[[1]](#footnote-1)\*

[[2]](#footnote-2)\*\*

**Legislative Decree No. 23 of 2016**

**In respect of Trusts**

We, **Hamad Bin Issa Al Khalifa, King of the Kingdom of Bahrain,**

Having examined the Constitution, particularly Article 28 thereof;

The Civil and Commercial Procedural Law promulgated by Legislative Decree No. 12 of 1971 (as amended);

Legislative Decree No. 14 of 1971with respect to Authentication;

The Penal Code promulgated by Legislative Decree No. 15 of 1976 (as amended);

The Law of Commerce promulgated by Legislative Decree No. 7 of 1987 (as amended);

The Bankruptcy and Composition Law promulgated by Legislative Decree No. 11 of 1987;

The Law on Societies, Social and Cultural Clubs and Private Entities Operating the Field of Youth and Sports and Private Institutions promulgated by Legislative Decree No 21 of 1989 (as amended);

The Civil Code promulgated by Legislative Decree No. 19 of 2001;

The Law of Commercial Companies Promulgated by Legislative Decree No. 21 of 2001 (as amended);

Law No. 23 of 2006 with respect to Financial Trusts;

The Central Bank of Bahrain and Financial Institutions Law promulgated by Law No. 64 of 2006, as amended by Legislative Decree No. 34 of 2015;

The Family Law (First Part) promulgated by Law No. 19 of 2009;

Legislative Decree No. 30 of 2009 with respect to the Bahrain Chamber for the Resolution of Economic, Financial and Investment Disputes, as amended by Legislative Decree No. 64 of 2014;

The Real Estate Registration Law promulgated by Law No. 13 of 201*3*;and

Law No. 6 of 2015 with respect to Conflict of Laws in Civil and Commercial Matters Involving a Foreign Element.

And upon the presentation of the Prime Minister; and

Approval of the Council of Ministers;

We have decreed the following law:

**Chapter One: Preliminary Provisions**

1. **Definitions**

In implementing the provisions of this law, the following words and expressions shall have the meaning given opposite each unless the context requires otherwise:

|  |  |  |
| --- | --- | --- |
| **Bahraini Trust** | **:** | A Trust the proper law of which is the law of Bahrain; |
| **Beneficial Interest** | **:** | All of the rights, benefits and advantages, vested or contingent, which accrue to a Beneficiary, or to a Charitable or Non-Charitable Purpose, in relation to the Trust Property; |
| **Beneficiary** | **:** | A Person entitled to benefit under a Trust or in whose favor a discretion to distribute a Trust Property may be exercised; |
| **Central Bank** | **:** | The Central Bank of Bahrain; |
| **Central Bank Law** | **:** | The Central Bank of Bahrain and Financial Institutions Law promulgated by Law No. 64 of 2006 as amended from time to time, together with regulations, instructions, directives and guidance notes issued pursuant to its provisions; |
| **Charitable Purpose** | **:** | Any of the purposes referred to under section 22(‎1); |
| **Co-Trustee** | **:** | A Trustee of a Trust which has more than one Trustee; |
| **Court** | **:** | Bahrain Chamber for the Resolution of Economic, Financial and Investment Disputes set up pursuant to Legislative Decree No. 30 of 2009with respect to the Bahrain Chamber for the Resolution of Economic, Financial and Investment Disputes; |
| **Enforcer** | **:** | A Person appointed in accordance with section 23; |
| **Foreign Trust** | **:** | A Trust the proper law of which is a foreign law; |
| **Foreign Trustee** | **:** | A Trustee licensed to practice as a Trustee in a foreign jurisdiction acceptable to the Central Bank; |
| **Heirship Rights** | **:** | Any right, claim or interest in, against or to property of a natural person arising, accruing or existing in consequence of, or in anticipation of, that person’s death, other than any such right, claim or interest created by will or other voluntary disposition by the natural person or resulting from an express limitation in the disposition of the property of such person; |
| **Kingdom** | **:** | The Kingdom of Bahrain; |
| **Licensed Trustee** | **:** | A corporate person licensed to practice the business of Trustee by the Central Bank in accordance with sub-section 26(4); |
| **Minor** | **:** | A natural person who has not attained the age of majority under the law of his domicile; |
| **Non-Charitable Purpose** | **:** | Any purpose that is not a Charitable Purpose and includes the purpose of holding or investing in shares in a company or any other assets constituting the Trust Property; |
| **Notarization Office** | **:** | The office established pursuant to section 1 of Legislative Decree No. 14 of 1971in respect of Authentication; |
| **Person** | **:** | A natural person or body corporate; |
| **Protector** | **:** | A Person appointed in accordance with section 24 ; |
| **Register of Trusts** | **:** | The register established in accordance with section 25(1) ; |
| **Retirement Scheme** | **:** | means a scheme set up with the primary objective of providing retirement benefits to beneficiaries out of investments of voluntary regular contribution made by those Beneficiaries and may include corresponding contributions by their employers; |
| **Settlor** | **:** | A Person who creates a Trust in accordance with the provisions of this law; |
| **Terms of the Trust** | **:** | The term of the Trust as provided under the Trust Instrument including any amendments thereof and any other terms applicable under the proper law of the Trust; |
| **Trust** | **:** | Has the meaning prescribed under section 2 , and includes the Trust Property, the rights, powers, discretions, duties, relationships and obligations under the Trust; |
| **Trustee** | **:** | Includes a Licensed Trustee and a Foreign Trustee; |
| **Trust Instrument** | **:** | The written and notarized instrument by which a Trust is created, and in which the Terms of the Trust are contained, and includes any instrument varying or supplementing the Terms of the Trust. The Trust Instrument may be a contract between the Settlor and the Trustee or a Unilateral Declaration of Trust; |
| **Trust Property** | **:** | Any movable or immovable property, and includes rights and interests, whether present or future and whether vested or contingent; and |
| **Unilateral Declaration of Trust** | **:** | A declaration by virtue of which the owner of property creates a Trustand in respect of which is the Trustee and specifies property that he owns to be Trust Property. |

1. **Creation of a Trust**
   * 1. A Trust is a legal relationship created by a Settlor whereby a Trust Property is held in the name of the Trustee, or another Person on behalf of the Trustee, to exercise in relation thereto the duties and powers in accordance with the provisions of the proper law of the Trust and the Terms of the Trust for any of the following:
2. the benefit of a Beneficiary whether or not yet ascertained or in existence,
3. any valid Charitable or Non-Charitable Purpose which is not for the benefit only of the Trustee; or
4. both such benefit as is mentioned under paragraph (a) of this sub-sectionand any such purpose as is mentioned under paragraph (b) of this sub-section.
   * 1. Without prejudice to the provisions of sub-section 2(1), a Trust has the following characteristics :
5. the Trust Property constitutes a separate fund and is not a part of the Trustee's own estate;
6. title to the Trust Property is held in the name, or under the control of the Trustee whereby it is held in the name of another Person on behalf of the Trustee; and
7. the Trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the Trust Property in accordance with the Terms of the Trust and the duties imposed upon him by any law applicable thereto.
   * 1. Subject to this law, a Trust shall be recognized as valid and enforceable in the Kingdom.
     2. A Trustee may sue and be sued in his capacity as Trustee andmay appear before any Courtor any Person acting in an official capacity.
8. **Proper Law of the Trust**
9. The proper law of the Trust is that expressed by the Terms of the Trust as the proper law but in the event the Terms of the Trust do not expressly specify the proper law, the proper law shall be that implied from such terms.
10. Where there is no express choice of a proper law and it is not possible to determine an implied choice or if the chosen proper law does not provide for Trusts or the category of Trust involved, the proper law shall be that with which the Trust is most closely connected.
11. For the purpose of sub-section 3(2), in ascertaining the law with which a Trust is most closely connected reference shall be made in particular to –
12. the place of administration of the Trust as designated by the Settlor;
13. the situs of the Trust Property;
14. the place of residence or business of the Trustee; and
15. the objects of the Trust and the places where they are to be fulfilled.
16. The Terms of a Trust may provide for a severable aspect of the Trust (particularly the administration of the Trust) to be governed by a different law from the proper law of the Trust.
17. **Change of the Proper Law**
18. The Terms of a Trust may provide for the proper law of the Trust, or the law governing a severable aspect of the Trust, to be changed to the law of any other jurisdiction provided that:
19. in the case of a change to the law of Bahrain, such change is recognised by the proper law of the Trust previously in effect; or
20. in the case of a change from the law of Bahrain, the new proper law recognises the validity of the Trust and the respective interests of the Beneficiaries.
21. A change in the proper law of a Trust, or the law governing a severable aspect of a Trust, does not affect the legality or validity of, or render any Person liable in respect of, anything done before the change.
22. **Matters determined by the Proper Law**
23. Subject to sub-section 5(2), the proper law of a Trust governs the validity of the Trust, its construction, its effects, and the administration of the Trust.In particular, the proper law of the Trust shall govern:
24. the appointment, resignation and removal of Trustees, the capacity to act as a Trustee, and the devolution of the office of Trustee;
25. the duties of the Trustees;
26. the rights and obligations of the Trustees among themselves;
27. the right of the Trustees to delegate in whole or in part the discharge of their duties;
28. the right of the Trustees to administer or to dispose of Trust Property, to create security interests in the Trust Property, or to acquire new assets;
29. the powers of investment of Trustees of the Trust Property;
30. restrictions on the duration of the Trust and the power to accumulate the income of the Trust;
31. the relationships between the Trustees and the Beneficiaries, and the personal liability of the Trustees to the Beneficiaries;
32. the variation or termination of the Trust;
33. the distribution of the Trust Property; and
34. the duty of the Trustees to account for proper administration.
35. Subject to sections 6, 8 and 9, sub-section 5(1):
36. Is subject to any express provision to the contrary in the Terms of the Trust;
37. Does not validate any disposition of property which is neither owned by the Settlor nor is the subject of a power of disposition vested in the Settlor;
38. Does not validate any Trust or disposition of property situated in a foreign jurisdiction in which such Trust or disposition is invalid according to the laws of such jurisdiction;
39. Does not validate any testamentary disposition which is invalid according to the laws of the testator’s domicile at the time of his death;
40. Does not affect the recognition of the law of any other jurisdiction in determining whether the Settlor was the owner of the property settled into the Trust or was the holder of a power to dispose of such property;
41. Does not, in determining, the capacity of a body corporate, affect the recognition of the laws of its place of incorporation; and
42. Does not affect the recognition of foreign laws that prescribing formalities for the disposition of property.
43. **Limitations in Foreign Law**

Without limiting the generality of sub-section5(1), any question related to the validity of a Trust, its construction, its effects, and the administration of the Trust and the validity of the disposition of the Trust Property shall be determined in accordance with the Trust’s proper law without regards to any of the following:

1. the laws of any foreign jurisdiction that prohibit or do not recognize the concept of a Trust; or
2. the Trust or disposition voids or defeats any rights, claims or interest conferred by Foreign Law upon any natural person by way of Heirship Rights or contravenes any rule of Foreign Law or any foreign, judicial or administrative order, arbitration award or action intended to recognize, protect, enforce or give effect to any such rights, claims or interest.
3. **Jurisdiction of the Court**

The Court shall have jurisdiction where:

1. the proper law of the Trust is Bahraini law and the Trust is registered in the Register of Trusts;
   1. a Trustee of a Foreign Trust is resident in the Kingdom;
   2. any Trust Property of a Foreign Trust is situated in the Kingdom; or
   3. administration of any Trust Property of a Foreign Trust is carried out in the Kingdom.
2. **Heirship Rights**

For the purposes of this law particularly paragraphs (b) and (c) of sub-section 5(2), an Heirship Right conferred by a foreign law in relation to the property of a living person shall not be recognised as affecting the ownership of immovable property in the Kingdom or movable property wherever situated.

1. **Foreign Judgments**

A foreign judgment or a foreign arbitral award with respect to Trust shall not be recognized or give rise to any legal effect insofar as it is inconsistent with sections 5, 6 or 8 irrespective of the applicable law relating to the conflict of laws.

1. **Principal Place of Administration**

Without prejudice to section 41and without precluding other means for establishing a sufficient connection with the designated jurisdiction, the Terms of a Trust designating the principal place of administration are valid and must be acted upon if:

1. In the case of a Bahraini Trust, if the principal place of business of any of theLicensed Trustee is in the Kingdom; and in the case of a Foreign Trust if the principal place of business, or place of residence, of any of the Trustees is located in the jurisdiction designed in the terms of the Trust; or
2. all or any part of the administration occurs in the jurisdiction designated in the Terms of the Trust.

**Chapter Two: Bahraini Trusts**

**Part 1: General Provisions**

1. **Application of Chapter Two**

The provisions of this chapter are applicable to Bahraini Trusts.

1. **Validity of a Trust**
2. Subject to sub-section 12(‎2) and 12(‎3), a Trust shall be valid and enforceable in accordance with its terms.
3. A Trust shall be valid only if it is created by virtue of a notarized Trust Instrument signed by both the Settlor and Trustee, or by the Settlor alone where the Trust is created by a Unilateral Declaration of Trust. The Trust Instrument may be written in Arabic or English and may be notarized at a branch of the Notarization Office which shall be set up for this purpose within the headquarters of the Central Bank.
4. Subject to sub-section12(4) and 12(5), a Trust Instrument must include the following:
5. identification of the initial Trust Property that shall be transferred to the Trust upon its creation;
6. identification of the purposes of the Trust where it has Charitable or Non-Charitable Purposes;
7. the name by which the Trust is to be known; and
8. the registered office of the Trust which shall be that of one of the Licensed Trustees for the purpose for service of any documents and notices in relation to the Trust.
9. A Trust shall be invalid if:
10. the Trust Instrument does not provide that it is the Settlor’s intention to create a Trust;
11. the Trust Instrument does not include the name, address and such other particulars of the Trustee as the Central Bank may specify;
12. it has no Beneficiary unless it is a Trust wholly for Charitable or Non-Charitable Purposes;
13. unless the Trust is wholly for Charitable or Non-Charitable Purposes, if the Trust Instrument does not include identification of the Beneficiaries, class of Beneficiaries or the criteria which enable the Beneficiaries to be ascertained;
14. in respect of any Charitable or Non-Charitable Purposes of the Trust, identification of such purposes and the name, address and such other particulars of the Enforcer as the Central Bank may specify;
15. the Trust Instrument does not specify the duration of the Trust where the Trust is for a specific duration, unless the Trust Instrument expressly provides that it is perpetual as provided under sub-section 13(2) ;
16. the object or cause of the Trust is contrary to public policy or morality;
17. the object or cause of the obligation under the Trust is contrary to the law;
18. it purports to confer any right or power or impose any obligation the exercise or carrying out of which is contrary to the law;or
19. an application for its registration is not submitted as provided under section ‎25 within thirty (30) days following the date of the creation of the Trust.
20. A Trust may be invalidated if:
21. Its creation was induced by duress, fraud, mistake, undue influence or misrepresentation;
22. The Settlor is a Minor or suffering from a legal incapacity; or
23. The Terms of the Trust are so uncertain that its performance is rendered impossible.
24. A Trust created,and registered as provided under this law shall be a valid Trust notwithstanding that it may be invalid according to the law of the Settlor's domicile or residence or place of current incorporation.
25. Where a Trust is created for two or more purposes of which some are lawful and others are unlawful:
26. if those purposes cannot be separated the Trust shall be invalid; and
27. where those purposes can be separated the Court may rule that the Trust is valid as to the purposes which are lawful;
28. Where a Trust is partially invalid, the Court may rule on what property is and what property is not Trust Property.
29. Property as to which a Trust is wholly or partially invalid shall revert to the Person who provided the property, or if he is dad, to his heirs and successor as if it had formed part of his estate at the time of his death, without prejudice to any rights accrued or liabilities incurred in good faith before the Trust was held to be wholly or partially invalid.
30. An application to the Court under this section may be made by the Trustee, Settlor, Beneficiary, Protector, Enforcer or any other interested Person.
31. **Duration of a Trust**
32. Subject to sub-section 13(2), the duration of a Trust may not exceed one hundred Gregorian (100) years according to the Gregorian calendar commencing on the date on which it is created. Where the Trust Instrument provides for a longer period it shall be deemed to be one hundred (100) Gregorian years.
33. A Trust Instrument, for a Trust established for a Charitable Purpose or a Retirement Scheme, may provide for a duration exceeding one hundred (100) Gregorian years.
34. **Reservation of Certain Rights and Powers to the Settlor**
35. A Trust shall not be invalid or a disposition in respect of the Trust shall not be void by reason of the Settlor being, either solely or with others, a Beneficiary, Enforcer or Protector of the Trust, or by reason of the Settlor reserving to himself any of the following powers:
36. to appoint new, add or remove any Trustees, Protectors, Enforcer or Beneficiaries;
37. to determine or change the proper law of the Trust and the principal place of administration of the Trust provided that such power shall be subject to section‎4, 10 and 41 ;
38. to restrict the exercise of any powers or discretions of the Trustee by requiring that they shall only be exercisable with the consent of the Settlor or any other Person specified in the Terms of the Trust;
39. to give binding directions to the Trustee in connection with the exercise of any of their powers or discretions or on how such powers and discretions are to be exercised;
40. to give binding directions to the Trustee in connection with the management, pledging or sale of the Trust Property or adding to it additional property;
41. to distribute, appoint, use or advance the Trust Property or its income or to give binding directions in respect of any of the foregoing;
42. to act as, or give binding directions as to the appointment or removal of, a director or other officer of any corporation wholly or partly owned by the Trust;
43. to appoint or remove any investment manager or investment adviser or any other Person acting in such capacity in relation to the affairs of the Trust or any Trust Property;
44. to revoke the Trust or vary or amend the Terms of the Trust or powers arising wholly or partly pursuant to such terms;
45. release any of the Protector’s powers; or
46. amend, vary, add or delete any particular Charitable or Non-Charitable purpose or purposes of the Trust.
47. The reservation or exercise of a power or right referred to in sub-section 14(1) does not of itself render any Trustee liable in respect of any loss to the Trust Property.
48. **Revocation and Variation of Trust and Powers**
49. Where a Trust or any power exercisable under a Trust is by the terms thereof, expressed to be-
    1. revocable, whether wholly or in partially; or
    2. capable of variation,

no such revocation or variation shall prejudice anything lawfully done by a Trustee before he receives notice of such revocation or variation.

1. Subject to the Terms of the Trust, where the Trust is revoked in whole or in part, the Trust Property, or that part of the Trust Property which is the subject of the revocation, as the case may be, shall revert to the Person who provided that Trust Property or, if he is dead, to his heirs or successors as if it had formed part of his estate.
2. Where a Trusts has been settled by more than one Settlor, such Trusts may only be revoked with the express consent of all Settlors.
3. Unless the Terms of the Trust expressly provide that the Trust is revocable or capable of variation, the Settlor may not revoke the Trust or vary the Terms of the Trust.
4. **Trust Property**
5. Subject to sub-section 16(2), the Trust Property shall be such property as is settled in Trust by the Settlor.
6. Subject to the Terms of the Trust:
7. a Trustee may accept from any Person the settlement of any additional property as Trust Property under the same Terms of the Trust; and
8. Any fruits, revenue, profits or growth generated by the Trust Property shall be added to the Trust Property.
9. Transfer to a Trustee of ownership of a property of any kind, including real estate and company shares, to constitute a Trust Property shall not be subject to any prohibition or restriction prescribed in respect of ownership of non-Bahraini nationals of such property provided that the property shall not revert upon the expiry or early termination of the Trust to any Person to whom such prohibition or restriction is applicable.
10. Transferring ownership of a Trust Property in the name of the Trustee, or to another Person on his behalf, shall be exempt from the payment of any fee applicable under the law.
11. **Beneficiaries**
12. A Beneficiary shall be identifiable by name and may be a future Person. A Beneficiary need not be identifiable by name but ascertainable at the time, when the interest is to be vested, by reference to either a specific class or a relationship to another Person, whether or not living at the time of the creation of the Trust or at the time which under the Terms of the Trust is the time by reference to which, under the Terms of the Trust, members of the class of Beneficiaries are to be determined
13. If there are no Beneficiaries identifiable by name or ascertainable as provided under sub-section 17(1), the Trust shall fail unless it is a Trust for Charitable or Non-Charitable Purposes.
14. The Terms of a Trust may provide for the addition of a Person or Persons as a Beneficiary or Beneficiaries or the exclusion of a Beneficiary or Beneficiaries from benefit either revocably or irrevocably and from time to time.
15. The Terms of a Trust may impose upon a Beneficiary an obligation as a condition for eligibility to benefit.
16. A Settlor or a Trustee of a Trust may also be a Beneficiary of the Trust. A Trustee may be the sole Beneficiary of the Trust.
17. The interest of a Beneficiary under a Trust shall be deemed to be a movable property, even if the Trust Property includes immovable property.
18. **Class Interest**
19. Subject to the Terms of the Trust, the following rules shall apply where a Trust, or an interest under a Trust, is in favor of a class of persons:
20. a class closes when it is no longer possible for any other person to become a member of a class, which shall include cases where a woman is no longer capablefor any reason of bearing a child; and
21. where any class interest relates to income and there is no member of the class in existence, the income shall be accumulated and, subject to section 13, shall be retained until there is a member of the class in existence or the class closes.
22. For the purpose of this section "class interest" means a Trust or an interest under a Trust which is in favor of a class of persons.
23. **Disclaiming and Transacting of Beneficial Interest in the Trust**
24. Despite any contrary provisions in the Terms of the Trust, a Beneficiary may disclaim, either permanently or for such period as he or she may specify, the whole or any part of his interest under a trust, whether or not he has received any benefit from the Trust.
25. A disclaimer of a Beneficiary of his interest under the Trust under sub-section 19(1) must be in writing, shall be irrevocable and not effective until received by the Trustee.
26. Subject to the Terms of a Trust, a Beneficiary may, by instrument in writing, wholly or partially sell, charge, transfer or otherwise deal with his interest in any manner.
27. **Protective Trust**
28. The Terms of a Trust may make the interest of a Beneficiaryliable to termination.
29. Without prejudice to the generality of sub-section 20(1), the Terms of a Trust may make the interest of a Beneficiary subject to:
30. a restriction on alienation or dealing in whole or in part; or
31. diminution or termination in the event of the Beneficiary becoming bankrupt or any of his property becoming liable to sequestration for the benefit of his creditors.
32. Where the Terms of a Trust provide for any of the above under sub-section 20(1) and 20(2), the Trust shall be referred to for the purposes of this law as a “Protective Trust”.
33. **Trust for Charitable or Non-Charitable Purposes**
34. A Trust may be created for a particular purpose or purposes, whether Charitable or Non-Charitable,subject to the following:
35. The purpose is not contrary to public policy or morality;
36. the Trust Instrument specifies the event upon the happening of which the Trust,in relation to its Charitable or Non-Charitable Purposes, terminates and provides for the disposition of surplus assets of the Trust upon its expiry or termination in relation to the Trust’s Charitable or Non-Charitable Purposes;
37. the Terms of the Trust provide for the appointment of an Enforcer in relation to its Charitable or Non-Charitable Purposes and for the appointment of a new Enforcer at any time when there is none; and
38. the purpose is possible and sufficiently certain to allow the Trust to be carried out.
39. If a Trust has multiple purposes and there is no allocation of the Trust Property between them, the Trustee, subject to evidence of contrary intention, has discretion to allocate the Trust Property.
40. The Settlor, in addition to the Enforcer, may maintain a proceeding to enforce the Trust in relation to its Charitable or Non-Charitable Purposes.
41. **Charitable Purposes**
42. Subject to sub-section 22(‎2), a Trust for Charitable Purposes include the relief of poverty, the advancement of education, the promotion of health, literature, heritage, culture, science or sport, the protection of the environment, and any other purposes which are beneficial to the public.
43. If the terms of a Trust do not indicate a particular Charitable Purpose or a means by which a particular Charitable Purpose may be selected, the Court may select one or more Charitable Purposes in accordance with the Settlor’s intention to the extent it can be ascertained or, if such intention cannot be ascertained, as the Court may otherwise determine.
44. A purpose may be regarded as charitable whether it is to be carried out in the Kingdom or elsewhere and whether it is beneficial to the public in the Kingdom or elsewhere.
45. **Enforcer**
46. It shall be the duty of an Enforcer to enforce the Trust in relation to its Charitable or Non-Charitable Purposes in accordance with the Terms of the Trust and the provisions of this law.
47. No Person shall at any time act as both a Trustee and an Enforcer of a Trust at the same time.
48. A Settlor of the Trust may be appointed the Enforcer of the Trust.
49. The appointment of a Person as Enforcer of a Trust in relation to its Charitable or Non-Charitable Purposes shall not have effect if he is also a Trustee of the Trust, and an Enforcer shall cease to be Enforcer of the Trust upon his appointment, and his acceptance of such appointment, as a Trustee.
50. Any natural person of at least twenty one (21) years of age or a corporate person, or one or more of any or both of the foregoing, may be appointed as Enforcer.
51. Except as permitted by this law or expressly provided under the Terms of the Trust, or with the approval of the Court where it deems it to be lawful or for the interest of the Trust , an Enforcer shall not:
52. place himself in a position which may conflict with his duties;
53. directly or indirectly profit from his appointment as Enforcer of the Trust;
54. cause or permit any other Person to profit directly or indirectly from such appointment; or
55. on his own account enter into any transaction with the Trustees or relating to the Trust Property which may cause him or the Trustee to profit directly or indirectly.
56. The Trustee shall provide the Enforcer upon his request with—
57. the accounts and records, including the annual accounts, of the Trustee's trusteeship;
58. a copy of the Trust Instrument setting up the Trust and any documents referred to in the Trust Instrument; and
59. any other documents or information to which he may be entitled to receive under the Terms of the Trust or which are reasonably necessary for the purposes of enforcing the Trust.
60. Unless authorized by the Terms of the Trust or by an order of the court, an Enforcer shall not be entitled to remuneration for his services in connection with the Trust except that he is entitled to be reimbursed for all such reasonable expenses properly incurred in the discharge of his duties.
61. Where there is more than one Enforcer of a Trust at any time, any power or discretion conferred on the Enforcers shall be exercisedby the majority of the Enforcers who had agreed to its exercise.
62. An Enforcer who dissents from a decision of the majority of the Enforcers may require his dissent to be recorded in writing.
63. An Enforcer may resign from his office by notice in writing delivered to the Trustee, or such other Person as the Terms of the Trust may specify, except that a resignation given in order to facilitate a breach of trust shall be of no effect.
64. Save where the resignation is given to facilitate a breach of trust, a resignation takes effect on the delivery of notice in accordance with sub-section 23(11) or any at time subsequent to such delivery if the Terms of the Trust so specify.
65. An Enforcer shall cease to be Enforcer of the Trust in relation to its Charitable or Non-Charitable Purposes immediately upon the following–
66. the Enforcer’s removal from office by the Court;
67. the Enforcer’s resignation becoming effective;
68. the coming into effect of a provision in the Terms of a Trust under which the Enforcer is removed from office or otherwise ceases to hold office; or
69. the Enforcer’s acceptance of being appointed as Trustee as provided under sub-section23(4).
70. **Protector**
71. The Trust Instrument may provide for the appointment of a Protector to assume any of the powers provided under this law, and other powers provided under the Trust Instrument, including–
72. to appoint new, add replace or remove any Trustees, Enforcer or Beneficiaries;
73. to determine or change the proper law of the Trust and the place of administration of the Trust provided that such power shall be subject to section‎4, 10 and 41 ;
74. amend, vary, add or delete any particular Charitable or Non-Charitable purpose or purposes of the Trust; and
75. give or withhold consent to specified actions of or the exercise of specified powers by the Trustee either conditionally or unconditionally.
76. The Trustee shall not be liable for any loss caused by his actions if he obtained,as provided under the Trust Instrument, the Protector’s prior consent and he acted in good faith.
77. A Protector exercising any one or more of the powers conferred on him under this law or the Terms of the Trust shall not by virtue only of such exercise be deemed to be a Trustee; and, unless otherwise provided under the Terms of the Trust, a Protector shall not be liable to the Beneficiaries or the Trustees for exercising his powers in good faith.
78. The Protector of a Trust may also be a Settlor or a Beneficiary of the Trust.
79. Sub-section 23(5) to sub-section 23(12) and Paragraphs (a) to (c) of sub-section 23(13) shall similarly apply to Protectors.
80. **Trust Registration**
81. The Central Bank shall establish and maintain a register to be called “Register of Trusts” in which all Bahraini Trusts shall be registered and in which it shall be entered such Trust’s particulars as the Central Bank may determine in a regulation.
82. Registration of a Trust, its expiry, termination or revocation and any amendments to the particulars specified by the Central Bank pursuant to a Regulation issued under sub-section 25(1) shall be made upon a written application by the Trustee to the Central Bank subject to such procedures and accompanied by such fee as the Board of Directorsof the Central Bank may prescribe in a regulation.
83. The application under sub-section 25(2) shall be lodged within 30(thirty) days following the creation of the Trust, its expiry, termination or revocation or any subsequent amendments to the particulars specified by the Central Bank pursuant to sub-section 25(1). The creation of a Trust, its termination, expiry, revocation or any amendments to its particulars shall only have effect against third parties staring from the date of its entry in the Register of Trusts.
84. Upon the registration of a Trust in the Register of Trusts pursuant to an application lodged as provided under this section, the Central Bank shall issue to the Trustee a certificate of registration, in such form as the Central Bank may determine for this purpose.
85. The register of trusts created and existing prior to the date on which this law comes into effect shall be updated, as required under the provisions of this law, and merged with and deemed an integral party of the Register of Trusts.
86. The Register of Trusts shall be confidential and may only be inspected by an order of the Court or by those employees of the Central Bank who are directly responsible for the registration of trusts, licensing of Trustees and the supervision of their business.

**Part 2: Appointment, Resignation and Removal of Trustees**

1. **The Trustee**
2. A Trust must always have at least one Licensed Trustee unless the Terms of the Trust provide for a greater number. A Trust shall be invalid if upon its creation it does not have at least one Licensed Trustee.
3. Without prejudice to sub-section 26(1), a Trust may have one or more Co-Trustees provided that a Co-Trustee may either be a Licensed Trustee or a Foreign Trustee.
4. Whenever the number of Trustees falls below the number required under sub-section 26(1) or the Terms of the Trust, then until the required number of Trustees are appointed, the surviving Trustees shall,unless the Court orders otherwise, act only for the purpose of preserving the Trust Property,save where the Court orders otherwise, and shall inform the Central Bank in writing as soon as reasonably possible of the shortfall in the number of Trustees and shall take such steps as may be required to affect the necessary appointment either in accordance with the Terms of the Trust or, if the Terms of the Trust do not include such provisions, through the Court.
5. Licensing of Trustees shall be subject to such requirements and procedure as the Central Bank may specify. A fee shall be payable in respect of the license application, the issuance of the license and its annual renewal. Such fees shall be determined in a Regulation issued by the Board of Directors of the Central Bank pursuant to this law.
6. A Licensed Trustee shall be deemed to be a licensee for all the purposes of the Central Bank Law.
7. **Resignation of Trustee**
8. Subject to the Terms of the Trust and sub-sections 27(‎2), 27(‎3) and 27(‎4), a Trustee not being the sole Licensed Trustee may resign his office upon not less than thirty (30) days’ notice to the Settlor if living or if he is dead to his duly appointed successor (if the Trust Instrument so provides), and all Co-Trustees (if any) and the Central Bank.
9. Asole Licensed Trustee may resign with the approval of the Court and in approving a resignation, the Court may issue such orders, including the appointment of a replacement Licensed Trustee, and impose such conditions as it may deem to be reasonably necessary for the protection of the Trust Property.
10. If two or more Trustees purport to resign simultaneously in accordance with sub-section 27(1), the effect of which would mean that there would be no Licensed Trustee, then the resignations shall have no effect.
11. A Trustee who resigns in order to facilitate a breach of trust shall be liable for that breach as if he had not resigned.
12. **Removal of Trustee**
13. The Court may remove a Trustee from office upon an application by the Central Bank, Settlor, Enforcer, Protector, Co-Trustee, Beneficiary or any other interested Person if:
14. the Trustee has committed a serious Breach of the Trust;
15. there is a lack of sufficient cooperation among the Co-Trustees substantially impairing the administration of the Trust;
16. the Trustee’sloses his legal capacity or his inability to exercise his powers and perform his duties provided for under the provisions of this law and the Trust Instrument;
17. the Trustee fails to fulfill one or more of the qualifying conditions for trusteeship as provided pursuant to this this law;
18. the Trustee is unfit, unwillingor persistently fails to administer the Trust effectively;
19. the removal of the Trustee is in the best interest of all of the Beneficiaries or the advancement of any purposes of the Trust and is not inconsistent with the material object of the Trust and a suitable Co-Trustee or successor Trustee is available;
20. the Trustee is placed under administration or is declared bankrupt; or
21. The Trustee’s license, if it is a Licensed Trustee, is annulled by the Central Bank or, in the case of a Foreign Trustee, if its license is annulled by its licensing body.
22. Pending a Court’s final decision on a request to remove a Trustee, or in lieu of or in addition to removing a Trustee, the Court may order such appropriate relief under section 47 as may be necessary to protect the Trust Property or the interests of the Beneficiaries or to advance the purposes of the Trust.
23. **Effects of Resignation or Removal of Trustee**
24. Unless a Co-Trustee, who is a Licensed Trustee, remains in office or the Court otherwise orders, and until the Trust Property is surrendered to a successor Trustee or other Person entitled to receive it, a Trustee who has resigned or been removed shall carry out the duties and exercise the powers necessary to protect the Trust Property.
25. A Trustee who has resigned or been removed shall proceed expeditiously to carry out the following:
26. Surrenderthe Trust Property in his possession or under his control, and subject to sub-section 29(3) and 29(4) furnish final audited accounts and surrender all documents and records of the Trusteeto the Co-Trustee or successor Trustee or other Person entitled to receive them as provided in the Trust Instrument; and
27. notify the Central Bank and apply for entering the date of resignation or removal in the Register of Trusts together with the name and particulars of the successor Trustee.
28. A Trustee may before surrendering the accounts, records and documents, as provided under sub-section 29(2), retain a copy thereof for his own records.
29. A Trustee who resigns or is removed from office may require to be provided with reasonable security for his liabilities whether existing, future, contingent or otherwise before surrendering Trust Property.
30. A Trustee who resigns or is removed from office and has complied with sub-section 29(1) and 29(‎2) shall be released from liability to any Beneficiary, Trustee or any interested Person for any act or omission in relation to the Trust Property except:
31. liability arising from any breach of trust to which such Trustee or any of its directors, officers or employeeswas a party or in which the Trustee had an interest or had knowledge of when committed;
32. liability in respect of actions to recover the Trust Property or its proceeds from the Trustee or any of its directors, officers or employeeswhere such Trust Property or its proceeds are in the possession or control of such Trustee, directors, officers or employees.
33. An indemnity, or an extension or renewal thereof, given in writing by any Person (the "Indemnifying Party") and expressed to be in favor of a Trustee who has resigned or been removed from office (a "Previous Trustee") is, subject to its terms, enforceable by the Previous Trustee against the Indemnifying Party notwithstanding that the Previous Trustee is not a party to or signatory of the indemnity or its subsequent renewal or extension.
34. Resignation or removal from office of a Trustee shall not discharge the Trustee, or any of his sureties, from liability for acts or omissions attributed to the Trustee.

**Part 3: Duties of Trustee**

1. **General Duties**
2. A Trustee shall execute his duties, in accordance with the provisions of this law and the Terms of the Trust, and shall act solely in the interest of the Beneficiaries or advancement of the purposes of the Trust purposes, with due diligence and care, as would a prudent person, to the best of his ability and skilland observing the utmost good faith.
3. The Trustee shall keep the Trust Property separate from his personal assets and separately identifiable from any other property of which he is a Trustee.
4. Subject to the provisions of this law and the Terms of the Trust, a Trustee shall preserve and enhance, so far as is reasonable, the value of the Trust Property.
5. Except with the approval of the Court or as permitted pursuant to the provisions of this law or expressly provided by the Terms of the Trust, a Trustee shall not –
6. derive, directly or indirectly, any profit from his trusteeship;
7. cause or permit any other Person to so derive any such profit; or
8. on his own account enter into any transaction with any of the Co-Trustees, or relating to the Trust Property, which may result in any profit from his trusteeship.
9. A Trustee shall keep accurate accounts and records of his trusteeship.
10. Where the Trustee of a Trust for Charitable or Non-Charitable Purposes has reason to believe that the Enforcer in relation to such purposes is unwilling or refuses to act, or is incapable of acting, or unwilling to act in enforcing the Trust, he shall take such steps as may be necessary to secure the removal of the Enforcer and the appointment of a replacement.
11. A Trustee of a Trust for Charitable or Non-Charitable Purposes shall,at any time when there is no Enforcer, take such steps as may be necessary to secure the appointment of a new Enforcer.
12. A Trustee shall keep the accounts and records of the Trust separate and distinct from other accounts and records of any other Trust administered, or business carried out, by the Trustee provided that the Trustee may include profits and expenses from its Trustee business in its consolidated accounts.
13. A Trustee shall carry out the requirements for registration of the Trust in the Register of Trusts and lodge all other applications for registration as provided under section‎25.
14. A Trustee shall provide to the Settlor, Enforcer and Protector upon the request of any of them anauthenticated copy of the certificate of registration of the Trust in the Register of Trusts and any other entry made in accordance with section 25.
15. Subject to the Terms of the Trust and any order of the Court, a Trustee shall:
16. take the required measures to compel a former Trustee or other Person to surrender the Trust Property;
17. upon a written request from a Beneficiary, an Enforcer or a Protector to disclose and provide such accounts and records of the Trustee's trusteeship as such person may reasonably request within a reasonable time following the request;
18. where there is more than one Beneficiary, or more than one purpose, act impartially and not execute its business in a manner that is detrimental to the advantage of the other beneficiaries or purposes; and
19. on becoming aware or at the point where the Trustee has reason to know that a breach of trust has been committed by a former Trustee or Co-Trustee, to take such measures as may be required to seek compensation for that breach of trust.
20. Without prejudice to the provisions of this law, Terms of the Trust, orders of the Court or the requirements of the Central Bank to carry out its inspection duties, a Trustee shall throughout his trusteeship and thereafter safeguard the confidentiality of the Trust’s affairs, its documents, records, accounts and other related information except as may only disclose it to others to the extent necessary for conducting the business of the Trust, provided that such duty shall not apply to the disclosure of documents, records, accounts and other related information that were at the time of disclosure by the Trustee already in the public domain due to reasons not attributed to a default of the Trustee.
21. A Trustee shall generally observe all the provisions of this law including the carrying out of all his duties provided under this law.
22. **Multiple Trustees**
23. Unless the Terms of the Trust provide otherwise, where the Trustees are more than one they should act jointly in the execution of the Trust.
24. Where there is more than one Trustee, the Terms of the Trust may empower the Trustees to act individually or by a majority with respect to the exercise of some or all of the powers, discretions and duties conferred on the Trustees or to delegate the exercise of these to one or more Trustees.
25. Where the Terms of the Trust empower the Trustees to act by a majority, a Trustee who dissents from a decision of the majority, may require his dissent to be recorded in writing.
26. Subject to the Terms of the Trust, if a Co-Trustee is unable to perform his duties because of absence, illness, disqualification under any law, or other temporary incapacity, and prompt action is necessary to conduct the affairs of the Trust or to avoid injury or loss to the Trust Property, the remaining Co-Trustee or a majority of the remaining Co-Trustees may act for the purposes of preserving the Trust Property.
27. Subject to sub-section 31(‎6), a Trustee who dissents from a decision of the majority of the Trustees is not liable for that decision provided that he had not, alone or with the other Co-Trustee, implemented the decision and he knew or reasonably ought to have known that its implementation constitutes a serious Breach of the Trust.
28. Each Trustee shall exercise reasonable care to:
29. prevent a Co-Trustee from committing a serious breach of trust; and
30. compel a Co-Trustee to redress a serious breach of trust.
31. **Disclosure of the Trustee’s Capacity**
32. A Trustee shall disclose his capacity as a Trustee in all contracts entered into and transactions made with third parties for the benefit of the Trust.
33. Where the law requires any party or government department to enter into its records or register a transaction,and where any party to the transaction is a Trustee, such party or government department shall include the Trustee’s capacity in addition to the particular information which it is required under the law to be entered in the such record or register.
34. The transactions referred to under sub-section 32(2) includes:
    * + 1. Banking transactions;
        2. Shipping Documents;
        3. Non-Negotiable Instruments;
        4. Any transaction which it is required for its validity under the law to be notarized or entered into an official register.
35. **Conflict of Interest**
36. A Trustee shall observe the provisions of this law and such rules as the Central Bank may specify in respect of the avoidance of conflict of interest between its duties as Trustee and its own personal interest.
37. Whenever a Trustee has a direct or indirect interest in a transaction in his personal capacity that may conflict to a material extent with the requirements of his duties as a Trustee, he must declare that interest in writing to the Co-Trustees, Protector and Enforcer as soon as practicable after he becomes aware of such interest.
38. In situations where the Trustee’s duties conflict to a material extent with his own personal interest, the Central Bank may upon an application of the Trustees, Protector, Enforcer or any interested Person set certain terms for the Trustee’s exercise of his duties and powers or, where it deems it to be in the best interest of the Trust, appoint an appropriate fiduciary to act in respect of a proposed transaction.

**Part 4: Powers of Trustee**

1. **General Powers**
2. Subject to the provisions of this law and the Terms of the Trust, a Trustee shall in relation to the Trust Property have all the powers as a natural person acting as the beneficial owner of such property.
3. A Trustee shall exercise the Trustee’s powers, in accordance with the provisions of this law and the Terms of the Trust, solely in the interests of the Beneficiaries or the advancement of the purposes of the Trust as the case may be.
4. **Consultation by Trustees**
5. Subject to the provisions of this law and the Terms of the Trust, a Trustee may, at the expense of the Trust Property, consult accountants, lawyers, bankers, investment advisers, and other specialists in relation to the affairs of the Trust.
6. The Terms of the Trust may require a Trustee to consult another Person before exercising any power, discretion or duty provided that a Person shall not, by virtue of being so consulted, be deemed to be a Trustee.
7. **Conducting the Affairs of the Trust**

A Trustee may act as follows–

1. by a resolution of its board of directors or governing body; or
2. by a resolution of its board of directors or governing body as provided under paragraph (a) of this section appoint one or more of its employees to act on its behalf.
3. **Power to Delegate**
4. A Trustee shall not delegate to others any of his powers unless permitted to do so under this law or the Terms of the Trust or by the Court.
5. Without prejudice to sub-section 37 (1), except where the Terms of the Trust provide to the contrary or prescribe any limitation, a Trustee may-
6. delegate the management of Trust Property to, and appoint, investment managers whom the Trustee reasonably considers to be qualified to manage the investment of the Trust Property;
7. appoint any lawyer, accountant, banker, investment advisor, investment manager, broker, custodian, property agentor other professional to act in relation to any of the affairs of the Trust or to hold any of the Trust Property; and
8. authorize any such person referred to under paragraph (b) of this sub-sectionto receive any commission or other payment usually payable for rendering such services.
9. A Licensed Trustee shall not delegate any of its core duties as the Central Bank may specify except to another Licensed Trustee.
10. A Trustee shall not be liable for any loss arising to the Trust from a delegation under sub-section 37(‎2) or from the default of any person so delegated or appointed provided that the Trustee exercised the standard of care of a reasonable and prudent Trustee of comparable skill in-
11. the selection of the delegate or appointee;
12. the supervision of the activities of the delegate or appointee; and
13. establishing the scope and terms of the delegationor appointment.
14. **Appointment and Assignment of Trust Property**

The Terms of a Trust may confer on the Settlor, Trustee or any other Person power to appoint or assign all or any part of the Trust Property or any interest in the Trust Property to, or for the benefit of, any Person (whether or not such Person was a Beneficiary of the Trust immediately prior to such appointment or assignment).

1. **Remuneration and Expenses of Trustee**
2. Unless authorised by the Terms of the Trust, or by the consent in writing of all the Beneficiaries or by any order of the Court, a Trustee shall not be entitled to remuneration for services rendered in connection with the Trust.
3. Subject to sub-section 39(3), if a Trustee is entitled to remuneration for services rendered in connection with the Trust then the Trustee’s remuneration shall be as specified in the Trust Instrument or, where the Trust Instrument contains no such provision, as is reasonable under the circumstances.
4. Where the Terms of the Trust specify the Trustee's remuneration, the Court may allow more or less compensation if:
5. the duties of the Trustee are substantially different from those contemplated when the Trust was created; or
6. the compensation specified by the Terms of the Trust would be unreasonably low or high.
7. A Trustee may reimburse himself or pay out of the Trust Property all reasonable expenses properly incurred by him in connection with the execution of its business related to the Trust.
8. **Power of Accumulation and Advancement**
9. Subject to section 13, the Terms of the Trust may direct or authorize the accumulation for any period of all or part of the income of the Trust.
10. The Trustee shall distribute the income of the Trust which is not accumulated as provided under the Terms of the Trust.
11. Subject to the Terms of the Trust and to any prior interest or charge affecting the Trust Property, the Trustee may –
12. where a beneficiary is a Minor or a natural person lacking legal capacity or under legal disability (whether or not his interest is vested), apply the income attributable to his interest, or any part of that income, to or for his maintenance, education or other benefit; and
13. advance or apply for the benefit of a beneficiary part of the Trust Property prior to the happening of the event upon which he is to become absolutely entitled thereto.
14. The receipt given by the guardian or custodian of the person lacking legal capacity or under legal disability shall be sufficient discharge by the Trustee in respect of such payment.
15. The part of the Trust Property advanced or applied under section 40(3) shall be brought into account in determining from time to time the share of the Beneficiary in the Trust Property.
16. No part of the Trust Property advanced or applied under sub-section 40(3) may exceed the presumptive, contingent or vested share of the Beneficiary in the Trust Property.
17. **Transferring the Trust’s Place of Administration**
18. A Trustee is under a continuing duty to administer the Trust at a place appropriate to its purposes, the administration of its affairs and the interests of the Beneficiariesand in furtherance of the Trust’s Purposes and in accordance with the Terms of the Trust.
19. Without prejudice to the Terms of the Trust and the right of the Court to order, approve, or disapprove a transfer, the Trustee, in furtherance of the duty set out under sub-section 41(1) transfer the Trust's principal place of administration of the Trust to another jurisdiction outside the Kingdom.
20. The Trustee shall before transferring the principal place of administration of the Trust, notify the Protector, Enforcer and all Qualified Beneficiaries by a registered letter with acknowledgment of delivery, not less than sixty (60) days before the date set for the transfer. The notice must include:
21. the name of the jurisdiction to which the principal place of administration of the Trust is to be transferred;
22. the address of the new location of the principal place of administration of the Trust;
23. an explanation of the reasons for the proposed transfer;
24. the date on which the proposed transfer is anticipated to occur; and
25. The period within which a notice of objection to the proposed transfer may be lodged,through a registered letter with acknowledgment of delivery, by the Protector, Enforcer or any Qualified Beneficiary. The period for lodging an objection shall not be less than sixty (60) days before the anticipated date for the transfer.
26. A Trustee may not transfer a Trust's principal place of administration if he receives a notice of objection to the transfer from the Protector, Enforcer or any Qualified Beneficiary within the period specified as provided under sub-section 41(3).
27. For the purposes of sub-section 41(3) and sub-section 41(4), the term Qualified Beneficiary means a Beneficiary who, at the time the beneficiary’s qualification is determined, is a recipient of distribution from the Trust Property or has a future non-contingent right to distribution of such property.
28. In connection with a transfer of the Trust's principalplace of administration of the Trust, the Trustee may transfer some or all of the Trust Property to a successor Trustee designated in the Terms of the Trust or appointed pursuant to this law.
29. **Confidentiality**
    * + - 1. Subject to the Terms of the Trust and any order that the Court may issue for reasons it sees fit, a Trustee shall not be required to disclose to any Person with the exception of the Central Bank, any information or document which–
30. discloses the Trustee’s deliberations as to the manner in which the Trustee has exercised a power or discretion or performed a duty conferred or imposed upon him;
31. discloses the reason for any particular exercise of such power or discretion or performance of duty or the material upon which such reason shall or might have been based;
32. relates to the exercise or proposed exercise of such power or discretion or the performance of a duty or proposed performance of such duty;
33. subject to sub-section 42(2), relates to or forms part of the accounts of the Trust, or
34. Intimates how the Settlor or Beneficiary wishes the Trustees to exercise any of their powers, discretions or duties.

2. A Trustee may not refuse to disclose pursuant to Paragraph (d) of sub-section 42(1) where the application to disclose is submitted by:

1. a Beneficiary;
2. a Protector;
3. In the case of a Trust for a Charitable or Non- Charitable Purposes, an Enforcer in relation to any Charitable Purposes or Non-Charitable Purposes of the Trust; or
4. a charity which is referred to by name as a Beneficiary in the Trust Instrument of a Trust for Charitable or Non-Charitable Purposes.

**Part 5: Liability of Trustee**

1. **Liability for Breach of Trust**
   * + 1. Subject to the provisions of this law and to the Terms of the Trust, a Trustee shall be liable for a breach of trustwhich he had committed or participated in its committal.
       2. A Trustee who is liable for a breach of trust shall be liable for:
   1. any loss or depreciation in value of the Trust Property resulting from such breach;
   2. any profit made by the Trustee through such breach; and
   3. any profit which would have accrued to the Trust Property if there had been no such breach.
2. Subject to sub-section 43(4), a Trustee shall not be liable for a breach of trust committed prior to the Trustee’s appointment, if such breach of trust was committed by some other Person.
3. A Trustee who becomes aware of a breach of trust committed by another Person prior to his appointment, or by a Co-Trustee, shall take all reasonable measures to have the breach remedied.
4. A Trustee is not liable for a breach of trust committed by a Co-Trustee, unless-
5. he becomes or ought to have become aware of the breach; and
6. he conceals the breach, or such intention, or fails within a reasonable time to take proper measures to protect or restore the Trust Property or to prevent the occurrence or continuance of the breach.
7. Where there are more than one Breaches of Trust, a Trustee shall not set off a gain from one breach of trust against a loss resulting from another breach of trust.
8. Where more than one Trustee are liable in respect of a breach of trust, their liability shall be joint and several.
9. **Exemption from Liability**
   * 1. A term of Trust exempting a Trustee from personal, in whole or in part, arising from his own willful misconduct, gross negligence or fraud shall be null and void**.**
     2. Subject to sub-section 44(1) and 44(3), a Beneficiary may, in respect of a liability to him, relieve a trustee of, or indemnify him against, such liability.
     3. Sub-section 44(3) shall not apply unless the Beneficiary –
10. has full legal capacity;
11. has full knowledge of all material facts; and
12. is not improperly induced by the Trustee to confer the relief or the indemnification under sub-section 44(2).
13. **Trustee’s Liability to Third Parties**
14. Where a Trustee is a party to any transaction or matter affecting the Trust –
15. if the other party knows that the Trustee is acting as Trustee or has reasonable ground that he is acting as such, any claim by the other party shall be against the Trustee as Trustee and shall extend only to the Trust Property;
16. if the other party does not know that the Trustee is acting as Trustee or has no reasonable ground to know that he is acting as such, any claim by the other party may be made against the Trustee personally (though, without prejudice to his personal liability, the trustee shall have a right of recourse to the trust property by way of indemnity unless he acted in breach of trust).
17. Sub-section 45(‎1) shall not affect any liability the Trustee may have for breach of trust.
18. This section applies to a transaction notwithstanding the lex causae of the transaction, unless the terms of the transaction expressly provide to the contrary.
19. **Trustees of More Than One Trust**
20. A Trustee acting as such for more than one Trust shall not, in the absence of fraud or bad faith, be affected by notice of any instrument, matter, fact or thing in relation to any particular Trust if the Trustee has obtained notice of it merely by reason of acting or having acted for the business of another Trust.
21. Upon entering into a transaction in which a Trustee has an interest, the Trustee shall disclose such interest to the Co-Trustees
22. **Remedies for Breach of trust**

Without prejudice to the powers of the Central Bank, in order to remedy a breach of trust that has occurred or may occur, the Court may order any of the following:

1. compel the Trustee to perform the Trustee’s duties;
2. enjoin the Trustee from committing a breach of trust;
3. order the Trustee to redress the breach of trust by restoring any Trust Property or paying damages resulting from the breach as provided under section 43(2);
4. order a Trustee to give a full, accurate and proper account of its dealings;
5. remove the Trustee, if he has committed a serious breach of trust, and appoint a replacement Trustee;
6. suspend the Trustee from acting as a Trustee for a period not exceeding ten (10) years;
7. reduce or deny remuneration to the Trustee;
8. without prejudice to the right of any innocent third party, void an act of the Trustee, impose a lien on Trust Propertyor trace the Trust Property; or
9. order such other relief as it shall consider appropriate taking into account all of the circumstances of the case.

**Part 6: Expiry, Termination of Trust and the Effect Thereof**

1. **Expiry or Early Termination of the Trust**
2. Subject to the Terms of the Trust and any order of the Court, where -
3. an interest lapses;
4. a trust terminates otherwise than in accordance with sub-section 48(3); or
5. there is no Beneficiary and no person who can become a Beneficiary in accordance with the Terms of the Trust;

the interest or property affected by the lapse, termination or lack of Beneficiary shall vest in the Person who provided that Trust Property or interest, if he is dead, to his heirs and successor as if it had formed part of his estate at the time of his death.

1. Subject to the Terms of the Trust and without prejudice to the power of the Court under section 51, the Court may upon an application by any Person mentioned in sub-section 48(5) terminate a Trust:
2. if the value of the Trust Property is insufficient to justify the cost of administration;
3. because of circumstances not anticipated by the Settlor, if termination will further the purposes of the Trust; or
4. all of its purposes become unlawful or impossible to achieve
5. Without prejudice to the powers of the Court under sub-section 48(4) and notwithstanding the Terms of the Trust, except in the case of a Protective Trust, where all the Beneficiaries are in existence and have been ascertained, and none is a Minor or a person under legal disability, they may require the Trustees to terminate the Trust and distribute the Trust Property among them.
6. The Court, upon an application by any Person mentioned in sub-section 48(5), may–
   1. direct the Trustees to distribute, or not to distribute, the Trust Property;
   2. make such other order in respect of the termination of the Trust and the distribution of the Trust Property as it thinks fit; or
   3. such other order as it thinks fit.
7. An application to the Court under sub-section 48(2) or 48(4) may be made by the Settlor, Trustee, Beneficiary, the Enforcer, Protector or any other interested Person.
8. **Duty and Powers of Trustee upon Expiry or Early Termination of the Trust**
9. Unless the Terms of the Trust provide otherwise, upon the expiry of the term of the Trust or its termination prior to the expiry of its term in accordance with the provisions of the Terms of the Trust or as ordered by the Court, the Trustee shall within a reasonable time and in accordance with the Terms of the Trust, distribute the Trust Property to the Persons entitled thereto or in a manner consistent with the purpose of the Trust as the case may be.
10. Upon the expiry of the term of the Trust or its termination prior to the expiry of its term in accordance with the provisions of the Terms of the Trust or as ordered by the Court,during the reasonable period of time required to wind up the affairs of the Trust and to make distribution of the Trust Property to the Persons entitled thereto or in a manner consistent with the purpose of the Trust, as the case may be, the Trustee may continue to exercise the powers of the Trustee. The continued exercise of the Trustee's powers after the expiry of the Trust does not affect the vested rights of Beneficiaries of the Trust upon such expiry or termination.
11. The Trustee may before distributing the Trust Property under sub-section 49(‎1):
12. require to be provided with reasonable security for liabilities attributed to the Trust whether existing, future, contingent or otherwise; or
13. retain sufficient assets from the Trust Property to make reasonable provision for liabilities attributed to the Trust, whether existing, future, contingent or otherwise.

**Part 7: Powers of the Court**

1. **Power to the Court to Order Beneficiaries Indemnify**

Where a Trustee commits a breach of trust at the instigation or at the request or with the consent of a Beneficiary, the Court may by order impound all or part of the interest of the Beneficiary to indemnify the Trustee or any Person who has the right to claimas a result of such breach.

1. **Variation of a Trust**
2. Without prejudice to any power of the Court as provided under this law to vary the Terms of the Trust, a Trust may be varied in any manner provided under its terms.
3. Unless the Trust is varied pursuant to its own terms, where a Trust Property is held for a Charitable or Non-Charitable Purpose and such purpose has ceased to exist or is no longer applicable or in the case of a Trust for Charitable Purpose if the purpose cannot be carried out or has ceased to be charitable, the Court may upon an application by the Trustee or Enforcer order that Trust Property be held for such Charitable or Non-Charitable Purpose as the Court may specify to be consistent with the original intention of the Settlor.
4. Unless the Trust is varied pursuant to its own terms, where a Trust Property is held for a Charitable or Non-Charitable Purpose, the Court may upon an application by the Trustee or Enforcer, approve any arrangement that varies or revokes any of the purposes or Terms of the Trust or enlarges the powers of management or administration of the Trustee, if it is satisfied that the arrangement –
5. is suitable and expedient; and
6. is consistent with the original intention of the settlor and the spirit of the Trust which he had created.
7. The Court shall not approve an arrangement under sub-section 51(3) unless it is satisfied that any Person with a material interest in the Trust has had an opportunity to be heard.
8. The Court may, on the application of a Trustee, Settlor, Beneficiary, Protector or any other interested Person approve on behalf of-
9. Minor or a natural person lacking capacity or under legal disability having, directly or indirectly, an interest, vested or contingent, under the Trust;
10. any natural person unborn;
11. any person who is unascertained who may become entitled, directly or indirectly, to an interest under the Trust, as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class; or
12. any person, in respect of an interest that may accrue to him by virtue of the exercise of a discretionary power by anyone on the failure or determination of an existing interest under a Protective Trust.
13. For the purposes of sub-section 51(5), the Court’s approval includesthe approval of any arrangement which varies or revokes any of the Terms of the Trust or enlarges or modifies the powers of management or administration of the Trustee, whether or not there is another person with a Beneficial Interest who is capable of assenting to the arrangement
14. The Court shall not approve an arrangement on behalf of a person mentioned in paragraphs (‎a), (‎b) or (‎c) of sub-section 51(5) unless the arrangement appears to be for his benefit.
15. **Court Power to Authorize a Particular Transaction**
    1. Subject to any contrary intention expressly stated under the Terms of the Trust, where any transaction affecting or concerning any Trust Property cannot be effected because the necessary power is not vested in the Trustees under the Terms of the Trust, the Court may if in its opinion of the Court is expedient order upon an application made by a Settlor, Trustee, Beneficiary, Enforcer or Protector, the Court may:
    2. confer on the Trustees, generally or in any particular circumstances, the necessary power, on such terms and conditions as the Court thinks fit, and
    3. direct the manner in which, and the Trust Property from which, any monies authorised to be expended, and the costs of any transaction, are to be paid or borne.
    4. The Court may from time to time rescind or vary any order made under this section, or may make any new or further order provided that no such rescission or variation of any order shall affect any act or thing done in reliance on the order before the Person doing the act or thing became aware of the application to the Court to rescind or vary the order.

**Chapter Three: Foreign Trusts**

1. **Application of Chapter Three**

The provisions of this chapter apply to Foreign Trusts

1. **Enforceability of a Foreign Trust**
   * + 1. Subject to sub-section(2), a Foreign Trust shall be governed by, and shall be interpreted in accordance with, its proper law.
       2. A Foreign Trust shall be unenforceable in the Kingdom if –
2. it purports to do anything the doing of which is contrary to the public or public morality of the Kingdom;
3. it purports to confer any right or power or impose any obligation the exercise or carrying out of which is contrary to the public policy or the laws of the Kingdom; or
4. the Trust is contrary to public policy or morality of the Kingdom.

**Chapter Four: Provisions of Common Application**

1. **Application of Chapter Four**

The provisions of this chapter apply to Bahraini Trusts and, to the extent that the context admits, shall apply to a Foreign Trusts.

1. **Powers of the Court**
2. On the application of a Trustee, Beneficiary, Settlor, Protector, an Enforcer or any other interested Person, the Court may:
3. make an order or a ruling in respect of:
4. the execution, administration or enforcement of a Trust;
5. the Trust, including an order relating to the exercise of any power, discretion or duty of the Trustee, appointment and/or removal of a Trustee, remuneration of a Trustee, the keeping and submission of accounts, the conduct of the Trustee and the making of payments, whether payments into Court or otherwise;
6. a Beneficiary or any Person having a connection with the Trust; or
7. the appointment or removal of a Protector or an Enforcer.
8. make a ruling as to the validity or enforceability of a Trust;
9. rescind or vary any order or declaration made under this law, or make any new or further order or ruling.
10. Where the Court makes an order for the appointment of a Trustee under sub-paragraph (a)(ii) of sub-section56(1) it may impose such requirements and conditions as it thinks fit, including provisions as to remuneration and requirements or conditions as to the vesting of Trust Property.
11. Subject to any restriction in the Court’s order appointing a new Trustee, a Trustee appointed under this section shall have the same powers, discretions and duties and may act in all respects as if he had been originally appointed as a Trustee.
12. The Court may exercise its power under sub-paragraph 1(a)(ii) of sub-section56(1) to appoint a replacement to an outgoing Trustee due to his resignation or removal only where the Terms of the Trust do not provide for the appointment of a replacement of an outgoing Trustee due to his resignation or removal, or where any such terms providing for any such appointment have lapsed or failed; orwhere the Person who has the power to make any such appointment is unwilling or not capable of exercising the power.
13. **Application for Direction**
14. Where the Terms of the Trust so permits, a Trustee may apply to the Court for direction on any question concerning the manner in which he may or should act in connection with any matter concerning the Trust and the Court may make such order, if any, as it thinks fit.
15. Any Trustee acting under any direction of the Court issued pursuant to sub-section 57 (‎1) shall be deemed, so far as regards his own responsibility, to have discharged his duty as such Trustee in the subject matter of the direction provided that at the time he so acted the direction had not been set aside and provided that this section shall not indemnify any Trustee in respect of any act done in accordance with any such direction if he has been guilty of any fraud or wilful concealment or misrepresentation in obtaining the direction of or in acquiescing in the Court making the order giving the direction.
16. **Powers of Court in Event of Default**

If a Person does not comply with an order of the Court under this law, the Court may, without prejudice to the provisions of any law with respect to any Person who defaults in complying with an order of the court, order on such terms and conditions as it thinks fit, that the act be done by another Person, nominated for the purpose by the Court, at the expense of the Person in default (or otherwise as the Court directs), and anorder so executed has effect in all respects as if done by the Person in default.

1. **Payment of Fees of Actions and Applications to the Court**

The fees of actions and applications to the Court under this law, and thing that is incidental to such actions and application, shall be paid from the Trust Property, or otherwise shall be borne and paid in such other manner or by such other Person as the Court may order.

1. **Nature of Trustee’s Interest in the Trust Property**
   * 1. Subject to sub-section 60(‎2) –
2. the interest of a Trustee in the Trust Property is limited to that which is necessary for the proper performance of the Trust; and
3. such property shall not be deemed to form part of the Trustee’s private assets.
   * 1. Where a Trustee is also a Beneficiary of the same Trust, sub-section 60(‎1) shall not apply to the Trustee’s interest in the Trust Property as a Beneficiary.
4. **Tracing of Trust Property**

Without prejudice to the liability of a Trustee for breach of the trust, Trust Property which has been alienated or converted, in breach of trust may be followed and recovered, and the property into which it has been convertedmay also be followed and recovered unless it is in the hands of a bona fide purchaser for value without notice of a breach of trust or a Person (other than the Trustee) deriving title through such a Person.

1. **Liquidation of Trustee**

In the event that the Trustee is subject to proceedings for liquidation, or him becoming insolvent, declared bankrupt or put under administration, , the Trustee’s creditors shall have no right or claim against the Trust Property except to the extent that the Trustee himself has a claim against the Trust Property or has a Beneficial Interest in the Trust Property.

1. **Protection of Persons Dealing with Trustees**
2. A Person other than a Beneficiary who in good faith assists a Trustee, or who in good faith and for value deals with a Trustee, without knowledge that the Trustee is exceeding or unlawfully exercising the Trustee’s powers,such person shall not be liable for the Trustee’s exceeding of his powers or exercising such powers in an unlawful manner.
3. A Person other than a Beneficiary who in good faith deals with a Trustee, is not required to inquire into the Terms of the Trust, extent of the Trustee’s powers or the propriety of their exercise.
4. A Person other than a Beneficiary who in good faith assists a former Trustee, or who in good faith and for value deals with a former Trustee, without knowledge that the trusteeship has terminated is protected from any liability and it shall be held that as if, in such providing of assistance to or dealing with the former Trustee,the trusteeship has not terminated.
5. A Person dealing in good faith with a Trustee in relation to Trust Property need notobtain the consent of the Beneficiaries or any other Person and shall be entitled to rely on declarations made by the Trustee with regard to any matters therein stated.
6. Where necessary for conducting the business of the Trust, a Licensed Trustee may, in respect of a Trust for which he is a Trustee, furnish to any Person if he so demands, a certificate containing the following information without being in breach of any confidentiality obligations:
7. that the Trust exists and has not yet expired;
8. the date on which the Trust Instrument was executed;
9. the identity of the Settlor;
10. the identity and address of the current Trustee;
11. the powers of the Trustee;
12. the revocability or irrevocability of the Trust and, if revocable, that the Trust has not been revoked;
13. that the Trustee is duly authorised and empowered to carry out any specific transaction and has obtained all necessary consents, if any; and
14. any other information contained in a copy of a specific certificate, issued by the Central Bank in accordance with section 25attached to the certificate issued in accordance with this section and a confirmation that that all such information are still current in all respects.
15. Where there is more than one Licensed Trustee, the certificate referred to under sub-section 63(5) may be issued by any one of them.
16. A Person who in good faith enters into a transaction in reliance upon a certificate issued under sub-section 63(5) may enforce the transaction against the Trust Property as if all the information and representations contained in the certification were correct.
17. **Limitation and Prescription**
18. An action by a Beneficiary founded on breach of trustmay not be brought against a Trustee for breach of trust after the lapse of three (3) years from the earlier of the date of the delivery of the final accounts of the Trust to the Beneficiary and the date on which the Beneficiary first had knowledge of the occurrence of the breach.
19. Where the Beneficiary is a Minor, the periods referred to in the preceding sub-sectionshall not begin to run until the day on which the Beneficiary attains the age of majority.
20. An action by an Enforcer or Protector founded on breach of trust may not be brought against a Trustee after the lapse of three (3) years from the earlier of the date of delivery of the audited final accounts of the Trust to the Enforcer or Protector and the date on which the Enforcer or Protector first had knowledge of the occurrence of the breach.
21. An action by a Trustee founded on breach of trust may not be brought against a former Trustee after the lapse of three (3) years following the end of its trusteeship.
22. An action against a Trustee founded on a breach of trustafter the lapse of twenty four (24) years immediately following the date of the breach.
23. By way of an exception from the provisions of the preceding sub-sections, the following actions shall not be subject to prescription due to the passage of time:
    1. An action in respect of fraud against a Trustee where the fraud was committed by the Trustee or a third Person with the knowledge of the Trustee, or he ought to have definitely known about it; or
    2. An action for the recovery from the Trustee of Trust Property in his possession or under his control or previously received by the Trustee and converted to his own personal use.

**Chapter Five: Criminal Provisions**

1. **Offences**

Without prejudice to any severer penalty prescribed under the Penal Code or any other law:

1. A prison term for a period between ten days and three years and a penalty not exceeding BD 100,000, or either such prison term or penalty, shall be imposed on any Person who:
2. for the purpose of obtaining a license or other purposes of this law furnishes information or makes a statement or declaration, or issues a certificate as provided under section 63 of this law, which he knows or has reasonable ground to know is false or misleading; or
3. fails to observe any of the provisions of section 30(2) and 30(4)
4. A prison term for a period between ten days and three years and a penalty not exceeding BD 50,000, or either such prison term or penalty, shall be imposed on any Person who purports to act as a Licensed Trustee without being so licensed.
5. **Corporate Liability**

Without prejudice to any criminal liability arising pursuant to this law in respect of any natural person, a body corporate shall be criminally liable and punished by a fine not exceeding two times the maximum monetary fine prescribed in respect of the relevant offence under section 65 where the offence had been committed in its name, for its own account or benefit, and where the offence had been the result of an action, default, gross negligence or connivance of any of its directors, managers or officers of that body corporate or any other individual who was purporting to act in any such capacity.

**Chapter Six: Miscellaneous Provisions**

1. **The Competent Court**
2. The Bahrain Chamber for Dispute Resolution shall, in addition to its jurisdiction under section 9 of Legislative Decree No. 30 of 2009 with respect to the Bahrain Chamber for the Resolution of Economic, Financial and Investment Disputes, be the competent court for the purposes of this law subject to Part One of Chapter Two of the said Legislative Decree.
3. Nothing in this law shall derogate from the inherent jurisdiction of the courtsin the Kingdom including their jurisdiction in respect of the following:
4. to set aside, reduce or vary any transfer or other disposition of property testamentary or otherwise;
5. to make an order or ruling relating to matrimonial proceedings before the courts; or
6. to make an order or ruling relating to the avoidance of fraud on creditors.
7. **Application of this Law**

1. Subject to sub-section 68(3), Law No. 23 of 2006 with respect to Financial Trusts is hereby repealed.

2. This law shall apply to all Trusts that are valid upon the commencement of the implementation of the provisions of this law.

1. Nothing in this law shall affect: :
2. the legality and validity of any Trust which legally and validly existed prior to the commencement of the implementation of the provisions of this law; and
3. the legality and validity of any act executed in relation to any of the Trusts referred to under paragraph (a) of this sub-sectionwhere such act was valid prior to the commencement of the implementation of the provisions of this law; or
4. any power, responsibility or duty of any Person under the provision of any other law.
5. The provisions of this law in respect of an Enforcer shall apply only in respect of Trust for Charitable or Non-Charitable Purposes and the provisions in respect of a Protector shall apply only where the Terms of the Trust provide for the appointment of a Protector.
6. **Powers of the Central Bank**
   * + 1. Licensed Trustees shall be subject to the supervision and oversight of the Central Bank.
       2. For the purposes of implanting this law, the Central Bank, its Board of Directors and Governor shall have all the powers and authorities conferred upon eachunder the Central Bank Law including those applicable in respect of Licensees.
7. **Cooperation with Foreign Authorities**

The Central Bank may cooperate with foreign authorities in carrying out investigations related to any Trust as provided under section 122 of the Central Bank Law.

1. **Limitation of Liability of the Central Bank Towards Others**

The provisions of section 175 of the Central Bank Law with regard to the limitation of the liability of the Central Bank and its employees, the administrator and liquidators shall similarly apply to their respective liability in respect of any act or default in relation to Trusts and Trustees.

1. **Implementing Regulations**

Subject to theCentral Bank Law, the Central Bank shall issue such regulations as may be necessary for the implementation of this law. Until such regulations are issued, current regulations shall continue in force to the extent not repugnant with the provisions of this law.

1. **Implementation of this Law and Commencement Date**

The Prime Minister and the Ministers - each in his respective capacity - shall implement the provisions of this law, which shall come into effect thirty (30) days following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad Bin Issa Al Khalifa**

**Deputy Prime Minister**

**Khalid Bin Abdulla Al Khalifa**

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1. \* This copy is translated by Bahrain Economic Development Board (EDB) as per the provisions in force up to January 2019. [↑](#footnote-ref-1)
2. \*\*This is an unofficial translation and in the event of any conflict or discrepancy between the English text and the Arabic text, the Arabic text shall prevail. [↑](#footnote-ref-2)