

Seeds Act and Rules

Introduction

The seed is an important agricultural input and it plays vital role in increasing production and productivity. There is a need to safeguard the farmers with the supply of genetically pure and quality seeds. Any new variety produced by the Scientist has to be multiplied many times to meet the needs of the farmers. In order to ensure the availability of quality seeds, Government of India have enacted Seeds act, 1966 and Seed rules, 1968. The seed (Control) order, 1983 was promulgated under essential commodities act, 1955 in order to ensure the production, marketing and equal distribution of the seeds.

Seeds Act, 1966

The object of Seed Act is to regulate the quality of certain notified kind / varieties of seeds for sale and for matters connected therewith. The seed act passed by the Indian Parliament in 1966 was designed to create a 'Climate' in which the seeds man could operate effectively and to make good quality seed available to cultivators. Seeds rule under the act were notified in September 1968 and the act was implemented entirely in October, 1969. This act extent to the whole of India and it has 25 sections.

Seed legislation could broadly be divided into two groups

1. Sanctioning legislation

Sanctioning legislation authorizes formation of Advisory bodies, Seed Certification Agencies, Seed Testing laboratories, Foundation and Certified Seed Programmes, Recognition of Seed certification Agencies of Foreign countries Appellate authorities etc.

2. Regulatory legislation

Regulatory Legislation controls the quality of seeds sold in the market including suitable agencies for regulating the seed quality. On quality control basis, the Seeds Act could conveniently be divided into the following:

I. Minimum limit and labeling of the notified kind / varieties of seed

- a. Power to notify the kind / variety
- b. Labeling provisions
- c. Seed testing
- d. Seed analyst
- e. Seed inspectors
- f. Penalty
- g. General provisions

II. Seed Certification

III. Restriction of Import and Export of Seeds

I. Minimum limits and labeling

Quality control as envisaged in the Act is to be achieved through pre and post marketing control, voluntary certification and compulsory labeling of the seeds of notified kind / varieties.

(a) Power to notify the kind / varieties

New varieties evolved by the State Agricultural Universities and ICAR institutes are notified and released /notified respectively under section 5 of the seeds act in consultation with the central seed committee and its sub committees constitute under section 3 and 3(5) of the Seeds Act. As on date more than 2500 varieties and 130 varieties were notified and denotified under this section. List of varieties notified and denotified from 1969 to 2005 are compiled and made available in the form of a book called catalogue of varieties notified and denotified under section 5 of the Seeds Act. Functions of the Central Seed Committee and its sub-committee are defined in Clauses 3 and 4 of part II of seed rule.

(b) Labeling provision

Minimum limits for germination, physical purity and genetic purity of varieties / hybrids for crops have been prescribed and notified for labeling seeds of notified kind / varieties under section 6(a) of the Seeds Act. Size of the label, colour of the

label and content of the label were also notified under sub clause (b) of Section 6 of Seeds Act. Colour of the label is opel green and size of the label is 10 cm x 15 cm or proportionate thereof. Responsibility for making labeling content of mark or label, manner of marking, false / misleading statement on label etc., are defined under clause 7,8,9,10,11 and 12 of part V of seeds rule.

Section 7 of the act regulates the sale of notified kind or varieties. Accordingly no person shall keep for sale, offer to sell, barter or otherwise supply any seed of any notified kind or variety, after the dates recorded on the container mark or label as the date unto which the seed may expected to retain the germination not less than prescribed under clause (a) of section 6 of the Act.

(c) Seed Testing

There is a provision to set up a central seed laboratory and state seed laboratory to discharge functions under section 4(1) and 4(2) of the Seed Act, In the year 1968 there were 23 state seed testing laboratories in the country. At present there are 86 Seed testing laboratories functioning in the country. During 1995-96 these laboratories tested about 5 lakh samples. Seed testing laboratories have been assigned certain important functions under part III (5) of Seed Rule.

(d) Seed Analysts

State Government could appoint the Seed Analysts through notification in the Official Gazette under Section 12 of the Seed Act defining his area and his jurisdiction. Seed Analyst should posses certain minimum qualification as prescribed under clause 20 part IX of Seed Rule.

(e) Seed Inspectors

Classes of seed

The State Government, under section 13 of the Act may appoint such a person as it thinks fit, having prescribed qualification (Clause 22 part IX of Seed Rule) through notification, as a Seed Inspector and define the areas within which he shall exercise jurisdiction for enforcing the seed law. He will be treated as a public servant within a meaning of section 21 of the I.P.C. (45 of 1860). He has power to examine records, register document of the seed dealer. He will also exercise such

other powers as may be necessary for carrying out the purposes of this Act or rule made there under. Duties of Seed inspectors are defined in clause 23 of part IX of Seed rule. He can issue, stop sale order in case the seed in question contravenes the provision of relevant Act and rules for which he can use form No.III. When he seizes any record, register documents or any other material , he should inform a magistrate and take his order for which he can use form No.IV.

(f) Penalty

If any person, contravenes any provision of the Act or Rule, or prevents a seed inspector from taking sample under this Act or prevents a Seed Inspector from exercising any other power conferred on him could be punished under section 19 of the act with a fine of five hundred rupees for the first offence. In the event of such person having been previously convicted of an offence under this section with imprisonment for a term, may extend to six months or with fine, which may extent to one thousand rupees or with both.

II. Seed certification

The object of the Seed Certification is to maintain and make available to the public through certification high quality propagating material of notified kind / varieties so grown and distributed as to ensure genetic identity and genetic purity. The certified standards in force are Indian Minimum seed certification standards and seed certification procedures form together for the seed certification regulations. Seeds of only those varieties which are notified under section under Section 5 of the seeds act shall be eligible for certification.

- ☒ Breeder seed
- ☒ Foundation seed
- ☒ Certified Seed

Breeder seed

- ☒ Breeder seed is a seed directly controlled by the breeder.
- ☒ Breeder seed should be genetically so pure as to guarantee that in the subsequent generation.

- ❧ Breeder seed could not come under the purview of seed certification as it is not meant for public sale.
- ❧ Breeder seed should be packed and supplied with breeder's golden yellow tag as per the guideline given in Indian Minimum Seed Certification standards. It is also the fact that no standard for breeder seed have been prescribed.

Foundation seed

- ❧ Foundation class of seed and certified class of seed are to be certified by the Certification Agencies as per the Indian Minimum Seed Certification Standards.
- ❧ Section 8 of the Seeds Act provide state government or the Central Government consultation with State Government may be notification in official gazette, established certification agencies for the state to carry out the functions entrusted to certification agency by or under this Act (Part IV, clause 6, part VI clause 14 of Seeds Rule).

Certified seed

- ❧ Seed act section 9 provides any person desires of producing certified seed shall register his name with concerned seed certification agency duly remitting the prescribed fee in form No.1 for grant of certificate. Certificate could be granted in form No.11 after meeting the requirement of certification agency prescribed under Part VII clause 15,16 and 17 of Seed rule.
- ❧ It should have the minimum genetical purity of 99%
- ❧ Certified seed may be the progeny of certified seed , provided this reproduction does not exceed two generations beyond foundation seed and provided that if certification agency determines the genetic and physical purity, if not be significantly altered
- ❧ In case of highly self pollinated crops certification of one further generation may be permitted

- ⌚ Certified seed produced from certified seed ,shall be eligible for further seed increase under certification, except in case of highly self pollinated crops, where certification of one further generation may be permitted
- ⌚ Certification tags issued once for certified seed not eligible for further seed increase under certification
- ⌚ For paddy and wheat, certified seed produced from certified seed is eligible for certification by NSC up to two generations from foundation seed

Seed (Control) Order, 1983

III. Restriction of Export and Import of Seeds

There is a provision to restrict export and import of seeds of notified kinds or varieties. The **section 17** defines as under "No person shall for the purpose of sowing or planting by any person (including himself) export or import or cause to be exported or imported any seed of any notified kind or variety unless.

- ⌚ It conforms to the minimum limits of germination and purity specified for that seed under clause (a) of Section 6 and
- ⌚ Its container bears in the prescribed manner the mark or label with the correct particular thereof specified for that seed under clause (b) of section 6.

Background of the case

The Ministry of civil supplies through an order dated 24.4.1983 had declared the seed for sowing or planting materials of food crops, fruits, vegetables, cattle fodder and jute to be essential commodities in exercise of power conferred by Section 2(a) (viii) of Essential Commodities Act, 1955. It was followed by the issue of Seed (control) order dated 30th December, 1983 by the Ministry of Agriculture, Dept. of Agriculture and Co-operation in exercise of powers contained in section 3 of Essential Commodities Act, which deals with Central Governments power to control, and regulate production, supply and distribution of essential commodities.

The Seed (control) order, 1983 had been notified as per Gazette notification, G.S.R 832(E) dated 30. 12.1983. The notification under reference holds good and remains operative. Joint Secretary (Seeds), Government of India, Ministry of Agriculture, Department of Agriculture and Cooperation has been appointed as Seed Controller for implementation of seed (control) order.

Gist of the Seed (Control) order, 1983

Issue of License to dealers

All persons carrying on the business of selling, exporting and importing seeds will be required to carry on the business in accordance with terms and conditions of license granted to him for which dealer has to make an application in duplicate in Form 'A' together with a fee of Rs.50/- for license to licensing authority unless the State Government by notification exempts such class of dealers in such areas and subject to such conditions as may be specified in the notification.

Based on such enquiry as it thinks fit for licensing authority may grant in form 'B' or refuse in provisions of the Order. The refusal to grant license shall be accompanied by clear recording of reasons for such refusal.

Renewal of License

A holder of license shall be eligible for renewal upon and applicable being made in the prescribed form 'C' (in duplicate) together with a fee of rupees twenty before the expiry of license or at the most within a month of date of expiry of license for which additional fee of Rs.25/- is required to be paid.

Appointing of Licensing authority

The state government may appoint such number of persons as it thinks necessary to be inspector and define the area of such Inspector's jurisdiction through notification in the official gazette.

Time limit for analysis of samples by Seed testing lab

Time limit for analysis of samples by seed testing lab and suspension / cancellation of license may be done by Licensing authority after giving an opportunity of being heard to the holder of license, suspend or cancel the license on

grounds of mis-representation of a material in particular or contravention in provision of the order.

Suspension / Cancellation of license

The Licensing authority may after giving an opportunity of being held to the holder of license, suspend or cancel the license on grounds of mis-representation of material in particular or contravention in provision of the Order.

Appeal

The state government may specify authority for hearing the appeals against suspension / cancellation under this order and the decision of such authority shall be final. Any person aggrieved by an order of refusal to grant or amend or renew the license for sale, export / import of seed may within 60 days from the date of Order appeal to the designated authority in the manner prescribed in the Order.

Miscellaneous

The licensing authority may on receipt of request in writing together with Rs.10/- can amend the license of such dealer. Every seed dealer are expected to maintain such books, accounts and records to this business in order and submit monthly return of his business for the preceding months in Form 'D' to the licensing authority by 5th day of every month

The Seeds Act, 1966

(Act No.54 of 1966) [29th December, 1966]

An Act to provide for regulating the quality of certain seeds for sale, and for matters connected therewith.

It is enacted by Parliament in the Seventeenth Year of the Republic of India as follows:

Short Title, Extent and Commencement

1. (1) This Act may be called the Seeds Act, 1966.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and for different States or for different areas thereof.

Definitions

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

1. "Agriculture" includes horticulture;
2. "Central Seed Laboratory" means the Central Seed Laboratory established or declared as such under sub-section (1) of section 4;
3. "Certification agency" means the certification agency established under Section 8 or recognised under Section 18;
4. "Committee" means the Central Seed Committee constituted under sub-section (1) of Section 3;
5. "Container" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which any article or thing is placed or packed;
6. "Export" means taking out of India to a place outside India;
7. "Import" means bringing into India from a place outside India;
8. "Kind" means one or more related species or sub-species of crop plants each individually or collectively known by one common name such as cabbage, maize, paddy and wheat;
9. "notified kind or variety" , in relation to any seed, means any kind or variety thereof notified under Section 5;
10. "Prescribed" means prescribed by rules made under this act;
11. "seed" means any of the following classes of seeds used for sowing or planting-
 - I. seeds of food crops including edible oil seeds and seeds of fruits and vegetables;

- II. cotton seeds;
- III. seeds of cattle fodder;

and includes seedlings, and tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material, of food crops or cattle fodder;

- 12. "Seed Analyst" means a Seed Analyst appointed under section 12;
- 13. "Seed Inspector" means a Seed Inspector appointed under section 13;
- 14. "State Government", in relation to a Union territory, means the administrator thereof;
- 15. "State Seed Laboratory", in relation to any State, means the State Seed Laboratory established or declared as such under sub-section (2) of section 4 for that State; and
- 16. "Variety" means a sub-division of a kind identifiable by growth, yield, plant, fruit, seed, or other characteristic.

Central Seed Committee

3. (1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Seed Committee to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it by or under this Act.

2. The Committee shall consist of the following members, namely: -

- i. a Chairman to be nominated by the Central Government;
- ii. eight persons to be nominated by the Central Government to represent such interests that Government thinks fit, of whom not less than two persons shall be representatives of growers of seed;
- iii. One person to be nominated by the Government of each of the States.

(3) The members of the Committee shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for two years and shall be eligible for renomination.

(4) The Committee may, subject to the previous approval of the Central Government, make bye-laws fixing the quorum and regulating its own procedure and the conduct of all business to be transacted by it.

(5) The Committee may appoint one or more sub-committees, consisting wholly of members of the Committee or wholly of other persons or partly of members of the Committee and partly of other persons, as it thinks fit, for the purpose of discharging such of its functions as may be delegated to such sub-committee or sub-committees by the Committee.

(6) The functions of the Committee or any sub-committee thereof may be exercised notwithstanding any vacancy therein.

(7) The Central Government shall appoint a person to be the secretary of the Committee and shall provide the Committee with such clerical and other staff as the Central Government considers necessary.

Central Seed Certification Board

"8A. (1) The Central Government shall, by notification in the Official Gazette, establish a Central Seed Certification Board (hereinafter referred to as the Board) to advise the Central Government and the State Governments on all matters relating to certification and to co-ordinate the functioning of the agencies established under section 8.

(2) The Board shall consist of the following members, namely: -

(i) a Chairman, to be nominated by the Central Government;

iii) four members, to be nominated by the Central Government from out of the persons employed by the State Governments as 'Directors 'of Agriculture;

(iii) three members, to be nominated by the Central Government from out of the persons employed by the Agricultural Universities as Directors of Research;

(iv) thirteen persons, to be nominated by the Central Government to represent such interests as that Government thinks fit, of whom not less than four persons shall be representatives of seed producers or tradesmen.

(3) A member of the Board shall, unless his seat becomes vacant earlier by resignation or otherwise - be entitled to hold office for two years from the date of his nomination:

Provided that a person nominated under clause *(if)* or clause *(iii)* of sub-section (2) shall hold office only for so long as he holds the appointment by virtue of which his nomination was made.

Central Seed Laboratory and State Seed Laboratory

4. (1) The Central Government may, by notification in the Official Gazette, establish a Central Seed Laboratory or declare any seed laboratory as the Central Seed Laboratory to carry out the functions entrusted to the Central Seed Laboratory by or under this Act.

(2) The State Government may, by notification in the Official Gazette, establish one or more State Seed Laboratories or declare any seed laboratory as a State Seed Laboratory where analysis of seeds of any notified kind or variety shall be carried out by Seed Analysts under this Act in the prescribed manner.

Power to notify kinds or varieties of seeds

5. If the Central Government, after consultation with the Committee, is of opinion that it is necessary or expedient to regulate the quality of seed of any kind or variety to be sold for purposes of agriculture, it may, by notification in the Official Gazette, declare such kind or variety to be a notified kind or variety for the purposes of this Act and different kinds or varieties may be notified for different States or for different areas thereof.

Power to specify minimum limits of germination and purity, etc.

6. The Central Government may, after consultation with the Committee and by notification in the Official Gazette, specify-

- a. the minimum limits of germination and purity with respect to any seed of any notified kind or variety;
- b. the mark or label to indicate that such seed conforms to the minimum limits of germination and purity specified under clause (a) and the particulars which such mark or label may contain.

Regulation of sale of seeds of notified kinds or varieties

7. No person shall, himself or by any other person on his behalf, carry on the business of selling, keeping for sale, offering to sell, bartering or otherwise supplying any seed of any notified kind or variety, unless-

- a. such seed is identifiable as to its kind or variety;
- b. such seed conforms to the minimum limits of germination and purity specified under clause (a) of section 6;
- c. the container of such seed bears in the prescribed manner, the mark or label containing the correct particulars thereof, specified under clause (b) of section 6; and
- d. he complies with such other requirements as may be prescribed.

Certification agency

8. The State Government or the Central Government in consultation with the State Government may, by notification in the Official Gazette, establish a certification agency for the State to carry out the functions entrusted to the certification agency by or under this Act.

Grant of certificate by certification agency

9. (1) Any person selling, keeping for sale, offering to sell, bartering or otherwise supplying any seed of any notified kind or variety may, if he desires to have such seed certified by the certification agency, apply to the certification agency for the grant of a certificate for the purpose.

(2) Every application under sub-section (1) shall be made in such form, shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) On receipt of any such application for the grant of a certificate, the certification 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 limits of germination and purity specified for that seed under clause (a) of section 6, grant a certificate in such form and on such conditions as may be prescribed.

Revocation of certificate

10. If the certification agency is satisfied, either on a reference made to it in this behalf or otherwise, that-

- a. the certificate granted by it under section 9 has been obtained by misrepresentation as to an essential fact; or
- b. 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 made thereunder;

then, without prejudice to any other penalty to which the holder of the certificate may be liable under this Act, the certification agency may, after giving the holder of the certificate an opportunity of showing cause, revoke the certificate.

Appeal

11. (1) Any person aggrieved by a decision of a certification agency under section 9 or section 10, 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:

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.

Seed Analysts

12. The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Analysts and define the areas within which they shall exercise jurisdiction.

Seed Inspectors

13. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Inspectors and define the areas within which they shall exercise jurisdiction.

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

Powers of Seed Inspector

14. (1) The Seed Inspector may-

- a. take samples of any seed of any notified kind or variety from-
 - i. any person selling such seed; or
 - ii. any person who is in the course of conveying, delivering or preparing to deliver such seed to a purchaser or a consignee; or
 - iii. a purchaser or a consignee after delivery of such seed to him;
- b. send such sample for analysis to the Seed Analyst for the area within which such sample has been taken;
- c. enter and search at all reasonable times, with such assistance, if any, as he considers 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 specific period not exceeding thirty days or, unless the alleged offence is such that the defect may be removed by the possessor of the seed, seize the stock of such seed;
- d. examine any record, register, document or any other material object found in any place mentioned in clause (c) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act; and
- e. exercise such other powers as may be necessary for carrying out the purposes of this Act or any rule made thereunder.

(2) Where any sample of any seed of any notified kind or variety is taken under clause (a) of sub-section (1), its cost, calculated at the rate at which such seed is

usually sold to the public, shall be paid on demand to the person from whom it is taken.

(3) The power conferred by this section includes power to break-open any container in which any seed of any notified kind or variety may be contained or 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.

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

(5) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

Procedure to be followed by Seed Inspectors

15. (1) Whenever a Seed Inspector intends to take sample of any seed of any notified kind or variety for analysis, he shall-

- a. give notice in writing, then and there, of such intention to the person from whom he intends to take sample;
- b. except in special cases provided by rules made under this Act, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.

(2) When samples of any seed of any notified kind or variety are taken under sub-section (1), the Seed Inspector shall-

- a. deliver one sample to the person from whom it has been taken;
- b. send in the prescribed manner another sample for analysis to the Seed Analyst for the area within which such sample has been taken; and
- c. retain the remaining sample in the prescribed manner for production in case any legal proceedings are taken or for analysis by the Central Seed Laboratory under sub-section (2) of section 16, as the case may be.

(3) If the person from whom the samples have been taken refuses to accept one of the samples, the Seed Inspector shall send intimation to the Seed Analyst of such refusal and thereupon the Seed Analyst receiving the sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the Seed Inspector who shall retain it for production in case legal proceedings are taken.

(4) Where a Seed Inspector takes any action under clause (c) of sub-section (1) of section 14:

- a. he shall use all despatch in ascertaining whether or not the seed contravenes any of the provisions of section 7 and if it is ascertained that the seed does not so contravene, forthwith revoke 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;
- b. if he seizes the stock of the seed, he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof;
- c. 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 revoke the order passed under the said clause.

(5) Where as Seed Inspector seizes any record, register, document or any other material object under clause (d) of sub-section (1) of section 14, he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof.

Report of Seed Analyst

16.(1) The Seed Analyst shall, as soon as may be after the receipt of the sample under sub-section (2) of section 15, analyse the sample at the State Seed Laboratory and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.

(2) After the institution of a prosecution under this Act, the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the court for sending any of the samples mentioned in clause (a) or clause (c) of sub-section (2) of section 15 to the Central Seed Laboratory for its report and on receipt of the application, the court shall first ascertain that the mark and the seal or fastening as provided in clause (b) of sub-section (1) of section 15 are intact and may then despatch the sample under its own seal to the Central Seed Laboratory which shall thereupon send its report to the court in the prescribed form within one month from the date of receipt of the sample, specifying the result of the analysis.

(3) The report sent by the Central Seed Laboratory under sub-section (2) shall supersede the report given by the Seed Analyst under sub-section (1).

(4) Where the report sent by the Central Seed Laboratory under sub-section (2) is produced in any proceedings under Section 19, it shall not be necessary in such proceedings to produce any sample or part thereof taken for analysis.

Restriction on export and import of seeds of notified kinds or varieties

17. No person shall, for the purpose of sowing or planting by any person (including himself), export or import or cause to be exported or imported any seed of any notified kind or variety, unless-

- a. it conforms to the minimum limits of germination and purity specified for that seed under clause (a) of section 6; and
- b. its container bears, in the prescribed manner, the mark or label with the correct particulars thereof specified for that seed under clause (b) of section 6.

Recognition of seed certification agencies of foreign countries

18. The Central Govt. may, on the recommendation of the Committee and by notification in the Official Gazette, recognise any seed certification agency established in any foreign country, for the purposes of this Act.

Penalty

19. If any person-

- a. contravenes any provision of this Act or any rule made thereunder; or
- b. prevents a Seed Inspector from taking sample under this Act; **or**
- c. prevents a Seed Inspector from exercising any other power conferred on him by or under this Act;

he shall, on conviction, be punishable-

- i. for the first offence with fine which may extend to five hundred rupees, and
- ii. in the event of such person having been previously convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Forfeiture of property

20. When any person has been convicted under this Act for the contravention of any of the provisions of this Act or the rules made thereunder, the seed in respect

of which the contravention has been committed may be forfeited to the Government.

Offences by companies

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. – For the purpose of this section, -

- a. "company" means any body corporate and includes a firm or other association of individuals; and
- b. "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith

22. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.

Power to give directions

23. The Central Government may give such directions to any State Government as may appear to the Central Government to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule made there under.

Exemption

24. Nothing in this Act shall apply to any seed of any notified kind or variety grown by a person and sold or delivered by him on his own premises direct to another person for being used by that person for the purpose of sowing or planting.

Power to make rules

25. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purpose of this Act.

(2) In particular and without prejudice to the generality of the fore-going power, such rules may provide, for-

- a. the functions of the Committee and the travelling and daily allowances payable to members of the Committee and members of any sub-committee appointed under sub-section (5) of section 3;
- b. the functions of the Central Seed Laboratory;
- c. the functions of a certification agency;
- d. the manner of marking or labeling the container of seed of any notified kind or variety under clause (c) of Section 7 and under clause (b) of section 17;
- e. the requirements which may be complied with by a person carrying on the business referred to in section 7;
- f. the form of application for the grant of a certificate under section 9, the particulars it may contain, the fees which should accompany it, the form of the certificate and the conditions subject to which the certificate may be granted;

- g. the form and manner in which and the fee 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;
- h. the qualifications and duties of Seed Analysts and Seed Inspectors;
- i. the manner in which samples may be taken by the Seed Inspector, the procedure for sending such samples to the Seed Analyst or the Central Seed Laboratory and the manner of analyzing such samples;
- j. the form of report of the result of the analysis under sub-section (1) or sub-section (2) of section 16 and the fees payable in respect of such report under the said sub-section (2);
- k. the records to be maintained by a person carrying on the business referred to in section 7 and the particulars which such records shall contain; and
- l. any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

New seed policy { 1988 }

The Government of India evolved a New seed policy implemented **from October 1, 1988.**

The policy laid special emphasis on

- Import of high quality of seeds
 - A time bound programme to modernize plant quarantine facilities
 - Effective implementation of procedures for quarantine /post entry quarantine and
 - Incentives to encourage the domestic industry
 - Import of quality seeds.
1. Bulk import of seeds of coarse cereals, pulses and oil seeds may replace (or) displace the local productions.
 2. Transfer of technology may not be actual one, because due to bulk import of seeds or import of technology, instead we can import the germplasm of superior variety if any and could be developed locally to meet the demand (i.e.,) incorporate the advantages of exotic variety to the local types(or) even direct multiplication's after adaptive trials.
 3. As we have superior varieties of international standard (e.g.) Maize, Sorghum, Bajra, or even in oil seeds like groundnut etc., the bulk import is not necessiated. Instead we need varieties suitable to agroclimatic zones besides higher yields.
 4. Import of flower seeds could be encouraged in order to earn foreign exchange through export of flowers and it can be imported under (OGL) open general license. But there is a fear of introduction of new pest and diseases as they are coming without post entry quarantine checkup.

Strengthening of quarantine

Since, 1st October 1988 only bulk import of seeds was under taken without any progress either in the strengthening of quarantine facilities.

Threat of pest and disease

Introduction of new pest and disease would pose a new problem due to bulk import due to lack of post entry quarantine. To avoid this threat, the imported seeds should be subjected to testing and it should be done by one person from ICAR. Entry of exotic variety without proper field testing may change the disease pattern if that particular strain is becoming susceptible to existing pathogens.

(e.g.) Kernal burnt - which was not noticed in the previous years is now a major disease on wheat after the introduction of Kalyansona.

Genetic erosion

It is another danger, due to introduction of similar strains there is a danger of genetic uniformity and eliminates local diversified strains which leads to problem of non-availability of improved strains if there is any outbreak of disease.

Incentives to domestic seed industry

Indigenous seed production / seed industry will be affected because of the entry of multi nation diseases. Since the policy is allowing indiscriminate bulk imports through private sectors at the same time the import duty on seeds has been reduced to 15 per cent. Import duty on advanced machines and equipment used in seed production or processing has also been reduced and interest on post shipment credit has also been slashed down to help importers. Income tax rebate and deduction are available to the taxpaying units on the revenue expenditure or in house research and development. Incentives are also being provided to seeds located in backward areas and growth centers.

Application of biotechnology in agriculture

The multination would prevent the III world countries in enjoying the full benefit of biotechnology. The bulk import of seed indicates accepting the monopoly rights and the limitation of potential bio-technology in agriculture.

Advantages of biotechnology in agriculture

Certain plants fertilize themselves through nitrogen fixation, which is one of the most promising areas of genetic engineering. Bacterium on the roots of plants like groundnut, and soyabean take nitrogen from the air and transform it into nitrates. Scientists are studying the possibility of transforming the genes responsible for nitrogen fixation in wheat, rice, and maize (in which nitrogen fixation does not occur). They feel new strains can be grown without expensive chemical fertilizers.

Plant variety protection (PVP) and the Indian agriculture (Protection of Plant Variety & farmers right Bill,2001)

The Intellectual Property Rights (IPRs) are generally being applicable to industrial property only. The patent laws of India did not provide for IPRs on living organisms including plant varieties. The question of plant variety protection has been brought in to sharp focus by Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) which is a part of Agreement establishing World Trade Organization (WTO). India is a signatory to TRIPS agreement, which casts an obligation on member countries to provide for a system of plant variety protection either through patents or through a *sui generis* legislation framework or a combination thereof. Under these agreements, a legislative framework for plant variety protection has to be provided by member countries within a specified time period. While this has lent some urgency to the question of plant variety protection, the question of plant variety rights, even independent of the obligations posed by TRIP's agreement, has been under active consideration in view of our strong agricultural research system. The plant breeding programmes have become more sophisticated and high input based. The extent of investment by the State on public research, in evolving varieties of commercial significance, is coming down with responsibility of evolving new varieties of crops of commercial significance being left to the private sector commercial organisations. There is also a move on the part of the international research institutions, who at one time played a pioneering role in plant breeding and genetic work, to focus on pure or strategic research. In the

wake of the global economic liberalization, it is only expected that agriculture is accorded the status of an industry and given all incentives and impetus, normally required for a fast developing, competitive business. To meet our food demands, as well as to exploit our export potential in agricultural commodities, development and use of new plant varieties having specific agronomic nutritive or market preference characteristics are essential. New varieties may be bred for higher yields, greater resistance to biotic and abiotic stresses, longer shelf life, better consumer preference, higher industrial value, low input requirements and so on. To meet these demands the variety improvement activities based on conventional as well as biotechnological methods requires heavy investments both in scientific, man power and economic terms. It is therefore, understandable that the fruits of such intensive efforts will have to be protected from misuse, and also ensuring an appropriate incentive (reward) to the breeder.

The following are the plant variety protection steps:

1. Historical developments of plant variety protection

For over 60 years, different forms of protection of new plant varieties through the system of Plant Breeders' Right (PBR's) have been in existence in industrialised countries which essentially means that the holder of the PBR can prevent others from producing propagating material of the protected variety and / or marketing the same. In order to coordinate inter country implementation of PBR a " Union Internationale Pour La Protection Des Obtention Vegetables" (UPOV) was established by International Convention for Protection of New Varieties of plants (the UPOV convention), which was signed in Paris in 1961. The convention entered into force in 1968. It was revised in 1972, 1978 and 1991. The 1978 Act entered into force in 1981. The 1991 act has not yet entered into force.

The purpose of UPOV convention is to ensure that the member States of the Union acknowledge the achievements of breeder of new plant varieties by making available to them exclusive property rights, on the basis of a set of uniform and clearly defined principles. To be eligible for protection, varieties have to be (i) distinct from existing known varieties (ii) sufficiently homogenous (uniform) (iii)

stable and (iv) new in the sense that they must not have commercialised prior to certain dates established by reference to the date of the application for protection.

2. Scope of protection of plant varieties under UPOV convention

Both the 1978 and 1991 conventions set out a minimum scope of protection offer to member states for the possibility of taking national circumstances into account in their legislation. Under 1978 Act, the minimum scope of the Plant Breeders' right requires that the holders' authorization for the production for purposes of commercial marketing, the offering for sale and marketing of propagating material of protected variety.

The 1991 Act contains more detailed provision defining the acts concerning propagating material in relation to which holders' authorization is required. Exceptionally, but only where the holder has no reasonable opportunity to exercise his right in relation to the propagating material, his authorization may be required in relation to any specified acts done with harvested material of the variety.

3. Duration of plant breeder's rights

Like all intellectual property rights, plant breeder's rights are granted for a limited period of time (15-20 years) at the end of which varieties protected by them pass into public domain. The rights are also subject to controls, in the public interest, against any possible abuse.

4. Exemptions

It is also important to note that authorization of the holder of plant breeders' rights is not required for the use of his variety for research purpose, including its use in the breeding of further new varieties.

From the inception of UPOV in 1961, farmers have been allowed to use their own harvested material of protected varieties for the next production cycle on their own farms. On farm saving is still a practice in UPOV countries. The 1991 UPOV convention contains an "Optional exception" which provides that it is unto the national government to decide whether to permit farmers to use the seed of a PBR protected variety for propagation purposes on their own holdings or not.

5. Sovereign rights on biological resources

Another major development, which has taken place along with India signing the World Trade Agreement, is global Biodiversity Convention. India is a signatory to this convention, which became operational on December 29, 1993. Among other things it reaffirms that "the states have sovereign rights over their own biological resources" and that states are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner".

6. Suggestions for a SUI system of plant variety protection

The proposal of 1991 UPOV convention which extends plant breeders rights to the harvested material, is not appropriate for our country. The frame work for plant variety protection has to be evolved in a manner that prevents situations where repeated imports of improved varieties are not required so as to avoid dependence on foreign sources of supply.

While, finalizing legislation on PVP, the government needs to strike a balance between its commitment under WTO, growth of the seed sector and their interests of the farmers, which through a difficult task, is not impossible to achieve.

7. Seed Industry Development in Post PVP period

In the post PVP period, we anticipate fairly high investment in seed research from private sector and healthy competition with public sector in crop breeding and seed production and distribution. However, public sector institutions will continue to play major role in developing varieties of wheat rice, chick pea, pigeon pea, mungbeans, urdbeans, groundnut, sugarcane, jute, potato and millets. The continued improvement of these crops is most vital for our food security system. The public sector will have to continue to develop varieties for rainfed, salt affected, hilly and low lying flood prone regions. In export potential of food grains and other agricultural commodities, breeding for quality of produce will have to be given priority. We may also tailor varieties suited to the needs of the importing countries. Since there is growing concern about the use of chemical pesticides in crop production, the present research programme of breeding for resistance against the pests and diseases will have to be strengthened further. **Strategic research on**

breeding for research against pests and diseases will be priority areas of research of a public institution. We anticipate that the material generated from these research programmes will be made available to the private sector.

Seed industry both in public and private sector is likely to develop at a fast rate after the legislation on plant variety protection is enacted. The recent experience shows that contribution of both public and private sector in Seed industry development is complimentary. While private sector seed companies are concentrating on hybrids of millets, oil seeds, cotton and vegetables, the public sector seed corporations are engaged in seed production and distribution of self-pollinated crops. It has also been observed that due to competition among the seed companies, the farmers have been benefited not only in respect of stability in prices of hybrid seeds but also better quality of seeds. It is expected that with programmatic policy planning, faster growth of both public and private sector in seed research and development will be ensured so that they can play important role in improving the incomes and standards of living of our farmers.