

THE LAW FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

LAW NO. 24 FOR THE YEAR 2000

Article 1

This Law shall be cited as "The Law for the Protection of New Varieties of Plants for the Year 2000," and shall come into force thirty days after the date of its publication in the Official Gazette.

Definitions

Article 2

The following words and phrases, wherever mentioned in this Law shall have the meanings designated hereunder, unless otherwise indicated by context:

Ministry: Ministry of Agriculture.

Minister: Minister of Agriculture.

Plant Variety: The hierarchy of plants in the Plants Kingdom shall be from the grouping, to the rank, to the family, to the genus, to the specie, to the variety.

Variety: Any plant grouping within a single botanical taxon of the lowest known rank, irrespective of whether the conditions for the grant of the protection right are fully met, and is defined by the expression of the characteristics resulting from a genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one of the said characteristics, and considered as one unit with regard to its suitability for being propagated without changing any of its characteristics.

The Protected Variety: The variety that is registered according to the provisions of this Law.

Breeding: To breed, or to discover and develop, a new plant variety.

Breeder: The person who bred, or discovered and developed, a new plant variety, or his successor in title.

The Registrar: The New Plant Variety Registrar, nominated by the Minister.

The Register: The New Plant Variety Register.

Article 3

The provisions of this Law shall apply on varieties thereunder plant genera or species, which shall be specified in a Regulation issued in accordance with the provisions of this Law.

Article 4

A- A Register named "The New Plant Variety Register" shall be established at the Ministry, under the supervision of the Registrar, in which records shall be maintained of all information related to the new plant varieties, their

denominations, names and addresses of their breeders, registration certificates, and any changes thereto resulting from procedures and legal acts including the following:

- 1- Any assignment, transfer of ownership, or license in respect of its use granted by the owner to others, subject to the confidentiality provisions in the licensing contract.
 - 2- The hypothecation or attachment placed upon the protected variety or any restriction on its use.
- B- The Register and the documents related to the rights granted for the breeder shall be available for the public. The growing tests and any other necessary tests provided for in this Law shall also be available for the public, in accordance with the Instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.
- C- The Ministry may maintain computerized records for the registration of varieties and the related data thereto, such data and documents retrieved therefrom and certified by the Registrar shall be valid proof against others, unless the interested party proves otherwise.

Registration of New Plant Varieties

Article 5

The variety may be registered if the following conditions are met:

- A- 1- If it is new, in the sense that, at the date of filing the application or the priority date stated in paragraph (A) of Article (9) of this Law, as the case may be, propagating or harvesting material of the variety has not been sold or otherwise transferred to others, by or with the consent of the breeder, for purposes of exploitation of the variety according to the following:
- For more than a year inside the Kingdom, and for more than four years outside the Kingdom.
 - For more than six years outside the Kingdom, in the case of trees and vines.
- B- If it is distinct, in the sense that, it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the date of filing of the application. In particular, the filing of an application for registering another variety, or for registration thereof in an official register of varieties in any country, shall be deemed to render that other variety a matter of common knowledge from the date of the application, provided that the application leads to the registration of the variety and to accord the right therein to the breeder.
- C- If it is uniform, in the sense that, it is sufficiently uniform in its relevant characteristics, subject to the variation that may be expected from the particular features of its propagation.
- D- If it is stable, in the sense that, its relevant characteristics remain unchanged after repeated propagation, or in case of a particular cycle of propagation, at the end of each such cycle.

Article 6

The right to register the variety shall be as follows:

- A- To the breeder or to whom the variety right passes thereafter.
- B- To the persons participating in its breeding, if it is the result of their joint efforts, provided that it is registered equally and jointly between them, unless agreed otherwise.
- C- To the first breeder to file an application, if the breeding is independently made by more than one person.
- D- To the employer, if the breeding is a result of an employment contract, which requires the employee to carry out such breeding, unless otherwise stipulated by contract.

Article 7

The registration of a variety shall be as follows:

- A. An application for registration shall be filed with the Registrar, on the form designated for this purpose, stating the botanical taxon of the variety, the suggested denomination, and any other issues or data specified in the Regulation issued in accordance with the provisions of this Law.
- B. The application shall be limited to one variety, which shall be subject to the payment of the prescribed fees.
- C. If the application is filed by a non-national person in the Kingdom or a non-resident, the breeder shall have to appoint a legal representative in the Kingdom.

Article 8

- A- The date the Registrar receives the application shall be considered the date of filing, provided that the application fulfills all the legal requirements, and attached thereto all the data indicating the identity of the applicant and a sample of the variety subject to registration.
- B- Where the Registrar finds that the application has not fulfilled the requirements stated in paragraph (A) of this Article, he shall invite the applicant to fulfill such requirements, or to make the necessary amendments within thirty days of notification, and shall record the date of fulfilling such requirements as the date of filing of the application. Otherwise, the Registrar shall have the right to issue a decision that would deem the applicant to have abandoned the application. His decision may be appealed to the High Court of Justice within sixty days of its notification.

Article 9

- A- 1- The applicant of a variety may claim priority in the application, for an application submitted by him and filed on a prior date in a country with which the Kingdom is a party to a treaty to protect intellectual property, provided that the application is filed in the Kingdom within a period not exceeding twelve months, calculated from the day following the date of filing of the first application.

- 2- If the application for registration includes a priority right, according to clause (1) of this paragraph, the Registrar may request the applicant within three months from the date of filing of an application, to submit a copy of the documents which constitute the first application certified to be a true copy by the office with which it is filed. The Registrar may also request the applicant, within the period stated, to submit any samples or evidence to prove that the variety which is the subject matter of both applications is the same. In such case, the date of filing of the application for registration shall be the same date in which the application was filed in the other country.
- B- If the applicant fails to prove the priority right according to paragraph (A) of this Article, the application shall be registered as of the date of filing with the Registrar.
- C- The applicant may request for an additional period of two years after the expiration of the priority period, to provide the Registrar with the information, documents and materials required according to the Law, for the purpose of examination according to Article (10) of this Law, provided that, if the first application is rejected or withdrawn in the other country, the applicant shall be given six months from the date of rejection or withdrawal of the application, to submit the information, documents, and material required for the examination.

Article 10

- A- The variety shall undergo a technical examination to verify the following:
1. It belongs to the botanical taxon stated in the application for registration.
 2. It fulfills the requirements of distinction, uniformity and stability stated in paragraphs (B, C and D) of Article (5) of this Law.
- B- The examination provided for in clause (2) of paragraph (A) of this Article shall be done under the supervision of the Ministry in one of the following methods:
1. To rely on growth and germination examinations, and any other essential exams or tests, made by a technical authority inside or outside the Kingdom, if such tests or exams are carried out in environmental circumstances consistent with the environmental circumstances in the Kingdom; or,
 2. The Ministry may carry out the tests and exams stated in clause (1) of this paragraph itself, or through any authority on its behalf and on the breeder's expense.
- C- A Technical Committee of experts shall be formed by virtue of Instructions issued by the Minister to verify the results of the tests and exams stated in paragraph (B) of this Article, in order to conclude the procedures of the registration of the variety, provided that such Instructions determine the other tasks of the Committee, including the way it functions, makes its decisions, and all other matters related thereto.

Article 11

- A- The Registrar may request the applicant to furnish all the related information, documents, and required materials to carry out the technical examination provided for in Article (10) of this Law, within the period determined in the Regulation issued pursuant to this Law. If such information, documents and

materials are not furnished, the Registrar shall have the right to issue a decision that would deem the applicant to have abandoned his application. The Registrar's decision in this regard may be appealed to the High Court of Justice within sixty days of its notification.

- B- The examination provided for in Article (10) of this Law is for the purpose of approving of the registration. The examination may also be carried out after the registration for purposes of verifying the stability and uniformity of the variety.

Article 12

- A. If the application fulfilled all the conditions and requirements provided for in this Law, the Registrar shall announce its acceptance, and shall grant the applicant with a preliminary approval, which shall be published in the Official Gazette after collecting the prescribed fees. The announcement shall include the plant variety and denomination thereof.
- B. Any person shall be entitled to object the registration of any new plant variety at the Registrar within ninety days of the publication of the preliminary approval in the Official Gazette.
- C. The period for publication, information to be published, objection procedures on preliminary approval for accepting the registration, conditions for extending the periods of objection, notifications, and other matters related thereto, shall be determined in the Regulation issued in accordance with the provisions of this Law.

Article 13

The applicant shall be entitled to a temporary protection between the period of the publication of the application in the Official Gazette and the date of the registration of the variety. The applicant may use the variety during such period, and take procedures to prove any infringement thereof.

Article 14

If no objection on the registration of the variety is submitted, or if it is rejected, the Registrar shall register the variety and grant the breeder a certificate for this purpose after collecting the prescribed fees.

Protection of the Variety

Article 15

Subject to the provisions of Articles 16 and 17 of this Law:

- A- The breeder, after registration thereof, shall have the right to protect the variety, by preventing others not having his consent from doing the following, in respect of the propagating material of the protected variety for commercial purposes:
- 1- Production or reproduction (multiplication).
 - 2- Conditioning for the purpose of propagation.
 - 3- Offering for sale.
 - 4- Selling or other marketing activities.

- 5- Exporting.
- 6- Importing.
- 7- Stocking for any of the purposes mentioned in this paragraph.
- B- The acts referred to in paragraph (A) of this Article in respect of harvested or reaped material, including entire plants or parts thereof, obtained through the unauthorized use of propagating material of the protected variety shall require the authorization of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said propagating material.
- C- The provisions of paragraphs (A) and (B) of this Article shall also apply on the following varieties:
1. Varieties, which are essentially, derived from the protected variety where the protected variety is not itself an essentially derived variety. A variety shall be deemed to be essentially derived from another variety if the following conditions are met:
 - if it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety,
 - if it is clearly distinguishable from the initial variety,
 - if except for the differences, which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.
 2. Varieties, which are not clearly distinguishable in accordance with, paragraph (B) of Article 5 of this Law from the protected variety.
 3. Varieties whose production requires the repeated use of the protected variety.
- D- In particular, essentially derived varieties may be obtained as a result of the selection of natural or induced mutants, or the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.
- E- Any person committing any of the acts stated in paragraphs (A) and (B) of this Article, shall be considered committing an act of infringement upon the rights of the breeder of the protected variety, and shall be subject to legal liability, if he knew or if he should have known that he is infringing upon the breeder's rights of the protected variety.

Article 16

Notwithstanding what is stated in Article 15 of this Law, the breeder's right shall not extend to the following:

- A- Acts done privately for non-commercial purposes, for experimental purposes, or for the purpose of breeding new varieties.
- B- Restriction of farmers from using for propagating purposes, on their own lands, the product of the harvest which they have obtained by planting any protected variety,

or any variety as stated in clauses (1) and (2) of paragraph (C) of Article 15 of this Law.

Article 17

- A- The breeder's right does not extend to the acts related to the materials of the protected variety, or the materials of any variety stated in paragraph (C) of Article 15 of this Law, or any materials derived from the said material, which the breeder had sold or marketed in any other mean in the Kingdom by himself or with his consent, unless such acts:
1. Involve further propagation of the variety in question, or
 2. Involve exportation of the 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, unless the exportation is for consumption purposes.
- B- For purposes of paragraph (A) of this Article, "*material*" means propagating material of any kind and harvesting material, including entire plants or parts of plants.

Article 18

The term of protection for the protected variety shall be for twenty years beginning from the date of filing of an application for registration. As for trees and vines the term of protection shall be for twenty-five years.

Transfer of Ownership, Hypothecation, and Attachment of the Variety

Article 19

- A. The breeder's rights may be transferred, completely or partially, with or without consideration, and may be subject to hypothecation or attachment.
- B. Rights in a protected variety may pass by succession.
- C. The procedures of the transfer of ownership of the protected variety, its hypothecation, attachment and all other legal acts related thereto, shall be determined in Instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.
- D. Transfer of ownership of a variety and its hypothecation shall not be effective against others prior to the date of its recording in the Register, which shall be published in the Official Gazette.

Licensing to Exploit the Variety

Article 20

The breeder may grant others license to exploit the protected variety, by virtue of a written contract to be recorded with the Registrar.

Article 21

- A- The Minister may, upon the Registrar's recommendation, grant to other than the breeder, and without his consent, a license to exploit the variety, if so required for the public interest. In such case, the breeder shall have an adequate remuneration taking into consideration the economic value of the license.
- B- The Minister may, upon his own initiative, or upon the breeder's request, cancel the compulsory license as stated in paragraph (A) of this Article, if the licensee violates any of the conditions thereof, or if the reasons for granting it are no longer applicable. Such cancellation shall not affect the related rights of others having interest in the license.

Nullification and Cancellation of the Registration of the Variety

Article 22

The registration of a variety shall be considered null in any of the following cases:

- A- If it is proved that the variety is not new, or distinct at the date of filing of the application, or the priority date, as the case may be.
- B- If it is proved that the variety is not uniform or stable at the date of filing of the application or the priority date, as the case may be, where the registration had been essentially based upon information and documents furnished by the breeder on the said date.
- C- If the registration is made for a person other than the breeder contrary to the provisions of this Law.

Article 23

- A- The Registrar may cancel the registration of a variety in any of following cases:
 - 1. If, as a result of the technical examination stated in Article 10 of this Law, the stability and uniformity of the variety is not available anymore.
 - 2. If the breeder did not provide the Registrar with the information, documents or materials deemed necessary for verifying the maintenance of the variety.
 - 3. If the breeder fails to pay the annual prescribed fees.
 - 4. If the breeder does not propose, where the denomination of the variety is cancelled after the registration, a suitable denomination for the protected variety.
- B- For purposes of implementing clause (2), (3), and (4) of paragraph (A) of this Article, the Registrar shall notify the breeder of the cancellation, provided that the cancellation takes place after the lapse of the period determined in the Regulation issued in accordance with this Law.

Article 24

The Registrar shall record in the Register, the decision of the nullification of the registration of the variety or the cancellation thereof, which shall be published in the Official Gazette.

Article 25

All the Registrar's decisions may be subject to appeal to the High Court of Justice within sixty day from the date of its notification.

Denomination of the Variety

Article 26

- A- Each variety shall be registered with a denomination, which shall be considered its designation. The denomination may consist of a word, combination of words, combination of words and figures, or combination of letters and figures, with or without an existing meaning. It may not consist solely of figures except where this is an established practice for designating varieties, provided that the denomination enables the variety to be identified in all cases.
- B- If the denomination had already been used for the variety in the Kingdom, or in any country, or proposed or registered in any other country, no other denomination may be used for the purpose of registration, unless there is ground for the refusal of the denomination, and another denomination shall be registered for the variety in the Register.
- C- It is prohibited to use, or register any denomination identical or similar to another denomination which designates the variety, in a manner that might cause confusion in relation to an existing variety of the same plant species or a closely related species, whether such denomination is registered or known in the Kingdom, or any other country. Such prohibition shall remain even after the expiration of the exploitation of the variety, if the denomination acquired a certain connotation in relation to the variety.
- D- Subject to paragraph (E) of this Article, any person who offers for sale, sells or otherwise markets propagating material of a protected variety shall be obliged to use the denomination of the variety, even after the expiration of the protection period.
- E- Prior rights of others shall not be affected, by reason of the use of a denomination of a variety, in such a case, the Registrar shall require the breeder to propose another denomination for the variety.
- F- When a variety is offered for sale or marketed, the use of the variety denomination in association with a trademark, trade name, or other similar indication shall be permitted, subject to the denomination remaining easily recognized.

Article 27

A denomination of a variety may not be registered if:

- A- It is contrary to the provisions of the Law.
- B- It is contrary to the public order and morality.
- C- It is liable to mislead or to cause confusion with respect to the characteristics, value, identity, or geographical origin of the variety, or the identity of the breeder.

Article 28

The suggested denomination of the variety shall be specified in the application. The registration of denominations, publication thereof, and periods related thereto, shall be determined in a Regulation issued according to the provisions of this Law.

Provisional Measures and Penalties

Article 29

A- The breeder of a protected variety, when filing a civil lawsuit to prevent the infringement on his rights in the protected variety, or during the course of the hearings, may petition the competent Court for the following, provided that the petition is attached with a bank guaranty or a cash deposit accepted by the Court:

- 1- Cease the infringement.
- 2- Place a provisional seizure on the variety, subject matter of the infringement, wherever found.
- 3- Preserve evidence relevant to the infringement.

B-1. The breeder of a protected variety may, prior to filing a lawsuit, petition the Court to take any of the measures provided for in paragraph (A) of this Article, provided that the petition is attached with a bank guarantee or a cash deposit accepted by the Court, without notifying the counter-party. The Court may approve the petition if the breeder proves any of the following:

- That his rights had been infringed upon,
- That such infringement is imminent and is likely to cause damages of irreparable harm,
- That there is a demonstrable risk that evidence will disappear or be destroyed.

2. If the breeder of the protected variety fails to file the lawsuit within eight days from the date the Court approves his petition, all measures taken in this regard shall be nullified.

3. The counter-party may appeal the court's decision in taking the provisional measures to the Court of Appeal within eight days of notification or acknowledgment thereof. The decision of the Court of Appeal in this regard shall be final.

4. The counter-party may claim compensation for damages he suffered, if it is proven that the petitioner was unlawful in his petition in taking provisional measures, or if the petitioner failed to file his lawsuit within the period determined in clause (2) of this paragraph.

C- The defendant may claim compensation for damages he suffered, if the Court decides that the plaintiff's claims are invalid.

D- The Court may seek, in all cases, the opinion of experts.

E- The Court may order the seizure of the variety the subject matter of infringement, tools, and materials mainly used in the infringement upon the protected variety.

The Court may also order destruction of such variety, tools and materials, or use of such outside the channels of commerce.

General Provisions

Article 30

A- The Council of Ministers shall issue the necessary Regulations for implementing the provisions of this Law, including determining the annual fees for the renewal of registration, and other fees that should be collected in accordance with the provisions of this Law.

B- Instructions referred to in this Law shall be published in the Official Gazette.

Article 31

The Prime Minister and the Ministers shall be responsible for implementing the provisions of this Law.

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