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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**COUNCIL**

**Thirty-Seventh Ordinary Session**  
**Geneva, October 23, 2003**

EXAMINATION OF THE CONFORMITY OF THE  
LAW FOR THE PROTECTION OF NEW VARIETIES OF PLANTS  
OF THE HASHEMITE KINGDOM OF JORDAN  
WITH THE 1991 ACT OF THE UPOV CONVENTION

*Document prepared by the Office of the Union*

Introduction

1. By letter dated May 22, 2003, addressed to the Vice Secretary-General of UPOV, Mr. Trad Al-Fayez, Minister of Agriculture, the Hashemite Kingdom of Jordan (hereinafter referred to as "Jordan"), requested the examination of the Law No. 24 of the Year 2000 "Law for the Protection of New Varieties of Plants" (hereinafter referred to as "the Law"), which entered into force on August 2, 2000, for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as "the 1991 Act"). The letter is reproduced in Annex I to this document. Annex II [in English only] contains a translation of the Law in English provided by the Government of Jordan.

2. Jordan did not sign the 1991 Act. Under Article 34(2) of the 1991 Act, it therefore has to deposit an instrument of accession in order to become a Contracting Party on the basis of the 1991 Act. Under Article 34(3) of the 1991 Act, an instrument of accession can only be deposited if the State in question has requested the advice of the Council on the conformity of its laws with the provisions of the 1991 Act and if the decision of the Council embodying the advice is positive.

### Basis for the Protection of New Plant Varieties in Jordan

3. In Jordan, the protection of new plant varieties is governed by the Law and the Plant Variety Regulations No. (76) of 2002 (hereinafter referred to as “the Regulations”). An analysis of the Law follows in the order of the substantive provisions of the 1991 Act.

4. The Permanent Mission of Jordan to the United Nations Office and other international organizations at Geneva, in a Note dated October 13, 2003, has made the following declaration: “According to Jordanian Law (Article 24 of the Jordanian Civil Code) and practice, any international obligation incurred by Jordan through proper ratification or accession to an international instrument enjoys precedence over any provision(s) of domestic laws.” The provision in Article 24 of the Jordanian Civil Code, which provides that in case of conflict between the Treaty and the Law, the Treaty prevails (Civil Code Provision), will remedy any lacunae or minor departures from the substance of the 1991 Act identified in this document.

#### Article 1 of the 1991 Act: Definitions

5. Article 2 of the Law provides definitions which are in line with the definitions in Article 1 of the 1991 Act. In particular, the definition of “variety” conforms with the definition in Article 1(vi) of the 1991 Act. Also the definition of “breeder” conforms with the definition in Article 1(iv) of the 1991 Act, and it is complemented by Article 6(D) of the Law.

#### Article 2 of the 1991 Act: Basic Obligation of the Contracting Parties

6. The Law provides for the registration of new varieties of plants fulfilling the basic obligation of the Contracting Parties as required in Article 2 of the 1991 Act.

#### Article 3 of the 1991 Act: Genera and Species to be Protected

7. Article 3 of the Law provides that “this Law shall apply to varieties under the plant genera or species which shall be specified in the Regulations to be issued in accordance with the provisions of this Law.” Article 3 of the Regulations indicates that the list of genera and species to which the Law applies appears in Annex I of the Regulations. Annex I contains a list of 20 genera or species in conformity with the requirement of Article 3(2)(i) of the 1991 Act.

#### Article 4 of the 1991 Act: National Treatment

8. Article 7 of the Law indicates that non-national persons and non-national residents of Jordan can apply for protection. In those cases, “the breeder shall appoint a legal representative” in Jordan (Article 7(C) of the Law). The Law complies with the requirements of national treatment “insofar as the grant and protection of breeders’ rights are concerned” as provided in Article 4 of the 1991 Act.

Articles 5 to 9 of the 1991 Act: Conditions of Protection; Novelty; Distinctness; Uniformity; Stability

9. Article 5 of the Law contains the conditions required for protection in line with Article 5 of the 1991 Act. More precisely, Article 5(A) of the Law complies with the requirement of novelty as provided in Article 6(1) of the 1991 Act. Article 5(B) of the Law conforms with the requirement of distinctness as provided in Article 7 of the 1991 Act. Article 5(C) of the Law conforms with the condition of uniformity as provided in Article 8 of the 1991 Act. Article 5(D) of the Law is in line with the condition of stability as provided in Article 9 of the 1991 Act.

Article 10 of the 1991 Act: Filing of Applications

10. Articles 7 and 8 of the Law provide for the content and procedures for the filing of applications. The Law contains no provisions which conflict with those of Article 10 of the 1991 Act.

Article 11 of the 1991 Act: Right of Priority

11. Article 9 of the Law contains the provisions concerning priority in line with Article 11 of the 1991 Act. Article 9(2)(C) of the Law indicates that when first application has been 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 requested for the tests. The aforementioned period of six months conforms with the requirement under Article 11(3) of the 1991 Act that the breeder shall be allowed an appropriate time for the aforementioned submissions after the first application has been rejected or withdrawn.

Article 12 of the 1991 Act: Examination of the Application

12. Articles 10 and 11 of the Law contain provisions relating to the examination of candidate varieties which conform with Article 12 of the 1991 Act.

Article 13 of the 1991 Act: Provisional Protection

13. Article 13 of the Law provides for provisional protection in line with Article 13 of the 1991 Act. Under the Law of Jordan, the temporary protection covers the period between the publication of the application and the date of the registration of the variety.

Article 14 of the 1991 Act: Scope of the Breeder's Right

14. Article 15 of the Law contains the provisions concerning the scope of the breeder's right which comply with Article 14(1) of the 1991 Act concerning the acts in respect of the propagating material, Article 14(2) of the 1991 Act concerning the acts in respect of the harvested material and the provision in Article 14(5) of the 1991 Act concerning essentially derived and certain other varieties.

Article 15 of the 1991 Act: Exceptions to the Breeder's Right

15. Article 16 of the Law contains the exceptions to the breeder's right as provided in Article 15 of the 1991 Act. In particular, Article 16(A) of the Law contains the compulsory exceptions. It is recommended that the implementing regulations concerning the compulsory exception under Article 16(A) "for the purpose of breeding new varieties" be complimented with the following: ", and except where the provisions of Article 15(C) apply, acts referred to in Article 15(A) in respect of such new varieties."

16. Article 16(B) of the Law contains the exception of Article 15(2) of the 1991 Act. It is recommended to add at the end of Article 16(B) "as provided in the implementing regulations." The 1991 Act requires that the exception under Article 15(2) be implemented "within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder." The implementing regulations should give effect to these requirements. In the meantime, this omission can be remedied by the Civil Code Provision (see paragraph 4 to this document).

Article 16 of the 1991 Act: Exhaustion of the Breeder's Right

17. Provisions for the exhaustion of the breeder's right, as provided in Article 16 of the 1991 Act, are contained in Article 17 of the Law.

Article 17 of the 1991 Act: Restrictions on the Exercise of the Breeder's Right

18. Article 21 of the Law contains provisions concerning the grounds for compulsory licenses by the Minister of Agriculture for reasons of public interest. It is further specified in Article 21(A) of the Law that "the breeder shall have an adequate remuneration taking into consideration the economic value of the license." These provisions are in line with the requirement in Article 17(1) of the 1991 Act concerning public interest and also in line with the requirement of equitable remuneration in Article 17(2) of the 1991 Act.

Article 18 of the 1991 Act: Measures Regulating Commerce

19. The Law does not seem to contain provisions which conflict with Article 18 of the 1991 Act.

Article 19 of the 1991 Act: Duration of the Breeder's Right

20. Article 18 of the Law provides for the period of protection: "The protection period 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 protection period shall be for twenty-five years."

21. Article 19 of the 1991 Act requires that the period should be counted from the date of the grant of the breeder's right. In this regard, as the Law establishes that the period of protection begins from the date of filing, Article 18 of the Law does not provide for the minimum period of protection required by the 1991 Act. Article 18 will need to be amended

by changing “date of filing of an application for registration” with “date of the registration” in line with Article 19 of the 1991 Act. In the meantime, this departure from the 1991 Act can be remedied by the Civil Code Provision (see paragraph 4 to this document).

#### Article 20 of the 1991 Act: Variety Denomination

22. Article 26 of the Law provides for the essential provisions of Article 20 of the 1991 Act concerning variety denominations. It is recommended to clarify in the implementing regulations concerning this Article that the Registrar should inform other members of the Union of matters concerning variety denominations, in particular, the submission, registration and cancellation of the denomination. Any authority of a UPOV member may address its observations, if any, on the registration of a denomination to the Registrar. It is further suggested that information on the procedure concerning variety denominations, in particular, guidance on the examination of proposed denominations, be included in the implementing regulations or recommendations relating to variety denominations.

#### Article 21 of the 1991 Act: Nullity of the Breeder’s Right

23. Article 22 of the Law contains provisions concerning nullity which conform with the provisions of Article 21 of the 1991 Act.

#### Article 22 of the 1991 Act: Cancellation of the Breeder’s Right

24. Article 23 of the Law contains provisions concerning the cancellation of the breeder’s right in conformity with Article 22 of the 1991 Act.

#### Article 30 of the 1991 Act: Implementation of the Convention

25. Article 30(1)(i) of the 1991 Act requires that Contracting Parties “should provide for appropriate legal remedies for the effective enforcement of breeders’ rights.” Article 29 of the Law includes provisional measures and penalties concerning protected varieties. The Law thus conforms with Article 30(1)(i) of the 1991 Act.

26. Article 30(1)(ii) of the 1991 Act requires that “Contracting Parties should maintain an authority entrusted with the task of granting breeders’ rights ...” Article 2 of the Law provides that this function will be fulfilled by the Registrar, nominated by the Minister of Agriculture. The Law thus conforms with Article 30(1)(ii) of the 1991 Act.

27. Article 30(1)(iii) of the 1991 Act requires that “Contracting Parties should publish information concerning applications and grants of breeders’ rights and proposed and approved denominations.” Article 28 of the Law provides for the requirement of publication of proposed and registered denominations and Article 12 of the Law contains provisions concerning the publication of the application that has fulfilled the conditions and requirements provided in the Law and also the publication of the preliminary approval of the registration. Article 12(C) of the Law provides that “the period for publication, information to be published, procedures for an opposition of preliminary approval and of accepting the registration, conditions for extending the periods for opposition, notifications, and other

matters shall be specified in a Regulation issued in accordance with the provisions of this Law.” It is recommended that the implementation of Article 12(C) of the Law clarifies that the publication of information concerning registration of protected varieties after the opposition period is included. Article 24 of the Law also provides that the decisions of nullification and cancellation of varieties shall be published in the Official Gazette. This provision satisfies the requirements of Article 30(1)(iii) of the 1991 Act.

### General Conclusion

28. The Office of the Union therefore suggests that the Council may wish

(a) to advise the Government of Jordan that the Law in its main provisions incorporates the substance of the 1991 Act, and that it may deposit an instrument of accession to the 1991 Act;

(b) to further advise the Government of Jordan that it may wish to supplement the texts of its legislation, as provided in paragraphs 16 and 21 of this document, so as to avoid recourse to the Civil Code Provision (see paragraph 4 of this document).

*29. The Council is invited to take note of the information given above and to adopt the decision set out in the preceding paragraph.*

[Annex I follows]

THE HASHEMITE KINGDOM  
OF JORDAN  
Ministry of Agriculture



ملكة الأردنية الهاشمية

وزارة الزراعة

Ref. No. 9/42/28/1/ 6453  
Date 22/5/2003

رقم  
تاريخ  
لوافق

**Mr. Rolf Jordens**  
**Vice Secretary-General**  
**International Union for the Protection of New**  
**Varieties of Plants (UPOV)**  
**34, chemin des Colombettes**  
**CH-1211**  
**Geneva 20**  
**Switzerland**

**RE: Interest in Membership to UPOV (Union for the Protection of New Varieties of Plants).**

*Dear Vice Secretary-General,*

*The Hashemite Kingdom of Jordan is currently revising a wide range of its legislation as a result of its accession to the World Trade Organization (WTO) in 2000.*

*As a part of this commitment, the Hashemite Kingdom of Jordan has passed The Plant Variety Protection Law. Regulations to enact this Law were recently approved, and a Registrar for new Plant Variety Protection (PVP) Office was appointed.*

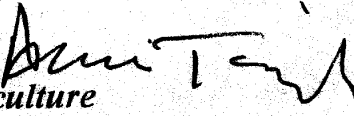
*The Hashemite Kingdom of Jordan is interested in becoming a member in the International Convention for The Protection of New Varieties of Plants - Act of 1991.*

*I attach for your consideration a copy of the Hashemite Kingdom of Jordan Plant Variety Protection Law No. (24) for the year 2000 both in Arabic and English (English copy is not an official translation). Attached also a copy of Plant Variety Registration Regulation No. (76) for the year 2002 in Arabic.*

*This letter expresses our interest in joining the Union, and to begin the formal interactions and processes that are required for the accession.*

*I await your reply.*

*Best regards,*

*Trad Al-Fayez*   
*Minister of Agriculture*  
*Hashemite Kingdom of Jordan*

Secretary General  
Prof. Awni Taimah

*S E/Gh M/6*



**Law No. (24) of the Year 2000**  
**The Law for the Protection**  
**of New Varieties of Plants**

Article 1

This Law shall be known as (The Law for the Protection of New Varieties of Plants of 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 terms 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 the plants in the Plant Kingdom shall be from the grouping, to the rank, to the family, to the genus, to the species, 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 to varieties under the plant genera or species which shall be specified in the Regulation to be 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 of their breeders, addresses, certificates of registration, and any changes thereto resulting from procedures and legal acts including the following:
- 1- Any assignment, transfer of ownership, or license to use it granted by the owner to others, subject to the provisions of confidentiality in the license agreement.
  - 2- The hypothecation or detention placed upon the protected variety or any restriction on the use of the variety.
- B- The Register and the documents related to the rights granted for the breeder shall be available to the public. The growing tests and any other necessary tests provided for in this Law should also be available to 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. 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- If it is new, in the sense that, at the date of filing the application or the date of the priority stated in paragraph (A) of Article (9) of this Law, as the case may be, the propagating or multiplication or harvested material of the variety has not been sold or otherwise disposed of 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 the filing of the application. In particular, the filing of an application for registering another variety, or

for the entering 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 the granting of a breeder's right.

- 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, if its relevant characteristics remain unchanged after repeated propagation, or in the 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 all the persons participating in its breeding, if it was 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 was independently made by more than one person.
- D- To the employer, if the breeding was a result of an employment contract, which requires the employee to carry out such breeding, unless otherwise stipulated by the 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 only one variety, and the required fees shall be collected.
- C- If the application was filed by a non-national person in the Kingdom or a non-resident, the breeder shall appoint a legal representative in the Kingdom.

#### Article 8

- A- The date of receiving the application by the Registrar 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 to be registered .

- 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 may consider, by a decision taken for this purpose, the applicant as abandoning the application, and his decision maybe appealed to the Higher Court of Justice within sixty days of its notification.

#### Article 9

- A-1. The applicant for a variety registration may claim application priority, for an application submitted by him and filed on a prior date in a country with which the Kingdom is a party in a treaty to protect the 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 require 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 was filed. The Registrar may also request the applicant to submit any samples or evidence to prove that the variety which is the subject matter of both applications is the same. The date of filing of the application for registration in this case shall be the same date by 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 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. However, if the first application was 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 test.

#### 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 made 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 conditions consistent with the environmental conditions in the Kingdom; or,
  2. The Ministry itself may carry out the tests and exams stated in clause (1) of this paragraph, 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 specify 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 require 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 specified in the Regulation issued according 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 Higher Court of Justice within sixty days of its notification.
- B- The exam provided for in Article (10) of this Law is for the purpose of approving of the registration. The exam may also be carried out after the registration for the purpose 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 required fees. The announcement shall include the plant variety and its denomination.
- B- Any person shall be entitled to oppose 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, procedures for opposition of preliminary approval of accepting the registration, conditions for extending the periods for opposition, notifications, and other matters shall be specified in a 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 within this period, and take the procedures to prove any infringement thereof.

### Article 14

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

### Protection of the Variety

### Article 15

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

- A- The breeder shall have the right after the registration of the variety to protect it, by preventing others not having his consent from doing the following, in respect of the propagating material of the protected variety for commercial use:
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 of the plants, 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 to 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,
  - and 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 breeder's right 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 include the following:

- A- Acts done privately and for non-commercial purposes, for experimental purposes, or for the purpose of breeding new varieties.
- B- Preventing 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 covered by 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 territory of the Kingdom by himself or with his consent, unless such acts:
  1. Involve further propagation of the variety in question, or
  2. Involve the export 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 harvested material, including entire plants or parts of plants.

#### Article 18

The protection period 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 protection period shall be for twenty-five years.

#### Transfer of Ownership, Hypothecation and Detention of the Variety

#### Article 19

- A- The breeder’s rights may be transferred, completely or partially, with or without compensation, and may be subject to hypothecation or detention.
- B- The right on the protected variety may pass, by succession, to the successors.
- C- The procedures of the transfer of ownership of the protected variety, its hypothecation, detention and all other legal acts related thereto, shall be specified in Instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.
- D- The transfer of ownership of a variety and its hypothecation shall not be effective against third parties 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 a license to exploit the protected variety, by virtue of a written contract to be registered with the Registrar.

#### Article 21

- A- The Minister may, upon a recommendation from the Registrar, grant the others, without the breeder’s consent, a license for the exploitation of the variety if the public interest necessitates it. 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 license stipulated 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. This 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 was not new, or distinct, at the date of filing of the application, or the date of priority, as the case may be.
- B- If it is proved that the variety was not uniform or stable at the date of filing of the application or the date of priority, as the case may be, if the grant of the breeder's right has been essentially based upon information and documents furnished by the breeder on the said date.
- C- If the registration was 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 the technical test stipulated in Article (10) of this law reveals that the stability and uniformity of the variety is not available anymore.
  - 2. If the breeder does not provide the Registrar with the information, documents or materials deemed necessary for verifying the maintenance of the characteristics of the variety.
  - 3. If the breeder fails to pay the annual required 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 clauses (2), (3), and (4) of paragraph (A) of this Article, the Registrar shall notify the breeder of the cancellation decision, provided that the cancellation takes place only after the period specified 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 its cancellation, and such, decision shall be published in the Official Gazette.

### Article 25

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

The Variety Denomination

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, whether it has a meaning or not. 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 was 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 relating 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 third parties 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, it shall be permitted to associate a trademark, tradename or other similar indication with a registered variety denomination, if such denomination is 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 concerning the characteristics, value, identity, or geographical origin of the variety, or the identity of the breeder.

## Article 28

The proposed denomination of the variety shall be specified in the application. The registration of denominations, its publication and periods related to such, shall be specified 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 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 to take any of the following measures:
- 1- Stop the infringement.
  - 2- Place a provisional detention on the infringed variety wherever found.
  - 3- Preserve the evidence related 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. And the Court may approve his petition if he proves any of the following:
- That his rights had been infringed upon,
  - That such infringement is imminent and there is a possibility to cause damages of irreparable harm,
  - That there is a demonstrable risk of evidence being disappeared or 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 regarding the provisional measures to the Court of Appeal within eight days of his notification or acknowledgment. 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 was proved that the petitioner was unlawful in his petition regarding provisional measures, or if the petitioner failed to file his lawsuit within the period specified in clause (2) of this paragraph.
- C- The defendant may claim compensation for the damages he suffered if the end-result of the lawsuit proved that the plaintiff's claims are invalid.

- D- The Court may request expert opinions in all cases.
- E- The Court may order the confiscation of the infringed variety, and the tools and materials mainly used in the infringement upon the protected variety. The Court may also order destruction of the variety, and materials and tools, or their use for non-commercial purposes.

#### General Provisions

##### Article 30

- A- The Council of Ministers shall issue the necessary Regulations for implementing the provisions of this Law, including specifying the annual fees for renewal of registration, and all other fees that should be collected in accordance with the provisions of this Law.
- B- The 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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End of Annex II and of document/  
Ende der Anlage II und des Dokuments/  
Fin del Anexo II y del documento]