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THE SEEDS ACT OF BHUTAN, 2000

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Royal Government of Bhutan
Ministry of Agriculture

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THE SEEDS ACT OF BHUTAN, 2000

PREAMBLE

An act to regulate import and export of Agriculture seeds, to prevent introduction of plants and diseases and to promote seed industry in the country aimed at enhancing rural income and livelihood.

CHAPTER I PRELIMINARY

1 Title, extent and commencement

- 1.1 This act shall be called “The Seeds Act of Bhutan, 2000”.
- 1.2 This Act shall extend to the whole of the Kingdom of Bhutan
- 1.3 It shall come into force on 16th day, 5th month of the Male Iron Dragon year coinciding with the 17th July of the year 2000.

2 Definitions

In this Act, unless the context otherwise requires:

- 2.1 “Agriculture” means field crops, horticulture, forestry and livestock.
- 2.2 “Board” means the National Seed Board.

- 2.3 “Central Seed Testing Laboratory” means the laboratory established or declared under Section 12.
- 2.4 “Seed Certification Agency” means the certification agency established under Section 7 or recognized under section 11.
- 2.5 “Container” means a box, sack, bag, wrapper or any other thing used for the packing of seed.
- 2.6 “He” implies to both genders unless specifically stated otherwise.
- 2.7 “Kind” means one or more related species or sub-species of crop plants each individually or collectively known by one common name such as paddy, maize, wheat, etc.
- 2.8 “Notified kind or variety” means any kind or variety notified under Section 4.
- 2.9 “Prescribed’ means prescribed by rules made under this Act.
- 2.10 “reference Seed Testing Laboratory” means the laboratory established or declared under Section 12.
- 2.11 “Seed” means any material used for sowing or planting and includes seed of food, feed, forages, fruits and vegetable crops. It also includes seedlings and tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated materials of foods, fibre or forage crops or forest plants.
- 2.12 “Seed Inspector” means a seed inspector appointed under Section 14.
- 2.13 “Variety” means sub-division of a kind identifiable by growth, yield, plant, fruit, seed or other characteristics.

CHAPTER II FRAME RULES AND PROCEDURES

3 Establishment of the Board

The Ministry of Agriculture shall establish a National Seed Board to advise on matters arising out of the administration of this Act and to carry out the functions assigned to it. The Ministry of Agriculture shall appoint the Chairman and members of the Board from public organizations.

3.1 Membership

The Board shall consist of the following members:

- a) Chairman,
- b) Heads of Departments under MOA,
- c) Head of Quality control and Regulatory Services,
- d) Managing director, DSC,
- e) Two representatives of progressive farmers/seed growers/farmers' organizations,
- f) One representative of Private Seed industry,
- g) Three subject matter specialists,
- h) Chief Research Officer, REID as member secretary.

The members will hold office for two years unless their seats become vacant due to resignation, death, or otherwise and shall be eligible for re-nomination.

3.2 Functions of the National Seed Board

The National Seed board shall advise the Ministry of Agriculture on all matters related to development of national seed program in the country and the administration of this Act.

3.3 Making of bye-laws for the conduct of business of the Board.

The Board may make bye-laws, fixing the quorum and regulating its own procedure and conduct of all business that it will transact.

3.4 Constitution of Committee(s)

The board may appoint one or more committee consisting wholly of members of the board, or wholly of other persons; or partly of members of the board and partly of other persons, as it may think fit, for the purpose of discharge of such of its functions, as may be delegated to such committees by the board. The board may also appoint committees in the manner prescribed above purely for advice on specific issues.

3.5 Board attendance

The board shall convene a meeting only if a minimum of two-third members is present. Decision taken outside the minimum Board members required shall not be valid.

3.6 Staff/facilities to the board

The Ministry will provide the Board with necessary clerical staff and other facilities for its smooth functioning.

4 Powers to notify kinds or varieties of seeds

If the Minister of Agriculture, after consultation with the board, is of the opinion that it is necessary or expedient to regulate the quality of seed of any kind or variety to be sold for the purpose of Agriculture, it may, by notification, declare such kind or variety to be notified kind or variety for the purpose of this Act and different kinds or varieties may be notified for different regions or areas.

5 Powers to specify minimum limits of germination and purity

The Ministry of Agriculture may, after consultation with the Board, specify by notification:

- 5.1 the minimum limits of germination and purity with respect to seed of any notified kind or variety.
- 5.2 The mark or label to indicate that seeds conform to the minimum limits of germination and purity specified under Sub-Section 5.1 and the particulars that such label may contain.

CHAPTER III REGULATION OF SEEDS SALE

6. Regulation of sale of seeds of notified kinds or varieties

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 seeds of any notified kind or variety, unless:

- 6.1 such seed is identifiable to its kind or variety;
- 6.2 such seed conforms to the minimum limits of germination and purity specified under Sub-Section 5.1 of Section 5;
- 6.3 the container of such seed bears in the prescribed manner, the make or label containing the correct particulars thereof, specified under Sub-Section 5.2 of Section 5, and
- 6.4 he complies with such other requirements as may be prescribed.

CHAPTER IV CERTIFICATION

7 Seed Certification Agency

The Ministry of Agriculture, in consultation with the board, may by notification, establish a Seed Certification Agency to carry out the functions entrusted to it by or under this Act.

8 Grant of Certificate

8.1 Any person selling, keeping for sale, bartering or otherwise supplying seeds 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

8.2 Every application under Sub-section 8.1 shall be made in such form, contain such particulars and be accompanied by such fees as may be prescribed.

8.3 On receipt of an application for the grant of a certificate, the certification agency may, after enquiring and satisfying itself that the seed to which the application relates, conforms to the minimum limits of germination and purity specified for that seed under Sub-Section 5.1 of Section 5, grant a certificate in the form and conditions as may be prescribed.

9 Renovation of certificates

If the Certification Agency is satisfied, either on a reference made to it or otherwise, that:

9.1 the certificate granted by it under Section 8 was obtained by misrepresentation as to an essential fact; or,

9.2 the holder of the certificate, without reasonable cause, failed to comply with the conditions subject to which the certificate was granted or contravened any of the provisions of this Act or the rules made hereunder; 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.

10 Appeal

10.1 Any person aggrieved by a decision of the certification agency under Section 8 and 9 may, within thirty days from the date on which the decision is communicated to him and on payment of prescribed fees, prefer an appeal to such authority as may be specified by the Ministry of Agriculture on his behalf; provided that the appellate authority may entertain an appeal even after the expiry of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filling the appeal in time.

10.2 On receipt of an appeal under Sub-Section 10.1, the appellant authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

10.3 Every order of the appellant authority under this section shall be final.

11. Recognition of Foreign Seed Certification Agencies

On the recommendation of the Board, the Ministry of Agriculture may, by notification, recognize a seed certification agency established in any foreign country, for the purpose of this Act.

CHAPTER V CENTRAL SEED TESTING LABORATORY

12 Central Seed Testing Laboratory

The Ministry of Agriculture may, by notification, establish a Central Seed Testing Laboratory or declare any seed-testing laboratory as the Central Seed Testing Laboratory for the purpose of this Act. It shall perform the following functions:

- 12.1 Analysis of samples sent by the Certification Agency for the purpose of certification to meet the prescribed minimum seed standards.
- 12.2 To analyse and communicate the results of the seed samples sent by Seed Inspectors under Section 16.

13 Referee Seed Testing Laboratory

The Ministry of Agriculture may, by notification, establish a Referee Seed Testing Laboratory or declare any seed-testing laboratory as the laboratory for the analysis of the seed samples sent to it under Section 17.

CHAPTER VI ENFORCEMENT AND PENALTIES

14 Seed Inspectors

- 14.1 The Ministry of Agriculture may, by notification, appoint such persons having the prescribed qualification to be Seed Inspectors and define the areas within which they shall exercise jurisdiction.

14.2 A Seed Inspector shall be a public servant and shall officially subordinate to such authority as the Ministry of Agriculture may notify.

15 Powers of Seed Inspectors

The Seed Inspector may:

15.1 take sample of any seed of any notified kind or variety from:

- a) any person selling such seed; or
- b) any person who is in the course of conveying, delivering or preparing to deliver such seed to a purchaser or a consignee; or
- c) a purchaser or a consignee after delivery of such seed to him.

15.2 enter and search at all reasonable times, any building premises or structure in which he believes that the evidence of commission of an offence under this Act is likely to be found, after obtaining a search warrant from the nearest court of law.

15.3 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 by giving receipt.

15.4 Examine any record, register, document or any other material object found in any place mentioned in Sub-Section 15.2 above and seize the same, if he has reason to believe that it may be helpful in establishing the commission of an offence punishable under this Act. He shall however inform the appropriate/designate authority of such seizure.

- 15.5 break-open any container in which any seed of any kind or variety may be contained or 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, refuses to open the door on being called upon to do so.
- 15.6 Exercise such other powers as may be necessary for carrying out the functions assigned under this Act.

16 Procedures of seed inspection

- 16.1 whenever a Seed Inspector intends to take a sample of any seed of any notified kind or variety for analysis, he shall:
- a) give notice in writing of such intention to the person from whom he intends to take Sample;
 - b) take three representative samples in the prescribed manner as its nature may permit.
- 16.2 Out of three samples taken to the person under-Section 16.1, the Seed Inspector shall:
- a) deliver one sample to the person from whom it has been taken;
 - b) send in the prescribed manner one sample for analysis to the Central Seed Testing Laboratory for analysis; and
 - c) retain the third sample in the prescribed manner for production in case any legal proceedings are taken under Sub-Section 17.3 of Section 17.
- 16.3 When a Seed Inspector takes any action under Sub-Section 15.1 of Section 15, he shall:

- a) ascertain whether or not any of the provisions of Section 6 has been contravened and if it is observed that the seed does not contravene the provisions of this section, he shall revoke the order passed and take such action as may be necessary for the return of seized stock;
- b) without prejudice to the institution of any prosecution and on being satisfied that the possessor of the seed has rectified the defect, if the alleged offence is such that the defect may be rectified by the possessor, revoke the order forthwith passed under this Act.

17 Reports of Seed Testing laboratory

- 17.1 After the receipt of samples under Sub-Section 16.2 of Section 16 in the laboratory, the analysis shall be done following the standard procedure. One copy of the analysis report shall be sent to the Seed inspector and another copy to the person from whom the sample has been taken.
- 17.2 If the report of the Central Seed Testing laboratory reveals that the seed sample does not conform to the prescribed seed standards, the vendor may be prosecuted in a court of law.
- 17.3 On request and upon payment of prescribed fee by the accused, the sample mentioned under Sub-Section 16.2© of Section 16 can be sent to a designated referee laboratory for analysis by the court, provided it is satisfied that the sample is intact and is not tempered with. Such sample shall be dispatched under the seal of court.
- 17.4 The report submitted by the referee laboratory under Sub-Section 17.3 shall be final.

18 Penalty

18.1 If any person

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

18.2 A person, who commits an offence against this Act, shall be liable, on conviction through a court process, to imprisonment or fines as per the rules of the Ministry of Agriculture.

19 Forfeiture of Property

When a person has been convicted under this Act, the seed in respect of which the contravention has been committed may be forfeited to the Ministry of Agriculture or its designated organization.

20 Liability of Seed Inspector

20.1 A Seed Inspector shall not be liable for anything done by him in good faith for the purpose of enforcing this Act or otherwise acting in the course of duty.

20.2 A Seed Inspector, who wrongfully and without reasonable cause seizes seeds, records or any other material, shall be punishable in accordance with the Royal Civil Service rules.

**CHAPTER VII
MISCELLENOUS**

21 General powers sanctioned to Ministry of Agriculture

21.1 The Ministry of Agriculture may issue separate rules regulating the import and export of seed and other planting materials.

21.2 The Ministry of Agriculture may make suitable rules for the effective implementation of the provisions of this Act.

22 Genetic resources

The Seed Act of Bhutan, 2000 does not cover the issue of genetic resources. The Ministry of Agriculture shall issue rules regulating the collection, import, export and exchange of genetic resources.

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