

# **LAW ON THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

## **BOOK ONE**

### **Patents and Utility Models, Layout-Designs for Integrated Circuits, and Undisclosed Information**

#### **PART I**

#### **PATENTS AND UTILITY MODELS**

##### **Article 1**

A patent shall be granted, in accordance with the provisions of this Law, to any industrially applicable invention, which is new, involves an inventive step, whether connected with new industrial products, new industrial processes, or a new application of known industrial processes.

The patent is also granted, independently, for any modification, improvement or addition to a previously patented invention, which meets the criteria of being new, inventive and industrially applicable, as stated in the preceding paragraph; in which case the patent shall be granted, under the provisions of this Law, to the owner of the modification, improvement or addition.

##### **Article 2**

Patents shall not be granted for:

- (1) Inventions whose exploitation is likely to be contrary to public order or morality, or prejudicial to the environment, human, animal or plant life and health.
- (2) Discoveries, scientific theories, mathematical methods, programs and schemes.
- (3) Diagnostic, therapeutic and surgical methods for humans and animals.
- (4) Plants and animals, regardless of their rarity or peculiarity, and essentially biological processes for the production of plants or animals, other than microorganisms, non-biological and microbiological processes for the production of plants or animals.
- (5) Organs, tissues, live cells, natural biological substances, nuclear acid and genome.

##### **Article 3**

An invention shall not be considered wholly or partly new:

(i) if, before the filing date of the patent application, a patent application has been filed for the same invention or a patent was already issued in or outside Egypt for the invention or part thereof;

(ii) if, before the filing date of the patent application, the invention was used publicly in or outside Egypt, or the description of which was disclosed in a manner so as a person having expertise in the art is able to exploit it.

According to the provisions of the preceding Article, disclosure shall not include displaying the invention in national or international exhibitions within the six months before the date on which the application was filed.

The Regulations shall specify the conditions and the procedures for the disclosure of a patent.

#### **Article 4**

Without prejudice to the international conventions in force in Egypt, any natural person or legal entity, Egyptian or foreign, belonging to, domiciled or active in a country or an entity that is a member of the World Trade Organization or that applies reciprocity to Egypt, shall have the right to apply for a patent at the Egyptian Patent Office, and enjoy whatever rights derived therefrom, in conformity with the provisions of this Law.

Nationals of all member countries of the World Trade Organization shall benefit from any advantage, preference, privilege or immunity granted by any other law to nationals of any state in connection with the rights provided for in this Chapter, unless such advantage, preference or immunity derives from:

(One) agreements on judicial assistance or agreement on law enforcement of general nature;

(Two) agreements in connection with the protection of intellectual property rights which came into force prior to the 1<sup>st</sup> of January 1995.

#### **Article 5**

The Patent Office shall establish a special register to record patent applications, utility models and all related data, exploitation and application thereof, in conformity with the provisions of this Law, as set out in its Regulations.

#### **Article 6**

The right to the patent shall belong to the inventor or his successor in title.

If two or more persons have jointly made an invention, the right to the patent shall belong to them jointly and equally, unless they have agreed otherwise.

If more than one person have made the same invention independently, the right to the patent shall belong to the person who was first to apply for a patent.

### **Article 7**

If a person commissions another to make a specific invention, all rights derived from such an invention shall belong to the former. Likewise, the employer shall have all the rights derived from the inventions discovered by the worker or the employee during the period of work relationship or employment, insofar as the invention falls within the scope of the work contract, relationship or employment.

The name of the inventor shall be mentioned in the patent, and he shall be remunerated in all cases. If such remuneration was not agreed on, he shall be entitled to a fair compensation from the person who requested the invention, or from the employer.

In cases other than the preceding, where the invention is part of the activities of the public or private establishment to which the inventor is attached, the employer shall have the choice either to exploit the invention, or to acquire the patent against a fair compensation paid to the inventor, provided the choice is made within three months from the date of notifying the grant of the patent.

In all cases, the invention shall be attributed to the inventor.

### **Article 8**

The application for patent filed by an inventor within one year from the termination of his employment in a private or public establishment, shall be considered as filed during the work or employment contract. Both the inventor and the employer shall be entitled to all the rights stipulated in the preceding article, as appropriate.

Such a period shall extend to three years if the said worker establishes or joins a competing establishment and the invention is the direct result of that worker's activity and previous experience in the establishment in which he was working.

### **Article 9**

The protection period of a patent shall be 20 years as of the date of filing the application in Egypt.

### **Article 10**

A patent shall confer on its owner the right to prevent a third party from exploiting the invention by any means.

The right of a patent owner to prevent a third party from importing, using, selling or distributing a product shall lapse when he commercializes the product in any country or authorizes a third party to do so.

The following shall not be considered as infringements of that right when carried out by third parties:

- (1) Activities carried out for scientific research purposes.

- (2) Where a third party proceeded, in Egypt, in good faith, with the making of a product or use of a process or made serious preparations for such activities prior to the date of an application for patent by another person for the same product or process. The former shall, notwithstanding the grant of patent, have the right to continue with such activities only within his enterprise and without extending the scope of those activities. Such right shall not be assigned or transferred without the other elements of the enterprise.
- (3) Indirect uses of the production process, subject of the invention, in order to obtain other products.
- (4) Use of the invention on a land vehicle, vessel or aircraft belonging to a country or entity member of the World Trade Organization, or a country that applies reciprocity to Egypt, when such a land vehicle, vessel or aircraft is temporarily or accidentally present in Egypt.
- (5) Where a third party proceeds, during the protection period of a product, with its manufacturing, assembly, use or sale, with a view to obtain a marketing license, provided that the marketing starts after the expiry of such a protection period.
- (6) Any other acts by third parties, provided that they shall not unreasonably hamper the normal exploitation of the patent, and shall not be unreasonably prejudicial to the legitimate interests of the patent owner, taking into consideration the legitimate interests of others.

#### **Article 11**

A fee shall be paid on filing a patent application. A progressive annual fee shall also be paid as of the second year until the expiration of the patent protection period.

The amount of such fees, to be determined in the Regulations, shall not exceed 2,000 pounds for the initial application or 1,000 pounds for the annual fee.

Cases for the reduction or waiver of these fees shall also be prescribed in the Regulations.

The patent applicant shall pay the fees of experts called upon by the Patent Office as well as examination costs.

#### **Article 12**

The patent application shall be filed by the inventor or his successor in title with the Patent Office, in accordance with the terms and conditions prescribed by the Regulations. An application may not contain more than one invention. A group of inventions so linked as to form an integrated inventive concept shall be considered as one invention.

#### **Article 13**

The patent application shall be accompanied by a detailed description of the invention, including a full statement of the subject matter and of the best way to enable a person of expertise to execute it, and of each product or method for which protection is sought.

The description shall also include in a clear manner the new elements for which the applicant seeks protection accompanied, where necessary, by an illustrative drawing of the invention.

Where the invention involves biological, plant or animal product, or traditional medicinal, agricultural, industrial or handicraft knowledge, cultural or environmental heritage, the inventor should have acquired the sources in a legitimate manner.

Where the invention involves microorganisms, the applicant shall disclose the identity of such organisms and deposit a live culture thereof with the authority designated in the Regulations.

Without prejudice to the provisions of Article 38 of this Law, the applicant shall, in all cases, provide full data and information on any applications relating to the same invention or its subject matter, that he previously filed abroad, as well as the outcome of such applications.

The Regulations shall determine the required annexes to be attached to the patent application, the time limits for their submission and as well as the conditions justifying its refusal.

#### **Article 14**

The Patent Office may, as stipulated in the Regulations, require the applicant to make any amendments or complements which it shall deem necessary to comply with the provisions of Article 13. If the applicant fails to comply within three months of notification, he shall be considered as having withdrawn his application.

The applicant may, within 30 days and in accordance with the conditions stipulated in the Regulations, appeal such request by the Patent Office before the Committee provided for in Article 36,.

#### **Article 15**

The applicant may, at any time, before the publication of application acceptance, present a request to amend the description or the drawing of the invention, with an indication as to the nature of and reasons for such an amendment, provided that such amendment shall not effect the substance of the invention. In this connection, the same procedure as that for patent application shall apply.

#### **Article 16**

The Patent Office shall examine the patent application and its annexes in order to ascertain that the invention is new, involves an inventive step and is industrially applicable, in conformity with the provisions of Articles 1, 2 and 3 of this Law.

Where the invention satisfies the aforementioned conditions, and where the conditions provided for in Articles 12 and 13 are fulfilled in the patent application, the Patent Office shall publish the application acceptance, in the Patent Gazette, in the manner prescribed in the Regulations.

Any concerned party may submit to the Patent Office, within 60 days from the publication of the application acceptance in the Patent Gazette, and according to the procedure prescribed by the Regulations, a written notice to oppose the granting the patent, stating the reasons therefor.

Such an opposition shall be subject to the payment of a fee, to be fixed by the Regulations, of not less than 100 pounds and not more than 1,000 pounds, which will be reimbursed in case the opposition is accepted.

Oppositions shall be examined by the Committee established under Article 36, in accordance with the conditions and procedures stipulated in the Regulations.

#### **Article 17**

The Patent Office shall send to the Ministry of Defense, the Ministry of Military Production, the Ministry of Interior or the Ministry of Health, as required, copies of patent applications, with their annexes, that relate to defense, military production, security matters or that have a military, security or health significance, within 10 days from the examination of the application, notifying the applicant thereof within 7 days. The Minister of Defense, the Minister of Military Production, the Minister of Interior or the Minister of Health, as might be the case, may, within 90 days from the date of notification, oppose the publication of the application acceptance.

Where the acceptance of the application is made public, the competent Minister may oppose the procedure to grant a patent within 90 days from the date of the publication, in the Patent Gazette, of the decision to accept the patent application, if it appears that the application relates to defense, military production, security or is of military, security or health significance.

Opposition in the aforementioned cases shall stop the procedure of granting the patent.

#### **Article 18**

A Drug Price Stability Fund, having a legal entity and reporting to the Minister of Health and Population, shall be established to maintain stability in the prices of drugs – other than export drugs – with a view to achieve health development and to guarantee that drug prices are not affected by incidental changes. The organization and resources of the fund shall be determined by a decree to be issued by the President of the Republic. Such resources shall include contributions from donor states and intergovernmental and non-governmental organizations, as agreed by the State.

#### **Article 19**

The grant of a patent is published after one year from the date of filing the application and remains confidential during this period.

The patent is granted by a decision of the competent Minister or his delegated official and shall be published in the Patent Gazette in accordance with the provisions prescribed by the Regulations.

## **Article 20**

After the publication of the acceptance of the patent application, any person may consult the application and its supporting documents, and any entries thereon in the patent register; and may obtain copies of the above documents against the payment of a fee prescribed by the Regulations, not exceeding 1,000 pounds, and according to the conditions and procedures prescribed therein.

## **Article 21**

The ownership of a patent may be transferred, wholly or partly, with or without compensation. It may also be subject to mortgage or right of disposal.

Without prejudice to the provisions pertaining to the sale and mortgage of commercial establishments, the ownership of a patent may not be transferred, mortgaged or disposed of to a third party before the date on which such transfer, mortgage or disposal is recorded in the patent register.

The publication of the transfer of ownership, mortgage or usufruct shall be made according to the conditions prescribed by the Regulations.

## **Article 22**

A creditor may seize patents belonging to his debtor in conformity with the provisions concerning seizure of movable garnished assets. The Patent Office shall be exempt from the provisions relating to the declaration by the garnishee of the amount in his possession due to the garnisher.

The creditor shall notify the Patent Office of the seizure and the results of the public auction to be recorded in the register. The said seizure and results of the public auction shall not be invoked against a third party before the date of its being duly recorded.

The seizure shall be published in the manner prescribed by the Regulations.

## **Article 23**

The Patent Office may, subject to the approval of a ministerial committee to be established by a decision of the Prime Minister, grant non-voluntary licenses for the exploitation of an invention. The committee decides the financial rights of the patent owner when such licenses are issued, in any of the following cases:

- (1) Where the competent Minister finds — under the circumstances — that the exploitation of the patent will benefit the following:
  - (a) Public non-commercial interest. This includes the preservation of national security, health, environment and food safety.
  - (b) Cases of emergency or circumstances of extreme urgency.

A non-voluntary license to counter the conditions mentioned in items 1 and 2 is granted without prior negotiations with the patent owner or after a certain period of negotiations with the patent owner or offering reasonable conditions to acquire his agreement to the exploitation.

- (c) Support of national efforts in vital sectors for economic, social and technological development, without unreasonable prejudice to the rights of the patent owner and taking into consideration the legitimate interests of third parties.

In cases stated in items 1 and 3, the owner of the patent shall be notified promptly of the decision of non-voluntary exploitation, and as soon as reasonably practicable in cases stated in item 2 .

(2) Upon the request of the Minister of Health, when the quantity of patented medicines made available fail to adequately meet the national needs, due to their poor quality or if they are offered at a prohibitive price, or if the patent is related to medicines addressing critical cases, incurable or endemic diseases or products used in the prevention of these diseases, or where the invention is related to the medicines, their manufacturing process, the raw materials necessary for their preparation or the process of manufacturing of those materials.

In all these cases, the decision of granting non-voluntary license shall be notified promptly to the owner of the patent.

(3) Where the patent owner refuses to grant license to a third party seeking the exploitation of the invention, whatever the purpose of the exploitation, and despite the offer of suitable terms and the lapse of reasonable negotiation time.

In this case, the party requesting the non-voluntary license shall provide evidence that he has made serious efforts to obtain a voluntary license from the patent owner .

(4) If the owner of the patent fails to exploit the invention in Egypt, himself or through his consent; or if the patent was not sufficiently exploited after the lapse of four years since the date of the application or three years since the grant of the patent, whichever comes later; or if the patent owner suspended, without a valid reason, the exploitation of the patent for more than one year.

The exploitation of a patent shall be through the manufacturing of the patented product or the use of the patented process in Egypt.

Nevertheless, where the Patent Office finds that, despite the expiration of either of the above mentioned time limits, failure to exploit the invention was due to legal, technical or economic reasons beyond the power of the owner of the patent, it may decide to allow him a sufficient period of grace for the exploitation of the invention.

(5) If it is determined that the patent owner has abused of or exercised the rights conferred by the patent in a manner that is contrary to fair competition, such as:

- (a) Fixing exorbitant prices for the patented products or preferential treatment of agents with regards to prices and sales conditions.



- (b) Failure to supply the local market with the patented product, or supplying it under prohibitive terms.
- (c) Stopping the production of the patented item or its production in a disproportionate manner, given the production capacity and the market needs.
- (d) Undertaking acts or practices which have adverse effect on the free competition, according to the prescribed legal norms.
- (e) Exercising of the rights conferred by the this Law in a manner that adversely affects the transfer of technology.

In all above cases, the non-voluntary license is granted without recourse to negotiation or the expiry of a time limit thereto, even if the non-voluntary license is not intended to satisfy the needs of the domestic market.

The Patent Office may refuse to terminate the non-voluntary license, where the conditions that called for it are likely to remain or to reoccur.

The compensation due to the owner of the patent shall take into account the prejudice caused by his arbitrary or unfair competition practices.

The Patent Office may revoke the patent if, two years after the grant of a non-voluntary license, it became clear that the grant of that license was not adequate to remedy the adverse effects caused to the national economy by the r the patent owner's abuse of his rights or his unfair competition practices.

Any concerned party may challenge the revocation of a patent before the Committee provided for in Article 36, and in accordance with the conditions and procedures prescribed in the Regulations.

(6) Where the exploitation of an invention by the legitimate patent holder requires inevitably the use of another invention, underlying concrete technical advance as well as technical and economical significance compared to the other, he shall be entitled to obtain a non-voluntary license for the exploitation of the other invention, in which case the other patent holder shall equally have the same right.

The licensed exploitation of one patent may not be assigned without the corresponding assignment of the other.

(7) The grant of a non-voluntary license in the field of semi-conductor technology shall be authorized for public non-commercial purposes only, or to remedy the consequences of any unfair competition practices.

The grant of non-voluntary licenses in the cases provided for in this Article, shall be in accordance with the rules and procedures prescribed in the Regulations.

## Article 24

Where a non-voluntary license is to be issued, the following elements shall be taken into account:

- (1) A request for the grant of the non-voluntary license shall be considered on the merits of each case. The license shall mainly seek to satisfy the needs of the domestic market.
- (2) The requesting party shall prove that he has made serious attempts during a reasonable period of time to obtain a voluntary license from the patent holder against fair compensation, and that he failed.
- (3) The patent owner may, within one month from his notification of the grant of the license, appeal to the Committee provided for in Article 36 and in accordance with the conditions and procedures stipulated by the Regulations, against the decision to grant the non-voluntary license to a third party.
- (4) The party requesting the grant of a non-voluntary license, or the party to whom a non-voluntary license is granted, must have the capacity to efficiently exploit the invention in Egypt.
- (5) The licensee must abide by the scope, terms and period prescribed by the decision granting the such a license. The Patent Office may extend the duration of the license if it expires without achieving its purpose.
- (6) The use of the non-voluntary license shall be limited to the applicant; the Patent Office may however grant it to a third party.
- (7) The beneficiary shall not assign the rights of a non-voluntary license to a third party except with the enterprise or the part related to the exploitation of the patent.
- (8) The patent owner shall be entitled to a fair compensation for the exploitation of his invention. The amount of the compensation shall be fixed on the basis of the economic value of the invention. He shall have the right to appeal against the compensation assessment, within 30 days of being notified the decision, before the Committee provided for in Article 36, in accordance with the rules and procedures prescribed by the Regulations.
- (9) The non-voluntary license shall lapse on the expiry of its duration. Nonetheless, the Patent Office may decide to terminate the non-voluntary license if the reasons which led to its grant cease to exist and are unlikely to reoccur; in which case, the procedure prescribed by the Regulations shall apply.
- (10) The patent owner may request the termination of the non-voluntary license before its expiry, if the reasons which led to its grant cease to exist and are unlikely to reoccur.
- (11) Where a non-voluntary license is terminated before its term, the legitimate interests of the licensee shall be taken into account.

- (12) The non-voluntary license may be terminated or its terms amended by the Patent Office, or upon a request from any interested party, if within two years after the grant of the non-voluntary license, the licensee fails to exploit the subject matter of the license or to meet his obligations as prescribed by the license.

### **Article 25**

Patents may be expropriated by decision of the competent Minister – subject to the approval of the ministerial committee referred to in Article 23 – on grounds relating to national defense and in cases of emergency which the grant of a non-voluntary license is insufficient to counter.

The expropriation may be limited to the right of exploitation only to satisfy the needs of the State.

In all cases, the expropriation shall be against a fair compensation, to be assessed by the committee provided for in Article 36 and on the basis of the economic value of the patent at the time the expropriation decision is made.

The expropriation decision shall be published in the Patent Gazette. The decision of the expropriation and that of the compensation assessment committee may be appealed before the Administrative Court, within 60 days from the date of notification of the decision to the interested party, by means of a registered letter with acknowledgement of receipt. The Court shall decide on such an appeal expeditiously.

### **Article 26**

The rights conferred by a patent shall lapse and fall into the public domain under the following conditions:

- (1) Expiration of the protection period according to Article 9.
- (2) Relinquishment by the patent holder of his rights without prejudice to the rights of third parties.
- (3) Final decision taken revoking the patent.
- (4) Failure to pay, within one year from the due date, the annual fees or the overdue penalty of 7% of the annual fees, after notification of payment according to the procedure prescribed by the Regulations.
- (5) Where the invention is not exploited in Egypt within two years following the grant of a non-voluntary license and upon a request by any interested party submitted to the Patent Office.
- (6) Abuse by the patent owner of his rights, where the non-voluntary license is insufficient to remedy that abuse.

Reference to patents whose owners' rights are terminated according to the previous provisions shall be published in the Patent Gazette, in the manner prescribed by the Regulations.

#### **Article 27**

The Administrative Tribunal shall be competent to consider claims relating to patent decisions.

#### **Article 28**

The Administrative Tribunal may decide, upon request from the Patent Office or an interested party, to add any data to the Register which could have been omitted or to modify any data included therein which is contrary to the fact or to omit any data unlawfully inscribed therein.

The Patent Office, or any interested party, may request the Tribunal to repeal patents granted in violation to Articles 2 and 3. The said Office shall revoke such patents on receipt of a final decision.

#### **Article 29**

A utility model patent shall be granted, under this Law for any new technical addition in the structure or composition of devices, tools, equipment or their components, or products, processes or means of manufacturing the above, and the like that is in current use.

The applicant may convert his application into a patent application, and the patent applicant may also convert his application to a utility model application.

In both cases the date of the original application shall prevail.

The Patent Office may, spontaneously, convert the application for a utility model to an application for a patent, when the relevant requirements are met.

#### **Article 30**

The protection period of a utility model shall be for a non-renewable period of seven years starting from the filing date of the application for the utility model with the Patent Office in Egypt.

#### **Article 31**

A fees shall be payable on filing a utility model application, and a progressive annual fee shall be paid starting from the second year until the expiry of the protection period.

The Regulations of this Law shall fix the amount of such fees, which shall not exceed 1,000 pounds for each application, as well as the conditions for the reduction and waiver of such fees.

### **Article 32**

Without prejudice to the provisions of Article 10, shall be subject to a fine of not less than 20,000 pounds and not more than 100,000 pounds any party who undertakes:

- (1) the imitation, for commercialization purposes, of the subject matter of an invention or a utility model for which a patent has been granted in accordance with the provisions of this Law;
- (2) the sale, offer for sale or circulation, importation or possession with the intention to trade, of products known to that party as imitations, where the patent for the invention or the utility model for such products is granted and valid in Egypt;
- (3) the unlawful use, on products, advertisements, trademarks, packaging or others, of indications that may lead to believe that such a party has obtained a patent for an invention or a utility model.

Repetition of the offense shall be punishable by imprisonment for a period of no more than two years and by a fine of not less than 40,000 pounds and not more than 200,000 pounds.

In all cases, the court shall order the seizure of the infringing imitated products and the implements used in the imitation. The conviction decision shall be published in one or more daily newspapers, at the expense of the convicted party.

### **Article 33**

The holder of a patent or a utility model may request the president of the competent court, as may be the case, to order conservatory measures against products or goods that are claimed to imitate a patented product, according to the detailed description established in the patent or utility model document. The necessary conservatory measures shall be ordered to preserve such products and goods in their state.

The aforementioned order may be issued before instituting the proceedings. Such order shall lapse if the proceedings are not instituted within 8 days from the date of the injunction.

### **Article 34**

The identical product shall be deemed to be obtained by the patented process, if the plaintiff could prove in his civil proceedings:

- (1) that the identical product was made by the direct use of the patented process; or
- (2) that he has exerted reasonable efforts to determine the process actually used in the production. In such a case, the court may require the defendant to provide evidence that the identical product was made by a process other than the patented process owned by the plaintiff.

In requiring the production of evidence, the court shall take into account the legitimate interest of the defendant in protecting his manufacturing and business secrets.

### **Article 35**

The president of the competent court dealing with the merits of the case may, at the request of any interested party and on petition, order one or more of the appropriate conservatory measures to ensure the payment of the decided fines or damages. He may also order destruction of the objects in question, where necessary.

### **Article 36**

A committee shall be established by decision of the competent minister and shall be empowered to examine appeals against decisions made by the Patent Office in application of the provisions of this Law. The committee shall be composed of a chairman who shall be a consultant at the appeal courts or of a corresponding rank from the judiciary, an assistant consultant of the State Council and three experts as members.

Fees of not more than 500 pounds shall be fixed by the Regulations for appeals brought before the committee.

The committee shall decide on an appeal within 60 days from the date of its filing. The decisions of the committee shall be final.

Apart from revocation requests combined with an order to waive execution, no complaints against decisions of the Patent Office may be brought to court before a decision was taken on the appeal, or within 60 days from filing the appeal if not decided.

The Regulations shall fix the rules of procedure of this Committee.

### **Article 37**

The decision of the Committee, provided for in Article 36, may be the subject of an appeal by the Patent Office or any interested party before the Administrative Tribunal within 60 days from the date of notification of the Patent Office or the interested party of the decision by registered mail with acknowledgement of receipt. The Tribunal shall decide on the appeal expeditiously.

### **Article 38**

If a patent application is filed in a country or by an entity member of the World Trade Organization or a country that applies reciprocity to Egypt, the applicant or the successor of his rights may, during the first year following the filing date of the application, file a similar application with the Patent Office in Egypt for the same subject matter and in conformity with terms and conditions provided for in this Law and its Regulations. In this case, for the purpose of determining precedence, the date of the first application in the foreign country shall prevail.

### **Article 39**

Staff of the Patent Office may not file patent applications personally or an intermediate until at least three years from the date of termination of their employment in the Office.

### **Article 40**

The provisions applicable to invention patents shall apply to any matter which is not specifically provided for in relation to patents of utility models.

### **Article 41**

Provisions of this Law shall apply to any application filed with the Patent Office and which has not been granted a patent before the entry into force of this Law. The applicant may amend his application in conformity with the provisions of this Law.

The protection period prescribed by this Law shall apply to any patent not expired on the day of its entry into force, so as to extend the protection period in conformity with the period stipulated in Article 9 of this Law.

### **Article 42**

The Minister of Justice, in agreement with the competent minister, shall determine the persons empowered with judicial authority to enforce the provisions contained in this Book.

### **Article 43**

The Patent Office shall receive patent applications with regard to food-related agrochemical products and to pharmaceuticals, and shall maintain such applications, along with applications relating to the same products and filed as of 1<sup>st</sup> January 1995, pending their examination as of 1<sup>st</sup> January 2005.

In the case of a patent granted for the inventions relating to the products mentioned in the preceding paragraph, the protection shall begin from the date of granting the patent until the end of the period provided for in Article 9, calculated from the date of application.

### **Article 44**

Without prejudice to the date set for the examination of patent applications relating to the products mentioned in Article 43, the applicant shall be entitled to request from the competent public authority to be granted exclusive marketing rights for his product in Egypt, provided that:

- (1) the applicant has submitted an application for this product to the Patent Office in Egypt as of 1<sup>st</sup> of January 1995;
- (2) the same product was patented in a country member of the World Trade Organization on the basis of an application submitted in that country as of 1<sup>st</sup> January 1995;
- (3) the applicant has obtained the approval for the circulation of that product in the same country where he was granted the patent as of 1<sup>st</sup> January 1995;

- (4) the applicant has obtained the approval of the competent ministry for the circulation of that product within Egypt;

The Patent Office in Egypt shall grant an exclusive marketing right certificate upon the approval of a ministerial committee established for this purpose by a decision of the Prime Minister.

The exclusive marketing right shall not be granted when it is clear, *prima facie*, from the papers submitted to the Patent Office to obtain the exclusive marketing right, that the patent application has been filed with the Office was already published one year prior to the date of filing the request.

Where an exclusive marketing rights have been granted by the competent public authority, the applicant shall enjoy such rights for his product until a decision is rendered by the Egyptian Patent Office on the patent application, or for a period of five years as from the date of approval to grant him such rights, whichever comes first.

A previously granted exclusive marketing right shall be revoked by a decision of the competent ministry which has approved the circulation or where the owner of such right abuses its exercise.



## **PART II**

### **LAYOUT DESIGNS OF INTEGRATED CIRCUITS**

#### **Article 45**

For the purpose of this Law, “integrated circuit” means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed on a piece of isolating material and which is intended to perform a specific electronic function.

Layout design means also the three dimensional disposition prepared for an integrated circuit intended for manufacturing.

#### **Article 46**

Protection under this Law may be obtained for original layout designs of integrated circuits.

A layout design shall be considered to be new if it is the result of its creator’s own intellectual effort and is not part of the general knowledge common among professionals of the relevant industrial art .

Nevertheless, a layout design consisting of elements that are part of the general knowledge common among professionals of the relevant industrial art shall also be considered new, if the combination of its components and their interconnections are in themselves original.

#### **Article 47**

Protection shall not apply to any concept, process, technology or any coded information stored in the layout design of an integrated circuit.

#### **Article 48**

The protection period of a layout design shall be ten years from the date when the application for the registration was filed in Egypt or ten years from the date when it was first commercially exploited in Egypt or abroad, whichever comes first

In all cases, the protection of a layout design shall cease 15 years from the date of its creation.

#### **Article 49**

Application for the registration with the Patent Office of a layout design shall be filed by its owner and shall be accompanied by a picture or a drawing and a sample of each integrated circuit that has been commercially exploited along with the information illustrating the electronic function of the integrated circuit.

The applicant may, however, exclude such part or parts of the design provided that the parts submitted are sufficient to identify the layout design and its function.

The Patent Office shall maintain a register in which it shall record all applications according to the rules and procedure prescribed by the Regulations. Each application shall be subject to the payment of fees, as determined in the Regulations, not exceeding 1,000 pounds.

The application shall not be accepted if it is filed after two years from the date of its first commercial exploitation, within or outside Egypt, by the owner of the right.

#### **Article 50**

No natural person or legal entity shall perform any of the following acts without a prior written authorization by the owner of the right to a protected layout design:

- (1) Reproducing, whether by incorporation in an integrated circuit or otherwise, the whole or any part of the protected layout design.
- (2) Importation, sale or distribution of the layout design for the purpose of trade, whether separately, as part of an integrated circuit or as a component of a product.

#### **Article 51**

Without prejudice to the protection provisions prescribed in this Chapter, a natural person or a legal entity may, without the authorization of the right owner, undertake one or more of the following acts:

- (1) Reproduction or commercial exploitation, which includes importing, selling or distributing, of an integrated circuit that includes a protected layout design or a product in which such an integrated circuit is used, if such an act is done by a person who did not know, or was not in a position to know, at the time of the act that such an integrated circuit or product incorporate a protected layout design.

In such a case, the acquirer may, against payment of a fair compensation to the right owner, dispose of any stock or amounts ordered, upon his notification by the right owner, by a registered letter with acknowledgement of receipt, that the integrated circuit or the product in his possession contains a protected layout design.

- (2) Personal use or for the purpose of test, examination, analysis, teaching, training or scientific research of the protected layout design. Where such use leads to the creation of a new layout design, the creator shall be entitled to have it protected.
- (3) Creation of a layout design, identical with another protected layout design, as a result of independent efforts.
- (4) Importing a protected layout design or an integrated circuit which was produced using a protected layout design, whether this circuit was separate or incorporated in a product, and whether the product contains an integrated circuit containing a protected layout design, whenever any was circulated in Egypt or abroad.

**Article 52**

The Patent Office may decide to grant, to a third party, a non-voluntary license for the exploitation of a protected layout design according to the provisions of the non-voluntary license of patents provided for in Articles 23 and 24.

**Article 53**

Any violation of Article 50 shall be punishable by a fine of not less than 40,000 pounds and of not more than 100,000 pounds.

In case of repetition, the offense shall be punishable by imprisonment for a period of not more than two years and by a fine of not more than 200,000 pounds.

**Article 54**

The provisions of Articles 4, 33, 35 and 42 shall apply to this Chapter.

### **PART III**

## **UNDISCLOSED INFORMATION**

### **Article 55**

Undisclosed information shall be protected under the provisions of this Law when they meet the following criteria:

- (1) Information which is confidential, in the sense that it is not, as a body or in the precise configuration or assembly of its components, generally known or common among those involved in the industrial art within the scope of which the information falls,
- (2) Information that has commercial value because it is confidential.
- (3) Information that depends on the effective measures taken by the person lawfully in control of it, to keep it confidential.

### **Article 56**

Protection conferred by the provisions of this Law shall extend to undisclosed information that involved a considerable effort, submitted on request to the competent authorities for marketing of pharmaceutical or agrochemical products which utilize new chemical components necessary for the tests undertaken to allow such marketing.

The competent authorities who receive such information shall protect it against disclosure and unfair commercial use from the date of its submission to the competent authorities until it is no longer confidential, or for a period not exceeding five years, whichever comes first.

Disclosure of information, by the competent authorities, where necessary to protect the public shall not be deemed to constitute an infringement of the information owner's rights.

### **Article 57**

The person lawfully in control of undisclosed information shall take all appropriate measures to preserve the confidentiality of such information and prevent its circulation amongst unauthorized persons.

He shall also be liable to organize and limit the circulation of such information within the establishment to lawfully authorized persons, to preserve and prevent the leakage of such information to third parties.

The person who is lawfully in control of such information shall not be exempt from liability when others infringe the information, unless he proves that he has exerted reasonable and adequate efforts to preserve such information.

The confidentiality of information, and the attendant rights to prevent others from infringing such information, shall subsist insofar as the information is considered undisclosed according to the provision of Article 55.

The rights conferred on the person who is lawfully in control of undisclosed information shall be limited to the prevention of others from infringing such information by performing any act which is contrary to fair commercial practices, as stipulated in Article 58. The person who is lawfully in control may resort to court in case of proven perpetration by a third party of any of those acts.

### **Article 58**

The following acts shall be deemed, in particular, to be contrary to fair commercial practices, and to constitute acts of unfair competition:

- (1) Bribery to acquire the information from employees working at the establishment which owns the information.
- (2) Incitement of employees to disclose information acquired by virtue of their employment.
- (3) Disclosure by a party in “confidential information contracts” of information thus acquired.
- (4) Acquisition of information, from the place where it is preserved, through illicit means, such as theft, espionage or the like.
- (5) Acquisition of information through fraudulent means.
- (6) Use of information acquired by any of the previous means by a third party aware of its being confidential and that it was acquired by one of the above means.

Shall be deemed to constitute an act of infringement of undisclosed information, the consequences of the stated acts by way of disclosing, acquiring or using such information by a third party without being authorized by the lawful owner.

### **Article 59**

The following acts shall not be deemed to be contrary to fair commercial practices:

- (1) Acquisition of information from available public sources such as libraries, including patent office libraries, public government records and published research, studies and reports.
- (2) Acquisition of information by exerting personal independent efforts to extract information through examination, testing and analysis of products in circulation which incorporate the undisclosed information.
- (3) Acquisition of information as a result of efforts of scientific research, innovation, invention, development, modification and improvement exerted by persons independently from the owner of undisclosed information.

- (4) Acquisition and use of known and available information which circulates among those involved in the industrial art within the scope of which the information falls.

**Article 60**

The person who is lawfully in control of undisclosed information, or his successor, may assign such information to third parties, against or without compensation.

**Article 61**

Without prejudice to any more severe punishment stipulated under any other law, any person who uses an illegal means to disclose information protected by the provisions of this Law, acquire or use such an information while aware of its confidentiality and that it was acquired by such illegal means, shall be punishable by a fine of not less than 10,000 pounds and not more than 50,000 pounds.

In case of repetition, the punishment shall be an imprisonment for a period of not more than two years and a fine of not less than 50,000 pounds and not more than 100,000 pounds.

**Article 62**

The provisions of Articles 4, 33, 35 and 42 shall apply to this Chapter.

## **BOOK TWO**

# **MARKS, TRADENAMES, GEOGRAPHICAL INDICATIONS AND INDUSTRIAL DESIGNS**

### **PART I**

## **MARKS, TRADENAMES AND GEOGRAPHICAL INDICATIONS**

### **Article 63**

A trademark is any sign distinguishing goods, whether products or services, and include in particular names represented in a distinctive manner, signatures, words, letters, numerals, designs, symbols, signposts, stamps, seals, drawings, engravings, a combination of distinctly formed colors and any other combination of these elements if used, or meant to be used, to distinguish the products of a particular industry, agricultural, forest or mining venture or any goods, or to indicate the origin of products or goods, or their quality, category, guarantee, preparation process, or to indicate the provision of any service.

In all cases, a trademark shall be a sign that is recognizable by sight.

### **Article 64**

The Department of Trade Registry shall be competent to register the trademarks in the special register of such marks, in accordance with the provisions of this Law and its Regulations, without prejudice to the provisions of Articles 3 and 4 of Law No. 115 of 1958 on correspondence and signposts imposing the use of Arabic.

### **Article 65**

The person who has registered a trademark and who has made use of it for a period of five years as of the date of its registration, shall be deemed the owner of such a trademark, unless precedence of use by a third party is proven.

A prior user of the mark may, within the said period of five years, challenge the validity of its registration .

The registration of a mark may, however, be challenged at any time, where the registration is made in bad faith.

### **Article 66**

Without prejudice to the provisions of international conventions in force in Egypt, any natural person or legal entity, Egyptian or foreign, belonging to or having the center of his or its effective activity in a country or entity member in the World Trade Organization or who applies reciprocity to Egypt, shall have the right to apply for the registration of a trademark with the Department of Trade Registry in Egypt, with all attendant rights in conformity with the provisions of this Law.

Nationals of all member countries of the World Trade Organization shall benefit from any advantage, preference, privilege or immunity granted by any other law to nationals of any state in connection with the rights provided for in this Chapter, unless such advantage, preference or immunity derives from:

(One) agreements on judicial assistance or agreements on law enforcement of general nature;

(Two) agreements in connection with the protection of intellectual property rights which came into force prior to 1<sup>st</sup> January 1995.

### **Article 67**

The following shall not be registered as trademarks or components thereof:

- (1) Marks devoid of any distinctive character, or composed of signs or statements which only usage grants to the products, or which are the normal picture or image thereof.
- (2) Any mark which is contrary to public order or morality.
- (3) Public armorial bearings, flags and other emblems pertaining to the State or any other state, regional or international organizations, as well as any imitations thereof.
- (4) Marks which are identical with, or similar to, symbols of religious character.
- (5) Symbols of the Red Cross or Red Crescent, or any other emblem of the same character, as well as any imitations thereof.
- (6) The portrait of an individual or his armorial bearings, except with his consent.
- (7) Designations of honorary degrees which the applicant is unable to prove his right thereto.
- (8) Marks and geographical indications which are likely to mislead or confuse the public or which contain false descriptions as to the origin of products, whether goods or services, or their other qualities, as well as the signs that contain an indication of a fictitious, imitated or forged trade name.

### **Article 68**

The owner of a well-known trademark, worldwide and in Egypt, shall have the right to enjoy the protection conferred by this Law even if such a mark is not registered in Egypt.

The Trade Registry Department shall, *ex officio*, reject any application to register any mark which is identical with a well-known mark and is intended for products which are identical with those of the well-known mark, unless the application is submitted by the owner of the well-known mark.

The preceding provision shall apply to applications intended for products which are not identical with those of the well-known mark, where the well-known mark is registered in a



country member of the World Trade Organization and in Egypt, and where the use of the mark in relation to those non-identical products is meant to lead people to believe that a connection exists between the owner of the well-known mark and those products, and that such a use may be prejudicial to the interests of the owner of the well-known mark.

#### **Article 69**

A collective trademark is used to distinguish a product of a group of persons who belong to a specific entity, even where such entity has no industrial or commercial enterprise of its own.

The application for registration of a collective mark shall be submitted by a representative of such an entity.

#### **Article 70**

The competent minister may – in the interest of the public – authorize natural persons or legal entities involved in the control or examination of products in respect of their origin, components, method of manufacture, quality, authenticity or any other distinctive characteristic, to register a mark which shall serve to certify that such control or examination of such products is underway.

Such a mark shall not be disposed of without a special authorization from the competent minister.

#### **Article 71**

The right of the mark owner to prevent third parties from the import, use, sale or distribution of products distinguished by such a mark shall lapse when the owner undertakes the marketing of those products in any country, or authorizes a third party to do so.

#### **Article 72**

Temporary protection is granted to marks on products displayed at national or international exhibitions. Such protection shall not benefit from the extension provided for in Article 75.

The competent minister shall issue a decision designating such exhibitions and the Regulations shall prescribe the terms, conditions and procedure for the grant of such a protection.

#### **Article 73**

The application for registration of a mark shall be filed with the Trade Registry Department in the manner and form laid down in the Regulations. The Regulations shall prescribe the fees due for the application and all procedures related to the mark. Such fees shall not exceed a total of 5,000 pounds.

#### **Article 74**

A mark shall be registered in respect of one or more of the categories of goods produced, or intended to be produced, by the applicant in accordance with the rules and conditions prescribed by the Regulations.

Its use shall be limited to the category, categories or the kinds of products for which it has been registered.

Provisions of Article 91 shall apply to the categories for which the mark has not been seriously used.

#### **Article 75**

Where an application for registration of a mark is filed in a country or an entity member in the World Trade Organization, or a country which extends reciprocity to Egypt, the applicant, or his rightful successor, may, within six months from the date of filing the application, file with the Department in Egypt a similar application for the same mark, covering the same products included in the previous application, in accordance with the terms and conditions prescribed by this Law and its Regulations.

In such a case, the priority date shall be that of the first application in the foreign country.

#### **Article 76**

Where two or more persons apply simultaneously for registration of the same mark, or similar marks for the same category of products, registration shall be suspended until such time when one of these persons shall have produced a renunciation by the other claimants or until a binding judgment has been issued in his favor.

#### **Article 77**

The Trade Registry Department may, in a motivated decision, require the applicant to undertake the necessary modifications on the subject mark in order to define and clarify the mark so as to avoid its confusion with a mark already registered, or a mark for which a registration application has already been filed.

Such decision shall, within 30 days of its issue, be communicated to the applicant in writing, by registered mail with acknowledgement of receipt.

The Department may reject the application should the applicant fail, within six months of the notification, to introduce the amendments required.

#### **Article 78**

The applicant may appeal the decision of the Department mentioned in Article 77, within 30 days from the communication of such a decision. Appeals are considered by a committee, or committees, which shall be appointed by the competent minister and be composed of three members, one of whom shall be a member of the Council of State.

The Regulations of this Law shall prescribe the rules of establishing such a committee, as well as the procedures for the submission and consideration of such appeals and the decision thereon.

#### **Article 79**

Without prejudice to the right of the applicant to appeal in conformity with the law, in case the committee referred to in the preceding article endorsed the decision to refuse the registration of the mark on the grounds that it is similar to a mark already registered for the same goods, or for one category thereof, the registration of such a mark may not be made in favor of the applicant except on the basis of an enforceable court decision.

#### **Article 80**

The Department shall have the decision of accepting the application for registration of the mark published in the Gazette of Trademarks and Industrial Designs, in the manner prescribed by the Regulations.

Any interested party may submit, in writing to the Department, within 60 days from the date of publication, and according to the conditions prescribed by the Regulations, a motivated opposition to the registration of the mark.

The Department shall then send a copy of the opposition to the applicant, within 30 days from the receipt of such a notification.

The applicant shall, within 30 days from the receipt of notification, provide the Department with his motivated written reply to the opposition, failing which he would be considered to have withdrawn his application.

The Regulations shall prescribe the rules and procedures in this regard.

#### **Article 81**

The Department shall, after hearing both parties, motivate its decision on the opposition, to accept or reject the registration. In its decision of acceptance, it may require the applicant to fulfill any requirements it may deem necessary to register the mark.

#### **Article 82**

The decision of the Department referred to in Article 81 may be appealed before the competent Administrative Court, in accordance with the procedures and time limits provided for in the law governing the Council of State.

#### **Article 83**

The registration of a mark is approved by a decision of the Department and shall be published, in the manner prescribed by the Regulations, in the Trademarks and Industrial Designs Gazette.

Registration will take effect from the date of filing the application.

#### **Article 84**

The Department shall deliver to the owner of the registered mark a certificate containing the information published in the aforementioned Gazette.

#### **Article 85**

The owner of a registered mark may request the Department, in writing, to introduce any modifications that do not essentially affect the substance of the mark. He may also request a modification by deletion without any concomitant addition to the statement of products covered by the mark.

The decision to accept or reject the request for modification shall be subject to the same conditions prescribed for the acceptance of the original application for registration.

The prescribed provisions for opposition, appeal and publication shall apply to such decisions.

#### **Article 86**

Any person may apply to consult the registered marks or obtain extracts or copies of entries in the register, according to the rules and procedures prescribed in the Regulations and against payment of a fee prescribed therein not exceeding 100 pounds.

#### **Article 87**

The transfer of the mark's ownership, its mortgage or attachment can be made independently from the commercial enterprise or exploitation project, in accordance with the rules and procedures prescribed in the Regulations.

#### **Article 88**

The transfer of the ownership of the commercial enterprise or exploitation project shall include, unless otherwise agreed, the marks registered in the name of the owner, if such marks were inherently related to the said commercial enterprise or exploitation project.

Should the commercial enterprise or exploitation project be transferred without the trademark, the owner of the mark may, unless otherwise agreed, continue to use the mark for the same kind of goods, category or categories for which such mark was registered.

#### **Article 89**

The transfer of ownership, the right of disposal or the mortgage of a mark shall not be valid towards a third party, unless such has been duly recorded in the register and published in the Official Gazette in the manner prescribed in the Regulations.

### **Article 90**

The period of protection conferred by the registration of the mark is 10 years, renewable for an identical period or periods upon request of its owner and every time within the last year of the protection period, against payment of the fees due for the initial registration application.

The owner of the mark may request the renewal of the protection period within six months after the date of its expiry against payment of the prescribed fees and a supplement prescribed by the Regulations not exceeding 500 pounds, failing which the Department shall proceed to cancel the said mark from the register.

### **Article 91**

The competent court may, upon request by any interested party, issue an enforceable decision to cancel the registration if it appears to the court that the mark has not been seriously used for a period of five consecutive years.

### **Article 92**

A cancelled mark may be re-registered — in favor of its owner exclusively — within three years from the date of the cancellation, according to the prescribed conditions and same procedure of registration and against payment of a fee prescribed by the Regulations not exceeding 1,000 pounds.

After the lapse of the said period, a mark may be re-registered for the benefit of its owner or a third party, in connection with the same products, under the same conditions, procedures and fees of the initial application for registration.

However, where the cancellation is in response to an enforceable court order invalidating the registration of a mark, such a mark may be registered in favor of a third party soon after the cancellation.

### **Article 93**

Extension, renewal, cancellation or reinstatement of the registration shall be published in the Trademark and Industrial Designs Gazette in the manner prescribed by the Regulations.

### **Article 94**

The Department, or any interested party, may, in cases other than provided for in Article 85, submit to the competent court a request for the addition of any entry which would have been omitted, or to delete or modify any entry incorrectly inscribed therein or contrary to the truth.

### **Article 95**

The owner of a mark may license one or more natural persons or legal entities to use his mark on all or some of the products for which the mark was registered. Such license to a third party shall not prevent the owner from using his mark, unless otherwise agreed.

The owner of a mark may not cancel or refuse the renewal of the license contract without valid reasons.

#### **Article 96**

To be recorded in the Trademarks Register, a license agreement for the use of a mark shall be certified, or the signatures thereon endorsed. It shall not be valid with respect to a third party unless recorded and published in the manner prescribed in the Regulations.

#### **Article 97**

A licensee may not, unless otherwise agreed, assign the license contract to a third party except in connection with the assignment of the commercial enterprise or exploitation project in which the mark is utilized to distinguish the products thereof.

The mortgage of or the right of disposal of a mark shall not be valid with respect to a third party, unless such has been duly recorded in the register and published in the manner prescribed in the Regulations.

#### **Article 98**

The license contract may not include any conditions which may unnecessarily restrict the licensee in order to maintain the rights conferred by the registration of the mark.

The license contract may, however, include the following:

- (1) Limit of the license period for use of the mark.
- (2) Reasonable conditions which provide for the effective control by the owner of the mark of the quality of the products identified by the licensed mark; without restricting the licensee's freedom of management and production.
- (3) Commitment of the licensee to refrain from any act that might undermine the status of the products identified by the mark.

#### **Article 99**

The owner of the mark or the licensee may request the cancellation of a license contract. The Department shall notify the other party of such a request.

Such cancellation shall be in accordance with the conditions and procedures prescribed in the Regulations.

#### **Article 100**

In the application of the provisions of this Law, "trade indication" means any clarification connected directly or indirectly with the following:

- (1) Number, quantity, dimension, measure, capacity or weight of any products.

- (2) Place or country in which the products were manufactured or produced.
- (3) Method of manufacturing or producing the products.
- (4) Elements and components of which the products are composed.
- (5) Name or capacity of the producer or manufacturer.
- (6) Patents or any other industrial property rights, or any commercial or industrial concessions, awards or distinctions.
- (7) The name or form under which certain goods are usually known.

#### **Article 101**

Trade indications shall be factual in all aspects, whether placed on the products, packaging, invoices, correspondence, advertisements or other means used for offering the products to the public, or whether on signboards, inside the shops or in warehouses.

#### **Article 102**

No mention may be made of medals, diplomas, awards or honorary distinctions, except in relation to the products in respect of which such distinctions apply, or in relation to the persons who, or commercial names which, acquired those distinctions, or their successors. Such mention should include correct indications of the date, nature of the awards, the authority and the occasion on which they were granted.

A person who participates with others in exhibiting products may not use for his own products the distinctions granted jointly to the exhibited products, unless he indicates in a clear manner the source and nature of such distinctions.

#### **Article 103**

Where the quantity, dimension, measure, capacity, weight, origin or ingredients of a product constitute a factor in assessing its value, the competent minister may decide to prohibit the sale, marketing or importation of such products, unless they bear these indications.

The competent minister shall determine the manner in which such indications should be placed on the product in Arabic, and any alternative procedures where necessary.

#### **Article 104**

Where a geographical origin has become descriptive of the quality, reputation or other characteristics of a certain product so as to be largely instrumental in its marketing, such geographical indications shall be used to indicate the place of origin of such goods in a district or part in a country member in the World Trade Organization or a country according Egypt reciprocity.

The protection in the country of origin is required to protect such indications.

#### **Article 105**

A person residing in a place especially reputed for the production of a given product, may not affix on the products of his trade geographical indications in such a manner as to lead the public to believe that the products were produced in that place of special reputation.

#### **Article 106**

No means may be used to designate or present any products, in such a manner as to lead the public to believe that such products were produced in a geographical area other than its real place of origin.

#### **Article 107**

A person producing any products in a place especially reputed for the production of such products, may not affix the geographical indication of that place on similar products he produces in other places in such a way as to suggest that such products were produced in the reputed place.

#### **Article 108**

Where a geographical name has become descriptive, to indicate in a commercial sense the nature of any products and not their geographical place of origin, such geographical name may be used in connection with such products.

#### **Article 109**

The registration of a trademark including a geographical indication, requires the continuous production, by the applicant, of the products in the reputed geographical area.

#### **Article 110**

A trademark including a geographical indication may not be registered, where such an indication is likely to mislead the public as to the real origin of the goods.

#### **Article 111**

A trademark including a geographical indication may be registered if the right conferred by the mark was acquired in good faith before the entry into force of this Law, or before the geographical indication has been granted in the country of origin.

#### **Article 112**

Any interested party may institute normal proceedings before the competent court of first instance to order prohibiting the use of any geographical indication not included in a registered trademark, where such use is likely to mislead the public as to the real origin of the products.



The competent court of first instance shall be the court having jurisdiction at the place where the geographical indication is used.

### **Article 113**

Without prejudice to any more severe punishment under any other law, shall be punishable by imprisonment for a period of not less than two months and by a fine of not less than 5,000 pounds and not more than 20,000 pounds, or by either punishment, any person who:

- (1) counterfeits a trademark registered in accordance with the law or imitates it in a manner which is likely to mislead the public;
- (2) fraudulently uses counterfeit or imitated trademarks;
- (3) fraudulently affixes to his products a trademark belonging to a third party;
- (4) knowingly sells, offers for sale or distributes, or acquires for the purpose of sale, products bearing a counterfeit or imitated mark, or on which the mark was unlawfully affixed.

In case of repetition, the offense shall be punishable by imprisonment for a term of not less than two months and by a fine of not less than 10,000 pounds and not more than 50,000 pounds.

In all cases, the court shall order the confiscation of the infringing products, the revenue and the returns of such products as well as the implements used in the infringement.

The court may, when issuing a condemnation, order the closure of the enterprise used to commit his infringement, for a period not exceeding six months. In the event of repetition the enterprise shall imperatively be closed down.

### **Article 114**

Without prejudice to any more severe punishment under any other law, shall be punishable by imprisonment for a period of not less than one month and by a fine of not less than 2,0000 pounds and not more than 10,000 pounds or by either punishment, any person who:

- (1) affixes a false trade indication to his products, on or inside his shops or warehouses, on signboards, packaging, invoices, correspondence, advertisements or any other means used for offering the products to the public;
- (2) fraudulently places on his marks or commercial documents an indication that leads to believe that such mark has been registered;
- (3) uses a mark that has not been registered, in the cases provided for in paragraphs 2, 3, 5, 7 and 8 of Article 67;

- (4) mentions medals, diplomas, awards or other honorary distinctions of any kind whatsoever, in relation to the products in respect of which such distinctions do not apply, or in relation to the persons or commercial names who did not acquire them;
- (5) participates with others in exhibiting products and uses for his own private products the distinctions granted to the jointly exhibited products, unless he indicates in a clear manner the source and nature of such distinctions;
- (6) affixes on the products of his own trade, in a place especially reputed for the production of a certain product, geographical indications in such a manner as to mislead the public to believe that those products were produced in that place;
- (7) uses any means for the designation or exhibition of products in a manner that may mislead the public as to the production of those goods in a geographical place especially reputed rather than the real place of origin of such products;
- (8) manufactures a product in a place especially reputed for its production and who affixes a geographical indication on similar products he produces in other places in such a way as to suggest that such goods were produced in the said place.

In case of repetition, such an offense shall be punishable by imprisonment for a period of not less than one month and by a fine of not less than 4,000 pounds and not more than 20,000 pounds.

### **Article 115**

The president of the competent court considering the merits of the case may, upon a request by an interested party, and on petition, order one or more appropriate conservatory measures, and in particular:

- (1) Establish the infringement of a protected right.
- (2) Draw up an exhaustive inventory and detailed description of all the machines and implements used or may have been used in the infringement, as well as the products, goods, signboards of shops, packaging, invoices, correspondence, advertisements or the like, on which the mark or the geographical indication, subject of the offense, might have been affixed, as well as the products imported, on their arrival.
- (3) Order the seizure of the articles stated in item (2).

In all cases, the President of the court may order the assignment of one or more experts to assist the bailiff in charge of the execution. He may order the requesting party to provide an appropriate security.

The requesting party shall submit the merits of the case to the competent court, within 15 days of issuing the order, failing which such order shall cease to have effect.

**Article 116**

The convicted person may, within 30 days from the date of the issue or notification, appeal such an order to the president of the court. The president may confirm or revoke the order, totally or partly.

**Article 117**

The court may, in any civil or penal action, order the sale of the articles distrained, or to be distrained, and deduct their value from the amounts of the compensation or fines, or dispose of them by any other means the court may deem appropriate.

The court may also order the destruction of the illegal marks and, where necessary, the destruction of the products, goods, signboards, packaging, invoices, correspondence, advertisements or other items bearing these marks or bearing illegal description or geographical indications, infringing the provisions of this Book. It may also order the destruction of the machines and implements used specifically in the act of infringement.

The court may further order that its judgment be published in one or more newspapers at the expense of the convicted party.

The court may order some or all of the above measures, even in the event of acquittal.

**Article 118**

The Minister of Justice shall, in agreement with the competent minister, appoint persons with judiciary powers for the implementation of the provisions of this Part.

## **PART II**

### **INDUSTRIAL DESIGNS**

#### **Article 119**

An industrial design is any composition of lines or any three-dimensional form whether or not associated with colors provided that such composition or form gives a special appearance of novelty and is industrially applicable.

#### **Article 120**

An industrial designs shall lose its novelty:

(1) If it was disclosed to the public by means of a description or by use, prior to the filing of the registration application.

Nonetheless, disclosure or description of an industrial design shall not affect its novelty if it was carried out after the application for registration in a country member in the World Trade Organization, or a country which applies reciprocity to Egypt, or if the disclosure occurred in a national or an international exhibition, or a publication about the industrial design in a conference or a scientific periodical, provided that all this has occurred within six months prior to the date on which the registration application was filed in Egypt.

(2) If it was not essentially different from a prior industrial design, or if it was intended for another kind of products different from those of the previously registered industrial design.

#### **Article 121**

Without prejudice to international conventions in force in Egypt, any natural person or legal entity, Egyptian or foreign, belonging to, domiciled or active in a country or an entity that is a member of the World Trade Organization or that accords reciprocity to Egypt, shall have the right to file an application to register an industrial design at the Egyptian Trade Registry Department, and whatever rights derived therefrom, in accordance with the provisions of this Law.

Nationals of all member countries of the World Trade Organization shall benefit of any advantage, preference, privilege or immunity granted by any other law to nationals of any state in connection with the rights provided for in this Chapter, unless such advantage, preference or immunity derives from:

(One) Agreements on judicial assistance or agreements on law enforcement of general nature.

(Two) Agreements in connection with the protection of intellectual property rights which came into force prior to 1<sup>st</sup> January 1995.

#### **Article 122**

The Trade Registry Department shall be competent to register the industrial designs in a special register.

The application may comprise a number of designs not exceeding 50, provided that all such designs form one coherent unit.

The Regulations to this Law shall prescribe for the procedure of filing an application for registration, the number of possible designs included in one application, the examination procedures, the publication of the Department's decision of the application's acceptance, procedures of opposition and other required procedures, as well as the prescribed fees for such applications, their renewal and all relevant procedures, the total of such fees not exceeding 3,000 pounds.

### **Article 123**

Staff working in the Trade Registry Department may not file industrial designs applications, on their own behalf or by an intermediary, until at least three years have elapsed from the date of termination of their employment in the Department.

### **Article 124**

The following industrial designs shall not be registered:

- (1) Designs whose shape is basically due to the technical or functional requirements of the product.
- (2) Designs that include emblems, religious symbols, stamps or flags of Egypt or other states, or the use of which may undermine public order or offend public morality.
- (3) Designs which are identical, similar or closely resemble a registered trade mark or a well-known mark.

In all cases where the application for registration has been refused, the Department shall, within 30 days of the date of such decision, notify the applicant in writing of its motivated decision, by registered mail with acknowledgement of receipt.

This decision may be appealed within 30 days from the date of its notification.

The appeal shall be examined by a committee, established by the competent minister, composed of three members, one of whom shall be a member of the Council of State. The Committee may seek the advice of experts as it may deem appropriate.

The Regulations to this Law shall prescribe the Committee's rules of procedure and the fees relating to the appeal, which shall not exceed 500 pounds.

The Committee shall issue its motivated decision within 90 days from the date of filing the appeal.

The decision of the appeal committee may, within 30 days from the date of its notification, be opposed before the Administrative Tribunal.

### **Article 125**

The Department may require the applicant to introduce certain modifications or complements as it may deem appropriate to satisfy the provisions of Article 124 and as prescribed by the Regulations, failing which the applicant shall be considered as having withdrawn his application.

The applicant may, within 30 days of the notification of the decision and according to the procedure prescribed by the Regulations, appeal such a requirement to the Committee provided for in Article 124.

The applicant may, on his own initiative, submit to the Department such modifications or complements, in accordance with the Regulations.

### **Article 126**

The protection conferred by the registration of an industrial design shall be for a period of ten years as from the date of filing the registration application in Egypt.

The protection shall be extended for a further period of five years, when the owner of the industrial design applies for renewal within the last year of the protection period, and in the manner prescribed by the Regulations.

The owner may, however, apply for renewal of the registration, within three months after the expiry of the protection period, failing which the Department shall automatically revoke the registration.

### **Article 127**

The registration of an industrial design shall confer on its owner the right to prohibit third parties from the use, manufacture, sale or import of products bearing or incorporating such an industrial design.

The right to prevent other parties from importing, selling or distributing such products, shall lapse where the owner undertakes to market those products in any state or license a third party to do so.

The use by a third party of a protected industrial design in any of the following shall not be deemed to constitute an infringement of such a right:

- (1) Activities relating to scientific research.
- (2) Use for teaching and training purposes.
- (3) Non-commercial activities.
- (4) Manufacture or sale of parts of such products, for the purpose of repair, against fair compensation.

- (5) Other uses that do not unreasonably conflict with the normal exploitation of the protected industrial design and that do not unreasonably compromise the legitimate interests of the owner, taking into consideration the legitimate interests of third parties .

#### **Article 128**

The ownership of an industrial design may be assigned, wholly or partly, against or without compensation. It may also be subject to a mortgage or a right of disposal.

Without prejudice to the provisions pertaining to the sale and mortgage of commercial enterprises, the transfer of ownership of an industrial design, its mortgage or disposal shall not be valid with respect to a third party unless such an act has been duly recorded in the register of industrial designs.

The Regulations shall prescribe the relevant procedures in this regard.

#### **Article 129**

The Trade Registry Department may, when public interest so requires, and subject to the approval of a ministerial committee established by a decision of the Prime Minister upon submission of the competent minister, issue a motivated decision to grant a third party non-voluntary and non-exclusive license for the exploitation of the protected industrial design, against fair compensation. The Regulations shall provide for the terms, conditions and procedures for the grant of such a license.

#### **Article 130**

The Department shall publish the decisions of registration, renewal and cancellation in the Gazette of Trademarks and Industrial Designs, accompanied, where necessary, by a copy of the design, and in the manner prescribed by the Regulations.

The provisions of Articles 80, 81, 82 and 83 shall apply to this Chapter.

#### **Article 131**

Any person may request to consult the registered industrial designs or obtain extracts or copies thereof from the register, according to the rules and procedures prescribed by the Regulations and against payment of the fee prescribed therein, which is not to exceed 100 pounds.

#### **Article 132**

Temporary protection shall be granted to industrial designs that fulfil the registration requirements which are displayed in national or international exhibitions, as determined by a decision of the competent minister.

The Regulations shall provide for the terms, conditions and procedures for the grant of such protection.

### **Article 133**

The Department and any interested party may file a case with the Administrative Tribunal with a view to revoke an unlawful registration of an industrial design. The Department shall revoke the registration upon receipt of a binding order to that effect.

### **Article 134**

Without prejudice to any more severe punishment stipulated under any other law, shall be punishable by a fine of not less than 4,000 pounds and not more than 10,000 pounds any person who:

- (1) imitates a protected industrial design registered according to the provisions of this Law;
- (2) knowingly, manufactures, sells, offers for sale, acquires for trade or circulation, products bearing imitated industrial designs;
- (3) unlawfully affixes on products, advertisements, trademarks, certain implements or the like, indications that may lead to believe that such a person has registered an industrial design.

In case of repetition, the punishment shall be imprisonment for a period of not less than one month and a fine of not less than 8,000 pounds and not more than 20,000 pounds.

In all cases, the court shall order the confiscation of the incriminated industrial design, the infringed products and the implements used in the infringement. The convicting order shall be published in one or more newspapers at the expense of the convicted party.

### **Article 135**

The president of the competent court considering the merits of the case may, upon a request of any interested party, and by an order issued on the basis of a petition, order one or more appropriate conservatory measures, and in particular:

- (1) Establish the infringement of a protected right.
- (2) Draw up an exhaustive inventory and detailed description of the infringed products and the implements used or may have been used in the infringement.
- (3) Order the seizure of the articles stated in item (2).

In all cases, the president of the court may order the assignment of one or more experts to assist the bailiff in charge of the execution; and may order the requesting party to provide an appropriate security.

The requesting party shall submit the merits of the case to the competent court, within 15 days of issuing the order, failing which such order shall cease to have effect.



**Article 136**

The incriminated person may, within 30 days from the date of the issue or notification of the order, as may be the case, appeal [the order] to the president [of the court] who issued such an order. The president of the court may confirm or revoke the order, totally or partly.

**Article 137**

The Minister of Justice shall, in agreement with the competent minister, appoint persons with judiciary powers for the implementation of the provisions of this Chapter.

## **BOOK THREE**

### **COPYRIGHT AND RELATED RIGHTS**

#### **Article 138**

For the purposes of this Law, the following terms shall have the meaning given below:

- (1) **Work:** Any created literary, artistic or scientific product, whatever its type, mode of expression, significance or purpose of its creation.
- (2) **Creation:** The creative nature that confers originality on the work.
- (3) **Author:** The person who creates the work. Is considered author of the work the person whose name is indicated on, or attributed to, the published work as being its author, unless proven otherwise.

The author may publish his work anonymously or under a pseudonym, provided that the identity of the author can be established without any doubt. In case of doubt, the publisher or producer of the work, whether a natural person or legal entity, shall be the representative of the author in the exercise of his rights until the identity of the latter is disclosed.

- (4) **Collective work:** A work made by a group of authors under the instruction of a natural person who, or a legal entity which, undertakes to publish the work under his or its name and direction, provided that the contributions of the participants in such work are integrated in the general objective set by that person or legal entity, in such a manner that it is impossible to distinguish the individual contribution of each.
- (5) **Work of joint authorship:** A work which is not considered as a collective work, in the making of which more than one person participate, whether or not it is possible to distinguish the individual contribution of each in the work.
- (6) **Derivative work:** A work which is derived from an existing one, such as translations, musical re-arrangements, compilations of works, including readable databases, from the computer or otherwise, and collections of expressions of folklore, which, by reason of the arrangement and selection of their contents, are considered as created works.
- (7) **National folklore:** Any expression which consists of distinctive elements reflecting the traditional popular heritage, which originated or developed in Egypt, including in particular:
  - (a) Oral expressions such as folk tales, poetry and charades, and other folklore;
  - (b) Musical expressions such as popular songs accompanied by music;
  - (c) Motion expressions, such as popular dances, plays, artistic forms and rituals;

(d). Tangible expressions such as:

-- Products of popular plastic art, particularly drawings with lines and colors, engravings, sculpture, ceramics, pottery, woodwork and any inlaid designs, mosaics, metal or jewelry, hand-woven bags, needlework, textiles, carpets and clothes;

-- Musical instruments;

-- Architectural forms.

(8) Public domain: Domain including all works initially excluded from protection or works in respect of which the term of protection of economic rights expires, in accordance with the provisions of this Book.

(9) Reproduction: Making one or more exact copies of a work or a sound recording, in any manner or form, including permanent or temporary storage of the work or sound recording in an electronic form.

(10) Publication: Any act which is liable to make available to the public, in any manner, a work, a sound recording, a broadcast program or a performance.

Works may be made available to the public subject to the consent of the author or copyright owner. Sound recordings, broadcast programs or performances may be made available to the public subject to the consent of the producer or his successor.

(11) Producer of an audio- or an audiovisual work: A natural person who, or a legal entity which, takes the initiative to produce and to assume the responsibility for making the audio- or audiovisual work.

(12) Performers: Persons who act, sing, deliver, declaim, play, dance or otherwise perform, including expressions of folklore, in literary or artistic works protected by the provisions of this Law or belonging to the public domain.

(13) Producer of sound recordings: A natural person who, or a legal entity which, first fixes sounds for any work or performance for a performer, other than fixing of the sounds on images in preparing an audiovisual work.

(14) Broadcasting: Sound or audiovisual transmission, by wireless means for public reception, of a work, performance, sound recording or recording of a work or a performance, including transmission by satellite.

(15) Public performance: Any act which is liable to make the work available to the public in any form, such as acting, declaiming, playing or transmission so as to bring the public in direct contact with the work through performance, sound recording, visual or aural means.

(16) Communication to the public: Transmission by wire or wireless means of images, sounds, images and sounds, of a work, performance, sound recording, broadcast in such a way that, where such transmission is the only means of reception, any person other

than family members and close friends can receive in any place different from where transmission originates, irrespective of time and place of reception, including time and place individually chosen by means of a computer or any other means.

- (17) Broadcasting organization: Any person who or entity which is entrusted with or responsible for aural or audiovisual broadcasting by wireless means.
- (18) Competent minister: Minister of Culture; the Minister of Information shall be competent in connection with broadcasting organizations, and the Minister of Communication and Information shall be competent in connection with computer programs and databases.
- (19) Competent ministry: Ministry of Culture; the Ministry of Information shall be competent in connection with broadcasting organizations, and the Ministry of Communication and Information shall be competent in connection with computer programs and databases

### **Article 139**

The prescribed protection of copyright and related rights covers Egyptians and foreigners, whether natural persons or legal entities, who belong to a member country in the World Trade Organization or having such status.

Nationals of member states comprise:

1st. with regards to copyright:

- 1. Authors whose works are published for the first time in one of the member states in the Organization, or simultaneously in a non-member and a member state. A work shall be considered as having been published simultaneously in several countries if it has been published in two or more countries within thirty days of its first publication.

Shall not constitute publication the acting of a dramatic, dramatico-musical or cinematographic work, or the playing of a musical work, the public recitation of a literary work, the communication by wire or the broadcasting of a literary or artistic work, the exhibition of a work of art and the construction of a work of architecture.

- 2. Producers and authors of cinematographic works the maker of which has his headquarters or habitual residence in one of the countries of that Organization.
- 3. Authors of works of architecture erected in a member country or of other artistic works incorporated in a building or other structure located in a member country.

2nd. with regards to related rights:

- 1. Performance artists where one of the following conditions has been fulfilled:

(One) the performance has taken place in a member country of the World Trade Organization;

(Two) the performance has been transcribed in sound recordings the producer of which is a national of a member country in the World Trade Organization, or if the first fixation of the sound has been done in a territory of a member country in the Organization;

(Three) the performance has been transmitted through a broadcasting organization whose headquarters is in a member country of the World Trade Organization, provided that the radio program has been broadcast from a transmission device also existing in the member country.

2. Producers of sound recordings if the first fixation of the sound has taken place in a member country of the Organization.
3. Broadcasting organizations whose headquarters are in a territory of a member country in the World Trade Organization, provided that the radio program has been broadcast from a transmission device also existing in a territory of a member country in the Organization.

Nationals of all member countries of the World Trade Organization shall benefit of any advantage, preference, privilege or immunity granted by any other law to nationals of any state in connection with the intellectual property rights provided for in this Chapter, unless such advantage, preference or immunity derives from:

(One) agreements on judicial assistance or agreements on law enforcement of general nature;

(Two) agreements in connection with the protection of intellectual property rights which came into force prior to 1<sup>st</sup> January 1995.

### **Article 140**

Protection under this Law is conferred to authors of literary and artistic works, and particularly the following works:

- (1) Books, booklets, articles, bulletins and any other written works;
- (2) Computer programs;
- (3) Databases, whether readable by computer or otherwise;
- (4) Lectures, speeches, sermons and any other oral works when recorded;
- (5) Dramatic and dramatico-musical works, and pantomimes;
- (6) Musical works with or without words;
- (7) Audiovisual works;
- (8) Works of architecture;
- (9) Works of drawings with lines or colors, sculpture, lithography, printing on textile and any other similar works of fine arts;
- (10) Photographic and similar works;
- (11) Works of applied and plastic arts;
- (12) Illustrations, maps, sketches and three-dimensional works relating to geography, topography or architectural designs;
- (13) Derivative works, without prejudice to the protection prescribed for the works from which they have been derived. Protection shall cover also the title of the work if it is inventive.

### **Article 141**

Protection shall not cover mere ideas, procedures, systems, operational methods, concepts, principles, discoveries and data, even when expressed, described, illustrated or included in a work.

In addition, protection shall not cover the following:

- (1) Official documents, whatever their source or target language, such as laws, regulations, resolutions and decisions, international conventions, court decisions, award of arbitrators and decisions of administrative committees having judicial competence.
- (2) News on current events which are mere press information.

However, collections of the above shall enjoy protection if the selection of such collection is creative by virtue of its arrangement or any other personal effort deserving protection.

### **Article 142**

National folklore shall be considered part of the public domain of the people. The competent ministry shall exercise the author's economic and moral rights and shall protect and support such folklore.

### **Article 143**

The author and his universal successor shall enjoy over the work perpetual imprescriptible and inalienable moral rights. Such rights shall include the following:

- (1) The right to make the work available to the public for the first time.
- (2) The right to claim authorship;
- (3) The right to prevent any modification considered by the author as distortion or mutilation of the work. Modification in the course of translation shall not be considered as an infringement unless the translator fails to indicate deletion or changes or if he causes prejudice to the reputation and status of the author.

### **Article 144**

Where serious reasons arise, the author alone shall have the right to request the court of first instance to prevent putting the work in circulation, withdraw the work from circulation or allow making substantive modification to the work, notwithstanding his disposal of the economic exploitation rights. In such a case, the author shall, within a delay fixed by the court, pay in advance a fair compensation to the person authorized to exercise the economic rights of exploitation, failing which the court decision shall have no effect.

#### **Article 145**

Any disposal of any moral rights stipulated in Articles 143 and 144 shall be considered null and void.

#### **Article 146**

In the absence of any heir or successor, the competent ministry shall exercise the moral rights provided for in Articles 143 and 144, after the expiration of the term of protection of the economic rights prescribed in this Law.

#### **Article 147**

The author and his universal successor shall have the exclusive right to authorize or prevent any form of exploitation of his work, particularly through reproduction, broadcasting, re-broadcasting, public performance, public communication, translation, adaptation, rental, lending or making the work available to the public in any manner, including through computers, internet, information networks, communication networks and other means.

The exclusive right for computer program rentals shall only apply to the main rental enterprise; it shall not apply to renting audiovisual works inasmuch as the circulation of such copies does not cause material prejudice to the owner of the exclusive right in question.

The author and his successor shall also have the right to control any disposal of the original copy of the work, and shall consequently be entitled to a certain percentage of not more than 10% of the proceedings resulting from every disposal of that copy.

The right to prevent third parties from importing, using, selling or distributing his protected work, shall lapse where the copyright owner undertakes to exploit or market his work in any state or authorize a third party to do so.

#### **Article 148**

The protection of an author's copyright and the translation rights of his work into another language shall lapse with regards to the translation of that work into the Arabic language, unless the author or the translator himself exercises this right directly or through a third party within three years of the date of first publication of the original or translated work.

#### **Article 149**

The author shall have the right to transfer to a third party all or some of his economic rights stated in this Law.

Such a transfer shall be certified in writing and contain an explicit and detailed indication of each right to be transferred with the extent and purpose of transfer and the duration and place of exploitation.

The author shall be the owner of all economic rights other than what he has explicitly assigned. Authorization by the author to exploit any of the economic rights relating to a work shall not mean authorization to exploit other economic rights relating to the same work.

Without prejudice to the moral rights of the author provided for in this Law, the author shall refrain from any act that would hamper the exploitation of the rights disposed of.

#### **Article 150**

The author shall be entitled to such remuneration, in cash or in kind, as he considers fair for the transfer of one or more of the economic rights of his work to a third party, on the basis of a percentage of the revenue made as a result of exploitation, a lump sum or a combination of both.

#### **Article 151**

Where it appears that the agreement referred to in Article 150 is prejudicial to the author's rights or became so due to circumstances that arose after the agreement, the author or his successor may request the court of first instance to reconsider the value of remuneration agreed upon, without prejudice to the rights and interests of the assignee.

#### **Article 152**

Any disposal by the author of the sole original copy of his work, regardless of its form, shall not be considered as an assignment of his economic rights.

Nevertheless, the assignee may not be required to enable the author to reproduce, copy or display the original copy, unless otherwise agreed.

#### **Article 153**

Any disposal by the author of his future intellectual production shall be considered as null and void.

#### **Article 154**

The economic rights of the authors may be seized with respect to works that are published or made available for circulation. Such works may not be seized if the author dies before their publication, unless it has been proven that he intended to publish the work before his death.

#### **Article 155**

Performers and their universal successors shall enjoy a moral, perpetual, inalienable and imprescriptible right to the following:

- (i) To be identified as the performers of live or recorded performances as such..
- (ii) To prevent any modification, alteration or distortion of their performance.

The competent ministry shall exercise such moral rights, after expiration of the term of protection provided for in this Law, where there is no heir or successor.



### **Article 156**

Performers shall enjoy the following exclusive economic rights:

- (i) Communicate their performance to the public, authorize making available to the public, renting or lending the original fixation or copies of their performances;
- (ii) Prevent any exploitation of their performances in any manner without their prior written authorization, including in particular fixation of such live performances on a medium, rental with the purpose of making direct or indirect commercial profit, or public broadcasting of such fixations;
- (iii) Rent or loan of the original or copies of their performances with the purpose of making direct or indirect commercial profit, regardless of the ownership of the original or rented copies;
- (iv) Make a fixation of a performance available to the public by broadcasting, through computers or other means in such a way as to enable the individual reception at any time or place.

The provision of this Article shall not apply to the fixations of performances included in audiovisual fixations, unless otherwise agreed.

### **Article 157**

Producers of sound recordings shall enjoy the following exclusive economic rights:

- (1) Prevent any exploitation of their recordings in any manner, without their prior written authorization. Prohibited exploitation, in this sense, includes, in particular, reproduction, renting, broadcasting of such recordings or making them available through computers or any other means.
- (2) Making a sound recording available to the public by wire or wireless means or through computers or any other means.

### **Article 158**

Broadcasting organizations shall enjoy the following exclusive economic rights:

- (1) Authorize the exploitation of their recordings.
- (2) Prevent any communication to the public, without their prior written authorization, of their television recordings, including, in particular, fixation, reproduction, sale, rental, re-broadcasting or communicating such works to the public through any means, including the removal or destruction of any technical protection of such programs by coding or other means.

**Article 159**

Provisions under this Law on the assignment by the author of his economic rights shall apply to holders of related rights.

Without prejudice to the exclusive rights of performers and broadcasting organizations provided for in this Law, they shall only have the right to a single equitable remuneration for the direct or indirect use of programs published for commercial purposes of broadcasting or communication to the public, unless otherwise agreed.

**Article 160**

The author's economic rights provided for in this Law shall be protected throughout the life time of the author and for 50 years from the date of his death.

**Article 161**

The economic rights relating to works of joint authorship shall be protected throughout the lives of all co-authors and for 50 years from the death of the last survivor.

**Article 162**

Where the copyright holder is a legal entity, the economic rights relating to authors of collective works, other than authors of works of applied art, shall be protected for 50 years from the date on which the work was published or made available to the public for the first time, whichever comes first. Where the copyright holder is a natural person, the protection period shall be calculated according to the rule stipulated in Articles 160 and 161.

The economic rights relating to a work published for the first time after the death of the author shall expire after 50 years from the date on which the work was published or made available to the public for the first time, whichever comes first.

**Article 163**

The economic rights relating to a work published anonymously or under pseudonym shall be protected for a period of 50 years from the date on which the work was published or made available to the public for the first time, whichever comes first, unless the identity of the author is known and established or revealed by the author, in which case the term of protection shall be calculated according to the rule stipulated in Article 160.

**Article 164**

The economic rights of the author of a work of applied art shall expire after a period of 25 years from the date on which the work was published or made available to the public for the first time, whichever comes first.

**Article 165**

In cases where the term of protection is calculated from the date on which the work was published or made available to the public for the first time, the term shall be calculated taking

into consideration the date that comes first, regardless of any re-publication or making available to the public, unless substantial changes were made by the author in the work so that it may be considered as a new work.

Where the work consists of several parts or volumes published separately and at intervals, each part or volume shall be considered as an independent work for the purpose of calculating the term of protection.

#### **Article 166**

Performers shall enjoy an exclusive economic right for the exploitation of their performances, as stipulated in Article 156, for a period of 50 years calculated from the date on which the performance or the recording took place, as may be the case.

#### **Article 167**

Producers of sound recordings shall enjoy an exclusive economic right to exploit their recordings, as stipulated in Article 157, for a period of 50 years calculated from the date on which the recording was made or made public, whichever comes first, within the limits provided for in this Law.

#### **Article 168**

Broadcasting organizations shall enjoy an exclusive economic right to exploit their programs, for a period of 20 years calculated from the date on which the program was broadcast for the first time.

#### **Article 169**

Broadcasting organizations shall have the right to broadcast works performed in any public place. Such organizations shall indicate in the broadcast the name of the author and the title of the work, and pay him an equitable remuneration, in cash or in kind. They shall also agree to pay any other compensation as appropriate.

#### **Article 170**

Any person may request from the competent ministry to be granted a personal license for the reproduction or translation, or both, of any work protected under this Law, without the authorization of the author and for the purposes indicated in the next paragraph, against equitable remuneration to the author or his successor, to the extent that such license is not in contradiction with the normal exploitation of the work or does not unduly prejudice the legitimate interests of the author or the copyright holders.

The license shall be granted, by a motivated decision, indicating the scope in time and place, for the purpose of meeting teaching requirements of all kinds and levels.

The Regulations shall prescribe the terms and conditions for the grant of such a license and the categories of fees due, which shall not exceed 1,000 pounds for each work.

### Article 171

Without prejudice to the moral rights of the author under this Law, the author may not, after the publication of the work, prevent third parties from carrying out any of the following acts:

- (1) Perform the work in family context or student gathering within an educational institution, to the extent that no direct or indirect financial remuneration is obtained;
- (2) Make a single copy of the work for one's exclusive personal use, provided that such a copy shall not hamper the normal exploitation of the work nor cause undue prejudice to the legitimate interests of the author or copyright holders;

However, the author or his successor may, after the publication of the work, prevent third parties from carrying out any of the following acts without his authorization:

- Reproduction or copying works of fine, applied or plastic arts, unless they were displayed in a public place, or works of architecture;
  - Reproduction or copying of all or a substantial part of the notes of a musical work;
  - Reproduction or copying of all or a substantial part of a database or computer program.
- (3) Make, with the consent of the legitimate owner of the program, a single copy or an adaptation of a computer program, even if exceeding the extent necessary for the use of the program inasmuch as it remains within the limits of the purpose for which consent was initially granted, for archiving purposes or to replace a lost, destroyed or invalid original copy. In either case, the original or adapted copy shall be destroyed upon expiration of the property title. The Regulations shall determine the terms and conditions of adaptation from the program.
  - (4) Make an analysis of the work, or excerpts or quotations therefrom, for the purpose of criticism, discussion or information.
  - (5) Reproduction from protected works for use in legal or administrative proceedings, inasmuch as required by such proceedings, provided that the source and the name of the author are mentioned.
  - (6) Reproduction of short extracts from a work for teaching purposes, by way of illustration and explanation, in a written form or through an audio, visual or audiovisual recording, provided that such reproduction is within reasonable limits and does not go beyond the desired purpose, and provided that the name of the author and the title of the work are mentioned on each copy whenever possible and practical.
  - (7) Reproduction, if necessary for teaching purposes in educational institutes, of an article, a short work or extracts therefrom, provided that:
    - reproduction is made once or at different separate occasions;
    - the name of the author and the title of the work are mentioned on each copy.

- (8) Making a single copy of the work, through the intermediary of a documentation and archiving center or through a bookshop not aiming at making any direct or indirect profit, and provided that:
- where the reproduced work is a published article, a short work or an extract of a work, the aim of reproduction is to satisfy the needs of a natural person, the copy will be used only for study or research purposes, and that a single copy is made or at different occasions;
  - where the reproduction is made with the aim of preserving the original copy or, when necessary, replacing a lost, destroyed or has become invalid copy, and it was impossible to obtain such a substitute copy under reasonable conditions.
- (9) Ephemeral reproduction of a work where such reproduction is made in relay, during a digital transmission of the work or in the course of a process of reception of a digitally stored work, within the normal operation of the device used by an authorized person.

#### **Article 172**

Without prejudice to the moral rights of the author under this Law, the author or his successor may not prevent newspapers, periodicals or broadcasting organizations, inasmuch as justified by their aims, from doing the following:

- (1) Publishing excerpts from his works which were legally made available to the public, and his published articles on topical issues of concern to the public opinion, unless the author has prohibited such publication when publishing the work, and provided that the source, the name of the author and the title of the work were mentioned.
- (2) Publishing speeches, lectures, opinions or statements delivered in public sessions of the parliament, legislative or administrative bodies or scientific, literary, artistic, political, social or religious meetings, including statements delivered during public court proceedings. However, the author alone or his successor shall have the right to make collections of such works, for which he shall be entitled to claim authorship.
- (3) Publication of extracts of an audio, visual or audiovisual work made available to the public in the course of covering current events.

#### **Article 173**

Restrictions on the author's economic rights, under this Law, shall also apply to owners of related rights.

#### **Article 174**

Where more than one person have participated in the production of a work in such a manner that it is impossible to distinguish the contribution of each in the joint work, all

participants shall be considered jointly and equally as authors of the work, unless otherwise agreed in writing.

In such a case, a co-author may not separately exercise the author's rights, without the written consent of all co-authors.

However, if the contribution of each belongs to a different category of art, each co-author shall have the right to exploit independently his part, without prejudice to the exploitation of the work of joint authorship, unless otherwise agreed in writing.

Any of the co-authors shall have the right to initiate legal proceedings in case of infringement of copyright.

Where a co-author dies without a universal or singular successor, the share of that co-author shall devolve to the other co-authors or their successors, unless otherwise agreed in writing.

#### **Article 175**

The natural person or legal entity under whose direction the joint work was created shall have alone the right to exercise the author's rights with respect to that work.

#### **Article 176**

Where a work is published anonymously or under pseudonym, the publisher shall be presumed empowered by the author to exercise the rights provided for in this Law, unless the author has appointed another agent or revealed his identity and his capacity.

#### **Article 177**

(1) Shall be considered as co-authors of an audiovisual, audio or visual work:

- (i) The author of the scenario or written idea for the program;
- (ii) The person who makes an adaptation of an existing literary work for an audiovisual production;
- (iii) The author of the dialogue;
- (iv) The composer of the music if composed specifically for the work;
- (v) The director who positively contributes from the intellectual point of view to the making of the work.

Where the work is a vulgarization or an extract of a preexisting work, the author of that preexisting work shall be considered as co-author of the new work.

(4) The author of the scenario, the person who makes an adaptation of the literary work, the author of the dialogue and the director shall jointly have the right to transmit or project the audio, visual or audiovisual work despite any opposition made by the author of the

original literary work or composer of the music, without prejudice to the rights of the opposing author deriving from the co- authorship.

- (5) The author of the literary portion or the musical portion shall have the right to publish his work in a manner other than the one in which the said work of co- authorship is published, unless otherwise agreed in writing.
- (6) Where a co-author of an audiovisual, audio or visual work fails to complete his part, the other co-authors may not be prevented from using the completed portion, without prejudice to the rights of that co-author deriving from his co-authorship.
- (7) Throughout the period of the agreed exploitation of the audiovisual, audio or visual work, the producer shall represent the authors of that work and their successors in any agreement for the exploitation of the said work, without prejudice to the rights of the authors of the quoted or adapted literary or musical works, and unless otherwise agreed in writing. he producer shall be considered as the publisher of such a work and shall enjoy the publisher's rights with respect to the work and copies thereof, within the limits of its commercial exploitation.

#### **Article 178**

The person who makes a picture may not publish, exhibit or distribute the original or copies of that picture without the authorization of the person or persons whose picture was taken, unless otherwise agreed. However, such a picture may be published if it concerned public events, official or public personalities, or persons of local or worldwide renown; or if the publication was authorized by public authorities in the public interest, provided that such exhibition or circulation of that picture shall not cause prejudice to the honor, reputation or dignity of that person.

The person whose picture was taken may authorize the publication of the picture in newspapers and other similar publications, even without the authorization of the author of the picture, unless otherwise agreed.

The preceding provisions shall apply whatever the process used for making the picture, such as by drawing, engraving or any other process.

#### **Article 179**

In case of infringement of any right provided for in this Book, the president of the competent court dealing with the merits of the case, upon a request made by an interested party, may order, by petition, one or more of the following conservatory measures:

- (1) Drawing up a detailed description of the work, the performance, the sound recording or the broadcast program;
- (2) Discontinuance of publication, exhibition, reproduction or manufacturing of the work, the performance, the sound recording or the broadcasting program;
- (3) Seizure of the original copy, or copies, of the work, audio recording or broadcasting program and seizure of the material used for the re-publication or reproduction of such

work, performance, audio recording or broadcasting program, provided that such material could be used only for such rep-publication of the work, performance, audio recording or the broadcast program;

- (4) Establishing the infringement of the protected right;
- (5) Assessing, and in all cases seizure of, the income made as a result of the exploitation of the work, the performance, the audio recording or the broadcast program.

In all cases, the president of the court may designate one or more experts to assist the bailiff in charge of the execution of such measures. The president shall require from the requesting party to submit an appropriate security.

The requesting party shall be required to submit the merits of the case to the court within 15 days following the grant of the order, otherwise such order shall cease to have effect.

### **Article 180**

The concerned party may, within 30 days from the date of the grant or publication of that order, appeal to the president of the court who issued the order. The president may confirm or revoke the order totally or partly or designate a custodian for the re-publication, exploitation, exhibition, manufacturing or reproduction of the work, sound recording or broadcast program. The resulting income shall be deposited in the court's treasury until the dispute has been settled.

### **Article 181**

Without prejudice to any more severe sanction under any other law, shall be punishable by imprisonment for a period of not less than one month and by a fine of not less than 5,000 pounds and not more than 10,000 pounds, or any of those sanctions, any person who commits any of the following acts:

- (1) Selling, renting or putting in circulation under any form, a work, a sound recording or a broadcast program protected under this Law, without a prior written authorization from the author or the owner of the related right;
- (2) Knowingly imitating, selling, offering for sale, circulation or rental, a work, a sound recording or a broadcast program;
- (3) Knowingly imitating within the country, selling, offering for sale or circulation, renting or exporting to a foreign country a work, a sound recording or a broadcast program published in a foreign country;
- (4) Dissemination through computer networks, Internet, information networks, communication networks and other means of technology of a work, an sound recording, a broadcast program or a performance protected under this Law, without a prior written authorization from the author or the owner of the related right;



- (5) Manufacturing, assembling or importing for the purpose of sale or rent any device, tool or implement especially designed or made to circumvent a technical protection means, such as encryption or the like, used by the author or the owner of the related right;
- (6) Removing, neutralizing or disabling, in bad faith, any technical protection device used by the author or the owner of the related rights;
- (7) Infringing any of the moral or economic copyrights or related rights provided for in this Law.

Sanctions shall be multiplied according to the number of infringed works, sound recordings, broadcast programs or performances.

In case of repetition, the punishment shall consist of imprisonment for a period of not less than three months and a fine of not less than 10,000 pounds and not more than 50,000 pounds.

In all cases, the court shall order the confiscation of the infringing copies, those obtained as a result of infringement, as well as equipment and implements used to commit the infringement.

In case of conviction, the court may also order the closure of the establishment used by the convicted person to commit his infringement, for a period of not more than six months. In case of repetition, the closure shall be mandatory in the cases of infringement provided for under items (ii) and (iii) of this Article.

The court shall order the publication of a summary of the judgement in one or more newspapers at the expense of the convicted person.

### **Article 182**

Where the parties in dispute agree to arbitration, the provisions of the Arbitration Law on Civil and Commercial Disputes No. 27 of 1994 shall apply, unless otherwise agreed.

### **Article 183**

The competent ministry shall grant license for the commercial or professional exploitation of works, sound recordings, performance or broadcast programs that fall into the public domain, against payment of fees, as prescribed by the Regulations, and not exceeding 1,000 pounds.

### **Article 184**

Publishers, printers and producers of works, sound recordings, performance recordings and broadcast programs shall be required jointly to deposit one or more copies, not exceeding 10, of their works. The competent minister shall decide the number of such copies or their equivalent substitutes, taking into consideration the nature of each work., and the place of deposit.

Failure to deposit shall not affect the author's rights and related rights provided for under this Law.

The publisher, printer or producer who violate the provision of the first paragraph of this Article shall be punishable by a fine of not less than 1,000 pounds and not more than 3,000 pounds per work, sound recording or broadcast program. The obligation to deposit shall remain applicable.

This requirement shall not apply to works published in newspapers, magazines and periodicals, except where the work is published separately.

#### **Article 185**

A register shall be established with the competent ministry in which any act of disposal relating to works, performances, sound recordings and broadcast programs under the provisions of this Law shall be recorded. The Regulations shall determine the procedures for the registration against payment of a fee of not more than 1,000 pounds for each work.

The disposal shall not be valid with respect to third parties prior to such registration.

#### **Article 186**

Any person may obtain from the competent ministry a certificate for a deposited work, recorded performance, sound recording or broadcast program, against payment of a fee prescribed by the Regulations not exceeding 1,000 pounds for each such certificate.

#### **Article 187**

Any establishment that puts in circulation works, recorded performances, sound recordings or broadcast programs through sale, rent, loan or licensing, shall be required to:

- (i) Obtain a license from the competent minister against payment of a fee prescribed by the Regulations, not exceeding 1,000 pounds;
- (ii) Maintain registers in which data and circulation year relating to each work, sound recording or broadcast program are recorded.

Without prejudice to any more severe sanction under any other law, violation of the provisions of this Article shall be punishable by a fine of not less than 1,000 pounds and not more than 5,000 pounds.

In case of repetition, the punishment shall be a fine of not less than 10,000 pounds and not more than 20,000 pounds.

#### **Article 188**

The Minister of Justice, in agreement with the competent minister, shall issue a decision designating law enforcement officers for the purposes of this Law.

## **BOOK FOUR**

### **PLANT VARIETIES**

#### **Article 189**

Under the provisions of this Law, protection is granted to plant varieties, derived inside or outside Egypt, whether developed through biological or non-biological means, when registered in the special register of protected plant varieties.

#### **Article 190**

The Prime Minister shall establish an office to be known as the Office of Plant Variety Protection. The Office shall be competent to receive, examine and decide on applications submitted for the protection of plant varieties, in accordance with the rules and procedures stipulated in the establishment decision.

#### **Article 191**

Without prejudice to international conventions in force in Egypt, any natural person or legal entity, Egyptian or foreign, belonging to, domiciled or active in a country or an entity that is a member of the World Trade Organization or that applies reciprocity to Egypt, shall have the right to protection of plant varieties as prescribed in this Book.

#### **Article 192**

To be eligible for protection a variety shall be new, distinct, uniform, stable and shall be subject of a denomination.

A variety shall be considered new if, at the filing date of the application, the vegetation propagation of the variety was not sold or otherwise transmitted to third parties by the breeder or with his consent for the exploitation of the variety. A variety shall not lose its novelty if it was exposed or circulated in Egypt for more than one year prior to the effective filing date of the application. Where a variety has been exposed or circulated outside Egypt, such period shall not exceed six years in case of trees and vines or four years for other crops. The variety shall also satisfy the condition of novelty where the sale or disposal to others, with the consent of the breeder, has taken place prior to the granting of protection to such variety.

A variety shall be considered distinct if it is distinguishable from other known plant varieties, by one or more obvious characteristics, provided that the variety maintains this characteristic after propagation.

A variety shall be considered uniform when the variations among its class remain within permissible limits.

A variety shall be considered stable, when replanted, if its essential characteristics do not change after repeated propagation for a period prescribed in the Regulations.

A breeder's right certificate shall be granted to the person, whether a natural person or a legal entity, who discovers the plant variety that fulfills the protection conditions.

### **Article 193**

The term of protection for plant varieties shall be 25 years for trees and vines and 20 years for other crops.

The term of protection shall run from the date of the grant.

Nevertheless, a variety, for which a breeder's right is requested, shall be granted a temporary protection starting from the date of the filing of the application and expires on the date of the publication of the grant of the title. During this period, the breeder's right as stipulated in Article 194, shall be limited to a fair compensation as soon as such protection is granted, provided that the breeder has notified his application to the party that has been exploiting the plant variety prior to granting the protection.

### **Article 194**

The holder of a breeder's right certificate shall have an exclusive right to the commercial exploitation of the protected variety in any form whatsoever. The production, propagation, circulation, sale, marketing, importing, exporting of propagation material shall not be allowed without the written consent of the variety breeder..

### **Article 195**

The protection shall not prevent third parties from the following acts:

- (i) Non-commercial activities and use of the result of propagation material, by farmers on their own holdings for private propagating purposes;
- (ii) Activities related to experiments and scientific research purposes;
- (iii) Activities of breeding, cross-breeding and selection for the purpose of breeding new varieties;
- (d) Activities related to teaching and training purposes;
- (e) Activities of use, commercial exploitation and consumption of the crop material, prime and intermediate material and finished products, which are made or derived directly or indirectly from the crop material, whether the crop material is an entire plant or part thereof.

### **Article 196**

The Office of Plant Variety Protection, on submission by the Minister of Agriculture and after the approval of a ministerial committee established by a decision of the Prime

Minister, may grant non-voluntary licenses to use and exploit the protected variety without the consent of the breeder, when necessary to safeguard the public interest and where the breeder fails to produce the variety on his own or to provide the propagation material of the protected variety, and where he refuses to grant third parties license for the exploitation of the variety, despite the appropriate conditions offered, or where he practices unfair competition.

The breeder is entitled to fair compensation for the use and exploitation, by third parties, during the non-voluntary license period. The assessment of such compensation shall take into consideration the economic value of the variety.

#### **Article 197**

In accordance with the provisions of Article 196, the licensee shall, during the period of the license, abide by the conditions of the license and shall not assign the license to a third party or prejudice other rights of the breeder.

The license shall lapse at the end of its duration or where the licensee does not comply with any of the terms of the license.

#### **Article 198**

The breeder's rights on the material of the protected variety shall lapse if offered by him or by his consent for circulation outside Egypt. In this case, third parties are entitled to circulate, sell, commercialize, distribute or import the protected variety whether in the form of propagation material or crop material from an entire plant or part thereof or products derived or manufactured from the crop or other plant components.

The breeder has the right to prevent others from exporting the protected variety if such exportation would lead to the propagation of the variety in a country where the variety does not enjoy protection.

#### **Article 199**

The Minister of Agriculture may, on the recommendation of the ministerial committee referred to in Article 196, limit the exercise of the breeder of all or some of his rights provided for in this Law in any manner with the aim of safeguarding the public interest, and in particular if it appears that the protected plant variety:

- (a) has harmful effects on the natural environment, the safety of biological diversity, the agricultural sector, the life or health of humans, animals or plants, in Egypt;
- (b) has harmful economic or social effects, hampers local agricultural activities, or it appears that its use is incompatible with the values and beliefs of the community.

#### **Article 200**

The breeder shall disclose the genetic source relied on to develop the new plant variety. The protection of the new plant variety requires that the breeder has acquired that source by legitimate means under the Egyptian law.

Such a requirement extends to traditional knowledge and experience accumulated among local communities the breeder could have relied on in his efforts to develop the new plant variety.

Likewise, the breeder who deals with Egyptian genetic sources, with a view to develop new varieties derived therefrom, shall undertake to obtain the approval of the relevant competent administrative authorities. He shall also undertake to acknowledge the Egyptian traditional knowledge as sources to what he could have achieved using such knowledge and experience, through the disclosure of the Egyptian source the breeder benefited from, and by sharing the profits gained with the interested party, as prescribed in the Regulations of this Law.

A register shall be established in the Ministry of Agriculture to include the genetic Egyptian plants, both wild and domesticated.

### **Article 201**

The Office of Plant Variety Protection shall issue breeder's right certificates in accordance with the procedures prescribed in the Regulations, against a fee prescribed therein, not exceeding 5,000 pounds.

The grant of such a certificate shall be published, at the expense of the title holder, in a monthly gazette issued by the Office. Where an application is rejected, the applicant shall be informed of the rejection decision and the reasons thereof. Any interested party may, within 15 days from the publication date or the date of notification, oppose the decision to grant a breeder's right certificate or to reject an application for the protection of a plant variety, as may be the case.

The Regulations shall prescribe the rules and procedures for the notification, examination of the appeal and the decision thereon.

### **Article 202**

Where a variety loses one of the conditions required for granting a breeder's right, or when granted in violation of the provisions of this Law, the certificate of the breeder's right shall be cancelled in accordance with the rules and procedures as decided by the Minister of Agriculture.

Notification of this decision to the concerned parties shall be in a registered letter with acknowledgement of receipt, and may be appealed within 15 days from the date of notification.

The Minister of Agriculture shall issue a decision establishing the rules and procedures for examination and settlement of the appeal.

### **Article 203**

Without prejudice to any more severe punishment under any other law, deliberate violation of the provisions contained in this Book shall be punishable by a fine of not less than 10,000 pounds and not more than 50,000 pounds.

In case of repetition, the punishment shall be an imprisonment for a period of not less than three months and not more than one year and a fine of not less than 20,000 pounds and not more than 100,000 pounds.

In all cases, the incriminated seeds and the propagating materials shall be confiscated.

#### **Article 204**

Upon the request of any concerned party, the president of the competent court considering the merits of the case, may issue a decision, by petition, to order one or more of the appropriate conservatory measures, and in particular:

- (1) Establishing infringement of a protected right.
- (2) Drawing a detailed inventory and detailed description of the infringing products and the implements used or may be used in the infringement.
- (3) Seizure of all articles stated in item 2.

In all cases, the president may designate one or more experts to assist the bailiff in charge of the execution of such measures. He may require the applicant to deposit an appropriate financial security.

Where the applicant fails to submit the merits of the case to the competent court, within 15 days following the date of the order, such order shall cease to have effect.

#### **Article 205**

The concerned parties may, within 30 days from the date of issue or publication of the order, as may be the case, appeal to the president of the court who issued that order. The president may confirm or revoke the order totally or partly, in accordance with the rules and procedures provided for under the law of civil and commercial proceedings.

#### **Article 206**

The Minister of Justice, in agreement with the Minister of Agriculture, shall issue a decision designating law enforcement officers for the purpose of implementing the provisions contained in this Book.

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