certain debts; loans or any other facilitation on behalf of the company toward the bank or any other third party according to a personal guarantee instrument.

The memorandum of a limited liability company should include the following particulars:

Name; nationality; profession and address of each partner – The company name; purpose; lifetime; headquarters; capital and terms of increase or decrease – Terms of share assignment – Management – Name(s) and capacities of the manager(s) – Terms of the general assembly convention; term in office; and terms of decision – taking – Terms of memorandum amendment – Partner entry & exit – Fiscal year – Notifications.

The limited liability company form is considered as one of the most important forms of partnership for foreign partners especially that it could be agreed to distribute the profits on proportions different than

the contribution to the capital taking into consideration the experience and the efforts of the foreign partner.

Simple Limited Partnership – Abu Dhabi

Article (47) of Federal Law No. (8) of 1984 defined a simple limited partnership as being a company formed by one or more general partners liable for the company liabilities up to the extent of all their assets, and one or more limited partners liable for the company liabilities up to the extent of their respective shares in the capital only. All general partners in a simple limited partnership should be holders of the UAE nationality.

The name of a simple limited partnership should be formed of the names of one or more of the general partners with an additional indication to the existence of a company. In addition to the aforementioned, the company may have an innovated trade name. But, in all cases, the name of any limited partner should not be mentioned in the company name. In case it so happens with the knowledge of such a limited partner, he should be viewed as a general partner vis-à-vis any other bonafide third party.

A simple limited partnership is considered a partnership company vis-à-vis the general partners. This means that they will be liable for its obligations or liabilities in all their assets, whereas the limited partner will be liable for such obligations within the limits of their share in the capital.

However, in addition to the general particulars, the company memorandum should include the name; surname; nationality; date of birth and domicile of each limited partner in addition to his share in the capital and the paid – up amount thereof.

A limited partner may not interfere in any management functions involving a third party even if he has been so authorized. However, he may contribute to internal managerial performances within the limits provided for in the company memorandum. He may also have the right to request access to the profit/loss accounts and the balance sheet, so as to make sure of accuracy. He may further have the right to review the company books and documents, whether by himself or upon a power of attorney made in favour of another third party, provided that this would not cause damage to the company, nor hindrance to its functions.

On another scale, if a limited partner performed any management function prohibited by the law, even if this occurred upon an explicit authorization (power of attorney) or implicitly by general partners, they all will be jointly liable for any obligation arising from such performance.

With regard to the company decisions, the law provided that the decisions of a simple limited partnership should be taken by unanimous consensus of all general and limited partners unless otherwise, the company memorandum provides that majority of votes would be sufficient. Hence, the numerical majority would be adopted or counted upon unless it is otherwise provided.

As for those decisions relating to the amendment of the company memorandum, the law stipulated that such decisions should not be valid unless they are issued upon unanimous consensus of all general and limited partners.

Joint Participation – Abu Dhabi

Article (56) of Federal Law No. (8) of 1984 concerning commercial companies defined a joint participation as being a company concluded between two partners or more on sharing the profits or losses incurred by a single or multiple business operations performed by one of the partners in his personal name.

The law also provided that such a company should be confined to the relationship between partners and may not be effective vis-à-vis any third party. However, the company existence may be proved by all familiar means of evidence, whereas its pertinent contract should regulate the rights and obligations of each partner; the terms of profit/loss distribution and the capital amount. It is worth

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mentioning here that the contract of a joint participation is neither subject to registration in the commercial register nor to the necessity of being publicized. Yet no municipality license may be issued for such participation whose contract may otherwise be authenticated before the Notary Public.

According to the law provision, a partner in a joint participation may not be viewed as merchant unless he runs business operations by himself. However, each partner in such a company should remain owner of his share, unless it is otherwise agreed upon.

The law, another hand, prohibited a joint participation from issuing stocks or negotiable bonds. The most important characteristics of this company is that a third party may not have the right of recourse except toward the partner whom he dealt with. If an action performed by the partners conducts to let a third party be informed of the company existence, it may then be considered a real company in which the partners will be jointly liable towards third parties.

On another side, the law provided that any partner in a joint participation should have the right to review the company books and documents either by himself or through his attorney who may be another partner or a third party, providing that such review should not cause the company any damage or loss, and any agreement to the contrary should be considered null and void according to the said law.

Private Joint Stock Company – Abu Dhabi

Article (215) of Federal Law No. (8) of 1984 concerning commercial companies defined a private joint stock company as being that in which a number of not less than (3) three founder members may incorporate among themselves a private joint stock company whose shares may not be floated to public subscription, but they must fully subscribe to the total capital which may not be less than (Dhs. 2 million).

Except the provisions made on public subscription, all the provisions provided in the aforementioned law concerning public joint stock companies should be applicable to private joint stock companies.

However, the law permitted a joint stock to be converted to a public joint stock in case the following terms and conditions are duly fulfilled:

1. The nominal value of issued shares should be fully paid – up.
2. A period of two fiscal years should be elapsed since the early inception of the company.
3. The company should have realized net profits distributable among shareholders with the average of not less than 10% of the capital during the said two years elapsed before the date of requesting conversion.
4. The unordinary general assembly should have taken a decision on conversion upon achieving the majority of votes representing three quarters of the company capital, at least.
5. The Minister of Economy & Commerce would have agreed to issue a decision declaring the company conversion to a public joint stock company. The decision should be promulgated in the official gazette along with the company memorandum and article on the expense of the company.

Partnership Limited with Shares – Abu Dhabi

Article (256) of Federal Law No. (8) of 1984 defined a partnership limited with shares as being the company formed of general partners who are jointly liable to the extent of all their assets for the company liabilities, and participating partners who are only liable to the extent of their shares in the capital, whereas all general partners should be holders of the UAE nationality.

Accordingly, this type of company is considered a general partnership for all general partners, because they will be liable up to the extent of all their assets for the company obligations. However, the general partner in such type is considered a merchant even if he did not have such capacity before joining the company.

The capital of a partnership limited with shares should not be less than (Dhs. 500,000) divided into equal value negotiable shares. However, the provisions concerning shares in the public joint stock company type should be applicable to those of a partnership limited with shares whose name must also be formed of the name(s) of one or more general partner(s), whereas an innovated addition derived from the company purpose may be introduced to the original name.

This means that the name of a participating partner may not be mentioned in the company name. If it so happens with the knowledge of such a participating partner, he will be considered a general partner vis-à-vis any bonafide third party.

In all cases, the term "partnership limited with shares" should be added to the company name, and the provisions concerning the incorporation of a joint stock company shall be effective in the case of a partnership limited with shares, with consideration to the following:

1. All general partners and other incorporators should sign the company memorandum and articles, whereas they all must be considered as incorporators of a public joint stock company as far as liability for the company obligations is concerned.
2. The names; surnames; nationalities and domiciles of all general partners should be mentioned in both the company memorandum and articles.

On another scale, the law provided that the company management should be entrusted to one or more general partner(s). The company memorandum and articles should provide for the names and powers of those to whom management is entrusted.

The law also prohibited a participating partner from interference in the company management operations involving any third party, even if such interference has occurred upon authorization. However, a participating partner may take part in internal management functions within the limits specified in the company articles.

If a participating partner acts in contravention to such prohibition, he should be liable to the extent that absorbs all his assets for the obligations incurred by what management functions he has performed. In case such functions were performed upon an authorization by general partners, those who issued such authorization will be liable for the obligations incurred by his actions.

The law also provided that a partnership limited with shares must have a supervisory board formed of at least three members to be appointed by the general assembly from among participating members or other third parties. The board's term in office should last for one year, renewable in accordance with the provisions provided in the company articles. The general partners may not have a vote for the appointment of the supervisory board.

A partnership limited with shares should also have a general assembly comprising all shareholders, and should be subject to the provisions made on the general assemblies of public joint stock companies.

According to the law, the general assembly of a partnership limited with shares may not take decisions involving any third party unless upon approval by the company managers.

Legal Guide To Trade Names in the Emirate of Abu Dhabi

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Introduction

THIS GUIDE IS DEALING WITH THE ISSUE OF HOW A TRADE NAME IS APPROVED BY CONCERNED AUTHORITIES, AND WHAT LAWS AND REGULATIONS GOVERN THIS PROCESS. IT ALSO INCLUDES ADVICES INSTRUCTIONS AND SPECIMEN COURT ORDERS ISSUED TO SETTLE DIFFERENT DISPUTES OVER TRADE NAMES.

Due to certain factors, such as the huge economic development undergone in the United Arab Emirates in general and in the Emirate in general and in the Emirate of Abu Dhabi in particular, the market expansion, the increase in the number of products similar to one another in respect of type but different in respect of shape and producer, and due to the fact that there may be more than a score of products belonging to the same category, yet each item has its own package, appearance, trade name and producer, then it was a must for a manufacturer to specify a certain name for his product or to find an appropriate trade mark to distinguish it from other similar items available in the market. This could help the consumer to reach such a product more easily, as he knows what he wants beforehand and can request a well known and specific trade name.

However, due to stiff competition, some people may try to use trade names similar to those already used by other producers and already had their reputation and familiarity in the market where consumers can go for a famous brand in which they are confident.

The UAE legislator has already dealt with such practices. The Commercial Dealings Code No. 18 of 1993 provided for the rules that regulated and protected private trade names in order to ensure stability in the market and stimulate investors and producers to improve the quality of their products and to maintain their own trade names through which they also protect the consumer against cheating, manipulation and imitation.

Actually, a businessman shall have the right of priority in respect of a trade name registration in the Commercial Register once being approved by the respective Department of Planning and Economy and once the required licenses are duly issued. In case a dispute rises due to non-registration of a trade name, the right of priority shall belong to that party who has used it first. According to the law and legislation, the right of a trader in a trade name is initiated once being registered with the competent authority, i.e. the Commercial Register. If a trader fails to get his trade name duly registered and it happened that a dispute arose thereby, priority will be the right of whoever used it first. But if a trader has his trade name duly registered once being approved by the Department of Planning and Economy and once having the required licenses duly issued by other competent authorities, then nobody involved in the same line of business can use the same trade name. He shall further have the right of "monopoly" or confinement, according to which he may prevent any third party involved in the same trade from using it or any other similar one so that to exclude misleading from the consumer side.

Since such issues are extremely significant, and within the context of apprising its members of the different rules, laws and regulations relating to business practice, the Chamber deemed it useful to prepare this guide to be one in the series of other guides issued for the said purpose.

Definition

Trade name is that name used by a trader to distinguish his shop, establishment or company from those of others.

Because a trade name is used to distinguish a trading place from others, then it is usually shown on the façade, printed on all stationery items and papers, yet it is even stitched on workers uniforms and appears in all published ads.

However, one has to differentiate between a trade name adopted by a businessman and that adopted by ordinary individuals. An ordinary name is used to differentiate between individuals and it remains their own impartible right, whereas a trade name is used to differentiate between trading places but it remains partible and subject to being waived or sold in accordance with different legal means and actions.

One must also differentiate between a trade name and a trade mark which is used only to differentiate between different products.

Usually, a trader uses his own proper noun or sometimes with certain addition that makes it a trade name distinguishing his establishment. Yet, a trade name may be an innovative one, but when it comes to companies, the selection of a trade name will be subject to other restrictions.

Local Acts Dealing with Trade Names

The Executive Council in the Emirate of Abu Dhabi provided the Department of Planning and Economy the issuance of trade names.

Articles (57) through (68) of Law no. (18) of 1993 concerning commercial transactions also provided for the rules governing trade names. Among these was that a businessman's trade name shall be composed of his own name and surname, yet it may include certain data associated with the personal name and associated with the line of business he is exercising, or it may, otherwise be a completely innovative name.

In all cases, a trade name must be in conformity with reality, must exclude misleading and do not breach the public order or manners. Trade name shall have to be registered in the Commercial Register in accordance with the relevant rules and regulations determined in this regard. Once being registered, it may not be used by any other businessman involved in the same line of business. In case of similarity between two trade names composed of the traders' personal names, the right of priority shall be applied, whereas the latter shall have to add to his name whatever may distinguish it from that of the priority right holder.

A trader, however, may not use the trade name of another trader unless upon the lapse of one year from the date the said name is expired or extinguished. Yet, a trade name may not be subject of a disposition, independently from a disposition in the trading place with which it is associated. But the vice-versa may not be applied here, i.e., suppose it happened that a trading place was subject to a disposition by its owner, disposal then shall not include the trade name used to identify the said place unless it is otherwise so provided, whether explicitly or implicitly. However, to whomever the trading place ownership is transferred without that of the associated trade name may not be liable for precedent obligations unless, again, it is otherwise agreed upon in an agreement duly registered with the Commercial Register.

Also, it may not be possible for whomever a trading place proprietorship is transferred to use the former's trade name unless it goes along to him or is permitted to use it by the former owner on a condition that he must add to it whatever statement may denote such alienation of proprietorship. Whoever a trade name proprietorship is alienated as a result of a trading place proprietorship transfer shall be liable for the rights and obligations incurred thereby under the said name. Any agreement on the otherwise shall not be effective vis-à-vis other third parties but as from the date of re-registration of the trade name in the Commercial Register and of a notification in this regard to whoever concerned.

If it happened that a trader used others' trade name in absence of a relevant agreement, or if he used it in such a manner that was found in contradiction to the law provisions, whoever may be concerned shall have the right to request the competent authority to prohibit usage and de-registration of the trade name, in case it had been already registered in the Commercial Register, yet without prejudice to the requester's rights in indemnification as per exigencies.

Regarding the names of trading companies, Article (24) of the Commercial company law no. (8) of 1984 already amended by law no. (13) of 1988 and law no. (15) of 1998 provided that the name of a "General Partnership" company shall be formed of the names of all partners, but may be confined to the name of one or more partners. However, it may be a private trade name. But if the company's trade name knowingly includes the name of a non-partner, he shall jointly be liable for the company's obligations.

Article (49) of the said law provided that the name of a "Simple Limited partnership" should be composed of the name(s) of one or more general partners with an indication to the existence of a

company. The company, in addition, may have a special trade name i.e., an innovative one, but the name of a limited partner may not be included in the company name. If it so knowingly happened, the limited partner should be treated as a general partner vis-à-vis other bona fide parties.

Article (65) of the said law provided that the name of a "Joint Stock Company" should be derived from its purpose. The name may not be that of an individual unless the company's objects were the utilization of a patent registered in the name of the individual or if the company had, upon or after its incorporation, opened a trading place and adopted its same name. In all cases, the term "Joint Stock" must be added to the company name.

Article (219) of the law provided that the name of a "Limited Liability Company" shall be derived from its purpose or from the name of one or more of the partners. In all cases, the term "Limited Liability" should appear in the name and on all its papers along with a shown paid-up capital. In case of negligence of the above by the company's managers, they will be jointly responsible for indemnification and for the company's obligations from their own assets.

Article (259) also provided that the name of a "Partnership Limited by Shares" shall be composed of the name of one or more general partners. A novel designation or one derived from its objects may be added to its name.

The name of a participating partner may not be mentioned in the company name. If his name was knowingly mentioned in its name, he should be treated as a general partner vis-à-vis other bona fide parties. In all cases, the term "Partnership Limited by Shares" should be added to the company name.

International Laws Protecting Trade Names

By virtue of the Federal Decree no. (20) of 1996, the UAE joined the Paris Convention For The Protection Of Industrial Property Of March 20, 1883, As Revised At Brussels on December 14, 1900, At Washington on June 2, 1911 At The Hague on November 6, 1925, At London on June 2, 1934, At Lisbon on October 31, 1958, And At Stockholm on July 14, 1967, and revised on 2nd October 1979.

Article (1) of the said convention provided as follows: "The countries to which this Convention applies constitute a Union for the protection of industrial property. The protection of industrial property has as its object patents, utility models, industrial designs, indications of source or appellations of origin, and the repression of unfair competition."

Article (8) of the said convention, which is entitled "Trade Names" provided "A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not it forms part of a trademark."

Clause (a) of article (9) provided "All goods unlawfully bearing a trademark or trade name shall be seized on importation into those countries of the Union where such mark or trade name is entitled to legal protection."

Whereas article (10) entitled "Unfair Competition" provided as follows:

- (1) The countries of the Union are bound to assure to nationals of such countries effective protection against unfair competition.
- (2) Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition.
- (3) The following in particular shall be prohibited:
 1. all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor;
 2. false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor;
 3. indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity of the goods.

Trade Name Legal Principles Adopted by the UAE Court of Cassation

A Publication of Abu Dhabi Chamber of Commerce & Industry

Right of priority

According to comparative legislation and jurisprudence, the ownership of a trade name starts once being used for the first time by the person who adopted it with the objective of introducing his products or trade to customers and distinguish himself among other persons involved in the same line of business. In other words, it is sufficient for such a person to start using the distinguished name in order to acquire the right of priority in it. If it happened that a competitor businessman trespassed such a right on the pretext of unfair competition, the trespasser shall be liable for compensation, exactly equivalent to the loss or damage he incurred thereby. He shall also be obligated to stop using the said name. Otherwise, he may modify it in such a way that may exclude misleading. This is, of course, applicable even if the trade name in question was not duly registered. According to the purport of article (3) of law no. (5) concerning the Commercial Register, a trade name which may be still under-registration shall not deprive its owner from his right to defend and take whatever actions required to protect his name by the force of priority, despite the fact that completed registration will endow the legal protection according to which nobody else can register the same or a similar name in his favor. Among the action that can be taken for protection, is bringing a law suit built on the pretext of "Unfair Competition". If it happened that trespasser succeeded in registering the trespassed name in his favor after the suit being brought, but before reaching a judgment, such registration may not affect the right of priority, because the dispute over the name will remain on the court tapis until it determines who is the one that has the right in the name. Once it is determined according to the right of priority, the court may also order to amend registration in the Commercial Register on this basis. (ref. Challenge no. 89 of the ninth judicial year, dated 28 June 1988).

Trade Name or Trade Mark? Provisions & Differences

As we have previously mentioned, it is according to comparative legislation and jurisprudence, that the ownership of a trade name starts once being used for the first time by the person who adopted it with the objective of introducing his products or trade to customers and distinguish himself among other persons involved in the same line of business.

The matter is different when it comes to a trade mark, which is shown on a certain product in order to distinguish it from other similar items. However, the right in a trade mark proprietorship may not simply be incurred through depositing it at the relevant register. Such proprietorship is originated from the priority of usage, whereas, deposition is considered a legal pre-emption which remains apt to prove the contrary. Hence, a lawsuit on "Unfair Competition" is viewed to be the most important medium to protect the trade mark.

As we have mentioned before, it is sufficient for a person to start using the distinguished name in order to acquire the right of priority in it. If it happened that a competitor businessman trespassed such a right on the pretext of unfair competition. The trespasser shall be liable for a compensation, exactly equivalent to the loss or damage he incurred thereby. A trade name which may be still under registration shall not deprive its owner from his right to defend and take whatever actions required to protect his name by the force of priority. Accordingly, registration of the name by a trespasser may not affect the lawsuit brought against him on the basis of "Unfair Competition". Therefore registration may not give him a right that was not for him before. If the judgment appealed against was inclined to adopt this view, it would not be a default vis-à-vis the challenge brought against it. (Challenge no. 57 of the fourteenth judicial year, dated 11 October 1992).

Trade Name Usage & Proprietorship Clause

It is well known that the municipality trade license cannot be used as a pretext if it is not renewed every year. Therefore, the law which provides protection over the whole validity of a trade license and a Municipality license, may not continue to provide such protection in case of renewal failure. Add to this the fact that this protection provided to a trade place is not designed for merely being acquired, but for the purpose of being involved in the licensed activity. Otherwise, it will turn out to be that is obstructing the national economic activity, a matter which was not meant by the legislator when he drew the law and provided for the protection of the trading address. That is why it concluded to that a rising dispute may not be targeting the issue of registration rather than the issue of activity-exercising. Thus, he who may be the first to register, must also be persevered to protect his trading address

through continuous practice, or else, the license acquisition will be merely an arbitrary action and exploitation of the right of getting a trade name, which was made available for everyone by the force of law, whereas the freedom of choice was turned upside down to become an act of trade name monopoly without any economic feasibility supporting the licensed activity. Such elaboration had once been made by the Court of law (Challenge no. 84 of the thirteenth judicial year-21 January, 1992).

Firs Comes First

The subject matter of one of the disputes arising from the misuse of trade names, was that a couple of later individuals used the same trade name adopted by a couple of former individuals involved in the same line of business. This was an obvious trespass by the later defendants against the former claimants who had used the name first and acquired the right of priority in it. Such trespass resulted in incurring misleading and confusion in the minds of the public and customers who used to buy from the former claimants' place that was located in the same trading area of that of the latter defendants, a matter which caused the former claimants to suffer a great loss due to such unfair competition. That is why it was the formers' right to eliminate trespassing inflicted on their trading address; to request preventing the latter defendants from using their name and the removal of all adverse impacts they suffered due to unlawful usage of their name by others. (Challenge no. 89 of the ninth judicial year – 28 June 1988).

Definition & Registration Sequences

One court judgment included a definition to the Commercial Register and explanation of the relevant provisions and sequences. Registration in the Commercial Register may not necessarily result in acquiring the adjective of profession in a certain trade and it may not be used as a pre-emption on such professionalism. In case the court of law adopted such a registration as an evidence of professionalism, its judgment will be challengeable.

According to comparative legislation and jurisprudence, a trader's right to use a trade name is based on priority of usage. In case a trader has not registered his respective trade name in the Commercial Register and a relevant dispute arises therefrom, priority of usage prevails in this connection." (Challenge no. 43 of the seventh judicial year – 7th January 1986).

Trespass – Liability - Indemnification

Liability is not essentially incurred due to proven illwill and intention to mislead dealers. A trespasser could be held responsible only on the basis that he attempted to attract clients of another shop and not necessarily on proven illwill and intention to harm another trader by taking his clients. In this case, it would not be possible to pass an award for compensation. However, relevant measures should be taken to prevent future confusion. In this connection, decry shall be deemed inappropriate. (Challenge no. 89 of the ninth judicial year – 28th June 1988).

Trade Address Or Trade Feature

The Right of Priority prevents Legal Action Despite non-registration in the Commercial Register

According to the general rules, the trades address or trade feature is deemed the name that a trader – individual or company – uses while commencing trade activity to distinguish it from others. To a trading shop, it is an indispensable moral element, not to mention the less important material elements. The moral and material elements should combine together for one person to use the shop and acquire proprietorship of the trade name based on priority of usage. Thus his right to level a lawsuit due to illicit competition is maintained. Such a lawsuit is based on dereliction and could be attributed to acts resulting in confusion in the marketplace. The doer shall, therefore, be held liable for compensation. A proprietor of a trade name may bring a case to the court of law to deter trespass taking into account that a trade address acquired due to priority of usage is classified under trade as well as industrial property rights though not recorded in the Commercial Register, even if the trespasser managed to register the same in the Commercial Register. Accordingly, registering in the

Commercial Register does not entail false rights nor does non-registration mean that a party has lost its due right (Civil Appeal no. 567 of 1992 – Session of 28th December 1992).

Legal Rules Related to Trade Names

As Adopted by the Court of Cassation in the Comparative Jurisprudence

1. Any act committed in violation of the laws, customs or to the prejudice of integrity, honesty and dealings, intended to cause confusion between two trading establishments, interruption, attract or distract the customers of any of them shall be deemed as unfair competition." (Challenge no. 62 of the twenty-fifth judicial year – 25th June 1995).
2. If the judgment appealed to was based on the contract, concluded to amend the company status, in identifying the responsibilities of the two parties and explained that the contract restricted the use of the trade name of their company to the defendant company; whereas the claimants who dissociated from the company undertook not to use this name; and the judgment was drawn out due to the compatibility of the trade name used by the claimants with the name of the defendant's company; and in reason of the similarity of the two names that might lead to confusing the consumers in identifying the sources of the products of the two parties, and that was considered unfair competition, and the judgment was based on the said considerations and on the phrases used to amend the company status, without misrepresentation or misstatement, then the conclusion in this connection supports enforcement of the judgment where the appeal is based on inadequacy of justification. (Challenge no. 78 of the twenty – fifth judicial year – 12th November 1995).
3. Usually, a trader uses his name and nickname as a trade name to distinguish his shop from others'. Therefore, a trader is not to be deprived of using a trade name derived from his civil name in reason of similarity between his name and other persons' names. However, the Judiciary shall adopt all necessary measures to prevent confusion, misleading or unfair competition emanating from resemblance of names". (Challenge no. 121 of the twenty-fifth judicial year – 10th December 1995).
4. A judgment is not deemed to have gone wrong, from the legal point of view, if it doesn't respond to a claimant's desire to write off the name of – from the record of registration of the first defendant kept at the Commercial Register Department, if based on the fact that the word used is not a trademark but a trade name derived from the name of the family to which belong the claimant and the first and second defendants." (Challenge no. 121 of the twenty-fifth judicial year – 10th December 1995).
5. "If it becomes obvious through the judgment appealed to that the claimant did not use the term as a trade name, but used a name for himself, whereas the first and second defendants used it for themselves on the pretext that it is a nickname they are known for, as their father was known for before. To resolve the dispute between the two parties, the real condition has to be investigated with regard to this term. As the competent court verified all evidences and documents submitted thereto in this connection, and by making a comparison, it concluded that it is a nickname for which the father of the two parties was known, and it remained impartible to him a long time ago before the claimant got involved in the profession, industry or trading in perfumery. The first and second defendants and the claimant used this nickname as their fathers' predecessors, and have been known for using it all along their lives. The first defendant did not bear it from the date of adding it to his name in his birth certificate. Through revision of the detailed contents of the judgment passed by the competent court, the facts proved do not contradict any of the said contents. Consequently, the conclusion is deemed acceptable. The Court of Cassation control over the competent court is limited to verify the aforementioned fact, which has no basis, rendering the evidence void and the nullifying the referment. (Challenge no. 121 of the twenty-fifth judicial year – 10th December, 1995).