

Federal Law No. (9) of 2013

Concerning Plant Genetic Resources for Food and Agriculture

I, Khalifa Bin Zayed Al Nahyan,

President of the United Arab Emirates,

- Upon reviewing the Constitution;
- Federal Law No. (1) of 1972 Concerning the Competences of the Ministries and the Powers of the Ministers, and the Laws amending it;
- Federal Law No. (5) of 1979 Concerning Agricultural Quarantine, and the Laws amending it;
- The Penal Code promulgated by Federal Law No. (3) of 1987, and the Laws amending it;
- The Criminal Procedures Law promulgated by Federal Law No. (35) of 1992, and the Laws amending it;
- Federal Law No. (37) of 1992 Concerning Trademarks, and the Laws amending it;
- Federal Law No. (38) of 1992 Concerning the Establishment of Plant Nurseries and the Production, Import and Circulation of Seedlings;
- Federal Law No. (42) of 1992 Concerning the Production, Import and Circulation of Seeds and Tubers;
- Federal Law No. (24) of 1999 Concerning the Protection and Development of the Environment, and the Laws amending it;
- Federal Law No. (7) of 2002 Concerning Copyrights and Related Rights, and the Laws amending it;
- Federal Law No. (11) of 2002 Concerning the Regulation and Control of the International Trade of Endangered Animals and Plants;
- Federal Law No. (17) of 2002 on the Regulation and Protection of Industrial Patents, Drawings, and Designs, and the Laws amending it;
- Federal Law No. (17) of 2009 Concerning the Protection of New Plant Varieties;
- Federal Law No. (1) of 2011 Concerning the State Public Revenues;
- Federal Law by Decree No. (8) of 2011 Concerning the Rules of Preparation of General Budget and Closing Account;

– The proposal of the Minister of Environment and Water, the approval of the Cabinet and the Federal National Council, and the ratification of the Federal Supreme Council;

Have issued the following Law:

Definitions

Article (1)

In application of the provisions of this Law, the following words and phrases shall have the meanings assigned to each of them, unless the context otherwise requires:

State	: United Arab Emirates.
Ministry	: Ministry of Environment and Water.
Minister	: Minister of Environment and Water
Competent Department	: The department concerned with supervising, controlling, and following up on the implementation of the provisions of this Law, its Executive Regulations, and the resolutions issued in implementation thereof in the Ministry.
Competent Authority	: The local authority concerned with the affairs of managing plant genetic resources for food and agriculture.
Treaty	: International Treaty on Plant Genetic Resources for Food and Agriculture of the United Nations.
Genetic Resources	: Any material of plant origin, reproductive and vegetative propagating material, containing functional units of heredity.
Plant genetic Resources for Food and Agriculture	: Any genetic material of plant origin that has actual or potential value for food and agriculture.
Natural Site	: The natural environment in which plant genetic resources for food and agriculture are located.
Ex Situ	: A collection of plant genetic resources for food and agriculture maintained outside their natural habitats.

Collection

Derivatives : Products developed or extracted from plant genetic resources for food and agriculture, including new varieties or strains and other products.

Traditional and Heritage Knowledge and Practices : The accumulation of knowledge in the State over generations that has social and economic value necessary for the use and preservation of plant genetic resources for food and agriculture.

Innovations

Innovations : Producing unprecedented knowledge or techniques, or developing existing knowledge or techniques, whether through accumulation, assembly, or use of the characteristics, value, breeding, or derivation of any plant genetic resource for food and agriculture.

Collection : Collection of plant genetic resources for food and agriculture, their derivatives, traditional and heritage knowledge and practices, or innovations based on prior consent from the Ministry.

Collector : The person who has obtained a collection permit from the Competent Authority to collect a specific plant genetic resource for food and agriculture from a specific area and under specific conditions after obtaining prior consent in coordination with the Ministry.

Variety : Any plant grouping, within a single botanical taxon of the lowest known rank, defined by the reproducible expression of its distinguishing and other genetic characteristics.

Farmer's Variety : A plant grouping with distinct genetic characteristics that has been selected, propagated and maintained by the farmer over the years.

Selection : A qualitative selection of certain specific individual plants from a mixed population containing a group of plants, due to their desirable characteristics, with the aim of improving crop performance and raising productivity.

Multilateral System	: The system of access to plant genetic resources for food and agriculture and benefit-sharing in accordance with the Treaty.
Benefit-sharing	: The participation of all relevant parties in a fair sharing of the benefits resulting from the use of plant genetic resources for food and agriculture and traditional and heritage knowledge and practices, whether material, technical or otherwise.
Stakeholders	: Federal and local government or private agencies or persons dealing with plant genetic resources for food and agriculture.
Prior Consent	: The Ministry's approval of the application submitted by the collector, on the basis of which a permit is granted to collect plant genetic resources for food and agriculture or traditional and heritage knowledge and practices.
Material Transfer Agreement	: An agreement signed between the Ministry and the applicant to transfer plant genetic resources for food and agriculture outside the State, specifying the obligations of both parties, conditions of use, and sharing of benefits resulting from use in accordance with the terms of the agreement contained in the Treaty, in coordination with the Competent Authority.
Person	: Natural or legal person.

Objectives

Article (2)

This Law aims at the following:

1. Protecting and conserving plant genetic resources for food and agriculture, reducing their depletion, sustaining their use, and regulating their access and circulation, for the sake of agriculture and food security.
2. Ensuring that the benefits arising from the use of plant genetic resources for food and agriculture are shared in a fair and equitable manner, in accordance with the provisions of the Treaty.

3. Participation of all stakeholders in implementing programmes and activities related to the protection and conservation of plant genetic resources for food and agriculture.
4. Encouraging scientific research activities on plant genetic resources for food and agriculture in coordination with the Stakeholders.
5. Inventory, collect, classify and document the plant genetic resources for food and agriculture located in the State.
6. Documenting traditional and heritage knowledge, practices, and innovations associated with plant genetic resources for food and agriculture.

Scope of Application of the Law

Article (3)

The provisions of this Law shall apply to:

1. Plant genetic resources for food and agriculture within or outside their natural habitats and their derivatives.
2. Traditional and heritage knowledge, practices, and innovations associated with plant genetic resources for food and agriculture.
3. Stakeholders and persons dealing with plant resources for food and agriculture and traditional and heritage knowledge and practices. The Minister may, in coordination with the Competent Authority, exempt traditional methods of collecting, using and exchanging plant genetic resources for food and agriculture and traditional and heritage knowledge and practices within the State without prejudice to the provisions of the Treaty. The Executive Regulation shall specify the controls for this exemption.

Duties of the Ministry

Article (4)

The Ministry shall undertake all activities related to plant genetic resources for food and agriculture in accordance with the provisions of this Law and its Executive Regulation.

Gene Bank for Plant Genetic Resources for Food and Agriculture

Article (5)

A gene bank for plant genetic resources for food and agriculture shall be established in the Ministry, and it shall undertake the following functions:

1. Exploring, inventorying, documenting, preserving, characterising and evaluating the genetic origins and strains of plants and their uses.
2. Recording genetic assets and strains.
3. Collecting and preserving the microbial collection used in local agriculture from various sources.
4. Developing the necessary plans to propagate endangered varieties.
5. Granting prior consent to collect any plant genetic resources for food and agriculture or traditional and heritage knowledge or practices of the local community, in coordination with the Competent Department.

The Cabinet may, based on the Minister's proposal, add other competences, and the Executive Regulation shall determine the Bank's work system.

Transport of Plant Genetic Resources for Food and Agriculture

Outside the State

Article (6)

It is prohibited to take any plant genetic resources for food and agriculture outside the borders of the State without a valid material transfer agreement.

Access to Plant Resources for Food and Agriculture

Article (7)

Obtaining Plant Genetic Resources for Food and Agriculture

1. Access to plant genetic resources for food and agriculture included in the Multilateral System must be obtained with the consent of the Competent Department, whether these resources are within or outside their natural habitat.

2. Genetic resources not included in the Multilateral System and not included in Annex One of the Treaty may be accessed under a material transfer agreement.

Conditions for Obtaining Prior Consent

Article (8)

1. The plant genetic resources for food and agriculture included in the multilateral system in Annex One of the Treaty, whether in a state of preservation within or outside the natural habitat, are subject to the terms and provisions of this Law.
2. It is required to obtain prior consent from the Ministry before approving a permit to collect any plant genetic resources for food and agriculture or traditional and heritage knowledge and practices of the local community. The Executive Regulation shall specify the conditions for collection.

Collection of Plant Genetic Resources for Food and Agriculture

Article (9)

It is required to state the purpose of collecting plant genetic resources for food and agriculture and traditional and heritage knowledge and practices associated therewith in order to determine the type of prior consent for the collection permit.

Types of Prior Consent

Article (10)

1. The type of prior consent for the collection permit is determined according to one of the following purposes:
 - A. Academic permit for research.
 - B. Commercial research permit.
 - C. Commercial exploitation permit.
 - D. Any other purposes specified by the Executive Regulation.
2. The Executive Regulation shall determine the validity period for each of them.

Collection Permit

Article (11)

1. A collection permit shall be issued by the Competent Authority after obtaining prior consent.
2. The Competent Authority has the right to amend or cancel the permit for plant genetic resources for food and agriculture upon violation of the permit conditions and to notify the Ministry of that.

Collector's Obligations

Article (12)

The Collector is obligated to provide all data indicating the status of the plant genetic resource for food and agriculture. The Executive Regulation of the Law shall specify the required data.

Controls for the Collection of Plant Genetic Resources for Food and Agriculture

Article (13)

The Ministry must set controls on the collection of plant genetic resources for food and agriculture or ban them according to the cases it determines.

Benefit-Sharing

Article (14)

1. The Ministry and the Competent Authority may both participate in sharing the benefits that may arise from the direct or indirect use of plant genetic resources for food and agriculture or the traditional and heritage knowledge and practices associated therewith, in accordance with the prior consent and the collection permit.
2. An agreement shall be made to share the benefits between the Ministry, the Competent Authority and the Collector for the commercial exploitation of plant genetic resources for food and agriculture and the knowledge and traditional heritage practices associated therewith, provided that this agreement includes a system of knowledge exchange and capacity support or financial compensation.

Farmers' Rights

Article (15)

They includes the rights arising from farmers' past, present and future contributions to the conservation, development, improvement and provision of plant genetic resources for food and agriculture and the traditional and heritage knowledge and practices and innovations associated therewith, and participation in benefit-sharing.

Protecting Farmers' Variety

Article (16)

The non-breeding variety of the farmer shall be protected, and the Executive Regulation of this Law shall determine the farmer's variety of and the procedures for recording it.

Administrative Sanctions

Article (17)

1. The Minister or the Competent Authority may impose any of the following administrative sanctions:
 - A. Warning.
 - B. Cancellation of the permit.
 - C. Closing the shop for a period not exceeding six months.
 - D. Closing the shop permanently.
2. Criminal cases for the crimes stipulated in Article (18) of this Law shall not be initiated except by a written request from the Minister or his authorized representative. Any of them may be reconciled before referring the criminal case regarding them to the court in exchange for payment of an amount equivalent to twice the minimum fine imposed on the perpetrator of each of them.
3. The Minister shall issue a resolution specifying the controls and procedures for reconciliation.

Penalties

Article (18)

1. A penalty of imprisonment for a period not exceeding one year and/or a fine not less than (50,000) AED fifty thousand and not exceeding (500,000) AED five hundred thousand shall be imposed on:
 - A. Anyone who practises any activity of collecting plant genetic resources for food and agriculture without obtaining a permit.
 - B. Anyone who takes any plant genetic resources for food and agriculture outside the State without obtaining the necessary consents.
2. A fine not less than (10,000) AED ten thousand and not exceeding (30,000) AED thirty thousand shall be imposed on anyone who exceeds the period of the permit issued thereto.
3. The court shall order the confiscation of the materials, subject of the case, and refer them to the parties that may deal with or benefit from them. If the crime is committed in the name or for the account of a legal person or a commercial or professional establishment, it may order their closure for a period not exceeding six months.

Applying Severer Penalty

Article (19)

The penalties stipulated in this Law shall not prejudice any severer penalty stipulated by any other law.

Final Provisions

Judicial Police Officers

Article (20)

Employees who are designated by a resolution to be issued by the Minister of Justice, in agreement with the Minister or the Competent Authority shall have the capacity of judicial control officers in establishing offences committed in violation of the provisions of this Law and the regulations and resolutions issued in implementation thereof, each within its competence.

Collection Permit Fees

Article (21)

The Cabinet shall issue a resolution upon a proposal from the Minister to determine the fees prescribed according to the provisions of this Law within six months as of the date of entry into force of this Law.

Executive Regulation

Article (22)

The Cabinet shall issue the Executive Regulation of this Law upon a proposal from the Minister within six months as of the date of entry into force of this Law.

Article (23)

Any provision that violates or contradicts the provisions of this Law shall be repealed.

Entry into Force of Law

Article (24)

This Law shall be published in the Official Gazette and shall enter into force three months after the date of its publication.

Khalifa Bin Zayed Al Nahyan

UAE President

Issued by us at the Presidential Palace in Abu Dhabi

On: 22 Muharram 1435 AH

Corresponding To: 26 November 2013