

Council

C/58/17

**Fifty-Eighth Ordinary Session
Geneva, October 25, 2024****Original:** English
Date: September 21, 2024**DEVELOPMENTS ON THE DRAFT LAW ON PLANT VARIETY PROTECTION OF THE UNITED ARAB EMIRATES***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. The purpose of this document is to invite the Council to consider the changes to the “Draft Law on Plant Variety Protection” of the United Arab Emirates and to reaffirm its positive decision of July 28, 2020, concerning conformity with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

BACKGROUND

2. The Government of the United Arab Emirates initiated the procedure to become a member of UPOV by letter dated April 28, 2020, addressed to the Secretary-General of UPOV, in which His Excellency Sultan Abdulla AlHebsi, Assistant Under Secretary, Regions Sector, Ministry of Climate Change and Environment, requested the examination of the Draft Law on Plant Variety Protection of the United Arab Emirates (hereinafter referred to as the “Draft Law”) for conformity with the 1991 Act of the UPOV Convention. The Council, by correspondence with UPOV Circular E-20/101 of July 28, 2020, examined the Draft Law and decided to:

“(a) note the analysis of document C/Analysis/2020/2;

(b) take a positive decision on the conformity of the “Draft Law on Plant Variety Protection of the United Arab Emirates” with the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows the United Arab Emirates once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of the United Arab Emirates of the above decision.”

CHANGES INTRODUCED ON THE DRAFT LAW ON PLANT VARIETY PROTECTION OF THE UNITED ARAB EMIRATES IN RELATION TO THE TEXT PRESENTED TO THE COUNCIL IN 2020

3. In a letter of March 18, 2024, received by the Office of the Union on July 25, 2024, addressed to the Secretary-General of UPOV (see Annex I), the Undersecretary of Climate Change & Environment, Mr. Mohammed Saeed Sultan Al Nuaimi, informed the Secretary-General of UPOV that certain changes had been introduced in the Draft Law and requested the reaffirmation of the Council’s positive advice on the conformity of the Draft Law.

4. The changes introduced in the text of the Draft Law, in relation to the text of the Draft Law submitted to the Council in 2020, are presented in revision mode in Annex II to this document (in English only).

5. The Draft Law on Plant Variety Protection of the United Arab Emirates, as last modified in 2024, is presented in Annex III to this document (in English only).

CONCLUSION

6. On the above basis, in the opinion of the Office of the Union the changes introduced in the Draft Law do not affect the substantive provisions of the 1991 Act of the UPOV Convention.

7. *The Council is invited to:*

(a) note that certain provisions of the Draft Law on Plant Variety Protection of the United Arab Emirates, as last modified in 2024, contained changes in relation to the text of the corresponding provisions of the Draft Law submitted to the Council in 2020 (Council decision by correspondence, initiated by UPOV Circular E-20/101 of July 28, 2020);

(b) agree that the changes introduced in the Draft Law on Plant Variety Protection of the United Arab Emirates, as last modified in 2024 (Draft Law of 2024), presented in Annex II to this document, do not affect the substantive provisions of the 1991 Act of the UPOV Convention and, subject to that agreement,

(c) reaffirm the decision on conformity of July 28, 2020, and request the Office of the Union to inform the Government of the United Arab Emirates that, once the Draft Law of 2024 is adopted with no changes, the instrument of accession of the United Arab Emirates may be deposited.

[Annexes follow]

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ANNEX I



Ref. No.: MOCCA/E/EA/665/2024

Date: 18/03/2024

Mr. Daren Tang
Secretary-General
International Union for the Protection of New Varieties of Plants (UPOV)
34, chemin des Colombettes
CH-1211 Geneva 20
UPOV.mail@upov.int

SUBJECT: Draft Law on Plant Variety Protection

Dear Secretary-General Tang,

By letter dated April 28, 2020, the United Arab Emirates requested the examination by the UPOV Council of the Draft Law on Plant Variety Protection ("Draft Law") for conformity with the 1991 Act of the UPOV Convention ("1991 Act").

By UPOV Circular E-20/101 of July 28, 2020, the Council decided, by correspondence, to take a positive decision on the conformity of the "Draft Law on Plant Variety Protection of the United Arab Emirates" with the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

We are pleased to inform you that the Ministry of Climate Change and Environment of the United Arab Emirates is in the process of completing the approval procedures of the Draft Law on New Plant Variety Protection, in which certain changes introduced in the Draft Law.

Furthermore, we would like to request the Office of the Union to prepare a document with the changes to the text of the Draft Law considered by the UPOV Council in 2020, in order to invite the UPOV Council to reaffirm its decision of conformity of 2020, by correspondence.

Kindly find the attachment of The Draft Law on Plant Variety Protection for reference.

Regard



Mohammed Saeed Sultan Al Nuaimi
Undersecretary of Climate Change & Environment
United Arab Emirates

Enclosure: [Official translation of the Law into one of the UPOV languages (English, French, Spanish, German)]

[Annex II follows]

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ANNEX II

(IN ENGLISH ONLY)

CHANGES INTRODUCED ON THE DRAFT LAW ON PLANT VARIETY PROTECTION OF THE
UNITED ARAB EMIRATES IN RELATION TO THE TEXT PRESENTED TO THE COUNCIL IN 2020

The changes introduced in the text of the draft Law, as a result of the parliamentary procedure, in relation to the text of the Draft Law submitted to the Council in 2020 are presented in revision mode in this Annex.

~~Strikethrough~~ indicates deletion from the text presented to the Council in 2020.

Underlining indicates insertion to the text presented to the Council in 2020.

Federal Bill No. of 2023
on the protection of new plant varieties

We, Mohamed bin Zayed Al Nahyan, President of the State of the United Arab Emirates,

- > Having reviewed the Constitution,
- > Federal Act No. 1, of 1972, on the functions of the ministries and powers of ministers, as amended,
- > and Federal Act No. 17, of 2009, on the protection of new plant varieties,
- > and pursuant to the submission by the Minister of Climate Change and the Environment, approval by Cabinet and the Federal National Council, and ratification by the Supreme Council of the Federation,

have issued the following Act:

Article 1

Definitions

For the purposes of applying this Act and in the application of its provisions of this Law, the following words and expressions shall have the meaning assigned to each of them thereto, unless the context otherwise requires:

The State: United Arab Emirates.

Ministry: Ministry of Climatic Change and Environment (MOCCAE).

Minister: Minister of Climatic Change and Environment.

Variety means: Any plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, and distinguished from any other plant grouping by the expression of at least one of the said characteristics and considered as a unit with regard to its suitability for being propagated unchanged.

Breeder means: 1. the person who bred, or discovered and developed, a variety, the person who is the employer of the aforementioned person or the person who has directly commissioned the latter's work, or 2. the legal successor in title of the first or second aforementioned person referred to in paragraphs 1 or 2, as the case may be.

Plant breeder's right certificate: A document issued as evidence of a grant of a breeder's right.

Breeder's right means: The right of the breeder provided for in this Law.

Register: Register for the protection of new plant varieties of plants and breeders' rights.

Registrar: Registrar of the competent organizational unit in the Ministry, designated by a decision of the Minister, for registering new plant varieties of plants and the breeders' rights who is appointed by the Minister.

Protected variety: A variety that has been granted a breeder's right in accordance with the provisions of this Law.

Applicant: The person who applies for a grant of a breeder's right.

Holder of the breeder's right holder: The breeder to whom the registrar grants a breeder's right.

Breeder's right certificate holder: Any person awarded the certificate of a breeder's right.

Propagating material: Any plant material or parts, cells, tissues, organs or a genetic material of plants, that can be used for the propagation of plants or for reproduction by seedling, cultivation or grafting, or budding.

UPOV: The International Union for the Protection of New Varieties of Plants founded by the International Convention for the Protection of New Varieties of Plants of 1961 and further mentioned in the Act of 1972, the Act of 1978 and in the 1991 Act.

Member of UPOV: A State party to the UPOV Convention of 1961 / Act of 1972 or the Act of 1978 or a Contracting Party to the 1991 Act.

Regulations: the Regulations and Ministerial decisions issued under this Law to implement the provisions of the Act.

Article 2

Objective of the law and its scope

(1) The objective of the Law is to regulate the grant and protect breeders' protection of breeders' rights.

~~(2) This Law shall be applied on the date of its coming into force.~~

~~Article 3.~~

~~Scope of application~~

~~The provisions of the Act shall apply to all plant genera and species in the territory of the United Arab Emirates.~~

~~Article 34.~~

~~Register of Protected New Plants Plant Varieties Protection~~

~~A register is designated in the Ministry under the name " , called the Register of the Protected New Plant Varieties Protection" concerning , shall be established in the Ministry . New plant varieties and breeders' rights shall be registered therein in accordance with the provisions of this Law and the Regulations.~~

~~Article 4~~

~~The Registrar, and its tasks~~

~~The Minister shall appoint a Registrar for supervising the register, and undertaking the competences stipulated in this Law, particularly the following:~~

~~1. → The Registrar shall carry out any other tasks Act. Data contained in accordance with the provisions of this Law and its Register and registration procedures shall be governed by law the implementing Regulations of the Act.~~

~~2. → Coordinating~~

~~Article 5.~~

~~Functions of the Registrar~~

~~The Registrar shall supervise the Registry and carry out the following functions:~~

~~1. → Coordination with the international local, regional and local international bodies involved in that are relevant to the registrar's work of Registrar.~~

~~3~~

~~2. → Any other tasks/functions provided for in the Act or its implementing Regulations.~~

~~1~~

~~3. → Any other functions assigned by the Minister in connection to with the objectives of this Law the Act.~~

~~1~~

~~Article 56.~~

~~Conditions of protection~~

~~(1) The breeder's breeder's right shall be granted where the variety is:~~

~~1.~~

~~(a) → new,~~

~~2. (b) → distinct,~~

~~3. (c) → uniform and~~

~~4. (d) → stable.~~

~~(1)~~

~~2) → The grant of the breeder's breeder's right shall not be subject to any further or different conditions than the provisions of the Act, provided that the variety is designated by a denomination in accordance with the provisions of Article 48, 19 and that the applicant complies with the formalities provided for in this Law the Act and that he pays the required prescribed fees.~~

~~1~~

~~Article 67.~~

~~Novelty~~

~~(1) → The variety shall be deemed to be new if, at the date of filing of the application for a breeder's breeder's right, propagating 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.~~

~~(i) → in the territory of the United Arab Emirates earlier than one year before the date of filing of the application and~~

~~(ii) → in a territory other than that of the United Arab Emirates, earlier than four years or, in the case of trees or of vines, earlier than six years before the said date.~~

~~(1)~~

~~2) Where according → The Act shall apply to Article 2(2), this Law applies to any plant genus or species to which it did not previously apply. Varieties belonging to such plant genus or species shall be considered deemed to satisfy the condition of novelty defined in paragraph (1) of this Article, even where the sale or disposal of to others described in that paragraph therein took place in the territory of United Arab~~

Emirates within four years before the filing date or, in the case of trees or of vines, within six years before the said date.¶

¶

3) ~~→~~ The ~~provision under provisions of~~ paragraph (2) of this Article shall ~~only apply~~ ~~only to~~ applications for a ~~breeder's breeder's~~ right ~~protection~~ filed within one year, at ~~most of the latest, after the provisions of the Law apply~~ ~~Act coming into force with regard~~ to the genera or species concerned.¶

¶

Article 78.¶ Distinctness¶

1. ~~→~~ The variety shall be deemed to be distinct if it is clearly distinguishable from any other variety ~~whose existence that~~ is a matter of common knowledge at the time of filing ~~of~~ the application. ~~In particular,¶~~

¶

2. ~~→~~ The filing of an application for the granting of a ~~breeder's breeder's~~ right or for the entering of another variety in an official register of ~~plant~~ varieties, in any country, shall be deemed ~~to render as rendering~~ that other variety a matter of common knowledge from the date of the application, provided that the application leads to the granting of a ~~breeder's breeder's~~ right or to the entering of the said other variety in the official register of ~~plant~~ varieties, as the case may be.¶

¶

Article 89.¶ Uniformity¶

The variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.¶

¶

Article 910.¶ Stability¶

The variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or ~~in at the case end of~~ ~~each~~ particular cycle of propagation, ~~at the end of each such cycle.~~

¶

Article 4011.¶

The person entitled to the ~~breeder's breeder's~~ right¶

The person entitled to the ~~breeder's breeder's~~ right is ~~the breeder in accordance with any person to whom~~ the definition ~~contained~~ in Article 1 of the ~~Law Act applies.~~

¶

Article 4412.¶ Filing of ~~the~~ application¶

~~Applications for the grant of a breeder's right shall be subject to the following requirements:¶~~

(1) ~~→~~ The filing date of the application for a ~~breeder's breeder's~~ right shall be the date of receipt of the application, duly filed ~~as prescribed by their accordance with the implementing~~ Regulations ~~of the Act~~ ¶

¶

2) ~~MOCCAE →~~ The Ministry shall not refuse to grant a ~~breeder's breeder's~~ right or limit its duration ~~on the ground that because~~ protection for the same variety has not been applied for, has been refused or has expired in any other State or intergovernmental organization.¶

¶

Article 4213.¶ Right of priority¶

(1) ~~→~~ Any breeder who has duly filed an application for the protection of a variety in ~~a Member one of the members~~ of UPOV (the "first application") shall, for the purpose of filing an application for the grant of a ~~breeder's breeder's~~ right for the same variety ~~within~~ the ~~Registrar United Arab Emirates~~, enjoy a right of priority for a period of 12 months. ~~This period shall be computed from the date of filing of the first application. The day of filing shall not be included in the latter period.~~

¶

2) ~~→~~ Events occurring within the period provided for in paragraph (1) ~~of this Article~~, such as the filing of another application or the publication or use of the variety that is the subject of the first application, shall not constitute a ground for rejecting the subsequent application. ~~Nor shall~~ such events ~~shall also not~~ give rise to any third-party right.¶

¶

3) ~~→~~ In order to benefit from the right of priority, the breeder shall, in the application filed with the Registrar, claim the priority of the first application. ~~The Registrar shall require the breeder to furnish, within a period of not~~

less than three months from the filing date of the application, a copy of the documents ~~which that~~ constitute the first application, certified to be a true copy by the authority with which that first application was filed, and samples or other evidence that the variety which is the subject matter of both applications is the same.¶

¶

4) → The breeder shall be allowed a period of two years after the expiration of the period of priority or, where the first application is rejected or withdrawn, an appropriate period of time, after such rejection or withdrawal, in which to furnish ~~to~~ the Registrar ~~with~~ any necessary information, document or material required for the purpose of the examination under Article ~~1920~~ of ~~this Law~~ the Act.¶

¶

Article ~~1314~~¶ **Transfer of applications and rights¶**

1. → Applications for and grants of ~~breeders'~~ breeders' rights may be transferred to others. Such transfers shall be notified to the Registrar. →¶

¶

2. → Changes of applicants or holders of the ~~breeders'~~ breeders' rights shall be published in accordance with the implementing Regulations under this Law of ~~the Act~~ the Act.¶

¶

¶

Article ~~1415~~¶ **Scope of the ~~Breeder's~~ breeder's right¶**

(1) (a) → Subject to the provisions of Articles ~~4516~~ and ~~4617~~ of ~~this Law~~ the Act, the following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder:¶

(i) → ¶

(a) → Production or reproduction (multiplication)¶

(b) → (ii) → Conditioning for the purpose of propagation¶

(c) → (iii) → Offering for sale¶

(d) → (iv) → Selling or other marketing¶

(e) → (v) → Exporting¶

(f) → (vi) → Importing¶

(g) → (vii) → Stocking for any of the purposes mentioned in (a) to (f) above ~~(i-vi)~~.¶

(b) → ¶

2. → The breeder may make the authorization mentioned provided for in ~~the~~ paragraph 1 above, subject to conditions and limitations and conditions.¶

(2) → ¶

3. → Subject to the provisions of Articles ~~4516~~ and ~~4617~~ of ~~the Act~~ the Act, the authorization of the breeder of the protected variety shall be required for the acts referred to in items (i) to (vii) of subparagraph (1)(a) paragraph 1 (a) to (g) of this Article, shall require authorization by the breeder in the following cases:¶

(a) → in respect of:¶

¶

(a) → harvested material, including entire plants and parts of plants, obtained through the unauthorized use of propagating material of the protected variety, unless the breeder has had reasonable opportunity to exercise her or his right in relation to the said propagating material.¶

(b) → (b) → in respect of products made directly from harvested material of the protected variety falling within the provisions of subparagraph (a) of this paragraph (2a) of this item through the unauthorized use of the said harvested material, unless the breeder has had a reasonable opportunity to exercise her or his right in relation to the said harvested material.¶

(3) (a) → ¶

4. → The provisions of paragraphs (1) and (2) of this Article shall also apply in relation to¶

(i) → ¶

(a) → varieties ~~which that~~ are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety,¶

(b) → (ii) → varieties ~~which that~~ are not clearly distinguishable, in accordance with Article ~~78~~, from the protected variety and¶

(c) → (iii) → varieties ~~whose the~~ production of which requires the repeated use of the protected variety.¶

(b) → ¶

5. → For the purposes of subparagraph paragraph 4(a)(i), above, a variety shall be deemed to be essentially derived from another variety ~~(("the initial variety"))~~ when¶

(i) → ¶

- (a) → 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, ¶
- (b) → ~~(ii)~~ → it is clearly distinguishable from the initial variety and ¶
- (c) → ~~(iii)~~ → except for the differences ~~which that~~ 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. ¶

~~(c)~~ → ¶

Essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a ~~somaclonal~~ variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering. ¶

¶

Article 4516. ¶

Exceptions to the Breeder's breeder's right ¶

- 1) The ~~breeder's breeder's~~ right shall not extend to ¶

~~(i)~~ → ¶

- (a) → acts done privately and for non-commercial purposes, ¶

(b) → ~~(ii)~~ → acts done for experimental purposes and, ¶

(c) → ~~(iii)~~ → acts done for the purpose of breeding ~~new other~~ varieties, and, except where the provisions of paragraphs 4 and 5 of Article 14(3) 15 apply, acts referred to in paragraphs 1 to 3 of Article 14(1) and (2) 15, in respect of such other varieties. ¶

¶

2) in respect of such other varieties. ¶

- ~~(2)~~ → Small farmers shall not infringe the ~~breeder's breeder's~~ right, in relation to varieties included in a list of agricultural plants, if they use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety or a variety covered by Article 14(3) paragraph 4(a)(i) or (ib) of this Law, Article 15 of the Act, provided that ~~this such~~ use is within reasonable limits and ~~subject to the safeguarding of takes into account~~ the legitimate interests of the breeder. ¶

¶

- ~~3) The → The provisions of paragraph 2, above, shall not apply to fruit, ornamental, vegetable or forest plant varieties of fruit, ornamentals, vegetables and forest plants are excluded from, ¶~~

¶

4 → The procedures for implementing the exception under provisions of paragraph (2) of this Article. ¶

- ~~(4) The conditions for the implementation of the provisions under paragraph (2) of this Article, in respect of the with regard to the list of agricultural plants and the information to be provided by the farmer to the breeder, shall be stipulated in the regulations implementing Regulations of the Act. ¶~~

¶

Article 4617. ¶

Exhaustion of the Breeder's breeder's right ¶

- ~~(1) → The breeder's breeder's~~ right shall not extend to acts concerning any material of the protected variety, or of a variety covered by the provisions of Article 14(3) 15, paragraphs 4 and 5, which has been sold or otherwise marketed by the breeder or with ~~her or his consent authorization~~ in the territory of the United Arab Emirates, or any material derived from the said material, unless such acts ¶

~~(a)~~ → ¶

(a) → involve further propagation of the variety in question or ¶

(b) → ~~(b)~~ → involve an export of material of the variety, which enables the propagation of the variety, into a country ~~which that~~ does not ~~by law~~ protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption purposes. ¶

¶

- ~~2) → For the purposes of paragraph (1), "of this Article," material" means, in relation to a variety, ¶~~

~~(a)~~ → ¶

(a) → propagating material of any kind, ¶

(b) → ~~(b)~~ → harvested material, including entire plants and parts of plants, and ¶

(c) → ~~(c)~~ → any product made directly from the harvested material. ¶

¶

Article 4718. ¶

Term of protection ¶

The breeder's breeder's right shall be granted for a period of 20² years, ~~and 25 years for vines and trees~~, from the date of the grant of the breeder's breeder's right. ~~For trees and vines, the said period shall be 25 years from the said date.~~¶

¶

Article 4819.¶ **Variety denomination¶**

(1) ~~→~~ The variety shall be designated by a denomination which that will be its generic designation. Subject to paragraph²(4), ~~of this Article~~, no rights ~~relating to~~ the designation registered ~~as the~~ denomination of the variety shall hamper the free use of the denomination in connection with the variety, even after the expiration of the breeder's breeder's right.¶

¶

2) ~~→~~ The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which that designates, in the territory of any member of UPOV, an existing variety of the same plant species or of a closely related species.¶

¶

3) ~~→~~ The denomination of the variety shall be submitted by the breeder to the Registrar. If it is found that the denomination does not satisfy the requirements of paragraph (2), ~~of this Article~~, the Registrar shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The denomination shall be registered by the Registrar at the same time as the breeder's breeder's right is granted.¶

¶

4) ~~→~~ Prior rights ~~of granted to~~ third persons shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with ~~the provisions of~~ paragraph (7) of this Article, is obliged to use it, the Registrar shall, ~~in accordance with paragraph 7~~, require the breeder to submit another denomination for the variety.¶

¶

5) ~~→~~ A variety must be submitted to all members of UPOV under the same denomination. The Registrar shall register the denomination so submitted, unless it considers the denomination unsuitable. In the latter case, it shall require the breeder to submit another denomination.¶

¶

6) ~~→~~ The Registrar ~~ensures shall ensure~~ that the authorities of the members of UPOV are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any member ~~of UPOV~~ may address its observations, if any, on the registration of ~~a denomination and denominations~~ to the Registrar.¶

¶

7) ~~→~~ Any person who offers for sale or markets ~~plant~~ propagating material of a variety protected within the territory of the United Arab Emirates is obliged to use the denomination of that variety, even after the expiration of the breeder's breeder's right in that variety, except where, in accordance with ~~the provisions of~~ paragraph²(4), ~~of this Article~~, prior rights prevent such use.¶

¶

8) ~~→~~ When a variety is offered for sale or marketed, it is permitted to associate a trademark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.¶

¶

Article 4920.¶ **Examination of the application¶**

1. ~~→~~ Any decision ~~by the Registrar~~ to grant a breeder's breeder's right shall require ~~an a priori~~ examination for compliance with the conditions ~~underset forth in~~ Articles²5-6 to 9-10 of the Act.¶

¶

2. ~~→~~ In the course of the examination, the Registrar may grow the variety or carry out other necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out. ~~For the purposes of examination,~~ The Registrar may ~~also~~ require the breeder to furnish all the necessary information, documents or material as specified in the ~~regulations implementing~~ Regulations of the Act.¶

¶

Article 2021.¶

Publication¶

The public shall be informed ~~concerning about~~¶

~~¶~~

1. → applications for and grants of ~~breeders'~~ breeders' rights, and ¶

~~2.~~ → proposed and approved denominations.¶

¶

Article 2422. ¶

Provisional protection¶

(1) ~~Provisional protection is shall be~~ provided to safeguard the interests of the breeder during the period between the publication of the application for the grant of a ~~breeder's~~ breeder's right and the grant of that right.¶

¶

2) ~~→~~ The applicant ~~is considered to shall~~ be deemed the holder of a ~~breeder's~~ breeder's right in relation to any person who, during the period provided for in paragraph (1) ~~of this Article~~, has carried out acts ~~which that~~, once the right is granted, require the ~~breeder's~~ breeder's authorization ~~as provided in under~~ Article 44 ~~15 of the Act~~.¶

¶

3 ~~→~~ The applicant shall have the same rights to enter into ~~license~~ licensing agreements and to initiate legal proceedings as if ~~on the publication date the breeder's~~ the breeder's right had been granted ~~to on the applicant date of publication~~ in respect of the variety concerned. ~~→~~ The rights conferred under this paragraph shall be deemed never to have been conferred if the right is not granted.¶

¶

Article 2223. ¶

• Renunciation¶

~~The breeder's of the breeder's right is considered as~~¶

~~The breeder's right shall be deemed~~ terminated in case of ~~its~~ renunciation ~~of that right~~ by ~~it~~ the holder of the breeder's right before the expiration of the term of protection. ~~→ Renunciation must be notified in writing by~~ The holder of the ~~breeder's~~ breeder's right ~~to shall~~ notify the Registrar ~~as thereof in writing in accordance with the procedures and time limits~~ prescribed by the Regulations. ~~→ The date of the notification~~ Renunciation shall be considered ~~as take effect on~~ the date of ~~renunciation of the breeder's right~~ notification.¶

¶

Article 2324. ¶

Nullity of the ~~Breeder's~~ breeder's right¶

(1) ~~→~~ The ~~breeder's~~ breeder's right shall be declared null and void ~~when where~~ it is established.¶

(i) ~~→~~ ¶

(a) → that the conditions laid down in Articles ~~6 7 or 78 of the Act~~ were not complied with at the time of the grant of the ~~breeder's~~ breeder's right, ¶

(b) → (ii) ~~→~~ that, where the grant of the ~~breeder's~~ breeder's right has been essentially based upon information and documents furnished by the breeder, the conditions laid down in Articles ~~8 9 or 910~~ were not complied with at the time of the grant of the ~~breeder's~~ breeder's right, or ¶

(c) → (iii) ~~→~~ that the ~~breeder's~~ breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled. ¶

¶

2) ~~→~~ No ~~breeder's~~ breeder's right shall be declared null and void for reasons other than those ~~referred to set forth~~ in paragraph (1).¶

¶

~~of this Article~~ 24.¶

¶

Article 25. ¶

Cancellation of the ~~Breeder's~~ breeder's right¶

(1) (a) ~~→~~ The ~~breeder's~~ breeder's right shall be cancelled ~~if~~¶

¶

~~where~~ it is established that the conditions laid ~~down done~~ in Articles ~~8 9 or 9~~ are no longer fulfilled.¶

(a) → (b) ~~→~~ Furthermore, 10 of the breeder's right shall be cancelled if, after being requested to do so and Act have not been complied with, or ¶

(a) (b) ~~→~~ in the event of failure by the breeder, within the prescribed period, ¶

(i) ~~→~~ the breeder does not ¶

(i) → to provide the Registrar with the information, documents or material deemed necessary for verifying the maintenance of the variety.¶

- (ii) → ~~(ii) → the breeder fails to pay such the requisite fees as may be payable to keep his right in force, or~~
- (iii) → ~~(iii) → the breeder does not to~~ propose, where the denomination of the variety is cancelled after the grant of the right, another suitable denomination.

¶

2) → No ~~breeder's~~ breeder's right shall be cancelled for reasons other than those referred to set forth in paragraph (1).

¶

of this Article 25.

¶

Article 26. ¶

Compulsory Licenses from the Minister ¶

1. → The free exercise of a ~~breeder's~~ breeder's right shall not be restricted in the territory of the United Arab Emirates other than for reasons other than of public interest.

When any such restriction has the effect of ¶

2. → The Minister, ~~may, for reasons of the public interest and~~ upon ~~the~~ recommendation of the Ministry of Defense or the Ministry of ~~the~~ Interior, ~~granting grant~~ a compulsory license ~~whereby authorizing~~ a third party ~~is authorized to perform carry out~~ any act ~~for which that requires~~ the ~~breeder's~~ breeder's authorization ~~is required, without prejudice to the right of~~ the breeder ~~shall to~~ receive ~~equitable remuneration fair compensation.~~

¶

Article 26 27. ¶

Penalties ¶

(1) → The penalties provided for in this ~~Law do not Act shall be without~~ prejudice to any ~~severe more severe~~ penalty ~~stipulated provided for~~ in any other ~~law Act.~~

¶

2) The following legal remedies shall be available for the enforcement → Prison sentences of breeders' rights. ¶

(a) → ~~Whoever violates the provisions of Articles 14 and 21 of this Law shall be punished by imprisonment for no not less than two months and a fine, or fines of no not less than ten thousand 10,000 dirhams and no more than two hundred fifty thousand 250,000 dirhams, or both, shall apply to any person.~~

(b) → The penalty. ¶

(a) → who, without the breeder's authorization, has engaged in acts of production or reproduction, conditioning for the purpose of propagation, offering for sale, selling or other marketing, exporting or importing, or stocking for the purpose of production or reproduction (multiplication), or importing propagating material of a protected variety. ¶

¶

(b) → who, without the breeder's authorization, has engaged in any of the activities referred to in subparagraph (a) of this paragraph in respect of following materials and varieties: ¶

¶

(i) → harvested material. ¶

(ii) → products made directly from harvested material of the protected variety. ¶

(iii) → varieties that are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety. ¶

(iv) → varieties that are not clearly distinguishable from the protected variety under Article 8 of the Act, and ¶

(v) → varieties the production of which requires the repeated use of the protected variety. ¶

¶

(c) → who, without the breeder's authorization, has engaged in the further propagation of the variety in question or the export of material of the variety, thereby enabling its propagation, to a country without legislation protecting varieties of the genus or species to which the variety belongs, except where the exported material is for final consumption purposes. ¶

¶

3. → Penalties shall be doubled in case of recidivism. ¶

(c) ¶

4. → The court may order the seizure of the infringing material and ~~order~~ its destruction at the ~~infringer's~~ expense of the infringer or its disposal. ~~It.~~ The court may also, if the infringement is committed on behalf ~~or for the~~ interest of a legal person, or a commercial or professional establishment, order its closing down for a period

not exceeding ~~six months, and the publication of the~~ 180 days. A summary of the judgment conviction shall be published in one or more daily newspapers at the infringer's expense of the infringer. ¶
(d) → Anyone who violates any other provision of this Law shall be punished by a fine of no less than ten thousand dirhams and no more than two hundred fifty thousand dirhams. ¶

¶
▪ **Article 27** ¶
The ¶

Article 28 ¶

Administrative violations and sanctions ¶

The administrative violations arising from infringements of the provisions of the Act and its implementing decisions, and the corresponding sanctions, shall be set forth in a Cabinet decision based on a proposal by the Minister and the opinion of the Minister of Finance. The decision shall provide for a complaints mechanism and sets forth the competent authority for implementing such administrative sanctions and collecting the corresponding fines. ¶

¶

Article 29 ¶

Death of the breeder without an heir or legatee ¶

The Ministry shall exercise the breeder's right of the breeder on to the protected variety if he shall revert to the Ministry where the former dies without an heir or legatee. ¶

¶

Article 2830 ¶

Measures regulating commerce ¶

The breeder's breeder's right is independent of any measure to regulate the production, certification and marketing of material of plant varieties or the importing or exporting of such material. ¶

In any case, such measures shall not affect the application of the provisions of this Law. ¶

¶

Article 2931 ¶

▪ **Judicial Appeal Period** ¶

Judicial appeal is allowed to be filed against the **Appealing** administrative decisions issued pursuant to this Law and in accordance with applicable procedures ¶

Judicial appeals may be filed against administrative decisions issued under the provisions of the Act during the period of ~~sixty~~ 60 days from the date of their publication in the Official Gazette or from the date of the notification of the decision to the interested party, as the case may be. ¶

¶

Article 3032 ¶

▪ **Supervision** ¶

The Judicial officers ¶

Officials shall be designated by decision of the Minister of Justice shall issue a decision or the head of the competent local judicial body, in agreement with the Minister, to select staff that will have the status or the head of the competent authority, as the case may be, as judicial officers in the application to investigate infringements of the provisions of this Law the Act and its implementing Regulations. ¶

Implementation ¶

Supervision over the implementation of this Law, shall be performed by the Ministry. ¶

¶

▪ **Article 3133** ¶

Annual fees ¶

The holder of the breeder's breeder's right shall pay the prescribed annual fees during in the first ~~thirty~~ 30 days of each year of the term of protection. ¶

¶

Article 3234 ¶

Schedule of Fees ¶

The Cabinet shall issue a resolution specifying the prescribed fees in accordance with due for implementing the provisions of this Law the Act shall be determined by a decision of Cabinet. ¶

¶

▪ **Article 3335** ¶

Implementation of the Act ¶

The Minister shall, in coordination with the competent authorities, issue the necessary Regulations of this Law, and the decisions necessary for its for implementation of the Act. ¶

¶

Article 3436 ¶

Repeal

1. → Federal Act No. 17 of 2009 on the protection of new plant varieties shall be repealed. Its implementing decisions and regulations shall remain in force until decisions and regulations are issued under the new Act.

¶

2. → Any provision in other Laws contrary to or provisions of the law inconsistent with the provisions of this Law Act shall be ~~invalid~~ repealed.

¶

Article 3537

This Law Publication and entry into force of the Act

The Act shall be published in the Official Gazette, and shall come into force as of the day following the date of its publication.

¶

¶

¶

**Mohamed bin Zayed Al Nahyan,
President of the State of the United
Arab Emirates**

¶

¶

¶

DONE at the Presidential Palace in Abu Dhabi on:

→ / → → /2023

¶

¶

[Annex III follows]

[Translation]
[Original: Arabic]

**Federal Bill No. of 2024
on the protection of new plant varieties**

We, Mohamed bin Zayed Al Nahyan, President of the State of the United Arab Emirates,

- Having reviewed the Constitution,
- Federal Act No. 1, of 1972, on the functions of the ministries and powers of ministers, as amended,
- and Federal Act No. 17, of 2009, on the protection of new plant varieties,
- and pursuant to the submission by the Minister of Climate Change and the Environment, approval by Cabinet and the Federal National Council, and ratification by the Supreme Council of the Federation,
-

have issued the following Act:

**Article 1.
Definitions**

For the purposes of this Act and in the application of its provisions, the following words and expressions shall have the meaning assigned thereto, unless the context otherwise requires:

The State: United Arab Emirates.

Ministry: Ministry of Climatic Change and Environment.

Minister: Minister of Climatic Change and Environment.

Variety: Any plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, and distinguished from any other plant grouping by the expression of at least one of the said characteristics and considered as a unit with regard to its suitability for being propagated unchanged.

Breeder: 1. the person who bred, or discovered and developed, a variety;

2. the employer of the aforementioned person or the person who directly commissioned the latter's work;

3. the successor in title to the person referred to in paragraphs 1 or 2, as the case may be.

Breeder's right certificate : A document issued as evidence of a grant of a breeder's right.

Breeder's right: The right of the breeder provided for in this Act;

Register: Register for the protection of new plant varieties and breeders' rights.

Registrar: The competent organizational unit in the Ministry, designated by a decision of the Minister, for registering new plant varieties and breeders' rights.

Protected variety: A variety that has been granted the protection afforded by a breeder's right in accordance with the provisions of this Act.

Applicant: The person who applies for the grant of a breeder's right.

Breeder's right holder: The breeder to whom the registrar grants a breeder's right.

Breeder's right certificate holder: Any person awarded the certificate of a breeder's right.

Propagating material: Any plant material or parts, cells, tissues, organs or genetic material of plants that can be used for the propagation of plants or for reproduction by seedling, cultivation or grafting, or budding.

UPOV: The International Union for the Protection of New Varieties of Plants founded by the International Convention for the Protection of New Varieties of Plants of 1961 and further mentioned in the Act of 1972, the Act of 1978 and in the 1991 Act;

Member of UPOV: A State party to the UPOV Convention of 1961 / Act of 1972 or the Act of 1978 or a Contracting Party to the 1991 Act.

Regulations: Ministerial decisions issued to implement the provisions of the Act.

**Article 2.
Objective of the Act**

The objective of the Act is to regulate the grant and protection of breeders' rights.

**Article 3.
Scope of application**

The provisions of the Act shall apply to all plant genera and species in the territory of the United Arab Emirates.

Article 4.
Register of Protected New Plant Varieties

A register, called the Register of Protected New Plant Varieties, shall be established in the Ministry. New plant varieties and breeders' rights shall be registered therein in accordance with the provisions of the Act. Data contained in the Register and registration procedures shall be governed by the implementing Regulations of the Act.

Article 5.
Functions of the Registrar

The Registrar shall supervise the Registry and carry out the following functions:

1. Coordination with local, regional and international bodies that are relevant to the work of Registrar.
2. Any other functions provided for in the Act or its implementing Regulations.
3. Any other functions assigned by the Minister in connection with the objectives of the Act.

Article 6.
Conditions of protection

1. The breeder's right shall be granted where the variety is
 - (a) new,
 - (b) distinct,
 - (c) uniform and
 - (d) stable.
2. The grant of the breeder's right shall not be subject to any further or different conditions than the provisions of the Act, provided that the variety is designated by a denomination in accordance with the provisions of Article 19 and that the applicant complies with the formalities provided for in the Act and pays the prescribed fees.

Article 7.
Novelty

1. The variety shall be deemed to be new if, at the date of filing of the application for a breeder's right, propagating 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 in the territory of the United Arab Emirates earlier than one year before the date of filing of the application and, in a territory other than that of the United Arab Emirates, earlier than four years or, in the case of trees or of vines, earlier than six years before the said date.
2. The Act shall apply to any plant genus or species to which it did not previously apply. Varieties belonging to such plant genus or species shall be deemed to satisfy the condition of novelty defined in paragraph 1 of this Article, even where the sale or disposal of to others described therein took place in the territory of United Arab Emirates within four years before the filing date or, in the case of trees or of vines, within six years before the said date.
3. The provisions of paragraph 2 of this Article shall apply only to applications for breeder's right protection filed within one year, at most, of the Act coming into force with regard to the genera or species concerned.

Article 8.
Distinctness

1. The variety shall be deemed to be distinct if it is clearly distinguishable from any other variety that is a matter of common knowledge at the time of filing of the application.
2. The filing of an application for the granting of a breeder's right or for the entering of another variety in an official register of plant varieties in any country shall be deemed as rendering that other variety a matter of common knowledge from the date of the application, provided that the application leads to the granting of a breeder's right or to the entering of the said other variety in the official register of plant varieties, as the case may be.

**Article 9.
Uniformity**

The variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

**Article 10.
Stability**

The variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or at the end of each particular cycle of propagation.

**Article 11.
The person entitled to the breeder's right**

The person entitled to the breeder's right is any person to whom the definition contained in Article 1 of the Act applies.

**Article 12.
Filing of the application**

1. The filing date of the application for a breeder's right shall be the date of receipt of the application, duly filed in accordance with the implementing Regulations of the Act.
2. The Ministry shall not refuse to grant a breeder's right or limit its duration because protection for the same variety has not been applied for, has been refused or has expired in any other State or intergovernmental organization.

**Article 13.
Right of priority**

1. Any breeder who has duly filed an application for the protection of a variety in one of the members of UPOV (the "first application") shall, for the purpose of filing an application for the grant of a breeder's right for the same variety in the United Arab Emirates, enjoy a right of priority for a period of 12 months. This period shall be computed from the date of filing of the first application. The day of filing shall not be included in the latter period.
2. Events occurring within the period provided for in paragraph 1 of this Article, such as the filing of another application or the publication or use of the variety that is the subject of the first application, shall not constitute a ground for rejecting the subsequent application. Nor shall such events give rise to any third-party right.
3. In order to benefit from the right of priority, the breeder shall, in the application filed with the Registrar, claim the priority of the first application. The Registrar shall require the breeder to furnish, within a period of not less than three months from the filing date of the application, a copy of the documents that constitute the first application, certified to be a true copy by the authority with which that first application was filed, and samples or other evidence that the variety which is the subject matter of both applications is the same.
4. The breeder shall be allowed a period of two years after the expiration of the period of priority or, where the first application is rejected or withdrawn, an appropriate period of time after such rejection or withdrawal, in which to furnish the Registrar with any necessary information, document or material required for the purpose of the examination under Article 20 of the Act.

**Article 14.
Transfer of applications and rights**

1. Applications for and grants of breeders' rights may be transferred to others. Such transfers shall be notified to the Registrar.
2. Changes of applicants or holders of the breeders' rights shall be published in accordance with the implementing Regulations of the Act.

Article 15.
Scope of the breeder's right

1. Subject to the provisions of Articles 16 and 17 of the Act, the following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder:
 - (a) Production or reproduction (multiplication)
 - (b) Conditioning for the purpose of propagation
 - (c) Offering for sale
 - (d) Selling or other marketing
 - (e) Exporting
 - (f) Importing
 - (g) Stocking for any of the purposes mentioned in (a) to (f), above.
2. The breeder may make the authorization provided for in paragraph 1, above, subject to limitations and conditions.
3. Subject to the provisions of Articles 16 and 17 of the Act, the authorization of the breeder of the protected variety shall be required for the acts referred to in paragraph 1(a) to (g) of this Article in respect of:
 - (a) harvested material, including entire plants and parts of plants, obtained through the unauthorized use of propagating material of the protected variety, unless the breeder has had reasonable opportunity to exercise her or his right in relation to the said propagating material;
 - (b) products made directly from harvested material of the protected variety falling within the provisions of subparagraph (a) of this paragraph through the unauthorized use of the said harvested material, unless the breeder has had a reasonable opportunity to exercise her or his right in relation to the said harvested material.
4. The provisions of paragraphs 1 and 2 of this Article shall apply to
 - (a) varieties that are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety,
 - (b) varieties that are not clearly distinguishable, in accordance with Article 8, from the protected variety and
 - (c) varieties the production of which requires the repeated use of the protected variety.
5. For the purposes of paragraph 4(a), above, a variety shall be deemed to be essentially derived from another variety ("the initial variety") when
 - (a) 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,
 - (b) it is clearly distinguishable from the initial variety and
 - (c) except for the differences that 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.

Essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing or transformation by genetic engineering.

Article 16.
Exceptions to the breeder's right

1. The breeder's right shall not extend to
 - (a) acts done privately and for non-commercial purposes,
 - (b) acts done for experimental purposes,
 - (c) acts done for the purpose of breeding other varieties, and, except where the provisions of paragraphs 4 and 5 of Article 15 apply, acts referred to in paragraphs 1 to 3 of Article 15, in respect of such other varieties.

2. Small farmers shall not infringe the breeder's right, in relation to varieties included in a list of agricultural plants, if they use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety or a variety covered by paragraph 4(a) or (b) of Article 15 of the Act. provided that such use is within reasonable limits and takes into account the legitimate interests of the breeder.
3. The provisions of paragraph 2, above, shall not apply to fruit, ornamental, vegetable or forest plant varieties.
4. The procedures for implementing the provisions of paragraph 2 of this Article with regard to the list of agricultural plants and information to be provided by the farmer to the breeder shall be stipulated in the implementing Regulations of the Act.

Article 17.

Exhaustion of the breeder's right

1. The breeder's right shall not extend to acts concerning any material of the protected variety, or of a variety covered by the provisions of Article 15, paragraphs 4 and 5, which has been sold or otherwise marketed by the breeder or with her or his authorization in the territory of the United Arab Emirates, or any material derived from the said material, unless such acts
 - (a) involve further propagation of the variety in question or
 - (b) involve an export of material of the variety, which enables the propagation of the variety, into a country that does not by law protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption purposes.
2. For the purposes of paragraph 1 of this Article, "material" means, in relation to a variety,
 - (a) propagating material of any kind,
 - (b) harvested material, including entire plants and parts of plants, and
 - (c) any product made directly from the harvested material.

Article 18.

Term of protection

The breeder's right shall be granted for a period of 20 years, and 25 years for vines and trees, from the date of the grant of the breeder's right.

Article 19.

Variety denomination

1. The variety shall be designated by a denomination that will be its generic designation. Subject to paragraph 4 of this Article, no rights relating to the registered denomination of the variety shall hamper the use of the denomination in connection with the variety, even after the expiration of the breeder's right.
2. The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination that designates, in the territory of any member of UPOV, an existing variety of the same plant species or of a closely related species.
3. The denomination of the variety shall be submitted by the breeder to the Registrar. If it is found that the denomination does not satisfy the requirements of paragraph 2 of this Article, the Registrar shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The denomination shall be registered by the Registrar at the same time as the breeder's right is granted.
4. Prior rights granted to third persons shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph 7 of this Article, is obliged to use it, the Registrar shall, in accordance with paragraph 7, require the breeder to submit another denomination for the variety.
5. A variety must be submitted to all members of UPOV under the same denomination. The Registrar shall register the denomination so submitted, unless it considers the denomination unsuitable. In the latter case, it shall require the breeder to submit another denomination.

6. The Registrar shall ensure that the authorities of the members of UPOV are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any member may address its observations, if any, on the registration of denominations to the Registrar.
7. Any person who offers for sale or markets plant propagating material of a variety protected within the territory of the United Arab Emirates is obliged to use the denomination of that variety, even after the expiration of the breeder's right in that variety, except where, in accordance with paragraph 4 of this Article, prior rights prevent such use.
8. When a variety is offered for sale or marketed, it is permitted to associate a trademark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.

Article 20.

Examination of the application

1. Any decision by the Registrar to grant a breeder's right shall require a prior examination for compliance with the conditions set forth in Articles 6 to 10 of the Act.
2. In the course of the examination, the Registrar may grow the variety or carry out other necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out. The Registrar may also require the breeder to furnish all the necessary information, documents or material as specified in the implementing Regulations of the Act.

Article 21.

Publication

The public shall be informed about

1. applications for and grants of breeders' rights, and
2. proposed and approved denominations.

Article 22.

Provisional protection

1. Provisional protection shall be provided to safeguard the interests of the breeder during the period between the publication of the application for the grant of a breeder's right and the grant of that right.
2. The applicant shall be deemed the holder of a breeder's right in relation to any person who, during the period provided for in paragraph 1 of this Article, has carried out acts that, once the right is granted, require the breeder's authorization under Article 15 of the Act.
3. The applicant shall have the same rights to enter into licensing agreements and to initiate legal proceedings as if the breeder's right had been granted on the date of publication in respect of the variety concerned. The rights conferred under this paragraph shall be deemed never to have been conferred if the right is not granted.

Article 23.

Renunciation of the breeder's right

The breeder's right shall be deemed terminated in case of its renunciation by the holder of the breeder's right before the expiration of the term of protection. The holder of the breeder's right shall notify the Registrar thereof in writing in accordance with the procedures and time limits prescribed by the Regulations. Renunciation shall take effect on the date of notification.

Article 24.

Nullity of the breeder's right

1. The breeder's right shall be declared null and void where it is established
 - (a) that the conditions laid down in Articles 7 or 8 of the Act were not complied with at the time of the grant of the breeder's right,
 - (b) that, where the grant of the breeder's right has been essentially based upon information and documents furnished by the breeder, the conditions laid down in Articles 9 or 10 were not complied with at the time of the grant of the breeder's right, or

- (c) that the breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled.
2. No breeder's right shall be declared null and void for reasons other than those set forth in paragraph 1 of this Article.

Article 25.
Cancellation of the breeder's right

1. The breeder's right shall be cancelled
- (a) where it is established that the conditions laid down in Articles 9 or 10 of the Act have not been complied with, or
 - (b) in the event of failure by the breeder, within the prescribed period,
 - (i) to provide the Registrar with the information, documents or material deemed necessary for verifying the maintenance of the variety,
 - (ii) to pay the requisite fees, or
 - (iii) to propose, where the denomination of the variety is cancelled after the grant of the right, another suitable denomination.
2. No breeder's right shall be cancelled for reasons other than those set forth in paragraph 1 of this Article.

Article 26.
Compulsory licenses from the Minister

1. The free exercise of a breeder's right shall not be restricted in the territory of the United Arab Emirates other than for reasons of public interest.
2. The Minister may, for reasons of the public interest and upon the recommendation of the Ministry of Defense or the Ministry of the Interior, grant a compulsory license authorizing a third party to carry out any act that requires the breeder's authorization, without prejudice to the right of the breeder to receive fair compensation.

Article 27.
Penalties

1. The penalties provided for in this Act shall be without prejudice to any more severe penalty provided for in any other Act.
2. Prison sentences of not less than two months, or fines of not less than 10,000 dirhams and no more than 250,000 dirhams, or both, shall apply to any person
- (a) who, without the breeder's authorization, has engaged in acts of production or reproduction, conditioning for the purpose of propagation, offering for sale, selling or other marketing, exporting or importing, or stocking for the purpose of production or reproduction (multiplication), or importing propagating material of a protected variety,
 - (b) who, without the breeder's authorization, has engaged in any of the activities referred to in subparagraph (a) of this paragraph in respect of following materials and varieties:
 - (i) harvested material;
 - (ii) products made directly from harvested material of the protected variety;
 - (iii) varieties that are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety;
 - (iv) varieties that are not clearly distinguishable from the protected variety under Article 8 of the Act; and
 - (v) varieties the production of which requires the repeated use of the protected variety,
 - (c) who, without the breeder's authorization, has engaged in the further propagation of the variety in question or the export of material of the variety, thereby enabling its propagation, to a country without legislation protecting varieties of the genus or species to which the variety belongs, except where the exported material is for final consumption purposes.
3. Penalties shall be doubled in case of recidivism.

4. The court may order the seizure of the infringing material and its destruction at the infringer's expense. The court may also, if the infringement is committed on behalf of a legal person, or a commercial or professional establishment, order its closing down for a period not exceeding 180 days. A summary of the conviction shall be published in one or more daily newspapers at the infringer's expense.

Article 28.

Administrative violations and sanctions

The administrative violations arising from infringements of the provisions of the Act and its implementing decisions, and the corresponding sanctions, shall be set forth in a Cabinet decision based on a proposal by the Minister and the opinion of the Minister of Finance. The decision shall provide for a complaints mechanism and sets forth the competent authority for implementing such administrative sanctions and collecting the corresponding fines.

Article 29.

Death of the breeder without heir or legatee

The breeder's right to the protected variety shall revert to the Ministry where the former dies without an heir or legatee.

Article 30.

Measures regulating commerce

The breeder's right is independent of any measure to regulate the production, certification and marketing of material of plant varieties or the importing or exporting of such material.

Article 31.

Appealing administrative decisions

Judicial appeals may be filed against administrative decisions issued under the provisions of the Act during a period 60 days from the date of their publication in the Official Gazette or from the date of notification of the decision, as the case may be.

Article 32.

Judicial officers

Officials shall be designated by decision of the Minister of Justice or the head of the competent local judicial body, in agreement with the Minister or the head of the competent authority, as the case may be, as judicial officers to investigate infringements of the provisions of the Act and its implementing Regulations.

Article 33.

Annual fees

The holder of the breeder's right shall pay the prescribed annual fees in the first 30 days of each year of the term of protection.

Article 34.

Fees

The fees due for implementing the provisions of the Act shall be determined by a decision of Cabinet.

Article 35.

Implementation of the Act

The Minister shall, in coordination with the competent authorities, issue the necessary Regulations for implementation of the Act.

Article 36.

Repeal

1. Federal Act No. 17, of 2009, on the protection of new plant varieties, shall be repealed. Its implementing decisions and regulations shall remain in force until decisions and regulations are issued under the new Act.
2. Any provisions of the law inconsistent with the Act shall be repealed.

Article 37.

Publication and entry into force of the Act

The Act shall be published in the Official Gazette and shall come into force as of the day following the date of its publication.

**Mohamed bin Zayed Al Nahyan,
President of the State of the United
Arab Emirates**

**DONE at the Presidential Palace in Abu Dhabi on:
/ /2024**

[End of Annex III and of document]