

**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

BAHRAIN

The present document reproduces the text¹ of the Draft Law (2001) on the Protection of Plant Varieties, which is under consideration by the competent authorities of the Bahrain Government, notified by Bahrain under Article 63.2 of the Agreement by means of a communication from its Delegation dated 28 November 2001.

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

BAHREÏN

Le présent document contient le texte¹ du projet de Loi de 2001 sur la protection des variétés végétales, actuellement examiné par les autorités compétentes du gouvernement bahreïnite et notifié par Bahreïn au titre de l'article 63:2 de l'Accord dans une communication de sa délégation datée du 28 novembre 2001.

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

BAHREIN

En el presente documento se reproduce el texto¹ del proyecto de Ley de Protección de las Obtenciones Vegetales de 2001, que está siendo examinado por las autoridades del Gobierno y que Bahrein ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo mediante una comunicación de su Delegación de fecha 28 de noviembre de 2001.

¹ In English only./En anglais seulement./En inglés solamente.

DRAFT LAW NO. ---- (2001)
ON THE PROTECTION OF PLANT VARIETIES

Article 1

For the purposes of this Law, the following terms and expressions shall have the meaning given to each, unless otherwise required by context:

Ministry: the Ministry of Commerce and Industry;

Minister: the Minister of Commerce and Industry;

plant breeder: person who created, bred, discovered or developed a variety;

protected variety: any variety covered by the plant breeder's right under the conditions and procedures set out in this Law and its Regulations.

Article 2

The competent authority at the Ministry shall establish a register to be known as the "The Register of Plant Varieties", in which are entered applications for protection as well as all information pertaining to it and its exploitation and disposal in accordance with the provisions of this Law and its Regulations and Decisions.

Procedures for the filing, examination and registration of applications shall be determined under the Regulations.

Article 3

Without prejudice to the provisions of international treaties in force in the State of Bahrain, any natural person or legal entity being a national of the State of Bahrain, from a Member of the World Trade Organization or from a State holding reciprocal relations with the State of Bahrain, shall be entitled to apply for the protection of a plant variety.

Article 4

In order to be protected, a plant variety must be new, distinct, uniform, stable and must be designated by a denomination.

A variety is new if, up to the date of the application for its protection, no propagating material of the variety has been sold or distributed by the breeder or with his consent, for the purpose of exploitation of such variety. The variety shall not be deemed new if it has been marketed for more than one year in the State of Bahrain. If it has been marketed or distributed abroad, the period shall not exceed 6 years for trees and vines, or 4 years for other plants. In all cases, the prior period starts from the date of the application. The novelty condition is not lost if the variety is sold or a right to exploit it has been granted elsewhere before protection is granted.

A variety is deemed distinct if it is distinguishable by at least one clear characteristic from other known varieties.

A variety is deemed uniform if the differences between its elements are within generally excepted limits.

A variety is deemed stable if, after repeated propagation, its main characteristics remain unchanged.

Article 5

The owner of a protected plant variety shall enjoy the right to use and exploit the protected variety by all means, including production, propagation, disposal to others, sale, marketing, offering for sale, importation or exportation.

Article 6

The right to the protection of a plant variety shall be granted to the breeder himself or his successor in title, or, if the plant variety is the result of a joint work by a number of persons, it shall belong to all of them equally unless they have agreed otherwise. Any person whose efforts were limited to execution may not be considered as partner.

Where the plant variety is the result of efforts by more than one person working separately from each other, the right for protection shall belong to the first applicant.

Article 7

Performance of one or more of the following acts by a third party without prior consent from the breeder shall not be considered as infringement of a protected variety:

1. activities for experimental or research purposes;
2. private use of propagating material which is the product of the harvest of a farmer on his own holdings for planting purposes.

Article 8

A breeder of a protected plant variety who, himself or with his consent, has sold or otherwise marketed such variety may not prevent a third party from performing any of the following acts:

1. further propagation of the variety;
2. export of material of the variety, which enables the propagation of the variety, into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the aim of the export is consumption. For the purposes of this paragraph, the term "variety" shall mean the following:

- (a) propagating material of any kind,
- (b) harvested material, including entire plants and parts of plants,
- (c) any product made directly from the harvested material.

Article 9

The period of protection of plant varieties shall last 25 years calculated from the granting date for trees and vines, and 20 years for others.

The variety subject of the application for the grant of protection shall be granted provisional protection from the filing date until the publication of the declaration of approval of protection. During such period, the owner of the variety shall be entitled to indemnity from any person who performs any of the acts that require the breeder's authorization in accordance with the provisions of this Law and under two conditions: that protection is actually granted for the plant variety and that the offender is notified - by the breeder - that such act is considered as infringement of his right.

Article 10

A non-exclusive non-voluntary license may be granted, by decision from the competent authority at the Ministry and in accordance with the rules and procedures determined under the Regulations, against use and exploitation of the protected variety without the plant breeder's consent in cases required by public interest.

The plant breeder is entitled to a fair compensation against that.

Article 11

Applications for the registration of a variety shall be filed by the plant breeder with the competent authority at the Ministry using the appropriate form in order to obtain a certificate of protection. The registration, certificate of protection shall be published as well as relevant decisions, requests and orders shall be published as determined under the Regulations. Rules and procedures for notification, consideration of opposition and decision thereon shall be determined under the Regulations.

Article 12

The certificate of protection shall be issued according to the procedures determined under the regulation and against payment of a fee.

Article 13

The Minister may issue a reasoned decision canceling the certificate of protection - following recommendation from the competent authority at the Ministry - where the variety fails to satisfy any of the requirements for the granting of protection in accordance with the rules and procedures determined under the Regulations.

The interested person shall be notified of such a decision by registered mail. Opposition against such decision may be made within 10 days from the notification date. The rules and procedures for considering the opposition and decision thereon shall be determined under the Regulations.

Article 14

The application for registration of the protected variety together with its annexes shall be examined by the competent authority at the Ministry to ascertain the fulfillment of the requirements. Such authority may require the fulfillment of what it deems unsatisfied for the consideration of the application.

The interested person may submit to the competent authority a written opposition to the conduct of procedures for the granting of protection within 60 days from the date of the declaration of acceptance of application. Such opposition shall be reasoned.

Rules for opposition, decision thereon and the required fee shall be determined under the Regulations.

Article 15

The right to protection may be transferred in part or in whole with or without compensation, including through inheritance. Such right may be the subject of authorization for exploitation, mortgage or grant of right of use.

Without prejudice to provisions concerning the sale and mortgage of businesses, ownership may not be transferred, mortgaged, subject of grant of right of use, nor used as evidence against a third party unless it is recorded in the register of protection and the transfer of property is published as determined under the Regulations.

Article 16

The creditor may seize the debtor's protection in accordance with rules governing seizure of movables held by the debtor or a third party. [sic: The competent authority at the Ministry shall exempt provisions concerning recognition of the party seizing, before the party whose protection is seized].

The creditor shall notify the seizure and closure of the auction to the competent authority for entering in the appropriate register. None of these may be used as evidence for opposition unless it is registered as determined under the Regulations.

A fee shall be paid against entering in the register.

Article 17

The plant breeder's right to protection shall be terminated at the end of its term or if the prescribed fees are not paid within one month from their due date.

Article 18

Without prejudice to the provisions of Article 9 of this Law, a third party may not exploit a protected plant variety without prior written consent of the right holder or a non-exclusive non-voluntary license delivered by the competent authority at the Ministry in accordance with Article 10 of this Law.

Article 19

The right to protection shall belong to the employer where the breeding is realized under his direction, using his tools and within working hours, without prejudice to the employee's right to an agreed financial compensation.

Article 20

Plant varieties which fulfill registration conditions provided for under this Law shall enjoy provisional protection when exposed in exhibitions organized inside the State of Bahrain or abroad.

The conditions, circumstances and procedures for the granting of such protection shall be determined under the Regulations.

Article 21

The public may, after the declaration of acceptance of the application for protection, have access to such application, any of its documents and all that is recorded about it in the Register of Plant Varieties. Any member of the public may obtain a copy thereof against payment of a fee and in accordance with conditions and procedures determined under the Regulations.

Article 22

Without prejudice to provisions concerning opposition under this Law, any interested person may oppose, before the Minister of Commerce and Industry, any decision issued under this Law, within 30 days from the date on which such decision is published. Decision on such opposition shall be taken within 30 days from its submission. The interested person shall be notified in writing of the decision concerning his opposition within 30 days from the date on which such decision is taken. The opposition is deemed to be rejected if he does not receive any notification concerning such opposition within 30 days from its submission.

Any person whose opposition is rejected or deemed to be rejected may file an appeal before the Supreme Civil Court within 60 days from the date on which he is notified of the rejection of his opposition or on which he is deemed to be rejected.

An appeal may lie to the Court only after opposition to the decision is submitted, the decision rejecting the opposition is issued, or no reply is given within the appropriate period. The rules, procedures and dates for appeal shall be determined under the Regulations.

Article 23

The categories of fees provided for under this Law, rules and rates of their increase and reduction and cases for exemption shall be determined under a decision issued by the Minister of Commerce and Industry, subject to approval by the Cabinet.

Article 24

Officials designated by the Minister of Commerce and Industry shall have the capacity to enter any establishment concerned to ascertain the implementation of the provisions of the Law as well as decisions issued for the purposes of its implementation.

Such officials shall have the authority to control infringements, establish the necessary official reports and refer them to the general prosecutor.

Article 25

Without prejudice to any more severe sanctions provided for under any other Law, any person who unlawfully and knowingly infringes any breeder's right provided for under this Law shall be punishable by imprisonment for a period of at least three months and not exceeding one year and by a fine of at least 500 Dinars and not exceeding 2000 Dinars or by either one.

In case of a second offence, the infringement shall be punishable by imprisonment for a period of at least three months and not exceeding two years and by a fine of at least 500 Dinars and not exceeding 4000 Dinars or by either one, together with the closure of the commercial establishment or business or the cease of the activity, as the case may be, for a period of at least 15 days and not exceeding six months. The decision shall be published in one or more issues of a daily newspaper at the expense of the party against whom the decision is taken.

In case of conviction, the court may order the seizure or destruction of the seeds or propagating material derived from the offence.

In case of discharge, the court may order the seizure or destruction of the material referred to in the preceding paragraph if they have caused any damage or been used to infringe the right of the breeder.

The General Prosecutor shall initiate sanctions on the offences referred to in this Article.

Article 26

Provisions of Law Decree No. ---- (2001) on Patents and Utility Models shall apply to any matter that is not the subject of a specific provision under this Law provided that it is not contrary to the nature of plant varieties.

Article 27

The Minister shall issue the Regulations and Decisions necessary for the implementation of this Law.

Article 28

Ministers shall, each within their capacity, implement and apply this Law from the date on which is it published in the Official Gazette.
