

मुख्य पोस्ट मास्टर जनरल डाक
परिमंडल, के पत्र क्रमांक 22/153,
दिनांक 10-1-06 द्वारा पूर्व भुगतान
योजनान्तर्गत डाक व्यय की पूर्व अदायगी
डाक द्वारा भेजे जाने के लिए अनुमत.



पंजी. क्रमांक भोपाल डिवीजन
म. प्र.-108-भोपाल-09-11.

मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 399]

भोपाल, शुक्रवार, दिनांक 30 जुलाई 2010—श्रावण 8, शक 1932

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 30 जुलाई 2010

क्र. 4445-291-इक्कीस-अ-(प्रा.)—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश कपास बीज (पूर्ति, वितरण एवं विक्रय का विनियमन तथा विक्रय मूल्य का निर्धारण) विधेयक, 2010 (क्रमांक 22 सन् 2010) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH BILL

No. 22 of 2010.

THE MADHYA PRADESH KAPAS BIJ (PURTI, VITRAN EVAM VIKRAY KA VINIYAMAN TATHA VIKRAY MULYA KA NIRDHARAN) VIDHEYAK, 2010**TABLE OF CONTENTS****Clauses :**

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A Bill to regulate the supply, distribution and sale and fixation of sale price of cotton seeds and for the matters connected therewith and incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Sixty-first year of the Republic of India as follows :—

1. (1) This Act may be called the Madhya Pradesh Kapas Bij (Purti, Vitran Evam Vikray Ka Viniyaman Tatha Vikray Mulya Ka Nirdharan) Adhiniyam, 2010.

Short title, extent
a n d
commencement.

(2) It extends to the whole of the State of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. In this Act unless the context otherwise requires,—

Definitions.

- (a) “agronomic performance” means distinguishable agronomic qualitative and quantitative characteristics of any cotton seed variety considered for evaluation of performance as claimed by the producer on label;
- (b) “Controller” means the Cotton Seed Controller appointed by the Government under section 3;
- (c) “cotton seed” means cotton seed of any variety and includes transgenic and genetically modified cotton seed varieties used for sowing;
- (d) “farmer” means any person who raises cotton crops either by cultivating the land by himself or through any other person but shall not include persons, companies, traders and dealers who engage in the commercial procurement and sale of seeds;
- (e) “misbranded” means that the seed shall be deemed to be misbranded,—
- (i) if it is substitute for, or resembles in a manner likely to deceive, another variety of seed under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true nature; or
- (ii) if it is falsely stated to be the produce of any place or country; or
- (iii) if it is sold by a name which belongs to another kind or variety of seed; or
- (iv) if false claims are made for it upon the label or otherwise; or
- (v) if, when sold in a package which has been sealed or prepared by, or at the instance, of the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act; or

- (vi) if the package containing it or the label on the package bears any statement, design or device regarding the quality of cotton seed contained therein, which is false or misleading in any manner; or
 - (vii) if it is not registered in the manner required by or under this Act; or
 - (viii) if its label does not contain a warning or caution which may be necessary and sufficient, if complied with, to prevent risk to human beings or animals; or
 - (ix) if the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety; or
 - (x) if it is not labelled in accordance with the requirements of this Act or rules made thereunder;
- (f) "producer" means a person, group of persons, firm, company or organization who grows or organises the production of cotton seed;
- (g) "spurious seed" means that which is not genuine or true to its type;
- (h) "State Referral Seed Testing Laboratory" means a laboratory established or declared as such by the State Government by a notification published in the official Gazette;
- (i) "substandard seeds" means cotton seed which does not meet the prescribed seed standards for the cotton seed;
- (j) "transgenic variety" means seed or planting material synthesized or developed by modifying or altering the genetic composition by means of genetic engineering; and
- (k) "variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be:
- (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;
 - (ii) distinguished from any other plant grouping by expression of at least one of the said characteristics; and
 - (iii) considered as a unit with regard to its suitability for being propagated which remains unchanged after such propagation and includes propagating material of such variety, extant variety, transgenic variety, farmers variety and essentially derived variety.

**Appointment of
Controller.**

3. The State Government may, by notification, appoint an officer to be the Cotton seeds Controller for the State.

**Powers of
Controller.**

4. (1) Subject to the control of the State Government, the Controller, so far as it appears to him to be necessary or expedient for regulating, maintaining or increasing the supply or distribution or sale of cotton seeds, may, by order in writing,—

- (a) require any person holding stock of cotton seed to sell the whole or specified part thereof at such prices as may be fixed by the Government from time to time and to such persons in such circumstances as may be specified in the order;

- (b) require any person engaged in the supply, distribution and sale of cotton seeds to comply with such directives as may be specified in the order as to the variety, quality or quantity of the cotton seeds to be sold or delivered by him from time to time.

(2) Any person to whom an order is issued under sub-section (1) shall comply with such order, notwithstanding anything inconsistent herewith contained in any contract or other instrument to which he is a party.

5. The Controller appointed under this Act shall perform the following functions, namely:—

Functions of Controller.

- (a) arrange for mandatory registration of cotton seed firms which are engaged in trade of cotton seed duly indicating the production aspects and areas of operation etc;
- (b) arrange for payment of compensation to the farmers;
- (c) advice the State Government on matters relating to regulation of sale of cotton seed by way of compulsory DNA finger printing test or genetic purity test; and
- (d) such other matters as assigned to him by the State Government.

6. (1) Every person desirous to carry on the business of sale in cotton seeds shall apply to the Controller for the grant of licence in such form as may be prescribed.

Licence for vendor.

(2) Such application shall be accompanied by such fees and such other documents, as may be prescribed.

(3) The Controller shall, after making such enquiry as he deems fit, either allows the application or reject it.

(4) If the Controller allow the application, he shall issue a licence to carry on the business of sale in cotton seeds, subject to such terms and conditions and in such form as may be prescribed.

7. The Government may in consultation with the Controller and by notification,—

State Seed Testing Laboratory.

- (a) establish one or more State' Seed Testing Laboratories or declare any seed testing laboratory in the Government or Non-Government sector as a State Seed Testing Laboratory where analysis of cotton seed shall be carried out in the prescribed manner;
- (b) recognize one or more seed testing laboratories as referral seed testing laboratories for the purpose of referral analysis in the prescribed manner.

8. (1) The producer or distributor or vendor of cotton seeds whose address appears on the label shall disclose the expected performance of such seed, under given condition to the Controller and if such seeds fail to provide the expected performance under such given conditions, the State Government or farmer may claim compensation in such manner as may be prescribed and in respect of transgenic seed all the conditions that are imposed by Genetic Engineering Approval Committee, has to be compiled.

Compensation to farmers.

(2) In case the claim of expected performance found fictitious, the processor of such cotton seed shall be responsible for payment of all such claims related to agronomic performance as specified in sub-section (1).

(3) The compensation payable under sub-section (1) and (2) shall be assessed and fixed by the Committee appointed for each agro-climatic zone separately, consisting of crop experts and representatives of the State Governments, as may be notified by the State Government.

Seed Inspector.

9. (1) The Government may, by notification, appoint such person as it thinks fit, to be Seed Inspector and specify the areas within which he shall exercise his jurisdiction.

(2) The Seed Inspector, if he has information that any person dealing in trade of cotton seed, has contravened any of the conditions issued by the Controller, or suspecting the quality of the cotton seed or any person about to commit offence in respect of cotton seed, he shall enter and search any premises and draw samples and detain or seize the stock of cotton seed and records and after receiving the reports of Seed Analyst, shall take all further actions as specified in this Act.

(3) Every Seed Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860) and shall be officially subordinate to such authority as the Government may specify in this behalf.

Seed Analyst.

10. The Government may, by notification, appoint such person as it thinks fit, to be the Seed Analyst and specify the areas within which he shall exercise his jurisdiction.

Report of Seed Analyst.

11. (1) The Seed Analyst shall, as soon as may be after the receipt of the sample from the Seed Inspector, analyze the sample at the State Seed Laboratory and furnish a report on the result of the analysis to the Seed Inspector, within thirty days from the date of receipt of the sample to the laboratory.

(2) The Seed Inspector shall on the basis of the report of the Seed Analyst under sub-section (1), institute proceedings for the prosecution of the producer or vendor, as the case may be, of the said seed.

(3) After institution of prosecution under this Act, the accused producer or vendor or, as the case may be, the complainant may on payment of the prescribed fee, make an application to the court for sending any of the sample retained with Seed Inspector or producer or vendor as per discretion of Magistrate to any of the laboratory referred to in Section 7 for its report, the court shall first ascertain the mark or seal or fastening as prescribed and on receipt of the application, the court may dispatch the sample under its own seal to any of the referred laboratory specified for the purpose, which shall thereupon send its report to the court in the prescribed form specifying the result of the analysis within a period of thirty days from the date of receipt of sample.

(4). The report sent by the referred laboratory under sub-section (3) shall supersede the report given by the seed analyst under sub-section (1).

(5) When the report sent by the referred laboratory under sub-section (3) is produced in any proceedings. It shall not be necessary to produce any such sample or part thereof taken for analysis.

Power to fix the prices.

12. (1) The State Government may after taking into consideration of the cost of production etc. including trait value and other related factors wherever necessary, obtained from various agencies concerned, fix maximum sale price from time to time of all types of cotton seeds.

(2) Maximum sale price so fixed, shall be published in the official Gazette and shall be effective from such date as may be specified therein.

Penalties.

13. (1) If any person, contravenes any order issued to him by the Controller under Section 4, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.

(2) If any person commits any act of misbranding, sale of spurious and sub-standard seed shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.

14. If the person contravening any order issued by the Controller under Section 4 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention. **Offences by companies.**
15. No court shall take cognizance of any offence punishable, under this Act except on a report in writing of the facts constituting such offence made by the Controller or any other authority authorized by him. **Cognizance of offences.**
16. (1) No suit, prosecution or other legal proceedings shall lie against any person, (including the Controller) for anything which is in good faith done or intended to be done in pursuance of any order issued under Section 4. **Protection of action taken in good faith.**
- (2) No suit or other legal proceedings shall lie against the State Government, the Controller or any other person, in respect of any damage caused or likely to be caused which is in good faith done or intended to be done in pursuance of any order issued under Section 4.
17. Any person aggrieved by a decision of the Controller under Section 4 may, within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to such authority as may be specified by the State Government in this behalf: **Appeal.**
- Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (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.
- (3) Every order of the appellate authority under this section shall be final.
18. When any person been convicted under this Act for the contravention of any of the provisions of this Act or the rules made thereunder, the cotton seed in respect of which the contravention has been committed may be forfeited to the State Government. **Forfeiture of cotton seed.**
19. The State Government may give such directions to the controller, the Seed Inspector or the Seed Analyst as may appear to it to be necessary for carrying out the provisions of this Act or of any rule made thereunder. **Power of State Government to give directions.**
20. Nothing in this Act shall apply to any cotton seed grown by a farmer and sold or delivered by him on his own premises directly to another farmer for being used by that farmer for the purpose of sowing. **Exemption.**
21. (1) The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act. **Power to make rules.**
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.
- (3) All rules made under this Section shall be laid before the Legislative Assembly as soon as possible after they are made.
22. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the official Gazette, make such provisions not inconsistent **Power to remove difficulty.**

with the provisions of this Act, as appears it to be necessary or expedient for removing difficulty:

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this Section shall be laid, as soon as may be after it is made, before the Legislative Assembly.

STATEMENT OF OBJECTS AND REASONS

The provisions of the Seed Act, 1956 (Central Act 54 of 1966) regulate the quality of seed in respect of notified varieties. For the past few years, in view of the substantial change of pattern of agriculture particularly in usage of seed, the said provisions are found to be inadequate for cotton varieties, research hybrids etc. as a result the entire economy of farmers is affected.

2. By the recent amendment of the Essential Commodity Act, 1955 (No. 10 of 1955) cotton is deleted from the Schedule of the Act. The traders who are dealing in cotton seed including transgenic cotton seed have been resorting to dubious methods and exploitation of poor farmers, particularly in respect of scarce type of cotton seed causing unjustified burden towards seed cost, which is essential and vital input in the 'process of agriculture, which lead the several farmers into debt trap and some times leading to suicides also. The multinational companies are taking undue advantage of their monopoly in respect of scarce type of cotton seed.

3. In the interest of farming fraternity and to have free flow of supply, equi-distribution and prices of all kinds of cotton seeds including transgenic cotton seeds, it is expedient and necessary to bring a Cotton Seed regulation law in consonance with National Seed Policy, 2002.

4. Salient features of the Bill are as under :—

- (1) To constitute and appoint a Controller at the State level;
- (2) To notify the seed testing laboratories;
- (3) To curtail the supply of spurious or inferior quality of seed;
- (4) To evolve a effective regulatory system which will enable effective quality, assurance supply, distribution and fair prices of cotton seed;
- (5) To provide punishment in the event of violation of the provisions of the law;
- (6) To provide adequate mechanism to pay compensation to the farmers in the event of supply of inferior quality of cotton seed;
- (7) To bring regulatory mechanism for regulation of trade of transgenic and genetically modified varieties by way of compulsory D.N.A. finger printing tests or genetic purity test;
- (8) Mandatory registration of all type of cotton seed produced in the State or imported to the State.

5. Hence this Bill.

Bhopal :
Dated, the 22nd July, 2010.

DR. RAMKRISHNA KUSMARIYA
Member-in-Charge.