

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE AND PARLTAMENTARY AFFAIRS DEPARTMENT,
MUZAFFARABAD

Dated: 09.05.2007

No. LD/ Legis/763-74/2007. The following Act of Assembly received the assent of the President on 3rd day of May, 2007, is hereby published for general information.

(ACT IV OF 2007)

AN

ACT

to provide for controlling and regulating the quality of seeds of various varieties of crop

WHEREAS, it is expedient to provide for controlling and regulating the quality of seeds of various varieties of crops and for matters connected therewith and ancillary thereto:-

It is hereby enacted as follows:-

1. Short title, and Commencement.- (1) This Act may be called the Seed Act, 2007.

(2) It shall extend to the whole of Azad Jammu & Kashmir.

(3) It shall come into force at once.

2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,-

a. "Agency" means Seed Certification and Registration

Agency established under Section 3 of this Act;

b. "approved seed" means seed true to species as approved by the Agency;

c. "basic seed" means seed produced by an organization set

up by the Government for this purpose;

d. "certified seed" means seed certified by the Agency;

'Tdd. "Council" means the State Seed Council established under Section 2-A;

ddd. "Fruit Plant Nurseries" means any area of land or premises on which plants are cultivated and produced for the purposes of resale or held for sale throughout the year.""]

1 Added by the Seed (Amtd.) Act, 2014 (Act II of 2015) dt. 09.01.2015.

“government” means Azad Government of the State of Jammu & Kashmir;

“notified variety or species” means a variety or species which has been notified as such under Section 6;

“post-control” means a trial to check on the authenticity and purity of the certified seed;

“pre-basic seed” means seed of high genetic purity produced by a plant breeder;

i “prescribed” means prescribed by rules;

[“ii “Progeny Garden” means a garden for raising of certified fruit plants to be used for budding and grafting in a registered nursery”.]

“registered variety” means a variety registered by the Agency under Section 4;

“registered grower” means a person or group of persons engaged in producing seed and registered as such under this Act;

“released variety” means a registered variety having agricultural value for growing in Azad Jammu and Kashmir and approved by the Agency of Azad Jammu and Kashmir.

“rules” means rules made under this Act;

“seed” means any of the following classes of seeds used for sowing or planting namely:

i. Seed of food crops including edible oil seed and seeds of fruits and vegetables and shall also include nursery plants used for fruit orchards and other ornamental plants;

ii. Seed of fodder including, nseedings, tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material of food crops of fodder.

“Seed Analyst” means a Seed analyst appointed under Section 12;

“Seed Certification Officer” means a Seed Certification Officer appointed under Section 13;

"Seed Inspector" means a Seed Inspector appointed under Section 14;

"species" means a group of plants representing a crop known by a common name, such as a wheat, paddy and maize belonging to one species, sub-species or forma; and

"Variety" means a group of plants belonging to a species which, for cropping purpose, is considered as an individual unit and can be distinguished from other varieties of the same species.

'(*2-A. Establishment of State Seed Council.- (1) After the commencement of this Act the Government, as soon as possible, shall establish the State Seed Council under the chairmanship of the Minister for Agriculture for the performance of such functions as may be entrusted to it under this Act.

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The functions of the State Seed Council shall inter-alia

to advise on policy for the development, operation and regulation of the seed industries;

to maintain a watch on the operation of the provisions of the said Act;

to guide in administering the seed quality control services;

to direct initiation of seed projects;

to ensure and project investment in the seed industry; to approve and sanction seed standards;

to regulate inter-territory seed movement;

to advise on import of seeds;

to co-ordinate multiplication and supply of seeds of approved varieties;

to co-ordinate the arrangement for the maintenance of genetic potential;

to assist in developing approved seed production forms; and

any other matter which is necessary for carrying out the purposes of the said Act.”]

1 Added by the Seed (Amdt.) Act, 2014 (Act II of 2015) dt. 09.01.2015.

Establishment_ of Seed Certification _and_ Registration Agency.-After the commencement of this Act, the Government

as soon as possible shall establish a Seed Certification and Registration Agency for the Performance of such functions as may be entrusted to it under this Act.

Function of the Agency.- The Agency shall perform the following functions, namely:-

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controlling the quality of seeds;

registering growers in such manner and subject to such conditions as may be prescribed;

certification of seeds;

field inspection of the crops of registered varieties and released varieties intended for sale as basic seed or certified seed;

sampling and testing of seed lots intended for sale in order to ascertain their purity, viability, germination capacity and health status in the prescribed manner;

issuing certificates in respect of seeds which meet the prescribed standards of particular category of seeds;

carrying out post-control trials on pre-basic, basic and certified seeds;

sampling and analyzing seed lots delivered to the processing plants to establish a basis for the purchase of such lots;

arranging training courses for staff of the agency; and

conduct pre-registration checking submitted for the purpose of;

i determining suitability for registration variety;

i. providing definitive botanical description of crop varieties; and

iii. providing information on genetic suitability and adaptability of varieties;

register seed varieties after conducting registration checking under clause (j);

publish a list of registered seed varieties;

advising on policy for the development, operation and regulation of the seed industries;

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to guide in administering the seed quality control service;

to facilitate the initiation of Seed Projects;

to ensure and protect investment in the seed industry;

to approve and sanction seed standards;

to regulate inter-district seed movement;

to advise on import of seeds;

to co-ordination multiplication and supply of seeds of approved varieties;

to co-ordinate the arrangements for the maintenance of genetic potential; and

to assist in developing approved seed production farms.

Power to notify varieties or species of seed.- The Government by notification in the official gazette, specify:-

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the varieties or species of seed production for Azad Jammu & Kashmir or any part thereof;

the minimum limits of germination and purity standards to which such seed shall conform; and

the mark and label to indicate that such seed conforms to the minimum limits of germination and purity standards; and the particulars which such mark or label may contain.

Regulation of sale of seeds of notified varieties and species.-

No person shall sell, offer for sale or advertise or hold in stock for sale or barter or otherwise supply any seed of any notified variety or species unless:

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such seed is identifiable as to its variety or species;

such seed conforms to the minimum limits of germination and purity standards as laid down under section 5;

the container of such seed bears the mark and label containing correct particulars thereof in such manner as may be prescribed; and

he complies with such other requirements as may be prescribed.

Appointment of registered_grower.-The agency may register any farmer or grower as a registered grower to produce seed in the prescribed manner.

Grant of certificate by the Agency.- (1) Any person intending to produce notified varieties or species or seed or stock for sale or offer for distribution or otherwise supply seed of a notified variety or species may, if he desires to have such seed certified or tested by the Agency, apply to the Agency for the grant of a certificate for this purpose.

(2) Every application under sub-section (1) shall be in such form and accompanied by such fee and contain such information as may be prescribed.

(3) On receipt of an application under sub-section (1) the Agency may, after such enquiry as it thinks fit and after satisfying itself that the seed to which the application relates conforms to the minimum prescribed standards, grant a certificate in such form and on such conditions as may be prescribed.

[*(4) Prescribed standard shall be not less than of the prescribed international standards.""]

Period for which registration and_ certification shall be effective.- (1) The registration of grower for producing seeds *[Fruit Plants Nurseries and Progeny Gardens] shall be effective for such period, not exceeding five years, as may be prescribed.

(2) The certification of the notified varieties and species of seeds shall be effective for such period as may be prescribed.

Cancellation of certification.- If, at any time after certification under sub-Section (3) of Section 8, either on an information or otherwise the Agency is satisfied, that:

i the certificate granted by it has been obtained by misrepresentation or suppression of an essential fact; or

ii. the holder of the certificate has, without reasonable cause, failed to comply with the conditions subject to which the certificate has been granted or has contravened any of the provisions of this Act or the rules, then, without prejudice to any other penalty to which the holder of the certificate may be liable under

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this Act the Agency may, after giving the holder opportunity of showing cause, cancel the certificate.

Appeal.- (1) Any person aggrieved by a decision of the Agency under Section 10 may, within thirty days from the date on which such decision to cancel the certificate is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the government or such other authority as it may be nominated by the government for the purpose.

(2) On receipt of an appeal under sub-Section (1) the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible but not later than ninety days from the date of receipt thereof.

(3) The order of the appellate authority under this Section shall be final.

Seed Analyst.-The Agency may, by notification in the official gazette, appoint in the prescribed manner qualified persons to be Seed Analyst to test the quality and purity of Seed produced at the seed farms before it is given out for commercial cultivation.

Seed_ Certification Officer.- (1) The Agency may, by notification in the official gazette, appoint qualified person in the prescribed manner to be a Seed Certification Officer for such area as may be specified in the notification.

(2) A Seed Certification Officer shall perform the same functions as are assigned to a Seed Inspector and also supervise the work of the Seed Inspectors in the area for which he is appointed.

Seed Inspector.- The Agency may by notification in the official gazette, appoint such qualified person in the prescribe manner Seed Inspectors for such area as may be specified in the notification.

Power of Seed Inspectors.- (1) A Seed Inspector may, within the area for which he is, appointed, inspect and take samples of any seed in labelled containers purporting to contain seed of a notified variety or species of seed from any person producing,

selling, delivering, stocking or distributing seed and send such samples for analysis to the nearest laboratory of the Agency.

(2) The Seed Inspector may;

(a) enter and search, with such assistance as he may consider necessary, any place in which he has reason to

believe that an offence under this Act has been or is being committed and order in writing the person in possession of any seed in respect of which the offence has been or is being committed not to dispose of any stock of such seed for a specified period not exceeding thirty days or, unless the alleged offence is such that the defect may be removed by the possessors of seed, seize the stock of such seed;

(b) examine any record, register document or other material object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of any offence punishable under this Act and the rules; and

(c) exercise such powers as may be necessary for carrying out the purposes of this Act and the rules.

(3) Where any sample of any seed of any notified variety or species is taken under sub-section (1), its cost, calculated at the rate at which such seed is usually sold in the market, shall be paid on demand to the person from whom it is taken.

(4) The power conferred by this Section includes power to break open any labelled container in which any seed of any notified variety or species may be kept and to break open the door of any premises where any such seed may be kept for sale:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so.

(5) Where the Seed Inspector takes any action under sub-section (1), he shall, as far as possible, call not less than two persons of the locality to be present at the time when such action is taken and take their signature on a memorandum to be prepared in the prescribed form and manner.

(6) The provision of the Code of Criminal Procedure, 1898 (Act V of 1898) regarding search, seizure and disposal shall apply mutatis mutandis to search, seizure and disposal made under this Act.

Procedure to be followed by Seed Inspector.- (1) Whenever a Seed Inspector intends to take a sample from the crop of any seed of any notified variety or species for analysis, he shall-

(a) Give notice in writing of his intention to do so to the person from whom he intends to take sample; and

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except in special cases provided by rules, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.

When samples of any seed of any notified variety or

species are taken under sub-section (1), the Seed Inspector shall:

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deliver one sample to the person from whom it has been taken;

send, in the prescribed manner, another sample for analysis to the Seed Testing Laboratory of the area within which such sample has been taken; and

retain the remaining sample in the prescribed manner for production as evidence in case any legal proceedings are taken.

Where a Seed Inspector makes an order under clause (a)

sub-section (2) of Section 15,

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he shall use all dispatch in ascertaining whether or not the seed contravenes any of the specification laid down under Section 6 and if it is ascertained that the seed does not so contravene, forthwith recall the order passed under the said clause or, as the case may be, take such action as may be necessary for the return of the stock of the seed seized there under:

Provide that in case the seed inspector fails to ascertain such contraventions within thirty days from the date of seizure, the stock shall be released to the person

form whose possession the same has been seized:

Provide further that such a release shall not effect or prejudice the proceedings that may be taken upon proof of contraventions after lapse of the aforementioned period.

if the stock of the seed seized under the clause does not conform to the aforesaid specifications, he shall, as soon as may be, report the matter to a magistrate and take his orders as to custody thereof; and

without prejudice to the institution of any prosecution, if the alleged offence is such that the defect may be removed by the possessor of the seed, he shall, on being satisfied that the defect has been so removed, forthwith recall the order passed under the said clause.

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(4) Where a Seed Inspector seizes any record, register, documents or any material object under clause (b) of subsection (2) of Section 15, he shall, as soon as may be, report the matter to a magistrate and take his order as to the custody thereof.

Report of Seed Testing Laboratory.- (1) The Seed Testing Laboratory shall, as soon as may be, after the receipt of the sample under section 16, analyze the sample and deliver, in such form as may be prescribed, one copy of result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.

(2) In an inquiry, trial or other proceedings under this Act, production of the result under the hand of a Seed Analyst in the form prescribed shall, until the contrary is proved, be sufficient proof of the facts stated therein.

(3) When any person is accused of an offence under this Act, the court may, if it considers necessary in the interest of justice and the accused deposits in the court a sum of money in accordance with the scale prescribed, summon as a witness the Seed Analyst who had analyzed the sample in respect of which such person is accused of having committed an offence, and if such person is acquitted, any sum of money so deposited shall be refunded to him.

Offences and penalties.- Whoever:

(i) contravenes any provision of this Act or the rules, or

(ii) prevents a Seed Certification Inspector from taking a sample or inspecting seed under this Act, or

(iii) prevents any official from exercising any power conferred on him by or under this Act;

shall be punishable.-

(a) for the first offence, with fine not exceeding one thousand rupees;

(b) where the offence continues after conviction, with a further fine of one hundred rupees for each day during which the offence continues; and

(c) for a subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

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Power of court to order forfeiture.- If any person is convicted of an offence punishable under this Act in respect of any notified variety or species of seed, the court convicting him shall further direct that the seed shall be forfeited to the Government.

Cognizance of offence, etc.- (1) No court inferior to that of a magistrate of the first class shall try an offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Agency or a person authorized by it in this behalf by an order in writing.

Presumption as to order.- Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, the court shall presume within the meaning of Qanoon-e-Shahadit order 1984, that such order was so made by that authority.

Indemnity.- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules.

Delegation of powers.-The Government may, by notification in the official gazette, direct that all or any of its powers under this Act or the rules shall, in notification be exercisable by an officer or authority subordinate to the Government.

Power to make rules.- (1) The Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:

(a) the function of Seed Testing Laboratory;

(b) the requirements which shall be complied with by the registered growers or a person carrying on the business of seed production, processing or distribution;

(c) the form of application for the grant of a certificate under Section 9, the particulars it shall contain, the fees which shall accompany it, the form of the certificate and the conditions, subject to which the certificate may be granted;

(d) the records to be maintained by a registered grower or a person carrying on the business referred to in subsection

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(1) of Section 9 and the particulars which such records shall contain;

the form and manner in which , and the fees on payment of which, an appeal may be preferred under Section 11 and the procedure to be followed by the appellate authority in disposing of the appeal;

the qualifications and duties of a Seed Certification officer;

the qualifications and the duties of a Seed Inspector;

the manner in which samples may be taken by a Seed Inspector, the procedure for sending such samples to the Seed Testing Laboratory and the manner of analyzing such samples;

the form of report of result of the analysis under sub-section (1) of Section 15 and the fees payable in respect thereof;

the powers and functions of the Seed Analyst; and

any other matter which is necessary for carrying out the purposes of this Act.

Sd/- (Raja Zulqarnain Khan)
President

Azad Jammu and kahsmir

Sd/- (Ch. Waheed-ul-Hassan)
Deputy Secretary (legislation)