



Training Manual for
**AGRICULTURE INPUT
INSPECTORS 2022 - 23**
(Seeds, Fertilizers, Insecticides)



DEPARTMENT OF AGRICULTURE
AND FARMERS' EMPOWERMENT
GOVERNMENT OF ODISHA



Government of Odisha

TRAINING MANUAL
FOR
AGRICULTURE INPUT INSPECTORS
(SEEDS, FERTILISERS, INSECTICIDES)
(2022-23)

**DEAPRTMENT OF AGRICULTURE & FARMERS' EMPOWERMENT,
ODISHA**



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FOREWORD

Agriculture is the mainstay of majority of State's populace. The endeavours, put in for development of agriculture coupled with the agenda to enhance production and productivity with the objective of not only feeding the hungry but also making the state self sufficient, have brought in the necessity to adopt sustainable intensification through adoption of improved technologies. This in turn, has prompted our farmers to use modern agriculture inputs. Similarly, nutrient mining on account of growing high yielding varieties of crops has led to use different fertilizers to replenish these essential plant nutrients in the soil. Again, imbalanced use of fertilizers coupled with the impacts of climate change has resulted in greater incidence of pest and diseases requiring use of plant protection chemicals in much greater scale than ever before. The farmers being displaced from traditional agriculture now depend on various external agencies for procuring these agriculture inputs. More so, the available inputs are often from multiple sources and of multiple makes, offering a wide choice for the farmers on one side, while increasing their production cost on the other. In the backdrop of 93% of our farmers belonging to small and marginal category, who have limited resources to invest, they need to choose the required inputs of appropriate make and quality. A single wrong choice or poor quality of the inputs shatters their production plans for a complete season besides putting them into economic loss.

In order to realise the objectives of enhancing production and productivity, the basic agriculture inputs should be of desired quality and these could be ensured through incessant efforts put in for quality control and enforcement. The state has elaborate arrangements of quality control and enforcement, both at district and state level. The Assistant Agriculture Officers working at Block Level have been notified as Fertiliser/ Seed/ Pesticide Inspectors and engaged for quality control and enforcement within their jurisdiction. There are District Enforcement and State Enforcement Squads, who also are empowered to take up quality control and enforcement activities for ensuring the quality of agri inputs available to farmers.

The Training Manual is an aggregation of roles and responsibilities to be played by the Fertiliser/ Seed/ Pesticide Inspectors during the process of their duties of quality control and enforcement.

I sincerely wish the Manual shall serve to educate all our field functionaries and help to ensure availability of quality agri-inputs to the farmers.

(Dr. Arabinda Kumar Padhee)



Sri Prem Chandra Chaudhary, IAS

Director of Agriculture & Food Production,
Odisha

MESSAGE

Quality agri-inputs are considered to be important prerequisites for enhancement of agricultural production and ensuring quality of produce. There is an imperative need to develop a holistic approach for ensuring supply of quality critical inputs especially, seeds, fertilizer and pesticides to the farmers with a large array of different agri inputs of various make available in the market. Maximum attention is being given by the department for supply of quality inputs through Govt. agencies as well as a series of private dealers network. Quality analysis of agri inputs and their availability at farmers level have now emerged as an important aspect necessitating rigorous enforcement carried out by the Agri- Input Inspectors appointed by the department.

In this context, the Directorate of Agriculture & Food Production, Odisha has prepared one compendium of rules regulations, duties, responsibilities in accordance to those laid down under Seed Act, 1966 and Seed Rules, 1968, The Fertilizer Control Order, 1985, The Insecticides Act 1968 & Insecticides Rule 1971 & Essential Commodities Act 1955, Case studies etc. as well as important notifications by Govt. with the help of a team of officials of Seeds/ Fertilizer/ Plant Protection wings of this Directorate including some of the expert extension functionaries.

I am glad to record my appreciation for the efforts put in by these officials namely Sri Raj Kishore Das, JDA (F&S), Sri Hiranjan Mahanta, JDA (PP), Sri Basant Kumar Dey, DDA (QC), Sri Bhubaneswar Jena, DDA (Fertilizer), Smt. Nandini Dalai, ADA (PP), Sri Barendra Mishra, ADA(Seeds), Dr. Pradeep Kumar Swain, Development Officer, MARKFED and especially Sri Ratnakar Harichandan, SCO, OSSOPCA for their significant contribution for providing technical inputs for preparation of this compendium.

I believe that this “Training Manual for Agriculture Input Inspectors, 2022-23” will be indeed a referral handbook for the departmental officials involved in distribution of seeds/ fertilizer/ pesticides and will be very helpful for enrichment of knowledge on quality control and enforcement related activities ensuring quality of inputs available to the farmers.

(Prem Chandra Chaudhary)

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CASE STUDIES ON QUALITY CONTROL OF SEED

A. Korra Srinivas Rao S/O ... vs State of Maharashtra And Ors. on 5 December, 2000

In Criminal Writ Petition No. 300/2000, it is stated that the Seed Inspector lodged complaint at Akole Police Station in the district of Ahmednagar on 10-7-2000 that the seeds of onion of Sapal Light Red brand manufactured by the petitioners and sold by Shramik Krushi Seva Kendra, Akole, Bageshwar Krushi Seva, Akole and Ganesh Krushi Seva Kalas in Akole taluka to thirteen different farmers, did not give desired yield of onion but of "Dongle" and, thereby the petitioners committed offence punishable under Section 420 read with 34 of Indian Penal Code and Sections 6(a) and 7(b) of the Seeds Act.

7. Pursuant to the lodging of the said complaints, it appears that the Police started investigation. In all these three petitions, the said first information reports and consequential investigation by the Police are sought to be challenged mainly on the ground that none of the complaints disclose cognizable offence so as to empower the Police to investigate into the matter. The complaints do not disclose any offence either under any of the provisions of Indian Penal Code or under the provisions of the Trade and Merchandise Marks Act; that, the **Seeds** Inspector, instead of following the procedure laid down under the **Seeds Act** and the Rules made thereunder, and thereafter launch the proceedings in the Court, in case an offence is disclosed under the **Seeds Act** had, in total violation of the provisions of the **Seeds Act** and the Rules, sought to take resort to the proceedings under various other **Acts** by approaching the Police authorities; that, in any case, once the offence is said to be disclosed under any of the provisions of the **Seeds Act**, there cannot be proceedings for such offence under the provisions of Indian Penal Code.

8. Placing reliance upon the decisions of the Apex Court in the matter of Raj Kapoor v. Laxman , the Calcutta High Court in the matter of Zahir Ahmed v. Azam Khan reported in 7996 Cri.LJ. 290 and of the Karnataka High Court in the matter of Sayed Kaleem v. Mysore Lakshmi Beedi Works reported in 1993 Cri.LJ.. 232, the learned Advocates for the petitioners have submitted that none of the reports in question lodged in all the cases disclose any offence which can be investigated by the police authorities. Referring to the various provisions of the **Seeds Act** and the Rules made thereunder, it was contended that the **Seed** Inspector under the **Act** and the Rules, is duly empowered to investigate into any such complaint regarding the contravention of the provisions of the **Act** or the Rules made thereunder and, thereafter, based on the conclusions of his investigation, he is required to take necessary steps including institution of prosecution in case of breach of the provisions of the **Act** and the Rules as well as to take steps to prohibit the sale of the **seeds** suspected to be not in conformity with the standards fixed by the authorities under the

said **Act** and the Rules. It was also contended that once if an offence is disclosed under any of the provisions of the said **Act** and the Rules made thereunder and the same being special **Act** dealing with the specific provisions in relation to **seeds**, there can be no occasion for simultaneous prosecution under any of the provisions of the general **Act** i.e. Indian Penal Code. Referring to the nature and the quantum of sentence that can be imposed for any of the offences punishable under the **Seeds Act** and the Rules made thereunder as well as for the offences under the Trade and Merchandise Marks **Act**, it was contended that since the maximum punishment leviable is to the extent of Rs. 500/- under the **Seeds Act** and for two years imprisonment under Section 78 and 79 of the Trade and Merchandise Marks **Act**, and considering the provisions contained in part II of Schedule to Code of Criminal Procedure, the offence being non cognizable, there was no occasion for the Police authorities to assume powers of investigation in the matter. Alternatively, it was contended that as far as the complaints in Criminal Writ Petition No. 253/2000 and Criminal Writ Petition No. 300/2000 are concerned, the same, even assuming, to be disclosing the ingredients of offence of cheating, it would at the most be punishable under Section 417 and not under Section 420 Indian Penal Code and, in that case the maximum punishment being of two years, the same would be non cognizable offence. It was also contended that none of the complaints discloses any inducement to any farmer or any person to purchase the **seeds** by the petitioners and, therefore, the basic ingredient of Section 420 of Indian Penal Code against the petitioners is not disclosed in any of the complaints.

9. On the other hand, the learned A.P.P. as well as the learned Advocate appearing for the **Seed** Inspector submitted that all the complaints disclose clear case of cheating with dishonest intention and inducement to the farmers to purchase the **seeds** and, therefore, the same justify the investigation by the police in relation to the offence under Section 420 of Indian Penal Code. It was contended that there is no bar for launching prosecution in relation to offence punishable under the provisions of Indian Penal Code while the persons are also found to be violating the provisions of **Seeds Act** and Rules made thereunder. According to the learned Advocates, neither the **Seeds Act** nor the Trade and Merchandise Marks **Act** prohibit launching of prosecution simultaneously in relation to the offences under those **Acts** as well as under Indian Penal Code. The learned Advocate appearing for the **Seed** Inspector also submitted that the complaint need not necessarily disclose all the ingredients of the offence and it is a matter of investigation and evidence to be placed before the Court by the prosecution. It was further contended that there is no statutory bar for lodging complaint by the **Seed** Inspector to the police authorities under the **Seeds Act**. According to the learned Advocate when the same set of **facts** discloses two offences under the two different statutes, the prosecution under both the **Acts** is not barred. Referring to Section 220 of Criminal Procedure Code, it was contended that the complaint can be filed in the Court or before the Police and there is no statutory bar in that regard. As regards the scope of expression "launching proceedings", under Rule 23A of the **Seeds Rules**, it was contended that the same includes filing of complaint with the Police as well as with the Court and against the sellers, manufacturers and dealers as the expression used therein is "suppliers". Reliance is also placed in the decision in the matter of State of Bihar v. Murad Ali Khan and Ors. and attention was sought to be drawn to paragraph 5 therein wherein the Apex Court has considered the scope

of Section 55 of the Wild Life Protection **Act** and it was contended that there is no such provision in the **Seeds Act** and, therefore, there is no bar for the **Seed** Inspector to lodge complaint with the Police Authorities.

11. Undisputedly, the complaint in the first information reports lodged by the **Seed** Inspectors is to the effect that the respondents having committed offences punishable under Sections 6(a) and 7(b) of the **Seeds Act**, Sections 78 and 79 of the Trade and Merchandise Marks **Act**, Section 420 read with 34 of Indian Penal Code. As far as the offences punishable under the **Seeds Act** are concerned, Section 19 thereof provides that if any person contravenes any provision of the said **Act** or any Rule made thereunder, or prevents a **Seed** Inspector from taking sample under the said **Act**, or prevents a **Seed** Inspector from exercising any other power conferred on him by or under the said **Act**, he shall, on conviction, be punished for the first offence with fine which may extend to five hundred rupees, and in the event of such person having been previously convicted of an offence under the said 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. As far as Section 78 of the Trade and Merchandise Marks **Act**, 1958 is concerned, it provides penalty for applying false trade marks, trade descriptions, etc. and therein the punishment which can be imposed is imprisonment for a term which may extend to two years, or with fine, or with both. Similar is the case in respect of the punishment under Section 79 being penalty for selling goods to which a false trade mark or false trade description is applied. Both the said sections provide that in case the offence under the said sections is in relation to goods or any package containing goods which are drugs within the meaning of Clause (b) of Section 3 of the Drugs and Cosmetics **Act**, 1940 or "food" as defined in Clause (v) of Section 2 of the Prevention of Food Adulteration **Act**, 1954 the offender shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both. It is thus, apparent that in case of any offence being committed either under **Seeds Act** or under the Trade and Merchandise Marks **Act**, the maximum punishment which could be imposed is an imprisonment for a term which may extend to two years or fine or with both. The only exception is that in case the conviction under Section 78 or 79 of the Trade and Merchandise Marks **Act** relates to the goods, which are drugs within the meaning of Clause (b) of Section 3 of the Drugs and Cosmetics **Act**, 1940 or "food" as defined in Clause (v) of Section 2 of the Prevention of Food Adulteration **Act**, 1954 then the punishment can be imposed to the extent of three years imprisonment. Undisputedly, the provisions regarding penalty of three years is not attracted in any of the cases in hand. As rightly submitted by the learned Advocates for the petitioners, part II of First Schedule of the Criminal Procedure Code provides that if offence against any law other than Indian Penal Code is punishable with imprisonment for less than three years or with fine only, then the same would be Non-cognizable offence.

B. Shamsundar Agrawal vs State Of Rajasthan And Anr. on 24 November, 2006

1. In the instant petition under Section 482, Cr.P.C. the petitioner seeks to challenge order dated 15-10-2003 passed by the Chief Judicial Magistrate, Rajsamand (for short, "trial Court" hereinafter) taking cognizance of offences under Section 7(b). The Seeds Act, 1966. read with Sections 3/7, Essential Commodities Act against the petitioner as well as order

dated 18-11-2004 passed by the District and Sessions Judge, Rajsamand dismissing the revision-petition filed by the petitioner.

2. The petitioner is claiming relief on the ground that he is working as Deputy Managing Director of Mahyco Seeds Ltd., having its registered office in Mumbai. The company in which the petitioner is Deputy Managing Director is engaged in the business of production, processing and marketing of high quality seeds for the farming community of India since 1964. The relevant facts of the case are that on 12-6-2003, complainant non-petitioner No. 2-Bhupendra Singh Rathore, Seeds Inspector and Agriculture Officer, Rajsamand made a surprise check at M/s. Mewar Krishi Kendra, Kankroli, owned by Bherulal Kumawat and took three samples of Jowar type MSH-51 Lot No. QRB-1090358 and Jowar type MRS-4094 Lot No. RRA-100101 produced by Mahyco Seeds Ltd. and Maize (Makka) type Mani Kanchan having its Lot No. OCT-02-20-05-06 produced by R.M.S.C., Jaipur as per Seeds Act, 1966 under Section 15 and Seeds (Control) Order, 1983. He took three samples of the each commodity which were sealed. Out of three samples of seeds, the officer retained one sample each with the owner of M/s. Mewar Krishi Kendra, Kankroli and carried with him two samples for testing.
3. The prosecution case is that the said samples were sent to the Government Seeds Testing Laboratory, Jaipur on 16-3-2003. The testing report was submitted vide letter No. 816-17 dated 14-7-2003 in which the germination was found only 49%, instead of the required standard of 75% as per the Seeds Act. The non-petitioner No. 2 sent a show cause notice dated 21-7-2003 to M/s. Mewar Krishi Kendra, Holithada, Bhilwara Road, Kankroli and M/s. Mahyco Seeds Ltd., Jalna, Maharashtra which was received to the company on 30-7-2003.
9. Learned Counsel for the petitioner submitted that the company requested the complainant non-petitioner for getting the seeds' samples re-tested in the Central Seeds Testing Laboratory but the request was not considered and, in violation of the provisions of the Seeds Act, the learned trial Court took cognizance illegally against the petitioner it is submitted that the company has been supplying the seeds to the farmers all over India for years together but not a single complaint has been received, therefore, in such doubtful circumstances, cognizance of alleged offence taken by the trial Court is not justified and proper.
22. The contention of the learned Public Prosecutor cannot be accepted that being the Deputy Managing Director the petitioner was responsible for the conduct of the business, without there being any evidence on record. This is not the law. The terms of Section 21 of the Seeds Act are clear in meaning and require an enquiry to be made before fastening liability for prosecution for commission of an offence under the Act. Under Section 21, the person sought to be prosecuted for commission of alleged offence under the Act cannot be held vicarious and personal liability must be established before prosecution of such person. The provisions of Section 21 of the Seeds Act do not rivet around vicarious liability. The plain interpretation of the statute leaves no manner of doubt that the person sought to be prosecuted must himself be liable for commission or omission of an act.

1. QUALITY CONTROL & ENFORCEMENT OF SEEDS

1.1 ACTIVITIES OF A SEED INSPECTOR

1.1.1 VERIFICATION OF THE CRITERIA AND CONDITIONS OF THE SEED LICENSE ISSUED

STEP-1

Name of the Seed Inspector:.....

Jurisdiction Area:.....

Designation:.....

Date of inspection:.....

Sl. No.	Activities	As per the Seed License issued	As per the field condition at the time of inspection
01	Name of the Seed Dealer (Name of the enterprise / company etc.)		
02	Name of the person in charge of the Seed Dealer (enterprise / company etc.)		
03	Designation or capacity (Proprietor / Owner / Manager / Partner / Authorized Person etc.)		
04	Seed License No.		
05	Validity of the Seed License (Valid Up to)		
06	Display of the Seed License	Shall be displayed at a prominent place at the point of sale	☐ YES ☐ NO
07	Details of the address of the place(s) of business / point of sale		
08	Details of the address of the place(s) of storage		
09	Name of the seed (s) / crop (s)		
10	Name of the variety (s)		
11	Name of the class (s)	Foundation / Certified-I / Certified - II	Foundation / Certified-I / Certified - II
12	Display of the stock and price list at the place(s) of business	Shall be displayed	☐ YES ☐ NO
13	Stock Book of the seed purchase and sale	Shall be maintained	☐ YES ☐ NO
14	Purchase records (Challan / Cash Memo / Money Receipt etc. from whom purchased)	Shall be maintained	☐ YES ☐ NO
15	Sale Records (Cash Memo / Money Receipt etc. to whom sold)	Shall be maintained	☐ YES ☐ NO
16	Monthly Return in Form D	Shall be submitted to the Licensing Authority by the 5 th of succeeding month	☐ YES ☐ NO
17	Other observations (if any)		
Signature of the Seed Dealer(with Seal and Date)Signature of the Seed Inspector (with Seal and Date)			

OFFICE OF THE BLOCK AGRICULTURE OFFICER,

Memo No.....

Date.....

Submitted to the Agriculture District Officer,.....(Seed Licensing Authority) for favour of kind information and necessary action.

Block Agriculture Officer

1.1.2. PHYSICAL VERIFICATION OF THE SEED STOCK AVAILABLE AT THE TIME OF INSPECTION AT THE SALE POINT AND THE PLACE OF STORAGE												
STEP-2												
Name of the Seed Inspector: Jurisdiction (Area):												
Designation: Date of inspection:												
Sl. No.	Name of the seeds / crop (s)	Name of the variety (s)	Name of the class (s)	Number of bags available	Packing Size (Quantity in kilogram per bag)	Total Quantity in kilogram of seeds present	Name of the Seed Producer / Agency	Producer label attached / stitched	Name of the Seed Certification Agency	Certification Tags / Seal attached / stitched	Validity of the seed stock from the certification tags	Remarks
01	02	03	04	05	06	07	08	09	10	11	12	13
01								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
02								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
03								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
04								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
05								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
06								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
07								☐ YES ☐ NO		☐ YES ☐ NO	☐ YES ☐ NO	
Any other observation by the Seed Inspector shall be recorded here:												
Signature of the Seed Dealer (with Seal and Date) Signature of the Seed Inspector (with Seal and Date)												

OFFICE OF THE BLOCK AGRICULTURE OFFICER,

Memo No.....Date.....

Submitted to the Agriculture District Officer, (Seed Licensing Authority) for favour of kind information and necessary action.

Block Agriculture Officer

1.1.3 SAMPLE COLLECTION PROCEDURE TO BE FOLLOWED BY THE SEED INSPECTOR

STEP-3

Step No.	Activities	Procedure to be followed	Remarks
01	Reason for sampling	If the Seed Inspector has reason to suspect that the seed stock produced, stocked or sold or exhibited for sale in contravention / of the provisions of the Seeds Act, 1966 and the Seed Rules, 1968. Such contraventions / violations are seed quality parameter related violations which are to be determined by comparing the seed testing results from the Seed Testing Laboratory after testing of the seed samples drawn by the Seed Inspector and tested by the Seed Analyst. The contraventions / violations are categorised as: (1) Rectifiable violations such as (a) seeds are sold without labelling (b) seeds are sold with labels containing deficiency in label's contents and (c) seed are sold beyond the expiry of validity period. (2) Non-rectifiable violations are seed quality parameter related violations which are to be determined by comparing the seed testing results from the Seed Testing Laboratory after testing of the seed samples drawn by the Seed Inspector and tested by the Seed Analyst.	
02	Notice to the owner of the seed stock	The Seed Inspector in intends to take sample from the seed lot(s), he / she shall prepare notice in Form VI of the Seed Rules, 1968 in duplicate. The original shall be given to the person from whose seed lot sample is to be drawn and acknowledgement / signature of the person whose seed lot is to be sampled shall be obtained on the other copy and this copy shall be kept as the office copy.	
03	Memorandum of sampling	A memorandum shall be prepared in Form VIII of the Seed Rules, 1968. As far as possible not less than two persons shall be present at the time of sampling as witness and the signatures of these two persons shall be taken on this memorandum of sampling. The signature of the person from whose seed lot sample is taken shall be taken on this memorandum also.	
04	Details of the seed lots to be sampled	(1) Name / Designation of the owner of the seed (2) Location(s) of the seed stock (3) Name of the seed / crop (4) Name of the variety (5) Class of the seed (6) Lot No. of the seed stock (7) No. of bags present (8) Quntity per bag (Kg.) (9) Seed Treatment status (Treated / Non-treated) (10) Variety Notification status (Notified / Non-notified) Annexure 1	

Step No.	Activities	Procedure to be followed	Remarks
05	Sample drawing and Sampling Intensity	Bag sampling – For seed lots in bags or other containers the following sampling intensity should be regarded as a minimum requirement: (a) upto 5 containers – sample each container but always take at least 5 individual samples. (b) from 6 to 30 containers – sample at least one in every three containers but never less than 5. (c) 31 containers or more – sample at least one in every five containers but never less than 10. One sample by piercing the sample trier once in a seed bag is called a primary sample. Several primary samples from the seed bags following the sampling intensity shall be mixed and a composite sample is formed. A composite sample of prescribed weight from a particular seed lot is packed in the sample container / sample bag for dispatch to the Seed Analyst. The size of samples of different crops is attached in a separate sheet as Annexure 2.	
06	Number of samples from one seed lot	Three samples are drawn from one seed lot.	
07	Packing, fastening and sealing of samples	The sample containers / sample bags shall be packed, fastened and sealed in the following manner before dispatch to the Seed Analyst. (i) the sample bags shall be fastened properly by thread to prevent leakage of the seed during transit (ii) The sample bags shall be completely wrapped in fairly strong thick paper and the ends shall be closed by gum or other adhesive (iii) The paper cover shall be tied further with strong thread. (iv) The knot of the thread shall be covered by means of sealing wax bearing the impression of the Seed Inspector. (v) Another four distinct and clear impression of the seal of the Seed Inspector on sealing wax shall be there of which one at the top of the sample bag, one at the bottom and two others on the body of the sample bag. The labeling contents of the sample bags are attached in a separate sheet as Annexure 3.	
08	Tests required for a sample	(1) Physical Purity (2) Germination (3) Other Distinguishable Varieties (ODV) / Other Crop Seeds (OCS) (4) Seed Moisture and (5) Seed Health (Insect Damage and Pathogens).	

Step No.	Activities	Procedure to be followed	Remarks
09	Sending samples and sample memorandum (letter) to the Seed Testing Laboratory	(i) Out of the three samples drawn from a seed lot one sample is delivered to the person from whom it has been taken. (ii) Another sample is sent to the Seed Analyst of the Seed Testing Laboratory according to the jurisdiction area of the Seed Analyst. (iii) The remaining sample is retained by the Seed Inspector. (iv) The packed sample(s) shall be labeled for the address of the Seed Analyst of the Seed Testing Laboratory (v) The sample(s) shall be sent to the Seed Analyst by registered post / by hand along with a memorandum in Form V of the Seed Rules, 1968. (vi) A copy of the memorandum in Form V and a specimen impression of the seal used to seal the seed sample bag / packet shall be sent to the Seed Analyst separately by registered post or delivered to him (by hand) or any person authorized by him.	
10	Retention of the seed samples	(i) The samples drawn by the Seed Inspector shall be retained 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. (ii) The sample(s) shall be retained under a cool, dry environment to eliminate the loss of viability and insect proof or rat proof container. (iii) The containers shall be dusted with suitable insecticides. (iv) The storage room shall be fumigated to avoid infestation of the samples by insects (v) The sample shall be packed in good quality containers of uniform shape and size before storage. The sample(s) shall be retained by person from whom it was drawn may be discarded one year after the entire lot represented by such sample has been disposed.	
		End of Procedure	

DETAILS OF THE SEED LOT(S) TO BE SAMPLED BY THE SEED INSPECTOR

Sl. No.	Items	To be filled in by the Seed Inspector
01	Name / Designation of the owner of the seed	
02	Place of the storage of the seed lot	
03	Name of the Seed / Crop	
04	Name of the Variety	
05	Class of the crop variety	Foundation / Certified – I / Certified – II
06	Lot Number of the seed stock	
07	No of bags present	
08	Packing capacity of the bags in kilogram	4Kg. / 5Kg. / 10Kg. / 20Kg. / 30Kg. / Any Other.....
09	Seed treatment status (treated / non-treated)	Treated / Non-treated
10	Crop variety notification status (Notified / Non-notified)	Notified / Non-notified
Signature of the Seed Dealer(with Seal and Date)Signature of the Seed Inspector (with Seal and Date)		

To be prepared in multiple copies to use for collection of details of the seed lot(s) intended for sampling

SIZE OF SUBMITTED SAMPLES

[QUANTITY OF SEED TO BE PACKED IN A SAMPLE BAG TO BE SUBMITTED TO THE SEED ANALYST]

Sl. No.	Name of the crop	Minimum weight of the submitted sample (in gram)	Remarks
01	Barley	1000	
02	Finger Millet(Ragi)	100	
03	Maize	1000	
04	Oats	400	
05	Paddy	400	
06	Pearl millet (Bajra)	250	
07	Sorghum	900	
08	Wheat	1000	
09	Cotton	1000	
10	Jute	90	
11	Mesta	700	
12	Sisal	700	
13	Sunnhemp	700	
14	Castor	1000	
15	Sesamum	70	
16	Groundnut	1000	
17	Linseed	150	
18	Sarson	100	
19	Indian Mustard	40	
20	Safflower	900	
21	Sunflower	1000	
22	Black gram	1000	
23	Cow pea	1000	
24	Garden pea	1000	
25	Gram (Chickpea)	1000	
26	Green gram	500	
27	Horse gram	500	
28	Pigeon pea (Arhar)	500	
29	Soybean	1000	
30	Dhaicha	900	

ANNEXURE 3

LABELLING CONTENTS OF THE SAMPLE CONTAINER OR SAMPLE BAGS

Sl. No.	Items	To be written on the body of the sample container / sample bag
01	Serial No. / Code (may be given by the Seed Inspector for reference)	
02	Name of the Seed / Crop	
03	Name of the Variety	
04	Class of seed	
05	Lot No. of the seed stock	
06	Place of Sampling	
07	Date of sampling	
08	Nature and quantity of preservative, if any, added to the sample	
09	Name of the person from whom the sample has been taken	
10	Name of the sender with official designation, if any	

OR

ANNEXURE 3

LABELLING CONTENTS OF THE SAMPLE CONTAINER OR SAMPLE BAGS

Sl. No.	Items	To be written on the body of the sample container / sample bag
01	Serial No. / Code (may be given by the Seed Inspector for reference)	
02	Name of the Seed / Crop	
03	Name of the Variety	
04	Class of seed	
07	Date of sampling	

FORM VI
[THE SEED RULES, 1968]

NOTICE OF INTENTION TO TAKE SAMPLE

To

.....

.....

(Name and address of the vendor)

I hereby give you the notice of my intention of taking a sample of seed from your stocks for the purpose of tests or analysis.

Seed Inspector

Date.....

Area.....

To be prepared in duplicate and distributed as: The original copy shall be given to the person, whose seed lot is intended to be sampled and the second copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed stock is intended for sampling.

FORM VIII
[THE SEED RULES, 1968]

ACKNOWLEDGEMENT OF HAVING TAKEN SAMPLE

To

.....
.....
(Name and address of the vendor)

I have this day taken from the premises of (name of the vendor).....
.....situated at (place of seed stock stored / place of sampling) samples of seeds specified
below to have the same tested / analysed by Seed Analyst.

Seed Inspector

Date.....

Area.....

DETAILS OF THE SEED STOCK SAMPLED / DETAILS OF SAMPLE TAKEN							
Sl. No.	Crop	Variety	Class	Lot No.	No. of bags present at the time of sampling	Packing capacity of the bags (Kg. / Bag)	Remarks

Whether cost of sample demanded?

Cost of sample: Rs..... (Rupeesonly)PAID

Seed Inspector

Date.....

Area.....

Signature of the person from whose seed lot
sampled has been taken

To be prepared in duplicate and distributed as: The original copy shall be given to the person from whose seed lot sampled has been taken and the second copy shall be retained as the office copy of the Seed Inspector.

FORM V
[THE SEED RULES, 1968]

MEMORANDUM TO THE SEED ANALYST

Memorandum No.....Date.....

From

.....
.....
(Seed Inspector)

To

.....
.....
(Seed Analyst)

The sample(s) described below is / are sent herewith for analysis under clause (b) of Su-section (1) of Section 14 and / or clauses (b) and (c) of Sub-section (2) of Section 15 of the Seeds Act, 1966. (No. 54 of 1966).

Seed Inspector

Date.....

Area.....

DETAILS OF THE SEED SAMPLES SUBMITTED FOR ANALYSIS							
Sl. No.	Code	Crop	Variety	Class	Treatment Status	Preservative status	Remarks

TESTS REQUIRED

☐ Physical Purity

☐ Germination

☐ Other Distinguishable Varieties

☐ Other Crop Seeds

☐ Seed Moisture

☐ Seed Health

Memo No.....Date.....

Copy to the person from whose seed stock sample has been taken.

Seed Inspector

Date.....

Area.....

To be prepared in triplicate and distributed as: The original copy shall be submitted to the Seed Analyst along with the sample, the second copy shall be submitted to the Seed Analyst along with the specimen impression of the seal of the Seed Inspector, the third copy shall be given to the person from whose seed stock sample has been taken, the fourth copy shall be retained with the Inspector along with the file sample and the fifth copy with the Seed Inspector as office copy.

1.2 CONDITION AND PROCEDURE TO BE FOLLOWED BY THE SEED INSPECTOR TO “STOP SALE” ANY SEED LOT

Step No.	Activities	Procedure to be followed	Remarks
01	Condition for stop sale order	The contravention(s) / violation(s) which are categorised as: (1) Rectifiable violations such as (a) seeds are sold without labelling (b) seeds are sold with labels containing deficiency in label's contents and (c) seed are sold beyond the expiry of validity period. This is an offence and such defects may be removed by the possessor of the seed. The Seed Inspector may order in writing in Form III of the Seed Rules, 1968 the possessor of the seeds not to dispose any part of the seed lot for a period not exceeding thirty days.	
02	Stop Sale Order	The Form III of the Seed Rules, 1968 is meant for the issue of the “stop sale Order”. The Form III may be prepared in triplicate. The original copy shall be given to the person whose seed lot is under inspection, the second copy shall be sent to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the third copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot is under inspection.	

CONDITION AND PROCEDURE TO BE FOLLOWED BY THE SEED INSPECTOR TO REVOKE THE STOP SALE ORDER OF ANY SEED LOT

Step No.	Activities	Procedure to be followed	Remarks
01	Condition for revocation of stop sale order	The defects for which stop sale order was issued shall be removed by the possessor of the seed within the stop sale period. The possessor of the seed shall intimate the Seed Inspector regarding the removal of the defect(s). The Seed Inspector on being satisfied about the removal of the defect(s) shall revoke the stop sale order as per the Annexure 4	
02	Revocation of Stop Sale Order	The Revocation of stop sale order (Annexure 4) shall be prepared in triplicate. The original copy shall be given to the person whose seed lot is under stop sale, the second copy shall be sent to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the third copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot is under inspection.	

FORM III
[THE SEED RULES, 1968]

STOP SALE ORDER

To

.....
.....
(Name and address of the vendor)

ORDER No.....Date.....

Whereas, I have reason to believe that the stock of the seeds in your possession detailed below contravenes the provisions of Section 6 of the Seeds Act, 1966 (No. 54 of 1966).

I hereby direct you under clause (c) of Sub-section (1) of Section 14 of the Seeds Act, 1966 (No. 54 of 1966) not to dispose of the said stock for a period of..... days from this dateand take action to remove the following defects.

DETAILS OF STOCK OF SEED AND THE DEFECTS TO BE REMOVED									
Sl. No.	Crop	Variety	Class	Lot No.	No. Of Bags	Quantity / bag (Kilogram)	Place of store	Defect(s)	Remarks

Place.....
Date.....
Area.....

Seed Inspector

Memo No.....Date.....

Copy submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard for favour of kind information and necessary action.

Seed Inspector

Area.....

To be prepared in triplicate distributed as: The original copy shall be given to the person, whose seed lot is under inspection, the second copy shall be sent to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the third copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot is under inspection.

REVOCATION TO STOP SALE ORDER

To

.....

.....

(Name and address of the vendor)

ORDER No.....Date.....

It has been ascertained that the defect(s) responsible for the stop sale Order issued by me onunder clause (c) of Sub-section (1) of Section 14 of the Seeds Act, 1966 (No. 54 of 1966) has / have now been removed or corrected. I, therefore, revoke the order passed by me vide stop sale Order No.dated.....

Seed Inspector

Date.....

Area.....

Memo No.....Date.....

Copy submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard for favour of kind information and necessary action.

Seed Inspector

Area.....

To be prepared in triplicate distributed as: The original copy shall be given to the person, whose seed lot is under inspection, the second copy shall be sent to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the third copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot is under inspection.

1.3 CONDITION AND PROCEDURE TO BE FOLLOWED BY THE SEED INSPECTOR TO SEIZE ANY SEED STOCK(S)/ RECORD(S)

Step No.	Activities	Procedure to be followed	Remarks
01	Condition for seizure of seed stock(s) / record(s)	The contravention(s) / violation(s) which are categorised as: (2) Non-rectifiable violation(s) such as seed quality parameters (Physical Purity, Germination, ODV / OCS, Seed Moisture and Seed Health) related cases where the results of the laboratory tests are required. The Seed Inspector shall compare the laboratory results with those appearing on the label. When making such a comparison, the prescribed tolerance levels may be applied, if necessary. [.....unless the alleged offence is such that the defect may be removed by the possessor of the seed, seize the stock of such seed; Clause (c) Sub-section (1) Section 14 of the Seeds Act, 1966.] The Seed Inspector may examine any record, register, document or any other materials object found in any place mentioned in clause (c) Sub-section (1) Section 14 of the Seeds Act, 1966 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; [Clause (d) Sub-section (1) Section 14 of the Seeds Act, 1966]	
	Seizure Order	The Seed Inspector may order in writing in Form IV of the Seed Rules, 1968 and seize the seed stock(s) and or record(s) informing a Magistrate and take his orders as to the custody here of and initiate further action. The seizure order shall be prepared in quadruplicate and to be distributed as: The original copy shall be given to the seller whose seed lot has been seized, the second copy shall be submitted to the Magistrate, the third copy shall be submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the fourth copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot has been seized.	

CONDITION AND PROCEDURE TO BE FOLLOWED BY THE SEED INSPECTOR TO REVOKE THE SEIZE ANY SEED STOCK(S) / RECORD(S)

Step No.	Activities	Procedure to be followed	Remarks
01	Condition for revocation of the seizure order	If after seizure of the seed stock(s) and or record(s) it is ascertained that the seed does not contravene any of the provisions of the Seeds Act, 1966 the seizure order may be revoked by issue of Annexure 5.	
02	Revocation of the seizure order	The annexure 9 shall be issued for revocation of the seizure order. The revocation of the seizure order shall be prepared in quadruplicate and to be distributed as: The original copy shall be given to the seller whose seed lot has been seized, the second copy shall be submitted to the Magistrate, the third copy shall be submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the fourth copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot has been seized.	

FORM IV
[THE SEED RULES, 1968]
ORDER FOR SEIZURE OF RECORD(S)

To

.....
.....

(Name and address of the vendor)

ORDER No.....Date.....

The record(s) detailed below has have this day been seized by me under the provisions of clauses (c) and (d) of Sub-section (1) of Section 14 of the Seeds Act, 1966 (No. 54 of 1966).

DETAILS OF RECORD(S) SEIZED

Sl. No.	Name of Record(s)	Description of the record(s)	Place of Store	Remarks

Seized material is kept under the custody of in accordance with the Order of the Magistrate

Seed Inspector

Place.....

Date.....

Area.....

Memo No.....Date.....

Copy submitted to the Magistrate for favour of kind information and necessary action.

Place.....

Seed Inspector

Date.....

Area.....

Memo No.....Date.....

Copy submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard for favour of kind information and necessary action.

Seed Inspector

Area.....

To be prepared in quadruplicate and to be distributed as: The original copy shall be given to the seller whose seed lot has been seized, the second copy shall be submitted to the Magistrate, the third copy shall be submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the fourth copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot has been seized.

FORM IV
[THE SEED RULES, 1968]
ORDER FOR SEIZURE OF SEED STOCK(S)

To

.....
.....

(Name and address of the vendor)

ORDER No.....Date.....

The seed stock(s) detailed below has have this day been seized by me under the provisions of clauses (c) and (d) of Sub-section (1) of Section 14 of the Seeds Act, 1966 (No. 54 of 1966).

DETAILS OF SEED STOCK(S) SEIZED

Sl. No.	Crop	Variety	Class	Lot No.	No. Of Bags	Quantity / bag (Kilogram)	Place of Store	Remarks

Seized material is kept under the custody of in accordance with the Order of the Magistrate

Place.....

Seed Inspector

Date.....

Area.....

Memo No.....Date.....

Copy submitted to the Magistrate for favour of kind information and necessary action.

Place.....

Seed Inspector

Date.....

Area.....

Memo No.....Date.....

Copy submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard for favour of kind information and necessary action.

Seed Inspector

Area.....

To be prepared in quadruplicate and to be distributed as: The original copy shall be given to the seller whose seed lot has been seized, the second copy shall be submitted to the Magistrate, the third copy shall be submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the fourth copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot has been seized.

REVOCATION OF SEIZURE ORDER

To

.....

 (Name and address of the vendor)

ORDER No.....Date.....

It has been ascertained that seed stock(s) and / or record(s) seized by me under the provisions of (c) and (d) of Sub-section (1) of Section 14 of the Seeds Act, 1966 (No. 54 of 1966) does / do not contravene any of the provisions of the Seeds Act, 1966 and the Rules made there under, I therefore, hereby revoke the Order passed by me vide seizure Order No.dated.....

Date..... Seed Inspector
 Area.....
 Memo No.....Date.....

Copy submitted to the Magistrate for favour of kind information and necessary action.

Date..... Seed Inspector
 Area.....
 Memo No.....Date.....

Copy submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard for favour of kind information and necessary action.

Date..... Seed Inspector
 Area.....

To be prepared in quadruplicate and to be distributed as: The original copy shall be given to the seller whose seed lot has been seized, the second copy shall be submitted to the Magistrate, the third copy shall be submitted to the Director, Agriculture and Food Production, Odisha, Bhubaneswar or to such authority as may be directed in this regard and the fourth copy shall be retained as the office copy of the Seed Inspector with the acknowledgement / signature of the person whose seed lot was seized.

1.4 ROLE OF THE SEED INSPECTOR THROUGH THE STATE SEED CERTIFICATION AGENCY

Sl. No.	Provisions under the Seed Rules, 1968	Remarks
01	The holder of the certificate shall allow any Seed Inspector, authorized in writing by the certification agency in that behalf, to enter with or without prior notice, the premises where the seeds are grown, processed and sold and to inspect premises, plant and the process of processing at all reasonable hours.	Part VII of the Seed Rules, 1968 Rule 17 (vii)
02	The holder of the certificate shall allow the Seed Inspector, authorized in writing by the certification agency, to inspect all registers and records maintained under these rules and to take samples of the seeds and shall supply to the Seed Inspector such information as he may require for the purposes of ascertaining whether the conditions subject to which the certificate has been granted, have been complied with.	Part VII of the Seed Rules, 1968 Rule 17 (viii)
03	The holder of the certificate shall on request furnish to the certification agency from every lot of the seed or from such lot or lots as the said agency may from time to time specify, a sample of such quantity as the agency may consider adequate for any examination required to be made.	Part VII of the Seed Rules, 1968 Rule 17 (ix)
04	If the certification agency so directs, the holder of the certificate shall not sell or offer for sale any lot in respect of which a sample is furnished under the preceding clause until the agency authorizes the sale of such lot.	Part VII of the Seed Rules, 1968 Rule 17 (x)
05	The holder of the certificate shall on being directed by the certification agency that any part of a lot has been found by the said agency not to conform to prescribed standards of quality or purity specified by or under the Act, withdraw the remainder of that lot from sale and so far as may, in particular circumstances of the case, be practicable, recall all issues already made from that lot.	Part VII of the Seed Rules, 1968 Rule 17 (xi)
06	The holder of the certificate comply with the provisions of the Act and these rules and with the directions given after not less than one month's notice by the certification agency to such holder.	Part VII of the Seed Rules, 1968 Rule 17 (xii)
07	In addition to the duties specified by the Act the Seed Inspector shall- Inspect as frequently as may be required by certification agency all places used for growing, storage or sale of any seed of any notified kind or variety;	Part IX of the Seed Rules, 1968 Rule 23 (a)
08	Satisfy himself that the conditions of the certificates are being observed.	Part IX of the Seed Rules, 1968 Rule 23 (b)

N.B.: Certificate is granted to a person under sub-section (3) of section 9 of the Seeds Act, 1966 by the State Seed Certification Agency, after making enquiries and satisfying itself in accordance with the provisions of the said sub-section of the Seeds Act, 1966 on the conditions from (i) to (xii) of Rule 17 of the Seed Rules, 1968. The person to whom certificate has been granted may be known as the holder of the certificate.

1.5 POWER OF THE SEED INSPECTOR TO INVESTIGATE ANY COMPLAINT

Sl. No.	Provisions under the Seed Rules, 1968	Remarks
01	The Seed Inspector shall investigate any complaint, which may be made to him in writing in respect of any contravention of the provisions of the Act or these rules.	Part XI Rule 23 (d)
02	Action to be taken by the Seed Inspector if a complaint is lodged with him: (1) If a farmer has lodged a complaint in writing that the failure of the crop is due to the defective quality of seeds of any notified kind or variety supplied to him, the Seed Inspector shall take in his possession the makes or labels, the seed containers and a sample of unused seeds to the extent possible from the complaint for establishing the source of supply of seeds and shall investigate the causes of the failure of his crop by sending samples of the lot to the Seed Analyst for detailed analysis at the State Seed Testing Laboratory. He shall thereupon submit the report of his findings as soon as possible to the competent authority. (2) In case, the Seed Inspector comes to the conclusion that the failure of the crop is due to the quality of seeds supplied to the farmer being less than the minimum standards notified by the Central Government, (he shall) launch proceedings against the supplier for contravention of the provisions of the Act or these Rules.”	Rule 23-A The Seed (Amendment) Rules, 1974 Notification No. GSR 211 (E) dated 29 th April, 1975

N.B.: The proforma for lodging a complaint is attached as ANNEXURE 6

PROFORMA FOR SEED QUALITY COMPLAINT
[RULE 23(A) OF THE SEED RULES, 1968]

Sl. No.	Items	Details	Remarks
INFORMATION ABOUT THE COMPLAINANT			
01	Name		
02	Father's Name		
03	Village		
04	Gram Panchayat		
05	Block		
06	District		
07	Farmer ID No.		
08	Aadhaar Card No.		
09	Phone No.		
10	Mail ID (If present)		
INFORMATION ABOUT THE SEED			
01	Crop		
02	Variety		
03	Class		
04	Lot No.		
05	Total No. of bags purchased		
06	Packing size of the seed bag (Kg. / bag)		
07	Total quantity of seeds purchased (Kg.)		
08	Date of purchase		
09	Name of the PACS / Seed Dealer (from whom purchased)		
INFORMATION ABOUT THE FIELD CONDITION			
01	Date of sowing in nursery		
02	Date of sowing in case of broadcasting		
03	Total quantity of seed used (Kg.)		
04	Total quantity of seed presently available(Kg.)		
05	Seed Treatment status (Treated / Non-treated)		
06	Seed testing status (tested before sowing from the unopened bag or not)		
07	Status of irrigation (Irrigated / Non-irrigated)		
08	Rain fall status (weather there was rain fall or not)		
09	Present stage of the crop (as on the date of complaint)		
RECORD(S), DOCUMENT(S) AND OR MATERIALS SUBMITTED			
01	Copy of the Aadhaar Card		
02	Copy of the seed purchase record		
03	Seed container or seed bags		
04	Producer labels		
05	Certification tags		
DETAILS OF COMPLAINT			
01	Grievance details		
02	Steps taken by the farmer to manage the crop		

Submitted to the Seed Inspector (Area)on date.....for kind information and necessary action.

Received the copy

Signature or Thumb Impression of the Farmer

Seed Inspector

MARKING OR LABELING
[PROVISIONS FOR THE SEED CONTAINERS (BAGS) AND PRODUCER LABELS]

SI No.	Reference	Provisions	Remarks
01	Part V, Rule 7 of the Seed Rules, 1968.	When seed lot of notified kind or variety is offered for sale under section 7, each container should be marked or labeled in the manner hereinafter specified. The person whose name appears on the mark or label shall be responsible for the accuracy of the information required to appear on the mark or the label so long as seed is contained in the unopened original container.	
02	Part V, Rule 7 of the Seed Rules, 1968.	Provided, however, that such person shall not be responsible for the accuracy of the statement appearing on the mark or label if the seed is removed from the original unopened container, or he shall not be responsible for the accuracy of the germination statement beyond the date of validity indicated on the mark or label.	
03	Part V, Rule 8 (v) of the Seed Rules, 1968	The name and address of the person who offers for sale, sells or otherwise supplies the seed and who is responsible for its quality.	
04	Part V, Rule 9 (1) of the Seed Rules, 1968	The mark or label containing the particulars of the seed as specified under clause (b) of section 6 shall appear on each container of seed or on a tag or mark or label attached to the container in a conspicuous place on the innermost container in which the seed is packed and on every other covering in which that container is packed and shall be legible.	
05	Part V, Rule 9 (2) of the Seed Rules, 1968	Any transparent cover or any wrapper, case or other covering used solely for the purpose of packing of transport or delivery need not be marked or labeled.	
06	Part V, Rule 9 (3) of the Seed Rules, 1968	Where by a provision of these rules, any particulars are required to be displayed on a label on the container, such particulars may, instead of being displayed on a label be etched, painted or otherwise indelibly marked on the container.	
07	Part V, Rule 10 of the Seed Rules, 1968	The mark or label shall not any statement, claim, design, device, fancy name or abbreviation which is false or misleading in any particular concerning the seed contained in the container.	
08	Part V, Rule 11 of the Seed Rules, 1968	The mark or label shall not contain any reference to the Act, or any of these rules or any comment on, or reference to, or explanation of any particulars or declaration required by the Act or any these rules which directly or by implication contradicts, qualifies or modifies such particulars or declaration.	
09	Part V, Rule 12 of the Seed Rules, 1968	Nothing shall appear on the mark or label or in any advertisement pertaining to any seed of any notified kind or variety which shall deny responsibility for the statement required by or under the Act to appear on such mark, label or advertisement.	

CONTENTS OF A PRODUCER LABEL THAT IS ATTACHED / STITCHED TO THE SEED CONTAINER

(IN CASE OF CERTIFIED SEEDS IT SHALL BE ATTACHED / STITCHED BELOW THE CERTIFICATION TAG)

As per the Notification No. S.O. 767 (E) Date 6th November, 1991 and subsequent Notification No. s.o.124 (E) Date 2nd February, 2005 surpassing the Notification No. S. O. 939 (E) Date 4th September, 2002.

Sl. No.	Items	To be filled by the Seed Producer / Seed Producing Agencies	Remarks
(i)	Label No		
(ii)	Crop / Kind		
(iii)	Variety		
(iv)	Lot Number		
(v)	Date, Month and Year of Test		
(vi)	Valid Up to		
(vii)	Germination (minimum) %		
(viii)	Physical Purity (minimum) %		
(viii)	Genetic Purity (minimum) %		
(ix)	Weight		
(x)	Name of the chemical used for seed treatment (if seed is treated)		
(xa)	Recommended for cultivation (Name of States or Union Territories and Season)		
(xi)	Name and address of the person who offers for sale, sells or otherwise supplies the seed		
Name of the Seed Producer / Seed Producing Agency and the official logo of the Seed Producer / Seed Producing Agency appear on the body of the Producer Label.			
If the substance of chemical used for treatment, and present with the seed is harmful to human beings or other vertebrate animals, a caution statement such as “Do not use for food, feed or oil purposes”; the caution for mercurial and similarly toxic substance shall be the word “Poison” which shall be in type size, prominently displayed on the label in red. [Part V, Rule 8 (iv) (c) of the Seed Rules, 1968.]			
OTHER IMPORTANT INFORMATION REGARDING PRODUCER LABEL			
As per the Notification No. S.O. 767 (E) Date 6 th November, 1991, the size of the Producer Label shall be 15cmx10cm. If label is to be fixed on a smaller container than the size of the label, it may be reduced proportionately. However, the length and breadth ratio and contents shall remain the same.			
The colour of the Producer Label should be a close match opaline green color (ISC No. 275 of IS 5) as per the Notification No. S.O. 519 (E) Date 10 th July, 1992, surpassing the provision of opel green (IS No. 275) as per the Notification No. S.O. 767 (E) Date 6 th November, 1991. Note: ISC: Indian Standard Colors IS: Indian Standard.			

**CONTENTS OF A SEED CERTIFICATION TAG THAT IS ATTACHED /
STITCHED TO THE SEED CONTAINER ALONG WITH A PRODUCER LABEL**
(IN CASE OF CERTIFIED SEEDS IT SHALL BE ATTACHED / STITCHED ABOVE / TOP OF THE PRODUCER LABEL)

Sl. No.	Items	To be filled by the State Seed Certification Agency	Remarks
01	Tag series and Tag Number		
02	Crop		
03	Variety		
04	Class of seed		
05	Lot No.		
06	Certificate No.		
07	Date of issue of certificate		
08	Date of test		
09	Certificate valid up to (provided seed is stored under cool and dry environment) (Nine months from the date of test)		
10	Name and full address of the certified Seed Producer		
11	Validity of certificate further extended up to (If the seed lot has been re-validated)		
12	Name, Signature and Seal of Seed Certification Officer / Assistant Seed Certification Officer		
Name of the State Seed Certification Agency and the official logo of the State Seed Certification Agency appears on the body of the seed certification tag			
Use of the seed after expiry of the validity period by any person is entirely at his risk and the holder of the certificate shall not be responsible for any damage to the buyer of the seed. No one should purchase the seed if seal or the Certification Tag has been tampered with.			
OTHER IMPORTANT INFORMATION REGARDING SEED CERTIFICATION TAG			
The size of the certification tags (for both foundation class, certified –I and Certified –II class of seed) shall be 9cmx7.5cm. If tag is to be affixed on a smaller container then the size of the tag may be reduced proportionately. However, length and breadth ratio and contents would remain the same.			
The color of the certification tag shall be white(both sides) for foundation class of seed and blue (azure blue) for certified class of seed (both certified –I and Certified –II)			
Quality of the certification tag: It shall be made of durable material such as thick paper, paper with cloth lining, wax coated paper, plastic coated paper etc.			
The container of the certified seed shall carry a seal of such material and in such form as the certification agency may determine and no container carrying a certification tag shall be sold by the person if the tag or seal has either been tampered with or removed.			
No person shall sell, keep for sale, offer to sale, barter or otherwise supply any seed of any notified kind or variety, after the date recorded on the container, mark or label as the date up to which the seed may be expected to retain the germination not less than that prescribed under clause (a) of section 6 of the Seeds Act, 1966.			

EXTENSION OF THE VALIDITY PERIOD

(OF A SEED LOT BY THE STATE SEED CERTIFICATION AGENCY OF ANY STATE WHERE THE SEED STOCK IS PRESENT)

Sl. No.	Activities	Remarks
01	The extension of validity period of certified seed shall be for a period of six months, at each subsequent validation as long as the seed conforms to the prescribed standards.	
02	Holder of the certificate or his authorized representative may request for extension of the validity of certified seed before expiry of the previous validity period to a Certification Agency of the area in which the seed is located. He shall furnish the relevant information such as name of the crop, variety, class of seed, quantity of seed in lot, lot number, size and type of containers, number and date of certificate etc. to the Certification Agency at the time of submission of application.	
03	The Certification Agency after receipt of application for extension of validity period shall verify that tags, labels and seals are intact on each seed container and arrange to draw samples and its analysis in a notified seed laboratory. The sample would be tested for physical purity, germination and insect damage.	
04	If reprocessing and re-bagging at the time of extension of validity is requested to a Certification Agency which has not initially certified the seed, it may be permitted provided Certification Agency is of the opinion that such operation may improve the quality of seed and seeds are not badly invaded by fungus, pest etc. Infested seed lots shall meet the conditions laid down in Para XXV [XXV. Seed Standards for Insect Damage A seed lot under certification shall not have apparent or visible evidence of damage by insects for both Foundation and Certified seed classes in excess of 1.0% for the seeds of maize and legumes and 0.50% for the seeds other than maize and legumes unless otherwise prescribed] of the General Seed Certification Standards mentioned in the Indian minimum Seed Certification Standards (Blue Book). Whenever such operations are undertaken a sample from each lot will be drawn before the seed containers are opened and shall be divided into three equal parts and sealed. One part shall be retained by the Certification Agency, another part by holder of the certificate or his representative and remaining sample will be sent under Registered Post to Certification Agency which had initially certified the seed. Besides this, holder of the stock shall retain at least two bags/containers for smaller packing up to 10 kg and one bag / container above 10 kg in original packing of each seed lot being validated up to the next validation or till the stock is disposed off.	
05	After analysis of sample, if seed is found to conform to the prescribed standards, the Certification Agency shall extend the validity of seed for a further period of six months from the date of expiry of previous validity period or date of test, whichever is earlier. The date of test and period of validity and name of Certification Agency who has extended the validity period must be rubber stamped on the tags affixed on the seed containers. However, if new tags are required to be issued due to reprocessing and re-bagging of the seed, the information indicated on the certification tags issued at the time of initial certification and name of the Certification Agency who performed the initial certification shall be recorded on the new tags. The serial numbers of new tags used for a seed lot shall be informed to the Certification Agency who performed the initial certification. The Certification Agency shall preserve at least two tags out of the tags removed from a seed lot and ensure the destruction of remaining tags in its presence.	
06	A complete record shall be maintained by the Certification Agency of each lot offered for extension of the validity period.	

1.6 EXTRACT OF THE CRIMINAL PROCEDURE CODE, 1898 (Act V of 1898)

Section 98: Search of house suspected to contain stolen property, forged documents, etc.

1. If a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe,

that any place is used for the deposit of sale or stolen property or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coins or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit coin or stamps, or instruments or materials used for counterfeiting coin or stamps or for forging are kept or deposited in any place.

or if a District Magistrate, Sub-Divisional Magistrate, or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in Section 292 of the Indian Penal Code or that any such obscene objects are kept or deposited in any place he may by his warrant authorize any police officer above the rank of a constable:

- a) To enter with such assistance as may be required such place, and
- b) To search the same in the manner specified in the warrant, and
- c) To take possession of any property, documents, seals, stamps, or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials (or of any such obscene objects) as aforesaid, and
- d) To convey such property, documents, sealed stamps, coins, instruments or materials (or such obscene object) before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and
- e) To take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instrument or materials (or such obscene objects) knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin, or stamps, or for forging (or for the said obscene objects to have been or to be intended

to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported).

2. The provisions with this section with respect to:

- a. counterfeit coin,
- b. coin suspected to be counterfeit, and
- c. Instruments or materials for counterfeiting coin, shall, so far as they can be made applicable, apply respectively to:
 - i. pieces of metal made in contravention of the Metal Tokens Act, 1889 or brought into (India) in contravention of any notification for the time being in force under Section 19 of the Sea Customs Act 1878.
 - ii. pieces of metal suspected to have been so made or to have been so brought into (India) or to be intended to be issued in contravention of the former of those Acts, and
 - iii. instruments or materials for making pieces of metal in contravention of that Act.

Note: Scope: The only sections in the Code which authorise a Magistrate to search without any proceedings have been initiated before him are Section 98 and 100.2 1.C. 436

APPENDIX VI

Sl No.	Cases of deviation	Steps to be taken by the Seed Inspector	Remarks
01	The owner or any other person in occupation of the premises, if he is present therein but refuses to open the door on being called upon to do so by the Seed Inspector.	The Seed Inspector shall exercise the power to break open the door of any premises where any seed (where contravention occurs) may be kept for sale. The Seed Inspector shall break open any container in which any seed of any notified kind or variety may be contained.	
02	If the person from whom the samples have been taken refuses to accept one of these 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 samples or when he delivers his report, to be delivered to the Seed Inspector who shall retain it for production in case of legal proceedings are taken.	

1.7 THE SEEDS ACT, 1966

The Seeds Act, 1966 (Act No. 54 of 1966), contains 25 (twenty five) sections from Section 1 to Section 25.

According to the contents, these 25 sections may be classified as (1) General purpose sections (15 Sections), (2) Seed Certification purpose sections (05 Sections) and (3) Seed Law Enforcement sections (05 Sections).

Five sections such as Section 12, Section 13, Section 14, Section 15 and Section 16 are concerned about the seed law enforcement. These sections are as follows.

Section 12: Seed Analysts

Section 13: Seed Inspectors

Section 14: Powers of Seed Inspector

Section 15: Procedure to be followed by Seed Inspectors

Section 16: Report of Seed Analyst

The extract of the Seeds Act, 1966 for these 5 sections is given below.

Section 12: Seed Analysts

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.

Section 13: 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.

13(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.

Section 14: Powers of Seed Inspector

14(1) The Seed Inspector may-

- (a) take samples 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 samples 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 other rule made under.

14(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.

14(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 is kept for sale.

Provided that the power to brake-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.

14(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 prepared in the prescribed form and manner.

14(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.

Section 15: Procedure to be followed by Seed Inspectors

- (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 to from whom he intends to make 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 it 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 samples in the prescribed manner for production in case any legal proceedings are taken or for analysis by 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 divided in to two parts 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 proceeding 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 dispatch in ascertaining whether or not the seed contravenes any of the provision 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 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 a seed Inspector seizes any record, register, document or any 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.

Section 16: Report of Seed Analyst

- (1) The Seed Analyst shall, as soon as may be after the receipt of the sample under sub-section (2) of section 15, analyses 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 vender 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 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 proceeding to produce any sample or part thereof taken for analyses.

1.8 THE SEED RULES, 1968

The Seed Rules, 1968 contains 11 (eleven) parts from Part I to Part XI.

According to the contents, these 11 parts may be classified as

- (1) General purpose parts (4 parts),
- (2) Seed Certification purpose parts (3 parts) and
- (3) Seed Law Enforcement parts (4 parts).

Five parts such as Part VI, Part IX, Part X and Part XI are concerned about the seed law enforcement. These parts are as follows.

Part VI: Requirements

Part IX: Seed Analysts and Seed Inspectors

Part X: Sealing, Fastening, Despatch and Analysis of Samples

Part XI: Miscellaneous

The extract of the Seed Rules 1968 for these 4 parts.

Part VI: Requirements

Rule 13: *Requirements to be complied with a person carrying on the Business referred to in Section 7*

- (1) No person shall sell, keep for sale, offer to sale, barter or otherwise supply any seed of any notified kind or variety, after the date recorded on the container, mark or label as the date up to which the seed may be expected to retain the germination not less than that prescribed under clause (a) of section 6 of the Act.

- (2) No person shall alter, obliterate or deface any mark or label attached to the container of any seed.
- (3) Every person selling, keeping for sale, offering to sale, bartering or otherwise supplying any seed of notified kind or variety under section 7, shall keep over a period of three years a complete record of each lot of seed sold except that any seed sample may be discarded one year after the entire lot represented by such sample is disposed of. The sample of seed kept as part of the complete record shall be as large as the size notified in the official Gazette. This sample, if required to be tested, shall be tested only for determining the purity.

Rule 14: *Classes and sources of certified seed-*

- (1) There shall be three classes of certified seed, namely, foundation, registered and certified and each class shall meet the following standards for that class:-
 - (a) Foundation seed shall be the progeny of breeder's seed, or be produced from foundation seed which can be clearly traced to breeder's seed. Production shall be supervised and approved by a seed certification agency and be so handled as to maintain specific genetic purity and identity and shall be required to meet certification standards for the crop being certified.
 - (b) Registered seed shall be the progeny of foundation seed that is so handled as to maintain its genetic identity and purity according to standards specified for the particular crop being certified.
 - (c) Certified seed shall be the progeny of registered or foundation seed that is so handled as to maintain its genetic identity and purity according to standards specified for the particular crop being certified.
- (2) At the discretion of the certification agency (when considered necessary to maintain adequate seed supplies) certified seed may be the progeny of certified seed provided this reproduction may not exceed three generations and provided further that it is determined by the seed certification agency, that the genetic purity will not be significantly altered.

Part IX: Seed Analysts and Seed Inspectors

Rule 20: *Qualifications of Seed Analysts*

A person shall not be qualified for appointment as Seed Analyst unless he-

- (i) Possesses a Master's or equivalent degree in Agriculture or Agronomy or Botany or Horticulture of a University recognized for this purpose by the Government and has had not less than one year's experience in seed technology; or
- (ii) Possesses a Bachelor's degree in Agriculture or Botany of a University recognized for this purpose by the Government and has had not less than three years' experience in seed technology.

Rule 21: Duties of a Seed Analyst

- (1) On receipt of a sample for analysis the Seed Analyst 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 shall note the condition of the seal thereon.
- (2) The Seed Analyst shall analyze the samples according to the provisions of the Act and these rules.
- (3) The Seed Analyst shall deliver the copy of the report of the result of the analysis to the persons specified in sub-section (1) of section 16.
- (4) The Seed Analyst from time to time forward the State Government the reports giving the result of analytical work done by him.

Rule 22: Qualifications of Seed Inspectors

A person shall not be qualified for appointment as Seed Inspector unless he is a graduate in Agriculture of a University recognized for the purpose by the Government and has had not less than one year's experience in seed production, or seed development or seed analysis or testing in a seed testing laboratory.

Rule 23: Duties of a Seed Inspector

In addition to the duties specified by the Act the Seed Inspector shall-

- (a) Inspect as frequently as may be required by certification agency all places used for growing, storage or sale of any seed of any notified kind or variety;
- (b) Satisfy himself that the conditions of the certificates are being observed;
- (c) Procedure and send for analysis, if necessary, samples of any seeds, which he has reason to suspect are being produced, stocked or sold or exhibited for sale in contravention of the provisions of the Act or these rules;
- (d) Investigate any complaint, which may be made to him in writing in respect of any contravention of the provisions of the Act or these rules;
- (e) Maintain a record of all inspections made and action taken by him in the performance of his duties including the taking of samples and the seizure of stocks and submit copies of such record to the Director of Agriculture or the certification agency as may be directed in this behalf;
- (f) When so authorized by the State Government detain imported containers which he has reason to suspect contain seeds, import of which is prohibited except and in accordance with the provisions of the Act or these rules;
- (g) Institute prosecutions in respect of breaches of the Act and these rules; and
- (h) Perform such other duties as may be entrusted to him by the competent authority.

Part X: Sealing, Fastening, Despatch and Analysis of Samples

Rule 24: *Manner of taking samples*

Samples of any seed of any notified kind or variety for the purpose of analysis shall be taken in a clean dry container which shall be closed sufficiently tight to prevent leakage and entrance of moisture and shall be carefully sealed.

Rule 25: *Containers to be labeled and addressed*

All containers containing samples for analysis shall be properly labeled and the parcels shall be properly addressed. The label on the sample of seed sent for analysis shall bear-

- (a) Serial number;
- (b) name of the sender with official designation, if any;
- (c) name of the person from whom the sample has been taken;
- (d) date and place of taking the sample;
- (e) kind or variety of the seed analysis
- (f) nature and quantity of preservative, if any added to the sample.

Rule 26: *Manner of packing, Fastening and Sealing of the Samples*

All samples of seeds sent for analysis shall be packed, fastened and sealed in the following manner:

- (a) The stopper shall first be securely fastened so as to prevent leakage of the containers in transit.
- (b) The container shall then be completely wrapped in fairly strong thick paper. The ends of the paper shall be neatly folded in and affixed by means of gum or other adhesive.
- (c) The paper cover shall be further secured by means of strong twine or thread both above and across the container, and the twine or thread shall then be fastened on the paper cover by means of sealing wax on which there shall be at least four distinct and clear impressions of the seal of the sender, of which one shall be at the top of the packet, one at the bottom and the other two on the body of the packet. The knots of the twine or thread shall be covered by means of sealing wax bearing the impression of the seal of the sender.

Rule 27: *Form of Order*

The order to given in writing by the Seed Inspector under clause (c) of sub-section (1) of section 14 shall be in Form III.

Rule 28: *Form of Receipt of Records*

When a Seed Inspector seizes any record, register, document or any other material object under clause (d) of sub-section (1) of section 14, he shall issue a receipt in Form IV to the person concerned.

Rule 29: *Samples how to be sent to the Seed Analyst*

The container of the sample for analysis shall be sent to the Seed Analyst by registered post or by hand in a sealed packet enclosed together with a memorandum in Form V in an outer cover addressed to the Seed Analyst.

Rule 30: *Memorandum and impression of seal to be sent separately*

A copy of the memorandum and a specimen impression of the seal used to seal the packet shall be sent to the Seed Analyst separately by registered post or delivered to him or to any person authorized by him.

Rule 31: *Addition of preservatives to samples*

Any person taking a sample of seed for the purpose of analysis under the Act may add a preservative as may be specified from time to time to the sample for the purpose of maintaining it in a condition suitable for analysis.

Rule 32: *Nature and Quantity of the Preservative to be noted on the label*

Whenever any preservative is added to a sample, the nature and quantity of preservative added shall be clearly noted on the label to be affixed to the container.

Rule 33: *Analysis of the Sample*

On receipt of the packet, it shall be opened either by the Seed Analyst or by an officer authorized in writing in that behalf by the Seed Analyst, who shall record the condition of the seal on the packet. Analysis of the sample shall be carried out at the State Seed Laboratory in accordance with the procedure laid down by the Central Government.

Rule 34: *Form of Notice*

The notice to be given under clause (a) of sub-section (1) of section 15 to the person from whom the Seed Inspector intends to take the sample shall be in Form VI.

Rule 35: *Form of Report*

The report of the result of the analysis under sub-section (1) or under sub-section (2) of section 16 shall be delivered or sent in Form VII.

Rule 36: *Fees*

The fees payable in respect of the report from the Central Seed Laboratory under sub-section (2) of section 16 shall be Rs.10/- per sample for the seed analyzed.

Rule 37: *Retaining of the Sample*

The sample of any seed shall, under clause (c) of sub-section (2) of section 15, be retained under a cool, dry environment to eliminate the loss of viability (some part looks missing) and insect proof or rat proof container. The container shall be dusted with suitable insecticides and the storage

room fumigated to avoid infestation of samples by insects. The sample shall be packed in good quality containers of uniform shape and size before storage.

Part XI: Miscellaneous

Rule 38: Records

A person carrying on the business referred to in section 7 shall maintain the following records, namely:-

- (a) Stock record of seed;
- (b) Record of the sale of seeds.

Rule 39: Form of Memorandum

The memorandum to be prepared under sub-section (4) of section 14 shall be in Form VIII.

F. No. 26 (7) / 82-FCR New Delhi, the 24th February, 1983

S.O. 140(E).-In exercise of the powers conferred by sub clause (xi) of clause (a) of section 2 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby declares the following seeds used for sowing or planting (including seedlings and tubers, bulbs, rhizomes, roots, cuttings and all types of grafts and other vegetatively propagated material, of food crops or cattle fodder) to be essential commodities for the purpose of the said Act namely:- (i) Seeds of food crops and seeds of fruits and vegetables, (ii) Seeds of cattle fodder , and (iii) Jute seeds.

1.9 THE SEEDS (CONTROL) ORDER, 1983

**Government of India, Ministry of Agriculture
(Department of Agriculture and Cooperation)
New Delhi, dated the 30th December, 1983**

Order

GSR 932 (E) – In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order, namely:-

PRELIMINARY

1. Short title and extent:

- (i) This Order may be called the Seeds (Control) Order, 1983.
- (ii) It extends to the whole of India.
- (iii) It shall come into force on the 30th December, 1983.

2. Definitions:

In this Order, unless the context otherwise requires,

- (a) “Act” means the Essential Commodities Act, 1955 (10 of 1955).
- (b) “Controller” means a person appointed as Controller of Seeds by the Central Government and includes any person empowered by the Central Government to exercise all or any functions of the Controller under this Order;
- (c) “Dealer” means a person carrying on the business of selling, exporting or importing seeds, and includes an agent of a dealer;
- (d) “Export” means to take or cause to be taken out from any place in India to a place outside India;
- (e) “Form” means a form appended to this Order;
- (f) “Import” means to bring or cause to be brought to any place in India from outside India;
- (g) “Inspector” means an inspector of seeds appointed under clause 12;
- (h) “Registering authority” means a licensing authority appointed under clause 11;
- (i) “Seeds” means the seeds as defined in the Seeds Act, 1966 (54 of 1966).
- (j) “State Government” in relation to a Union Territory means the Administrator thereof by whatever designation known.

Dealers in Seeds to be Licensed

3. Dealer to obtain license:

- (1) No **person** shall carry on the business of selling, exporting or importing seeds at any **place** except under and in accordance with the **terms and conditions** of license granted to him under this order.
- (2) Notwithstanding anything contained in sub-clause (1), the State Government may, by notification in the Official Gazette, exempt from the provisions of that sub-clause such class of dealers in such areas and subject to such conditions as may be specified in the notification.

4. Application for license

Every person desiring to obtain a license for selling, exporting or importing seeds shall make an application in duplicate in **Form ‘A’** together with a **fee of rupees fifty** for license to licensing authority.

5. Grant and refusal of license

- (1) The licensing authority may, after making such enquiry as it thinks fit, grant a license in **Form ‘B’** to any person who applies for it under clause 4:

Provided that a license shall not be issued to a person-

- (a) whose earlier license granted under this Order is under suspension, during the period of such suspension;
 - (b) whose earlier license granted under this Order has been cancelled, within a period of one year from the date of such cancellation.
 - (c) who has been convicted under the Essential Commodities Act, 1955 (10 of 1955) or any order issued there under within three years preceding the date of application.
- (2) When the licensing authority refuses to grant license to a person who applies for it under clause- 4, he shall record his reasons for doing so.

6. Period of validity of license

Every license under this Order, shall, unless previously suspended or cancelled, remain valid for **three years** from the date of its issue.

7. Renewal of license

- (1) Every holder of license desiring to renew the license, shall, **before the date of expiry** of the license, make an application for renewal in duplicate, to the licensing authority in **Form 'C'** together with a **fee of rupees twenty** for renewal. On receipt of such application, together with such fee, the licensing authority may renew the license.
- (2) If any application for renewal is **not made before the expiry** of the license, but is **made within one month** from the date of expiry of the license, the license may be renewed on payment of **additional fee of rupees twenty five**, in addition to the fee for renewal of license.

8. Dealers to display stock and price list

Every dealer of seeds shall display in his place of business:

- (a) the **opening and closing stocks**, on daily basis, of different seeds held by him;
- (b) a **list indicating prices** or rates of different seeds.

9. Dealers to give memorandum to purchaser

Every dealer shall give a cash or credit memorandum to a purchaser of seeds.

10. Power to distribute seeds

Where it is considered necessary to do so in public interest, the Controller may, by an order in writing direct any producer or dealer to sell or distribute any seed in such manner as may be specified therein.

ENFORCEMENT AUTHORITY

11. Appointment of licensing authority

The State Government may by notification in the Official Gazette appoint such number of persons as it thinks necessary to be licensing authority and may also define in that notification the area within which each such licensing authority shall exercise his jurisdiction.

12. Appointment of Inspectors

The State Government may by notification in the Official Gazette appoint such number of persons as it thinks necessary to be inspectors and may in such notification define the local area within which each such Inspector shall exercise his jurisdiction.

13. Inspection and punishment

- (1) An Inspector may with a view to securing compliance with this Order;
 - (a) Require any dealer to give any **information in his possession with respect to purchase, storage and sale** of seeds by him;
 - (b) **Enter upon and search** any premises where any seed is **stored or exhibited for sale** to ensure compliance with the provisions of this Order;
 - (c) **Draw samples** of seeds meant for sale, export and seeds imported, and **send the same** in accordance with the procedure laid down in Schedule I, to a **laboratory** notified under the Seeds Act, 1966 (54 of 1966) **to ensure that the sample conforms to standard of quality claimed**;
 - (d) **Seize** or detain any seed in respect of which he has reason to believe that a **contravention** of this Order has been committed or is being committed;
 - (e) **Seize any books of accounts** or document relating to any seed in respect of which he has reason to believe that a **contravention** of this Order has been committed or is being committed.

Provided that the Inspector shall give a receipt, in respect of the books of accounts or documents seized, to the person from whom they have been seized.

Provided further that the seized books of accounts or documents shall be returned to the person from whom the same had been seized after copies thereof or extracts there from as certified by such person have been taken.

- (2) Subject to the provision of paragraph (d) of sub-clause (1), the provision, of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause.

- (3) Where any seed is seized by an Inspector under this clause, he shall forthwith report the fact of such seizure to a Magistrate where-upon the provisions of sections 457 and 458 of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to the custody and disposal of such seed.
- (4) Every person, if so required by an Inspector, shall be bound to offer all necessary facilities to him for the purpose of enabling him to exercise his power under this clause.

14. Time limit for analysis

The laboratory to which a sample has been sent by an Inspector for analysis under this Order shall analyze the said samples and send the analysis report to the concerned Inspector **within 60 days** from the date of receipt of the sample in the laboratory.

15. Suspension/Cancellation of license

The licensing authority may, after giving the holder of the license an opportunity **of being heard**, suspend or cancel the license on the following grounds, namely:-

- (a) that the license had been obtained by is representation as to a material particular; or
- (b) that any of the provisions of this Order or any condition of license has been contravened.

16. Appeal

Any person aggrieved by an order-

- (a) refusing to grant, amend or renew the license for sale, export or import of seeds;
- (b) suspending or cancelling any license, may within sixty days from the date of the order, appeal of such authority as the State Government may specify in this behalf, and the decision of such authority shall be final. Provided that an application for appeal shall accompany an appeal fee of rupees fifty.

17. Amendment of license

The licensing authority may, on receipt of a request in writing together with a fee of rupees ten from a dealer, amend the license of such dealer.

18. Maintenance of records and submission of returns, etc.:

- (1) Every dealer shall maintain such books, accounts and records relating to his business as may be directed by the State Government.
- (2) Every dealer shall submit monthly return relating to his business for the preceding month in Form 'C' to the licensing authority by the 5th day of every month.

Sd/-

R.K. Srivastava

Joint Secretary to the Govt. of India

FORM 'A'
(See clause 4)

FORM OF APPLICATION TO OBTAIN DEALER'S LICENSE

To

The Registering Authority,
_____ (Place)
State of/ U.T. of _____

1. Full name and address of the applicant: (a) Name and postal address: (b) Place of business (please give exact address):
(i) for sale
(ii) for storage
2. Is it a proprietary/ partnership/ Limited Company/ Hindu undivided family concern? Give the Name(s) and address(es) of proprietor/partner/Manager/Karta.
3. In what capacity this application is made: (i) Proprietor (ii) Partner (iii) Manager (iv) Karta.
4. Was the applicant ever convicted under the Essential Commodities Act, 1955 (10 of 1955), or any order issued there under during the last three years preceding the date of application? If so, give details
5. Give the details of seeds to be handled. S.No. Name of Seed
6. I/we have deposited the license fee of rupees fifty vide challan No. _____ dated _____ in treasury/bank _____
7. Declaration:
(a) I/we declare that the information given above is true to the best of my/our knowledge and belief and no part thereof is false.
(b) I/we have carefully read the terms and conditions of the license given in Form 'B' appended to the Seeds (Control) Order, 1983, and agree to abide by them.

Signature of Applicant

Date: _____

Place: _____

Note: (1) Where the business of selling/exporting/importing seeds is intended to be carried on at more than one place, a separate license should be obtained for each such place.

For use in the office of Licensing Authority

Date of receipt _____

Name and designation of officer receiving the application

FORM 'B'
(See clause 5)
LICENSE TO CARRY ON THE BUSINESS OF A DEALER IN SEEDS

License No. _____ Date: _____

1. Subject to the provisions of the Seeds (Control) Order, 1983 and to the terms and conditions of this License Shri/M/s _____ is hereby granted license to sell, export, import and store for the said purposes of seeds.
2. The licensee shall carry on the aforesaid business at _____
(Place for storage and place for sale) _____ (Tehsil or District) _____

Date: _____
Seal: _____

Licensing Authority
State of _____

Terms and conditions of license

- (i) The **license shall be displayed** at a prominent and conspicuous place in a part of the business premises open to the public.
- (ii) The holder of the license shall comply with the provisions of the Seeds (Control) Order, 1983 and the notifications issued there under and for the time being in force.
- (iii) This license comes into force with immediate effect and shall be valid up to _____ unless previously cancelled or suspended.
- (iv) The holder of the license shall from time to time report to the licensing authority **any change in the premises** where he carries on his business of sale, export, import or storage for the said purposes of seeds.
- (v) The licensee shall **give every facility to the licensing authority** or any other officer acting under his Authority for the purpose of inspecting his stock in any shop, depot or go down or other place/places used by him for the purpose of storage, sale or export of seeds.

FORM 'C'
(See clause 7)

APPLICATION FOR RENEWAL OF LICENSE TO CARRY ON THE BUSINESS OF A DEALER IN SEEDS

To

The Licensing Authority
_____ (Place)
State of/U.T. of _____

I/We hereby apply for renewal of the License to carry on the business of dealer in seeds under the name and style of Shri/M/s. _____

The license, desired to be renewed, was granted by the Licensing Authority for the State of _____ and allotted License No. _____ on the _____ day of _____ 19.....

Signature of applicant(s)

Full name and address of the applicant(s) _____

Date and Place: _____

Certified that the License bearing No. _____ granted on _____ to carry on the business of a dealer in seeds at the premises situated _____ is hereby renewed up to _____, unless previously cancelled or suspended under the provisions of the Seeds (Control) Order, 1983.

Date: _____

Renewal No. _____

Seal:

Licensing Authority

State of _____

FORM 'D'
(See clause 18)

1. Month and year:

2. Name and designation of Licensee:

(Quantity in Quintals)

1. Crop/Variety
2. Class of seed
3. Opening stock on the first day of the month
4. Quantity purchased during the month
5. Total quantity imported
6. Total
7. Total quantity sold
8. Total quantity exported
9. Closing stock on the last day of the month
10. $(3+4+5) - (7+8)$

Signature of dealer

Name: _____

Address: _____

(See clause 13)

Sealing, Fastening, Despatch and Analysis of Samples**I. Manner of taking Samples**

Samples of any seed for the purpose of analysis shall be taken in a clean dry container which shall be closed sufficiently tight to prevent leakage and entrance of moisture and shall be carefully sealed.

II. Sampling Intensity

Bulk Sampling – When sampling seed lots are stored in bulk (heaps, bins, wagons, etc.), the following sampling intensity should be regarded as a minimum requirement for obtaining the “bulk sample”.

- (a) **Up to 500 kilograms** – at least 5 individual samples except in case of small lots up to 50 kilograms where a smaller number of samples is sufficient, not less than, 3 samples need be taken.
- (b) **501 to 3,000 kilograms** – one individual sample for each 300 kilograms, but not less than 5 individual samples.
- (c) **3,001 to 20,000 kilograms** – one individual sample for each 500 kilograms but not less than 10 individual samples.

For seed in bulk the individual samples should be distributed at random all over the bulk and the samples drawn from varying depths.

Bag sampling – For seed lots in bags or other containers the following sampling intensity should be regarded as a minimum requirement:

- (a) **Upto 5 containers** – sample each container but always take at least 5 individual samples.
- (b) **From 6 to 30 containers** – sample at least one in every three containers but never less than 5.
- (c) **31 containers or more** – sample at least one in every five containers but never less than 10.

Unless doubt exists about the homogeneity of a lot, all such primary samples should be combined to make a composite sample of the lot for submitting to the seed testing laboratory. If the individual or primary samples are not sufficiently homogenous, they may be sent to the laboratory for a heterogeneity test.

III. Containers to be labeled and addressed – All containers containing samples for analysis shall be properly labeled and the parcels shall be properly addressed. The label on any sample of seed sent for analysis shall bear-

- (a) serial number;
- (b) name of the sender with official designation, if any;
- (c) name of the person from whom the sample has been taken;
- (d) date and place of taking the sample;
- (e) kind or variety of the seed for analysis;
- (f) nature and quantity of preservative, if any, added to the sample.

IV. Manner of Packing, Fastening and Scaling the Samples – All samples of seeds sent for analysis shall be packed, fastened and sealed in the following manner:

- (a) The stopper shall first be securely fastened so as to prevent leakage of the containers in transit.
- (b) The container shall then be completely wrapped in fairly strong thick paper. The ends of the paper shall be neatly folded in and affixed by means of gum or other adhesive.
- (c) The paper cover shall be further secured by means of strong twine or thread both above and across the container, and the twine or thread shall then be fastened on the paper cover by means of sealing wax on which there shall be at least four distinct and clear impressions of the seal of the sender, of which, one shall be at the top of the packet, one at the bottom and the other two on the body of the packet. The knots of the twine or thread shall be covered by means of sealing wax bearing the impression of the seal of the sender.

CASE STUDIES ON QUALITY CONTROL OF FERTILISER

A. Ashwani Kumar vs State Of Punjab And Anr. on 16 November, 1992

In this reference the accused have been prosecuted for contravention of the provisions of the **Fertilizer Control Order**, 1985 (for short the **Control Order**). They are being prosecuted under Section 7 of the Essential Commodities Act. During the pendency of the trial they have moved an application under Section 482 of the Code of Criminal Procedure (for short the Code) for quashing of the prosecution launched against them on the ground that in the present case samples have not been taken by the concerned official in accordance with the provisions of the **Order**. It is further averred that in the F.I. R it is not stated that samples were obtained in polythene bag in the manner laid down in schedule II of the **Order**.

2. This petition came up for hearing before A. P. Chowdhari, J. His Lordship vide **order** dated 11-3-1991 had referred the matter for constitution of the Larger Bench on the ground that the observations made in the judgments of this Court reported in *Jarnail Singh v. State of Punjab*, (1988) 15 Cr. L. T. 137, *Gian Chand Luthra v. State of Punjab*, (1989) 16 Cr. L. T. 55, *Hans Raj v. State of Punjab*, (1989-1) 95 P. L. R. 25 and *Hardev Singh v. State of Punjab* (1989) 16 Cr. L. T. 365. indicate that it should be stated in the F. I. R. that the sample has been taken in accordance with the provisions of the **Control Order**.

"I have gone through the requirements of Schedule II of the aforesaid **order** wherein there is a definite provision that a sample has to be placed in suitable clean, dry and air-tight glass or other suitable containers and stored in shade. It is not disputed by the counsel for the respondent that sample was taken in polythene bag in the present case. As per clause 4(2)(ii) of the said Schedule I each test sample shall be immediately transferred to a suitable container as described under 1(e) and 1(f), provided with a tight fitting stopper or lid so that the original composition of the fertilizer remains unchanged. The requirements above noted are not satisfied in this case."

In *Gian Chand Luthra Vs. State of Punjab*, Ujagar Singh, J. observed as follows:

"The rules require that sample should be more than 0.5 kg and this weight has to be mentioned, but in this case no such weight was noted. The facts noted above are not contradicted by any reply which was to be filed on behalf of the State. The counsel for the petitioner relies upon a judgment of Pritpal Singh, J. (as he then was) in Crl. Misc. No. 5000-M-1986 decided on 15.1.1987 laying down that under clause (4)(2)(ii) of the Schedule II of the **Fertilizer Control Order**, 1957, sample is required to be placed in suitable clean, dry and airtight glass or other suitable container

and stored in shade. As it was not done in that case, it was held that the mandatory provisions of law have been contravened and therefore, the F.I.R. and the proceedings in pursuance thereof were quashed. A similar view was taken by me in amended CrI. Misc. No. 3238-M/1986 Vol. I Recent Criminal Reports 374 titled Sohan Singh and Anr. v. State of Punjab, (1988) 15 Cr.L.T. 139 and Jarnail Singh and Ors. v. State of Punjab (1988) 1 Recent Cr. R. 374 = (1989) 16 Cr. L.T. 207, respectively."

18. As a result of the foregoing discussion, we have come to the following conclusion:-

- (i) It is not necessary to mention in the first information report that the sample has been taken in the manner laid down in the **Fertilizer Control Order**. On this ground alone, the Court cannot quash the proceedings under Section 482 of the Criminal Procedure Code;
- (ii) The consistent view taken by the Court in the cases discussed above and recently approved by the Division Bench of this Court in Balak Ram's case (supra) that the provisions of the **Fertilizer Control Order**, are mandatory lays down the correct legal position ;
- (iii) It is open to the accused at the trial to show that the mandatory provisions of the **Fertilizer Control Order** have not been complied with inasmuch as sample was not taken in the manner as laid down. If it is so that the sample had not been taken in the manner laid down, the prosecution cannot be sustained;
- (iv) If the magistrate fails to determine the question raised by the accused that the sample had not been taken in the manner laid down in the **Fertilizer Control Order**, it is open to the accused to approach the High Court for quashing of criminal proceedings ;
- (v) The proceedings under Section 482 of the Code of Criminal Procedure for quashing are substantive application, The accused is required to plead facts in support of the application and file an affidavit. After notice, normally the State will file reply and take a positive stand, if for any reason, the State has not been able to file reply, it should place before the Court the relevant material to rebut the facts slated in the application under Section 482 of the Code. If it is established before the Court from the material produced that the mandatory provisions of the **Fertilizer Control Order** have not been complied with, the Court can quash the proceedings under Section 482 of the Code.

B. R. Muthukrishnan And Etc. vs Agricultural Officer And Etc. on 11 November, 1998

1. R. Muthukrishnan, the first accused has filed the appeals in C.A. Nos. 21,22, 23. 24, 25 and 26 of 1992 against the judgment and conviction passed by the learned Presiding Officer, Special Court for Essential Commodities Act cases, Pudukottai in S.T.C. Nos. 20 to 25 of 1990 convicting the appellant for the offence under Section 7(1)(a)(ii) and 12aa(2)(f) of Essential Commodities Act for violation of the Clause 19(1)(a) of Fertilizer (Control) Order, 1985 and sentencing him to undergo rigorous imprisonment for one year and to pay a fine of Rs. 1,000/-, in default, to undergo R.I. for three months.

2. R. Rajamanickam, the second accused has filed the appeals in C.A. Nos. 13, 14, 15, 16, 17 and 18 of 1992 challenging the judgment and conviction passed by the learned Presiding Officer, Special Court for Essential Commodities Act cases, Pudukottai, in S.T.C. Nos. 20 to 25 of 1990 convicting the appellant for the offence under Sections 7(1)(a)(ii) and 12aa(2)(g) of E.C. Act for violation of Clause 19(1)(a) of Fertilizer (Control) Order, 1985 and sentencing him to undergo simple imprisonment for three months and to pay a fine of Rs. 500/-, in default, to undergo R.I. for one month.
3. All these appeals are being disposed of by this common judgment, since the parties as well as the issue in these cases are one and the same.
4. The relevant facts which are required for the disposal of the appeals are as follows:-The complainant is an Agricultural Officer, office of the Deputy Director for Agriculture, Musiri/ Lalgudi. He filed the private complaints before the trial Court against the appellants and another stating that the fertilizer that was found possession in the premises of A3 was found to be substandard and that Muthukrishnan (A1), the manufacturer of the said fertilizer and Rajamanickam (A2), the distributor and A3, who kept the said substandard fertilizer in his premises for sale were liable to be punished for the offence under Clause 19(1)(a) of the Fertilizer Control Order, 1985 read with Section 7(1)(a)(ii) of the Essential Commodities Act. Since on various dates, six samples were taken from A3's premises and they were analysed and found to be substandard, six separate complaints were filed before the trial Court, which in turn took the case on file in S.T.C. Nos. 20 to 25 of 1990.

2. FERTILISER QUALITY CONTROL & ENFORCEMENT

2.1 DUTIES AND RESPONSIBILITIES OF ENFORCEMENT OFFICERS

Fertilizer is the most important and costliest input for agricultural growth in the country. It has been declared as an Essential Commodity under Section 2 of Essential Commodities Act, 1955. The Fertilizer Control Order, 1957 was issued under Section 3 of ECA, 1955 to regulate (the sale price and the quality of fertilizer) manufacture, trade and distribution of Fertilizers in the country. Thus the main objective of FCO was to ensure the quality fertilizers to the farmers at right time and uniform price throughout the country. The FCO was amended a number of time to keep pace with the changing time and later on Revised FCO, 1985 was issued in which lot of amendments also been made during 2003. The FCO has provisions to issue letter of authorization for wholesale dealer/retail dealer, certificate of registration for industrial dealer and certificate of manufacturer for manufacturing mixtures of fertilizers/ organic fertilizer/ bio-fertilizers, restrictions on manufacture/import and sale etc. of fertilizers, restriction on uses of fertilizer (other than agricultural purpose viz., for industrial purposes etc), appointment and powers of enforcement authorities and analysts, procedure for suspension / cancellation of Certificate of Registration /Letter of Authorization, maintenance of records, methods of sampling and analysis and specification and tolerance limits of fertilizers etc.

Enforcement Authorities

The task of implementation and compliance of various provisions of FCO,1985 is achieved through the appointment of various enforcement agencies. The main responsibility for enforcement under the provisions of FCO lies with the State Governments, with adequate power vested on them. The jurisdiction is also defined for each of the enforcement officer. The Enforcement Authorities may be categorized as follows:-

1. Controller
2. Appellate Authority
3. Registering Authority
4. Notified Authority
5. Fertiliser Inspector

2.1.1 CONTROLLER

The “Controller” of fertilizer is appointed by the Central Government under Clause 2 (e) of FCO, 1985. The Controller has the power to make orders, to issue notifications under Section 3 of ECA, with regard to Fertiliser Control Order. He is also empowered to grant Dealership/Certificate of Registration to Industrial Dealer and amend/ suspend / cancel such certificates. The Controller is advised by Central Fertilizer Committee on technical / other matters. He also approves the fees

payable for various functions to Industrial Dealer, subject to maximum fee fixed by the Central Government. At present Joint Secretary (INM) Govt. of India, Ministry of Agriculture, Department of Agriculture & Co-operation is the Controller of fertilizers.

In addition Director of Agriculture of State Government has also been notified as 'Controller' for respective States to exercise following functions under Clause 35.

(Notification No. SO 572 (E) Dated 26.06.1995)

Functions-

To give directions to dealers, manufacturers, importers and pool handling agency-

- a) To maintain such books of accounts, records etc. relating to their business in Form N.
- b) To submit to such authority, returns and statements in such form and containing such information relating to their business and within such time as may be specified in that order

2.1.2 Appellate Authority

Appeal at Central Level (Cl.32) (Vide S.O. No. 49 (E) dtd 16.01.03)

Any person aggrieved by the analysis report of CFQC&TI / RFCLs may appeal to the Controller of fertilizer –JS (INM) for referee analysis of such sample within a period of 30 days from the date of receipt of analysis report.

However, the Controller may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within the period under Cl.32(2) (Oct.2006).

Appeal at State Level (Cl.32.A) Vide S.O. No. 49 (E) dtd 16.01.03)

The State Governments notify various officers as Appellate Authority under Clause 32A of FCO, 1985. Any aggrieved person may appeal to such Appellate Authority within 30 days of the receipt of an order of:-

- Refusing to grant, amend or renew an Authorisation Letter for sale of fertilizers or
- Refusing to grant of Certificate of Manufacture for preparation of mixture of fertilizers or special mixture of fertilizers or
- Suspension or cancelling a Certificate of Registration/ Authorisation Letter or Manufacture or debarment from the business

- Non-issuance of Certificate of Registration within the stipulated period.
- And also for reference analysis of non-standard sample.

Besides, person aggrieved by analysis report of fertilizer testing laboratory notified by the state can go to Appellate Authority.

The decision of such Appellate Authority is final under FCO.

2.1.3 Registering Authority

The State Government appoints Registering Authority through official gazette notification, under Clause 26 of FCO, 1985 in which their area of jurisdiction is also specified. The main functions of registering authority are:

- (i)
 - (a) To grant the Certificate of Manufacture under Clause 15 (2) and its renewal under Clause 18 (2).
 - (b) To grant the duplicate copies of Certificate of Manufacture under Clause 33.
 - (c) To amend the Certificate of Registration under Clause- 34.
- (ii) The Registering Authority has the power to refuse to grant/ renew the Certificate of Manufacture by giving reasons in writing.
- (iii) The registering authority may also suspend/ cancel the Certificate of Manufacture, after giving an opportunity of being heard. The registering authority shall record a brief statement for reasons of suspension/ cancellation and give a copy thereof to such person whose certificate is suspended / cancelled under Clause-31.

Note: The power to grant/ renew/ suspend/ cancel of certificate of registration of industrial dealer lies with the Controller only. However registering authority may also suspend/ cancel such certificates subject to final decision by Controller.

2.1.4. Notified Authority

The State Government appoints Notified Authority under Clause-26A of FCO, 1985 along with the area of jurisdiction. The main functions of the Notified Authorities are as under:-

- To acknowledge the Memorandum of Intimation from; wholesale or retail dealer under Clause-8 (3) and its renewal under Clause-11 (2)
- To grant the Certificate/ Letter of Authorisation under Clause-23 (1) (b)
- To grant the duplicate copies of Letter of Authorisation under Clause-33 and amend them under Clause 34.
- To suspend/ cancel/ the Letter of Authorisation or debar from the business.

2.1.5. Fertiliser Inspector

Fertiliser Inspector is the most important Enforcement Officer under FCO. The State/ Central Government have the power to notify the persons, having following qualifications, as Fertiliser Inspector and to specify their jurisdiction under Clause 27.

2.1.5.1 Qualification for Appointment of Fertiliser Inspector

Graduate in Agriculture or Science with Chemistry as one of the subjects from a recognized University, and

- Training or experience in the Quality Control of Fertilizers and working in the State or Central Government Department of Agriculture.

2.1.5.2 Powers of Fertiliser Inspectors

The power of inspectors as given under Clause 28 are as follows:-

- The Inspector can seek any information from any manufacturer, importer, dealer or pool handling agency in respect of manufacture, storage and disposal of any fertilizer manufactured or in any manner handled by him.
- He can draw the sample of any fertilizer as per procedure given in Schedule II Part A of FCO.
- The Inspector can enter upon and search any premises where any fertilizer is manufactured or stored or exhibited for sale if he has reason to believe that it is contrary to the provisions of FCO & FMCO.
- The Inspector can seize or detain any fertilizer in respect of which he has reason to believe that a contravention of FCO has been or is being or is about to be committed.
- He can seize any book of accounts or documents relating to manufacture, storage or sale of fertilizers etc. in respect of which he has reason to believe that any contravention of FCO has been or is being or is about to be committed.
- The Fertiliser Inspector is a public servant as defined in Section 21 of Indian Penal Code. Every person is bound to provide all necessary facilities required by an Inspector to discharge his official duties.
- The Inspector is also empowered under Fertiliser Movement Control Order, 1973 to :-
 - a) Stop and search, any person, boat, motor or any other vehicle or any receptacle used or intended to be used for unauthorized export of fertilizers like urea or mixtures of fertilizers, without any authority, from one state to any place outside the state.
 - b) Enter and search any place.
 - c) Seize any fertilizer alongwith packages, covering or receptacle or animal, vehicle, vessels, boats or conveyance used in carrying such fertilizer in which the contravention of order is committed.

2.1.5.3 Duties and Responsibilities of Fertiliser Inspector

The Fertiliser Inspector is the main functionary of FCO enforcement machinery. The primary duty of Fertiliser Inspector is to ensure, the availability of right quality fertilizers to the farmers at a right place on a right price and time which is the basic idea behind the promulgation of FCO. He has to ensure that none of the provisions of FCO are misutilised or misrepresented by unscrupulous dealers but at the same time genuine dealers should not be harassed. In order to exercise his powers and discharge his duties, every Fertiliser Inspector shall have to keep himself abreast with all the provisions of FCO, amendments and executive circulars issued from time to time and to know about the specific problems of quality control under his area of jurisdiction.

Some of the duties and responsibilities are as under:-

- *Inspection of Letter of Authorisation, Certificate of Registration and Certificate of Manufacture*

Every Inspector must ensure that the manufacture and sale of fertilizer is being carried out by *bona fide* persons only having requisite Certificate/ Letter of Authorisation. Since separate certificates are required for manufacture of mixture of fertilizers and special mixture of fertilizers and further separate authorization letters are required for retail, wholesale and industrial sale of fertilizers, he has to ensure it's compliance. He should ensure that non-standard fertilizer is sold only after obtaining the certificate of authorization and that too only to specified agencies. A separate authorization letter is required for each sale depot though business is carried out by the same person.

- *Compliance of Specific Conditions of Letter of Authorization / Certificate of Registration*

The Inspector should ensure that every dealer strictly comply with all the terms and conditions of Letter of Authorization/ Certificate of Registration. The original Authorization Letter/ Certificate of Registration is displayed conspicuously in the business premises open to public. He should ensure that every dealer promptly inform the Notified Authority/ Registering Authority about any change in the premises of sale depot and go-down and the dealer keeps only one bag of each type of fertilizer open at a time for retail sale. He has to ensure that sale depot for agricultural use of fertilizer (retail / wholesale) and Industrial uses are separate.

- *Compliance of Specific Conditions of Certificate of Manufacture*

The Inspector has to ensure that every manufacturer possesses both Certificate of Manufacture and Letter of Authorization, the mixture is produced under the supervision of qualified person and the manufacturer is maintaining all the specified equipments in perfect working condition. The Inspector also has to ensure that only authorized grades of fertilizers are manufactured.

- *Checking of Stock Position and Price of Fertiliser*

The Inspector must ensure that every retail dealer displays quantity of stock of different fertilizers held by him every day and the price there of as required under Clause 4. He should further ensure that every dealer issues cash memo / credit memo in Form – M to the purchaser and all

the columns of Form M are filled. The rates charged by the dealer are same as notified by the Government or maximum retail price printed on bags. Further the manufacturer, importer, pool handling agency and dealers maintain stock register in Form N and submit all returns timely as prescribed.

- Checking of Packing and Marking on Fertiliser Bags

The Inspector should ensure that all the bags held by any dealer are packed and marked in the manner as laid down in FCO, the batch No. is printed on the bags of SSP, mixture of fertilizers and micronutrient fertilizers and maximum retail price is printed on all the decontrolled fertilizer bags, the month and year of manufacture or import must be printed in all the container of the fertilizers. Further he should ensure that bags are marked with only those particulars, and nothing else, which have been prescribed by the Controller and the bags do not bear any statement which is false or misleading in any material particulars.

- Checking of Illegal Movement of Fertiliser In Contravention of Provisions of Fertiliser (Movement Control) Order, 1973:

As the Fertiliser Inspector is also Inspector under FMCO, he should ensure that all movement of fertilizers takes place from one state to another subject to an authorisation issued by the competent authority of both the states.

- Drawal of Samples

The periodical drawal of sample from every manufacturer and dealer has an impact on quality consciousness of dealer. Therefore, Inspector must draw optimum number of samples from each dealer and manufacturer periodically and send it to Notified fertilizer quality control laboratory. It should be ensured that the sample drawn is a most representative to the whole lot.

The detailed procedure of drawal of sample is given in Schedule II Part A of FCO. The sample drawn must be sent to notified laboratory alongwith Form K within 7 days of its drawal.

- Detention / Seizure of Stock In Case of Doubt

In case the Fertiliser Inspector is of the opinion that a contravention of FCO has been committed, he should detain / seize the stock and act as per procedure mentioned in FCO.

- Launching of Prosecution against Offenders

The Inspector should launch the prosecution against offenders. For this purpose he may lodge FIR with police or directly prosecution in designated court after taking the approval of competent authority as specified by the State Government.

- Cancellation or Suspension or Debarment of Authorization Letter / Certificate of Registration / Certificate of Manufacture

In case of serious violation or contravention of the provisions of FCO, Inspector should report the matter to notified authority, registering authority and recommend for suspension / cancellation

of authorization letter or certificate or for debarment from carrying on the business under Clause 31 by the Competent Authority.

- Checking of Industrial Dealers

The Inspector should ensure that sale of fertilizer for non-agricultural purpose is done only by industrial dealers, and the sale depot for industrial use of fertilizer is not used for sale for agricultural purposes. He should also ensure that industrial dealer comply with all the terms and condition of certificate of registration.

2.2. PROCEDURE FOR DRAWAL OF SAMPLES OF FERTILISERS

SCHEDULE – II Part – A

General requirement of sampling

For drawing sample the following measures and precautions should be observed.

- Samples shall not be taken at a place exposed to rain / sun.
- The sampling instruments should be clean and dry.
- The fertiliser being sampled, the sampling instruments and the bags of samples should be free from any contamination.
- To draw a representative sample the contents of each bag selected for sampling should be thoroughly mixed.

The sample should be kept in suitable clean dry and air tight glass or screwed hard polythene bottle of about 400 gm capacity or in a thick gauged polythene bag.

- This should be put in a cloth bag which may be sealed with the Inspector's seal after keeping inside the detailed description as specified in Form – P.

Identifiable details may be put on the cloth bag such as:

- Date of sampling
- Name of the fertilizer
- Code No. of sample

Sampling from bagged materials :

(i) Scale of sampling

(a) Lot (for Manufacturers / Importers)

- All bags in a single consignment of the material of the same grade and type drawn from a single batch of manufacturer / importer shall constitute a lot.
- If consignment is declared to consist of different batches of manufacturer/ importer all the bags of each batch shall constitute a separate lot.

- In the case of a consignment drawn from a continuous process 2000 bags or 100 tonnes of the material shall constitute a lot.

(b) Lot (for dealer)

- The lot is an identifiable quantity of the same grade and type of fertilizer stored in an identifiable place subject to a maximum limit of 100 tonnes.
- The stock of less than 100 tonnes with a dealer may also constitute one or more lot. If the fertilizer of different sources and brand is available in such quantities, the lot shall be identified by the Inspector based on visible appearance of bags, their packing and storage conditions.
- The fertilizer bags are segregated fertilizer wise, manufacturer/ importer wise, batchwise, and month and year of manufacture/ import. One sample shall not normally represent the quantity exceeding 100 tonnes.

(c) Selection of bags for sampling

- The number of bags to be selected from a lot shall depend upon the size of the lot as given below:

Lot Size (No. of bags (N))	No. of bags to be selected for sampling (n)
Upto 10	1
11-100	2
101-200	3
201-400	4
401-600	5
601-800	6
801-1000	7
1001-1300	8
1301-1600	9
1601-2000	10

The bags are normally stored in different layers and height, both in storage godown and shops, but if scattered should be first arranged in a systematic manner. Start counting from any bag randomly as 1,2,3,4..... upto 'r'. Again, 'r' being equal to the integral of N/n . Every r^{th} bag thus counted should be demarcated and withdrawn from the stock and sample shall be drawn only from those selected bags to prepare the composite sample.

For example there are 450 bags constituting a lot in a dealer shop-

$$\text{Therefore, } r = \frac{N}{n} = \frac{450}{5} = 90$$

Therefore every 90th bag should be taken out. Thus only 5 bags will be taken out and sample drawn from each bag and finally made one composite sample.

- Sampling from big go-down / high stackings

If the procedure given above that is rth bag method is not possible to be adopted, the sample should be drawn from the randomly selected fertilizer bags from different layers from top and from all open sides in a zigzag manner.

- Sampling from small go-down

All the fertilizer bags of the same grade and type of same manufacturer / importer received on different dates shall be segregated and properly stacked. In case of batch wise product i.e., SSP, NPK (M), NPK (GM), MNF, MNFM, organic, Bio and Non-edible Deoiled Cakes, same grade and type of same batch no. of same manufacturer should be segregated and assigned a lot and draw sample.

Sampling Instruments:

- *Sampling probe*: The probe may comprise of a slotted single tube with solid cone tip made of stainless steel or brass. The length of the probe may be approximately 60 to 65 cm, the diameter is 1.5 cm, and the slot width may be 1.2 to 1.3 cm.
- *Sampling cup*: The inside dimensions of cup mouth may be 2 x 25 cm, the height of cup is 6 1/2 inches.
- Sampling probe a slotted double tube length is 4-1/2 -5 feet and diameter
- 1-1/4 to 1-1/2 inch (closed vertical tube).
- *Sampling scoop*: Samples from the hatch can also be collected by a suitable scoop made of stainless steel or brass.

These are available in the local market otherwise fabricated.

Drawal of samples from bags:

1. In case where the bag and fertilizer allows the use of sampling probe, following method may be used.
 - Place bag in horizontal position and mix thoroughly the content of the bags by jerking / rolling upside and down.
 - Make an X cut with a knife near at the corner.
 - With single tube probe insert diagonally from corner to corner with slot in down position. Turn it to bring the slot upwards to fill the probe and remove carefully so as not to drag material out of it with the bag edges.
 - Empty the probe on a clean dry and hard surface preferably polythene sheet.

- Similarly repeat the process from other end of the bag, draw sample from each selected bag and put all the sample material at one place.
2. In case of High density polythene bags and also when the fertilizer material is not in free flowing condition and having big and hard lumps the use of probe is not possible. In such cases following method is used.
- Open the selected bags
 - Take out the fertilizers from the bag on a level, put in a clean and hard surface
 - Mix thoroughly and reduced by quartering method.
 - Draw sample with the help of a suitable sampling device made of stainless steel or brass cup / scoop
3. Quartering Method

If the composite sample collected from the different selected bag is larger than required weight, its size shall be reduced by method of quartering as detailed below.

Spread the composite sample on a level, clean hard surface or polythene sheet, flatten it out and divide it into four equal parts. Remove any diagonally opposite parts. Mix the two remaining parts together to form a cone, flatten out the cone and repeat the operation of quartering till a composite sample of required weight is obtained.

4. Weight of the sample

One sample of fertilizer shall have the approximate weight as follows:

- For straight micronutrient fertilizers: 100 gm
- Chelated MNF & MNFM: 50 gms or the minimum packing size of similar quantity
- For other fertilizer & mixtures : 400 gms

Preparation of test sample and reference sample:

- The composite sample obtained above shall be divided into three approximately equal portions each of the weight as specified above. Each of these samples shall constitute the test sample.
- Each test sample shall be immediately transferred to a suitable container or thick polythene bag. The detailed sample information in Form P kept in the cloth bag then sealed with the seals of the inspector. If possible seal of the manufacturer / importer / dealer as the case may also be affixed.
- Out of three sealed samples, one sample shall be sent to the Incharge of the Fertiliser Testing Laboratory within 7 days, including the date of sampling. (sample should be dispatched within 7 days).

Another sample should be given to manufacturer/ importer / dealer as the case may be alongwith a copy of the Form J.

The Fertiliser Inspector has to send the third sample to the Higher Authority for keeping in safe custody.

Any of the latter two samples may be sent for referee analysis as provided for under Sub-clause (2) of Clause 29B.

Sampling from Hatch

Most of the imported fertilizer imported as bulk condition in ships.

In case of bulk fertilizer from each hatch at least 10-15 samples should be drawn from different depths and points during unloading operations. All the samples drawn from each hatch of the ship, bulk carrier or bulk container, truck , to mix together to make hatch composite and all the hatch composite take some portion and mix and prepare ship composite using quartering method.

Sampling from bulk carriers – trucks

The sample can be drawn as per vertical probing procedure with the help of closed vertical double tube probe. Draw 10 vertical cuts from the following locations relating to the entire top of the conveyance. The 10 vertical cores are combined into a composite sample

Sampling from bulk materials in storage

The bulk storage piles (level or flat) upto 100 tonnes could be sampled. Take 10 cores to the maximum possible depth of the probe from the position mentioned below the figure and all the cores are composited. (using vertical double tube closed probe).

Preparation of documents:

After preparation of composite sample, fill up Form- J in duplicate, Form-P in triplicate. The Form –J should be signed by the dealer / manufacturer / importer as the case may be or his authorized persons and also signed by the Fertiliser Inspector. Fill up the Form-K. Then the sample has to be sent by the Inspector to the Fertiliser Testing Laboratory alongwith Form-K within 7 days i.e., including the date of sampling.

Check points during sampling

5. Make sure that sampling instruments and bags are clean.
6. Segregate the fertilizer bags lot wise before sampling
7. Select requisite number of bags for sampling according to lot size.

8. In case of high stack, select bags from all directions, different layers and depth by randomly.
9. Mix the content of the bag thoroughly before sampling.
10. Always insert the probe diagonally from two sides of the bag placed horizontally with slot in downside.
11. If quantity is more, reduced the composite is done by only quartering method and divided in 3 equal parts.
12. The sample should be kept in airtight condition.
13. The cloth bag should be marked as follows
 - Date of sampling
 - Name of fertilizer
 - Code no. of sample
14. Two copies of the 'J' Form filled neatly. Three copies of the 'P' Form are filled.
15. Two packets of fertiliser Samples along with Form 'J' & 'P' are put into cloth bags separately. Then knotted and sealed with wax. One is kept with the dealer and other is taken by the Inspector and handed over to the next higher authority to keep under safe custody.
16. The third packet is put in the cloth bag with Form 'P' and sealed in the similar manner, which is sent to the laboratory along with form 'K' for analysis within 7 days from the date of sampling.
17. Use appropriate sampling instruments
18. Never draw one sample from a stock more than 100 tonnes or 2000 bags.
19. Never mix the fertilizer of different batch nos./ different manufacturers.
20. Never select the bags for sampling less than the number required as per the procedure.
21. Never try to reduce the weight of composite sample by any other method other than quartering.
22. The weight of each test sample should not be less than required weight.
23. Don't use sampling probe in HDPE packing
24. Fill up Form-J, Form-P and Form-K correctly.

EMBLEM

FORM ' J '

[See clause 28 (1) (b)]

FORM INDICATING PARTICULARS OF FERTILISERS SAMPLED

- (1) Name and address of dealer/manufacturer/importer _____
(1A) * Certificate of Registration Number _____
- (2) Date of sampling _____
- (3) Details of markings of bags from where sample has been taken _____

 - (i) * Type and grade of fertiliser _____
 - (ii) Name of manufacturer / importer _____
 - (iii) Omitted
 - (iv) * Batch No. (if applicable) and date of manufacture / import _____
 - (v) Composition _____
- (4) Date of receipt of the stock by the dealer / manufacturer / importer / pool handling Agency _____
- (5) *Code No. of sample _____
- (6) Stock position of the lot _____
- (7) Physical condition of fertiliser _____
- (8) Whether samples drawn from open bags or stitched bags _____
- (9) Name and Address of fertiliser Inspector drawing sample _____

Signature and Metallic Seal
impression of Fertiliser Inspector

Receipt of the dealer

Certified that the sample of fertiliser has been drawn in accordance with the procedure laid down in the Fertiliser (Control) Order, 1985 from the stock in my possession, and I have signed the test samples at the time of wax sealing. I have also received one test sample out of the three test samples prepared.

Signature and Seal of Fertiliser Inspector

Signature of dealer /manufacturer
Importer/pool handling agency with Address

* vide S.O. 49 (E) dtd 16.01.03

**EMBLEM
FORM 'K'**

[See clause 30 (1)]

MEMORANDUM TO ACCOMPANY FERTILISER SAMPLE FOR ANALYSIS

No.

From

To,

Incharge
Fertiliser Quality Control Laboratory

The fertiliser samples as per details given below are sent for analysis:-

- (1) * Name of fertiliser, grade _____
- (2) Date of sampling _____
- (3) *Omitted _____
- (4) *Omitted _____
- (5) Physical condition of fertiliser _____
- (6) Code number of sample _____

The analysis report may be forwarded to _____

Place:

Date:

Signature and metallic seal
Impression of Fertiliser inspector"

* vide S.O. 49 (E) dtd 16.01.03

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FORM 'P'*
[See Clause 28 (1) (b)]

PARTICULARS OF SAMPLES DRAWN

1. Name and Grade of Fertiliser:
2. Composition:
3. Physical condition of Fertiliser:
4. Code No:
5. Date of sampling:
6. Name & Address of Fertiliser Inspector drawing sample:

Signature and Metallic Seal

Impression of fertilizer Inspector

****vide S.O.49(E) dt.16.01.03***

2.3 FOLLOW UP ACTIONS AGAINST OFFENDERS TO BE TAKEN UNDER FCO 1985 & ECA 1955

Follow up actions against offender are broadly of two types:

1. Administrative Action
2. Legal Action

2.3.1 Administrative Action under FCO provisions:

1. Stop Sale Notice –Clause 28 (2)
2. Detention / Seizure of stock – Clause 28 (1) (d)
3. Temporary suspension of Certificate of Registration /Certificate of Manufacture /Letter of Authorisation under Clause 31 (2)
4. Cancellation of Certificate of Registration /Certificate of Manufacture /Letter of Authorisation under Clause 31 (1)
5. Seizure of conveyance – Under Section 6A of ECA 1955.
6. Confiscation of stock under Section 6A of ECA.

2.3.1.1 Stop Sale Notice (Claus 28 (2))

The Fertiliser Inspector is empowered to issue stop sale / detention notice in writing under Clause 28(2). The Stop Sale /detention notice is valid for 21 days. If no action has been initiated by the Inspector within the said period of 21 days from the date of issue of the said notice, the notice of stop sale shall be deemed to have been revoked.

2.3.1.2 Suspension or Debar (Clause 31 (1) / Cancellation (Clause 31(2))

The concerned Notified / Registering Authority is empowered to issue suspension of Authorisation Letter or Certificate of Manufacture to any person contravened any of the provisions of this order or any terms and conditions of the Memorandum of Intimation or Certificate of Registration or the Certificate of Manufacture have been proved. The Notified Authority or Registering Authority as the case may be without any notice, suspend such Certificate of Manufacture or Authorisation Letter, as an interim measure.

Provided that the Registering Authority or the Notified Authority as the case may be, shall immediately furnish to the affected person, details and the nature of contravention alleged to have been committed and after giving him an opportunity of being heard, pass final orders either revoking the order of suspension or cancellation within 15 days.

Where no final order is passed within the period of 15 days, the order of interim suspension order shall be deemed to have been revoked.

Under Clause 31(2) the Notified Authority or Registering Authority as the case may be has been empowered to issue the cancellation of Authorisation Letter or Certificate of Manufacture.

While cancelling the Certificate or debarring from carrying on business the dealer or the certificate holder or holder of the letter of authorization may be allowed for a period of thirty days to dispose of the balance stock of fertilizer, if any held by him.

2.3.1.3 Seizure of stock (Clause 28(1) (d))

The inspector is empowered to enter upon and search any premises where fertiliser is manufactured / stored / exhibited for sale and to seize or detain any fertilizer in respect of which is believe that there is a contravention of FCO 1985. He can also seize the relevant books of accounts / related documents after giving a due receipt to the owner (Clause 28(1) (e)).

In case of search and seizure the provisions of the Code of Criminal Procedure 1973 (2 of 1974) relating to search and seizure shall, so far as may be applied for search and seizure:

2.3.1.4 Steps involved in the seizure of stock

- The specific, type, brand, batch and manufacturer's stock which is proposed to be seized is to be identified.
- All the bags should be segregated from the whole stock and kept separate place.
- Before seizure, the representative sample should be drawn.
- Carry the seized stock to the safest place or obtained custody bond.
- If any separate rooms are available in the same premises, keep the seized product in this room and cloth covering the lock should be sealed by the Inspector.
- Seizure notice issued by the Inspector in front of the two independent witnesses signed by them and obtained receipt from the dealer.
- Prepare Mahazar on the spot in the presence of two independent witnesses.
- After seizure of stock, the information of the seizure is to be communicated to the District Collector or his authorized representative within the shortest possible time (usually within 24 hours) it means without unreasonable delay.

The Collector may if he thinks fit expedient so to do, direct the essential commodity to seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order may order for confiscation.

The seized essential commodity is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do he may-

- order the same to be sold at the controlled price. If any fixed for essential commodity under this Act or under any other law for the time being in force or
- Where no such price is fixed, order the same to be sold by public action.

2.3.2. Legal Action:

- Launching a prosecution directly in 1st Class Magistrate Court under Cr. P.C. 200.
(or)
- Filing FIR in police station.

2.3.2.1 Procedure for launching prosecution:

In pursuance of Section 12 (AA) of ECA 1955, all the offences of FCO are preferably triable in the Court of First Class Magistrate.

Submission of complaint to Designated Court under 12AA (e) of ECA 1955 after obtaining consent order of approval of the Competent authority. (12AA (e) of ECA).

However the exact procedure to be adopted by the Fertiliser Inspector will depend upon the practices prevalent in the State or the enforcing order issued by the State Government in this behalf.

All the cases will be tried in summary way.

All the offences are cognizable and non-bailable.

2.3.2.2 For initializing legal action in Court of Law, the following documents are needed:

- Copy of Gazette Notification for appoint as Fertiliser Inspector.
- Certificate of Registration / Authorization Letter / Certificate of Manufacture.
- Invoice for fertilizer purchased by Dealer in respect of which contravention is alleged to have been committed.
- Form- J duly signed by the Dealer in original
- Copy of Form-K
- Copy of seizure notice

- Bond of custody.
- Mahazar/ Panchanama.
- Copy of intimation sent to District Collector as per Section 6A of ECA 1955.
- Copy of Form L
- Copy of Show Cause Notice issued to dealer and his reply
- Suspension / Cancellation order
- Copy of Show Cause Notice issued to distributor / manufacture and their reply
- Consent order of competent authority for launching prosecution.
- Stock Register and Cash or Credit Memo (Form – N & Form – M).
- Name of the responsible person declared under Clause 24.

2.3.2.3 Penal provisions for violation of FCO 1985:

1. 3 months to 7 years imprisonment with or without fine under Section 7(a) (i)(ii) of ECA 1955
2. Making any false information is punishable upto 5 years imprisonment under Section-9 of ECA 1955.
3. The Fertiliser stock and its conveyance can be forfeited under Section 7(b) & 7(c).
 - The FCO offences are treated as cognizable and non-bailable under Section 10 (A) of ECA 1955.
 - Minimum imprisonment for subsequent offences – 6 months (Habitual offender).
 - Attempt to contravene or abet a contravention is also punishable under Section -8 of ECA 1955.

For exercising the power of Fertiliser Inspector, some of the Section in the Code of Criminal Procedure 1973 may also support and will give protection to the Fertiliser Inspector are as follows:

2.4 THE CODE OF CRIMINAL PROCEDURE 1973 (2 OF 1974)

I. Section 47; Search of place entered by person sought to be arrested:

- If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

- If ingress to such place cannot be obtained under sub-section (1) it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.
- Any police officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

II. Section 100; Persons in charge of closed place to allow search:

- Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.
- If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of Section 47.
- Where any person in or about such place is reasonably suspected of concealing about his person any article which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.
- Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated or any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.
- The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this Section shall be required to attend the Court as a witness of the search unless specially summoned by it.
- The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this Section, signed by the said witnesses, shall be delivered to such occupant or person.

- When any person is searched under Sub-section (3), a list of all things taken possession of, shall be prepared, and a copy thereof shall be delivered to such person.
- Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this Section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 187 of the I.P.C. (45 of 1860).

III. **Section 102; Power of police officer to seize certain property:**

- Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.
- Such police officer, if subordinate to the officer in charge of police station, shall forthwith report the seizure to that officer.
- (Inserted by Act No. 45 of 1978) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court (Inserted by Cr.P.C. (Amndt) Act, 2005 w.e.f. 23.6.2006, [or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation.], he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the court as to the disposal of the same.

Added by Cr.P.C. (Amndt) Act, 2005 (Act 25 of 2005) w.e.f. 23.6.2006, [Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forth with be sold by auction under the orders of the Superintendent of Police and the provisions of Sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

IV. **Section 153; Inspection of weights and measures:**

- Any officer in charge of a police station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures of instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

- If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdictions.

V. Section 197; Prosecution of Judges and public servants:

- When any person who is or was a judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction:-
 - a) In the case of a person who is employed, or, as the case may be , was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;
 - b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government.

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a proclamation under clause (1) of Article 356 of the Constitution was in force in a State, Clause (b) will apply is for the expression “State Government” occurring therein, the expression “Central Government” were substituted.

- No court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the central government.

The Stat Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression”Central Government” occurring therein, the expression “State Government” were substituted.

- Notwithstanding anything contained in sub-section (3), no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a proclamation issued under clause (1)of Article 356 of the Constitution was in force therein, except with the previous sanction of the Central government. Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government

or any cognizance taken by a Court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991, receives the assent of the President, with respect to an offence alleged to have been committed during the period while a proclamation issued under Clause (1) of Article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central government in such matter to accord sanction and for the Court to take cognizance thereon].

- The Central Government or the State Government, as the case may be may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

VI. Section 200; Examination of Complainant:

A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate.

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses:-

- if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint;
- if the Magistrate makes over the case for inquiry or trial to another a Magistrate under Section 192. Provided further that if the Magistrate makes over the case to another a Magistrate under Section 192 and examining the complainant and the witnesses, the later Magistrate need not re-examine them.

VII. Section 457; Procedure by police upon seizure of property:

- Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he things fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.
- If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate things fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

VIII. Section 458; Procedure where no claimant appears within six months:

- If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired him, the Magistrate may, by order direct that such property shall be at the disposal of the state Government, and may be sold by that Government and the proceeds of such sale shall be dealt with in such manner as may be prescribed.
- An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

IX. Section 468; Bar to taking cognizance after lapse of the period of limitation:

- Except as otherwise provided elsewhere in this Code, the Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.
- The period of limitation shall be:-
 - a) Six months, if the offence is punishable with fine only;
 - b) One year, if the offence is punishable with imprisonment for a term not exceeding one year;
 - c) Three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.
- [For the purpose of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]

X. Section 470; Exclusion of time in certain cases:

- In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in a good faith in a Court which from defect of jurisdiction or other cause of alike nature, is unable to entertain it.

- Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

- Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period for such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation:- In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

- In computing the period of limitation, the time during which the offender:-
 - a) Has been absent from India or from any territory outside India which is under the administration of the Central Government, or
 - b) Has avoided arrest by absconding or concealing himself, shall be excluded.

XI. Section 473; Extension of period of limitation in certain cases:

Notwithstanding anything contained in the foregoing provisions of this chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of Justice.

For exercising the power of Fertiliser Inspector, some of the Section in Indian Penal Code 1860 may also support and will give protection to the Fertiliser Inspector are as follows:

I. Section-21 Public Servant:

The words “public servant” denote a person falling under the description hereinafter following namely “Every Officer [the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

II. Section – 26 Reason to believe:

A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing but not otherwise.

III. Section – 27 Property in possession of wife, clerk or servant

When property is in the possession of a person’s wife, clerk or servant, on account of that person, it is in that person’s possession within the meaning of this Code.

IV. Section-186 Obstructing public servant in discharge of public functions:

Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both.

Classification of Offence - the offence under this Section is non-cognizable, bailable, non-compoundable and triable by any Magistrate.

V. Section 187; Omission to assist public servant when bound by law to give assistance:

Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

And if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Classification of Offence – The offence under this section is non-cognizable, bailable, non-compoundable and Triable by any Magistrate. If willfully neglecting to aid a Public Servant who demands aid in the execution of process, the prevention of offences, etc., it is non-cognizable, bailable and triable by any Magistrate.

VI. Section 189; Threat of injury to public servant:

Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Classification of Offence: The offence under this Section is non-cognizable, bailable, non-compoundable and triable by any Magistrate.

2.5 SOME IMPORTANT FORMATS FOR ADMINISTRATIVE AND LEGAL ACTIONS TAKEN BY THE ENFORCEMENT AUTHORITIES

STOP SALE NOTICE

(Order under Clause-28 of the Fertiliser (Control) Order 1985 requiring a person not to dispose of any stock in his possession)

Whereas, I have reason to believe that a contravention of the FCO 1985 has been or is being or is about to be committed by you in respect of the stock of fertilizer in your possession as detailed below.

Sl. No	Name of Fertiliser	Batch No. If applicable	Name of manufacturer/ importer	Quantity	Remarks
1	2	3	4	5	6

In exercise of the powers conferred to me under clause 28(1) (d), I hereby order to stop the sale, distribution or use of the said stock until further order.

Date:

Fertiliser Inspector
Office seal

**PROFORMA OF NOTICE TO BE ISSUED TO DEALER FOR SEIZURE OF FERTILISER STOCK
UNDER CLAUSE 28(1) (d)**

No.

Date:

NOTICE

Whereas, I have reason to believe that the stock of fertilizer in your possession, is being distributed, sold or used in contravention of the clause of the Fertiliser (Control) Order, 1985.

Under Clause 28(1) (d) of the Fertiliser (Control) Order, I hereby seize the following stock of fertilizer lying at the premises.....

Sl. No.	Name of Fertiliser	Batch No. If applicable	Name of manufacturer/ importer	Quantity	Remarks
1	2	3	4	5	6

You should not sell/dispose off or move the stock from the place where it is stored at present until further orders.

Signature of Fertiliser Inspector

To

M/s.....
.....

Witness: The above seizure notice issued to the Dealer in our presence.

1. Signature.....

2. Signature.....

Signature of Dealer in token
Of receipt of this notice

PROFORMA FOR BOND FOR CUSTODY OF SEIZED FERTILISERS

I.....(Name),S/o.....
(Name) resident of.....(address) hereby undertake that I shall keep the fertilizer(s) (whose details are given below), which has been seized by the Fertilizer Inspector Sri.....From the sale depot/godown of M/s..... on(date) in safe custody and shall produce the fertilizer(s) before the competent authority, when required, I also undertake to give effect to the further orders of the competent authority as to the disposal of the same.

DETAILS OF THE FERTILISERS

Sl.No	Name of Fertiliser	Batch No. If applicable	Name of manufacturer/ importer	Quantity	Remarks
1	2	3	4	5	6

Signature of Undertaker

Date:

Place:

Signature of Witness

1.

2.

MAHAZAR / PANCHNAMA

This day, the At This mahazar is drawn at the premises of M/s.....
.....

Fertilizer dealer situated at in the presence of the following witnesses.

1. Sri.....
.....
2. Sri.....
.....

Sri , Fertiliser Inspector has visited the above said fertilizer dealer premises and the above witnesses were summoned by him. The F.I., has taken the sample out of stock available with the dealer as per prescribed sampling procedure and prepared these test samples out of that, All the three samples were packed, labeled and sealed separately by the Fertiliser Inspector. The dealer has also affixed his seal on all the samples bags and received one test sample given by the Fertiliser Inspector.

The verification of the stock register in premises showed..... bags of fertilizer each weighing about 50 Kg. The name of the manufacturer and Batch No. mentioned on the bags was as.....

Sri.....proprietor of the firm, M/s..... Was present during the entire Mahazar proceedings.

The Mahazar proceedings were drawn between.....A.M to.... A.M. on the above said date.

Sd.....

Fertiliser Inspector
Name and Address

- | | |
|--------------|--------------|
| 1. Sd..... | 2. Sd..... |
| Name..... | Name..... |
| Address..... | Address..... |

Date :

Place:

GOVERNMENT OF ODISHA OFFICE OF THE FERTILISER INSPECTOR

No. _____

Date: _____

**PROFORMA FOR REPORTING THE MATTER OF SEIZURE TO
COLLECTOR UNDER CLAUSE (28) (3)**

To
The District Collector

Sub: Seizure of fertiliser stock of M/s. _____

Under Clause (28)(1)(d) of FCO 1985, intimation under Clause (28) (3) of FCO 1985 – reg

Sir,

I am the _____ (designation) and my office is situated at _____ . By virtue of my office, I am also appointed as Fertiliser Inspector vide Govt. Notification No. _____

Dtd _____ under Clause 27 of FCO 1985. The objective of the order is to regulate trade, quality and price of fertilisers and to ensure the supply of standard quality of fertilisers to the farmers at controlled or reasonable rates.

As per the provisions of FCO 1985, and powers delegated under Clause 28 (1) (d) of the said order, I, the undersigned inspected the premises of M/s. _____ and found that the said party was selling / manufacturing the fertilisers as detailed below in contravention of Clause _____. (mention Clause of the FCO 1985) and have the stock of _____. (Quantity), fertilisers whose details are mentioned in the seizure notice (a copy of which is enclosed), has been seized by me on _____ date at _____ hrs. The custody of the seized stock has been handed over to Sri. _____ for its safe custody and security. This is being intimated in pursuance of Clause 28 (3) of FCO 1985 for further necessary action.

Signature and seal of Fertiliser Inspector

Office of the Fertiliser Inspector

Date _____

**NOTICE TO THE DEALER TO FURNISH THE DETAILS OF FERTILISER STOCK AND TO
PRODUCE DOCUMENTS ETC.,**

You are hereby informed that the sample was taken by me on _____ from the stock of fertiliser in your premises, and the same sample had been sent to the fertiliser analyst for analysis. The fertiliser analyst report No. _____ stating that the fertiliser is non-standard has been received by me and as per sub-clause (3) of Clause 30 of the said order, a copy of the said analyst report is herewith sent to you.

Therefore the prosecution is proposed to be launched against you for having sold the non-standard fertiliser.

For the above reasons you are hereby called upon to produce

1. Stock register
2. Bill book from the date of taking sample to till date
3. Invoice for having received the non-standard fertiliser from the manufacturer
4. The details of non-standard fertiliser stock held by you.
5. Certificate of stores in respect of non-standard fertiliser
6. Name & address of person (s) responsible for conduct of business of dealer
7. Name & address of person (s) responsible for conduct of business of manufacturing unit and officer notified as nodal officer (under Clause 24 of FCO 1985).

Within ten days from the date of receipt of this notice.

Your attention is drawn to sub-clause (1) and (4) of Clause 28 of the said order, whereby you are required to comply with my requirements and failing compliance to which you are liable to be prosecuted, in addition to the offence for having sold the non-standard fertilisers as stated above.

Sd/-

Fertiliser Inspector

Seal of the Office

To,

M/s. _____

MODEL CHARGE SHEET

BEFORE THE COURT UNDER ECA AT _____

CRIMINAL CASE NO. _____ OF _____ 10

COMPLAINANT _____ State Government, Represented by the F.I.,

V/s,

Accused _____

1. Sri. _____

Managing Partner / Proprietor

2. M/s. _____

Fertiliser Dealer

3. Sri . _____

Managing Director / Partner

4. M/s. _____

Manufacturer of Fertiliser

5. Sri. _____

Designated Officer of M/s.

COMPLAINT FILED UNDER SECTION 12AA (e) of ECA, 1955

1. It is submitted that the complainant is working as _____ (designation / address of FI), he has been appointed as FI vide Govt. Notification No. _____ dtd _____ under Clause 27 of FCO 1985. The official gazette notification of the said appointment order is produced herewith and marked as Annexure I.
2. It is submitted that the first accused is the Managing Partner of M/s. _____ and he is incharge and responsible for conduct of the business of the said firm. The said firm is doing business as a fertiliser dealer and holding the dealership Authorisation Letter for selling the fertiliser. The non-standard fertiliser in question is sold by the first accused. The said dealers authorisation letter is produced herewith and marked as Annexure II.
3. It is submitted that the second accused is the Managing Director of the Company M/s. _____ and he is incharge and responsible for the conduct of the business of the said company. The said company is manufacturing fertiliser / fertiliser mixtures.
4. It is submitted that the third accused has been appointed as responsible officer by M/s. _____ and is responsible for compliance of the provisions of FCO 1985.

5. It is submitted that during the inspection by the complainant, the first accused / his representative was present and the complainant drew the sample of the fertiliser – from the stock of the first accused and from there three test samples were prepared as per procedure laid down in Schedule II of FCO. Each test sample was sealed by the complainant in presence of the first accused. And one sample was given to the first accused alongwith a copy of Form J. Acknowledgement was obtained in Form J as per the provisions of Schedule II Part A 5 (iv). The said acknowledgement is herewith produced and marked as Annexure IV. The second sample was sent to the Incharge, Fertiliser Quality Control Laboratory through Form K marked as Annexure V and the 3rd sample has been retained / deposited with Senior Officer as reference sample.
6. As per the powers delegated under Clause 28 (2) of FCO 1985, the complainant had issued a notice to the dealer M/s. _____ to prevent the disposal or movement of fertiliser. The copy of the same is produced as Annexure VI.
7. It is submitted that the stock of non-standard fertiliser has been seized from the business premises of the first accused by the complainant on _____. At the time of seizure a Mahazar/ Panchnama has been prepared before the witnesses and which is marked as Annexure VII. The intimation of the said seizure has been given to the District Collector on _____ which is marked as Annexure VIII.
8. It is submitted as per the report of Incharge, Fertiliser Control Laboratory, the sample of fertiliser in question is non-standard. The said report copy has been delivered to the first accused and an acknowledgement has been delivered to the first accused and an acknowledgement has been obtained. The said acknowledgement is produced and marked as Annexure IX.
9. It is submitted that complainant on _____ has seized the stock register, bill book and cash book of the first accused firm under a Mahazar/ Panchnama. The said Panchnama is produced and marked as Annexure X.
10. It is submitted that the first and second accused were issued the Show Cause notice by the complainant. In reply to the said notices the first accused has given a written reply stating that the non-standard fertiliser in question was manufactured by second accused. The second accused has replied that the non-standard fertiliser in question was manufactured by M/s. _____. The reply of accused Number one and second are produced herewith as Marked as Annexure XI and XII.

11. It is submitted that the first accused has committed an offence under Clause 19 (a) read with Section 7 (i)(a)(ii) for having sold the non-standard fertiliser in question. The second accused has committed an offence under Clause 19 (a)/ (b)* read with the Section 7 (i)(a) (ii) for having manufactured the non-standard fertiliser in question.

Strike out whichever is not applicable

12. The Fertiliser (Control) Order 1985 has been specified as Special Order under Section 12 (A) of ECA 1955 for the purpose of summary trial.
13. It is submitted that the Government has accorded consent for launching prosecution against the accused under provisions of Section 12 AA (e) of ECA 1955, the same has been produced and marked as Annexure XIII.
14. It is submitted that the offence is triable only by the Special Court as per the Provisions of 12 AA (e) of ECA 1955.
15. It is submitted that the offences are committed within the jurisdiction of the Court.

UNDER THE CIRCUMSTANCES AND FOR THE PURPOSES OF MEETING THE ENDS OF JUSTICE, IT IS HUMBLY PRAYED THAT THIS HONORABLE COURT BE PLEASED TO TAKE COGNIZANCE OF THE OFFENCE AGAINST BOTH THE ACCUSED AND PUNISH BOTH OF THEM AS PER THE LAWS OF LAND.

Date:

Place:

Sd. _____
Fertiliser Inspector

List of Witnesses:

- | | | |
|----|----------------------|----------------|
| 1. | Sri. _____ | Address: _____ |
| | Fertiliser Inspector | _____ |
| 2. | Sri. _____ | Address: _____ |
| 3. | Sri. _____ | Address: _____ |

List of Documents produced

Annexure 1 to 13

VARIOUS OFFENCES UNDER FCO WITH RELEVANT FCO/ ECAPROVISION

Sl. No.	Type of offence	Contravention of FCO/ Corelation with ECA	Punishment under Section No. of ECA.
1	Production/ Manufacturing of mixture of fertilizer without obtaining Certificate of Manufacture.	FCO-12	7(1) (a) (ii)
2	Manufacture of grades not Notified by State/ Central Govts.	FCO-13 (1), (2)	-do-
3	Non-maintenance of Lab. Equipments.	FCO- 21 A & Terms and Conditions of Form-D	-do-
4	Manufacture of Fert. Mixture at undeclared premises.	FCO-12, Term & Condition-5 of Form F	-do-
5	Manufacture of Mixture of Fertilizer under the direction Supervision/ control of unqualified person.	FCO-12, Term & Condition-5 of Form F	-do-
6	Manufacture of Mixture of Fertilizer without renewal of CM after its expiry	FCO-12, 18(5)	-do-
7	Manufacture of fertilizer which is not of prescribed standard	FCO-19 (a)	-do-
8	Manufacture of mixture of fertilizer which is not of prescribed standard	FCO-13(1), 13(2), 19 (b)	-do-
9	Sale of Fertilizer without obtaining the Certificate of Registration/ Acknowledgement	FCO-7	do
10	Sale of Fertilizer from undeclared premise(s)	FCO-7, Term & Condition-4 of Form B & A1	do
11	Sale of fertilizer at price higher than notified/ declared price	FCO-3(3)	do
12	Non display of stock position & price list by the retail dealer.	FCO-4	do
13	Sale of fertilizer without issuing cash/ credit memo in Form-M	FCO-5	do
14	Sale of fertilizer without renewal of DRC after its expiry	FCO-7, 11(5)	do
15	Sale of fertilizer in bags which are not packed & marked in specified manner.	FCO- 19 (c),(i), 21(a)	-do-
16	Sale of fertilizer which is an imitation or a substitute for another fertilizer under the name of which it is sold.	FCO- 19 (c) (ii)	-do-

Sl. No.	Type of offence	Contravention of FCO/ Corelation with ECA	Punishment under Section No. of ECA.
17	Sale of adulterated fertilizer	FCO- 19 (c) (iii)	-do-
18	Sale of fertilizer in bags bearing name of fictitious manufacturer	FCO- 19 (c) (iv)	-do-
19	Sale of any substance as fertilizer which is in fact, not a fertilizer.	FCO-19 (c) (vi)	7(1) (a) (ii)
20	Sale of Fertilizer without exhibiting the minimum guaranteed percentage by weight of plant nutrient.	FCO- 19 (c) (vii), 21 (a)	-do-
21	Keeping more than one bag of one variety of fertilizer in unsealed condition for sale.	FCO-22 (a)	-do-
22	Sale of fertilizer in bulk to the farmers by manufacturer without authorization of Central Govt.	FCO-22 (c)	-d-
23	Sale of fertilizer for industrial use by wholesale/ retail dealer without proper permission.	FCO- 7, 2 (III), (Term & Condition- 7 of Form –B)	-do-
24	Sale of fertilizer for agriculture use by an industrial dealer without proper permission.	FCO- 7, 2 (II), (Term & Condition-7 of Form-B)	-do-
25	Sale of fertilizer for both industrial & agricultural use from the same premises by Manufacturer/ Importer/ Pool Handling Agency.	FCO-25 (3)	-do-
26	Sale of non-standard fertiliser without marking the bags in specified manner.	FCO-23(1)	-do-
27	Non furnishing of required information to the fertilizer inspector	FCO-28 (1) (a)	7 (1) (a) (i)
28	Obstruction in drawal of samples by the inspector	FCO-28(1) (b)	7 (1) (a) (ii)
29	Obstruction in the entry or search by the inspector	FCO- 28 (1) (c)	-do-
30	Removal of bags of fertilizers which have been detained/ seized by the inspector.	FCO- 28 (1) (d)	-do-
31	Refuse to sign the Form-J & other non-cooperation with inspector.	FCO-28(1) (b), (Terms & Condition 2 of Form-B)	-do-
32	Non-maintenance of records etc. prescribed manner.	FCO- 35 (1) (a)	7 (1), (a) (i)

Sl. No.	Type of offence	Contravention of FCO/ Corelation with ECA	Punishment under Section No. of ECA.
33	Non-furnishing of returns, statements/ other information, as required to concerned authority.	FCO-35 (1) (b) (Terms & Condition-5 of Form B.)	-do-
34	Furnishing false information in return, declarations, record; etc.	FCO-35 (1) (b)	9 (i), 9 (ii)
35	Abetment to contravention of FCO	ECA—8	8
36	Withholding from sale of fertiliser ordinarily kept for sale.	ECA-3 (2) (e)	7 (1) (a) (i)
37	Failure of importer to inform about imported fertiliser.	FCO-35 (4)	7 (1) (a) (i)
38	Non-maintenance of separate records for wholesale/ retail by a person having MOI for both	FCO-35(2)	7 (1) (a) (i)

CASE STUDIES ON QUALITY CONTROL OF INSECTICIDES

A. Y.R.S. Rao vs Deputy Director Of Agriculture ... on 16 November, 1979

1. In this batch of Writ Petitions the validity of Sections. 3 (K)(1), 29, 30, 31, 32 and 33 of the Insecticides Act, 1969 (Central Act 46 of 1968) (hereinafter referred to as the Act or Insecticides Act) is challenged as unconstitutional, violating Articles. 14, 19(1) (d)(f) and (g) and 21 of the Constitution of India.
2. Writ Petition No. 4024/78 and Writ Petition No. 4025/78 are by the Branch Manager and Regional Sales and Technical Manager of Bayer (India) Limited (Hereinafter referred to as the company) and are filed in the following circumstances.
3. The Bayer (India) Limited is a company registered under the Companies Act with its registered Office at Bombay. The Company manufactures among other things insecticides, pesticides and other chemicals including metasystox 25%. Sri Y.R.S. Rao, the petitioner is the Branch Manager and Regional Sales and Technical Manager of that company. On 19th Feb. 1977 a complaint was filed by the Deputy Director of Agriculture, Karimnagar, 1st respondent against one Avunuri Satyanarayana, Proprietor of Avunuri Satyanarayana and Company in the court of the Judicial First Class Magistrate at Sultanabad for an offence punishable under Section 29 of the Insecticides Act which was registered as C. C No. 35/77. It was alleged therein that insecticides known as metasystox 25 per cent manufactured by the company purchased by the insecticides Inspector from respondent No. 2 on analysis by the Insecticides Analyst as per his report dated 30th Sept. 1976 was found to contain 22.19 per cent active ingredient and that thus the product manufactured by the company was misbranded inasmuch as the label contained a statement which was false or misleading in material particulars and deceptive in respect of its contents. The learned Magistrate after recording the evidence of the 1st respondent and the Insecticides Inspector as prosecution witnesses, issued notice to the company under Section 319 Cr.P.C. The Petitioner took an objection before the Magistrate that as no sanction or consent of the State Government was obtained under Section 31 of the Act the Magistrate had no jurisdiction to take cognizance of the complaint. In view of the fact that the Managing Director of the Company had left India on his request, the Magistrate permitted the petitioner to represent the company. It is contended that the entire; prosecution is based on the report of the analyst given under Section 24 of the Act and that Section 24 of the Act is violative of the principles of natural justice and the fundamental right guaranteed to a citizen under Article 14 of the Constitution of India. It is also contended that the petitioner's fundamental right to carry on business guaranteed to him under Article 19(1)(f) and (g) of the Constitution is infringed by making the report of the Analyst conclusive in a court of law. It is further

asserted that inasmuch as a copy of the report and a sample is given to the person from whom the misbranded insecticide was purchased by the Insecticides Inspector but no such sample or copy is given to the company which manufactured the pesticides and which is also sought to be proceeded against the fundamental right guaranteed to a citizen under Article 14 of the Constitution of India is violated. It is also urged that inasmuch as a result of the prosecution based on such a report the petitioner is liable to be sentenced for imprisonment, that law offends Article 21 of the Constitution. The petitioner therefore prays for declaring Section 24 of the Insecticides Act as unconstitutional and void and for quashing the report of the insecticides Analyst dated 30th Sept. 1976 and to issue a writ of mandamus against respondents 1, 3 and 4 i.e. the State of Andhra Pradesh and the Union of India restraining them from taking any proceedings against the petitioner and in particular to quash the proceedings in C. C. No. 35/77.

24. We have, therefore, no hesitation in rejecting the petitioners contention that Section 30 of the Insecticides Act infringes, the fundamental rights guaranteed to a citizen under Articles 14, 19 (1)(f) and 21 of the Constitution.
25. Lastly it was contended that Section 33 of the Insecticides Act declares that every person responsible to the company, ' for the conduct of the business of the Company, shall be liable to be proceeded against in respect of any offence under the Act. Section 33(1) of the Insecticides Act reads as follows:
26. In *Ramanlal Chimanlal v. State* the Gujarat High Court while dealing with Section 92 of the Factories Act which renders the occupier or the manager of the factory liable for the contravention of the provisions of the Factories Act by the Company held that "Section 92 is a perfectly valid piece of legislation in so far as it makes the occupier and manager of a factory guilty of an offence for contravention of any of the provisions of the Act or the rules, even though the actual contravention may not be by the occupier or the manager and the contravention may have occurred without the knowledge, consent or connivance of the occupier or manager and this must be so. for otherwise the object and purpose of the regulatory provisions contained in the Act and the rules would be defeated. There is nothing unreasonable in the occupier and the manager of the factory being made responsible for the observance of the provisions of the Act and the rules and providing that they shall be guilty of an offence if there is contravention of any of those provisions. Only by such provision it would be possible to effectively enforce the provisions of the Act and the rules." Section 33 of the Insecticides Act imposes no more additional liability on the persons in charge of the business of the company than it imposed on any person who conducts his own business. As the persons responsible for the conduct of the business of the company they must bear the responsibility for any act or omission which constitutes a contravention of the provisions of the Insecticides Act. A person in charge of the conduct of the business of a company engaged in import manufacture, distribution

or sale of insecticides which involves risk to human beings and animals must take the additional responsibility of seeing that there is no contravention of the provisions of the Act on pain of being prosecuted and convicted for the offence. These provisions also in our view, for the reasons already discussed, do not infringe any of the fundamental rights guaranteed to a citizen. that provision merely holds the persons responsible for conduct of the business of the company liable in the case of the offences committed by the company, for a company is a juristic person whose affairs have to be conducted by a natural person.

27. In the result we do not see any merit in these writ petitions. They are accordingly dismissed with costs. Advocate's fee Rs. 150/- in each.

B. M/S.Saidharani Shakambari Pvt. ... vs The Commissioner & Director of ... on 10 July, 2015

These writ petitions relating to the manufacture and sale of bio-products are being disposed of finally by this common order with the consent of both the counsel.

2. Every year, number of writ petitions are being filed on the present issue and this Court passed several orders by giving guidelines.
3. It is stated that the writ petitioners are challenging the action of the respondent-Commissioner and Director of Agriculture, Hyderabad in interfering with the manufacture, storage and sale of bio-products by issuing a Memo No.II (1)2085/2005, dated 21.01.2006. In the letter of even date by the respondent along with the said Memo, it is stated that these products are not covered either under **Insecticides Act**, 1968 or under Fertilizer Control (Order) **Act**, 1985. The substance of the Memo is that since these products are not covered under **Insecticides Act**, 1968 and Fertilizer Control (Order), 1985, the stocking/ exhibiting for sale from the licensed premises is not permitted. The petitioners, who are traders of the said bio-products, filed the above writ petitions on the ground that when the activity is not governed by the provisions of the Act, the respondent authorities cannot interfere with the activities of the petitioners.
4. a. A counter affidavit is filed by the Commissioner and Director of Agriculture, Andhra Pradesh State, Hyderabad stating that in spite of the directions of this Court from time to time, the respondent authorities are not able to regulate/prevent marketing of the bio-products laced with the chemicals which are harmful to growth of the plant, animal and human beings. It is further stated that Sections 19, 20 and 21 of the **Insecticides Act** and the Rules made thereunder empower the **Insecticide** Inspectors to search premises, seize documents, stop distribution of sale of **insecticides** and take **insecticide** samples for analysis. The directions of this Court are not serving the purpose. Unless the Department has got sample batch-wise either from the manufacturing premises or from the marketing outlets at any point of time, the Department will not get the correct result basing on the analysis report. The Department of Agriculture is analyzing the bio-

product samples in National Institute of Plant Health Management, Hyderabad and it was found that several products manufactured by various companies found to be laced with chemical insecticides. It is the responsibility of the manufacturers of the product to declare the contents/composition and its preparation. Though the manufacturers mention that they manufacture herbal products but they have insecticidal properties and therefore, the provisions of Insecticides Act are attracted. Even if it is not figuring in the schedule, it is for the manufacturer to submit proposal to CIB&RC and get it approved after due testing and proof that product had such properties. In order to control the quality of product, it was stated that the following measures are essential:

- b. To direct the firms to pay the cost of the samples for each batch of the product and restrict the quantity to the maximum size of blending vessel. The firm should furnish maximum size of blending vessel to the verifying competent authorities.
 - c. To allow the Department to destroy products after due seizure whenever bio-products are found laced with **insecticides** included in the Schedule-III of **Insecticides Act, 1968** are found in market; and
 - d. in case, **insecticides** are found during the analysis of product, concerned authorities should be allowed to take criminal **action** on the erring firms.
12. The **Insecticides Act, 1968** was enacted for regulating the import, manufacture, sale, transport, distribution and use of **insecticides** with a view of prevent risk to human beings or animals and matters connected therewith. It was amended from time to time and lastly in the year 2000. Section 3 (e) of the **Act** defines **Insecticide** and it reads thus:
- e. **Insecticide** means,
 - i. Any substance specified in the schedule; or
 - ii. Such other substances (including fungicides and weedicides) as the Central Governemnt may, after consultation with the Board, by notification in the official Gazette, include in the schedule from time to time; or
19. Keeping in view the above facts and circumstances, all these writ petitions are disposed of with the following directions:
- i. The petitioners shall not deal with bio-products without maintaining proper packing and marking of the product. The packing of bio-products shall contain the ingredients included in the product, analytical procedure and their percentage. This enables the authority to verify the contents of the product.
 - ii. The manufacturer of every bio-product should intimate the concerned Commissioner of Agriculture with regard to the manufacturing activity undertaken by it with name of the product, process and its content. The Commissioner of Agriculture need not grant any permission and mere information from the manufacturer is enough for this purpose.

- The Commissioner of Agriculture shall issue an acknowledgement of such information.
- iii. The dealer of bio-products should have the information with regard to the source of purchase of bio-products and shall maintain a register for the said purpose in order to enable the authorities to inspect the stock from time to time.
 - iv. It is for the authorities to inspect the bio-products in the location of the manufacturer prior to its despatch to the dealer or in the location of the dealer and take sample thereof in order to verify whether any such product contains harmful substances attracting the provisions of Insecticides Act, 1968 or used as a fertilizer violating the provisions of Fertilizer (Control) Order, 1985. The sample of the product shall be collected from the said source by the authorities under the signature of the persons dealing with bio-products and the authority who is collecting for the purpose of sending it to the appropriate Laboratory in order to verify the contents of the said product.
 - v. From a copy of the report if any prohibited substance is found by the authority, the authority shall issue a notice along with a copy of the report to the persons dealing with the product and take necessary action against such persons either under the provisions of Insecticides Act, 1968 or Fertilizer (Control) Order, 1985. After receipt of the explanation from the person, the authority can pass appropriate orders under the provisions of the said enactments.
 - vi. The report from the concerned Laboratory shall be obtained as expeditiously as possible, preferably not later than a week from the date of collection of the sample and till such time, the concerned authority can withhold manufacture and sale of bio-product. Against the order passed by the authority who collected sample, the aggrieved party can file an appeal to the higher authority as provided in the above provisions if so advised.
 - vii. The collection of samples and the process of passing order shall not be resorted to routinely but should be on credible information that the product is causing damage to the public agriculture activity and on prima facie satisfaction of such information.
 - viii. The respondents shall not violate the law and resort to unnecessary harassment of the manufacturers or dealers in a routine manner.
 - ix. In case of violation of the above directions, it is open to the petitioners to bring it to the notice of the higher authorities of the action of the officers violating the directions, and the higher authority to the authority interfering with the activity of the petitioners shall dispose of the representations with utmost expediency and not later than ten days from the receipt thereof.
20. Miscellaneous Petitions, if any pending in these writ petition, shall stand closed. There shall be no order as to costs.

3. QUALITY CONTROL & ENFORCEMENT OF INSECTICIDES

3.1 Objectives and salient features of the Insecticides Act 1968 & Insecticides Rule 1971

The insecticides Act, 1968 and the insecticides rules, 1971 aims to regulate the import, manufacture, transport, distribution, sale and use of insecticides with a view to prevent risk to human beings or animals, and for matters connected therewith. The salient features of this Act & Rule are:-

- Establishment of Central Insecticides Board & Registration Committee.
- Licensing of persons desiring the manufacture, sale or distribute any insecticides.
- Establishment of Central Insecticides Laboratory.
- Prohibition of import, manufacture, sale etc. of insecticides in contravention provisions of the Act.
- Regulation of transport and storage of insecticides so as to prevent cases of accidental contamination of food with insecticides.
- Provision for taking immediate action by way of prohibition of sale, distribution or use of any insecticide where it is found that the sale, distribution or use of the insecticide is being done in such way as involve risk to human beings or vertebrate animals and where immediate action is necessary.

3.2 Application & Exemption of the Insecticides Act:

Application

Sec. 2 of the Act - The provisions of this Act shall be in addition to, not in derogation of, any other law for the time being in force.

Sec. 4(2) of Cr PC (Code of Criminal Procedure Act 1973)- All offences under any other law shall be investigated enquired into, tried and otherwise dealt with according to the same provision but subject to any enactment for the time being in force regulating the manner or place of investigation, inquiring into, trying or otherwise dealing with such offences.

Exemption

Sec. 38 of the Act - (1) Nothing in this Act apply to:

- The use of any insecticide by any person for his **own house hold purposes or for kitchen garden or in respect of any land under his cultivation**
- Any substance specified or included in the schedule or any preparation containing any one or more such substances, if such substance or preparation is intended for purpose other

than preventing destroying, repelling or mitigating any insects, rodents, fungi, weeds and other forms of plant or animal life not useful to human beings.

3.3 Powers and Duties of Insecticides inspectors (Sec. 21 of the Act r/w Rule. 27, 28) (within area of jurisdiction)

- **Power to enter & search any (dealer/manufacturer/stockiest) premises**, at all **reasonable times** & with such **assistance**, if any as he **considers necessary**, which he has to **reason to believe** that an offence under this Act or Rule **has been or is being or is about to be** committed or for the purpose of **satisfying himself** the provisions of the Act or Rule or condition of the certificate of registration or license are being complied with.
- Power to require production of & to inspect, examine & make copies or to take extract from registers, records or other documents kept by a manufacturer, distributor, carrier, dealer or any other person in pursuance of the provisions of this Act or the rules made there under and Power to Seize the same, if he has reason to believe that all or any of them may furnish evidence of the commission of an offence punishable under this Act or the rules made there under’
- Power to make such examination & inquiry in order to ascertain whether the provisions of the Act or Rule are being complied with & for that purpose stop any vehicle.
- Power to stop the distribution sale or use of an insecticides which he has the reason to believe is being distributed, sold or use in contravention of the provisions of the Act or Rules, for a specified period not exceeding 30 days or unless the alleged contravention such that the defect may be removed by the possessor of the insecticide and power to seize the same.
- To take samples of insecticides and send the same for analysis to the Insecticides analysis.
- To exercise such other powers as may be necessary for carrying out the purpose of this Act & Rule.
- Duty to inspect establishment selling Insecticides not less than **3 times in a year** and inspect manufacturing unit not less than **twice in a year**, to satisfy himself that conditions of license are being complied by him
- To investigate any complaint and to make inquiries in contravention to this Act and Rule.
- to institute prosecution in respect of breaches of the Act
- To maintain all records of inspection including samples collection and seizure of stocks and submit copies to licensing officer
- To report to Govt. on all occurrence of poisoning
- Rule.29 Except official purpose/ required by court of law, shall not disclose any information to any one and not to dispose any stock, Refer Rule-30, 31 & 32 Form-V(A) & V (B)
- Duty to obtain written consent for prosecution (Sec.31(1) of the Act-

- No prosecution for an offence under this Act shall be instituted except by, or written consent of the State Govt. ' or a person authorized in this behalf by the State Govt. (CDAO in District level and ADA(Extn.) In state level)

3.4 Procedure of Pesticides Sampling and Sending to the Lab for Analysis

- When an Insecticide Inspector takes a samples of an insecticide for the purpose of test or analysis , he shall intimate such purpose in writing in the prescribed form V(C) from whom he takes it and in the presence of such person unless he wilfully absents himself to the insecticide analyst for test in the prescribed manner. Sec-22(5), Rule 33.
- When an Insecticide Inspector collects any insecticide sample he shall issue a receipt there for stating there in that the fair price of such sample shall be tendered if the sample, after test or analysis is not found misbranded , which requires a written acknowledgement . Sec-22(3).
- The Insecticide Inspector shall divide the sample into three portions and effectively seal and suitably mark the same and permit such person to add his own seal and mark to all or any of the portions so sealed or marked.
- Small containers may be taken instead of dividing a sample
- The containers may be taken when the insecticide be such that it is likely to deteriorate or be otherwise damaged by exposure shall take three of the said containers after suitably marking and sealing the same .Sec.22(5)
- The Insecticide Inspector shall restore one portion of a sample so divided or one container as the case may be to the person from whom he takes it.
- One portion or container, he shall forthwith send to the Insecticide Analyst for test or analysis.
- The remainder is kept with him, which he shall produce to the court before which proceedings if any, are instituted in respect of the insecticide. Sec-22(6).
- The Insecticide Analyst to whom a sample of any insecticide has been submitted for test or analysis under sub-section (6) of section 22, shall, within a period of [thirty] days, deliver to the Insecticide Inspector submitting it a signed report in duplicate in the prescribed form.-Sec-24(1)
- The Insecticide Inspector on receipt thereof shall deliver one copy of the report to the person from whom the sample was taken and shall retain the other copy for use in any prosecution in respect of the sample. Sec-24(2)
- Any document purporting to be a report signed by an Insecticide Analyst shall be evidence of the facts stated therein, and such evidence shall be conclusive unless the person from whom the sample was taken has within twenty-eight days of the receipt of a copy

of the report notified in writing the Insecticide Inspector or the Court before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report. Sec-24(3)

- Unless the sample has already been tested or analysed in the Central Insecticides Laboratory, where a person has under sub-section (3) notified his intention of adducing evidence in controversion of the Insecticide Analyst's report,
- the Court may, of its own motion or in its discretion at the request either of the complainant or of the accused, cause the sample of the insecticide produced before the Magistrate under sub-section (6) of section 22 to be sent for test or analysis to the said laboratory [which shall, within a period of thirty days, which shall make the test or analysis] and report in writing signed by, or under the authority of, the Director of the Central Insecticides Laboratory the result thereof, and such report shall be conclusive evidence of the facts stated therein. Sec-24(4)
- The cost of a test or analysis made by the Central Insecticides Laboratory under sub-section (4) shall be paid by the complainant or the accused, as the Court shall direct. Sec-24(5)
- Under Rule-25- The fees payable for testing and analysis refer to Second Schedule.

3.5 Misbranded insecticides

sub-clause-(i) of Sec 3(k) relating to misbranding says that

- if its label contains any statement, design or graphic representation which is false or misleading.
- The label of the insecticide does not contain a warning or caution,
- If any insecticide has toxicity ,which is higher than the prescribed level or mixed or packed with any substance.
- The insecticide which not having any registration no. are deemed to be are misbranded and punishable under sec-29.

3.6 Nature of Offence by Dealer/Manufacture/Distributor/ Stockist and related sections as per Insecticide Rule 1971 & Insecticides Act 1968

Sl no	Nature of Offence	Offence under section/ Rules
1	Sale/stock/distribute/exhibit for sale / import/ manufacture Misbranded Insecticides	Section 29-1 (a) of Insecticide Act 1968
2	Insecticides without certificate of Registration	Section 18-a & 29-1 (b) of Insecticide Act 1968
3	Sale/stock/distribute/exhibit for sale / import/ manufacture a insecticide without a license	Section 29-1 (c) of Insecticide Act 1968& Rule 10 of Insecticides Rule 1971
4	Sale/ distribute of Insecticides prohibits under sec-27	Section 18-b & 29-1 (d) & (e) of Insecticide Act 1968
5	Obstruct an insecticide Inspector	Section 29 -1 (f) of Insecticide Act 1968
6	Sale or distribute date expired insecticides	Rule 10 A of Insecticides Rule 1971
7	Sale of Insecticides with consumable item for Human or animal (except for House hold Insecticides)	Rule 10 C of Insecticides Rule 1971
8	Dealer not display the Price & Stock	Rule 10 D of Insecticides Rule 1971
9	Sale of Insecticides in a separate place other than the actual place	Rule 10 (3) of Insecticides Rule 1971
10	Sale of Insecticides without Bill or Cash Memo	Rule 15-1 of Insecticides Rule 1971
11	Non maintenance of Records	Rule 15-2 of Insecticides Rule 1971
12	Non submission of Monthly Report to the Licensing authority	Rule 15-2 of Insecticides Rule 1971
13	Prohibition of sale or distribution of Insecticides unless packed & labelled	Rule 16 of Insecticides Rule 1971
14	Prohibition against altering inscription, etc on containers, labels or wrappers	Rule 20 of Insecticides Rule 1971
15	Prohibition of sale of insecticide for reason of public safety	Section 27 of Insecticide Act
16	Prohibition of sale of insecticide under seizure	Rule 31

3.7 Offences and Punishment.-

Sub Section	Offences	Punishment
1	- Whoever,- - Imports, manufactures, sells, stocks or exhibits for sale or distributes any insecticide deemed to be misbranded under sub-clause (i) or sub-clause (iii) or sub-clause (viii) of clause (k) of section 3; or - Imports or manufactures any insecticide without a certificate of registration; or - Manufactures, sells, stocks or exhibits for sale or distributes an insecticide without a license; or - Sells or distributes an insecticide, in contravention of section 27; or - Causes an insecticide, the use of which has been prohibited under section 27, to be used by any worker; or - Obstructs an Insecticide Inspector in the exercise of his powers or discharge of his duties under this Act or the rules made there under, [shall be punishable-	- For the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both; - For the second and a subsequent offence, with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifteen thousand rupees but which may extend to seventy-five thousand rupees, or with both.]
2	Whoever uses an insecticide in contravention of any provision of this act or any rule made there under	Shall be punishable with fine [which shall not be less than five hundred rupees but which may extend to five thousand rupees , or imprisonment for a term which may extend to six months, or with both.]

3	Whoever contravenes any of the other provisions of this Act or any rule made there under or any condition of a certificate of registration or license granted there under,	Shall be punishable- - For the first offence, with imprisonment for a term which may extend to [one year, or with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees, or with both]; - For the second and a subsequent offence, with imprisonment for a term which may extend to [two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both].
4	If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the Court before which the second or subsequent conviction takes place to cause the offender's name and place of residence,	the offence and the penalty imposed to be published in such newspapers or in such other manner as the Court may direct.

3.8 Privileges under this Act & Rules:

- Rule 29 provides statutory privileges which states that- Except for the purpose of official business or when required by a Court of law an Insecticide Inspector shall not disclose to any person any information acquired by him in the performance of his official duties.
- Under Sec- 94 of CrPC rw Sec- 24 (2) of the Act the insecticides inspector have the power to search to any place suspected to contain contraband insecticides, as if authorized under a warrant by a **D.M., S.D.M or Magistrate of First class**
 - To enter, with **such assistance** as may be required, such place,
 - To search the same,
 - To take possession of any property of article therein found which he **reasonably suspects** to be contraband insecticides.

- To convey such property or article **before Magistrate**, or to guard the same on the spot until the offender is before a Magistrate, or otherwise to dispose of it in some place of safety.
- To take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property
- 3. U/S 21 (3) of the Act r/w sec 42 of CrPc an Insecticide Inspector exercise the Power of police officer u/s 42 of CrPC for the purpose of ascertaining the true name & residence of the person from whom a sample is taken or insecticide is seized .

U/S 42 CrPC on demand the name & address is to be furnished and if the insecticide inspector **has the reason to believe** to be false, he **may be arrested** by such officer in order that his name or residence may be ascertained.

When the true name and residence of such person **not be ascertained** within twenty-four hours from the time of arrest or should be fail to execute the bond or if so required, to furnish sufficient sureties, he shall forth with be forwarded to the nearest Magistrate having jurisdiction.

4. Sec-23 of the Act provides that Persons in charge premises where any insecticide is being manufactured or is kept for sale or distribution shall, on being required by an insecticide Inspector shall legally bound to disclose place where insecticides are manufactured or kept.
5. As per **section 20 (2) of the Act** insecticides inspector deemed to be a public servant within the meaning of section 21 of I.P.C, 1860. In section 21 in description Eight it is stated that "**Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offenses, to bring offenders to justice, or to protect the public healthy safety or convenience.**"
6. **As per Sec 35 of the Act** — In exercise of the duties done in good faith or intended to be done under the Act an protection against prosecution and proceeding is provided. An presumption u/s 114 (e) of I.E Act. is also made available i.e the court may presume "**the judicial and official Acts have been regularly performed.**"
7. As per Sec. 29 (1)(f) - No one can obstructs an Insecticide Inspector in exercise of his power or discharge of duties under the Act.

3.9 Written Consent, Cognizance & Trial:

Sec. 31 of the Act (1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of the State Govt., or a person authorized in this behalf by the State Govt. (2) No Court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the First class] shall try any offence under this Act..

Sec.31 (A) Special Courts r/w Sec. II, 16 of CrPC - (Establishment of Court of Judicial Magistrate/ Metropolitan Magistrate) for the purpose of providing **speedy trial** of the offences under the Act Courts of Judicial Magistrate First Class, or, as the case may Metropolitan Magistrates, in such district or metropolitan area to be Special Courts for the purposes of this Act.

Written Consent: -

The sanction of the State Govt, or authorized office is sine quanon for launching prosecution against any individual or corporation. Reading this provision along with sec 33 of the Act, it becomes clear that if prosecution is to be launched against the company or the person in charge of the company or an officer of the company, sanction to prosecute is the condition precedent for each of them **(Vinod Goyal V.State of Punjab,1996 Cr LLJ 3519(P &W))**

Sec. 31 of the Insecticides Act contemplates a consent to prosecute, and not the sanction to prosecute, Needless to state that the term 'consent' to prosecute is totally different from the term "Sanction" to prosecute. The sanction to prosecute implies application of mind to the facts of the case before the sanctioning authority, granting the sanction. The term "Consent" to prosecute would not necessarily, involve such exercise. These two terms are not synonymous to each other. Therefore, the matter did not depend on the application of those criteria which would normally apply to "Sanction".

(V.K.Sharma Vs. State of Punjab, 1996 (I) All India Cri.LR 938(P&H))

3.10 Cognizance: Sec. 190 (1) of CrPC deals with cognizance of offence by the Magistrate - Any Magistrate of First class may take the cognizance of the offence -(a) upon receiving a complaint of facts which constitute such offence.....

Sec.468 CrPC deals with bar to taking cognizance after lapse of the period of limitation J(I)Except as otherwise provided elsewhere in the code no court shall take cognizance of an offence of the category specified in Sub sec. 2 after expiry of the period of limitation. (2) The period of limitation shall be (a) Six months if the offence is punishable with fine only, (b)One Year if the offence is punishable with imprisonment for a term not exceeding One Year,(c) Three Years if the offence is punishable with imprisonment for a term exceeding One Year but not exceeding Three Years

Trial: Sec. 29 (2) CrPC deals with the power sentences which the Magistrate may pass. In sub sec. 2 the Court of Magistrate first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding ten thousand rupees, or of both. The special court/ the competent court after receipt of the complaint shall proceed as per sec. 200 of

CrPC (examination of the complainant / witness if any) and as per sec. 202CrPC (inquiry of the complaint) either dismiss the complaint u/s 203 CrPC or proceed u/s204 CrPC if there is sufficient ground for proceeding, took cognizance & issue the processes.

Sec.29 of the Act deals with offence and punishment - which prescribe imprisonment and fine. Sec. 2 (x) of CrPC defines warrant case which means a case relating to an offence punishable with death, imprisonment for life or imprisonment for term exceeding two years and sec. 2(w) CrPC defines summons case which means case relating a offence not being a **warrant case**.

As the punishment prescribed u/s 29 of the Act for imprisonment not exceeding two years

Summons trial procedure is followed as per sec. 251 to 259 of Ch - XX of CrPC,. Sec. 256 CrPC deals with -Non-appearance or death of complainant- (1) If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent there to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything here in before contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day. Personal attendance may be dispense with by the court where the complainant represented by the officer conducting prosecutions.

An offence committed under this Act is a non-cognizable offence as per first schedule part-II

Appended to CrPC 1973 (if the offence punishable with imprisonment for less than three years or with fine only the offence is non-cognizable and bailable.) Ref. sec. 2(c) cognizable offence and sec.4 of CrPC.

During the trial (hearing of the case) prosecutions has to proves its case beyond all reasonable doubt by adducing evidence either orally or documentary and by producing material objects.

Sec. 5 of LE Act state that evidence may be given of facts in issue or relevant facts.

*** The accused against whom prosecution /complaint filed u/s - 29 of the Act may be**

- A persons or a group of persons- - importer/ manufacture - Agent Distributer/ dealer/ wholesaler- Retailer/ Stockist.
- Juristic person / company / partnership firm

3.11 Guidelines of initiation of prosecutions

1. If there is reason to believe that offences has been committed (as per sec.21 (1) (a),(b) & (d) then power to enter / search /inspect / examine the records & made the seizure / to stop the distribution, sale or use of insecticides.

2. 2. Sec. 24 & 22 (6):

- Where samples were purchased from licensed manufacture and the Same were drawn from sealed containers, liability lies upon the manufacture (Sec. 30 (3) of the Act
 - If the shelf life of the sample expired by the time the accused are served the report of analyst u/s 24(2), the right enshrined in 24 (4) of the Act is lost, through the accused had the time of 28 days. -
 - Persons from whom sample is not taken cannot insist upon being given a sample.
 - Failure to supply the copy of the analyst report will cause prejudice to the accused, u/s 24 (2) & (3)
 - The complaint should be failed and the accused should be served well in time before the expiry of the shelf life of the insecticide in question, otherwise prosecutions will be fatal.
 - Prove of third portion of sample given to the accused.
 - Non-mention of the name of inspector & date on the sample held to be bad.
 - If the Insecticide Inspector has got the sample re-tested, then the right of re-tested, then the right of re-testing stands exhausted.
3. Sec. 33 of the Act r/w Sec. 303 Cr PC (Right of the accused to be defended)
- Every person who at the time of offence was committed was in charge of / was responsible to the company for the conduct of the business of the company. As well as the company.

Exception: The offence committed without his knowledge or that he exercised all diligence to prevent the commission of offence.

- x x x It is proved that the offence has been committed with the consent/connivance of/ is attributable to any neglect on the part of the Director/Manager /Secretary /Other officer of the company- shall deemed to be guilty of that offence.

Presumption guilty (shall presume): Complaint must disclose by averments specific That the accused responsible to the company for the conduct of its business at the time of commission of offence. Mandatory requirement.

- Any other person would be liable along with the company.
- The Insecticide Inspector should not have any disqualification or financial interest.
- By filling complaint in time and as per sec 468 CrPC in the proper court.
- Compliance should be mandatory provisions within limitation (time) drawing of samples/ notice to accused.

- Prayer of confiscation u/s 25 of the Act, prayer for custody/release of records/stock u/s 22 of the Act.
- Cancellation of Registration of insecticides (issued u/s 9) and License (issued u/s 13)
- While complying Sec.21(2) of the Act regarding search & seizure –as per Sec.94 of CrPC to take into custody/possession any person found to have been privy to the deposit /of any property.
- While complying Sec.21(3) of the Act- for ascertaining the true name and residence –as per Sec.42 of CrPC to arrest on refusal to give name and residence. To initiate action u/s 177 IPC who furnishes false information.
- As per Sec. 23 of the Act - Persons bound to disclose place where insecticides are manufactured or kept - otherwise action u/s 187 IPC can be inflicted i.e commission to assist public servant when bound by law to give assistance.
- Present in the Court for evidence.
- Issue order to prohibit sale u/s 17 & 18 of the Act and if the defects are remedied by Central Lab u/s 24(4).
- PR must be writing addressing to a Magistrate having cog. Taking power Against the person & persons for taking action / name & addresses.
- Against the person and persons for taking action/ name and address.
- Details of the offences committed with section of law by the accused persons and regarding accusation.
- Grounds to believe that offence has been committed.
- Samples taken/action taken (Seizure/Prohibition orders, staling of samples/dispatch etc).
- Complaint must disclose averment specifically regarding accusations
- Date / Time / Place of search / Seizure / Sample drawn.
- Name & address of the witness (including the seizure witness) to be examined.
- Prayer to taken action under the code / this Act / IPC / verification / affidavit with signature of Insecticide Inspector
- Must be filed at the earliest and within limitation.
- Details of the M.O produced and other documents prepared/ collected during investigation.
- Information as to previous conviction and supported documents.
- Prayer for enhancement of punishment and Enclosures(Exts)

- Report of Insecticide Analyst (in form XVII) /Central Testing Lab.
- Order not to dispose of any stock (from XVIII)
- Receipt for the seized Insecticides (in form XIX)
- Seizure list / Zimanama
- Intimation to person from when sample is taken (in form XX)
- Copy of the Memo to Insecticide Analyst (Form XXI)
- Copy of the letter dispatch of sample to Analyst for examination having date and name of the Inspector.
- Investigation report.
- Certified copies of previous conviction judgment.
- Preparation of Memo regarding failure to display stock / price list as per Rule IOD
- Copy of the Licence / Registration Certificate.
- Acknowledgement regarding fees paid for testing.
- If sample sent through Regd. Post, its receipt.
- Copy of the specimen impression of the seals of the inspection / person from when sample is drawn. (See with form XXI) and its postal receipt.

3.12 Burden of proof

It is the settled principle of law that in a prosecution the best evidence must be given, otherwise as per section 114(1) "That if a man refuses to answer a question which he is not compelled to answer by law, the answer, if even, would be unfavourable to him".

The Law stands for clarity and precision. Higher the offences/punishments then higher are the standard of proof (strict compliance of law) as mandated in the law. An accused is always presumed to be innocent until unless the charges are proved beyond all reasonable doubts. Surmise/doubts however strong cannot take the place of proof and prosecutions had to walk a mile to prove its case. In order to bring home the charges against the accused the prosecution relies mostly on documentary evidence, oral evidence & circumstantial evidence.

Sec. 30 of the Act - Defence which may or may not be allowed in prosecutions under this Act.

1. Ignorance of the nature or quality of insecticide/ risk involved in manufacture sale or use / circumstance of its manufacture or import.

2. Not to be treated misbranded due to **only plea that** innocuous substances or ingredient/ intermixture of extraneous substance was added or intermixed with the insecticides.
3. If he proves,- (Statutory Defense)
 - That he acquired the insecticide from an importer or a duly licensed manufacturer, distributor or dealer thereof,
 - That he did not know and could not, with reasonable diligence, have ascertained that the insecticide in any way contravened any provision of this Act; and
 - That the insecticide, while in his possession, was properly stored and remained in the same state as when he acquired it.

(Note :- Hence, to defeat the defence the notice & report of sample by the analyst should be given to the manufacturer / importer.)

Sec. 31(1) provision: without knowledge/ exercised due diligence in case of offence by company.

Section 3 of Indian Evidence Act, 1872 defines...

Proved:- “A fact is said to be proved when, after considering the matters before it. The Court either believes it to exist, or considers its existence so probable that a prudent man Ought, under the circumstances of the particular case, to act upon the supposition that it exists.

Sec.101 I.E Act Burden of Proof-Whoever desires any court to give judgement as to any legal right or liability depend on the existence of facts which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Section 102 of I.E Act, 1872 defines.

On whom burden of proof lies: The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. Hence, to prove the case against the accused the legally admissible documentary evidence oral evidence and material objects should be produced before the court for its appreciation and perusal to follow a fine sense of judgment.

Sec.105 I.E Act Burden of Proof- that case of accused comes within exceptions..... to bring the case in any law defining the offence is upon him and the court shall presume the absence of such circumstances.

Section 19 of the Act 1971 r/w Rule 21 & 22 of Insecticides Rules, 1971 deals with

Appointment of insecticides analyst, qualification and their powers, which implies that on the date of search and seizure of any contravened insecticides must not have any disqualification and any financial interest.

Section 20 & 21 of the Act, 1971 r/w rule 26 & 27 of Insecticides Rules, 1971 deals with Appointment, powers, qualification and duties of the insecticides inspectors, which implies that on the date of search and seizure of any contravened insecticides must not have any disqualification and any financial interest.

U/S 24(3) of the Act- a report signed by the insecticides analyst shall be conclusive evidence unless the person challenged within twenty eight days of the receipt copy of the report, in writing to the insecticide inspector/to the Court.

U/S 24(5) of the Act the report of the Director of the Central Insecticide Lab shall be conclusive evidence of the fact stated therein.

3.13 Example on Institution of prosecution For Institution of prosecution legal action on the violation of the provision under Insecticides Act, 1968 and Insecticides Rule, 1971 # Power & duties of insecticides inspector & procedure to be followed

1. No Court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence under this Act.-Sec-31(2)
2. To Institute prosecution in respect of batches of the provisions by filling a complaint before the special court/ competent court . Sec. 2(d) defines “complaint” which means any allegation made orally or in writing to a Magistrate with a view to his taking action under this code, that some person, whether known or unknown has committed an offences, but does not include a police report.
 - To investigate any complain.
 - To make inquiry & inspection to detect the contravention if any.
 - To maintain all record of inspection & action taken.
 - To Pray for confiscation of the stock or misbranded insecticide for confiscation u/s 25 of the Act. i 4- To give evidence in Court of law.
 - To arrest any person liable u/s 42 CrPC, 94 CrPC.
 - To file prosecutions as per Sec. 177 & 187 I.P.C who gave false information u/s 21(3) of the Act, Sec. 23 of the Act and fails to assist u/s 21(2) OF THE Act.
 - To file prosecution as per Sec. 29(1) (f) of the Act - who obstructs the insecticide Inspector to discharge legal duty.

- To file Prosecution 'in violation; of Rule 10(C) - Prohibition against sale or storage of insecticides in certain places.
- Rule 10(D) - Manufacturer and dealer to display stock and price list of insecticides.

In case of the shelf life of the Insecticide Expired-"A complaint was filed belatedly ,prosecution in such case will amount to abuse of process of court" Rajsthan 1999 faj 211 and so others

Where the sample taken from the sealed packing-"Which was kept in the same state by the dealer as obtained from the manufacturer ,the manufacturer alone will be held liable not dealer. (Bharat Pesticide Vs. state of Punjab 1998 faj 261) ,CRM-M-34785-2018 PI Industries Ltd. and others ... Petitioners Versus State of Punjab .Wadha Beej bhandar vs state of Haryana faj 475, reference to Sec-30 of the Act.

Partner-Individual partner of the farm cannot be prosecuted unless there may be some nexus between the partner and the commission of the crime, case may be filed against a company/ Corporate body that includes a farm/other association viz. Director/ Secretary/ Manager Or other Officers .(BASF India vs state of Rajsthan,2005) (Valluri sashtri vs. AP 1981) Sec-33.

3.14 Rule on Transport and Storage of Insecticides in Transit by Rail, Road or Water

Sub rule 35. [Manner of packing, storage while transporting]. –

- Packages containing insecticides offered for transport by rail, shall be packed in accordance with the conditions specified in the Red Tariff, issued by the Ministry of Railways.
- No insecticide shall be transported or stored in such a way as to come into direct contact with foodstuffs or animal feeds.
- No foodstuffs or animal feeds which got mixed up with insecticide as a result of any damage to the packages containing insecticides during transport or storage shall be released to the consignees unless it has been examined for possible contamination by competent authorities, as may be notified by the State Government.
- If any insecticide is found to have leaked out in transport or storage, it shall be the responsibility of the transport agency or the storage owner to take such measures urgently to prevent poisoning and pollution of soil or water, if any.

Sub rule 36. Conditions to be specified for storage of insecticides - (1) The packages containing insecticides shall be stored in separate rooms or premises, away from the rooms or premises used for storing other articles or shall be kept in separate almirah under lock and keys depending

upon the quantity and nature of the insecticides. (2) The rooms or premises meant for storing insecticides shall be well-built, dry, well lit and ventilated and of sufficient dimension.

3.15 Rule on Protective Clothing, Equipment and Other Facilities For Workers During Manufacture of Insecticides

Sub rule 37. Medical examination. - (1) All persons, who are engaged in the work of handling, dealing or otherwise coming in contact with the insecticides during manufacture/ formulation of insecticides or being engaged in spraying during operation shall be examined medically before their employment, and at least quarterly in the case of those engaged in manufacturing/ formulation units, yearly in other cases including operators while in service by a qualified doctor who is aware of risks to which such persons are exposed. Particulars of all such persons, including the particulars of their medical examination, shall be entered in a register [either in physical form or digital form] in [Appendix E to Form III]. Where the insecticide in question is an organophosphorus compound or a carbamate compound, the blood cholinesterase level shall be measured at least once a month of all persons working in the manufacturing units. The blood residue estimation shall be done once in a year in the case of persons working with organo chlorine group of insecticides in a manufacturing/ formulation unit. In the case of spraying people working with the pest control operators, the estimation of cholinesterase level (if working with organo phosphorous or carbamate compounds) and blood residue (if working with organo chlorine group) shall be conducted as and when advised by the doctor as part of the general medical test.

(2) Any person showing symptoms of poisoning shall be immediately examined and given proper treatment.]

Sub rule 38. First-aid measures - In all cases of poisoning, first-aid treatment shall always be given before the physician is called. The Indian Standards Guide for handling cases of pesticide poisoning-Part I, First Aid Measures [I. Section 4015 (Part I)-1967 and Part II symptoms, diagnosis and treatment [I.S.4015 (Part II) -1967 shall be consulted for such first-aid treatment in addition to any other book on the subject. The workers also should be educated regarding the effects of poisoning and the first-aid treatment to be given.

Sub rule 39. Protective clothing –

1. Persons handling insecticides during its manufacture, formulation, transport, distribution or application shall be adequately protected with appropriate clothing.
2. The protective clothing shall be used wherever necessary, in conjunction with respiratory devices as laid down in rule 40.
3. The protective clothing shall be made of materials which prevent or resist the penetration of any form of insecticide formulations. The materials shall also be washable so that the toxic elements may be removed after each use.

4. A complete suit of protective clothing shall consist of the following dresses, namely:-
- Protective outer garment/overalls/hood/hat;
 - Rubber gloves or such other protective gloves extending half-way upto the forearm, made of materials impermeable to liquids;
 - Dust-proof goggles;
 - Boots.

Sub rule 40. Respiratory devices. - For preventing inhalation of toxic dusts, vapours or gases, the workers shall use any of the following types of respirators or gas masks suitable for the purpose, namely: -

- Chemical-Cartridge respirator;
- Supplied-Air respirator;
- Demand flow type respirator;
- Full-face or half-face gas masks with canister.

In no case shall the concentrates of insecticides in the air where the insecticides are mixed exceed the maximum permissible values.

Sub rule 41. Manufacturers, etc., to keep sufficient quantities of antidotes and first-aid medicines - The manufacturers and distributors of insecticides and persons who undertake to spray insecticide on a commercial basis (hereafter in these rules referred to as operators) shall keep sufficient stocks of such first-aid tools, equipment, antidotes, injections and medicines as operators shall keep sufficient stocks of such first-aid tools, equipment, antidotes, injections and medicines as may be required to treat poisoning cases arising from inhalation, skin contamination, eye contamination and swallowing.

Sub rule 42. Training of workers - The manufacturers and distributors of insecticides and operators shall arrange for suitable training in observing safety precautions and handling safety equipment provided to them.

Sub rule 43. Aerial spraying operations - The aerial application of insecticides shall be subject to the following provisions, namely: -

- Marking of the area shall be responsibility of the operators;
- The operators shall use only approved insecticides and their formulations at approved concentration and height;
- Washing, decontamination and first-aid facilities shall be provided by the operators;

- All aerial operations shall be notified to the public not less than twenty four hours in advance through competent authorities;
- Animals and persons not connected with the operations shall be prevented from entering such areas for a specified period; and
- The pilots shall undergo specialised training including clinical effects of the insecticides.

Sub rule 44. Disposal of used packages, surplus materials and washings of insecticides –

- It shall be the duty of the manufacturers, formulators of insecticides and operators to dispose packages or surplus material and washings in a safe manner so as to prevent environmental or water pollution.
- The used packages shall not be left outside to prevent their re-use.
- The packages shall be broken and hurried away from habitation.

3.16 License fees

Types of License	Fees to be paid
License to sell, stock or exhibit for sale or distribute Insecticides	• Rs 500/- per insecticide and a maximum of Rs 7500/- for all insecticide in case of urban areas. • Provided further the fee shall be One fifth i.e. Rs 100/- per insecticide and a max. Of Rs 1500/-for all insecticides in rural areas. • There shall be a separate fee for each place if the insecticide sold, Stocked or Exhibited for sale at more than one place.
Licenses to manufacture insecticides	• Rs 2000/-per every insecticide and a maximum of Rs 20000/- for all insecticides <i>(There shall be a separate fee for each place if the insecticide is manufactured at more than one place)</i>.
Stock and Use of Insecticides for Commercial Pest Control Operations (CPCO)	• Rs 1000/- for each place of operation
Household Insecticides	• Rs 7500/- for every place

Form V

Forms To Be Used By Insecticide Inspectors

(For Drawl Of Samples, Not To Dispose Of Stock, And Receipt Of Seized Insecticides)

V(A): Form Of Order "Not To Dispose Of Any Stock"

[See rule 30]

Whereas, I have reason(s) to believe that the stock of following insecticides, which is in your possession, is being stocked, for distribution, sale or exhibited for sale and used in contravention of the provisions of section _____ of Insecticides Act, 1968 and/or _____ of the Insecticides Rules, 1971: -

Sl. No.	Name of the insecticide with complete details	Manufactured by	Batch Number	Date of manufacture and date of expiry	Stock quantity as on date (indicate units also)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)

I hereby require you under clause (d) of sub-section (1) of section 21 of the Insecticides Act, 1968 to stop the distribution, sales or exhibiting for sale and use of the said stock for a period of days from this _____ day of _____ month of the year 20____.

Insecticide Inspector Seal

V (B): Form Of Receipt For The Seized Insecticides

[See rule 32]

The stock of the insecticide(s) detailed below has this day _____ of the month _____ of year 20____ been seized by me under the provisions of clause (d) of sub-section (1) of section 21 of the Insecticides Act, 1968, from the premises of M/s _____ situated at _____:

Sl. No.	Name of the insecticide with complete details, like purity, type of formulation, etc.	Manufactured by	Batch Number	Date of manufacture and date of expiry	Stock quantity as on date (indicate units also)	Remarks (Mention page/ folio number of the stock register)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

I have appended my signatures with date and seal on the page/folio number _____ of the stock register of insecticides and taken a copy thereof for record.

Date:

Insecticide Inspector Seal

V(C): Intimation To Person/licensee From Whom Sample Is Taken

[see rule 33]

To

M/s. _____

PIN : _____

I have this _____ day of month _____ year 20____ taken from the premises of M/s _____ (Sale/ stock/ distribution License number _____ dated _____) situated at _____, a samples of the insecticide specified below for the purposes of test or analysis:

1. Common name of the insecticide:(mention complete details, like type of formulation)
2. Trade name, if any:
3. Manufactured by:
4. Registration number:
5. Marketed by:
6. Manufacturing License No.
7. Batch number:
8. Date of manufacture:
9. Date of expiry:
10. Stock before sampling: (Mention units)
11. Quantity of the sample taken: (Mention units)
12. Stock after sampling: (Mention units)
13. Folio/page number of stock register:
14. Any other relevant information:

Date:

Insecticide Inspector Seal

1. Signature of witness: _____

(Date, name and address)

2. Signature of witness: _____

(Date, name and address)

Received one sealed portion of sample along with a copy of this Form.

Signature of the person from whom
the sample is taken With date and seal

V (D): Form to be kept with sample in sealed packet [see sub-rule (1) of Rule 34]

To

The Insecticide Analyst

1. Name of insecticide:

(Common name with active ingredient % and formulation type)

2. Batch Number:

3. Date of manufacture:

4. Date of expiry:

5. Packing condition (original sealed / loose):

6. Quantity of the sample:

7. Sample drawn on:

8. Sample drawn by:

9. Specimen seal of insecticide inspector / Licensee, if any:

10. Distinct mark on the sealed packet of sample:

Date:

Insecticide Inspector
(Signature and seal)

[Second Schedule]

(See rules 25)

Fees For Testing or Analysing The Samples of Insecticides or Biopesticide

1. Testing fees by following analytical techniques for samples of Insecticides whose active ingredient is known.
 - i. Gas chromatograph - Rs. 6500/ sample
 - ii. High performance liquid chromatograph - Rs.7500/sample
 - iii. UV-visible Spectrophotometer - Rs. 5500/sample
 - iv. Fourier Transform Infra – Red Spectrometer - Rs. 6000/sample
 - v. Titrimetric - Rs. 4000/sample
2. Testing fees for sample of bio-pesticide whose active ingredient is known-Rs. 4000/sample.
3. Testing fees to test presence of registered bio-pesticide of below mentioned Bio-origin from bio-product sample whose active ingredient is not known.
 - i. Nuclear Polyhedrosis Virus or Granulosis virus only - Rs. 2000/sample
 - ii. Bacteria only - Rs. 2000/sample
 - iii. Fungi only - Rs. 2000/sample
 - iv. For (i), (ii) & (iii) - Rs. 6000/sample
4. Testing fees for analysis of samples of insecticide or bio-pesticides whose active ingredients is not known.
 - i. Liquid Chromatograph – Mass Spectrometer - Rs. 15,500 /sample
 - ii. Gas Chromatograph – Mass Spectrometer - Rs. 10,500 /sample
5. The fees for test or analysis in respect of insecticide or bio-pesticide or any formulation other than the ones specified in this Schedule shall be specified by the central Government or by any other officer authorized in this behalf from time to time.

FORMAT FOR SHOW CAUSE NOTICE

To No / Date-
The (Insecticide dealers _____
(Name & License No)
Address, _____

Sub:- Show cause/ Stop sale Notice for sale/stock/distribute Insecticides in contravention to Insecticide Act and Rule.

Whereas, I have reasons to believe that the stock of following insecticides, which, is in your possession, is being stocked, for distribution, sale or exhibited for sale and used in contravention of the provisions of section.....of Insecticides Act, 1968 and/or..... of the Insecticides Rules, 1971.

Sl. No	Name of the insecticide with complete details	Manufactured Batch Number	Date of manufacture and date of expiry	Stock quantity as on date (indicate units also)	Remarks

I hereby require you under clause (d) of sub-section(1) of section 21 of the Insecticides Act 1968 to stop the distribution, sales or exhibiting for sale and use of the said stock for period of.....days from theday ofmonth of the year 20

Quality Control Inspector
(Insecticides)
Seal

Memo No. dt

Copy submitted to Licensing Authority, Appellate Authority, JDA(PP), JDA (QC&E), Manufacturer for information and necessary action.

Quality Control Inspector
(Insecticides)
Seal

LIST OF PESTICIDES WHICH ARE BANNED, REFUSED REGISTRATION AND RESTRICTED IN USE (AS ON 01.10.2022)

I. PESTICIDES / FORMULATIONS BANNED IN INDIA

A.	Pesticides Banned for manufacture, import and use .
1	Alachlor (Vide S.O. 3951 (E), dated 08.08.2018)
2	Aldicarb(vide S.O. 682 (E) dated 17th July 2001)
3	Aldrin
4	Benzene Hexachloride
5	Benomyl (vide S.O 3951(E) dated 8th August, 2018)
6	Calcium Cyanide
7	Carbaryl (vide S.O 3951(E) dated 8th August, 2018)
8	Chlorbenzilate (vide S.O. 682 (E) dated 17th July 2001)
9	Chlordane
10	Chlorofenvinphos
11	Copper Acetoarsenite
12	Diazinon (vide S.O 3951(E) dated 8th August, 2018)
13	Dibromochloropropane (DBCP) (vide S.O. 569 (E) dated 25th July 1989)
14	Dichlorovos (Vide S.O. 3951 (E), dated 08.08.2018)
15	Dieldrin (vide S.O. 682 (E) dated 17th July 2001)
16	Endosulfon (vide ad-Interim order of the Supreme Court of India in the Writ Petition (Civil) No. 213 of 2011 dated 13th May, 2011 and finally disposed of dated 10th January, 2017)
17	Endrin
18	Ethyl Mercury Chloride
19	Ethyl Parathion
20	Ethylene Dibromide (EDB) (vide S.O. 682 (E) dated 17th July 2001)
21	Fenarimol (vide S.O 3951(E) dated 8th August, 2018)
22	Fenthion (vide S.O 3951(E) dated 8th August, 2018)
23	Heptachlor
24	Lindane (Gamma-HCH)
25	Linuron (vide S.O 3951(E) dated 8th August, 2018)
26	Maleic Hydrazide (vide S.O. 682 (E) dated 17th July 2001)
27	Menazon
28	Methoxy Ethyl Mercury Chloride (vide S.O 3951(E) dated 8th August, 2018)
29	Methyl Parathion (vide S.O 3951(E) dated 8th August, 2018)
30	Metoxuron
31	Nitrofen
32	Paraquat Dimethyl Sulphate
33	Pentachloro Nitrobenzene (PCNB) (vide S.O. 569 (E) dated 25th July 1989)
34	Pentachlorophenol

35	Phenyl Mercury Acetate
36	Phorate (Vide S.O. 3951 (E), dated 08.08.2018)
37	Phosphamidon (Vide S.O. 3951 (E), dated 08.08.2018)
38	Sodium Cyanide (banned for Insecticidal purpose only vide S.O 3951(E) dated 8th August, 2018)*
39	Sodium Methane Arsonate
40	Tetradifon
41	Thiometon (vide S.O 3951(E) dated 8th August, 2018)
42	Toxaphene(Camphechlor) (vide S.O. 569 (E) dated 25th July 1989)
43	Triazophos (Vide S.O. 3951 (E), dated 08.08.2018)
44	Tridemorph (vide S.O 3951(E) dated 8th August, 2018)
45	Trichloro acetic acid (TCA) (vide S.O. 682 (E) dated 17th July 2001)
46	Trichlorfon (Vide S.O. 3951 (E), dated 08.08.2018)
B.	Pesticide formulations banned for import, manufacture and use
1	Carbofuron 50% SP (vide S.O. 678 (E) dated 17th July 2001)
2	Methomyl 12.5% L
3	Methomyl 24% formulation
4	Phosphamidon 85% SL
C	Pesticide / Pesticide formulations banned for use but continued to manufacture for export
1	Captafol 80% Powder (vide S.O. 679 (E) dated 17th July 2001)
2	Dichlorvos (vide S.O. 1196 (E) dated 20th March 2020)
3	Nicotin Sulfate (vide S.O. 325 (E) dated 11th May 1992)
4	Phorate (vide S.O. 1196 (E) dated 20th March 2020)
5	Triazophos (vide S.O. 1196 (E) dated 20th March 2020)
D	Pesticides Withdrawn (Withdrawal may become inoperative as soon as required complete data as per the guidelines is generated and submitted by the Pesticides Industry to the Government and accepted by the Registration Committee. (S.O 915(E) dated 15th Jun,2006)
1	Dalapon
2	Ferbam
3	Formothion
4	Nickel Chloride
5	Paradichlorobenzene (PDCB)
6	Simazine
7	Sirmate (S.O. 2485 (E) dated 24th September 2014)
8	Warfarin (vide S.O. 915 (E) dated 15th June 2006)

II. PESTICIDES REFUSED REGISTRATION

Sl. No.	Name of Pesticides	Sl. No.	Name of Pesticides
1.	2, 4, 5-T	11.	Fentin Acetate
2.	Ammonium Sulphamate	12.	Fentin Hydroxide
3.	Azinphos Ethyl	13.	Lead Arsenate
4.	Azinphos Methyl	14.	Leptophos (Phosvel)
5.	Binapacryl	15.	Mephosfolan
6.	Calcium Arsenate	16.	Mevinphos (Phosdrin)
7.	Carbophenothion	17.	Thiodemeton / Disulfoton
8.	Chinomethionate (Morestan)	18.	Vamidothion
9.	Dicrotophos		
10.	EPN		

III. PESTICIDES RESTRICTED FOR USE IN THE COUNTRY

Sl. No	Name of Pesticides	Details of Restrictions
1	Aluminium Phosphide	The Pest Control Operations with Aluminium Phosphide may be undertaken only by Govt./Govt. undertakings / Govt. Organizations / pest control operators under the strict supervision of Govt. Experts or experts whose expertise is approved by the Plant Protection Advisor to Govt. of India except ¹Aluminium Phosphide 15 % 12 g tablet and ²Aluminum Phosphide 6 % tablet. [RC decision circular F No. 14-11(2)-CIR-II (Vol. II) dated 21-09-1984 and G.S.R. 371(E) dated 20th may 1999]. ¹Decision of 282nd RC held on 02-11-2007 and, ²Decision of 326th RC held on 15-02-2012. The production, marketing and use of Aluminium Phosphide tube packs with a capacity of 10 and 20 tablets of 3 g each of Aluminium Phosphide are banned completely. (S.O.677 (E) dated 17thJuly, 2001)
2	Captafol	The use of Captafol as foliar spray is banned. Captafol shall be used only as seed dresser.(S.O.569 (E) dated 25thJuly, 1989) The manufacture of Captafol 80 % powder for dry seed treatment (DS) is banned for use in the country except manufacture for export. (S.O.679 (E) dated 17thJuly, 2001)

Sl. No	Name of Pesticides	Details of Restrictions
3	Cypermethrin	Cypermethrin 3 % Smoke Generator is to be used only through Pest Control Operators and not allowed to be used by the General Public. [Order of Hon,ble High Court of Delhi in WP(C) 10052 of 2009 dated 1407- 2009 and LPA-429/2009 dated 08-09-2009]
4	Dazomet	The use of Dazomet is not permitted on Tea. (S.O.3006 (E) dated 31 st Dec, 2008)
5	Dichloro Diphenyl Trichloroethane (DDT)	The use of DDT for the domestic Public Health Programme is restricted up to 10,000 Metric Tonnes per annum, except in case of any major outbreak of epidemic. M/s Hindustan Insecticides Ltd., the sole manufacturer of DDT in the country may manufacture DDT for export to other countries for use in vector control for public health purpose. The export of DDT to Parties and State non- Parties shall be strictly in accordance with the paragraph 2(b) article 3 of the Stockholm Convention on Persistent Organic Pollutants (POPs). (S.O.295 (E) dated 8 th March, 2006) Use of DDT in Agriculture is withdrawn. In very special circumstances warranting the use of DDT for plant protection work, the state or central Govt. may purchase it directly from M/s Hindustan Insecticides Ltd. to be used under expert Governmental supervision. (S.O.378 (E) dated 26 th May, 1989)
6	Fenitrothion	The use of Fenitrothion is banned in Agriculture except for locust control in scheduled desert area and public health. (S.O.706 (E) dated 03 rd May, 2007)
7	Methyl Bromide	Methyl Bromide may be used only by Govt./Govt. undertakings/ Govt. Organizations / Pest control operators under the strict supervision of Govt. Experts or Experts whose expertise is approved by the Plant Protection Advisor.[G.S.R.371 (E) dated 20 th May, 1999 and earlier RC decision]
8	Monocrotophos	Monocrotophos is banned for use on vegetables. (S.O.1482 (E) dated 10 th Oct, 2005)
9	Trifluralin	(i) The Registration, import, manufacture, formulation, transport, sell and its all uses except use in wheat shall be prohibited and completely banned from 8 th August, 2018. (ii) (ii) A cautionary statement has to be incorporated in the label and leaflet that it is toxic to aquatic organism, hence should not be used near water bodies, aquaculture or pisciculture area. (vide S.O 3951(E) dated 8 th August, 2018)

Source- <http://ppqs.gov.in>

IMPORTANT NOTIFICATIONS



e-LICENSING OF AGRICULTURE INPUTS

Department of Agriculture & Farmers Empowerment

NOTIFICATION

NO -2M (05)-68/2019 **35672** /Agril

dt. **30.12.2019**

The e-licensing of Agri-inputs is an integrated online auto generated licensing system of Department of Agriculture & Farmers Empowerment, Govt of Odisha developed with an objective to render G2C and G2B licensing services to the eligible applicants for dealing different agri-inputs viz Seeds, Fertilizer, Insecticides and Nursery licenses. The URL of this application is odishaagriclicense.nic.in/agrilicense.odisha.gov.in.

The web portal will become operational from 1st week of January 2020 under the supervision of NIC, Bhubaneswar for obtaining hassle free licenses. All the existing license holders irrespective of agri-inputs must enrol their names in the new on-line system by 1st week of February 2020. The application services will be applicable to all 30 districts of Odisha state.

Consequent upon Restructuring of Agriculture Cadre, following designated authorities are notified in conformity to different Act, Rule and Control Order pertaining to seed, fertilizer and insecticides for smooth and better management of the e-Licensing system of agri-inputs.

Types of Agri-inputs	Grant of Licenses	Appellate authority	Licensing Authority	Inspection Authority
Seeds	License to carry on the Business of a Dealer in Seeds	State level – Addl. Director Agriculture (Extension)	State level - Joint Director Agriculture (F&S)	Block Agril Officer
	(clause 5 ,7 of Seed Control Order 1983)	District level - Chief District Agriculture Officer	District level -Agriculture Dist Officer	
Fertilizer	Certificate of Manufacturer Clause 15(2) & 18(2) of FCO 1985	State level – Addl. Director Agriculture (Extension)	State level - Joint Director Agriculture (SP&C)	Block Agril Officer
	Letter of Authorisation Clause 8(3) of FCO 1985	District level - Chief District Agriculture Officer	District level -Agriculture Dist Officer	
Insecticides	i.Manufacture license at state level (Rule 9 of Insecticides Rule 1971)	State level – Addl. Director Agriculture (Extension)	State level - Joint Director Agriculture (PP)	Block Agril Officer
	ii.Sell/stock/distribute/exhibit for sale (Rule 10 of Insecticides Rule 1971)	District level - Chief District Agriculture Officer	District level -Agriculture Dist Officer	
	iii. Commercial Pest Control Operation (Rule 10 3A of Insecticides Rule 1971)			
	iv. House Hold Insecticides Rule 10 of Insecticides Rule 1971)			

b. **Duration**

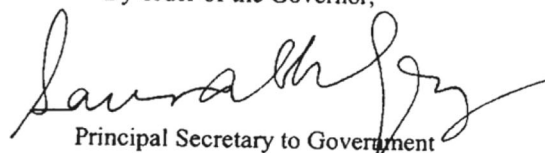
Sl No	Types of Licenses	Time limit for approval of license as per ORTPSA	Duration of the license /period of validity of license	Ref No and clause
1	Seed License /Registration	45 days	5 years	Order No GSR 593 (E) Dt 21.08.2019 of DAC&FW,GOI Clause 6 of seed control order 1983
2	Fertilizer /Certificate of Registration & letter of authorisation	45 days	5 years	Order No S.O 3447 (E) Dt 25.09.2019 of DAC&FW,GOI Clause 10 of FCO 1985
3	Insecticide License for stock/sell/distribute/exhibit for sale	45 days	5 years	*Insecticides Rule 1971 GSR 840 (E) dt 5.11.2015 Rule 11 of Insecticides Rule 1971 , Sec 13 (4) of Insecticides Act 1968
4	House Hold Insecticides	45 days	10 years	GSR 474 (E) / 11.07.2013 of DAC
5	Commercial Pest Control Operation	45 days	5 years	Rule 3A i Insecticides Rule 1971

* insecticide licensing being one of the G2B service under ORTPSA of the state ,the validity period for Insecticide sell license shall be fixed for period of 5 years as per section 13 (4) of Insecticides Act 1968.

Each registered manufacturer /producer / dealer has to submit the online quarterly report on details of transactions related to stock –sale of the firm failing which the license will be suspended automatically with a prior notice to show the cause by the concerned Licensing Authority.

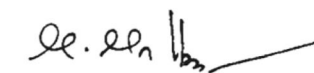
The Enforcement wing of Directorate will be headed by Joint Director Agriculture (Level II) and supported by DDA, Quality Control and DDA, Fertilizer at State level and Agriculture District Officer will be the district level Enforcement Officer till creation of a separate wing.

By order of the Governor,


Principal Secretary to Government

Memo No **35673** /Agril dt **30.12.2019**

Copy forwarded to the Director, Printing & Stationary, Odisha , Govt Press,Cuttack for information. He is requested to publish the notification in next issue of Odisha Gazette and supply 20 copies this Department at an early date.


Director Agriculture &
Food Production, Odisha

GOVERNMENT OF ODISHA
DEPARTMENT OF AGRICULTURE & FARMERS' EMPOWERMENT

No. 7192 / A& FE Dated: 07.05.2020
AGFG-I -08/2020

NOTIFICATION

Sub:- Quality Control and Enforcement of Agri-Inputs (Seeds, Fertilizers and Pesticides)

Seeds, fertilizers and pesticides are the primary inputs in agricultural production. Quality control of seeds, fertilizers and pesticides is one of the major services of the Agriculture Department rendered to the farmers and implementation of this programme ultimately envisages ensuring economic benefit to the farming community. Government of India has enacted various Acts, Rules and Control Orders to regulate the production, movement, transaction and use of these agri-inputs through various enforcement activities.

1. Formation & Functions of Enforcement wing:

JDA (Level-II) in Directorate of Agriculture is designated as JDA, Quality Control & Enforcement and is in-charge of the Enforcement Wing. DDA, Fertilizer and DDA (Quality Control) will report to JDA (QC & Enforcement). He will monitor the Enforcement activity of the State through monthly review meeting and submit the MPR to DA&FP, Odisha for onward submission to Principal Secretary to Govt.

2. Formation of State Level Quality Control Monitoring Committee: A committee comprising of following members is formed to monitor the quality control and enforcement activities of the State and review the performance of Seeds, Fertilizer, Insecticides testing laboratories, quality control inspectors, and action taken by the competent authority against mis 2 branded/spurious products. The committee will sit once in two months (1st week of May, July, September, November, January & March) and submit a report to Government.

The members of the Committee are

Director of Agriculture and Food Production, Odisha – Chairman,

Joint Director of Agriculture (SP&C),

Joint Director of Agriculture (Farm & Seeds),

Joint Director of Agriculture (Plant Protection),

Joint Director of Agriculture (QC & Enforcement),

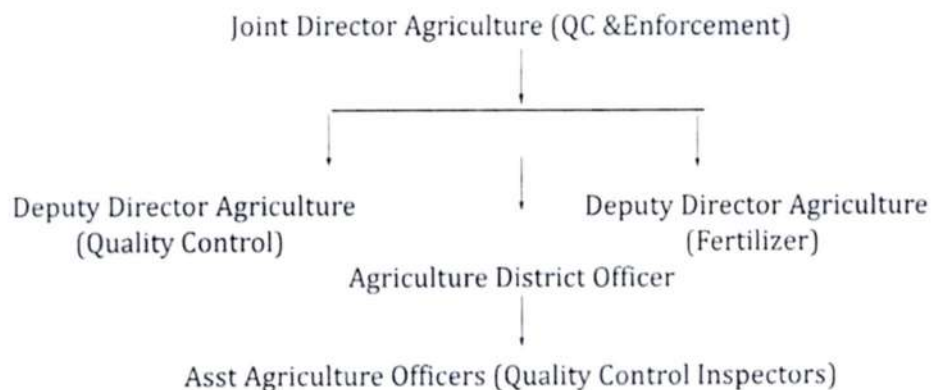
Deputy Director of Agriculture (Fertilizers)

Deputy Director of Agriculture (Quality Control) – Convener

Invitee: (i) ADA, SITL, Bhubaneswar, (ii) ADA, Fertilizer Testing Laboratory, Bhubaneswar

(iii) SCO, SSTL, Bhubaneswar

3. The **workflow of the QC & Enforcement wing** will be as follows



4. **Strengthening of Enforcement activities:** The enforcement activity includes function, up-gradation and annual utilization of capacity of all Testing Laboratories, drawal & analysis of samples, verification of label claims, verification of up-loaded documents submitted in the licensing system, action taken against dealing sub-standard/non-standard/spurious products (seeds/fertilizer/insecticides), inspection of sale/stock position of the dealers, suspension/cancellation of license by License Issuing Authorities and action taken by Appellate Authorities etc.

In case of misbranded/ non-standard/spurious products (seeds, fertilizer, pesticides) immediate necessary actions should be taken by the QC Inspectors as per the corresponding legislations i.e. Act/Rule/ Control Order of respective agri-inputs. Seeing the gravity of the situation, the stop sale and show cause notice should be issued by the Inspectors immediately to the dealer and manufacturer under intimation to the District Administration. The Quality Control Inspectors (seed, fertilizer & pesticides) after getting permission from the concerned Appellate Authority of the district will launch prosecution against the agency/manufacturer as well as dealers where the sample has been found misbranded/sub-standard/non-standard in the analysis report irrespective of State as well as Central Laboratory without waiting for the re-analysis report. The license Issuing Authorities will submit a report on cancellation/suspension of licenses under his jurisdiction against non-submission of online quarterly progress or for contravening the Act, Rule and Control Order of respective agri-inputs.

5. **Online review through ADAPT :** The team ADAPT will develop a mechanism in its Dashboard on the status and action taken by the Quality Control Inspectors against misbranded/non-standard /sub-standard products (seeds, fertilizer, pesticides) block wise for each month for monitoring by JDA,(QC & Enforcement).

6. Strengthening of seed/fertilizer/insecticide Testing Labs: There are various laboratories for testing seeds, fertilizer and insecticides at state and district level. The Officer in-charge of each laboratory to submit a report to JDA(QC & Enforcement) indicating the reason for not achieving the target as per the capacity of existing laboratories. Steps should be taken for modernization, computerization /NABL accreditation of the laboratories to accommodate testing of new generation products and the concerned officer in-charge of the testing laboratories should submit a Detailed Project Report (DPR) to Government for approval.

7. a) Quality Control Inspectors for Enforcement:

Types of Agri-inputs	Agriculture Officers with qualification	Designated as	Jurisdiction	Clause on power of Inspector	Act/Rule/Control Order of agri-inputs
Seeds	Asst Agricultural Officer with Graduate in Agriculture	Quality Control Inspector	within respective local limits of the Block/ADO circle	Section 22,23 Section 14 Section 12	Seed Rule, 1968 Seed Act, 1966 Seed Control Order, 1983
Fertilizer	Asst Agricultural Officer with Graduate in Agriculture or Graduate in Science with Chemistry as one of the subject and training or experience in quality control of fertilizer	Quality Control Inspector	within respective local limits of the Block/ADO circle	Section 27,27A & 28	Fertilizer Control Order, 1985
Bio-fertilizer & Organic fertilizer	Asst Agricultural Officer with Graduate in Agriculture or Graduate in Science with Chemistry/Micro-biology as one of the subject and training or experience in quality control of bio-fertilizer/organic fertilizer	Quality Control Inspector	within respective local limits of the Block/ADO circle	Section 27,27 B & 28	Fertilizer Control Order, 1985
Insecticides	Asst Agricultural Officer with Graduate in Agriculture or Graduate in Science with Chemistry as	Quality Control Inspector	within respective local limits of the Block/ADO circle	Section 26,27,28 Section 21,22	Insecticides Rule, 1971 Insecticides Act, 1968

	one of the subject and adequate field experience				
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b) **State level Quality Control Inspectors for Enforcement:** The following officers are also declared as State level Quality Control Inspectors for the respective agri-inputs.

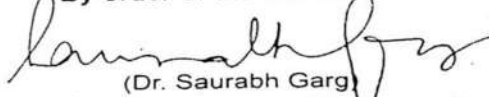
Joint Director of Agriculture (Farm & Seeds) – For Seeds
 Joint Director of Agriculture (Plant Protection) – For Insecticides
 Joint Director of Agriculture (QC & Enforcement) – For Seeds, Fertilizer /Bio-fertilizer/organic fertilizers, Insecticides
 Deputy Director of Agriculture (Fertilizers) – For Fertilizer,
 Deputy Director of Agriculture (Quality Control) – For Seeds, Fertilizer, /Bio-fertilizer/organic fertilizers, Insecticides.

8. After restructuring of Agriculture cadre it has been observed that there is no sanctioned post of ADO for which no license are being issued from certain agricultural districts like Nuapada, Deogarh, Jharsuguda and Boudh. Therefore the BAO/AAO in the office of CDAO Boudh and Deogarh are notified as license issuing authority and for Nuapada and Jharsuguda ADO, Khariar and ADO, Kolabira respectively are notified as License Issuing Authority till creation of such post.

9. **District level Enforcement Squad:** The district level enforcement squad comprising of ADO, ADA/BAO in the office of the CDAO should be formed to monitor the QC and Enforcement activities of the respective districts. These activities should be reviewed at regular intervals by JDA (QC & Enforcement).

10. **Physical and Financial Targets for Input Inspectors:** For every financial year the Quality Control Inspectors irrespective of seed, fertilizer and pesticides should be communicated well in advance regarding their physical and financial target and this may be considered as one of the key performance indicator. The physical quality control activities includes no. of sample to be drawn, sent to laboratory, action taken against misbranded /sub-standard agri-inputs, no. of label check (Insecticides), no. of stock /sale register verified etc. There should be financial allocation towards analysis of sample, capacity building/training on legislation (Act/Rule /Control order) and mobility of inspectors under State Plan or non- plan scheme.

By order of the Governor


 (Dr. Saurabh Garg)
 Principal Secretary to Government
 6/5/20

GOVERNMENT OF ODISHA
DEPARTMENT OF AGRICULTURE & FARMERS EMPOWERMENT
DIRECTORATE OF AGRICULTURE & FOOD PRODUCTION, ODISHA

DAFP- FERT - FERT-0021-2022

Order No. 3331/4

// Agril, Date- 11-10-22

In pursuance of Govt Notification No 7192/AGFG-I-08/2020/A&FE dated 7.5.2020 the following Flying Squads consisting of State level quality control Inspectors and with other members are formed with immediate effect to gear up the enforcement activities and to check the spurious use of the Agri inputs i.e Seeds, fertilizers and Pesticides across the state.

No	Agri inputs	State level quality control Inspector	Other members of the squad	
1	For Seeds	JDA (FS),	SCO(OSSOPCA), ADO of concerned circle	BAO of concerned block and AAO of concerned circle
2	For Fertilisers	JDA(QC&E)	DDA(Fertiliser), ADO of concerned circle	BAO of concerned block and AAO of concerned circle
3	For Pesticides	JDA(PP),	DDA(QC), ADO of concerned circle	BAO of concerned block and AAO of concerned circle

Duties and responsibilities of Flying Squads-

1. The Head of the squad (State level quality control Inspector) shall request to the concerned Collector and District Magistrate for providing Executive Magistrate and Police protection during their raids/Inspection.
2. Inspect and verify the manufacturing units –Fertiliser, Biofertilisers, Pesticides, Biopesticides, Seed grower/ processing units with respect to their all related documents i.e Source Certificate with proof, Valid License, manufacture/production-stock-sale reports, Safety measures, MPR submission and other documents as per Act & Rules and control order of Seeds, fertilizers and Pesticides.
3. The Flying squad will collect sample from the Manufacturer/Dealer premises /Processing unit and send the enforcement samples to the notified labs for Quality analysis.
4. The flying squad will visit different dealer points and verify all related documents i.e Source Certificates with proof, Valid License, stock-sale reports and registers, and other documents as per Act & Rules and Control Order of Seeds, fertilizers and Pesticides.
5. In case of any irregularities found in contravention to the Act /Rule/Control order during inspection, the flying squad will take necessary action like Suspension /Cancellation of license, seizure of stock, take legal action with due information to the District Magistrate and all concern.
6. To report fortnightly (on 15th & 30th of every month) to the Director of Agriculture and FP(O) for appraisal of the higher quarters.



Director Agriculture &
Food Production, Odisha

Important Urls-

<https://odishaagrlicense.nic.in/>

<https://agricoop.nic.in/>

<http://ppqs.gov.in/>

<https://egazette.nic.in/>



DEPARTMENT OF AGRICULTURE AND FARMERS' EMPOWERMENT



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