

**The Bahrain Civil  
& Commercial Procedures Act**

**No. 12 /1971**

**With the Amendments**

THE BAHRAIN CIVIL AND COMMERCIAL PROCEDURES ACT

1971

# INDEX

## GENERAL PROVISIONS

1

### CHAPTER ONE: BRINGING CASES TO COURT

Part One- Structure and Competence of the Courts	
1) Structure of the Courts	2
2) Specific Jurisdiction of the Courts	2
3) Competence to examine contingent claims	
4) International competence of the Courts of Bahrain	4
5) Law to be applied in personal status of non-Muslims	6
Part Two - Filing Cases	
1) Procedure for filing cases	
2) Serving of writs and summonses	11
Part Three - Civil Trials	
1) Appearance and non-appearance of litigants; power of attorney	13
2) Procedure and order of sessions	16
Part Four - Grounds for Action, Issue of the Case and Parties thereto	
1) Grounds for action and issue of the case	18
2) Plurality of litigants; introduction and intervention of further parties	20
3) Third party disputes	21

### CHAPTER TWO: PROCEDURES FOR HEARING EVIDENCE

General Provisions	22
Part One - Questioning of litigants, admissions, oath	
1) Questioning of litigants	23
2) Admissions	24
3) Oaths	24
Part Two - Evidence by Witness	26
Summoning of witnesses	27
Witnesses	28
Appraisal of evidence and its bearing on the case	29
Part Three - Presumptions	31
Part Four - Documentary Evidence	32
Probative force of copies of documents	34
Part Five - Petitions Requiring Parties to Produce Documents at their Disposal and Examination thereof	36
Part Six - Removal of the Court to the Seat of the Dispute	37
Part Seven - Expert Knowledge	38

### CHAPTER THREE: PROCEDURE FOLLOWING THE HEARING OF THE CASE; PURSUIT OF THE CASE; SUSPENSION OF THE CASE; DISCONTINUATION, LAPSE, EXPIRY AND RELINQUISHMENT OF THE LITIGATION

1) Suspension of the Case	40
2) Discontinuation of the Litigation	41
3) Lapse and Expiry of the Litigation	42
4) Relinquishment of the Litigation	43

### CHAPTER FOUR: PROTECTIVE AND INTERIM MEASURES; BAN ON TRAVEL; RECEIVERSHIP

1) Protective and Interim Measures and Ban on Travel	43
2) Receivership	44

CHAPTER FIVE: POWER OF THE JUDGE TO EXAMINE THE CASE	51
CHAPTER SIX; VERDICTS; MEANS OF CHALLENGING VERDICTS; ARBITRATION	
Firstly - Verdicts	
a) Handing down of verdicts	46
b) Costs of the case	47
Secondly - Means of challenging verdicts	49
1) Objection to verdict by default	49
2) Objection by a party external to the litigation to the verdict passed thereon	50
3) Appeal	51
4) Request for a rehearing of the trial	55
CHAPTER SEVEN: ARBITRATION	57
CHAPTER EIGHT: EXECUTION	
1} General Provisions	61
Methods of Mandatory Enforcement	69
a) Mandatory enforcement against the convicted litigant before the Execution Court	69
b) Enforcement against the debtor's property	71
1) Distress upon the debtor's movable property and sale thereof	71
2) Distress upon stock, bonds, interest, shares and sale thereof	73
3) Garnishment	74
4) Distress upon wages and salaries	75
5) Distress upon real property and sale thereof	76
FINAL PROVISIONS: DATES OF PROCEEDINGS	83
<u>AMENDMENTS</u>	
AMIRI DECREE NO. 8/1978 WITH RESPECT TO AMENDING SOME OF THE PROVISIONS OF THE CIVIL AND COMMERCIAL PROCEDURES ACT	84
MINISTERIAL ORDER NO.7/1978 WITH RESPECT TO PROCEDURES FOR PAYMENT OF DEBTS AND DEPOSITS	90

STATUTE NO. 12, 1971 IN PROMULGATION OF THE

CIVIL AND COMMERCIAL PROCEDURES ACT (1)

We, Isa bin Salman Al Khalifa, Ruler of Bahrain and Dependencies,  
having examined Decree No. 1, 1970 establishing the State Council,  
acting upon the submission of the Head of the Justice Department,  
and with the approval of the State Council,

DO HEREBY ISSUE THE FOLLOWING STATUTE:

Article 1

The Civil and Commercial Procedures Act annexed to this Statute shall take effect and abrogate all that is contrary to its provisions.

Article 2

Execution of this Act shall be carried out by the Head of the Justice Department, and it shall come into force as from 1st September 1971. It shall be published in the Official Gazette.

Isa bin Salman Al Khalifa  
Ruler of Bahrain and Dependencies

Issued at Rifaa Palace  
27th Rabi' Al Thani 1391/  
22nd June 1971

(1) Published in the Official Gazette No.926, Thursday 22nd July 1971.

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CIVIL AND COMMERCIAL PROCEDURES ACT

GENERAL PROVISIONS

Competence of the Civil Courts

Article 1

The functions of the Civil Courts is to render judgement in all disputes concerning civil and commercial matters and the personal status of non-Muslims.

Article 2

The provisions of this Act shall apply to cases brought before the Civil Courts unless another law specifies to the contrary.

Article 3

All cases heard by the Civil Courts while this Act is in force shall be considered to have been initiated in accordance with its provisions and shall proceed and be judged in accordance with these provisions.

Article 4

All powers granted, actions performed, judgements issued and appointments made which were effective immediately prior to the date of this Act 's coming into force shall remain valid, unless otherwise provided for.

Article 5

No instance or plea shall be admitted from anyone who does not have a manifest and legally recognised interest therein. Presumed interest shall however be sufficient if the object of the instance is to take precautions against imminent injury or to seek confirmation of a right for which evidence might no longer exist when it comes into dispute.

Article 6

The amounts of claims shall be assessed, and the fees payable in respect of cases determined, under a special law to be issued for that purpose.

CHAPTER ONE BRINGING

CASES TO COURT

PART ON5 STRUCTURE AND COMPETENCE OF

THE COURTS

1) Structure of the Courts

Article 7

The Courts are composed of:

- 1 - The High Court of Appeal
- 2 - The High Court
- 3 - The Courts of Minor Causes and Courts of Execution

2) Specific Jurisdiction of the Courts

Article 8

The Courts of Minor Causes are competent to hear the following cases:

- 1 - Civil and commercial cases where the amount of claims does not exceed BD 400.
- 2 -Cases concerning stream rights, right of way, watering rights where persons are prevented from exercising them, and cases of overlooking and breach of privacy.
- 3 - Cases concerning repossession of property expropriated from its possessor in any way, whatever may be the value of that property, and cases of no claim, provided they are brought within two years from the date of expropriation or from the time of the claim arising.

The plaintiff who claims legal tenure may not combine this claim with one of rightful ownership, otherwise he forfeits his claim to legal tenure.

The defendant may not refute a claim of legal tenure on the basis of rightful ownership, nor will his claim to rightful ownership be admitted until judgement has been passed on his claim to legal tenure and the resulting award executed, except where he has already ceded tenure to the opposing party. Likewise no award may be made in a case of legal tenure on the basis of rightful ownership being proved or disproved.



A - Cases concerning the division of jointly owned property, whether movable or immovable, whatever its value, and the decision to sell it if it is not divisible and ownership is not disputed.

5 -Secondary cases arising from original claims for interest, loss, damage and court fees.

6 - Cases of vacating leased property, except where such cases involve juristic claims in excess of BD 400.

#### Article 9

Subject to the provisions of other laws, the Courts of Execution shall be competent to execute awards issued by the courts of all types and degrees.

#### Article 10

The High Court shall be competent to hear in the first instance all disputes concerning the personal status of non-Muslims, and commercial and civil cases not falling within the competence of the Courts of Minor Causes.

It shall also be competent to judge all cases the hearing of which any other law places within the competence of a High Court.

#### Article 11

The High Court shall examine by appeal awards issued by the Courts of Minor Causes and decisions issued by the Courts of Execution against which an appeal is made.

#### Article 12

The High Court of Appeal shall be competent to examine awards, issued in the first instance by a High Court, against which an appeal is made.

### 3) Competence to examine contingent claims

#### Article 13

The Courts of Minor Causes shall not have competence to judge contingent claims if the amount at issue is greater than BD 400.

If a claim of this kind is brought before them they may judge the original case only, provided this causes no detriment to the course of justice, otherwise in judging it outside their jurisdiction they must automatically order the original case and contingent claims to be referred at once to the High Court,

If a claim or case of this kind is brought before the High Court, the High Court shall judge it together with the original case even if the amount claimed or at issue is less than BD 400.

#### 4) International competence of the Courts of Bahrain

##### Article 14

The Courts of Bahrain shall have competence to hear actions brought against any non-Bahrain! having domicile or residence in Bahrain, with the exception of real property actions relating to realty situated abroad.

##### Article 15

The Courts of Bahrain shall have competence to hear actions brought against any non-Bahrain! not having domicile or residence in Bahrain in the following cases:

- 1 - if he has elected domicile in Bahrain.
- 2 - if the action relates to an asset in Bahrain or to any obligation arising or performed or to be performed there, or to insolvency of which notice is published therein.
- 3 - if the action is raised by way of opposition to any contract of marriage and if such contract requires ratification with the notarial authorities in Bahrain.
- 4 - if the case relates to any petition for nullity of marriage or divorce or separation, and is brought by a wife having had domicile in Bahrain against her husband having had a domicile there when the husband has abandoned his wife and acquired foreign domicile after the occurrence of the cause of the nullity, divorce or separation, or has been deported from the country.
- 5 - if the action relates to a claim for maintenance for a mother or a wife when either has domicile in Bahrain or for any child resident there.

- 6 - if the action relates to any matter of personal status and the plaintiff is a national or an alien having domicile in Bahrain, where the defendant has no known foreign domicile, or if Bahraini law is applicable to the action.
- 7 - if the action is in respect of the kinship of any child resident in Bahrain or the usurpation of legal capacity or the fettering, suspending or revocation thereof.
- 8 - if the action relates to any matter affecting the control of any asset where any minor or any person against whom any restraint or for whom any judicial assistance is sought has domicile or residence in Bahrain, or if in such matter the absent party has had his most recent domicile or residence there also.
- 9 - if one of the defendants has domicile or residence in Bahrain.

Article 16

The Courts of Bahrain shall have competence in any action relating to estates when the administration of such estates has commenced in Bahrain or the deceased was a Bahraini or the assets constituting the estate were wholly or partly in Bahrain.

Article 17

**The Courts of Bahrain shall have competence to decide an action, even though it does not fall within their competence pursuant to the preceding Articles, if the party in question expressly or implicitly accepts its jurisdiction.**

Article 18

If there be brought in the Courts of Bahrain any action within their competence such Courts shall have competence to decide any preliminary issue and any claim incidental to the original action; and shall have competence to decide any claim related to such action where such claim requires it to be dealt with as part of such action if justice is to be properly done.

Article 19

The Courts of Bahrain shall have competence to make provisional or conservative orders to have effect in Bahrain, even where there is no competence to hear the original action,

Article 20

If the defendant fails to appear and the Courts of Bahrain lack competence to hear the action pursuant to the preceding Articles, the Court shall of its own motion rule that it lacks competence.

5) Law to be applied in personal status of non-Muslims

Article 21

The High Court shall judge questions of the personal status of non-Muslims as follows:

- 1 - The civil status and competence of persons is governed by the law of the state to which they belong by nationality.
- 2 - For the objective conditions for the validity of a marriage, recourse shall be had to the law of the couple's country of origin.
- 3 - The law of the state to which the husband belongs at the time of concluding the marriage shall apply to the consequences resulting from the marriage contract including consequences with regard to property. However, divorce shall be governed by the law of the state to which the husband belongs at the time of divorce, and dissolution or separation shall be governed by the law of the state to which the husband belongs at the time of filing the case,
  - A - Obligations as regards payment of alimony to relatives shall be governed by the law of the party under obligation to pay.
- 5 - Fundamental matters concerning natural and legal guardianship, receivership and other fundamental arrangements for the protection of minors, wards and absent persons shall be governed by the law of the person to be protected.

- 6 - In respect of nomination of heirs and assignment of their portions of the inheritance, and the transfer to them of the bequeathed property, the provisions of the law of the country of the deceased shall apply.

Article 22

The law to be applied as shown in the preceding Article must not be contrary in its provisions to order or decency in Bahrain.

PART TWO  
FILING CASES

1) Procedure for filing cases

Article 23

Cases shall be filed with the competent Court, on the basis of the application of the plaintiff, by means of a statement of claim submitted to the Case Records Department.

The statement of claim must contain the following particulars:

- 1 - The plaintiff's name, surname, occupation or profession and place of residence or contact address.
- 2 - The defendant's name, surname, occupation or profession and place of residence or elected domicile.

If either plaintiff or defendant is acting as the representative of a third party the form and character of this representation must be stated in the statement of claim.

- 3 - The date of submitting the statement to the Court.
- 4 - The Court before which the case is being brought.
- 5 - The subject matter and facts of the case and the plaintiff's claims and supporting evidence.

If the subject matter of the case is a claim for a sum of money to be awarded the plaintiff must give a precise statement of the amount claimed.

If the plaintiff has brought the case in order to claim income of immovable property or to obtain a sum of money owed to him the amount of which he is only able to determine by settling the account between himself and the defendant, he must include in the statement the approximate amount of the sum claimed. If the subject matter of the case is immovable property, the statement of claim should include a description of the property claimed by which it is possible to distinguish it from other property, such as a statement of its boundaries or a declaration of its Land Registration document number. If the rights claimed by the plaintiff are based on a number of allegations or reasons based on sundry independent grounds, he must explain these allegations and reasons clearly and plainly.

Article 24

In submitting the statement of claim the plaintiff must pay the fee in full and submit to the Case Records Department as many copies of this statement as there are defendants, and the original statement shall remain with the Court. He must enclose with the statement of claim copies of the documents supporting his case in a list attached thereto together with an explanatory note.

Article 25

The Clerk of the Court shall maintain a file for the case once it has been submitted, and the said Clerk shall, upon payment of the fee, record the statement in the Court's register of such matters and put the statement and receipt for the fee in the case file.

The Clerk shall, on the day after the statement is submitted, deliver to the defendant a copy thereof and the defendant may lodge with the Court Clerk, within ten days of the statement of claim being delivered to him, a submission in his defence accompanied by such documents as he sees fit to submit.

If he does so the plaintiff may also within ten days from the expiry of the period specified in the preceding paragraph lodge with the Clerk of the Court a submission accompanied by such documents as he sees fit to submit in support of the reply.

Article\_2\_6

Following the expiry of the periods laid down in the preceding Article, the Court Clerk shall appoint a session for the case to be heard, and the Court Clerk concerned shall give summons to the plaintiff and the defendant in accordance with the provisions of the law stating therein that it is obligatory for them to attend on the day set for the Court's session, according to the formula drawn up for this purpose at the Case Records Department.

Article 27

Before judgement is passed on the merits of the case, and at the first session appointed for its hearing, the Court must satisfy itself:

- 1 - as to the provision of the information required to be given in the statement of claim under Article 23 of the Act and that the statement of claim is not rendered faulty by any error in the grounds therefor or any error in the estimation of the amount at issue in the case or the amount of the fees.

If the case does not include any grounds or there is an omission or a mistake in the amount at issue in the case or the amount of the fees, the Court shall, if in deems it necessary for the proper pursuit of justice, order the case to be deferred and the plaintiff to be required to furnish grounds for the case, or to complete the missing information or correct the procedures, where error was made, or to complete payment of the fee, within a period of not more than three months, otherwise the Court shall order the case to be dismissed.

The plaintiff may at any time during the foregoing period expedite the conduct of the case by means of proper procedures otherwise it shall be regarded as null and void.

Regarding the case as null and void for any of the reasons hereinabove mentioned does not in itself prevent the plaintiff from filing a new case concerning the original claim.

- 2 ~ as to the validity of the procedure followed in notifying and service of process to the defendant.

If the Court establishes that this procedure has been invalid, it shall order the hearing of the case to be deferred and require the Court Clerk to repeat the notification and service of process procedure in accordance with the law.

Article 28

If the case is filed with or assigned to a Court that is not competent, the Court shall rule itself incompetent and refer the case to the Court with which it should have been filed or to which it should have been assigned. In its ruling the Court must state the reasons for referral of the case.

Article 29

The recording of the statement of claim in the Court Register under Article 24 of this Act shall determine:

- 1 - the expiry of the time limit allowed to the defendant.
- 2 - the time from which chargeable interest applied unless it takes effect from some other time by virtue of commercial practice or of an agreement,

Article 30

The defendant in any case may at any time after the summons has been served request that the case be dismissed on any of the following grounds:

- 1 - that the case has been judged before;
- 2 - incompetence, except for the provisions of Article 28 of this Act;
- 3 - expiry of the time limit;

or on the basis of any other reason that may suggest to the Court that the case should be dismissed before the merits of it are entered into. If the Court decides to accept the request it shall dismiss the case in respect of the defendant.

Article 31

The defendant may reject the case by not accepting it at any stage because of the plaintiff's lack of qualification, legal competence or interest or for any other reason, and this rejection will be judged independently unless the Court orders it to be considered together with the merits of the case, in which case the Court shall pass verdict on both the rejection and the merits of the case.



2) Serving of writs jgnd summonses

Article 32

- 1 - Every summons issued by a Court or judge under this Act must be made out in duplicate and signed or stamped by or on behalf of the Court or judge.
- 2 - Summonses shall be served through a police officer or public warden or any functionary at the issuing Court or any other functionary authorised under any law in force at the time to serve summonses.

Article 33

- 1 - The summons must be served, if possible, to the person himself who is ordered to appear by delivering or presenting to him one of the two copies thereof.
- 2 - The person to whom the summons is served must sign or stamp the other copy acknowledging receipt thereof if the functionary serving it requires him to do so.

Article 34

Summonses to companies with or without joint liability shall be served by being delivered to the company's secretary or local manager or any other of its senior officers at any of its offices in Bahrain or its dependent territories.

Article 35

If it has not been possible to find the person ordered to appear after the necessary search for him has been made, the summons shall be served by leaving a copy thereof for him with one of the members of his family living with him in the same household, and this latter person must sign the other copy thereof as a receipt for having received it if the functionary serving it requires him to do so; or else the summons shall be served by posting a copy of it in a prominent place in the house or domicile usually occupied by the person ordered to appear.

Article 36

If the person to whom the summons is served or with whom it is left is unable to give his signature or stamp, the summons must be served or left

in the presence of a witness.

Article 37

Any written declaration apparently made and signed by the functionary who delivered the writ or by the person who witnessed the delivery will be accepted as conclusive evidence of delivery, as will any copy of the summons apparently signed in the manner given in Articles 33 and 34 by the person to whom it was delivered or with whom it was left. Written statements as mentioned above shall be presumed genuine until proved otherwise.

Article 38

If the Court establishes that there is no way in which the summons can be served in accordance with the provisions of the preceding Articles for any reason it may order it to be served in the following manner:

- a) by putting up a copy of the writ on the noticeboard provided at the courthouse for this purpose, and another copy on an easily visible part of the premises known to be the last place at which the defendant was resident or exercised his profession.
- b) by publishing an announcement in the Official Gazette or a newspaper appointed by that Court.

If the Court issues an order for the aforementioned method to be adopted in serving the summons it must specify in its order a date for the defendant to appear before the Court to present his defence.

Article 39

If the Court establishes that the defendant is living outside Bahrain and that he has no agent in Bahrain to accept delivery of the summons on his behalf, it may order writs to be served to him through diplomatic channels if possible, otherwise by sending them to him by registered mail with an acknowledgement slip in the knowledge that they will reach the place in which he is resident abroad.

In this case the date of the trial may not be set before the elapse of thirty days from the date on which the notice of action was submitted to the Court, and the defendant may expedite the conduct of the case either personally or through an authorised agent to represent him within this period.

PART THREE

CIVIL TRIALS

1) Appearance and non-appearance of litigants; power of attorney

Article 40

On the day appointed for the hearing of the case either the Litigants themselves shall appear or such lawyers or other representatives as they give power of attorney in accordance with the provisions of the Legal Representation in the Courts of Bahrain Act No. 511, 1355 A.M., and also subject to the provisions of the following Articles.

Article 41

As soon as power of attorney is given by one of the litigants in accordance with the provisions of the preceding Article, his attorney's address shall be used for the serving of writs necessary to the progress of the case at the level of legal action for which he has power of attorney.

Article 42

Power of attorney in litigation confers on the attorney authority to carry out the actions and measures necessary to file and pursue the case or to defend it, to take protective measures until verdict is passed on the merits of the case at the level of legal action for which he has been given power of attorney, to announce this verdict, and to receive fees and expenses; and this without prejudice to areas in which the law requires special authorisation. No stipulation made in the warrant of attorney contrary to the above may be used as a pretext against the adversary.

Article 43

The following actions are invalid without special authorisation: the concession or waiver of rights claims; compromise or arbitration therein; accepting the tendering or tendering back of oaths; relinquishment of the litigation; waiver of the verdict or of any form of challenge thereto; the lifting of liens; relinquishment of securities while debts remain outstanding; allegations of falsifications; challenging of judges; challenging of experts; de facto submissions or admission of such; and receipt of sums of money from the Court on behalf of the client.

If anything contrary to this occurs the principal may renounce it.

Article 44

The retirement or dismissal of the attorney shall not prevent the proceedings continuing with him present unless the litigant announces the appointment of a replacement for him or the principal decides to conduct the case himself.

The attorney may not retire as such at an inconvenient moment,

Article 45

The Court may order the litigants to appear before it in person on a day appointed by itself. If the person required to appear has a reasonable excuse preventing him from appearing the Court shall delegate one of its judges to hear his testimony on a date appointed by itself. The Clerk of the Court must inform the opposing party and take down a procès verbal of the litigant's testimony which the judge, the Clerk and the litigant shall all sign.

Article 46

- 1 - If the plaintiff and defendant do not attend the first session the Court may postpone examination of the case to another session and notify the plaintiff and defendant of the date thereof. If they do not attend the second session the Court may cancel the case and charge the plaintiff with costs.
- 2 - The Court shall also decide to dismiss the case if the plaintiff and defendant do appear and agree that the case should be dismissed.
- 3 - If the case remains dismissed for sixty days and neither plaintiff nor defendant has called for it to proceed, the case shall be considered null and void.

Article 47

If the defendant appears and the plaintiff does not appear, the defendant shall have the option of either asking for the case to be dismissed or asking for examination of it to be postponed to another session the date of which shall be notified to the plaintiff. If the plaintiff does not appear at the second session after having been duly notified of its date, the defendant may ask for the case to be considered null and void, and this ruling shall be regarded as passed in presence.

Article 46

If there is more than one plaintiff and one or some of them fail to attend the first session, the case shall be deferred to another session and the Clerks' Department ordered to re-notify those who failed to appear. Rulings passed on the case thereafter shall be regarded as passed in presence with regard to them all.

Article 49

If the plaintiff appears and the defendant does not appear the Court shall, after having ascertained that he was properly notified, decide to proceed with the case in his absence at the request of the plaintiff, who has the right to present his case. The plaintiff may however, ask for examination of the case to be postponed to another session of which his opponent shall be notified as well as being warned that the verdict passed shall be regarded as passed in presence.

Article 50

If there is more than one defendant and one or some of them fail to attend the first session the case shall be postponed to another session and the Clerks' Department ordered to re-notify those who failed to appear, and rulings passed on the case thereafter shall be regarded as passed in presence with regard to them all.

Article 51

If the plaintiff or defendant appears at any session the litigation shall be regarded as conducted in presence with regard to him even if he fails to appear thereafter.

The plaintiff may not, however, reveal new claims or amend, add to, or reduce the initial claims at a session at which his opponent fails to appear. Likewise the defendant may not demand a ruling on any claim in the absence of the plaintiff.

Article 52

If the absent party appears before the end of the session any ruling passed against him therein shall be held null and void, and the Court must inform him of the steps taken in his absence. It may repeat these steps in his presence if it finds this necessary to achieve justice.

Article 53

Decisions ruling the case null and void may not be challenged except for error in application of the law.

2) Procedure and order of sessions

Article 54

The proceedings shall commence at the first session.

Both plaintiff and defendant may however request an adjournment of the case in order to submit documentary evidence or proof in reply to the defence or counterclaims of the adversary.

The case may not be postponed more than once for the same reason coming from the litigant, and the period of postponement may not be longer than three weeks.

Article 55

The trial shall be held publicly unless the Court decides either at its own instance or at the instance of one of the litigants to hold it in camera in order to preserve public order or in deference to decency or the dignity of the family.

Article 56

Together with the judge a Clerk must attend the sessions and all procedures for hearing evidence and take down a procès verbal which the judge shall sign.

Article 57

The Court may hear the testimonies of litigants or witnesses who are ignorant of the Arabic language through an interpreter after he has taken an oath pledging himself to accuracy and truth in his translation or has been officially certified as telling the truth.

Article 58

The witness shall first answer the questions of the litigant who has summoned him to give evidence, after which the other litigants may then cross-examine him. Afterwards the litigant who called him may question him again on the points arising from the other litigant's cross-examination, provided that neither the questioning nor the cross-examination departs from the matter at issue, and this without prejudice to the Court's right to put questions to the witness and the right of the President of the Court to

direct and control the session.



Article 59

The litigants may at any stage in the case ask the Court to enter in the procès verbal for the session any compromise they have agreed on or any other agreement which shall be signed by themselves or by their representatives. If they have already put their agreement in writing the Court shall endorse the document and it shall be appended to the procès verbal for the session once the essence of it has been recorded therein.

The procès verbal for the session shall have the validity of an authentic document and copies thereof may be used according to the principles laid down for the use of copies of authentic documents.

Article 60

Control and direction of the session are vested in the President of the Court and to this end he may send out of the Court room in which the session is being held anyone who disturbs the order of the session. If he does not submit, but persists, the Court may immediately rule that he be detained for 24 hours or fined BD 3.

Its ruling on this matter shall be final.

Article 61

The Court may, even at its own instance, order phrases that depart from or violate decency or public order to be deleted from any Court document or pleading.

**The Court must refer any case of false evidence to be taken up by the Public Prosecutor.**

Article 62

As far as possible the hearing of the case shall follow the order given in its schedule. When examination of the actions of those litigants who appeared before the Court when called has been completed, those who are absent shall be called again. When it becomes apparent that they have not appeared, the Court shall decide either to cancel or to adjourn their actions and the session shall be closed.

PART FOUR GROUNDS FOR ACTION,  
ISSUE OF THE CASE AND PARTIES THERETO

Article 63

The scope of the case shall be defined primarily, whether as to the issue thereof, grounds for it, or parties thereto, by the original claims given in the statement of claim.

1) Grounds for action and issue of the case

Article 64

The case must incorporate all that the plaintiff is entitled to claim in respect of the grounds for action.

The plaintiff may combine within the same case several claims based on one legal ground or on several legal grounds or facts.

Article 65

If the case comprises a number of grounds and the Court finds it cannot properly judge them all together, it may decide to examine each of these grounds for action separately or issue whatever decision it deems fit.

Article 66

The plaintiff may submit the following claims contingent upon the issue of the original case:

- 1 - any matter involving emendation of the original claim or amendment of the issue thereof in response to circumstances arising or becoming evident after the case is filed.
- 2 - anything involving additions or alterations to the ground for action while leaving the issue unchanged.
- 3 - any matter that is supplementary to, consequent upon, or inseparably connected with the issue of the original claim.
- 4 - claims for preventive or summary measures to be ordered where there are fears of a time limit running out.
- 5 - any matter related to the original claim which the Court orders to be submitted.

Article 67

The defendant may submit the following contingent claims or counterclaims:

- 1 - claims for legal set-offs.
- 2 - claims that he be awarded damages for loss sustained as a result: of the original case or of some measure taken therein.
- 3 - any claim arising out of his consenting to the plaintiff's not being awarded all or some of his claims or to his being awarded them only on certain conditions in the defendant's favour.
- 4 - any claim that is indivisibly connected with the original case.
- 5 - any matter related to the original case which the Court allows to be submitted.

Article 68

Contingent claims by either plaintiff or defendant shall be submitted in the form of a plea submitted to the Court according to the procedures laid down for the filing of cases in accordance with the provisions of Article 23.

Article 69

In submitting pleas to the Court in general the following shall be observed:

- 1 - Pleas submitted to the Court must be written in ink or typed on clean paper. Only one side of the paper must be used, and a margin must be left.
- 2 - All pleas must include references to the following:
  - a) case number, if any.
  - b) type and issue of the case.
  - c) date of submission.and must be signed by the litigant submitting it or by his attorney or the person representing him.

Article 70

The other litigant(s) shall be notified of the pleas referred to in the preceding Articles before the date of the session in accordance with the methods, notification and summoning laid down in the law.

Article 71

Contingent claims may be presented orally at the session in the presence of the litigants and recorded in the minutes for the session on payment to the Court of the prescribed fee.

Article 72

without prejudice to the provisions of Article 13 of this Act, the Court shall judge contingent claims together with the original case wherever possible; otherwise it shall set aside the contingent claim to be judged once it has been investigated.

2? Plurality of litigants; introduction and  
intervention of further parties

Article 73

If the Court finds the fact of their being more than one plaintiff in the case likely to cause confusion or delay in the examination thereof, it may ask the plaintiffs to elect among themselves to divide up the case or it may on its own initiative decide to conduct independent trials of the case, or issue whatever decision it deems fit.

If there is some connection concerning the issue or grounds for the case whereby common legal or objective questions would occur were the case to be brought or the defendants to bring cases separately, then several litigants in the- same case may either in their capacity as plaintiffs enter the case as one party or as defendants act in unison.

The Court shall issue its award in favour of one or more of the plaintiffs each to the extent to which he is proved in the case to be entitled, against one or more of the defendants each to the extent to which he proves liable.

Article 74

Every interested party may intervene in the case by associating himself with one of the litigants or seeking an award in his own favour by making a claim in connection with the case.

Intervention shall take the form of a plea filed with the Court and delivered to the litigants before the date of the session in accordance with the provisions of the law or a claim submitted orally at the session in the presence of the litigants and entered in the records for the session upon payment to the Court of the prescribed fee.

Intervention will not be admitted after the closing date for the trial, The Court shall judge the merits of the intervention together with the original case wherever possible; otherwise it shall set aside the claim made in the intervention for judgement once it has- been investigated.

### 3) Third party disputes

#### Article 75

A litigant may introduce into the case any party with whom he has a legitimate dispute therein at the time of filing it. The usual conditions for notification and summoning shall be observed in third party disputes.

Wherever possible a single ruling shall be passed on the merits of the claim made in introducing the third party and the original case; otherwise the Court shall judge the merits of the claim made in introducing the third party after ruling on the original case.

#### Article 76

If the defendant claims he is entitled to the recovery of a sum of money owed by a person not party to the case he may submit a claim to the Court identifying the claim and grounds therefor, and request that such person be introduced as a party to the case.

The Court may, even on its own initiative, order anyone linked in joint liability with one of the litigants or anybody who may be harmed by the ruling on the case, to be brought into the case if the Court finds material evidence of collusion, fraudulence or negligence on the part of the litigants.

The Court shall set a date for any person it orders brought into the case to be summoned and instruct the Clerks Department to notify him.

CHAPTER TWO PROCEDURES FOR  
HEARING EVIDENCE

General Provisions

Article 77

The facts intended to be established must be related to the case, arising therefrom and admissible.

Article 78

The Court may digress from the procedures it is instructed to follow in establishing facts provided it gives the reasons for its digression in the minutes for the session. It may choose not to accept the outcome of proceedings provided it gives the reasons for this in its verdict,

Article 79

The plaintiff shall have the right of pleading first, unless the defendant admits the matters given in the statement of claim and claims there are legal grounds or additional facts that refute the plaintiff's case, in which case the right of pleading first shall go to the defendant.

Article 80

In hearing the case the following order shall be observed as far as possible:

- 1 - The party with the right of pleading first may present its case and submit corroborating evidence,
- 2 -The other party may afterwards present its defence and submit corroborating evidence.
- 3 - The party who pleaded first may produce its evidence in refutation of the adversary's evidence, then the other party may present its testimony and final defence, after which the party that pleaded first may make its final submission.

PART ONE

QUESTIONING OF LITIGANTS, ADMISSIONS, OATHS

1) Questioning of litigants

Article 81

The Court may question any of the Litigants present, and each of them may ask to question their opponents present.

Article 82

The Court may likewise order litigants to appear for questioning either at its own instance or at the request of the opposing party.

If it is decided to question someone he must attend the session prescribed in the decision in person. If the Court finds the case does not call for questioning it shall refuse the request for questioning.

The Court shall ask litigants any questions it thinks appropriate, and litigants shall ask the opposing parties being questioned any questions they see fit to put. The reply shall be given at the same session, unless the Court decides to grant time for the reply.

Article 84

The reply shall be given in the presence of the person who requested the questioning, but the questioning shall not depend on his appearing.

Article e 65

Questions and answers shall be entered precisely and in detail in the records for the session, and after they have been read out the judge of the Court shall sign the records.

If a litigant fails to appear for questioning or the person questioned refuses to reply, his failure to appear or refusal to reply, and the reason he gives, shall be noted in the record and the Court shall draw from this whatever conclusions it considers appropriate.

Article 86

If a litigant is legally competent or not in possession of his full civil rights it is permissible to question someone appointed to represent him. The Court may cross-examine him in person if he has reached the age of discretion, and juristic persons may be questioned through whoever represents them in law.

Article 87

If the litigant has a reasonable excuse that prevents him from appearing in person, the Court may appoint one of its judges to question him according to the provisions of Article 45 of this Act.

2) Admissions

Article 88

A litigant's admission, with or without questioning, constitutes conclusive evidence against him. The admission must be made before the judges during the course of the case related to the fact admitted Co.

Article 89

For the admission to be valid, the person making the admission must be sane, of age, acting freely and not under interdiction, none of which is necessarily required in the person in whose favour the admission is made. Admissions may be accepted from persons interdicted for mental weakness in respect of any matter in which he is not considered to be under interdiction by law.

Article 90

An admission may not be divided against its author. One may not take that part which is detrimental to him and ignore that which is in his favour. IC must be taken as a whole. However the admission may be divided if it relates to several facts and the existence of one of them does not necessarily imply the existence of the others.

3) Oaths

Article 91

The decisive oath is one tendered by one of the parties to the other in order to decide the dispute.



Article 92

Each of the litigants may at any stage in the case tender the decisive oath to the opposing party; however the judge may refuse to allow the oath to be tendered if the party tendering the oath does so arbitrarily. The party to whom the oath is tendered may tender back the oath to the opposing party, A party who has tendered or tendered back the oath may not retract once the other party has agreed to take the oath.

Article 93

The decisive oath may not be tendered in respect of a fact contrary to public order or decency. The fact which is the object of the oath must be personal to the party to whom the oath is tendered; if it is not personal to Him the oath will be taken merely on his knowledge thereof.

Article 94

Attorneys in the litigation may only tender the decisive oath, or accept it or tender it back to the opposing party, if given special powers. Representatives may not be empowered to take the oath. If the person to whom the oath is tendered has some excuse preventing him from attending, the Court shall delegate one of its judges to administer his oath.

Article 95

The party tendering the oath to its opponent must state precisely what facts are the object of the oath he wants to make it swear. The Court may amend the form of the oath so that it is tendered clearly and precisely with regard to the facts to be sworn to.

Article 96

If the party to whom the oath is tendered does not contest either its admissibility or its relevance to the case, it must, if present in person, either take the oath at once or tender it back to its opponent, otherwise he will be regarded as refusing it.

Article 97

Anyone to whom the oath is tendered who refuses to take it without tendering it back to his opponent, or anyone to whom the oath is tendered back and who refuses to take it, shall lose his case.

Article 98

Upon the tendering of the oath all other evidence relating to the fact constituting the object of the oath shall be abandoned.

Once the party to whom the oath was tendered or tendered back has taken the oath, the opposing party cannot prove that the oath is false.

If however, the oath is established as false by a penal court ruling, the party damaged as a result thereof may claim compensation without prejudice to his right of appealing against the ruling,

Article 99

The Court may at its own instance tender the suppletory oath to either of the litigants in order to base its ruling on the merits of the case or the amount of the award thereon. This oath may be tendered only when the case is neither completely proved nor devoid of any proof. The party to whom the Court tenders the suppletory oath may not tender it back to its opponent,

Article 100

The party ordered to take the oath may do so in the manner prescribed by its religion if so desired.

PART TWO EVIDENCE

BY WITNESS

Article 101

**In the absence of provision of the law to the contrary, facts relevant to the case may be established by the evidence of witnesses.**

Article 102

The Court may on its own initiative order evidence by witnesses where it considers this beneficial to truth.

Article 103

**The litigant calling for establishment of fact by witnesses may, in cases where such is admitted, set forth for the Court in writing the facts he wishes to establish or disclose them orally at the session. The Court may order an investigation where it considers this beneficial to truth.**

Orders for investigation must give the facts to be established, the date on which the investigation will commence, and the time and place at which it is to be conducted.

Article 104

All objections to the admissibility of evidence by witnesses shall be lodged at the time the evidence is given and judged straightaway. The Court must note all objections and the decisions taken regarding them, unless the objection is insubstantial.

Article 105

Permission for one of the litigants to establish a fact by evidence of witnesses shall always imply that the other party has the right to disprove it by such means.

Article 106

The hearing of evidence and investigation before the Court shall take place in the presence of the litigants. It may when necessary delegate one of its judges to hear the testimony of a witness where it is apparent that there is some reasonable cause preventing the witness from attending.

Summoning of witnesses

Article 107

When the Court orders evidence by witnesses, on its own initiative or at the instance of the litigant's request, it shall issue a summons to those whose evidence is to be heard.

Article 108

Summonses to witnesses shall be served by the methods followed in serving judicial writs.

Every person served with a summons to appear and give evidence must appear in Court at the time and place prescribed in the summons.

If he fails to appear and the Court believes it crucial to judgement of the Court for evidence to be given, it may issue an order for him to be brought to Court, including authorisation for the police to release him on bail.

Article 109

If the witness appears and the Court is not satisfied by the excuses he offers in justification of his failure to appear it may fine him up to BD7.

If he fails to pay the fine, the Court may order him to be imprisoned for up to seven days. Its decision in this respect may not be appealed against.

The witness may leave the Court after giving his evidence unless the Court orders him to remain. If he leaves contrary to the Court's order without a legitimate excuse the Court shall apply the provisions of this Act to him.

Article 110

If one of the litigants asks for some person to be called to give evidence and it is apparent that he is present in the Court, it may order him to give evidence.

Witnesses

Article 111

A witness may not be challenged even if he is a relative by blood or marriage of one of the litigants, unless through senility, youth, illness or any other reason he has no powers of discretion. Evidence may be heard from children of less than fourteen years of age without an oath by way of informal enquiry.

Article 112

Those incapable of speech may give evidence, and should if possible indicate their meaning either in writing or by gesticulation.

Article 113

Persons appointed, employed or commissioned for public service shall not give evidence, even after termination of their services, with respect to any information that came to their knowledge while they were engaged in it which has not been published in the legal manner or the disclosure of which the competent authority has not authorised.

However, this authority may authorise such persons to give evidence at the request of the Court or one of the litigants.

Article 114

Lawyers, attorneys, doctors and others who have learned some fact of information through their practice or occupation may not divulge it, even after their period of service is over or they no longer serve in their former capacity, unless it was told to them for the sole purpose of committing a felony.

However, the persons mentioned above must give evidence concerning this fact or information when asked to do so by the person who confided it in them, provided this does not prejudice the provisions of special laws regarding them.

Article 115

Every witness shall give his evidence in isolation without the other witnesses present whose evidence has not yet been heard. The witness must give the Court his name, surname, occupation, age, place of residence and his connections with the litigants through kinship, kinship by marriage, or employment; and take an oath, in the manner appropriate to his religious beliefs if so desired, that he will tell the truth, or else make a formal declaration that he is telling the truth.

Article 116

Evidence shall be given orally at the session. Written statements may not be referred to in giving evidence unless the Court authorises this and the nature of the case justifies it.

The testimonies of the litigants and the evidence of each witness shall be entered in the records for the session just as he relates it and he shall sign the record after the evidence has been read back to him.

Appraisal of Evidence and its Bearing on the Case

Article 117

Evidence shall always be subject to the Court's appraisal of its veracity and relevance to the action.

The Court may not pass judgement on any issue on the basis of a single witness unless the party in question has no objection. or it is affirmed by other supporting evidence which the Court deems sufficient to establish its veracity.

Article 118

For evidence to be accepted it is sufficient that the evidence of one witness coincide with the evidence of the other in sense even though its working may differ. The same principle applies when deciding whether evidence conforms with the allegation.

Article 119

The witness shall be asked about circumstances of time, place, etc; manner of knowing about the fact to which he is testifying and the manner whereby it came to his knowledge; about the Court in which the evidence is being given and other matters by which the measure of his evidence may be ascertained without requiring attestation of his integrity.

Article 120

Hearsay evidence will only be accepted in the following cases:

- 1 - death
- 2 - kinship
- 3 - any valid endowment made over to a charitable body a long time ago
- 4 - if the parties agree to accept it in writing as evidence for the prosecution, provided the Court admits their agreement and the agreement is appended to the records for the session after its general purport has been recorded therein.

Article 121

If someone is afraid he will lose the opportunity to call on some witness to testify to some matter that has not yet been brought before the judiciary and is likely to be submitted to it, he may in the presence of those concerned ask that this witness be heard.

When this is ascertained necessary the judge shall rule that the witness shall be heard provided the fact is one that may lawfully be established by evidence of witnesses.

If the witness's evidence is not taken immediately in the presence of those concerned, the Court may order them to be notified and the witness summoned for his evidence to be heard at a time to be set by the Court for that purpose, provided the criterion of urgency is met.

In hearing the witness's evidence the above principles and procedure for the hearing of evidence of witnesses shall be followed. In this case a copy of the records of the enquiry may not be delivered or submitted to the judiciary unless the Court in question finds on examination that the fact may lawfully be established by evidence of witnesses. The other party may object in Court to this proof being accepted, as too he may ask for defence witnesses to be heard on his behalf.

PART THREE

PRESUMPTIONS

Article 122

Where evidence by witnesses is permitted the judge may raise presumptions inferred from the facts, conditions and concomitant circumstances of the action.

The judge shall be the one who decides how far each presumption he infers is relevant to the action.

Article 123

A presumption of law relieves the party in whose favour the presumption exists of the necessity of producing any other evidence. This presumption, however, may be rebutted by evidence to the contrary, unless the law provides otherwise.

Article 124

Judgements that become final shall constitute proof of the right adjudged, and no proof shall be admitted against this presumption. However, these judgements shall only constitute proof in this way in disputes arising between the same parties acting in the same capacity, regarding the same object and the same consideration.

The Court shall raise this presumption at the instance of either of the litigants or may raise it of its own initiative.

Article 125

Penal convictions and the related facts concerning which the conviction was made and on which judgement had necessarily to be passed shall be binding in the submission of evidence in civil trials.

PART FOUR  
DOCUMENTARY EVIDENCE

Article 126

Except in commercial matters, evidence may only be given in writing where the amount in question exceeds BD200 unless there is some agreement or provision of the Law to the contrary.

Article 127

With the exception of the provisions of the preceding Article, evidence by witnesses will be admitted where the amount in question exceeds BD200 in the following cases:

- 1 - Where there is commencement of proof in writing. Any written document emanating from the party against whom the claim is made that tends to make the existence of the alleged act probable, is deemed to be a commencement of proof in writing.
- 2 - Where written proof may not be obtained as a result of a material or moral bar, or when custom and usage do not demand evidence of entitlement by means of a written document.
- 3 - Where a creditor has lost his written title to a claim for some unavoidable reason beyond his control.

Article 128

Evidence by witnesses shall not be admitted to prove anything contrary to the contents of a written document. However, the document may be rebutted by another document or by means of a declaration by, or extracts from records belonging to, the person using the document as evidence.

Oral evidence may nevertheless be admitted in the following cases:

- 1 —To establish the circumstances surrounding the drafting of the document or to establish the relationship between the document in question and some other document.
- 2 - Where the document presented in connection with the claim has been obtained by fraudulence, trickery or force.



Article 129

Writing used in evidence may take the form either of an authentic or a signed document.

Article 130

Authentic documents are:

- a) documents drafted by public officers competent under the provisions of the law to draft such documents without the party submitting the documents having to establish the provisions made therein.
- b) documents drafted by their holders and notarised by public officers legally competent to do so. These may be used only to establish the date and/or the authenticity of the signature.

Documents not fulfilling the conditions contained in the previous two paragraphs shall only have the probative force of signed documents, provided they bear the signatures, seals or fingerprints of the parties concerned.

Article 131

Handwriting, signatures, seals or fingerprints may only be challenged in the case of signed papers and documents.

Allegations of forgery, however, may be made in the case of all papers and documents, authentic or signed.

Article 132

If one of the parties challenges any handwriting, signature, seal or fingerprint imputed to him in an ordinary document and the document has a determining influence on the outcome of the dispute, the Court must, at the instance of the party submitting the document, determine that an enquiry be conducted by making comparisons, calling for specimens of writing and hearing witnesses as the case may be.

Article 133

If the party in question claims that the document submitted is forged and asks the Court to verify this, the Court shall, where there is evidence and there are indications to support the existence of forgery, order the party

alleging the forgery to deposit a sum as security, to guarantee his opponent compensation for loss and damages if his allegation of forgery is not substantiated. The Court shall then refer the matter of the enquiry into the claim of forgery to the Public Prosecutor and suspend the hearing of the original action until the forgery action has been judged.

Article 134

Any person holding a signed document may challenge the person against whom the document testifies to acknowledge that it is in his hand or bears his signature or fingerprints, even if the obligation contained therein does not have to be performed. This shall be done by means of an original action to be brought by the normal procedure for bringing actions and serving writs.

If the defendant appears and gives his acknowledgement the Court shall record the acknowledgement and all costs shall be borne by the plaintiff. If the defendant remains silent, or makes no denial, or makes no imputation to anyone else, then the instrument will be deemed to be recognised.

If the defendant disowns the handwriting, signature, seal or fingerprints, an enquiry shall be conducted in accordance with the provisions of Article 132.

Probative Force of Copies of Documents

Article 135

If the original of any authentic document exists, manuscript or photo copies of it emanating from a public officer within the limits of his competence may take the probative force of the original document insofar as they are recognised as true copies of the original.

Article 136

Copies made from entries in bank records shall be taken as primary evidence of the authenticity of those entries and of the matters, transactions and accounts contained therein.

Copies made from entries in bank records shall not be accepted as evidence unless the Court is satisfied first of all that these records were, when the entry was made, among the normal records of the bank; that the entry was made during normal business hours; and that they were among the records kept in the bank's possession or at its disposal. This may be

confirmed by one of the Bank's officials, and for this purpose the copy must also have been checked against the originals and be a true copy. This shall be confirmed by an official at the bank or by another person having checked it against the original.

Article 137

No contract, power of attorney, mandate or written instrument drawn up or signed in any place outside Bahrain may be taken as proof in evidence unless it is acknowledged by both contracting parties before the Court or duly endorsed by the notarial authorities and the competent political authorities in the country in which the documents concerned were drawn up or signed, and duly endorsed by whoever represents Bahrain in that country and by the competent authorities in Bahrain.

Article 138

Signed correspondence has the same probative force as signed documents. The same probative force will also apply to telegrams if the original, lodged with the office of despatch, is signed by the sender. A telegram is presumed to be a true copy of the original until proved otherwise. If the original of the telegram is destroyed or is unavailable, the telegram will merely be regarded as informatory,

Article 139

Traders' books shall not be taken as proof against persons who are not traders, though the particulars of what any trader supplies or sells to his customers may be used as grounds for the Judge to tender the suppletory oath to either party even with regard to matters where the evidence of witnesses is not admitted.

Traders' books may be taken as proof against these traders, but if these books are regularly kept the person wishing to draw on them for proof in favour of himself is not permitted to use only one part of them and set aside that part of them that is contrary to his contention.

PART FIVE  
PETITIONS SEQUIRING ARTICLES TO PRODUCE DOCUMENTS  
AT THEIR DISPOSAL AND EXAMINATION THEREOF

Article 140

A litigant may ask for his opponent to be required to submit any document at his disposal that has a bearing on the action in any of the following cases:

- 1 - if the law permits that he be required to submit or Co surrender it.
- 2 - if it is a joint document applying to himself and to his adversary. A document is regarded as a joint document when it benefits both parties or establishes their mutual rights and obligations.
- 3 - if his adversary has used it for support at any stage in the action.

Article

This petition must give the following details;

- 1 - a description of the document specified by the party in question which he requires to be produced.
- 2 - the purport of the instrument in as much detail as possible,
- 3 - the fact which he wishes to prove by citing it.
- 4 - the evidence and circumstances proving that it is at the disposal of the party in question.
- 5 - the grounds on which the party is obliged to produce it.

Article 142

The petition will not be accepted unless the preceding two Articles are observed .

Article 143

If the petitioner substantiates his petition or the party in question admits the document is in his possession or remains silent the Court shall

order the document to be produced at once or at the earliest juncture appointed by itself.

If the party in question disputes it and the petitioner does not produce sufficient evidence to substantiate the validity of the petition, the party disputing it must take an oath that the document is not to be found, that he does not know where it is to be found, nor its whereabouts, and that he has not hidden it or neglected to look for it in order to prevent his adversary from citing it in evidence.

Article 144

If the party in question does not produce the document at the time appointed by the Court or refuses to take the abovementioned oath, the copy of the document submitted by his adversary is presumed authentic and a true copy of the original. If his adversary has not submitted a copy of the instrument his word may be taken with regard to its form and content,

Article 145

During the course of the action, even before the Court of Appeal, the Court may, in the circumstances, and subject to the provisions and conditions, specified in the preceding Article, allow a third party to be introduced to be required to submit a document at its disposal.

It may also require administrative departments to submit in writing such information and documents as they have that are necessary to the hearing of the case, provided that submitting them would not be detrimental to the public interest.

Article 146

If the litigant submits a document to provide guidance in the action, he may not withdraw it without the consent of his adversary except with written permission from the Justice of the Court.

PART SIX REMOVAL OF THE COURT TO THE SEAT OF  
THE DISPUTE

Article 147

The Court may, on its own initiative or at the instance of one of the litigants, at any stage in the trial, -decide to remove to examine or investigate for itself the object of the dispute if it considers examination advantageous and productive for judgement of the action, in the presence of the litigants with or without witnesses.

Article 148

In the event of removal the Court may appoint one or more experts to help it in the examination,

PART SEVEK  
EXPERT KNOWLEDGE

Article 149

The Court may where necessary order one or three experts to be appointed. In giving its order it shall specify the expert's Cask, the amount to be deposited on account of his expenses and fees, which litigant is required to make this deposit, the time-limit within which the deposit must be made, the time-limit set for the expert's report to be presented, the date of the session until which the hearing is to be adjourned in the case of the deposit being made, and another earlier session for examination of the case in the event of the deposit not being paid.

Article 150

If the litigants agree on a certain expert the Court shall accept their agreement; otherwise-the Court shall elect the expert.

Article 151

If the deposit is not made by the party required to make it, nor by any other party, the expert is not obliged to carry out hid task and the Court shall declare the lapse of the right of the party failing to pay the deposit to expect adherence to the order issued appointing the expert if the excuses he gives are found unacceptable.

Article 152

On the day after the deposit is made the Court Clerks' Department shrill call the expert to examine the documents consigned to the file on the action and he shall be given a copy of the order issued appointing him.

He must set a date for his work to begin, not later than within the week following his receipt of the copy 01 the order appointing him, and notify the litigants at a convenient time of this date and the meeting-place for them to come to.

The expert must carry out his work even in the absence of the litigants, once they have been called in the proper manner.

Article 153

The expert shall hear the testimonies and observations of the litigants and shall hear without oath the testimonies of those they bring along or those whose testimonies he sees fit to hear if the order has authorised him to do so.

Article 154

Records of the expert's work must include a declaration of the litigants' attendance and their testimonies and observations, and they must include a declaration of the expert's work in detail, and the testimonies of the persons he has heard.

Article 155

The expert must submit a report signed by himself giving the result of his work, his opinion, and the methods he has used. If there are three experts, each of them may submit an independent report giving his opinion unless they have agreed to submit one report stating the opinion of each of them and the grounds therefor.

Article 156

The expert shall present his report and the records on his work to the Court Clerks' Department, and shall likewise present all the documents delivered thereto. He must inform the litigants by registered letter of the presentation within twenty-four hours of its taking place.

Article 157

The Court may order that the expert be summoned to a session of its appointment to discuss his report with him if this is deemed necessary, and it may return the report to him to correct any error or omission that becomes apparent to him in his work or his research. It may authorise another expert to do this, and the latter may make use of the information of the previous expert.

Article 158

The Court may appoint an expert to give his opinion orally in session without submitting a report, and his opinion shall be noted in the records of the session.

Article 159

The expert's opinion is not binding on the Court, but it shall be guided thereby.



Article 160

The expert's fees and expenses shall be determined by order of the Court that appointed him as soon as the verdict on the action is passed, or when three months have elapsed after the presentation of the report if the verdict has not been passed within this period for reasons with which the expert is not concerned.

Article 161

The Court shall rule that litigants or those possessed of expert knowledge whom it appoints who fail to present documents or reports or to perform any action by the date set by the Court be fined up to BD10. It shall do so by means of an order to be noted in the records for the session, and against which appeals will not be entertained in any way whatsoever. However, the Court may release the party fined from all or part of the fine if he gives a reasonable excuse.

The Court may, instead of fining the plaintiff, order the suspension of the case for up to six months.

If the period of suspension passes without the plaintiff carrying out the action ordered by the Court, the action may be ruled null and void once the defendant's testimony has been heard.

Article 162

Implementation of the provisions concerning fines laid down in the preceding Article shall take place after the party fined has been notified by registered letter from the Court Clerks' Department.

CHAPTER THREE

PROCEDURE FOLLOWING THE HEARING OF THE CASE ; PURSUIT OF THE CASE ;  
SUSPENSION OF THE CASE; DISCONTINUATION, LAPSE, EXPIRY AND  
RELINQUISHMENT OF THE LITIGATION

1) Suspension of the case

Article 163

The Court may order the case to be suspended if it considers that its judgement hinges upon the passing of a verdict in respect of another case. As soon as the grounds for the suspension are no longer valid the case shall resume its course with force of law from the point at which it was suspended .

Article 164

The case may be suspended on the basis of agreement by the litigants not to proceed with it for a period not exceeding six months from the Court's endorsement of their agreement. If the case is not expedited within eight days following the end of this period the plaintiff shall be presumed to have abandoned his case, or the appellant to have abandoned his appeal.

2) Discontinuation of the litigation

Article 165

The litigation process shall be discontinued by law if one of the litigants dies or loses his competence or if the capacity of the persons conducting the litigation for him by proxy lapses, unless the case has reached the final stage and the litigants have given their testimonies so that the case is ready for verdict to be passed.

Article 166

If any of the above grounds for discontinuation occur and the case is ready for verdict to be passed the Court may judge it according to the testimonies and final claims, or it may adjourn it at the request of the person acting for the person who has died or lost his competence to litigate or whose capacity has lapsed or at the request of the other party.

The case is presumed ready for verdict to be passed when the litigants have given their testimonies and made their final claims at the session of the proceedings preceding the death or loss of competence to litigate or lapse of capacity.

Article 167

The litigation shall not be discontinued on the death of the case attorney nor on the termination of his power of attorney through dismissal or retirement.

The Court may grant a suitable delay for the litigant whose attorney has died or whose power of attorney has terminated if he has promptly appointed for himself a new attorney within fifteen days of the termination of the first power of attorney.

Article 168

Upon the discontinuation of the litigation all appointments set for current proceedings concerning the litigants shall be stopped and all measures arising in the course of the discontinuation rendered null and void.

3) Lapse and expiry of the litigation

Article 169

Any interested litigant may, in the event of the action not proceeding through the action or abstention from action of the plaintiff) demand a ruling that the litigation shall have lapsed when one year has elapsed from the last actual step of litigation taken. In cases of discontinuation the period for the lapse of the litigation shall only start from the day on which the person seeking the ruling that the litigation has lapsed informs his deceased adversary's heirs or the party acting for the person who has lost his competence to litigate or for the person whose capacity has lapsed, that the case between himself and his original adversary exists. The period for the lapse of the litigation shall apply to all persons, even those without, or with diminished competence.

Article 170

A petition for a ruling that the litigation has lapsed shall be submitted under normal circumstances to the Court in which the case is being conducted. This petition may be submitted in the form of a plea if the plaintiff expedites his case after the year has elapsed. It shall be submitted against all the plaintiffs or appellants, otherwise it will not be accepted; and if one of the litigants submits it the others gain advantage by it.

Article 171

With the ruling that the litigation has lapsed, orders issued therein concerning the giving of evidence shall lapse and all steps of the litigation shall be annulled, including the statement of claim. The validity of the original cause of the action will not lapse, however; nor that of absolute rulings made therein, even when made by default, nor that of measures prior to these rulings, or affirmations made by the litigants or oaths sworn by them.

Nevertheless the lapsing of the case does not prevent the litigants from invoking the enquiry proceedings or work carried out by experts, so long as these are not in themselves invalid.

Article 172

When a litigation is ruled to have lapsed in an appeal, the verdict appealed against shall be considered final in all cases. When a litigation is ruled to have lapsed in a motion for a trial to be reheard before the ruling has been given for the motion to be accepted, the motion itself lapses. After the ruling has been given for the motion to be accepted, though, the principles given above for appeals shall apply in the first degree according to the circumstances.

Article 173

The litigation shall in all cases expire by law if five years pass following the last actual step taken therein.

4) Relinquishment of the litigation

Article 174

The plaintiff may relinquish" the litigation by means of a statement submitted to the Court in writing and delivered to the adversary or given orally at the session and recorded in the session records.

It may not be relinquished after the defendant has presented his claims except with his consent; and upon relinquishment all proceedings in the case, including the statement of claim shall be annulled, and the relinquishing party shall be ordered to pay costs. However, it shall not impair the right concerning which the case was filed.

Article 175

Cession of the verdict implies cession of the established right thereto.

CHAPTER FOUR

PROTECTIVE AND INTERIM MEASURES; BAN ON TRAVEL; RECEIVERSHIP

1) Protective and interim measures and ban on travel

Article 176

The Court may on application of the plaintiff order all or some of the

defendant's property to be placed under precautionary sequestration if the

plaintiff has serious grounds for fearing that the defendant will abscond or smuggle his property abroad or dispose of it with the intention of obstructing or delaying any order or decision issued against him.

Article 177

Any person with a claim in danger of sustaining loss necessitating its hasty settlement may seek an order from the Court for an urgent interim measure to be taken whereby his claim will be protected or kept safe from suffering damages. The Court may require the applicant to deposit a surety for compensation of the other party if he suffers loss or damage and it becomes apparent that the party applying for the measure to be taken was not right in his allegation.

Article 178

The plaintiff may seek an order from the Court forbidding the defendant to travel if there are serious grounds for supposing that the defendant's absconding from the litigation is likely, provided the defendant has not provided a surety acceptable to the Court or bail in cash to the value determined by the Court to guarantee the execution of any judgement that may be passed against him in the case.

Article 179

The Court may issue its order referred to in the three preceding Articles summarily without summoning the other party. This party shall have the right to protest against the issuing of the order to the Court which issued it within eight days of issue, and the Court may uphold, amend or annul the order without prejudice to the provisions of Article 198 of this Act.

2) Receivership

Article 180

The Court may order the appointment of an official receiver to take custody of the property sequestered or in dispute or the right to which is not established and which is in immediate danger, and the receiver shall undertake to keep, manage and return it as well as submitting an account concerning it to the person whose right thereto is established under the Court's supervision, provided all those concerned agree to the appointment of a certain receiver to take custody thereof.

Article 181

The decree giving the receiving order shall define the receiver's obligations, rights and powers. The receiver may charge a fee determined by the Court unless he has waived his entitlement thereto.

Article 182

The receiver's custody shall expire by agreement of all those concerned or by judicial decree, whereupon the receiver must proceed to return the item entrusted to his custody to the person chosen by those concerned or appointed by the judge as well as submitting the account of his management thereof validated by supporting documents.

CHAPTER FIVE

POWER OF THE JUDGE TO EXAMINE THE CASE

Article 183

A judge is not fit to examine the case and is forbidden to hear it, even if neither of the litigants rejects him, in the following cases:

- 1 - if he is party to the case being examined in the court.
- 2 - if he has a personal interest in the case,
- 3 - if he has given a legal advice to or pleaded on behalf of one of the litigants in the case or written about it, even if he did so before working as a judge.

Article 184

The judge's work or judgement in the above-mentioned cases, even if it has the agreement of the litigants, is invalid and the judge must retire from examination of the case after asking leave of the Head of the Justice Department.

Article 185

If it happens while any trial is in progress that the judge or a member of the Court becomes disqualified or unable to continue with the case, the case shall be suspended until another judge is appointed to his place. The case will resume its progress by force of law from the point at which it has been suspended.

Notwithstanding, the Court may at its own instance or by reasonable request of one of the parties re-examine the case and recall all or any of the witnesses again.

## CHAPTER SIX

### VERDICTS; MEANS OF CHALLENGING VERDICTS; ARBITRATION

#### FIRSTLY: VERDICTS

##### a) Handing down of verdicts

###### Article 186

The Court shall pronounce the verdict as soon as the trial ends if possible, or otherwise at another session appointed for this purpose.

The verdict shall be pronounced by being read aloud in public session.

###### Article 187

Deliberation over verdicts, if there is more than one judge, shall be conducted behind closed doors.

Verdicts shall be reached by majority vote. If there is no majority and there is more than one opinion, a judge must be appointed to make a casting vote in favour of one of the two opinions.

###### Article 188

The Court may hear clarifications during deliberations from one of the litigants only in the presence of the other; and likewise it may not receive papers or memoranda from one of the litigants without the adversary seeing them.

###### Article 189

The verdict must be recorded in writing, dated and signed by the Court, and it must incorporate the following:

- 1 - the names and signatures of the judges who examined the case and contributed to the passing of the verdict.
- 2 - the names, surnames and capacities of the litigants; the domicile of



each of them, whether they attended or were absent, and the names of their attorneys, if any.

- 3 - a record of the boundaries and & detailed description of the property so as to eliminate any doubt, if the substance of the case is immovable property, or a record of its boundaries and figures for it established in the records of the Directorate of Land Registration, if any.
- 4 - the terms of the claims, defence or pleas submitted by the litigants and a summary of the objective evidence and legal arguments they used and the stages of the case.

After that the grounds for and contents of the verdict shall be given.

A deficiency in the objective grounds for the verdict or gross error in the names and capacities of the litigants or failure to give the names and signatures of the judges issuing the verdict shall render the verdict null and void.

#### Article 190

The Court may at any time at its own instance or at the request of one of the parties correct clerical or arithmetical errors occurring in verdicts and decisions through accidental oversight.

#### Article 191

Any interested person affected by a verdict or order issued by a civil court may obtain a copy of that verdict or other excerpts of record of the proceedings and this copy shall be given thereto if he requests it and the Court agrees to such requests, upon payment of the prescribed fee.

#### b) Costs of the case

#### Article 192

When issuing the final verdict on the litigation before it the Court shall at its own instance rule on the costs of the case.

The Court shall forward costs of the case, including lawyers' fees, to be paid by the litigant losing the verdict.

If the verdict goes against more than one litigant, it shall order that costs be shared among them in proportion to the interest of each one in the case as evaluated by the Court. They shall not be bound by joint liability unless they were originally jointly liable in the obligation which has been judged upon.

Article 193

Costs for authentication of handwriting, seals, signatures and fingerprints shall be awarded against the party denying them or claiming they are forged if as a result of examination and comparison his allegation or his denial proves invalid.

Article 194

Costs for trial in absentia fall to the party losing the verdict by default. Costs for objections to the verdict shall be paid by the party who ultimately loses the case.

Article 195

Costs for intervention shall be awarded against the intervening party if he has independent claims and his intervention is ruled out of court or his claims are repudiated.

Article 196

The Court may order the party who wins the case to pay all or part of the costs if the losing party recognises his claim or if the party in whose favour the verdict goes has caused pointless expenses to be incurred or if he has left his adversary in ignorance of documents or the contents of documents available to him which had a decisive bearing on the case.

Article 197

If both the litigants are unsuccessful in some claims a ruling may be given that each litigant bears the costs he himself has paid, or costs may be divided between the litigants according to the Court's evaluation in its ruling. It may also rule them all to be paid by one of them.

Article 198

If the case or the defence is intended purely as a device, compensation may be awarded against the person thus intending it,

Article 199

Costs of the case and lawyers' fees shall be evaluated in the ruling and the litigants must enclose an account of them with the case file.

SECONDLY: MEANS OF CHALLENGING VERDICTS

Article 200

The means of challenging a verdict are:

- 1 - objection to verdict by default
- 2 - objection by a party external to the litigation
- 3 - appeal
- 4 - requesting a rehearing of the trial

I) Objection to verdict by default

Article 201

Objection may be made to any verdict passed in absentia in accordance with the provisions of the law in the Court which handed down the verdict.

Article 202

The time limit for the objection is fifteen days from the date on which the party ruled against is notified of the verdict by default. A verdict by default will be deemed null and void if it has not been submitted for execution within six months of the date of notifying the party ruled against in absentia.

Article 203

Objections shall be filed with the Court which handed down the verdict by default by means of a notice served on the opposed party in accordance with the usual conditions prescribed for methods of filing cases and serving notification thereof.

The notice of objection must identify the verdict opposed and the grounds for opposition.

The opposer must pay the full fee on submitting the notice of objection.

Article 204

An objection filed properly within the time limit shall stay the execution of the verdict by default or commencement of execution if it has not begun.

However, objection to a verdict by default shall not prevent the party who won the verdict from taking in accordance therewith such preventive measures as his interests demand, such as precautionary sequestration of property of the party ruled against in his possession or in the possession

of others, and banning him from travelling.

Article 205

If the opposer and the opposed appear in Court at the appointed time and the Court finds the objection has been submitted within the legal time limit, the Court shall rule that the objection be formally admitted. The grounds for the objection and the additional evidence of the party objected against shall then be examined after which the opposed verdict shall be either upheld, amended or annulled.

Article 206

If the opposer and opposed do not attend the session appointed for examination of the objection, despite their having been, duly notified, the Court shall decide to reject the objection, and the opposer may not object to it a second time.

Article 207

If the opposed does not attend the session appointed for examination of the objection despite having been duly notified the Court shall, upon request of the objector, decide to proceed with the objection action concerning the opposed in his absence and to admit the objection if it appears to have been submitted within the legal time limit, then examine the grounds for the objection and issue its decision rejecting, amending or upholding the verdict by default. However, the opposed is entitled to appeal against the ruling on the objection and the time allowed for appeal shall apply from the date of his being notified of this ruling by the Court.

2.) Objection by a party external to the litigation to the  
verdict passed thereon

Article 208

In instances where the verdict given in a case takes the form of an argument against a person or is damaging thereto and he has not hitherto been introduced into the case nor has he intervened in it, this person is entitled to object to this verdict unless his entitlement has lapsed through expiry of the time limit.

Article 209

The objection shall be filed with the Court which handed down the verdict by the usual methods of filing cases, subject to the provisions concerning service of notification and process, and payment of the prescribed fee.

Article 210

The objection may be filed in the form of a contingent claim by making it subordinate to another existing case unless the Court is by its nature incompetent to deal with this or inferior in status to the Court which handed down the verdict, in which case objections may only take the form of an original case filed with the Court which handed down the verdict.

Article 211

As a result of the objection to the verdict, the litigation shall be brought before the Court once again and no one but the person who filed it shall draw advantage from the ruling given thereto.

Article 212

Objections to the verdict shall not stay execution thereof unless the Court with which the objection is filed orders it to be stayed for substantial reasons.

3) Appeal

Article 213

Appeal may be made against verdicts handed down on the issue of the case in the first instance unless the law provides otherwise.

Article 214

Rulings given in the course of the action may not be challenged by way of appeal, nor may the litigation be terminated thereby until the final verdict in the litigation has been given - all this taking place in the Court of first instance - except rulings given on urgent matters.

An appeal against the verdict on the issue of the case necessarily implies appeal against all prior rulings given in the case unless these are explicitly admitted.

Article 215

Litigants may agree that the verdict of the Court of first instance be final, in which case there can be no appeal against the verdict unless there is something invalid in the verdict or something invalid in the proceedings which affects the verdict.

Article 216

The time limit for appeals is 45 days from the date on which the party ruled against was notified of the verdict,

The verdict shall be delivered to the person ruled against or to his place of abode or his elected residence.

In the event of the deadline given above not being observed the right to appeal against the verdict shall lapse and the Court shall rule at its own instance that it has lapsed.

Article 217

Appeals shall be filed by means of a petition submitted to the Case Registration Section of the Court with which the appeal is being filed in accordance with the conditions prescribed for the filing of cases. The petition of appeal must include a reference to the verdict appealed against, its date, and the grounds for appeal. The appellant must pay the full fee on submitting the petition of appeal, otherwise the appeal will not be formally admitted.

Article 218

The appellant must enclose with the petition of appeal as many copies of it as there are parties appealed against, and he must enclose with the petition copies of all supporting documents for his appeal together with an explanatory memorandum on the grounds for the appeal.

Article 219

The Clerks Section of the Court with which the appeal is filed shall record the petition of appeal in the Court's register kept for that purpose on the day on which the notice is submitted, and on the day following its submission it shall seek incorporation of the file on the initial case and deliver to the person appealed against a copy of the petition of appeal.

The person appealed against may, within ten days of the petition of appeal being delivered to him lodge with the Clerks Section of the Court with which the appeal is filed a plea in his defence accompanied by such documents as he sees fit to submit.



If he does so the appellant may also within ten days of the expiry of the deadline laid down in the preceding paragraph lodge a plea with the Clerks Section of the Court accompanied by such documents as he sees fit to submit supporting the refutation.

Article 220

Of the pleas and dockets of documents lodged in the name of the litigant there must be the original and as many copies as he has adversaries, and they must be signed by him or by his attorney in the appeal litigation or by his representative.

Article 221

When the deadlines in the preceding Articles have elapsed the competent of the Court shall appoint a session for the appeal to be examined and notify the appellant and person appealed against of the date thereof.

Article 222

The same principles apply to the case examined in the Court of appeal apply to the action in the Court of first instance unless the law stat\* otherwise.

Article 223

The appeal transfers the action as it was before the ruling appeal against was given with respect only to that concerning which the appeal is filed.

Article 224

The Court shall examine the appeal on the basis of the evidence and pie, and aspects of new defences submitted to it and those submitted to the Court of first instance.

The new evidence referred to in the preceding paragraph shall only be admitted in the Court of appeal with the consent of the Court and on the following conditions:

- 1 - that the Court has ascertained that th= appellant did not submit the evidence to the Court of first instance for reasons beyond his control.
- 2 - that the new evidence, if not admitted in the action, must have an important bearing on its outcome even if it is not conclusive.

3 - that the new evidence must be prima facie plausible; in other words it must be self-evidently valid and substantial, but it is not obligatory that it should be impossible to prove the opposite.

Article 225

New claims will not be admitted in the appeal and the Court shall at its own instance rule them out of court. Nevertheless wages, salaries and all supplements due since the submission of the final claims to the Court of first instance, and additional liabilities since the ruling appealed against was given, may be added to the original claim. Likewise, while the merits of the original claim remain the same, the grounds for it may be altered or added to.

Article 226

A person who was not a party to the action before the Court of first instance may not be introduced into the appeal, nor may anyone intervene therein unless he is seeking to be associated with one of the litigants or the ruling appealed against is considered to be an argument against him. He may object to it in accordance with the provisions laid down for this purpose.

Article 227

If an initial ruling is issued in which a part of the claims of one of the parties to the litigation is granted or in which each of them is ruled against in favour of the other regarding all or part of what is required of him, each of them may appeal against the ruling with respect to that wherein it rules against him.

If both appeals are filed within the deadline by the proper procedure and neither of the appellants has accepted the initial ruling, they shall be two independent original appeals, and the Court shall judge each of them separately or combine them to judge on them in a single ruling.

If one of the parties appeals against the ruling and his' adversary is satisfied with it or has allowed himself to miss the deadline for appeal, such litigant may not file an original appeal, but may reply to the original appeal filed against him with a subsidiary appeal on his part.

The subsidiary appeal shall be subordinate to the original appeal and shall cease when the latter is no longer valid. A ruling that the original appeal is not admitted or that the petition thereof is invalid shall necessarily entail the lapse of the subsidiary appeal connected therewith.

Article 228

The Court of appeal shall decide either to reject the appeal and uphold the ruling appealed against or admit it and amend the ruling appealed against or annul it and issue an alternative ruling on the merits of the case.

If the Court decides to annul the ruling appealed against it must refer the case to the Court of first instance to judge it again in any of the following cases:

- 1 - where the ruling appealed against was given on a matter concerning jurisdiction.
- 2 - where the Court of first instance ruled on the original claims and neglected to judge the auxiliary claims.
- 3 - where the Court of first instance neglected to rule on one of the claims submitted to it.

4) Request for a rehearing of the trial

Article 229

The litigants may request a rehearing of the trial with respect to rulings given as final verdicts by courts of appeal or courts of first instance for any of the following reasons:

- 1 - if the litigant or his representative commits an act of trickery or fraud liable to have a bearing on the verdict.
- 2 - if, after the verdict, the documents on which it was based are admitted or ruled to have been forged or if the verdict was based on the testimony of a witness judged after the verdict has been passed to have been false.

3 - if after the verdict is passed the litigant comes upon documents with a deciding influence on the case which his adversary had prevented from being submitted.

4 - if the verdict decides something the litigants did not claim or more than they claimed.

5 - if two contradictory verdicts are issued by the same Court and both litigants are similarly described and the case is the preceding one, provided that no stipulation has been enacted that could, according to the law, be a reason for the handing down of a different verdict.

#### Article 230

The period for re-trial is the same as the period appointed for appeals, and starts from the date on which the convicted party is notified of the verdict in accordance with the provisions of Article 216 of this Act, except in the cases laid down in the foregoing Article, so that the time limit shall only commence from the first day on which the fraud becomes evident or on which the forger admits to his forgery or a ruling is given establishing it, or on which a ruling is given on the false witness, or the day on which the withheld document comes to light.

The request for re-trial shall be submitted to the Court which issued the ruling in the regular manner of filing cases, and in the course of this the exchange of pleas between the litigants shall take place in accordance with the provisions of the law.

#### Article 231

If the request for re-trial is submitted within the legal period and incorporates one or more of the reasons laid down in Article 229 of this Act, the Court shall decide to admit the request, then examine the basis of the action, and, after having heard the testimonies of the litigants and scrutinised their probative documents, issue its ruling either rejecting the request or annulling or amending the verdict.

If however, the request for re-trial is admitted on the basis of there being two contradictory verdicts in existence, the second shall be annulled and the first shall remain in force.

Article 232

Requests shall not be admitted for a second re-trial against a ruling issued on the basis of a ruling against which there has been a re-trial.

CHAPTER SEVEN

ARBITRATION

Article 233

Contracting parties may make general provisions for arbitration in respect of disputes arising between them over the execution of a certain contract, or agreement may be reached on arbitration in respect of a particular dispute by means of a special arbitration agreement.

Agreement on arbitration shall be valid only if it is made in writing.

The issue of the dispute must be specified in the arbitration agreement or in the course of proceedings, even where the arbitrators are authorised to bring about conciliation, otherwise the arbitration is invalid.

Arbitration is not permissible in matters where conciliation is not allowed. Arbitration is only permissible for those competent to dispose of their rights, without prejudice to the provisions of any other law.

Article 234

An arbitrator may not be a minor, interdicted, deprived of his civil rights as a result of a criminal punishment, or bankrupt, unless he has been rehabilitated. Where there are several arbitrators, their number must be uneven; otherwise the arbitration is invalid.

The arbitrators must be named in the arbitration agreement or in a separate agreement. The assent of the arbitrator must be given in writing. Once he has agreed to arbitrate he may not withdraw without substantial cause; otherwise he may be found liable for damages.

The arbitrators may not be dismissed except by mutual consent of the litigants or by court order.

Article 235

If a dispute arises and the litigants have not agreed on the arbitrators, or if one or more of the agreed arbitrators has abstained, withdrawn or been dismissed, or an impediment has arisen to prevent him from acting, and there is no agreement between the litigants concerning this matter, the Court originally given jurisdiction to examine the dispute shall appoint the necessary arbitrators at the request of the party concerned with expediting the matter, in the presence of the other litigant or with him absent, having been summoned to attend. The decision given in this respect may not be challenged or appealed against.

Article 236

The litigants shall, in consequence of the arbitration clause, relinquish their rights of recourse to the Court originally given jurisdiction to examine the dispute.

If a dispute arises concerning the execution of a contract containing an arbitration clause and one of the parties thereto commences proceedings in the competent Court, the other party may invoke the rules by means of a plea for the case not to be heard and for recourse to be had to the arbitration clause in accordance with the agreement.

Article 237

If the litigants do not specify in the arbitration agreement a time limit for the award, the arbitrators must give an award within three months of their agreeing to arbitrate; otherwise either litigant may take the dispute to the competent Court, unless they have jointly agreed to extend the time limit.

The award of the arbitrators shall be based on the principles of law, unless they are authorised to bring about conciliation, in which case they are not bound by these principles.

If the arbitration agreement was made in Bahrain, the Law of Bahrain must be applied in all aspects of the dispute, unless the parties agree otherwise and provided the arbitration takes place in Bahrain.

Article 238

The arbitrators' award concerning the dispute shall be made on the basis of the litigants' submissions. The arbitrators must set a time limit for them to submit their documentary evidence, briefs and points of defence.

The litigants must submit to the arbitrators all documents, papers, accounts and written evidence in their possession or charge, and do all that the arbitrators require of them.

Either of the litigants, or the arbitration committee, may file an application to the Court for any document necessary to the arbitration in the possession of others to be produced or for notice to be sent to any witness to attend in order to give evidence before the arbitration committee.

The arbitrators may make witnesses take an oath or charge them to make a formal declaration to tell the truth. Anyone giving false evidence concerning an essential issue before an arbitrator or umpire shall be held to have committed perjury just as if he had been giving evidence before a competent court. He may be cross-examined and punished according to the penalty laid down for perjury.

Article 239

The award of the arbitrators shall be made by a majority of opinions. The award must be made in writing, and must include in particular a copy of the arbitration agreement, a summary of the litigants' statements and documents, reasons for the award, the dispositive portion and date of issue of the award, and the signatures of the arbitrators. If one or more of the arbitrators refuses to sign the award, this should be stated therein. The award shall be legally valid if it is signed by a majority of the arbitrators.

Awards made as a result of arbitration may not be challenged.

Article 240

All awards made by the arbitrators, even if made by way of confirmation, must be deposited in the original, together with the original arbitration agreement, at the office of the Clerk of the Court originally given jurisdiction to hear the case within three days of being issued. The Clerk of the Court shall record this deposition and send a copy of the record to

the arbitrators.



If the arbitration arises in connection with an appeal case, deposition shall be made at the office of the Clerk of the Court originally given jurisdiction to hear the appeal.

Article 241

The arbitrators' award shall not be executable without an order issued by the President of the Court with whose Clerk's Office the original award was filed at the request of any of the concerned parties after perusal of the award and arbitration agreement and after ascertaining that there is nothing to prevent its execution, and after the lapse of the period for appeal, where the award admits of appeal.

The executive judge is responsible for all matters concerning the execution of the arbitrators' award.

Article 242

The award of the arbitrators may be appealed against in accordance with the established principles for appealing against court judgements, within thirty days of the record on the original award's deposition being sent to the arbitrators. The appeal shall be submitted to the competent court of appeal.

However, the award may not be appealed against if the arbitrators are authorised to bring about conciliation or if they are arbitrating on an appeal, or if the litigants have explicitly waived the right to appeal.

Article 243

Any interested party may request that the final award of the arbitrators be invalidated in the following cases:

- 1 - If it was issued on the basis of an invalid arbitration agreement or departed from the bounds of a valid agreement.
- 2 - If it was issued by arbitrators who were not appointed in accordance with the Law.
- 3 - If any of the reasons is established for which a rehearing of the trial can be requested.

4 - If an invalidating fact in the award or the proceedings affects the award.

Requests for invalidation shall be filed in the normal manner to the Court originally given jurisdiction to examine the dispute, on payment of the prescribed fee. The litigant's waiver of his rights prior to the arbitrators' award being issued shall not prevent the request from being accepted.

Execution of the arbitrators' award shall be suspended once a claim has been submitted for its invalidation, unless the Court decides that execution shall continue.

## CHAPTER EIGHT

### EXECUTION

#### 1) General Provisions

##### Article 244

The Courts of Execution shall have competence to execute judgements and decisions made by the Civil Courts in their various kinds and degrees. Execution shall take place under the supervision and control of the Judge of the Court of Execution unless the law determines otherwise.

Execution may be in accordance with authenticated instruments and conciliation records ratified by the Courts and other documents so characterised by law.

##### Article 245

Judgements may not be forcibly executed while it is permitted to challenge them by means of objection or appeal unless summary execution is prescribed by law or ordered in the judgement.

Summary execution is obligatory by force of law for judgements and orders given on urgent matters and it is obligatory by force of law provided a guarantee is given for judgements on commercial matters.

Article 246

The Court may make its judgement inclusive of summary execution with or without guarantee at the request of the litigants in the following cases:

- 1 -if the person losing the verdict has admitted the inception of obligation.
- 2 - if the judgement is in execution of a judgement having attained the final degree or based on an unchallenged authentic document or an unreputed private document, where the person losing the verdict was a litigant in the previous judgement or a party to the document.
- 3 - if the judgement concerns possessory actions.
- 4 -if the judgement is evicting a tenant from rented property in accordance with the provisions of the law.
- 5 - if the judgement is determining temporary or obligatory maintenance or payment for child nursing or fostering or housing or delivery of the child to his mother.
- 6 - if the judgement concerns payment of wages and salaries of staff and employees or the wages of servants, workmen or labourers.
- 7 - if the judgement concerns the carrying out of urgent repairs.

Article 247

The Court with which an appeal or objection to the judgement is filed may, if it considers the grounds for challenging the judgement make its annulment likely, order summary execution to be stayed if it fears grievous damage may arise from it.

Article 248

In cases where a judgement or verdict may only be carried out under guarantee the person under obligation may opt either to deposit with the Court's treasury sufficient money or securities or to agree to deposit the proceeds of execution with the Court's treasury or to deliver what he is ordered in the judgement or verdict to a capable custodian.

Article 249

Furniture of the person losing the verdict and his wife and relatives and relatives by marriage living with him in the household may not be seized, nor such clothing as they want, nor books necessary to the profession of the debtor or tools of the trade used by himself in his work, nor the food necessary for himself and his family for two whole months.

No enforcement may be carried out against the house of the convicted litigant in which he dwells with his family, if it is appropriate and on condition that the house has not been given as a security for a debt incurred by the debtor or if the debt arises from the cost of that house.

In the event of the debtor's death before the debt is repaid, the dwelling-house shall be left as the exclusive property of the family he is legally obliged to support.

Article 250

The salaries of staff and employees may not be attached, nor the wages of servants, workmen or labourers, except to the extent of one quarter, and where there is lappage one half shall be allocated to meeting the obligations of maintenance determined and the other half to other obligations.

The attachment of wages does not prevent the seizure of other property of the debtor.

The other cases in which the attachment of salaries and wages is not permitted are set out in the law.

Article 251

Public property or property owned by the state may not be seized nor may execution be carried out against it.

Article 252

Court judgements and orders passed in any foreign country may be ordered to be enforced on the same conditions as are laid down in the law of that country for enforcing court judgements and orders issued in Bahrain.

Application for issue of an enforcement order shall be filed with the High Court in accordance with the terms and conditions for filing court action

after payment of the prescribed fees.

No enforcement order may be passed except after ascertaining the following:

- 1 - that the Bahrain law courts are not competent to hear the case in respect of which the court judgement or order was passed and that the foreign courts which passed it are competent in accordance with the international rules of jurisdiction set down in the laws thereof.
- 2 - that the litigants to the case in respect of which the judgement was issued were duly summoned and properly represented.
- 3 - that the court judgement or order has become final in accordance with the law of the court that passed it.
- 4 - that the court judgement is in no way inconsistent with any judgement or order previously passed by the Bahrain courts and does not provide for anything which constitutes a breach of public order or ethics.

Article 253

The provisions of the preceding Article shall be applicable to the awards issued by arbitrators in Any foreign country. Any such award must have been passed in respect of a question which is subject to arbitration in accordance with Bahrain law.

Article 254

Official instruments enforced in any foreign country may be ordered to be enforced in Bahrain on the same conditions as are laid down in the law of that country for enforcing official instruments executed in Bahrain.

Any application for issue of an enforcement order shall be submitted to the judge of the Execution Court upon payment of the prescribed fees.

No enforcement order may be issued except after ensuring the fulfilment of the conditions required for validity of the instrument in accordance with the law of the country where it was made, provided that the instrument shall not contain anything which constitutes a contravention of public order or ethics in Bahrain.

Article 255

Compliance with the rules set forth in the preceding three Articles shall not prejudice the provisions of existing treaties or those which are to be entered into between Bahrain and other states in this respect.

Article 256

The judge of the Execution Court may issue orders and decisions in respect of the following matters:

- 1 - Placement of attachment on the property of a convicted party or lifting of such attachment.
- 2 - Sale of property which is under attachment.
- 3 - Imprisonment of a convicted party.
- 4 - Payment of amounts collected from the convicted party to the litigant in whose favour the judgement is issued or surrender of the disputed items to the latter party.
- 5 - Taking precautionary or provisional measures.
- 6 - Authorising the use of force whenever required and seeking the assistance of the police, if necessary.

Article 257

Decisions passed by the judge of the Execution Court in connection with validity of execution, rules governing procedures thereof or affecting proceedings thereof may be appealed against by any interested party before the High Court within 7 days from the date of serving notice thereof to the persons concerned.

In this case, the appeal shall be considered as urgent proceedings which shall be directly filed with the Court without any preliminary procedures or preparation after payment of the prescribed fees. The Court shall closely examine the appeal unless it deems otherwise, and the decision of the High Court shall be deemed final.

Article 258

The appeal against the decisions of the judge of the Execution Court referred to in the preceding Article shall cause the postponement of enforcing the court judgement until the High Court completes its examination of the decisions appealed against.

If the appeal relates to a decision regarding the imprisonment of the convicted party, the appellant must provide a surety to be approved by the Execution Court and shall give a guarantee in an amount deemed by the Court to be suitable in addition to giving an undertaking to appear along with the convicted party before the Execution Court whenever asked to do so.

Article 259

No objection to the enforcement procedures shall be entertained before the Execution Court where the objection is based upon challenging the court judgement which is to be executed or proved erroneous.

The judge of the Execution Court may not alter the description of court judgements as being preliminary or final nor may he order that they should be summary judgements if there is no provision to this effect. Likewise, he may not bar the enforcement of court judgements if they are summary judgements.

Article 260

If there is any obscurity or ambiguity in the judgement writ which is required to be enforced, the Execution Court may not offer any explanation or clarification of its own, and it shall be imperative for the judge of the Execution Court, prior to enforcement of the judgement, to seek in writing from the Court which passed the said judgement, an explanation of the obscurity or ambiguity contained in the judgement writ.

The judge of the Execution Court shall advise the interested parties to approach the relevant Court if it appears to him in the course of enforcement that there are certain matters which require the issue of a court judgement in respect thereof. However, such advice shall not cause any delay in the enforcement of other obvious sections of the judgement writ where the aforesaid sections are not dependent upon the matters advised to be locked into by the relevant Court.



Article 261

Unless the law otherwise provides, enforcement shall take place in accordance with a copy of the judgement writ carrying the words "A true and original copy delivered for execution purposes".

The enforcement copy of the writ shall be signed by the judge of the Court which has passed the judgement and shall be stamped by the Court's official seal.

This copy shall only be handed over by a Court order to a person having an interest in the enforcement after payment of the prescribed fees, provided that the judgement is permitted to be enforced.

Article 262

Enforcement of any court judgement shall take place by virtue of an application to be directly filed with the Execution Court by the person seeking the enforcement or by the agent acting on its behalf. The said application shall be accompanied by the writ sought to be enforced.

The following details shall be contained in the application:

- 1 - Name of the applicant for enforcement, designation and address or place of residence.
- 2 - Name of the litigant adjudged guilty and address or place of residence.
- 3 - Summary of the application for enforcement.
- 4 - Summary of the writ with a statement of the authority or Court which issued it.
- 5 - Statement of distrainable property owned by the convicted litigant.

An applicant for enforcement must, upon filing his application, pay the prescribed fees and the application shall be accompanied by a number of copies equal to the number of convicted litigants.

The Execution Department shall record the application and supporting documents in the relevant Register kept by the Court for this purpose.

Subsequently, the applicant shall be issued with a deposit certificate in which shall be stated the deposit date and details of supporting documents.

Article 263

The Execution Court shall maintain a special register in which shall be entered applications for enforcement.

Furthermore, a file shall be maintained for each application to be kept therein all documents and papers pertinent to the said application.

Subsequent to the taking of every action, the Execution Court Judge shall evidence any judgements or orders issued thereby.

Article 264

The Execution Department shall, on the following day after the filing of the application for execution, forward to the debtor, a copy of the requisition for enforcement together with copies of the documents referred to in Article 262 of this Act.

Such notification to the debtor shall include an order to the debtor for satisfaction of the debt owed by him within seven days from the date of notification.

The notification shall be served on the debtor personally or addressed to its original domicile.

If the debtor dies, is disqualified or the agent acting on its behalf becomes incompetent prior to the commencement of enforcement or completion thereof, no enforcement proceedings may be taken towards its heirs or agent thereof save after the elapse of one month from the date of notifying them of the requisition for enforcement.

In the event of the debtor's death, the documents pertinent to enforcement shall be forwarded to all its heirs at the most recent residence address of their testator without stating their names and titles.

Article 265

In cases of expedition or when the delay of enforcement has damaging consequences, the Court may, upon a requisition from the litigants, order the enforcement of the judgement by using its draft without the service of any process. In this event the clerk shall deliver the judgement draft to the Execution Department.

The above-mentioned Department must return the draft immediately after completing the enforcement proceedings. The party seeking enforcement must, in this case, pay the prescribed fees.

METHODS OF MANDATORY ENFORCEMENT

Article 266

Mandatory enforcement shall be carried out in pursuance of the rules and procedures contained in the Articles hereunder mentioned.

a) Mandatory enforcement against the convicted  
litigant before the Execution Court

Article 267

If the convicted litigant fails within the periods specified by the provisions of Article 264 of this Act to fulfil the requirements of the petition submitted to the Execution Court, the litigant who has won the case shall upon the elapse of the aforesaid periods ask the Execution Department to summon the convicted litigant to the Execution Court to take executive action against him.

The .Execution Department shall fix a date for holding a Court sitting within no more than 30 days from the elapse of the aforesaid periods. The date of the Court sitting shall be notified to the parties concerned in accordance with the rules laid down in this Act in respect of summons and notification.

If the convicted litigant fails to appear in Court at the sitting fixed for this purpose, the Execution Court shall issue an order to bring him to Court by the police. In this event, a writ signed by the Execution Judge shall be sent to the police for the arrest of the debtor who shall be brought to the Execution Court.

Article 268

Should the convicted-litigant appear in. Court immediately upon the service of notification thereto or if he is brought in by the police, the Judge shall demand payment of the debt in one lump' sum. If the said debt is satisfied together with the costs, fees and interest, if any, the debtor shall be released. Then a collection fee shall be charged against the amount paid of which the balance shall be kept in custody in the name of the creditor. A brief summary of the aforesaid procedures shall be recorded in.

the enforcement statement.

Article 269

Where the debtor fails to pay the debt and its elements referred to in the foregoing Article in one lump sum in spite of having recognisable property, a mandatory enforcement shall take place by levying a distraint upon the debtor's property to the extent of satisfying the debt and elements thereof, provided that any distraint upon and sale of the debtor's property shall be levied and effected in accordance with the rules laid down with respect to distraint.

In case the debtor has no recognisable property and if the creditor provides no evidence as to the debtor's property, the litigant who won the case may demand the debtor's imprisonment unless the latter submits a petition to be approved by the Court for a compromise for repayment of the debts or repayment in instalments with or without the provisions of a surety.

Article 270

**If the debtor conceals its distrainable property or if he smuggles its funds without having offered any settlement, provided an acceptable surety or suggested a compromise and committed a breach of the terms thereof, the creditor may request the Execution Court Judge to order the imprisonment of the debtor.**

Article 271

If it is established to the Execution Court Judge that the convicted litigant is capable of carrying out the court judgement as required in the enforcement petition and in the Judge's order for settlement of the debt, but the said litigant does not comply with the said order, the Judge may order the imprisonment of the said convicted litigant.

Article 272

The period of imprisonment referred to in the preceding Articles shall not be more than three months. However, the convicted litigant shall be released if it fulfils the requirements of the judgement or provides an acceptable surety.

Imprisonment of the debtor shall not have the effect of extinguishing the debt nor shall this action bar the levy of a distress upon its property and the enforcement-of the judgement by the usual methods.

b) Enforcement against the debtor's property

Article 273

Without prejudice to the rules regarding the debtor's real estate, any enforcement against the debtor's property shall be effected by levying a distress upon its movable and immovable property and the sale of such property by a public auction.

Distress upon the debtor's property and sale thereof shall be barred upon a requisition from the parties concerned endorsed by a verdict passed by the Execution Court Judge, provided that the property is such that it is not distrainable nor subject to a legal sale.

No distress levied shall be lifted except by an order from the Execution Court Judge.

Article 274

An enforcement shall be undertaken by the police or by officers of the Execution Department who are appointed for this purpose by the Execution Court Judge. The department vested with the execution powers shall be bound to undertake it by virtue of a verdict passed or decision adopted by the Execution Court.

1) Distress upon the debtor's movable property  
and sale thereof

Article 275

A distress upon the debtor's movable property shall be levied by preparation of a statement in which shall be recorded the distrained items, their description, approximate value, date and venue of the distress and any obstructions and objections encountered by the officer in charge.

The said distress statement must be signed by the officer in charge and the debtor, if present. The officer in charge may not force doors open or undo locks in the course of proceeding with the act of distraint except in the presence of an authorised police officer who shall sign the distress statement.

A distress shall not imply the removal of distrainable items from their

location.



Article 276

Where a distress is levied upon jewellery, gold or silver bullion or other precious metals or upon jewellery made of any precious stones, they shall be weighed and their descriptions shall be recorded precisely in the distress statement.

An assessment of the said items shall be made by an expert to be appointed by the Execution Court Judge upon the request of the officer in charge or the request of the distrainer or the distrainee.

Where a distress is levied upon any amounts in cash or banknotes, the officer in charge shall record their description and amounts in the statement and shall cause the deposit thereof with the Court Treasury.

Article 277

Items shall be considered distrained as soon as they have been recorded in the distress statement even though no official receiver has been appointed in respect thereof. The distrainee may not dispose thereof, otherwise he shall be charged with misappropriation and be punished in pursuance of the provisions of Article 251 of the Bahrain Penal Code of 1955.

Article 278

The distress statement shall be referred to the Execution Court Judge for scrutinising the contents thereof. He shall subsequently order the sale of distrained items and shall fix the date and place of sale.

The Execution Department shall forward a copy of the distress statement to the distrainee if he was not present at the time of levying the distress.

The date of sale may only be set after the elapse of seven days from the date of levying the distress or from the date of forwarding a copy of the distress statement to the distrainee.

Where the distrained property is perishable or the value thereof too limited to meet the costs of its safekeeping, the Execution Court Judge may decide the immediate sale thereof.

Article 279

Sufficient notice shall be given in respect of the sale of distrained items, or alternatively the Court may decide the manner whereby the sale is to be announced. The sale shall take place by a public auction to be held at the prescribed time and place.

The officer in charge of the execution shall be instructed to proceed with the sale if the proceeds are believed to be sufficient for repayment of the debts for which the property is distrained in addition to the costs.

The officer in charge shall deposit the proceeds of sale with the Court Treasury and shall prepare a statement which shall be signed by the auctioneer, the purchaser and two witnesses.

2) Distress upon stock, bonds,  
interest, shares and sale thereof

Article 280

Where stock and bonds are endorsable or for the bearer, they shall be distrained in pursuance of the conditions set down for distress upon movable property.

As regards profits, nominal shares, dividends accrued and held by any corporate entity and rights of minors, they shall be distrained in accordance with the conditions laid down in respect of distress upon the debtor's property held by third parties.

A distress upon the rights referred to in the preceding paragraph 2 shall create a distress upon the benefits and interest accrued or due to accrue until the date set for sale thereof.

Article 281

Stock, bonds and other securities set forth in the foregoing Article shall be sold by a bank, broker or money changer to be nominated by the Execution Court Judge upon an application filed by the distrainer. In his order, the Judge shall state the action required to be taken to announce the sale to the public.

### 3) Garnishment

#### Article 282

The litigant that wins the case shall be entitled to seek the enforcement of the Court judgement by way of garnishment, i.e. by attaching any funds held or debts owed by third parties to the debtor, even if such debts are deferred or dependent upon the fulfilment of a particular condition, as well as the debtor's movable property held by any third party.

Garnishment shall be carried by a distress writ to be served on the distrainee personally. The said writ shall be accompanied by the statement under which the distress is being levied and by an account of the amount for which the distress is levied. The distress writ shall contain a warning against handing over the aforesaid property to any person and against disposing thereof save by order of the Execution Court Judge, otherwise the distrainee shall be held liable therefor.

#### Article 283

The distrainee must furnish the Execution Court Judge with a statement of the property held by him within one week from the date of serving the distress writ thereon. The distress statement shall mention the amount of the debt, reasons for creation thereof and causes of its extinguishment if the debt has been extinguished. The distrainee must produce the supporting documents or copies thereof.

The distrainee shall, within one week from the date of its statement, deposit with the Court Treasury the amount declared to be in its custody or the amount to which the distrainee is entitled.

#### Article 284

If the distrainee abstains from declaring the nature of the property held in his custody, if it makes a false statement in respect thereof, or if it keeps in hiding the documents required to be produced for confirmation of the aforesaid statement, a judgement may be issued holding it liable for the amount for which the distress is levied.

However, if the distrainee gives a proper statement on the property held by him but refrains from effecting the deposit and settlement as required by the provisions of the foregoing Article, the Execution Court Judge may issue an order in favour of the distrainer for enforcement against the property of the distrainee.

Article 285

If the distress is levied upon movable property, it shall be sold in pursuance of the procedures set down for sale of movables regardless of any further action for another distraint.

Article 286

The litigant that wins the case may, upon an order of the Execution Court Judge, levy a distress upon any funds owed to the debtor. The distraint shall be effected by a distress writ to be served to the debtor which shall be summoned to appear in Court, if necessary, for a hearing of the Court verdict declaring the validity of the distraint.

Article 287

If the property sought to be distrained is the rent of the debtor's real property, the tenant may not make any claim as to payment of the rent in a manner contrary to the provisions of the lease agreement or to the applicable custom and usage in case the said lease agreement is not available.

The tenant shall be liable for the rent if he pays in contravention of the above unless it produces evidence in respect thereof by an official instrument or a court judgement.

4) Distress upon wages and salaries

Article 288

No distress may be levied upon wages and salaries of any employee, worker or servant in respect of any debt owed by the latter except to the extent permitted to be distrained in accordance with the provisions of the law.

The person in charge of encashment of wages shall be bound to enforce the distress writ. In this case such person shall, upon notifying him of the distress action, be regarded as a third party.

The said person shall within one week from the date of serving notification of the distraint thereon advise the Execution Court of the actual amount of the wage or salary. In addition, he must notify the Court of every alteration occurring to the debtor's position and wage or salary. He shall deposit the amounts subject to the distraint with the Court Treasury on a regular basis.

5) Distress upon real property and sale thereof

Article 289

Where the Court decides to distrain the debtor's real property, it shall be imperative upon the Execution Department to give immediate notice to the Land Registration Directorate to indicate the distraint on the property's registration in the Directorate's official records.

Immediately upon making the entry regarding the distress upon the real property, no transaction shall be permitted to be carried on in respect of the said property without the consent of the Court.

Any transaction undertaken in contravention of the above subsequent to the date of making the entry regarding the distraint shall not be valid towards the distrainer creditor.

Article 290

The Execution Court Judge shall instruct an officer of the Execution Department to prepare a distress statement in which he shall indicate the property's location, description, type, borders, contents, area, number - if present - and condition of all trees and plants grown thereupon together with a statement of the number and kinds of the said plants, capacity of the property's occupant, supporting documents, amount of the rent and conditions of the lease.

The officer in charge of levying the distress upon the property shall, for the purpose of obtaining the aforesaid details, have access to the said property.

Article 291

The distress statement shall be referred to the Execution Court Judge who shall determine the terms and conditions of sale and basic price. The

Judge may seek the assistance of experts in order to decide the price.

The debtor shall be given notice of the conditions of sale and the basic price. The said notice must contain an order for payment of the debt amount, costs and interest chargeable within seven days from the date of such notice, otherwise the Court Judge shall order the sale of property by a public auction.

The Judge may decide to authorise the debtor to sell its property, if the latter so requests, provided that the debt amount, costs and chargeable interest shall be deducted from the proceeds of sale.

#### Article 292

Where the debtor fails to repay the debt together with the costs and interest following the service of notice thereon without seeking permission to sell its property in accordance with the provisions of the foregoing Article, the Execution Court Judge shall set a date for a Court sitting for the sale of the property by a public auction.

An announcement regarding the sale shall be made by the Execution Department not less than 15 days and not more than 30 days from the date fixed for the sale. This announcement shall be made by displaying a notice at the entrance of the property and on the Court's notice board in addition to publication in the Official Gazette.

The Court may instruct a broker or more to make a public announcement in the markets on the sale of the property.

#### Article 293

In case there are several distraints upon the property, it shall be sold by a single auction in which event all the said distraints shall be enforced upon the proceeds of the action. However, in case there are several properties distrained, a separate statement of the conditions of selling each property shall be drawn up unless the Execution Court Judge deems it beneficial that several properties be sold according to the same terms and conditions.

#### Article 294

The officer in charge of enforcement shall hold the auction on the date fixed for the sale.

The auction shall commence at the sitting designated for holding the sale by proclaiming the basic price, costs and interest due. Then the property shall be decided to be sold to the highest bidder. Any offer which is not outbid within 5 minutes shall be accepted. However, the Court may adjourn the sitting intended for the sale to a later date if it establishes that there are no bidders or that the price offered is far below the estimated basic price.

The successful bidder to whom the distrained property has been sold shall immediately after the conclusion of the sale sitting deposit the auction price and costs with the Court Treasury.

The successful bidder shall deposit the balance of the price with the Court Treasury during the following month after the sale becomes in full force and effect.

Article 295

Each person may within the ten days following the auctioning of the property decide to make a higher bid, provided that the increase in price shall not be less than one tenth of the price.

Such person, having decided to make a higher bid, shall deposit one fifth of the new price with the Court Treasury by virtue of a statement to be drawn up by the Execution Department Clerk, who shall indicate in the said statement the date fixed for holding another auction.

If several higher bids have been offered, preference shall be given to the highest bid or to the first offer should the bids be of equal value.

Article 296

The Execution Department shall make a public announcement in respect of the new auction, which shall take place and the second sale shall be effected in accordance with the provisions laid down in respect of the first sale. If no bidder outbids the initial offer, the person who made the higher bid shall be considered as the successful bidder for the price originally made in his offer.



Article 297

If the successful bidder is in default of complying with the terms and conditions of the sale, a further auction shall be held at its own risk. Consequently, the new auction shall be held and the sale shall be effected in accordance with the provisions laid down in respect of the first sale. No bids may be entertained from the defaulting bidder. The said bidder shall be liable for settlement of any deficit in the price of the property and shall not have any claim to any surplus which shall pass to the debtor or creditors.

Article 298

No proposal of an extra ten per cent shall be acceptable following the resumption of sale at the risk of the defaulting bidder, if the successful bid has been offered subsequent to proposing the payment of an additional amount.

Article 299

The verdict validating the sale proceedings shall be contained in the preamble of the court judgement, which shall include an account of the terms and conditions of the sale, the procedures followed in determining the date of sale, notice in respect thereof and the minutes of the Court sitting held in this connection. The judgement shall contain an order to the debtor or holder of the property to hand it over to the successful bidder.

The original copy of the court judgement shall be kept in the Execution File on the following day after the issue thereof. The Execution Department shall deliver to the parties concerned copies of the verdict validating the sale to be lodged with the Land Registration Directorate. Registration of the property in the name of the successful purchaser shall only be permitted after the elapse of 15 days from the date of pronouncing the court judgement.

The judgement passed shall constitute a deed establishing title of the successful purchaser, who shall only have the right to transfer thereto the debtor's rights to the property thus sold.

Article 300

Until such time as the judgement validating the sale is endorsed in accordance with the preceding Article, the debtor and each interested party may recover the sold property after payment of the amount of the debt and all costs incurred by the purchaser provided that the consent of the Execution Court Judge is obtained.

Article 301

When the property is registered in the name of the purchaser, the Execution Court Judge shall, upon a requisition from the successful bidder, notify the occupants of the property to vacate it and hand it over within 30 days.

Where the above period elapses before the property is handed over, the Court shall order the compulsory vacation thereof or its handing over unless the occupant of the property is in possession thereof under a proper lease agreement or management agreement.

Article 302

The auction shall not be deferred on grounds of claims to title of the distrained property or to rights created thereupon, unless such claim existed prior to the issue of the judgement validating the sale. In this event the Execution Court shall instruct the claimant to furnish a cash deposit or provide a surety to guarantee any damages or losses sustained by the creditor by reason of the delay. Then the claimant shall be given a fifteen-day interval during which he shall approach the competent Court seeking an order for postponement of the execution otherwise the Court shall proceed with the execution proceedings as though no objection has been made.

If claim proceedings have been instituted in respect of a certain part of the distrained property, the Court may decide to defer the sale or proceed with selling the other parts thereof.

Article 303

If the proceeds of sale of the debtor's movable or real property are insufficient for satisfaction of the distrainers' rights, and if they and the creditor fail within one week from the date of depositing the proceeds of sale with the Court Treasury to reach agreement on the distribution of the said proceeds of sale, they shall be divided amongst them pro rata their respective debts, provided that mortgagees shall have the right to claim their entitlements. The Execution File shall be kept unless

distrainers lodge any objection as to the distribution proceedings.

If it appears after the distribution that the debtor has other property, they may be subject, to further enforcement thereupon by virtue of the documents kept in the Execution File without having to submit a new application for enforcement.

Article 304

Notwithstanding the provisions of Article 176 of this Act, the creditor may attach the movable property of the debtor in the following instances:

- 1 - if he is a holder of a bill of exchange or promissory note and if the debtor is a businessman whose signature of the bill of exchange or promissory note obliges it to make payment in accordance with the Commercial Law.
- 2 - in every case where the creditor fears the loss of guarantee of its right.

Article 305

The lessor of the property may place an attachment towards the lessee or sub-lessee upon any movables, fruits and yields kept inside the leased property as security for payment of the accrued rent.

Article 306

The owner of the movable property may place an attachment thereupon whilst being in possession of the holder thereof.

Article 307

The attachment provided for in the preceding three Articles may not be placed except for the purpose of satisfying a proven right, which must be met.

Where the creditor is not in possession of an execution writ or an enforceable court judgement or if its debt is of an unspecified amount, the attachment may not be placed without the order of the Execution Court Judge authorising the placement of the attachment and giving a provisional estimate of the distrainer's debt.

The said Court order shall be sought by virtue of a petition which shall state the reasons for the request. In the event referred to in the foregoing Article, the petition shall give a detailed list of the movables sought to be attached. Where the supporting documents are believed by the Judge to be insufficient, he shall prior to issuing his order make a summary enquiry into the case.

Where proceedings have been commenced before a competent court in respect of the right claimed, permission for placement of an attachment may be sought from the Judge of the Court hearing the case.

#### Article 308

Placement of an attachment upon movables shall be subject to the same rules and procedures laid down for the distraint of movables.

The distrainer shall give notice to the distrainee of the attachment concerned within 8 days from the date of placing it and such notice shall be accompanied by a copy of the attachment statement, otherwise the attachment shall be deemed null and void.

Where an attachment is placed by order of the Execution Court Judge, the distrainer shall within the 8-day period referred to in the preceding paragraph, refer its claim to the competent Court to confirm its claim and admit the attachment as valid.

If the claim in respect of the right has previously been brought before another Court, proceedings regarding the validity of attachment shall be instituted before the same Court for hearing both cases simultaneously.

#### Article 309

If the Court passes judgement validating the attachment, the prescribed procedures set forth for the sale of the debtor's distrained movables shall be followed, or alternatively enforcement shall be carried out by surrendering the movable property in the event referred to in Article 306.

#### Article 310

No civil servant in charge of any duties relating to the sale of any property in accordance with this Act may purchase such property or offer any bid in respect thereof.

FINAL PROVISIONS

DATES OF PROCEEDINGS

Article 311

If the law determines for certain proceedings a period estimated in terms of days, months or years, there shall be excluded therefrom the date of the event which is deemed by law to cause the elapse of time. If such period is required to expire prior to going ahead with the proceedings, they shall not be commenced except after the expiry of the last day thereof.

Such period shall expire on the last day thereof if it is a period of time during which proceedings must take place.

A period fixed in months shall be computed from the date of commencement thereof to the corresponding date of the following months.

A one-day period shall be calculated from midnight until the following midnight. The date and time set for the commencement of any grace period shall not be included in the computation thereof. However, the date and time set for the expiry of the said period shall be included in the computation thereof.

Where the expiry date of any such period falls on a public holiday, the period shall be extended to the next business day thereafter.

AMENDMENTS

AMIRI DECREE

AMIRI DECREE NO.8/1978 WITH RESPECT TO AMENDING SOME OF THE PROVISIONS OF THE CIVIL AND COMMERCIAL PROCEDURES ACT

We, Hamad bin Isa Al Khalifa, Deputy Amir of the State of Bahrain,

after referring to the Constitution,

and Amiri Order No.4/1975, and Amiri

Order No.2/1978,

and the Civil and Commercial Procedures Act promulgated by Amiri Decree No.12/1971,

and the Law with respect to organisation of birth and death registration promulgated by Amiri Decree No.6/1970 amended by Amiri Decree No.15/1973,

and upon the submission of the Minister for Justice and Islamic Affairs, and after the approval of the Council of Ministers,

HEREBY DECREE:

Article 1

the provisions of Article 8 of the Civil and Commercial Procedures Act of 1971 shall be amended as follows:

- a) For clauses 1 and 6 of the aforementioned Article 8 there shall be substituted the following clauses:

1 - Civil and commercial cases where the amount of claims does not exceed BD1,000,

6 - Cases of vacating leased property, except where such cases involve juristic claims in excess of BD 1,000.

- b) Two new clauses numbered 7 and 8 shall be added to the aforementioned Article 8 as hereunder:

7 - Claims with respect to demand for the cessation or remedy of injury to landlords, tenants or neighbours.

8 - Claims with respect to application for entry in the Official registers of births and deaths stipulated for the said purpose or alteration of written particulars in the said registers.

Article 2

For the provisions of Article 13 of the Civil and Commercial Procedures Act of 1971 there shall be substituted the following provisions:

"The Courts of Minor Causes shall not have the competence to judge contingent claims if the amount at issue is greater than BD 1,000. If a claim of this kind is brought before them they may judge the original case only, provided this causes no detriment to the courts of justice, otherwise in judging it outside their jurisdiction they must automatically order the original case and contingent claims to be referred at once to the High Court.

If a claim or case of this kind is brought before the High Court, the High Court shall judge it together with the original case even if the amount claimed or at issue is less than BD1.000".

Article 3

The High Court shall, on its own initiative, whatever claims it has received and which are within the jurisdiction of the Court of Minor Causes according to the provisions of this Act as shall be referred thereto, in the same manner and in the event of the absence of one of the litigants, give notice to attend the Court of Minor Causes to which the claim has been transferred.

The provisions of the above-mentioned paragraph shall not apply to claims that have been decided in absentia or claims whose judgements have been deferred, but they shall be subject to the earlier provisions.

Article 4

The provisions of Articles 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, and 322 mentioned below under the heading "CHAPTER NINE" with respect to procedures for payment of debts and deposits shall be added to the Civil and Commercial Procedures Act promulgated by Amiri Decree No.12/1971:

CHAPTER NINE

PROCEDURES FOR PAYMENT OF DEBTS AND DEPOSITS

Article 311

If the debtor wishes to make a cash settlement of its debts, as admitted by him, such debtor or third party shall demonstrate its willingness to make such settlement to the creditor.



Article 312

A proposal to make a settlement shall be made by registered letter with an acknowledgement slip providing the letter is not sealed, including the amount of monies or the proposed payment with a precise declaration of particulars together with the reasons for such payment and the time and place of remittance and the conditions of the proposal therefor.

Article 313

A creditor is entitled to reject or accept such proposal for payment within 3 days of the date of receipt of the said registered letter and its response shall be made by a registered letter with an acknowledgement slip contained in an unsealed envelope.

The refusal of the creditor to accept the said registered letter referred to in the foregoing Article or after the lapse of ten days of the receipt of the said letter without sending a reply of rejection, shall be deemed as rejection of the proposal of payment.

Article 314

If the creditor rejects the proposal of payment and in the event of the debt being a monetary debt, the debtor is entitled to deposit the said money with the Ministry of Justice and Islamic Affairs to the account of the creditor by means of an application submitted to the Registrar General indicating the amount of the debt and the reasons for creation thereof. There shall be attached thereto a copy of the proposal of payment. The Registrar General shall send a registered letter with an acknowledgement slip to the creditor including a copy of the deposit application and the number of payment voucher of the debtor for the paid-up amount.

Article 315

In the event of the proposal for payment being not merely money and in case of rejection by the creditor of such proposal, the debtor may obtain an order from a judge of the Court of Minor Causes with respect to appointing an official receiver for preserving such payment for the account of the creditor in his place or any other which he deems appropriate. The competent officer shall ensure that the matters contained in the letter for the proposal of payment tally with those with the receiver, and he shall forward to the creditor, in accordance with the rules enforced with respect to official notifications, a copy of the procedures on the day following the appointment of the said receiver.

If the proposed matter for payment is perishable or is too costly for preservation or receivership, the debtor may obtain an order from the Judge for disposal at an auction and deposit the proceeds with the Ministry of Justice and Islamic Affairs, after having submitted a letter of the proposal for payment to his creditor directly. The Court's Clerks Department shall send to the creditor a registered letter with an acknowledgement slip on the day following the deposit of the proceeds including a copy of the sale order and the number of the deposit form.

The appointment of the official receiver or depositing the proceeds with the Ministry of Justice and Islamic Affairs shall be deemed as depositing the matter subject to the receivership or sale.

#### Article 316

The proposal for payment may be submitted to the Court during the hearing without conforming to procedures in the event of the person to whom the proposal is made, being present in person or represented by an authorised agent to accept or reject the payment.

If the said person declines to accept the payment it shall be delivered to the Court Clerk to be deposited with the Treasury of the Ministry of Justice and Islamic Affairs and the latter shall minute it indicating therein the testimonies of litigants as to the proposed payment and rejection thereof.

In the event of the proposed payment into Court being other than money the person who proposed payment shall obtain an order from the Court to appoint a receiver for safekeeping or sale thereof by auction according to the provisions of the preceding Article.

If the proposed payment is still pending until the determination of the claim, the court judgement shall decide the validity or otherwise of the proposed payment and deposit.

#### Article 317

The creditor may accept the proposed payment which he has earlier rejected and may receive what has been deposited to his account. He shall deliver to the cashier of the Ministry of Justice and Islamic Affairs or the official receiver a receipt for what he has received along with a copy of the application of the debtor for the deposit of the monies or a statement of appointing the official receiver or sale of the matter subject to the claim.

The creditor's receipt shall be a valid and effective discharge of the debtor in respect of monies or matter offered to be paid as from the date of deposit thereof.

Article 318

If a month elapses after the rejection by the creditor of the proposed payment, the debtor may, notwithstanding the provisions of Article 316, seek before a competent court a decision on the validity of the proposed payment and deposit. The Court should pronounce on the validity of the proposed payment and deposit as being a remittance of the debtor from the date of deposit.

The debtor may at any time withdraw its proposal and recover its deposit provided that this shall take place after 3 days from the date of notifying the creditor thereof by a registered letter with an acknowledgement slip.

The recovery of the deposit shall be effected by an order issued by this Court to which the proposal has been submitted or by an order of the Court of Minor Causes as the case may be.

Article 319

The order declining the validity of the proposed payment and deposit shall result in the cessation of payment of interest and the creditor shall be liable for any loss or damage to the object under receivership from the date of deposit or the issue of an order with respect to appointment of a receiver therefor or sale thereof.

The creditor, towards whom the order of validity regarding the proposed payment and deposit is issued and the release of its debtor or the creditor receiving what has been deposited to his account after the rejection thereof, is liable to pay the prescribed legal fees together with the costs connected with receivership or auction procedures.

Article 320

The deposit may be accepted if the debtor fails to recognise the identity of the creditor, its address or when the creditor is disqualified or partially disqualified and has no agent to accept the payment on its behalf, or in the event of any dispute among several persons with regard to the debt or when there are other reasonable causes that justify this procedure.

Article 321

The proposal is irrevocable and the deposit is irrefundable after the acceptance by the creditor of the said proposal or an issue of a Court order declaring the proposal is valid and binding.

If the creditor accepts the position that the debtor would change his mind concerning the proposal in the said two cases, the creditor shall not accede to it so as to protect its right concerning the guarantees and the remittance of the co-creditors and that of the guarantor.

Article 322

The procedures concerning the proposed payment and the deposit shall be subject to the rules and regulations with respect to fees prescribed thereto in Article 9 of Amiri Decree No.3 of 1972 regarding Legal Costs.

Article 5

Article 311 of the Civil and Commercial Procedures Act of the year 1971 shall be re-numbered to become Article 323.

Article 6

The Minister for Justice and Islamic Affairs shall issue the necessary orders for the implementation of this Law.

Article 7

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

Signed: Hamad bin Isa Al Khalifa  
Deputy Amir of the State of Bahrain  
Issued at Rifaa Palace

Dated: 10th May 1978

MINISTERIAL ORDER

MINISTRY OF JUSTICE AND ISLAMIC AFFAIRS

MINISTERIAL ORDER NO.7/1978 WITH RESPECT TO PROCEDURES FOR PAYMENT OF DEBTS AND DEPOSITS

The Minister for Justice and Islamic Affairs,

after referring to Amiri Decree No.8/1978 with respect to amending some of the provisions of the Civil and Commercial Procedures Act, and upon the submission of the Undersecretary of the Ministry of Justice and Islamic Affairs,

HEREBY ORDERS:

Article 1

In each deposit case, a file shall be maintained in which the following documents shall be kept:

1. The debtor's application for depositing the debt.
2. A copy of the debtor's letter proposing payment thereof.
3. The creditor's letter rejecting the proposal.
4. A copy of the letter of the Registrar General to the creditor with respect to effecting the deposit.
5. A copy of the voucher for depositing the debt.
6. The debtor's application for the appointment of the official receiver with respect to objects other than money or request for sale thereof.
7. Statement on procedures of receivership or sale.
8. A copy of the creditor's receipt in settlement thereof.
9. The debtor's application for receiving the proposed payment.

All the papers kept in the file shall be evidenced thereon after being given serial numbers.

The maintenance of files shall be effected in the same manner of filing court cases.

Every year serial numbers shall be given under the heading "deposits".

Article 2

A book shall be kept at the office of the Registrar General to be called the Deposit Book in which shall be entered the following particulars:

1. Number of deposit file.
1. Name of depositing debtor.
3. Name of creditor in whose account the deposit is made.
4. Deposited debt (money or objects under receivership or price of the sale of objects).
5. Date of deposit or the date of putting objects other than money under receivership or depositing the proceeds of sale thereof.
6. Number of deposit voucher.
7. Date of the Registrar General's notification to the creditor concerning the deposit, receivership or sale.
8. Date of the creditor's acceptance of the proposal and receipt of the proposed amount.
9. Date of the debtor's withdrawal of the proposal and receiving the deposited objects.

Article 3

Before depositing any sum of money, the Registrar General shall have the debtor's assurance that the latter has sent a letter to the creditor proposing the payment and the creditor's rejection thereof or the elapse of 10 days from the date of receiving the letter.

Article 4

Not later than the following day after the debtor has deposited the money, the Registrar General shall send to the creditor a registered letter with an acknowledgement slip including a copy of the deposit application and the number of the voucher evidencing the deposit of the money.

Article 5

Applications with respect to receivership of objects other than money or for the sale thereof or applications for the recovery of deposited money shall be submitted to the Court of Minor Causes through the Registrar General who shall order the preparation of a file thereof in accordance with Article 2. He shall be required to supervise the clerk of the competent court in the performance of his duties and the clerk authorised to pursue the receivership or sale proceedings.

Article 6

The entry of particulars in the book provided for in Article 2 and the setting up of deposit files provided for in Article 1 shall be under the supervision of the Registrar General.

Article 7

The clerk of the Court of Minor Causes to whom an application has been lodged for placing objects other than money under receivership or sale thereof or the debtor's requisition to recover what he has previously deposited shall submit such applications to the judge of the competent court not later than the following day.

Article 8

The clerk who undertakes the proceedings relating to receivership or sale shall send to the creditor on the following day a copy of the minutes of proceedings or sale including the court order of receivership or sale and the number of the voucher for depositing the proceeds of sale. He shall keep the original documents in the file and they shall be evidenced thereon.

Article 9

The cashier shall hand over to the creditor the money deposited to its credit after which he shall send all the documents delivered by the creditor to the Registrar General to be kept in the relevant file.

Article 10

The provisions of the foregoing Articles shall not be applicable to the proposal for payment which takes place during the hearing of any case according to the provisions of Article 316 of the Civil and Commercial Procedures Act. In this case, the court clerk shall attach all the documents relating to the deposit, receivership or sale to the file of the case for which procedures have taken place in the course of hearings.

Article 11

The fixed fee of BD5 shall be charged for the procedures of proposal of payment and deposit together with the additional fees prescribed for the procedures concerning proposals for payment and deposit until they are completed by the creditor's receipt of the proposed payment or the recovery thereof by the debtor.

Article 12

The Undersecretary of the Ministry of Justice and Islamic Affairs shall implement this Order and it shall come into effect from the date of its publication in the Official Gazette.

Signed: Abdulla bin Khalid Al Khalifa  
Minister for Justice & Islamic Affairs

Dated: 8 July 1978



**AMIRI DECREE NO.9/1980 WITH RESPECT TO  
AMENDING SOME PROVISIONS OF THE CIVIL AND  
COMMERCIAL PROCEDURES LAW OF 1971**

We, Isa Bin Sulman Al Khalifa, Amir of the State of Bahrain,  
after referring to the Constitution, and to Amiri Order No.4/1975,  
and upon the submission of the Minister for Justice and Islamic  
Affairs,  
and after the approval of the Council of Ministers, HEREBY  
DECREE:

Article 1

The text of clause (1) and (6) of Article 8 of the Civil and Commercial Procedures Law of 1971 shall be replaced by the following:

- (1) Civil and commercial claims which are not in excess of BD3,000.
- (6) Proceedings with respect to vacating leased property unless such proceedings involved claims which are in excess of BD3,000.

Article 2

Article 13 of the Civil and Commercial Procedures Law shall be replaced by the following:

The Courts of Minor Causes shall not have jurisdiction over consideration of petitions should the amount thereof be in excess of BD3,000. If a petition of this kind be submitted thereto, it may issue a judgement with respect to the original proceedings that should not have a harmful effect upon the exercise of justice, otherwise they shall rule that they have no jurisdiction in which event the original proceedings and relevant petitions shall be referred to the High Court.

If any petition or proceedings of this kind be put forward to the High Court, the said Court shall issue judgement in respect of the original proceedings even though the petition or the claim involved an amount which was less than BD3,000.

### Article 3

The High Court shall automatically refer any lawsuits that are currently submitted thereto and falling within the jurisdiction of the Court of Minor Causes in accordance with the provisions of this Law as the case may be. In the event of the absence of the litigants, such reference shall be notified thereto and he shall be summoned to appear before the Court of Minor Causes to which the lawsuit has been referred.

The provisions of the foregoing paragraph shall not be applicable with respect to lawsuits for which judgements shall be issued in absentia or lawsuits which are pending issue of judgements. However, these shall be subject to the provisions of previous rules.

### Article 4

The text of Article 216 of the Civil and Commercial Procedures Law shall be replaced by the following:

The period of appeal shall be forty-five days from the date of the issue of court judgement, unless otherwise provided for by the Law.

Such period shall commence from the date of notifying the court judgement to the convicted party in the events when he may have failed to appear at all sittings fixed for consideration of the lawsuit and in the events when such convicted party shall be in default of attending all court sittings which are subsequent to the resumption of hearings which may have been discontinued for any reason whatsoever.

The said period shall commence from the date of service of notice with respect to the judgement should any cause for forfeiture of the litigation arise and should the judgement be issued without the presence of a party replacing the litigant who has died, forfeited legal competence or forfeited capacity thereof.

The service of the notification to the convicted party shall be made personally or at his place of residence or chosen domicile.

The said period shall be valid with respect to the party serving notice concerning the court judgement.

Any failure to observe the above-mentioned period shall cause forfeiture of the right to appeal the judgement. The Court shall automatically order the said forfeiture.

Article 5

The Minister for Justice and Islamic Affairs shall implement this Law which shall come into effect from the date of its publication in the Official Gazette.

Signed: Isa Bin Sulman Al Khalifa  
Amir of the State of Bahrain

Dated: 20 February 1980

**LEGISLATIVE DECREE NO.19 OF 1983  
WITH RESPECT TO AMENDING CERTAIN PROVISIONS OF  
THE CIVIL AND COMMERCIAL PROCEDURES ACT**

We, Isa Bin Sulman Al Khalifa, Amir of the State of Bahrain,  
having examined the Constitution, and Amiri Order No.4 of  
1975,

and the Civil and Commercial Procedures Act promulgated as  
per Legislative Decree No. 12 of 1971 as amended by  
Legislative Decree No.8 of 1978 and by Legislative Decree  
No.9 of 1980,

and upon the submission of the Minister for Justice and  
Islamic Affairs,

and with the consent of the Council of Ministers, DO

HEREBY DECREE THE FOLLOWING LAW:

Article 1

There shall be added to the Civil and Commercial Procedures  
Act two new Articles numbered as Article 8 (a) and Article  
147(a) , the texts of which shall be as follows:

Article 8(a)

"Summary proceedings shall be heard by a judge to be  
designated by the Minister for Justice and Islamic Affairs and  
his terms of reference shall include examining all contingent  
claims except those falling within the jurisdiction of Shariaa  
Courts, even though the claim concerned is subject to the  
competence of another court. This shall not bar the  
jurisdiction of the relevant court from adjudging contingent  
matters brought in subsequence of the original claim.

The Summary Actions Judge shall, on a temporary basis, judge  
contingent claims which it is feared will be affected by the  
elapse of time without prejudice to the original right  
claimed.

An application for a summary trial shall be filled by means of  
a Statement of Claim submitted to the Case Records Department.  
The Said Department shall, on the day of submitting the

Statement, appoint a sitting for the hearing of the claim which shall not be less than 24 hours after the submission. However, in case of an emergency and by order of the Summary Actions Judge the minimum period required for holding the sitting may be reduced from hour to hour.

Upon filing of the Statement of Claim, the plaintiff shall be given summons to appear in court and an indication of the service of summons shall be made on the original of the Statement of Claim. The other litigants shall be served with copies of the Statement of Claim and asked to attend the trial.

Save for the above, the provisions laid down with respect to bringing action and service of process shall be applicable to summary proceedings. The time limit for appeals against judgements passed in respect of summary proceedings is 10 days from the date of their issue or from the date on which the party ruled against was notified of the verdict in accordance with the provisions of Article 216.

For appealing against such judgements, there shall be followed the procedures laid down for bringing a summary action, provided that the High Civil Court shall have the exclusive jurisdiction to examine appeals against judgements handed down by the Summary Actions Judge.

Judgements handed down in respect of summary actions may not be protested by way of an objection or a petition for a rehearing of the case."

#### Article 147(a)

"Any person who has reasonable grounds to fear the possible loss of details of a particular occurrence in a dispute with third parties that may become subject to a litigation before the law courts may file, in the manner prescribed for bringing summary actions, an application with the Summary Actions Judge to attend at the seat of the dispute. In this case, the provisions set out in the preceding two Articles shall be complied with.

The Summary Actions Judge may appoint an expert to be present at the seat of the dispute, conduct an investigation and hear witnesses without taking the oath. Then the Judge shall appoint a session for a hearing of the litigants' comments on the expert's report and assignment. The rules set forth in the Expert Knowledge Chapter shall be complied with."

## Article 2

For the provisions of Articles 121, 179 and 180 of the Civil and Commercial Procedures Act, there shall be substituted the following:

### Article 121

"If a person is afraid he will lose the opportunity to call on a particular witness to testify to some matter that has not yet been brought before the judiciary and is likely to be submitted to it, he may in the presence of those concerned seek that this witness be heard. Such request shall be submitted in the manner prescribed for bringing summary actions.

When there is ascertained necessary the judge shall rule that the witness shall be heard provided the fact is one that may lawfully be established by evidence of witnesses.

In hearing the witness' evidence the above rules and procedures for the hearing of evidence of witnesses shall be followed. In this case, a copy of the records of the enquiry may not be delivered or submitted to the judiciary unless the Court in question finds on examination that the fact may lawfully be established by evidence of witnesses. The other litigant may object in Court to this proof being accepted, as he too may ask for defence witnesses to be heard on his behalf."

### Article 179

"The Court may issue its order referred to in the two preceding Articles summarily without summoning the other party. Such party shall have the right to protest against the issuing of the order to the Court which issued it within eight days of issue, and the Court may uphold, amend or annul the order without prejudice to provisions of Article 198 of this Act."

### Article 150

The Summary Actions Judge may, upon a petition from the parties concerned and in the manner prescribed for bringing summary actions, order the appointment of an official receiver to take custody of the property placed under attachment or in dispute or the right to which is not established and which is in immediate danger. The receiver shall undertake to keep and manage such property as well as submitting an account in

respect thereof to the person whose right thereto is established under the Court's supervision, unless all those concerned agree to the appointment of a certain receiver to take custody thereof."

Article 3

Article 177 of the Civil and Commercial Procedures Act shall be revoked.

Article 4

The Minister for Justice and Islamic Affairs shall implement this Law which shall come into force after one month from the date of its publication in the Official Gazette.

Signed: Isa Bin Sulman Al Khalifa  
Amir of the State of Bahrain

Issued at Rifaa Palace on 24  
Saffar 1404 Hijra  
Corresponding to 29.11.1983

**AMIRI DECREE NO.15 OF 1985 WITH RESPECT TO  
AMENDING SOME PROVISIONS OF THE CIVIL  
AND COMMERCIAL PROCEDURES ACT OF 1971**

We, Isa Bin Sulman Al Khalifa, Amir of the State of Bahrain,  
having examined the Constitution, and Amiri Order No.4 of  
1975, and the Civil and Commercial Procedures Act as  
amended,

and Legislative Decree No. 15 of 1979 with respect to the  
promulgation of the Land Registration Law,

and upon the submission of the Minister for Justice and  
Islamic Affairs,

and after the approval of the Council of Ministers,

HEREBY DECREE THE FOLLOWING:

Article 1

The provisions of Article 8 of the Civil and Commercial  
Procedures Act of 1971 shall be amended as follows:

- a) For Clauses ( 1 ) and ( 6 ) of the aforementioned Article 8 as amended by Legislative Decree No.8 of 1978, and Legislative Decree No.9 of 1980 there shall be substituted the following clauses:
  1. Civil and Commercial cases where the amount of claims does not exceed BD5,000.
  6. Cases of vacating leased property, except where such cases involve juristic claims in excess of BD5,000.
- b) Two new clauses numbered 9 and 10 shall be added to the aforementioned Article 8 as amended by Legislative Decree No.8 of 1978 as follows:
  9. Claims for altering or correcting a name in official records and documents.
  10. Claims for establishing the damage or loss of title deeds and delivering copies replacing them.



## Article 2

For the provisions of Article 13 of the Civil and Commercial Procedures Act of 1971 as amended by Legislative Decree No.8 of 1978 and Legislative Decree No. 9 of 1980, there shall be substituted the following provisions:

The Court of Minor Causes shall not have the competence to judge contingent claims if the amount at issue is greater than BD5,000.

If a claim of this kind is brought before them they may judge the original case only, provided this causes no detriment to the court of justice, otherwise in judging it outside their jurisdiction they must automatically order the original case and contingent claims to be referred at once to the High Court.

If a claim or case of this kind is brought before the High Court, the High Court shall judge it together with the original case even if the amount claimed or at issue is less than BD5,000.

## Article 3

The High Court shall, on its own initiative, whatever claims it has received and which are within the jurisdiction of the Court of Minor Causes according to the provisions of this Act as shall be referred thereto, in the same manner and in the event of the absence of one of the litigants, give notice to attend the Court of Minor Causes to which the claim has been transferred.

The provisions of the above-mentioned paragraph shall not apply to claims that have been decided in absentia or claim whose judgements have been deferred, but they shall be subject to the earlier provisions.

## Article 4

The Minister for Justice and Islamic Affairs shall implement this Law which shall come into effect from the date of its publication in the Official Gazette.

Signed: Isa Bin Sulman Al Khalifa  
Amir of the State of Bahrain

Dated: 1 August 1985

LEGISLATIVE DECREE NO.1 OF 1990 WITH  
RESPECT TO AMENDING CERTAIN PROVISIONS OF  
THE CIVIL AND COMMERCIAL PROCEDURES ACT  
PROMULGATED BY LEGISLATIVE DECREE NO.12 OF 1971

We, Isa Bin Sulman Al Khalifa, Amir of the' State of Bahrain,  
having examined the Constitution, and Amiri Decree No.4 of  
1975,

and the Civil and Commercial Procedures Act promulgated by  
Legislative Decree No.12 of 1971, as amended,

and upon the submission of the Minister for Justice and  
Islamic Affairs,

and with the approval of the Council of Ministers

HEREBY DECREE THE FOLLOWING:

Article 1

For the provisions of Articles 7, 25, 26, 35, 46, 49, 51, 54,  
62, 124 second paragraph, 179, 190, 200, 214, 224, 228, 230,  
244, 245 first paragraph, 247 and 308 third paragraph of the  
Civil and Commercial Procedures Act promulgated by Legislative  
Decree No.12 of 1971, there shall be substituted the  
following:

Article 7

The Courts are composed of:

1. The Cassation Court.
2. The High Court of Appeal.
3. The High Court.
4. The Courts of Minor Causes and Courts of Execution.

Article 25

The Case Registration Department shall fix a sitting for  
hearing the case on the date of its entry in the Court  
Register and shall serve the summons upon the appellant to  
appear at the said sitting.

A service of summons upon the plaintiff shall be effected by an acknowledgement of receipt of such summons by himself or by whoever represents on the original and copies of the Statement of Claim. The defendant shall be served with the summons alongwith the Statement of Claim on the following day and shall be instructed to appear in court.

Apart from the summary proceedings or the cases for which the Act requires a certain time limit, the appearance before the High Civil Court or the High Court shall be within fifteen days and appearance before the Court of Minor Causes shall be within eight days. Invalidity of the above shall not have the effect of non-compliance with the time limit fo-r appearance without prejudice to the right of the party served with the summons to seek a postponement of the time limit.

#### Article 26

In all cases other than summary proceedings or the cases which the Act provides for another time limit, a defendant shall lodge with the Case Registration Department a memorandum of his defence accompanied by his supporting documents at least three days before the sitting fixed for hearing the Case.

#### Article 35

If it has not been possible to find the person ordered to appear after the necessary search for him has been made, the summons shall be served by delivering it to whoever he nominates as his agent, or an employee working in his service or any person living with him in the same household including the spouses, relatives and in-laws. The latter person shall sign the original copy of the summons evidencing the receipt of the copy.

If no person is available for the summons to be delivered thereto according to the provisions of the preceding paragraph or if any of the available persons abstains from signing the original acknowledging receipt or refuses to take receipt of the copy, the summons shall be served by posting a copy thereof in a prominent place in the house usually occupied by the person ordered to appear.

#### Article 46

If the plaintiff and defendant do not appear in court, the Court may pass a judgement in the case if it is fit for handing down a judgement in respect thereof, otherwise it shall decide to dismiss it.

The Court shall hand down a judgement if the plaintiff, plaintiffs or some of them do not appear but the defendant has appeared and has not asked for dismissal of the case.

If the case remains dismissed for sixty days and none of the litigants pleads for it to proceed, the case shall be considered null and void.

#### Article 49

If the defendant only does not appear at the first sitting in spite of having been served with the statement of claim and instructed to personally appear in Court, the Court may adjudge the case. However, if he has not been personally served with a summons, the Court shall in the non-summary proceedings adjourn the hearing of the case to a subsequent sitting the date of which shall be notified to the defendant. A judgement handed down in the action in both cases shall be deemed to have been delivered in the presence of litigants.

In case there are several defendants some of whom have been personally served with the summonses but some others have not been personally served with such summonses and should those who have not been personally served with the summonses fail to appear in Court, the Court shall in the event of non-summary proceedings adjourn the hearing of the case to a subsequent sitting of which proper summonses shall be served upon those who have not received a personal service of the summonses. A judgement in the case shall be deemed in the presence of the litigants towards all the defendants.

If it is proved to the Court in the event of the defendant's failure to attend that he has been served with the summons in an illegal manner, it shall adjourn the hearing of the case to a subsequent sitting for which proper summons shall be delivered.

#### Article 51

If the defendant appears at any sitting or lodges a memorandum of his defence, the litigation shall be deemed towards him proceeding in his presence, even if he fails to attend hearings thereafter.

The plaintiff may not, however, make new claims or amend or increase or reduce the earlier claims at the sitting at which his opponent fails to attend.

Likewise, the defendant may not demand a ruling on any claim in the absence of the plaintiff.

Article 54

The proceedings shall commence at the first sitting.

If the plaintiff or the defendant produces at this sitting a document which could have been produced within the time limit specified in Articles 25 and 26, the Court shall accept it if such action does not have the consequence of adjourning the hearing of the case. If the acceptance of the document results in adjourning the case, the Court shall hand down a verdict against him for payment of a fine of no less than BD5 and no more than BD20.

Both the plaintiff and defendant may however produce a document in response to the defence of his opponent or the counter-claims thereof. A case may not be adjourned more than once for one reason attributed to either litigant, provided that the period of adjournment shall not be more than three weeks.

Article 62

As far as possible the hearing of the case shall follow the order given in its schedule. When examination of the action of those litigants who appeared before the Court when called has been completed, those who are absent shall be called again. When it becomes apparent that they have not appeared, the Court shall enforce against them the provisions of Articles 46 and 49 as the case may be.

Article 124 (paragraph two)

The Court shall admit this presumption at the instance of either of the litigants or may admit it of its own accord.

Article 179

The Court may issue its order referred to in Articles 176 and 178 summarily without summoning the other party.

Where an order is issued rejecting the plaintiff's request, the plaintiff and the person against whom the order is issued shall have the right to file an appeal against it with the Court which has issued it within 8 days from the date of issuing it. The above time limit shall not be applicable towards the person against whom the order was issued except

from the date of serving him with notice thereof. The Court shall be empowered to uphold the order, modify it or otherwise cancel it without prejudice to the provisions of Article 198 of this Law.

#### Article 190

If the Court overlooks adjudging certain substantive claims, the concerned person may serve his opponent with a statement to appear before the Court to hear such claims and to pronounce a verdict in respect thereof.

The Court shall undertake the correction of any material errors whether in the statements or in the arithmetical matters by a verdict to be handed down of its own initiative or at the request of one of the litigants without submitting a pleading. The Court clerk shall make this correction on the original copy of the judgement to be signed by him jointly with the Court president and judges.

The verdict passed with respect to the correction may be contested if the Court acts in excess of its right indicated in the preceding paragraph by using the challenging methods permissible in the judgement subject to the correction.

However, a verdict for rejecting a correction shall not be independently contested.

#### Article 200

The means of challenging a verdict are:

1. Objection to verdict by a non-litigant.
2. Appeal.
3. Requesting a rehearing of the trial.
4. Cassation which shall be governed by a special law.

#### Article 214

Challenging by way of appeal may not take place with respect to the verdicts passed in the course of hearing an action and do not result in the settlement of the litigation except after delivering of the judgement ending such litigation before the Court of First Instance with the exception of temporary verdicts and summary judgements handed down for the suspension of proceedings and the verdicts that are enforceable by compulsory methods.

An appeal against the verdict ending a litigation necessarily implies the appeal against all prior rulings given in the case unless these are explicitly admitted provided that the provisions of Article 223 shall be complied with.

Article 224

The Court shall examine the appeal on the basis of the evidence and pleas and aspects of new defences submitted to it and those submitted to the Court of First Instance.

Article 228

The Court of Appeal shall decide either to reject the appeal and uphold the ruling appealed against or admit it and amend the ruling appealed against or annul it and issue an alternative ruling on the merits of the Case.

If the Court decides to annul the ruling appealed against with respect to the original claims, it shall refer the case to the Court of First Instance to decide upon the precautionary claims. Further, it shall return the case to that Court where it has ruled for annulling the ruling appealed against on ground of having no jurisdiction.

Article 230

The period for retrial shall be forty-five days from the date of handing down a judgement or from the date of notifying it to the convicted litigant according to the provisions of Article 216 of this Law. The time limit provided for in the first three paragraphs of the preceding Article shall only commence from the day on which the fraud becomes evident or on which the forger admits to his forgery or a ruling is given establishing it, or on which a ruling is given on the false witness, or the date on which the withheld document comes to light.

The request for retrial shall be submitted to the Court which has issued the ruling in the regular manner of filing cases.

Article 244

The Courts of Execution shall have competence to execute judgements and verdicts made by the Courts in their various kinds and degrees. Execution shall take place under the supervision and control of the Judge of the Court of Execution unless the Law otherwise provides.

Execution may be in accordance with authenticated instruments and settlement statements ratified by the Courts and other documents so characterised by law.

Article 245 (paragraph one)

Judgements may not be executed by compulsory methods so long as challenging them by way of appeal is permissible unless summary execution is prescribed by law or ordered in the judgement.

Article 247

The Court with which an appeal or objection to the payment order is filed may order at the request of the parties concerned a stay of the summary execution if it fears grievous damage may arise from such execution and if it considers the grounds for challenging the judgement makes its annulment likely.

Article 308 (paragraph three)

Where an attachment is placed by order of the Execution Court Judge, the distrainer shall within the 15-day period subsequent to the placement of the attachment file a legal action before the competent Court for establishment of the right claimed and the validity of the attachment, otherwise the attachment shall be deemed null and void.

Article 2

Three new Articles shall be added to the Civil and Commercial Procedures Act promulgated by Legislative Decree No.12 of 1971 as Article 12 bis, Article 186 bis and Article 186 bis (a), the provisions of which shall be as follows:

Article 12 bis

The Court of Cassation shall have the jurisdiction provided for in the Law thereof.

Article 186 bis

In all cases the draft of the judgement containing its recitals shall, after being signed by the court president and the judges, be lodged upon delivering the said judgement, otherwise the judgement shall be null and void.



Article 186 bis (a)

Subject to the provisions of Article 265 of this Law, the draft of the judgement containing the text and recitals thereof shall be maintained in the file and no copies thereof shall be issued. However, the litigants may have access thereto until the complete preparation of the original copy of the judgement.

Article 3

A new part shall be added to the Civil and Commercial Procedures Act promulgated by Legislative Decree No.12 of 1971 under Part X entitled "Payment Orders", which shall contain the following Articles:

Article 323

Except for the common rules governing the filing of legal actions, the provisions contained in the following Articles shall be applicable if the right of the creditor is proved by an instrument in writing and is payable and if the debt claimed is an amount certain in money or is a certain movable property that is certain in its kind and amount.

These provisions shall be applicable if the owner of the right is a creditor by virtue of a commercial paper and his recourse is limited to the drawer, maker, acceptor or surety of any such persons.

However, if he wishes to have recourse against persons other than the above, the common rules for filing of legal actions shall be applicable.

Article 324

A creditor shall first request the debtor to make payment within at least seven days and then shall seek the issue of a payment order from a High Court judge or from a Court of Minor Causes judge according to the qualitative jurisdiction of each court. A request for payment shall be made by a registered letter with a delivery note. A protest for non-payment shall serve as a substitute for this request.

An order shall be issued upon an application filed by the creditor or his attorney with the Case Registration Department accompanied by the instrument whereby the debt is created and proof of submitting the request for making payment.

The application shall be made in duplicate and shall contain the facts of the request and the supporting documents. It shall include the full name of the debtor, his residential address and residential address of the creditor or his elected domicile. The relevant documents shall be attached.

The order shall be issued on a copy of the application within a maximum period of three days from the date of filing it. It shall contain an indication of the amount payable including the principal and interest or whatever movable property that shall be recovered, as the case may be, in addition to the relevant costs.

The instrument creating the debt shall remain to be maintained at the Case Registration Department even after the date of issuing the order for payment until the lapse of the time limit for appealing against the order.

#### Article 325

If the judge decides not to have all the applicant's requests met, he shall issue the order and fix a sitting for hearing the Case before the Court. The Court Clerks Department shall serve the summonses upon the two Parties.

The rejection of a request for rendering the order immediately enforceable shall not be deemed as a rejection of some of the requests in the terms of the preceding paragraph.

#### Article 326

A debtor shall be notified of the application personally or at his residential address. Likewise, he shall be notified of the order issued against him for making payment.

The application and the order issued against him for making payment shall be deemed void if he is not duly notified thereof within one month from the date of issuing the order.

#### Article 327

A debtor may file a protest against the order within ten days from the date of giving him notice thereof.

A protest shall be filed with the High Civil Court or the Court of Minor Causes, as the case may be. The applicable procedures for commencement of legal actions shall be followed.

A protest shall be substantiated otherwise it shall be deemed null and void.

#### Article 328

A protestor shall be deemed as a plaintiff. If the hearing of protests, the prescribed rules and procedures for examining cases shall be complied with.

If a protestor fails to appear at the first sitting for hearing the protest, the Court shall adjudge the case of its own accord as though the protest has not been filed.

#### Article 329

The time limit for appealing against the matter shall commence from the expiry date of the protest's time limit or from the date on which the protest is deemed as though it has not been filed. A right to protest against the order shall be forfeited if it is directly challenged by way of appeal.

#### Article 330

Applications for payment orders, protests in respect thereof, or appeals thereof shall be subject to a levy of the proportionate fees charged for claims of known values in accordance with the provisions of Legislative Decree No. 3 of the Year 1972 with respect to Judicial Fees.

An application for issue of an order shall not be accepted from a creditor unless his application is accompanied by an evidence of making the full payment of the fee or exempting him therefrom.

#### Article 331

Upon filing an application for a payment order, a creditor may plead for the adoption of the precautionary actions provided for in Articles 176 and 178.

A judge's rejection of the adoption of such actions shall not be deemed as a rejection of some of the claims in terms of the first paragraph of Article 325,

In the cases provided for in Article 323 and as an exemption from the provisions of Article 308, a creditor may request the judge concerned with issuing the payment order to place a precautionary attachment over the movables of his debtor. During the following fifteen days after the placement of the

attachment, he shall file an application with the aforesaid judge for issue of a payment order and confirming the validity of the attachment procedures, otherwise the attachment shall be deemed null and void.

The debtor subject to the attachment may prior to the issue of the order to make payment and confirmation of the validity of the attachment procedures contest the attachment order before the judge who has issued the order. If his challenge relates to the original disputed right, the judge shall be barred from issuing the order for payment. Then, he shall fix a sitting for hearing of the issue of the Case according to Article 325.

#### Article 332

The payment order and the verdict passed in respect of the objection filed against it shall be subject to the provisions pertaining to the immediate enforceability in the cases set forth in the Law.

#### Article 4

Articles 47, 48, 50, 194, 201, 202, 203, 204, 205, 206, 207, 219 and 221 of the Civil and Commercial Procedures Act promulgated by Legislative Decree No.21 of 1971 shall be revoked.

#### Article 5

The Minister for Justice and Islamic Affairs shall implement this Law which shall come into force from the date of its publication in the Official Gazette.

Signed: Isa Bin Sulman Al Khalifa  
Amir of the State of Bahrain

Issued at Riffa Palace on 8th Rajab,  
1410 Hijra Corresponding to 4th  
February, 1990

LEGISLATIVE DECREE NO.3 OF 1999 WITH RESPECT TO  
AMENDING CERTAIN PROVISIONS OF THE CIVIL AND COMMERCIAL  
PROCEDURES ACT PROMULGATED BY  
LEGISLATIVE DECREE NO. 12 OF 1971

We, Isa Bin Sulman Al Khalifa, Amir of the State of Bahrain, having reviewed the Constitution, and Amiri Order No.(4) of 1975, and the Civil and Commercial Procedures Act promulgated by Legislative Decree No.12 of 1971 and Laws in amendment thereof, and upon the submission of the Minister of Justice and Islamic Affairs, and with the approval of the Council of Ministers,

**HEREBY DECREE THE FOLLOWING LAW:**

**Article 1:**

There shall be added to the provision of Article 8 of the Civil and Commercial Procedures Act promulgated by Legislative Decree No.12 of 1971 a clause bearing No. 1 bis. as follows:

Law-suits arising from an employment relationship in pursuance of the Labour Law for the Private Sector whatever may be the amount thereof whether filed by the worker or employer.

The time limit for appealing against such judgements before the High Civil Court within ten days from the date of handing them down or notifying them to the party adjudged against in pursuance of the provisions of Article 216.

**Article 2:**

Every High Civil Court shall refer of its own accord any law-suits that they may have arising from an employment relationship in the private sector and have become part of the jurisdiction of the Lower Court according to the provision of Article 8 (1) bis of the Civil and Commercial Procedures Act in their current condition while serving the summonses upon the litigants and instructing them to appear before the competent court to which the law-suit has been referred.

**Article 3:**

The High Civil Courts of Appeal shall continue to hear the law-suits referred thereto and arising from an employment relationship according to the Labour law for the Private Sector. Judgements handed down in respect of such law-suits shall be subject to the existing appeal methods and time limits at the time of filing an appeal.

**Article 4:**

The Minister of Justice and Islamic Affairs shall implement this-Law which shall come into effect from the date of its publication in the Official Gazette.

Signed: Isa Bin Salman Al  
Khalifa Amir of the  
State of Bahrain

Issued: at Rifaa Palace  
On 19thRamadhan 1419 H  
Corresponding to: 6th January 1999