
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

BAHRAIN

The present document reproduces the text¹ of the Draft Law (2001) on Patents and Utility Models, which is under consideration by the competent authorities of the Bahrain Government, notified by Bahrain under Article 63.2 of the Agreement by means of a communication from its Delegation dated 28 November 2001.

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

BAHREÏN

Le présent document contient le texte¹ du projet de Loi de 2001 sur les brevets et modèles d'utilité, actuellement examiné par les autorités compétentes du gouvernement bahreïnite et notifié par Bahreïn au titre de l'article 63:2 de l'Accord dans une communication de sa délégation datée du 28 novembre 2001.

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELLECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

BAHREIN

En el presente documento se reproduce el texto¹ del proyecto de Ley de Patentes y Modelos de Utilidad de 2001, que está siendo examinado por las autoridades competentes del Gobierno y que Bahrein ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo mediante una comunicación de su Delegación de fecha 28 de noviembre de 2001.

¹ In English only./En anglais seulement./En inglés solamente.

DRAFT LAW NO. ---- (2001) ON PATENTS AND UTILITY MODELS

CHAPTER I: PATENTS

PART I: GENERAL PROVISIONS

Article 1

Patents are available for any inventions, Provided they are new, involve an inventive step and are capable of industrial application. They are available to inventions, whether related to new - imported or locally manufactured - industrial products, industrial processes or to a new application to known industrial processes.

A patent shall be granted irrespective of any amendment, improvement or addition to a patented invention, it shall be granted to the owner of the amendment, improvement or addition, in accordance with the provisions of this Law.

A patent is deemed to be industrially applicable if it can be applied or used in any field of technology. Industry shall be understood in its broadest sense, including chemical products related to nutrition, agrochemical products, chemical pharmaceutical products, micro-organisms, microbiological and non-biological processes for the production of plants and animals, and biological processes for the production of plants.

Article 2

An invention may not be considered as novel in its entirety or parts thereof in the following two cases:

(a) if a an application has been filed for an invention, a patent has been granted for it or for a part thereof in the State of Bahrain or abroad before the filing date of the application for a patent;

(b) if the invention has publicly been used in the State of Bahrain or abroad, or has been disclosed in a manner that enables an experimented person to use it before the deposit of the application for a patent.

For the purposes of Item (b) of this Article, disclosure shall not cover the display of an invention in national or international exhibitions during the year preceding the filing date of the application for a patent, in accordance with the rules and requirements determined under the Regulations.

Article 3

The following shall not be patentable:

- a. Inventions, the prevention of the commercial exploitation of which is necessary to protect public order or morality or to avoid serious damage to the environment.
- b. Plants and animals, other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.
- c. Diagnostic, therapeutic and surgical methods for the treatment of humans or animals, excluding products used for such methods.
- d. Scientific discoveries, theories and mathematical methods.

Article 4

The competent authority at the Ministry of Commerce and Industry shall establish a register to be known as the "Patent Register" where are recorded applications for a patent, as well as all data related to it and its exploitation and disposal, in accordance with the provisions of this Law and the Regulations and Decisions thereunder.

Article 5

Without prejudice to the provisions of international treaties in force in the State of Bahrain, any natural person or legal entity being a national of the State of Bahrain, from a Member of the World Trade Organization or from a State holding reciprocal relations with the State of Bahrain, shall be entitled to file an application for a patent, in accordance with the provisions of this Law.

Article 6

Where an application for a patent is filed in a Member of the World Trade Organization or in a State holding reciprocal relations with the state of Bahrain, the interested person, or his successor in title, may file an application for the registration of the same invention, under the requirements, conditions and procedures provided for under this Law, within one year from the filing date of the application abroad. In such case, the filing date of the initial application shall constitute the basis for priority right.

Notwithstanding the provision under Article 2 of this Law, the application of a patent shall not be affected by the publication of a description of the invention, its use, or the filing of another application for it within the period provided for under the preceding paragraph.

Article 7

The inventor, or his successor in title, shall have right in the patent. Where the invention is a result of collective work by a number of persons, they shall all be equally entitled to the patent, unless agreed otherwise. Any person whose efforts are limited to execution may not be considered as participant.

Where the invention is achieved by more than one person independently from each other, the one who files the earlier application shall be entitled to the patent.

Article 8

The patent shall belong to the employer where the invention is the result of the fulfillment of a contract or undertaking for making efforts for the achievement of the invention, and where the employer establishes that the employee achieved the invention only by using the capacities made available to him by the establishment.

Provisions under this Article shall apply to civil servants in the State and their subordinates.

In all cases, the name of the inventor shall appear on the patent.

Article 9

Excluding the two cases referred to in the first paragraph of the preceding Article, where the invention is achieved within the activities of public or private establishment to which the employee is assigned, the latter shall undertake to inform the employer, by registered mail and acknowledgment of receipt, of the grant of the patent upon its reception. The employer shall have two alternatives: to exploit the invention or to buy the patent, against a fair compensation to be paid to the inventor. The choice shall be made within three months from the date on which he is notified of the grant of patent.

Where the period provided for under the first paragraph of this Article has expired without the employer expressing the intention to own the patent, the inventor shall have the right in it.

Article 10

Where an application for a patent is filed by an inventor within one year from the date on which he left the public or private establishment, it shall be deemed as if it is filed while still in service. Both the inventor and the employer shall have all the rights provided for in the preceding two Articles, as appropriate.

Article 11

1. The name of the inventor shall appear in the patent, unless the latter indicates in writing that he wishes not to be named.
2. The patent owner shall have the right to prevent third parties from exploiting the invention in any manner as follows:
 - a) Where the subject matter of a patent is a product: The patent holder has the exclusive right to prevent third parties not having the holder's consent from the acts of making, using, offering for sale, selling, or importing for these purposes that product.
 - b) Where the subject matter of a patent is a process: The patent holder has the exclusive right to prevent third parties not having the holder's consent from the acts of using the process, and from the acts of: using, offering for sale, selling, or importing for those purposes the product obtained directly by that process.

Article 12

With due regards to a defendant's right to protect his industrial and commercial secrets, a civil court may, in a claim relating to the exploitation of a patented industrial process used without the consent of its owner, order the defendant to prove that the process used to obtain an identical product is different from the patented process. This is provided that the plaintiff has been unable to identify the process actually used despite reasonable efforts; and provided the court believes it is likely that the identical product was made using the protected process.

Article 13

Rights conferred to the owner by a patent shall not cover the following:

- a) The use of the patent for personal purposes, which are non-commercial and non-industrial, or for research purposes.
- b) Where a third party in Bahrain has in good faith made arrangements to exploit in Bahrain the invention the subject of the patent before an application of a patent is filed and without the consent of the patent holder, that third party shall have the right to use the invention for the purposes of its own undertaking and provided that such right shall not be transferable independently of that undertaking.
- c) Use of the invention on a land vehicle, vessel or aircraft temporarily or accidentally present in Bahrain.
- d) The use by a third party of the patent during its protection period for manufacturing a pharmaceutical chemical product for the purpose of obtaining governmental approval for the marketing of the product provided that the marketing does not start prior to the expiry of the protection period.

Article 14

Patent protection shall be granted for a period of 20 years counted from the filing date.

Article 15

A fee shall be paid for the filing of an application for a patent and an annual fee shall be paid for the patent on an incremental basis effective from the beginning of the second year from the grant of the patent until the expiration of the period legally determined for protection.

In case of delay in the payment of the annual fee for a maximum period of six months, an additional late payment fee shall be paid.

PART II: PROCEDURES FOR PATENT APPLICATIONS

Article 16

The application for a patent shall be filed by the inventor, or his successor in title, with the competent authority at the Ministry of Commerce and Industry using the appropriate form, in accordance with the provisions provided for under this Law and with the conditions, requirements and procedures determined under the Regulations. An application may not contain more than one invention. A group of inventions so linked as to form a general inventive concept shall be considered as a single invention.

The application shall be accompanied, in particular, with a detailed description of the invention containing a complete statement on its subject and on the best method to be carried out by a person having ordinary skill. The description shall cover the new elements for which the applicant requests protection. The application shall also be accompanied with a drawing of the invention, when necessary.

The applicant shall, in all cases, undertake to provide data on applications he has previously filed abroad on the same invention or anything related to their subject matter as well as the results of processing of such applications.

Article 17

The applicant may exploit his invention from the filing date.

Article 18

The applicant may, at any time prior to the acceptance of the application, withdraw the application, introduce any amendment to the description or drawing of the invention, provided that such amendment does not concern the substance of the invention.

Article 19

The competent authority at the Ministry of Commerce and Industry shall examine the patent application and its annexes to ascertain fulfillment of the prescribed conditions. It may demand the introduction of any amendments and the fulfillment of any conditions it deems necessary for its processing. Where the application satisfies the conditions referred to, it shall announce the acceptance of the application, within the period, and in accordance with the method and manner determined under the Regulations.

Any person may, after the acceptance of the application, have access to the documents accompanying the application as well as any relevant information recorded in the Patent Register.

Any interested person may file with the competent authority an opposition, in writing, to the conduct of procedures for the grant of the patent, within 60 days from the date of acceptance of the patent. Such opposition shall be reasoned.

The filing of an opposition shall be subject to payment of a fee.

The rules governing opposition and procedures for its processing shall be determined under the Regulations.

Article 20

If the competent authority at the Ministry of Commerce and Industry considers that the invention relates to public defense and security, it shall immediately notify the Ministry of Defense or the Ministry of Interior - as appropriate - of the patent application and of its annexes.

The Minister of Defense or the Minister of Interior - as appropriate - may object to the acceptance of a patent application within 90 days from the date on which the documents are sent to him, against the purchase of the invention, agreement on its exploitation, or request for the application of the provisions of non-voluntary licensing in accordance with the provisions of this Law.

Article 21

The competent authority at the Ministry of Commerce and Industry shall issue a decision concerning the grant of a patent after 60 days from the acceptance of the application while no opposition has been filed thereon, otherwise within 30 days from the date on which a decision is taken concerning such opposition.

Where a decision issued for the grant of a patent, the latter shall be recorded in the Patent Register. Such decision shall be published in the manner determined under the Regulations.

The interested person shall be given an official document bearing the seal of the Ministry of Commerce and Industry and outlining patent information using the appropriate form established by the Ministry.

PART III: TRANSFER, LICENSING FOR EXPLOITATION, MORTGAGE AND SEIZURE OF A PATENT

Article 22

The patent holder shall have the right to wholly or partially assign, or transfer by succession, or mortgage the patent and to conclude licensing contracts.

Without prejudice to the provisions governing the sale and mortgage of commercial establishments, the transfer and mortgage of a patent and deciding on the right to use it may not be used as evidence against a third party unless it is recorded in the Patent Register and the disposal is published in the manner determined under the Regulations.

Article 23

The creditor may seize the debtor's patent in accordance with the rules governing the seizure of movables held by the debtor and third parties. [sic: The competent authority at the Ministry of Commerce and Industry shall exempt from the provisions concerning declaration by the party seizing of his holdings to the party being seized].

The creditor shall inform the authority of the seizure as well as the result of the auctions to be recorded in the Patent Register, neither may be used as evidence against a third party unless they are recorded in the manner determined under the Regulations.

Recordal in the Register shall be subject to payment of a fee.

PART IV: NON-VOLUNTARY LICENSING FOR THE EXPLOITATION OF A PATENT

Article (24)

The Minister of Commerce and Industry may issue a non-exclusive compulsory license for the exploitation of a patent in the following cases:

- a. National emergency or other circumstances of extreme urgency or for public non-commercial use provided that the holder of the patent is notified as soon as possible after the license is granted.
- b. Where the holder of the patent has not made sufficient use of the patent to the extent that he has failed to satisfy the need of the domestic market, at reasonable prices taking into account those prevailing internationally, after the lapse of 3 years from the date of the grant of the patent or 4 years from the date of the filing of the patent application, whichever is longer.

In such a situation, the Minister shall have the right to issue a compulsory license to any person to whom the patent holder has refused to grant a license or to whom the holder has imposed unfair commercial terms in order to grant him such a license.

- c. Where a patented invention (first patent) involves an important technical advance of considerable economic significance in relation to another patented invention (second patent), and where the first patent can not be exploited without exploiting the second patent, the holder of the first patent may be granted a compulsory license to exploit the second patent. This is provided that the holder of the second patent has refused to allow such exploitation on reasonable terms. The exploitation of the second patent authorized in this case may not be assigned without the assignment of the first patent.

The holder of the second patent may also be granted a compulsory license to exploit, at reasonable terms, the first patent in respect to which the other compulsory license was granted.

- d. Where the holder of the patent exercises his rights for anti-competitive ends.

Article (25)

The following provisions shall apply to compulsory licenses:

- a) Applications for compulsory licenses shall be considered each upon its own merits.
- b) The applicant shall pay the prescribed fee in respect of the application
- c) The license shall be exploited predominantly for the supply of the domestic market.
- d) The applicant must be capable of effectively exploiting the invention through an enterprise existing in the State of Bahrain.
- e) Except in the case referred to under Article 24(a), the license shall only be granted if the applicant has made reasonable efforts to obtain a license from the patent holder on reasonable commercial terms and conditions, and that such efforts have not been successful within a reasonable period of time.
- f) The applicant shall agree to limit the exploitation of the invention to the purpose, scope, conditions and period for which the license is to be granted.

- g) Where the proposed exploitation relates to semi-conductor technology, authorisation shall only be granted for public non-commercial use or to remedy practices determined to be anti-competitive.
- h) The proposed user shall not assign the license except with the enterprise or the part thereof relating to the exploitation of the invention and after the approval of the Minister of Commerce and Industry.
- i) The patent holder shall be entitled to adequate remuneration taking into account the monetary value of the license. The need to remedy anti-competitive practices, if applicable, may be taken into account in determining the remuneration.
- j) The conditions provided for in items (c) and (e) of this Article shall not apply to situations where a license is granted to remedy anti-competitive practices.
- k) The Minister of Commerce and Industry shall ex officio or at the request of any interested party has the authority to amend the conditions of a compulsory license in case of change in circumstances.

Article (26)

Except in cases of national emergency and other circumstances of extreme urgency as referred to under Article 24(a), the competent Directorate at the Ministry of Commerce and Industry shall provide the patent holder with a copy of the license application. The patent holder shall be provided a reasonable opportunity to respond in writing to the application. The processing of the application shall be in accordance with the procedure specified in the Implementing Regulation.

The Minister of Commerce and Industry shall issue a decision accepting or rejecting the application and may grant an acceptance subject to any conditions he deems appropriate. In all cases, the Minister shall notify the holder of the patent and the applicant of his decision within 30 days of the issuance of such a decision and the competent Directorate shall enter the decision in the register of patents. The decision shall also be published in the manner specified in the Implementing Regulation.

Article (27)

The Minister of Commerce and Industry shall ex officio or at the request of the patent holder have the authority to terminate the license before the end of its term in the following cases:

- a. The circumstances, which led to the granting of the license, have ceased to exist and are unlikely to recur. In such case, the legitimate interests of the licensee shall be adequately protected in accordance with the terms and procedures specified in the Implementing Regulation.
- b. The licensee has not exploited the license for two years from the date of its issuance.
- c. The licensee has not complied with any of the conditions of the license or has failed to fulfil his obligations under this Law and the related Implementing Regulation.

PART V: EXPIRATION AND INVALIDATION OF PATENT RIGHTS

Article 28

Patent rights shall expire in the following cases:

- (a) if the term of protection provided for under Article 14 of this Law expires;
- (b) if the patent owner surrenders his rights thereon, provided that such surrender does not prejudice rights of third parties;
- (c) if, for a period exceeding one year, the patent owner fails to pay the prescribed fees in violation of the provisions of Article 15 of this Law in spite of warnings for due payment within the time limits determined under the Regulations, in a written letter by registered mail with acknowledgement of receipt;
- (d) if a final order is issued invalidating the patent;

(e) if a final order is issued canceling the patent as a result of non-exploitation of the invention in the State of Bahrain within two years following the grant of a non-voluntary license.

Expiration of patent rights shall be recorded in the Patent Register and published in the manner determined under the Regulations.

Article 29

The Ministry of Commerce and Industry, and any interested person, may, at any time, request the Supreme Civil Court to order the invalidation of patents which have been granted in violation of the provisions of this Law.

CHAPTER II: PATENTS FOR UTILITY MODELS

Article 30

Patents shall be granted for utility models in accordance with the provisions of this Law for any new technical addition in the shape or composition of means, tools, equipment or parts thereof, products or preparations or processes for their manufacture and all that is used in commerce.

The interested person may convert a patent application for an utility model into a patent application for an invention if the conditions therefor are met. The applicant for patent for an invention may also convert his application into a patent application for an utility model.

The recordal shall refer in both cases to the initial filing date.

Article 31

The competent authority at the Ministry of Commerce and Industry shall establish a register to be known as the "Register for Utility Model Patents" where are recorded patent applications for utility models and all data relating to them and their registration and disposal, in accordance with the provisions of this Law and its Regulations and Decisions.

Article 32

The term of protection for an utility model patent shall be for a non-renewable period of 10 years counted from the filing date of the patent application in the State of Bahrain.

Article 33

Provisions concerning patents provided for under Articles 2, 3, 5 to 11, 13 and 15 to 29 of this Law shall apply to utility model patents.

CHAPTER III: GENERAL PROVISIONS

Article 34

Inventions and utility models satisfying the registration conditions provided for under this Law shall enjoy provisional protection during the period of their exposition in exhibitions organized in the State of Bahrain or abroad, subject to a decision of the Minister of Commerce and Industry.

The conditions, requirements and procedures for the grant of such protection shall be determined under the Regulations.

Article 35

Any person may request access to the Patent Register and the Register for Utility Model Patents provided for under this Law, and obtain extracts and copies therefrom, in accordance with the rules, procedures and manner determined under the Regulations and against payment of the prescribed fee.

Article 36

Subject to the provisions for challenges provided for under Articles (18) and (19) and without prejudice to the provisions of Article (15) of this Law, any interested party may submit a petition to the Minister of Commerce and Industry in respect of any final decision issued in accordance with this Law within 30 days of its notification to that person. A decision in respect of the petition shall be issued within 30 days of its submission and the interested party shall be notified of the decision in writing within 30 days of its date of issuance. If the interested party is not notified of a decision within 60 days of the date of submission of his petition, such petition shall be deemed rejected.

Where a petition has been rejected or deemed rejected, the interested party may appeal such rejection before the High Civil Court within 60 days of its notification or lapse of the period beyond which the petition is deemed rejected as the case may be. An appeal may not be brought before the court until a petition has been filed and a decision has been issued or the period for a decision has lapsed.

Article 37

Subject to approval of the Cabinet, the Minister of Commerce and Industry shall issue a decision determining categories of the fees provided for under this Law as well as the rules and rates of increase and reduction, and cases for exemption.

Article 38

The Ministry of Commerce and Industry and any interested person may request the Supreme Civil Court to order the recordal, in the Patent Register or the Register for Utility Model Patents, of any statement that had not been recorded; or the deletion or modification of any statement if it had been unlawfully recorded in the Registers or if it does not correspond to reality.

Article 39

Officials designated by the Minister of Commerce and Industry to ascertain the implementation of the provisions of this Law as well as decisions issued for the purposes of its implementation, shall have the capacity to enter the concerned establishments.

Such officials shall have the authority to control infringements, establish the necessary official reports and refer them to the general prosecutor.

Article 40

(a) The President of the competent court may, upon demand from the owner of a patent or an utility model or pursuant to an order concerning a request, order one or more of the following measures and any other appropriate provisional measures in case of, or to prevent, infringement of any right provided for under this Law:

1. establishing an official record and a detailed description of goods and products, including imported articles upon their arrival, as well as machines and tools used for that purpose; and safeguarding the relevant evidence, where necessary;

2. undertaking provisional seizure of the objects referred to in the preceding paragraph.

(b) the request shall be accompanied with sufficient evidence proving that the applicant is the right holder and that such right is, or is likely to be, subject to infringement.

The President of the court may require from the applicant to provide the necessary information to assist the authorities responsible for implementing the provisional measure in determining the relevant goods.

(c) The President of the court may, as appropriate, issue the said order urgently without summoning the other party - where any delay in issuing such order is likely to cause irrecoverable damage to the applicant or result in the destruction of evidence - provided that the other party is notified upon issuing that order. This order establishing any such measures may include the designation of one or more experts to assist in implementation and prescribe the deposit of an appropriate bank or money bail for the safeguard against any unfair prejudice deriving from the procedure. The person against whom the order is issued may file an appeal with the competent court within ten days from the date on which the order is issued or on which he is notified, as the case may be. In such case, the Court may confirm the order or reject it in full or in part.

(d) The case concerning the substance of the conflict shall be initiated within 15 days from the date on which the order is issued, otherwise the measure taken shall be void.

Article 41

Without prejudice to any more severe sanction provided for under any other Law, any person who unlawfully and knowingly performs one of the following acts shall be punishable by imprisonment for a period of at least three months and not exceeding one year and by a fine of at least 500 Dinars and not exceeding 2000 Dinars or by either one:

(a) imitating a invention or utility model patented in accordance with the provisions of this Law;

(b) affixing on products, banners, marks, packing, packaging or any other object data that are likely to suggest that a patent has been obtained for an invention or an utility model;

(c) manufacturing, selling, offering for sale or disposal, importing or acquiring for the purposes of sale a product protected under an invention or utility model patent in the State of Bahrain.

The Court may require the publication of the order in one or more issues of daily newspaper at the expense of the party against who the order is taken.

In case of a second offence, infringement shall be punishable by imprisonment for a period of at least three months and not exceeding two years and a fine of at least 500 Dinars and not exceeding 4000 Dinars or by either one, together with the closure of the commercial establishment or business or the cease of the activity, as the case may be, for a period of at least 15 days and not exceeding six months. The decision shall be published in one or more issues of a daily newspaper at the expense of the party against whom the decision is taken.

In case of conviction, the court may order the seizure or destruction of the products or goods obtained from the offence, including imported articles upon their arrival, as well as the machines and tools used for that purpose.

In case of discharge, the court may order the seizure or destruction of the objects referred to in the preceding paragraph if they have caused any damage or been used to infringe the rights of the right holder.

The General Prosecutor shall initiate sanctions on the offences referred to in this Article.

Article 42

Industrial privileges granted in accordance with existing Laws and Regulations prior to the date of entry into force of this Law shall enjoy protection, and be considered as though they are registered under this Law. The elapsed period of protection shall be deducted from the term of protection provided for under this Law in accordance with the procedures and manner determined under the Regulations.

Article 43

The Provisions of this Law shall apply to any application filed prior to the entry into force of this Law and which is not subject to any industrial benefits. The applicant may amend his application in accordance with the provisions of this Law.

Article 44

All provisions concerning industrial privileges under the Regulations on Industrial Privileges, Designs and Trademarks (1955) as amended under the Law Decree No. 22 (1977) shall be void.

Article 45

The Minister of Commerce and Industry shall promulgate the Regulations and Decisions necessary for the implementation of this Law.

Article 46

Ministers shall, each within their capacity, implement this Law upon its publication in the Official Gazette.
