

## **Unofficial Translation**

### **DRAFT PATENT LAW FOR ARAB GULF COOPERATION COUNCIL**

In implementation of the goals of the Gulf Cooperation Council (GCC) enlisted in the fourth article of the GCC's Charter.

And in support of the scientific and technical joint cooperation between the member states as mentioned in the fourth chapter of the joint economic agreement, especially regarding efforts to establish a self-reliant unique foundation based on support and promotion of research, applied and technical sciences.

And in seeking to achieve the aim of transferring and utilization of imported technology, promotion and development of local technologies in a way that suits the nature of the region's needs and the aims of its progress and development.

The Supreme Council for The Arab Gulf Cooperation Council, and after consideration of the Patent LAW For the Arab Cooperation Council approved by the Council in its 13th Session held in December 1992, has agreed on the following amendment to the LAW:

#### **Article (1):**

In the execution of the Law, the following terms are meant as attributed herewith, unless the context indicates otherwise:

1/1 - Cooperation Council: The Arab Gulf Cooperation Council consisting of The United Arab Emirates, the State of Bahrain, Kingdom of Saudi Arabia, Sultanate of Oman, The State of Qatar and The State of Kuwait.

1/2 - Ministerial Council: The Ministerial Council of the Gulf Cooperation Council.

1/3 - The Committee: The Grievances Committee assigned by the Ministerial Council to undertake the provisions set forth in this Law and related regulations.

1/4 - Board of Directors: The Board of Directors of the Patents Office of the Arab Gulf Cooperation Council stated in the Charter of the Patents Office.

1/5 - The Office: The Patents Office of the Arab Gulf Cooperation Council, consisting of The Board of Directors and the Executive body of the Office.

1/6 - The Law: The Patents Law for The GCC.

1/7 - Patent: The Document issued by the Office to the Invention's owner to enable the invention to enjoy protection according to the rules and regulations of this Law, valid in all Council states.

**Article (2):**

2/1 - An invention is eligible for a patent according to the regulations of this Law if it is new and includes an innovative step, and is industrially applicable, not conflicting with the principles of the Islamic Shari`aa and public order or codes in the GCC states either in regard to industrial products, or manufacturing methods or operations.

2/2 - The invention is regarded new if it had no precedence in terms of pre-existing industrial technology, meaning anything which has been revealed to the public at any place and time, in written or verbal description, by means of usage or any other means by which the invention could have been known prior to the date of application for a patent or priority according to the Law. In implementation of this article, no revealing of the invention to the public is acknowledged if it occurred a year prior to the submission of application or the date of priority, if the revealing came as a result of an abusive act by others against the applicant or his/her predecessor or as a result of that. The revealing of the invention to the public is not acknowledged if done in an official exhibition during the six months prior to the submission of the application. Patent's regulations for this case are stated in the executive bylaws.

2/3 - The invention is considered innovative if it did not involve an obvious idea in the opinion of the ordinary man of profession, relative to the previous technical status pre-existing prior to the invention.

2/4 - The invention is regarded as industrially applicable if it is possible to manufacture and use in any kind of industry, agriculture, fisheries or services. Industries being understood in their wider terms including handcraft.

2/5 - Applications for registering a patent which touches the security of any GCC state are considered in accordance to procedures stated in the executive bylaws.

2/6 - In the case of more than one application, the patent is granted to the first application, bearing priority in date.

2/7/1 - If the invention was the result of a joint work of several persons, the patent is granted for all of them equally if they had not agreed otherwise. Anyone who has not participated in the invention but whose efforts have only been limited to the implementation of ideas, is not regarded as a participant in the patent.

2/7/2 - The patent's ownership is for the employer if the invention was a result of the implementation of an agreement or commitment for the exercise of efforts in innovating, or if the employer gave evidence that the employee could not have achieved this invention if not for the use of capabilities and aides or data available to him/her at work.

This does not jeopardize the right of the employee to a special award specified by the concerned body where the invention took place in respect to the agreement or commitment's circumstances, and the economic significance of the invention. Any agreement depriving the employee from this right is considered void. The above regulations also apply for government employees.

An application for patent from an innovative employee two years from leaving service is regarded as if he was still at work.

### **Article (3):**

3/1 - The following are not regarded as inventions according to the regulations of this Law:

3/1/1 - Scientific discoveries and theories and mathematical methods and computer software.

3/1/2 - Plans, principles and methods for the exercising of commercial businesses, pure mental activities and the exercising of any game.

3/1/3 - Plants, animals and any biological operations used to produce plants or animals, except the activities of micro-biology and the products of these activities.

3/1/4 - Methods of treatment of human and animal bodies, surgically or medically, and methods for diagnosis of illnesses applied to humans or animals, with the exemption of products used in any of these methods.

3/2 - This charter does not protect plant and animal types.

**Article (4):**

The Council has the right to exempt some inventions from their eligibility for a patent if considered necessary for the protection of public order and moral values including the protection of the life and health of humans, animals and plants, or the avoidance of seriously harming the environment.

**Article (5):**

5/1/1 - Patent applications are submitted to the Office by the inventor or his accredited agent or by one to whom the rights for invention have been transferred, including a request for the issuance of a patent and the appropriate fees.

5/1/2 - The application has to include the name of the applicant, the inventor, and an accredited agent (if applicable) and an affirmation stating the justification of the applicant's right to the invention if he was not the inventor.

5/1/3 - An application should only include one invention or a group of interrelated parts that form one general innovative item.

5/2/1 - An application should include the name of the invention, a description, one or more scopes of protection, clarifying drawings or more (if available) and a summary of the invention.

5/2/2 - The description should clearly and fully reveal the invention so as to enable a man of profession to implement it.

5/2/3 - The scopes of protection should show the area of protection requested. Description and clarifying drawings can be made to describe that when necessary.

5/2/4 - Scopes of protection should be clear and summarized and should entirely depend on description.

5/2/5 - The summary is only used for technical information only and should not be relied on for the application's explanation.

5/3 - The applicant should provide the Office with additional required information and data relating to the application.

5/4 - The applicant can include any amendments he sees fit on his/her application as long as they are not essential changes on the information included in the original application.

**Article (6):**

If applicant is not a resident of GCC states, he is required to assign an accredited agent resident in any GCC state to undertake activities authorized by the applicant with the Office.

**Article (7):**

7/1 - The application for patent may include the desire to consider priority for an application previously submitted at any state or regional Office. In this case, the date and number of the previous application should be stated along with the name of the state the application was submitted to. He/she has to submit evidence of that according to the executive bylaws or right of priority shall be lost.

7/2 - Priority period is 12 calendar months.

**Article (8):**

An applicant can withdraw his/her application at any time if not finally settled. Withdrawal does not imply the right to have application documents, fees or costs refunded.

**Article (9):**

If the application meets the conditions stated in the executive bylaws, the Office records the date of the application's submission and visually examines it. Then the Office examines it subjectively or refers it to any another concerned body to do so, after collection of subjective examination fees.

**Article (10):**

If it appeared from the visual examination that some legal conditions were not met, the Office can request the applicant to do what is necessary for the completion of the application in a period of three months at most from the day of informing him/her. If that was not undertaken during the aforementioned period, the application is canceled.

### **Article (11):**

If the subjective examination shows that the application has met all applied conditions in this Law and its executive bylaws, the Office issues a decision on granting the patent and it is recorded and announced. The document is submitted to the applicant three months from announcement if no objection is presented by a person of interest.

However, if the subjective examination shows the non-eligibility of the applicant for the offer of a patent, the Office issues its refusal clarifying the reasons of refusal. The applicant is informed with a copy and the decision is announced.

### **Article (12):**

12/1 - The patent gives its owner the right to use the invention. This is regarded as usage of the invention: the manufacturing of the product, usage, sale and exhibit for sale. If the invention was an industrial operation or a method for the manufacturing of a specific product, the owner has the same right over what is produced utilizing this operation or method.

12/2 - The owner of the patent has the right to prohibit others, not acquiring his/her permission, from manufacturing, utilizing, exhibiting for sale, selling or importing that product for these purposes if the patented is a product. If the patent is for a manufacturing operation, he can prohibit others, who have not acquired his/her permission, from actively utilizing the method and from utilizing, exhibiting for sale, selling or importing the product directly acquired using this method.

12/3 - If an establishment is, unintentionally, manufacturing a product or using a manufacturing operation or method of a product or by undertaking serious preparations for that before the date of submission of an application by a different party or before the date of priority of an application for the same product or method of production, the establishment has the right, despite the issuance of a patent, in continuing to undertake those actions. This right is cannot be disposed of or transferred to others outside members of the establishment.

### **Article (13):**

The owner of the patent has to fully make use of the invention in the GCC states within three years of the date of issue. In case of expiration of this period without making proper use, the 19th article is applied.

**Article (14):**

Rights sanctioned by the patent do not apply to the following:

14/1 - Activities relating to scientific research purposes.

14/2 - Usage of the patent subject in transportation means entering GCC territories, temporarily or occasionally, either on the body of the transportation means, its tools, equipment and/or on other accessories, unless usage is only limited to the needs of these means.

**Article (15):**

The period of patent protection shall be twenty years, starting from the date of submitting the application to obtain the patent.

**Article (16):**

An annual fee is charged on an invention patent, which should be paid at the beginning of each year as of the year following the submission of the patent application. If the patent owner fails to pay the annual fee within a maximum period of three months from the beginning of the year, he may pay it during the following three months period that starts on the lapsing of the previous period, in addition to paying an extra fee.

In all cases, annual fees may be paid in advance for part of, or the whole patent period. If the Patent owner does not pay the annual fee during the past regular grace period (six months from the due date) the patent shall be void. Further, by terms of this article whatever applies to the patent application also applies to the patent itself. If three years have passed during which the Office did not process the application, the applicant may stop paying the fee until the Office issues a decision granting the patent. Therefore, in this case he should pay all the annual fees which he did not pay.

**Article (17):**

17/1 - The owner of the patent who enjoys prescribed protection as per this system, may authorize another person to conduct all or some of the utilization activities cited in article twelve (1). The authorization license should be written and signed by both parties and should be authenticated by an official authority in one of the GCC States. The license contract shall not be accredited unless it is registered in the Office logbooks following the

payment of the due registration of application fee, and the fee for registration of the license contract.

17/2 – Granting the contractual license does not imply depriving the patent owner from utilizing the patent himself or granting another license on the same patent, unless the first license contract states otherwise.

17/3 – Contractual licenses imply the right of the licensee to pursue all activities of utilizing the invention prescribed in the contract. The contractual licensee may not dispose of the rights and privileges authorized to him by the patent owner unless his right of disposition is clearly stated in the license contract.

#### **Article (18):**

The license contract of utilizing or disposing the patent is subject to supervision by the Office. The Office may ask the contracting parties to amend the contract in order to avoid the misuse of the patent rights, and the contract's negative impact on competition in the GCC States, or its acquisition and dissemination of technology. If the contracting parties do not respond, the Office can deny approving the contract and can refuse registering it in the logbook.

#### **Article (19):**

19/1 – If the patent owner does not utilize the patented invention at all, or has utilized it insufficiently as per article thirteen, the Board of Directors may grant a compulsory license according to the following conditions:

19/1/1 – On the lapse of at least three years following granting the patent.

19/1/2 – The license applicant should prove exerting appropriate efforts, during an appropriate period of time, to obtain a license from the patent owner at a reasonable price and commercial terms.

19/1/3 – The license should not be exclusive.

19/1/4 – The license should be basically aimed at covering local market demands.

19/1/5 – The license decision should define the range and period of the license as implied by the purpose for which it was issued.



19/1/6 – the patent owner should be fairly compensated.

19/1/7 – Patent utilization should be limited to the license. The license cannot be transferred to another, except in the case when transferring the ownership of the licensee's establishment or the part of his establishment that utilizes the patent, subject to approval by the Board of Directors of this transfer.

19/2 – If the invention relates to semiconductor technologies, it cannot be licensed except for non-commercial general purposes, or for correcting practices that have been judicially or administratively decided to be non-competitive.

#### **Article (20):**

20/1 – The decision to grant the compulsory license does not imply that other compulsory licenses may not be granted or that the patent's owner may be deprived from utilizing the invention itself or granting other licenses for utilizing it.

20/2 – The Board of Directors may disregard items (A & B) of article Nineteen of this regulations if the application of the compulsory license causes a general state of emergency or a very urgent need, or it was for non-commercial general usage in one or more than one country of the GCC.

20/3 – If the applicant for the compulsory license is a government of one of the GCC States seeking to utilize a certain invention in that country by one of its agencies, where that was based on exigencies of public interest, then the Board of Directors may approve granting the license according to the conditions cited in article Nineteen and adhering to items (A & B).

#### **Article (21):**

If the utilization of the invention would result in valuable technological progress with a great economic significance, and that the same invention requires the usage of another invention, the Board of Directors, with consideration of provisions of articles Nineteen and Twenty, may grant either or both of the two parties compulsory licenses for the utilization of the other invention, unless they reach a friendly agreement for the utilization.

#### **Article (22):**

The compulsory license is canceled in the following cases:

22/1 – If the beneficiary does not utilize the license sufficiently in the GCC States during two years from granting the license, renewable to another period of two years, if it is proved that there was a legitimate reason for delay.

22/2 – If the compulsory license beneficiary fails to pay the outstanding amounts and any amounts prescribed in the bylaws, within three months of the due date.

22/3 – If the compulsory licensee does not abide by any other condition stated in the license granting decision.

22/4 – If the circumstances that led to granting the license have terminated and are not likely to be repeated, while observing licensee's legal interests.

**Article (23):**

23/1 – Ownership of a patent and all accrued rights are transferred through inheritance. Similarly, all or part of the ownership of a patent can be transferred with or without compensation.

23/2 – Whoever is concerned may submit an application to the Office for amending any data in the patent ownership or the application, supported by necessary documentation. Patent ownership shall not be transferred, neither does the alteration of its data become valid prior to the date of registering the amendment decision in the records and its announcement.

**Article (24):**

It is possible to file grievances with the Committee against any decision issued by the Office within three months from the date of receipt or announcing the decision, as per circumstances. The implementation act regulates the procedures prevailing to the committee, in addition to the grievance fee and renewal.

**Article (25):**

It is possible to file appeals against the Committee's decisions before the concerned party, according to the procedures prevailing in the headquarters country. A judgment is effected consistent with the provisions of these regulations and to its regulations pertaining to patents, respectively, if

available. Otherwise according to the general rules. Why both? Seem to be the same.

**Article (26):**

Concerned Authorities in each of the GCC States shall review all disputes related to violation or potential violation of patents. Such disputes are settled according to the provisions of these regulations and to its laws (regulations) pertaining to patents, if available, respectively. Otherwise according to the general rules.

**Article (27):**

27/1 - The Office keeps a record where patents and relevant data are registered according to the provisions and acts of this regulations.

27/2 - The Office issues an official bulletin showing all announcements prescribed in the regulations and acts.

**Article (28):**

The Ministerial Council issues a decision promulgating the formation of the Grievances Committee as follows:

28/1 - The committee is formed out of twelve members from member states who shall be selected on the basis of their personal capacities, rather than on their official capacities.

28/2 - Each State nominates two persons for the membership of the committee, where one of the nominees is from the legal profession and the other Has a technical background.

28/3 - The committee has a Chairman and a Vice-Chairman from the legal profession. They are selected by other members and stay in Office for three years.

28/4 - The committee takes decision on the basis of two thirds majority of attending members.

28/5/1 - The committee holds meeting with the attendance of at minimum, one member from each country.

28/5/2 – A committee meeting shall be postponed for two weeks if neither of the two representatives of a country attends. If they fail to attend the second time, the meeting is considered valid and correct.

**Article (29):**

Members of the Committee, the Board of Directors, and Office employees may not submit applications in their names during their tenure and during the following two years after the end of their service. The information they have acquired is considered strictly confidential.

**Article (30):**

The Office collects money fees from beneficiaries in the following cases:

30/1 – Application for patent.

30/2 – Granting and promulgation of the patent.

30/3 – Annual Fees.

30/4 – Amendment or addition to the patent application.

30/5 – Additional fee due to delaying payment of the patent annual fee.

30/6 – Transferring rights in the application or transferring patent ownership.

30/7 – Obtaining a copy of the application or of the registration of either the application or patent.

30/8 – Application for the compulsory license.

30/9 – Granting the compulsory license.

30/10 – Application for the license registration.

30/11 – Registration of the license contract.

30/12 – Registration of the grievance before the committee.

30/13 – Renewal of the grievance before the committee.

30/14 – Application to obtain a culture sample.

30/15 – Application to permit the display of the invention in an exhibition.

30/16 – Conduct search in the Office documents.

30/17 – Subjective examination.

Separate decisions shall determine the amount of these fees.

**Article (31):**

Protection does not apply to products under patent from the Office in any of the GCC States that enjoys exemption according to paragraph (4) of article (65) of the Trade Related Intellectual Property Rights Agreement (TRIPS) annexed to the World Trade Organization Agreement, during the exemption period.

**Article (32):**

The Ministerial Council issues acts related to these regulations.

**Article (33):**

Interpretation and proposals to amend these regulations are in the jurisdiction of the Financial and Economic Committee after coordination with the Scientific and Technical Committee and Industrial Cooperation Committee.

**Article (34):**

These regulations become effective three months after their issuance and the issuance of Implementing Acts.

DRAFT CHARTER OF THE GCC PATENTS OFFICE

**Preface:**

In accordance to the Law of the Arab Gulf Cooperation Council, and after reviewing the charter of the patents Office for the Arab Gulf Cooperation Council approved by the Supreme Council in its 13th session, the Supreme Council agrees on amending the charter of the patents Office for the GCC as follows:

**Article (1):**

To establish, according to this charter, within the framework of the Arab Gulf Cooperation Council, an Office by the title of the Patents Office for the Arab Gulf Cooperation Council, later referred to as “the Office”, consisting of a Board of Directors and an Executive body.

**Article (2):**

The Office’s headquarters will be situated in Al-Riyadh, Kingdom of Saudi Arabia. The Board of directors may decide to open branches for the Office in any other place in the GCC states.

**Article (3):**

The Office is a separate legal entity and has an independent budget.

**Article (4):**

The functions of the Office are as follows:

4-/1 - The implementation of the Patents Law for the Arab Gulf Cooperation council and its bylaws.

4-/2 - The documentation of information related to inventions and their publication.

4-/3 - Provide technical aid to member states.

4-/4 - Coordination between member states in order to develop and protect industrial and intellectual property rights and organize that regionally.

4-/5 - Any other functions assigned by the Ministerial Council.

**Article (5):**

The Office is managed by a Board of directors consisting of a special representative from every state, of a rank not less than a deputy-undersecretary. The Board's meetings are attended by the GCC Assistant General Secretary for Economic Affairs and the Office's General Director, but these two persons are not eligible to vote.

**Article (6):**

The Board of directors is chaired by one of its members for a one year period alternately. In case of absence he delegates the member succeeding him in order.

**Article (7):**

The Board of directors meets twice a year at least on invitation by its chairman, acting chairman or on a request by two thirds of the members. The meeting is not regarded as valid unless the majority of members attend in the presence of the chairman or an acting chairman chosen from amongst the members.

**Article (8):**

Board of Directors' decisions are taken on unanimity of attending members.

**Article (9):**

The responsibilities of the Board of Directors include the followings:

9/1 - Responsibilities prescribed in the GCC Patent Regulation.

9/2 - Formulating the Office's general policy.

9/3 - Handling of recommendations, reports, and studies that are submitted to it by the Office Director General or which it is designated to conduct.

9/4 - Appointing the Office Director General.

9/5 - Approving the Office budget.

9/6 - ratifying the Office final accounts, and appointing a chartered accountant and determining his compensation.

9/7 - Approving the financial and administrative acts of the Office.

9/8 - Technical cooperation with specialized technical agencies.

9/9 - Submitting periodic reports of Office activities to the Ministerial Council.

The Board of Directors may delegate some of its jurisdictions to the Office Director General.

**Article (10):**

The Office Director General implements and follows up the Board of Directors' decisions and exercises executive administration powers. As such, he is assigned to do the following:

10/1 - Formulation of the Office technical, administrative and financial plans.

10/2 - Pursuing the Office technical, administrative and financial affairs.

10/3 - Appointing necessary experts, technicians, and administrators from among GCC nationals to run the Office in an appropriate manner.

10/4 - Sign contracts, when necessary, with non-GCC experts and technicians.

10/5 - Representing the Office in foreign bodies.

10/6 - Arrange and prepare the agenda for the meetings of the Board of Directors.

10/7 - Assuming the authorities prescribed in the regulation and its Act.

10/8 - Other duties as required by the Board of Directors.



**Article (11):**

The Office and its divisions in each GCC State enjoy legal competence. The Office, its divisions, staff, assets, fixed and transferable funds in member states also enjoy privileges and immunities according to the prevailing rules in the GCC States.

**Article (12):**

The Office financial resources may be obtained from the following resources:

12/1 – Office revenues received in form of the fees specified in the GCC Patent regulation and its implementing Acts.

12/2 – Whatever donations and grants that are approved by the Board of Directors.

**Article (13):**

Interpretation of this regulation is the jurisdiction of the Ministerial Council.

**Article (14):**

This regulation becomes effective three months after being approved by the GCC Supreme Council.