

LAW NO. (31) OF 2021
CONCERNING THE PROTECTION OF NEW PLANT VARIETIES

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain.

Having reviewed the Constitution,

And the Civil and Commercial Procedures Law promulgated by Decree-by-Law No. (12) of 1971, and its amendments,

And the Commercial Law promulgated by Decree-by-Law No. (7) of 1987, and its amendments,

And Decree-by-Law No. (7) of 1994 ratifying the document of the establishment of the World Trade Organization (WTO),

And Decree-by-Law No. (2) of 1995 on the protection of natural life, as amended by Decree-by-Law No. (12) of 2000,

And the Law of Evidence in Civil and Commercial Matters promulgated by Decree-by-Law No. (14) of 1996, and its amendments,

And Decree-by-law No. (18) of 1996 ratifying the Convention on Biological Diversity,

And Decree-by-law No. (21) of 1996 on the environment, as amended by Law No. (8) of 1997,

And Decree-by-law No. (31) of 1996 approving the Kingdom's accession to the Paris Convention for the Protection of Industrial Property,

And the Civil Law promulgated by Decree-by-law No. (19) of 2001, as amended by Law No. (27) of 2017,

And the Criminal Procedure Law promulgated by Decree-by-law No. (46) of 2002, and its amendments,

And Law No. (5) of 2003 approving the agricultural quarantine regulation (law) in the GCC states,

And Law No. (12) of 2005 approving the Kingdom's accession to the International Convention for the Protection of New Varieties of Plants,

And Law No. (23) of 2005 ratifying the Free Trade Agreement between the Government of the Kingdom of Bahrain and the Government of the United States of America.

And Law No. (29) of 2009 ratifying the Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS),

And Law No. (48) of 2009 ratifying The International Plant Protection Convention, as amended by the Food and Agriculture Organization Conference of the United Nations during its twenty-ninth session in November 1997

And Law No. (28) of 2010 ratifying Protocol I amending the Free Trade Agreement between the Government of the Kingdom of Bahrain and the Government of the United States of America,

And Law No. (2) of 2011 approving the accession to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity,

And Law No. (34) of 2012 approving the Seeds and Seedlings Law (Regulation) of the Gulf Cooperation Council States,

And Law No. (11) of 2016 ratifying Protocol II amending the Free Trade Agreement between the Government of the Kingdom of Bahrain and the Government of the United States of America,

And Decree No. (1) of 1995 on the State of Bahrain's accession to the Convention of the Creation of the World Intellectual Property Organization (WIPO),

The Shura Council and the Council of Representatives passed the following law, which we ratified and issued:

Chapter I
General Provisions
Article 1
Definitions

The following words and phrases below shall have the meanings ascribed to them in the application of the provisions of this Law, unless the context of the text requires otherwise:

Kingdom: Kingdom of Bahrain.

Ministry: The Ministry concerned with agricultural affairs.

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Competent Directorate: Agriculture Resources Directorate of the Ministry.

Register: The Register of plant varieties stipulated in article (25) of this Law.

Plant variety: Any plant (botanical) group that falls within one plant classification of one of the lowest known subdivisional levels, whether or not this group satisfies the conditions for plant breeder's right obtainment, and is characterized by traits resulting from a specific genetic structure or a specific group of genotypes, and it can be distinguished from any other plant group by at least one of these mentioned traits, and they are considered a single unit because of their ability to reproduce without any change in their traits.

Plant breeder: A person who has created, discovered or developed a new plant variety, or the employer of the said person who assigned him to undertake this work, or who was a successor to any of these persons.

Protected Variety: Every plant species shall be subject to the plant breeder's right, if the conditions and conditions stipulated in this law and its executive regulations are met.

Article (2) **Scope of Application of the Law**

Subject to paragraph (2) of Article (3) of the International Convention for the Protection of New Varieties of Plants, the provisions of this law shall be applied to the plant genera, species, and varieties of to be determined by a resolution of the Minister.

The provisions of this law shall also apply to all other plant genera, species, and varieties after the lapse of ten years from the date of its enforcement.

The genera, species, and plant varieties for which the patent has been granted are excluded from the application of the provisions of this law.

Article (3) **National Treatment**

Without prejudice to the provisions of the international conventions in force in the Kingdom, any natural or legal person who is a citizen of the Kingdom, or natural or legal persons who belong to, reside in or take up active status, as the case may be, in a country or entity that is a member of the World Trade Organization or of countries or organizations that are members of the International Union for the Protection of New Varieties of Plants, or that treat the Kingdom in the

same manner, shall be granted the protection prescribed for plant varieties in accordance with the provisions of this Law.

Chapter II
Conditions of Plant Variety Protection and its Duration
Article 4
Protection Conditions

The plant varieties shall be protected provided the fulfilment of following conditions:

- a. Novelty.
- b. Uniqueness.
- c. Homogeneity.
- d. Stability.
- e. Has an acceptable designation under articles (28) and (29) of this Law.

Article 5
Novelty

The plant variety shall be new if, at the date of submission of a request for the plant breeder's right obtainment, the propagation or harvesting materials of the variety have not been sold or transferred, or disposed of by the plant breeder or with his consent, for the purposes of exploiting the variety in the territory of the Kingdom for more than one year, or outside the territory of the Kingdom more than six years ago regarding trees and grapes, or more than four years for others. If the provisions of this Law are applied to plant genera, species and varieties that have not been previously applied to them, the plant varieties generated by these genera and species shall be deemed to meet the novelty conditions, even if the sale or transfer to others took place in the territory of the Kingdom four years before the of the request submission, or six years before that date regarding trees and grapes.

The provisions of the preceding paragraph shall apply only to protection requests submitted within a maximum of one year from the date of the entry into force of the provisions of this Law for the aforementioned genera and species.

**Article 6
Uniqueness**

The plant variety shall be deemed unique if it differs markedly from any other variety that is commonly known at the date of submission of a registration request.

The submission of a request for the plant breeder's right obtainment, or a request for the inclusion of a plant variety on a list of traded varieties in any country shall lead to deem the variety subject of the request commonly known from the date of the request, provided that it results in the right being obtained or the variety being placed on the said list, as the case may be.

**Article 7
Homogeneity**

The plant variety shall be deemed homogeneous if its basic traits are sufficiently homogeneous taking into account the variation that may be expected as a result of the particular features of its propagation.

**Article (8)
Stability**

The plant variety shall be deemed is stable if its characteristics have not changed following its successive propagation for a period specified by the executive regulation, or at the end of each special reproduction cycle.

**Article 9
Duration of Protection**

The duration of protection of the plant breeder's right shall be twenty-five years for trees and grapes, and twenty years for other agricultural crops. The period shall be calculated as of the date of the plant breeder's right obtainment certificate.

**Article 10
Temporary Protection**

Temporary protection shall be granted to the plant variety for which the request is made, starting from the date of request for the plant breeder's right obtainment and ending with the granting of that right.

The plant breeder shall be entitled to fair compensation from the person who commits any of the acts requiring the consent of the breeder in accordance with the provisions of this Law, during the period referred to in the first paragraph, provided that the following conditions are met:

- a. The plant breeder shall not have authorized the person to act so.
- b. The breeder shall have notified the other person of its request for the plant breeder's right obtainment.
- c. The Protection shall be actually granted of the plant variety.

Article 11
Plant Breeder's right

The person who obtains a plant breeder's right certificate shall be permitted to use and exploit the propagation material of the plant variety by all means, including production, reproduction, offering for sale, preparation for propagation or sale, or other acts of marketing, export, import or storage. The consent of plant breeders, which may be conditional, shall be obtained to perform any of the acts stipulated in the first paragraph of this Article in respect of products harvested or plucked, whether of whole plants or parts of plants obtained by the use of the protected variety reproduction material without the consent of the breeder, unless the plant breeders have a reasonable opportunity to exercise their right in respect of the said reproduction material.

Article 12
Plant Varieties Covered by The Right

The provisions of article (11) of this Law shall apply to the following plant varieties:

- a. Varieties that are derived primarily from the protected variety if such variety does not derive primarily from another variety.
- b. Varieties that cannot be clearly distinguished from the variety protected in accordance with the provisions of article (6) of this Law.
- c. Varieties whose production requires frequent use of the protected variety.

In the concept of clause (a) of the preceding paragraph, the variety shall be considered to be derived primarily from another variety if the following conditions are met:

- a. The variety shall be derivative primarily from the original variety or from a variety derived primarily from the original variety, retaining the essential characteristics resulting from the genetic composition or the genetic group of the original.
- b. It shall be clearly distinguishable from the original.
- c. It shall be identical to the original variety in terms of its essential traits resulting from the genetic composition or from the group of genetic compositions of the original variety, except for differences resulting from the derivation.

Varieties derived primarily from another species may be obtained by selecting mutagenic or catalytic traits, cloning of non-stem cells, selecting a single plant from the plants of the original variety, reverse hybridization, alteration using genetic engineering or otherwise.

Chapter III
Exceptions to Protection and Compulsory Licenses
Article 13
Exceptions to Protection

The performance of other to any of the following acts below shall not be considered an infringement on the plant breeder's right:

- a. Using the plant variety for the purpose of propagating it for non-commercial purposes.
- b. Activities related to experiments and scientific research.
- c. Breeding, crossbreeding, selection, and other activities aimed at developing new plant varieties.
- d. Activities relating to education and training purposes.
- e. Activities of commercial use, exploitation and consumption of crop material, raw and intermediate materials and finished products manufactured or extracted directly or indirectly from the crop material, whether the crop material is a whole plant or a part thereof.

Taking into account the legitimate interests of the breeder, in particular, it shall not be considered an infringement of its right for farmers to use, to a reasonable extent, the harvesting material obtained through the cultivation of the protected variety or of a variety derived in accordance with the last paragraph of article 12 of this Law in their cultivation of land.

Article 14
Exhaustion of Plant Breeder's right

The plant breeder who has sold or marketed the protected variety in any way by itself or with its consent in the Kingdom shall not prevent another person from any work related to the protected variety material or any material derived from that material unless such work includes:

- a. A new propagation of the variety.
- b. Export to a country that does not protect the plant genera, species or variety to which the variety belongs, the material of the variety that permits the breeding of the variety, unless the purpose of the export is consumption.

For the purposes of applying this article, the term (material) in the first paragraph in respect of the variety shall mean:

- a. Reproductive material of any kind.
- b. Harvesting material including whole plants or parts thereof.
- c. Any product obtained directly from the harvesting material.

Article 15
Compulsory Licenses

Compulsory licenses shall be granted by the competent directorate in accordance with the procedures established by the executive regulation for the use and exploitation of the protected variety without the consent of the breeder, in cases required by the public interest.

Plant breeders shall be entitled to fair compensation in exchange for granting others the right to use and exploit the variety for others during the period of compulsory licensing, in accordance with the rules and procedures established by the executive regulation of this Law.

Article 16
Economic Regulation

Plant breeders shall not be bound by the measures regulating the production, control, marketing, import and export of plant variety material, without prejudice to the provisions of this Law and its executive regulations.

Chapter 4
Plant Breeder's right Obtainment Request
Article 17
Request for the plant breeder's right Obtainment

The competent directorate shall receive requests for plant breeder's right obtainment. The date of receipt of the request by the competent directorate shall be considered as the date of submission, provided that it meets all the conditions prescribed by the provisions of this Law.

Article 18
Non-Refusal of Right Obtainment or Shortening the Duration

The competent directorate shall not refuse to grant the plant breeder's right or shorten its duration on the ground that the protection of the same variety has not been requested, refused or expired in any other country or intergovernmental organization.

Article 19
Priority Right

If a request for the plant breeder's right obtainment is made by a member of the International Union for the Protection of New Varieties of Plants or in any country which treats the Kingdom in the same manner, the person concerned or its rights holder may submit a request for the plant breeder's right obtainment for the same variety to the competent directorate in accordance with the conditions, terms and procedures set forth in this Law, within one year from the date of submission of the request abroad. In this case, the date of the first submission is considered to be the basis of the priority right.

Article 20
Priority Right Documents

If the request for the plant breeder's right obtainment contains a claim of priority, within three months from the date of submission of the request, the applicant must submit a facsimile of the documents relating to its first request certified by the directorate to which the request was submitted, as well as any samples or evidence proving that the variety subject of the two requests is the same. If the applicant does not establish the priority right in accordance with the foregoing, its request would be registered on the date of submission with the competent directorate.

**Article 21
Invocation of Facts**

The facts that occur during the duration stipulated in article (19) of this Law, such as the making of another request or the publication or use of the variety subject of the first request shall not be invoked as a basis for the rejection of the subsequent request, nor shall any other right be arranged on the basis of these facts.

**Article 22
Examination of plant breeder's right obtainment request**

The competent directorate shall examine the request for the plant breeder's right obtainment and its attachments to verify the conditions to be met therein, and it may request that the amendments it deems necessary to be made to the application and fulfil what it deems necessary for a decision, all in the manner specified by the executive regulations.

**Article 23
Resolving on the request for the plant breeder's right**

If the request meets the required conditions, the competent directorate shall issue a resolution to grant a plant breeder's right certificate, provided that the resolution to grant the request is published at the expense of the right holder.

In the event of rejection, the competent directorate shall notify the person whose request has been rejected of the resolution and the reasons therefor.

The executive regulation shall specify when and how to publish and notify, as the case may be.

**Article 24
Grievance**

Any person concerned may file a grievance against the resolution to grant a certificate of the plant breeder's right obtainment or against the resolution to refuse the request for protection of the plant variety, within sixty days from the date of the declaration of acceptance of the request or from the date of its receipt of the resolution of rejection, as the case may be.

The Executive Regulation shall specify the procedure for filing grievances and the procedure and time for resolving on them.

Article 25
Register

The competent directorate shall prepare a Register called "Plant Varieties Register" in which requests for plant breeder's right and all data related thereto, what has been done, what has been exploited, and the behaviours of such plants shall be Registered in accordance with the provisions of this Law, its executive regulations and the resolutions issued in implementation thereof.

Article 26
Register View

Any person concerned may request access to the Register and obtain extracts, images or data from it, in accordance with the rules and procedures specified in the executive regulations.

Chapter V
Variety Name
Article 27

The variety shall be identified by a name that shall be its name as frequently called.
The rights resulting from the registered name of the variety shall not prevent the free use of that name either during or after the expiration of the right of the plant breeder.

Article 28
Name usage

Without prejudice to the priority right granted to others regarding the name of any plant variety, anyone who offers, sells or markets a reproductive material for a protected variety shall be obliged to use the name of such variety until the expiration of the protection.

Article 29
Name requirements

The proposed name for a plant variety shall be specified in the request for the plant breeder's right obtainment, and no name shall be used for the variety in case:

- a. The name cannot identify the variety.
- b. It violates public order or morals.
- c. Only consists of numbers, unless this is a common method of classifying plants.

- d. It matches a name used for an existing variety of the same or closely associated species in the Kingdom or a member of the International Convention for the Protection of New Plant Varieties or a country that treats the Kingdom in the same manner.
- e. It leads to misinformation or confusion as to the characteristics, value, geographical origin of the variety or identity of the breeder.
- f. It is prohibited by priority right.
- g. If the variety is protected by a member of the International Convention for the Protection of New Plant Varieties or by a country that treats the Kingdom in the same manner or if the request for registration has been made in any of them, registration shall not be proposed for a name other than that proposed or registered, unless the competent directorate estimates that the use of the name registered or proposed is inappropriate in the Kingdom. In such a case, the applicant shall propose a different name for the variety.

Article (30)

Postponing Naming Process

The applicant for the plant breeder's right obtainment may postpone choosing a name.

The Executive Regulation shall set out the procedures for naming, publication and postponing.

Article 31

Combination of Name and Trademark

When marketing a plant variety or offering it for sale, it shall be permissible to combine a trademark, trade name or any similar statement with the registered name of the variety, provided that this name is easily identifiable

Article 32

Name Cancellation

The competent directorate may make a reasoned resolution to cancel the registered name of the variety in either of the following cases:

- a. If the name is registered in violation of article (29) of this Law.
- b. At the request of the persons concerned.

Plant breeders shall propose a new name, and the executive regulations shall specify the procedure for submitting a name cancellation request, the rules for issuing a resolution on the

cancellation and its declaration method, the procedure for proposing the new name and its declaration method.

Chapter VI
Invalidation and Revocation of The Plant Breeder's Right
Article 33
Invalidation of the Plant Breeder's Right

The competent directorate may, at any time on its own initiative or at the request of the persons concerned, make a reasoned resolution to invalidate the plant breeder's right if it determines that one or more of the following conditions exist:

- a. The variety was not new or unique at the date of the request for the plant breeder's right or at the date of priority, depending on the circumstances.
- b. The variety was not homogeneous or stable at the date of the request or, as the case may be, at the date of priority if the request for the plant breeder's right obtainment was made primarily on the basis of the information and documents submitted by the breeder on that date.
- c. The right to the variety was granted to non-breeders in contravention of the provisions of this Law.

The Executive Regulation shall specify the procedure for submitting requests from interested parties, the rules for issuing the resolution referred to in the preceding paragraph and how it shall be made public.

Article 34
Revocation of the right of plant breeder

The competent directorate may, at any time on its own initiative or at the request of the persons concerned, make a reasoned resolution revoking the plant breeder's right in any of the following cases:

- a. If the technical examination shows that the stability or homogeneity of the variety is no longer achieved.

- b. If the name of the variety is cancelled after the plant breeder's right has been granted and the right-holder does not propose another appropriate name within the prescribed time.
- c. The right holder waives its rights under a letter addressed to the competent directorate, without prejudice to the right of others. In this case, the rights expire from the date of the waiver specified in the letter in question, and if the date of the waiver is not specified, the rights shall expire from the date of receipt of the letter by the competent directorate.
- d. Any of the following actions by plant breeders, within the time period specified by the implementing regulation:
 - 1- The right holder did not pay the annual fee due within the prescribed period, despite being warned that payment must be made by a registered letter with acknowledgment receipt. In this case, the rights shall expire from the date the fee is due.
 - 2- The right holder did not provide the competent directorate with the information, documents or materials necessary to ensure that the variety is preserved.

The revocation shall take effect from the date of registration in the Register, and the executive regulations shall specify the procedures for submitting the request from the concerned persons, the rules for issuing the resolution and its declaration method.

Chapter VII
Precautionary Measures and Penalties
Article 35
Precautionary Measures

The right holder may issue an order on a petition from the President of the competent court to take one or more of the precautionary measures stipulated in the Civil and Commercial Procedure Law promulgated by Decree-by-law No. (12) of 1971, and to take one of the following measures when any of the rights set forth in this Law have been infringed or to avoid them being infringed:

- a. Carrying out a detailed description of the products in question, including those imported from them upon receipt and materials, machinery and tools used or have been used in the infringement, and preservation of relevant evidence.
- b. Suspension of infringement.

The petition shall be accompanied by sufficient evidence that the applicant is the right holder and that this right is being or about to be infringed. The President of the Court may instruct the applicant to provide the information necessary to assist the competent authority to carry out the precautionary procedure in identifying the products, materials, machinery and tools concerned.

Article 36
Carrying out of Precautionary Measures

The President of the Court shall issue the order referred to in Article (35) without summoning the other party. Before issuing the order, the President of the Court may conduct a brief investigation if the documents supporting the request are not sufficient.

Article 37
Expert Assignment

The order to take any of the measures provided for in Article (35) of this Law may include the assignment of one or more experts to assist in the implementation and may require the deposit of an appropriate bank or monetary guarantee to remedy any unjustified damage that may result from the procedure.

Article 38
Grieving Against the Order on A Petition

The person against whom the order was issued may file a complaint with the competent court within eight days of its issuance or of its notification, as the case may be, in which case the court may uphold the order or cancel it in whole or in part.

The judge who issued the order on a petition shall not be part of the composition of the court hearing the grievance.

Article 39
Filing a Lawsuit

The lawsuit regarding the origin of the dispute shall be filed within fifteen days from the date of issuing the order, otherwise all traces of the action taken shall be lost.

Article 40
Penalties

Without prejudice to any more severe penalty stipulated in any other law, any person who unduly violates any of the breeder's rights provided for in article (11) in violation of the provisions of this law shall be punished by a fine of not less than 500 dinars and not more than 2,000 dinars.

The penalty shall be imprisonment for a period of not less than three months and not more than one year, and a fine of not less than 1,000 dinars and not more than 4,000 dinars, or in the case of recidivism.

In the event of a conviction, the court may order the confiscation or destruction of the varieties, reproductive materials or any other material derived from the crime, machinery and tools used in it, all without prejudice to the real rights of bona fide third parties.

Chapter 8
Final Clauses
Article 41
Fees

Fees shall be imposed on submitting the request for plant breeder's right obtainment certificate, issuing this certificate, grievance against the resolution to grant this certificate, grievance against requests for annotation in the register to license the use of varieties and any other actions received, and the procedures taken in this regard, review of the Register or request extracts, copies or data from it, requests for postponement and cancellation of the variety name, requests to invalidate or revoke the plant breeder's right, addition of any statement to the Register that has been neglected to be Registered in it, or deletion or modification of any statement that does not conform to the truth or was wrongly entered.

Article 42
Annual Fee

An annual fee shall be payable during the period of granting the plant breeder's right obtainment. This fee shall be increased annually from the beginning of the second year of publication of the resolution to grant the plant breeder's right obtainment certificate to the end of the legally prescribed duration of protection.

An additional fee shall be payable in the event of a delay in the payment of the annual fee for more than six months.

Article 43
Determination of Fee Categories

The categories of fees stipulated in this law, the rules and rates of increase and reduction, and the cases of exemption therefrom shall be determined by a resolution of the Minister after the approval of the Cabinet.

Article 44
Judicial Inspection and Seizure

Ministry employees who are assigned by the Minister to carry out inspections to verify the implementation of the provisions of this Law and the resolutions issued to implement it shall have the authority to enter the relevant places.

Officials assigned by a resolution of the Minister of Justice, upon agreement with the Minister, shall be judicial officers for offenses within their jurisdiction that are related to the performance of their functions.

In all cases, the judicial officers referred to in this article shall not enter the places designated for accommodation without obtaining a permit from the Public Prosecutor's Office or the investigating judge, as the case may be.

Article 45
Issuing Executive Regulations and Resolutions

The Minister shall issue the executive regulations and resolutions necessary to implement the provisions of this Law.

Article 46
Enforcement

The Prime Minister and Ministers shall implement the provisions of this law, each within its capacity, and it shall enter into force from the day following its publication in the Official Gazette.

King of Bahrain

Hamad bin Isa Al Khalifa

Issued at Riffa Palace:

On: 1st Jumada I, 1443

Approver: 5th December 2021