

BAHRAIN

Legal Provisions

Compiled by:

Swiss Business Hub Middle East

Dubai, January 2021

1. GENERAL REMARKS

This paper is intended to give broad guidelines about business-related rules and legislations in Bahrain but must not be taken as a legal reference. For specific and more in-depth information, Swiss firms will be well-advised to seek legal counsel from a law firm or an audit bureau in Bahrain. The Swiss Business Hub Middle East is more than willing to provide the according contact details.

Bahrain judiciary is a mixed legal system based on Islamic law and civil law. More precisely, it is founded on Sharia law, English common law and Egyptian civil, criminal and commercial codes and customary law. The Supreme Judicial Council is chaired by the Head of State, King Hamad bin Isa al-Khalifa.¹ The Ministry of Industry, Commerce and Tourism (MOIC) is responsible for the formulation and implementation of the Kingdom's trade policy.²

Bahrain, an original member of the WTO, is ranked 4th among 14 countries in the Middle East and North Africa region, and its overall score is above the regional and world averages according to the Heritage Foundation and Wall Street Journal's 2018 Index of Economic Freedom.³ Bahrain's economy is characterized by a high level of diversification, mostly due to its modest hydrocarbon resources compared with its neighbors. Furthermore, its communication and transport facilities are highly developed, making Bahrain home to numerous multinational firms with business in the Gulf. In 2006, as part of its diversifications plans, Bahrain has been the first Gulf State to implement a Free Trade Agreement (FTA) with the US.

The largest economic sector is that of financial services. In recent years, this sector has suffered from the competition from Dubai as well as from the burst of the Gulf housing bubble in 2008 and domestic unrest. Other than financial services, the oil industry, construction and the production of aluminum are

¹ <https://www.cia.gov/library/publications/the-world-factbook/fields/2100.html>

² WTO, "Trade Policy Review – Kingdom of Bahrain", http://www.wto.org/english/tratop_e/tpr_e/s294_e.pdf, March 2014, p. 6.

³ <https://www.heritage.org/index/country/bahrain>

the most vibrant sectors. Bahrain is developing five key pillars that will also attract foreign investors: logistics, light manufacturing, financial services/fintech, digital technology and tourism.⁴

2. CUSTOMS

The Kingdom of Bahrain is dependent on a wide range of imported goods. Consequently, customs duties are rather soft by international standards. The general rate of duty is 5% on Cost Freight Insurance (CIF) basis, except for alcohol (125%) and cigarettes (100%). Paper and aluminum products are subjected to 20% duty rate.⁵

Harmonized System of coding

The Customs Tariff of Bahrain is based on the International Harmonized Commodity Description and Coding System (HS) which is also referred to as the Harmonized System.⁶

Unified customs

Bahrain is member of the Gulf Cooperation Council (GCC) which also groups Saudi Arabia, Qatar, Kuwait, the United Arab Emirates and Oman. The six neighbors have unified their customs tariffs under a GCC Customs Union which went into effect in 2004.

Clearing services

Customs clearing agents must be registered with Customs Affairs and hold valid licenses in order to submit customs declarations. Clearance authorization from a trader/importer (consignee) must be submitted to customs authority before a clearing agent can start clearing goods on behalf of a *consignee*.⁷

Customs declaration submission procedures: a foreign exporting company, in order to clear goods at the customs, need to submit a declaration confirming the following: ⁸

- Goods being declared are not prohibited under the Customs Laws of the Kingdom of Bahrain (see below: Import and export regulations).
- Goods are under one bill of lading/airway bill.
- Goods can be cleared at the same place (customs point).
- Supporting documents can be presented upon request.

Customs clearing agents submitting import declarations can use the “electronic Customs Clearing System” (eCAS). In order to submit customs declarations electronically, it is necessary to observe the required guidelines.

⁴ Arabian business, 2018, <http://www.arabianbusiness.com/politics-economics/388567-bahrain-to-complement-saudi-arabias-economic-power-says-edb>

⁵ Kingdom of Bahrain, Ministry of Interior, Customs Affairs, <http://www.bahraincustoms.gov.bh/faq.php>

⁶ Kingdom of Bahrain, Ministry of Interior, Customs Affairs, http://www.bahraincustoms.gov.bh/uploads/files/classification_of_goods_using_hs_factsheet.pdf

⁷ Kingdom of Bahrain, Ministry of Interior, Customs Affairs http://www.bahraincustoms.gov.bh/clearing_service.php

⁸ Kingdom of Bahrain, Ministry of Interior, Customs Affairs, <http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREpOYVZwMFVGUIpiV015TURsT1ZHYZk%253D>

Shipping information

Swiss exporting companies must ensure that:

- All shipping details are provided correctly and accurately.
- The correct bill of lading/airway bill reference number is provided.
- Correct packing information is supplied (including quantities and units of measure).
- The consignee/importer/trader has a valid Commercial Registration (CR) issued by the Bahrain Ministry of Trade and Commerce for the goods being declared.

Item details must include the following:

- The correct Harmonized Code (HS Code) classification.
- The correct value of the good.

In case inaccurate or incomplete information is used on the customs declaration, penalties at the discretion of Customs authorities, (fines, withdrawal of the clearing license or legal action) may be applied.⁹

FREE TRADE AGREEMENT (FTA)

The European EFTA Group, of which Switzerland is a member and the Gulf Cooperation Council GCC are now bound by a free trade agreement, providing for customs duty exemptions. The accord entered into force on 1st July 2015 on the GCC side, and exactly one year earlier on the European side. Swiss firms dealing with Bahrain may obtain a copy of the agreement together with an explanatory factsheet by contacting the Swiss Embassy of the UAE and the office of the Swiss Business Hub ME:

sbhme@eda.admin.ch

For certification technicalities and other related matters the Swiss exporters are advised to consult the Geneva-based Arab-Swiss Chamber of Commerce:

Arab-Swiss Chamber of Commerce Rue de Lausanne, 63 CH-1202 Geneva Tel.: +41-22 – 347 3202, Fax: +41-22 – 347 3870 Email: arabswisscham@casci.ch Website: www.casci.ch
--

⁹ <http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREpOZVZwMFVGVUlpiV015TURsT1ZHczk%253D>

3. IMPORT AND EXPORT REGULATIONS

Goods, which are not already prohibited by the country, can be imported with an import permit issued by customs. Goods can either be imported through a third party freight forwarder or logistics provider, or through a distributor/agency. Some products may require special documents, and this can be clarified at the Customs.

Importers have to be listed in the commercial registry, maintained by the Ministry of Industry and Commerce. They are also required to be members of the Bahrain Chamber of Commerce and Industry.¹⁰

The Bahrain Customs authorities (being part of the Ministry of Interior) provide the latest information about customs regulations and import-export procedures.

They may be contacted directly for further assistance:¹¹

<p>Customs Affairs – Ministry of Interior Sh. Khalifa Bin Salman Road Hidd Postal Address Customs Affairs – Ministry of Interior PO Box 15, Manama Kingdom of Bahrain Telephone: +973 – 1735 9999 Website: http://www.bahraincustoms.gov.bh/</p>

Prohibited Items

Import restrictions: Bahrain is an open market but there are just a few restrictions. The following is a list of items that are not allowed to be imported into the Kingdom of Bahrain:¹²

- All types of narcotic drugs (heroin, cocaine, hashish, pills having drugs effects, etc.)
- Indian paan and derivatives
- Used and reconditioned tyres
- Cultured pearls
- Advertisement material for all types of cigarettes
- Radio/remote controlled model aircraft
- Children's toy guns capable of firing projectiles
- Goods of Israeli origin or bearing Israeli trademarks or logos
- Printed publications, photographs, pictures, books, magazines sculptures and mannequins which contradict Islamic teachings, decency, or immorality
- Seditious or treasonable material
- Asbestos or items containing asbestos
- Raw ivory, ivory articles and rhinoceros horn
- Live swine
- Any other items, whose importation is prohibited under Kingdom of Bahrain Customs laws, or any other laws of the country
- Furthermore, some items are restricted and their import into or exportation from the Kingdom of Bahrain is only allowed in presence of a valid permit or approval document from the relevant regulatory authority.

¹⁰ WTO

¹¹ Visahq in the United States, <https://bahrain.visahq.com/customs/#!contact-information>.

¹² Kingdom of Bahrain, Ministry of Interior, Customs Affairs, <http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREZPYVZwMFVGUlpiV015TURsT1ZFazk%253D>

To check which items are restricted please check following website:
<http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREZOZVZwMFVGUIpiV015TURsT2VrMDk%253D>.

Export restrictions: The following items cannot be exported out of Bahrain: ¹³

- All types of fuel and subsidized goods such as diesel
- All kinds of flour and such subsidized goods
- Fresh chicken bearing the trade mark of “Delmon”
- Red meat.

4. REGISTRATION PROCEDURE FOR PRODUCTS

Controlled and Restricted Items

There are certain categories of goods which are allowed controlled entry into/exit from Bahrain. Entry/exit is only permitted on production of a Permit or No Objection Certificate (NOC) from the relevant regulatory authority.

Regarding the import, the following items are restricted and entry/import into the Kingdom of Bahrain is allowed only when you produce a valid permit or approval document from the relevant regulatory authority. If you do not have the relevant permit or approval, the item will be detailed and referred to the relevant authority for approval.¹⁴

Item	Conditions for Release	Approval Authority
Live wild animals (for circus only) Horses	No Objection Certificate from Ministry of Interior <u>And/or</u> Valid Certificate from Veterinary Authority	Ministry of Municipalities & Agriculture Affairs Website: http://websrv.municipality.gov.bh
Animals, Birds and their by-products Animal or vegetable fertilizers Insecticides and fungicides Meat and meat products Fish and Seafood products Fruit and Vegetables Plants	No Objection Certificate from Ministry of Municipalities & Agriculture Affairs	Ministry of Municipalities & Agriculture Affairs Website: http://websrv.municipality.gov.bh
Radioactive chemicals and active Isotopes Food products (processed and unprocessed) Pharmaceuticals Medicines	Permission from Ministry of Health	Ministry of Health Website: http://moh.gov.bh

¹³ Kingdom of Bahrain, Ministry of Interior, Customs Affairs,
<http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREZOUTFwMFVGUIpiV015TURsTmVrVTk%253D>

¹⁴ Kingdom of Bahrain, Ministry of Interior, Customs Affairs,
<http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREZOZVZwMFVGUIpQUT09>

Unadulterated Ethyl Alcohol, Iso-propanol Pedestrian Controlled Four Wheel mini car Handcuffs made from Iron/Steel Arms, ammunition, explosives and military weapons	No Objection Certificate from Ministry of Interior	Ministry of Interior Website: http://interior.gov.bh
Magazines and Publications Films and Video Optical and magnetic audio-visual media Items infringing intellectual property rights	No Objection Certificate from Ministry of Information	Ministry of Information Website: http://info.gov.bh
Telecommunications, Radio and Television receiving and Broadcasting equipment	No Objection Certificate from TRA	Telecom Regulatory Authority Website: http://tra.org.bh

Regarding the export, the following items are restricted and exportation from the Kingdom of Bahrain is allowed only when you produce a valid permit or approval document from the relevant regulatory authority. If you do not have the relevant permit or approval, the item will be detailed and referred to the relevant authority for approval.¹⁵

Item	Conditions for Release	Approval Authority
Live Horses	No Objection Certificate	Equestrian & Horse Racing Club Website: http://websrv.municipality.gov.bh
Camels	No Objection Certificate	Royal Court Website: http://websrv.municipality.gov.bh
Palm Tree Seedlings	No Objection Certificate	Ministry of Municipalities & Agriculture Affairs Website: http://websrv.municipality.gov.bh
Garbage and Waste	No Objection Certificate	Public Commission for the Protection of Marine Resources, Environment and Wildlife Website: http://interior.gov.bh
Antiquities	No Objection Certificate	Ministry of Information Website: http://info.gov.bh

¹⁵ Kingdom of Bahrain, Ministry of Interior, Customs Affairs,
<http://www.bahraincustoms.gov.bh/page.php?SID=WTBkR2JscFVNREZOZVZwMFVGUIpQUT09>

5. STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

Product liability law

Product liability in Bahrain is regulated by the Civil Code. It is required that the seller provides the buyer with all the necessary information about the product being sold. In case of defective good, the seller is liable to the consumer (except under certain circumstances).¹⁶

Labelling requirements

GCC countries enforce common labeling standards for imported goods. Products must carry labels in Arabic. (A small number of products with labels only in English may be approved for marketing test purposes.) Food labels must contain the product description and brand name, production and expiry dates, country of origin, name of the manufacturer, net weight (in metric unites), as well as a list of ingredients and additives.¹⁷

6. CURRENCY REGULATIONS

There are **no restrictions** on currency exchange or transfer of dividends in Bahrain. The Kingdom has a **fixed exchange rate policy**: Since 2001, the Bahraini Dinar (BD) has been pegged to the U.S. dollar (BD 1 = US\$ 2.659). Bahrain's main goals in monetary policy are price stability, low inflation as well as maintaining the peg to the U.S. dollar.¹⁸

7. TAXES

In Bahrain many attractive concessions and incentives to foreign investors are related to low taxes which are described in this section:¹⁹

There is no **corporate tax** on companies except for oil, gas companies of net profits generated in Bahrain. There is neither withholding tax nor income tax on individuals.

Value-added tax (VAT) was introduced in Bahrain in January of 2019 at a standard rate of 5%VAT.²⁰

Regarding the **Excise duty**, the Cabinet of Bahrain ratified the GCC Common Excise Tax Agreement and approved the local draft Excise Tax Law in October 2017. The law is also expected to come in to force during 2018.

In terms of **Excise tax rates**, the draft law introduces the taxation of goods harmful to human health and the environment, as well as luxury goods, which are listed by the GCC Financial and Economic Cooperation Committee (50% for carbonated beverages, 100% for energy drinks, 100% for Tobacco).

A **municipal tax** is payable by individuals or companies renting property in Bahrain. The tax rate varies for unfurnished or furnished residential property, and commercial property.

Sales tax only applies to gasoline sales (levied at a rate of 12%) and a government levy of 5% is imposed on hotel services and entertainment.²¹

There are no **personal income** tax in Bahrain and no **exchange control** restrictions on converting or transferring funds.

¹⁶ Practical Law, "Doing Business in Bahrain", [https://uk.practicallaw.thomsonreuters.com/9-500-6281?transitionType=Default&contextData=\(sc.Default\)](https://uk.practicallaw.thomsonreuters.com/9-500-6281?transitionType=Default&contextData=(sc.Default))

¹⁷ Export.gov, <https://www.export.gov/article?id=Bahrain-Labeling-and-Marking-Requirements>

¹⁸ Central Bank of Bahrain, http://www.cbb.gov.bh/page-p-monetary_policy_framework.htm

¹⁹ EY, *Corporate taxation in Middle East and North Africa 2018*, p. 12-15

²⁰ https://www.nbr.gov.bh/pdf/20190116_VAT_General_Guide_v1_3.pdf

²¹ PKF Bahrain Tax Guide 2016/2017, <https://www.pkf.com/media/10028387/bahrain-tax-guide-2016-17.pdf>

Social insurance contributions are payable for employees who are Bahraini nationals, at a rate of 15% of their compensation (based on the basic salary and recurring allowances with a maximum of BHD 4'000 per month) of which the employer contributes 9% and the employee contributes 6%. Employers are also required to contribute an additional amount equal to 3% of the compensation of all employees (both Bahraini and expatriates) as insurance cover against employment-related injuries. Social security contribution at a rate of 1% is payable by Bahraini employees against unemployment insurance, and 1% by expatriate employees, to cover their employment-related injuries.

Since January 2016, the employer is required to pay an annual fee of BHD 22'500 for all Bahraini employees toward their **health insurance**. This annual fee is paid to the Ministry of Health through the General Organization for Social Insurance (GOSI), but a separate transaction or payment.

8. COMMERCIAL LAW

The Commerce Law was issued by a legislative decree No. (7) for the year 1987 for the purpose of organizing commerce transactions. It defines business and businesspersons, in addition to the liabilities, commercial ownership, and how to file bankruptcy. The law also organizes the commercial businesses, commercial contracts, and treasury funds along with specifying the punishments for violating this law.²²

9. SETTING UP COMPANIES

In most types of economic activities (with exception of business activities reserved for Bahraini nationals and GCC citizens), 100% foreign ownership of businesses is allowed. A minimum of 51% Bahraini ownership is required for trade and retail activities.²³

Free zone

As Bahrain, allows (in most industries) for 100% foreign ownership, is largely tax free and has minimal custom duties, the entire country can be seen as one large free zone. The benefits offered to foreign investors include no annual rent, 50% reduction on utility costs, exemption on national labor hiring and zero custom duties.²⁴

Bahrain Logistics Zone (BLZ), Bahrain International Investment Park (BIIP) and Bahrain International Airport (BIA) are the country's three main free-trade zones. These are mainly for companies which are export-oriented and which only require an office in Bahrain. In other words, free zones are suitable for foreign companies intending to use Bahrain as a regional manufacturing or distribution base (with the bulk of their business conducted outside Bahrain).²⁵

10. JOINT VENTURE OPPORTUNITIES

Bahrain laws allow for the establishment of contractual joint ventures between parties, which are usually governed by a joint venture agreement (setting out the parties' rights and obligations, providing for how a company is operated as well as how it is dealing with the division of profits and losses). A joint venture agreement is enforceable under the condition that it is not contradicting the laws of Bahrain.²⁶

11. PROMOTION OF INVESTMENT

Bahrain offers various **investment incentives** to national and foreign investors. The advantages are designed to encourage and lure investments in order to promote the country's development objectives,

²²<http://www.moic.gov.bh/En/Commerce/DomesticTrade/CompanyAffairsDirectorate/Resource/Publications/Pages/Publications.aspx>

²³ <http://www.moic.gov.bh/En/Commerce/DomesticTrade/Pages/NegativeList.aspx>

²⁴ Healy Consultants, <http://www.healyconsultants.com/bahrain-company-registration/free-zones>.

²⁵ Healy Consultants, <http://www.healyconsultants.com/bahrain-company-registration/free-zones>.

²⁶ Al Tamimi & Co., August 2014, <http://www.tamimi.com/en/magazine/law-update/section-8/july-august-3/foreign-investment-in-bahrain.html>.

increase the use of local products, promote exports and introduce new industries, products, and technologies to the country.²⁷

Investors benefit from competitive costs, an easy access to the rest of the Middle East and a well-established business infrastructure. Furthermore, the Bahrain **Economic Development Board** (EDB)²⁸, a dynamic public agency which acts like a one-stop shop for investors, supports initiatives which enhance the investment climate in the country. Businesses in place are offered five important advantages by the EDB:

1. Quick and efficient access to markets in the Middle East
2. Liberal business environment (with zero taxation for private companies, few indirect taxes for private enterprises and individuals, free repatriation of capital, 100% foreign ownership of business assets and real estate in most sectors.)
3. Track record as a modern international business economy
4. Low costs (rents, electricity, gas, water), low living costs and competitive wages
5. Educated and skilled workforce in the Gulf
6. Flexible visa policies²⁹

12. ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW

All visitors to Bahrain, except passport holders of the GCC, need one of the following types of visas (in general applied for by a local sponsor):³⁰

- Two weeks tourist visa
- 72 hour / 7 day visas
- Work visa submitted to, and issued by, the Labor Market Regulatory Authority (LMRA)³¹
- Family visa submitted to the LMRA and issued by the General Department for Nationality and Passport Residence³²

A foreign worker must be sponsored by a Bahraini individual or company. The Bahraini sponsor intending to employ a foreigner needs to obtain a work permit issued by the LMRA. It is valid for two years and can be renewed by applying to the LMRA. The work permit, together with the passport particulars of the prospective employee, must then be submitted to the General Directorate for Immigration and Passports (GDIP) in order to obtain a “No Objection Certificate” (NOC). The NOC is the document based on which a foreigner can enter Bahrain for employment.

Upon arrival in Bahrain, the employee must be registered in the Central Population Register. The sponsor then applies for the employee’s residence permit from the GDIP which will be stamped in the passport. After a medical check-up by the Ministry of Health, the residence permit is usually issued for a period of two years and will be renewed by the sponsor.³³

²⁷ Ministry of Industry and Commerce (2006)

²⁸ The Bahrain EDB Board is chaired by His Royal Highness Prince Salman bin Hamad Al-Khalifa, the Crown Prince and First Deputy Prime Minister. Furthermore, the EDB includes representatives of the Bahraini Government and private sector.

²⁹ Bahrain Economic Development Board (EDB),
<http://www.bahrainedb.com/en/investing/Pages/Why%20Invest%20in%20Bahrain.aspx>

³⁰ <https://www.mofa.gov.bh/Default.aspx?tabid=256>

³¹ The LMRA is equivalent to the Ministry of Labor

³² RSM

³³ <http://lmra.bh/portal/en/page/show/133>

13. PROCEDURES FOR COLLECTING PAYMENT

Litigation in Bahrain is a lengthy and costly process, which foreign companies try to avoid, keeping it as a last resort only. All documents are to be presented to court in Arabic language and this is an additional burden on foreign firms. Swiss companies would be well-advised to accept to make small sacrifices (of profit or otherwise) for the sake of an amicable settlement with a customer or a representative.

But if push comes to shove, and legal action becomes unavoidable, then arbitration could be a workable solution. Bahrain's history of arbitrations dates back to the nineteenth century. As one of the first Gulf countries, it has signed the "New York Convention" (NYC) in 1988 and since 1994 it has an international commercial arbitration law which is based on the "Model Law of the United Nations Commission on International Trade Law" (UNCITRAL Model Law).

In order to bolster the Kingdom's standing in the international arbitration community and to establish itself as a pre-eminent commercial dispute resolution center in the region, Bahrain launched in 2010 a new arbitration center, "Bahrain Chamber for Dispute Resolution" (BCDR), which accepted its first case in that same year.³⁴ BCDR is backed, advised and trained by the American Arbitration Association (AAA). Swiss companies entering in contractual commitment with Bahraini partners can ask that the contract between them explicitly state that any commercial dispute would be seen by Swiss courts or be arbitrated in Bahrain, Switzerland or in the International Chamber of Arbitration.

The Swiss Embassy competent for Bahrain can, upon request, provide Swiss firms with a short list of Bahraini law firms for possible consultation or eventual litigation.

³⁴ <http://www.nortonrosefulbright.com/knowledge/publications/30151/dispute-resolution-developments-in-bahrain-creation-of-a-new-arbitral-institution-and-introduction-of-a-form>.

Main Business Organizations in Bahrain

- **Ministry of Industry, Commerce and Tourism**
www.moic.gov.bh/En
Main activities. The Ministry of Industry, Commerce and Tourism is responsible for industrial and commercial activities in Bahrain.
- **Central Bank of Bahrain**
<http://cbb.gov.bh/>
Main activities. Financial regulator, responsible for licensing companies to undertake financial service activities.
- **Ministry of Finance**
www.mof.gov.bh/
Main activities. Ministry in charge of finance, revenue and budget.
- **Labour Market Regulatory Authority**
www.lmra.bh/
Main activities. Authority responsible for coordinating and issuing visas for foreign workers.
- **Ministry of Labour**
www.mol.gov.bh/
Main activities. Ministry responsible for labour affairs of the private sector.
- **Legislation & Legal Opinion Commission**
www.legalaffairs.gov.bh/
Description. The website is maintained by the Government of Bahrain and contains many of the laws of Bahrain in the Arabic language.

Date: January 2021
Author: Swiss Business Hub Middle East
Author's address: World Trade Centre, 22nd Floor
C/o Consulate General of Switzerland
P O Box 9300
Dubai, United Arab Emirates
Tel: +971 4 254 54 82
Fax: +971 4 331 36 79
Email: dubai.sbhme@eda.admin.ch
Website: www.s-ge.com/de/company/swiss-business-hub-middle-east