

Federal Law by Decree No. (42) of 2023 Concerning Anti-Commercial Fraud

We, Mohammed Bin Zayed Al Nahyan, President of the United Arab Emirates;

- Upon reviewing the Constitution;
- Federal Law No. (1) of 1972 Concerning the Competences of Ministries and the Powers Of Ministers, and amendments thereto;
- Federal Law No. (19) of 2016 Concerning Anti-Commercial Fraud;
- The proposal submitted by the Minister of Economy; and approval of the Cabinet;

Have promulgated the following Law by Decree:

Article (1)

Definitions

In application of the provisions of this Law by Decree, the following words and phrases shall have the meanings assigned to each of them, unless the context otherwise requires:

State	: United Arab Emirates.
Ministry	: Ministry of Economy.
Minister	: Minister of Economy.
Competent Authority	: The relevant Emirate's local competent authority responsible for applying the provisions of this Law by Decree.
Competent Court	: The Federal or Local Court, as the case may be.
Supreme Committee	: Supreme Committee for Anti-Commercial Fraud.
Commercial Fraud	: Deceiving customers by any means, whether by replacing or changing the commodities' nature, amount, type, price, fundamental features, origin, source, or validity, or providing

false or misleading commercial data on the promoted products, or any other matter related thereto that leads to deceiving the customer.

- Goods** : Every natural material or animal, agricultural, industrial, transformative or intellectual product, including basic and luxury products, raw materials, manufactured and semi-manufactured materials.
- Fraudulent Goods** : Any piece of goods that has undergone a change that has caused it to lose some of its material or moral value, whether by addition or decrease, or change in essence, nature, type, properties, shape, elements, measure, size, number, capacity, calibre, origin, or source, or advertising or promoting it in a manner that contradicts its reality, or not conforming to the specifications and standards specified in the State.
- Spoilt Goods** : Any goods which become not wholly or partially suitable for exploitation, use, or consumption.
- Counterfeit Goods** : The goods which bear, without permission, a trademark which is identical or similar to a legally registered trademark.
- Establishment** : Any person carrying out an economic activity, a person associated with it, or any group of such persons, regardless of its legal form, through which economic activity may be carried out in the State.
- Provider** : Every natural or legal person who imports, exports, re-exports, manufactures, produces, markets, trades, promotes, disposes of, sells, possesses, stores, transports or displays goods for its own account or for the account of others.
- Customer** : The natural or legal person that purchases the goods.
- Recalling the goods** : Any measure aimed at preventing the introduction of fraudulent, spoilt or counterfeit goods into the State.

Article (2)

Law by Decree Objectives

This Law by Decree aims to achieve the following:

1. Combating activities of counterfeiting original goods and commercial fraud of all forms and types.
2. Setting mechanisms, controls and procedures to combat commercial fraud with the aim of preventing trade in counterfeit, fraudulent and spoilt goods.
3. Creating a legal and encouraging commercial environment for the protection of intellectual property rights.

Article (3)

Law by Decree's Scope of Application

The provisions of this Law by Decree shall apply to anyone who commits an act of commercial fraud in the State, including Free Zones.

Article (4)

Fraudulent, Spoilt or Counterfeit Goods

1. It is prohibited to import, export, produce, manufacture, display, sell, store, transport, market, trade, promote, dispose of, or possess counterfeit goods for the purpose of selling, and it is also prohibited to attempt any of these acts.
2. Anyone who commits, participates in, or attempts to commit one of the following acts is considered to be in violation of the provisions of this Law by Decree:
 - a. Importing fraudulent, spoilt or counterfeit goods or materials intended for these purposes with the intention of commercial fraud, and knowingly exporting, re-exporting, manufacturing, producing, selling, storing or transporting them.

- b. Deception, fraud, or counterfeit regarding the type, number, amount, measurement, quantity, weight, capacity, calibre, reality, nature, properties, elements, source, origin, composition, or expiration date of goods.
- c. Possession, personally or through mediation, for the purpose of marketing, trading, promoting, or offering for sale, of fraudulent, spoilt, or counterfeit goods, or materials to defraud or counterfeit goods.
- d. Using utensils, containers, wrappers, packages, labels, or publications in preparing fraudulent, spoilt, or counterfeit goods intended for sale.
- e. Packing, wrapping, strapping, distributing, storing, or transporting fraudulent, spoilt, or counterfeit goods.
- f. Possession of fraudulent, spoilt or counterfeit goods, with the intention of modifying, changing or altering them.
- g. Describing, advertising or displaying the goods in a manner that contains false, deceptive or misleading data.

Article (5)

Recall from Markets, Stores and Destruction

1. The Provider is obligated, of its own accord or upon the order of the Ministry or the Competent Authority, as the case may be, to recall fraudulent, spoilt or counterfeit goods from markets and stores, and to inform the Competent Authority or the ministry, as the case may be, of this and announce it in appropriate ways. The Competent Authority or the Ministry, as the case may be, recall the fraudulent, spoilt and counterfeit goods and dispose of them, destroy them, or return them to their source at the expense of the Provider without prejudice to the penalty prescribed against it. The Executive Regulation of this Law by Decree shall specify the procedures, controls, and periods necessary for the foregoing, as well as the aspects of coordination between the Ministry and the Competent Authority.
2. In all cases, the Provider is obligated to pay any costs or expenses incurred by the Competent Authority or the Ministry, as the case may be, regarding the recall, disposal,

destruction or return of fraudulent or counterfeit goods as stipulated in Clause (1) of this Article.

Article (6)

Customer's Knowledge of Commercial Fraud

1. The Provider shall not be exempted from the penalty stipulated in this Law by Decree if it proves the Customer's knowledge that the goods are fraudulent, spoilt, or counterfeit.
2. Subject to Clause (1) of this Article, the Executive Regulation of this Law by Decree shall regulate the cases in which an administrative fine may be imposed on the customer if the fraudulent, spoilt or counterfeit goods or the materials used in defrauding them are harmful to the health and safety of humans or animals and if it is proven that the Customer has been aware of this.

Article (7)

Refunding Value of Fraudulent, Spoilt or Counterfeit Goods

The Provider is obligated to refund the value of fraudulent, spoilt or counterfeit goods, or exchange or change them according to the desire of the bona fide Customer, without prejudice to the Customer's right to claim compensation.

Article (8)

Provider's Obligations

The Provider shall abide by the following:

1. To submit to the Competent Authority or the Ministry, as the case may be, the mandatory commercial books or the like, which show the commercial data of the goods owned or possessed thereby, their value, and all documents and invoices supporting them whenever it is requested to do so.

2. To place on the goods identification cards or any written, printed, drawn or engraved information that accompanies a product and shows the components of the commodity and how to use, maintain or store it, in accordance with the laws in force in the State.

Article (9)

Judicial Enforcement

Employees specified by a resolution issued by the Minister of Justice, in agreement with the Minister or the Head of the Local Judicial Authority, as the case may be, shall have the capacity of judicial enforcement officers in recording all violations of the provisions of this Law by Decree, its Executive Regulation, and the resolutions issued in implementation thereof.

Article (10)

Powers and Duties of Judicial Enforcement Officers

1. Judicial enforcement officers shall have the right to enter shops, stores, factories, establishments, and all places not intended for residential use at any time for inspection and to review the records and books and seize the suspicious goods or keep them with the Provider, under its responsibility, and withdraw samples from them for examination and analysis. The Executive Regulation of this Law by Decree shall specify the procedures for inspection, examination and seizure of goods and the time periods necessary for that.
2. Judicial enforcement officers must take the preventive measures necessary to ensure occupational health and safety while performing their inspection duties.

Article (11)

Prohibitions

1. It is prohibited to prevent judicial enforcement officers from performing their work.
2. The Provider shall be prohibited from disposing of the seized goods before the results of the examination approving them are issued.

Article (12)

Request to Release Goods

1. The Provider of which goods have been seized or reserved may submit to the Competent Court a request to release the seized or reserved goods. The Court may order, within (24) hours of submitting the request to release, to fulfil the following conditions and controls:
 - a. That the Provider must submit to the Court evidence that the goods are subject to rapid destruction or damage.
 - b. That samples of the reserved goods have been taken for examination.
 - c. That the court finds it likely that there is no risk to public health from the release of the goods.
2. Without prejudice to Clause (1) of this Article, the goods shall be released if an order is not issued by the Competent Court confirming the reservation within forty-five (45) days following the day of seizure, taking into account that this period does not exceed twenty (20) days for goods that are subject to rapid destruction or damage.

Article (13)

Closure

It is permissible, by virtue of a reasoned decision by the Minister or his authorised representative, or the head of the local authority or his authorised representative, in case of necessity or urgency when there is strong evidence of the presence of fraudulent, spoilt or counterfeit goods with the Provider, to close the shop or place where the crime has occurred, provided that the matter is presented to the Competent Court within ten (10) working days as of the date of the decision to confirm or cancel the closure; otherwise, the decision shall be considered as non-existent

Article (14)

Supreme Committee for Anti-Commercial Fraud

By virtue of this Law by Decree, a committee called the “Supreme Committee for Anti-Commercial Fraud” shall be established, to be affiliated with the Minister; and its formation, work system, and jurisdiction shall be determined by a Cabinet resolution based on the Minister's proposal, in coordination with the Competent Authorities.

Article (15)

Regulation of Administrative Sanctions

Violations and administrative sanctions for acts committed in violation of the provisions of this Law by Decree, its Executive Regulation, and the resolutions issued in implementation thereof, the authorities to impose sanctions and specify the authority concerned with collecting administrative fines, shall be specified by a resolution issued by the Cabinet based on the proposal by the Minister and in coordination with the Competent Authority.

Penalties

Article (16)

Without prejudice to any severer penalty stipulated in any other law, the crimes stated in this Law by Decree shall be punished with the penalties stipulated therein.

Article (17)

A penalty of imprisonment for a period not exceeding (2) two years and/or a fine no less than five thousand (5,000) AED and not exceeding one million (1,000,000) AED shall be imposed on anyone who violates the provisions of Articles (4), (5), (8) and (11) of this Law by Decree.

Article (18)

The penalty for the crimes referred to in Article (17) of this Law by Decree shall be increased to include imprisonment and/or a fine not less than one hundred thousand (100,000) AED and not exceeding two million (2,000,000) AED, in the following cases:

1. If the act of fraud, deception, or counterfeiting of the goods – or the attempt to do so – is accompanied by the use of counterfeit or different weights, measures, seals, labels, or examination machines, or the use of methods and means that would make the process of weighing, measuring, or examining the product incorrect.
2. If the fraudulent, spoilt or counterfeit goods or the materials used in their fraud are harmful to the health and safety of humans or animals.
3. If the fraudulent, spoilt, or counterfeit goods are medical drugs, agricultural crops, or organic food products.

Article (19)

1. Without prejudice to the provisions of Articles (17) and (18) of this Law by Decree and the rights of bona fide third parties, the Competent Court must order the confiscation or destruction of fraudulent, spoilt or counterfeit goods, medical drugs, crops, products, materials and tools used in this. A summary of the final judgment of conviction shall be published in two local daily newspapers, one of which shall be in Arabic, or any other means determined by the Competent Court, all at the expense of the convict.
2. The Court may order the closure of the shop or the place in which the crime has occurred for a period not exceeding six (6) months.

Article (20)

Punishing Those Responsible for Actual Management of the Legal Person

1. The person responsible for the actual management of the violating legal person shall be punished with the same penalty stipulated in Articles (17) and (18) of this Law by Decree, if it is proven that he has been aware of the crime and has not taken the necessary measures

regarding it, or if his serious breach of the duties imposed thereon by such management has contributed to its occurrence.

2. The person responsible for actual management of the legal person shall be jointly liable with the legal person for paying the fines ordered thereon if the violation is committed by one of the employees of the legal person in its name or for its benefit.

Article (21)

Recidivism

The penalty prescribed for the crimes stipulated in this Law by Decree shall be doubled in the event of recidivism and of the shop or place where the crime occurred shall be closed for a period not exceeding one year. Anyone who commits a similar crime within five (5) years as of the date of issuance of the previous final judgment of conviction shall be considered a recidivist.

Article (22)

Reconciliation

The Ministry or the Competent Authority, as the case may be, may conduct reconciliation for any of the acts that occur in violation of the provisions of this Law by Decree, its Executive Regulation, and the resolutions issued in implementation thereof upon the request of the violator, in exchange for paying an amount not less than twice the minimum fine that the violator is required to pay in accordance with the regulation of administrative penalties stipulated in Article (15) of this Law by Decree. The Executive Regulation of this Law by Decree determine the procedures and controls for reconciliation.

Article (23)

Grievance Against Decisions and Appeal

1. Every interested party may submit in writing a grievance to the Minister or the Head of the Competent Authority, as the case may be, against any decision issued pursuant to the provisions of this Law by Decree, its Executive Regulation, or the resolutions issued in

implementation thereof, within fifteen (15) working days as of the date of being notified of the decision or procedure grieved against; provided that it is accompanied by all supporting documents and instruments. The grievance shall be decided on within thirty (30) days as of the date on which it is submitted, and the decision issued thereon shall be final. Not replying to the grievance within said period shall be deemed a rejection to the request.

2. The grievant may appeal the decision to reject the grievance before the Competent Court within thirty (30) working days as of the date of notifying him of this decision or the expiration of the deadline to decide on the grievance without notifying him.
3. In all cases, it is not permissible to appeal before the Competent Court except after the decision has been grieved against and the grievance has been rejected or the deadline stipulated in Clause (2) of this Article has passed without notification.

Article (24)

Repeals

1. Federal Law No. (19) of 2016 Concerning Anti-Commercial Fraud shall be repealed, as well as any provision that violates or contradicts the provisions of this Law by Decree.
2. The regulations and resolutions issued based on the provisions of the aforementioned Federal Law No. (19) of 2016 shall continue to be implemented to the extent that they do not conflict with the provisions of this Law by Decree, until the issuance of their replacements in accordance with the provisions of this Law by Decree.

Article (25)

Issuance of Executive Regulation and Organising Resolutions

The Cabinet shall issue the Executive Regulation of this Decree by Law and the resolutions necessary to implement its provisions within six (6) months from the date of its entry into force.

Article (26)

Publication and Entry Into Force of Law by Decree

This Law by Decree shall be published in the Official Gazette and shall enter into force two months after the date of its publication.

Mohammed Bin Zayed Al Nahyan
President of the United Arab Emirates

Issued by us at the Presidential Palace – Abu Dhabi:

On: 13 Rabi' I 1445 H

Corresponding to: 28 September 2023 AD