

Seeds Act, 2045 (1988)

Date of Authentication and Publication

2045.7.10 (26 Oct 1988)

Amendments:

1. Seeds (First Amendment) Act, 2058 (2002) 2064.10.10 (24 Jan. 2008)
2. Republic Strengthening and Some Nepal Laws
Amendment Act, 2066 (2010)¹ 2066-10-7 (21 Jan. 2010)

Act No. 15 of the year 2045 (1988)

An Act Made to Make Provisions Relating to Seeds

Preamble: Whereas, it is expedient to maintain the convenience and economic interest of the general public by providing the Seeds of quality-standards in a well planned manner upon producing, processing and testing the Seeds of high quality-standards to have the production of different crops increased.

Now, therefore, be it enacted by His Majesty King Birendra Bir Bikram Shah Dev, on the advice and with consent of the *Rastriya Panchayat*.

1. Short Title and Commencement:

- 1.1 This Act may be called as “Seeds Act, 2045 (1988)”
- 1.2 This Act shall come into force in such areas on such dates as may be appointed by Government of Nepal by a Notification published in the Nepal Gazette².

2. Definitions:

- 2.1 Unless, the subject or context otherwise requires, in this Act;-

¹ This Act came into force on 15 *Jestha* 2065 (28 May 2008).

² As per the notice published in the Nepal Gazette of 2046-4-30 (14 Aug. 1989), this Act shall come into force in Kathmandu, Bhaktapur and Lalitpur Districts from 1 *Bhadra* 2046. (17 Aug. 1989)

2.1.1 "Seeds" means a matured ovule having embryonic plant, food substance and protective cover or seeds or germ which can be used in sowing or planting to produce crops by reproducing in a sexual or asexual mode.

2.1.2 "Crops" means crops such as fruits, cereals, vegetables, cash crops and grass crops.

2.1.3 "Agricultural Activity" means the activity of producing cereals, fruits, legumes, oil crops, vegetables, cash crops and grass.

2.1.4 Board" means the National Seeds Board constituted pursuant to Section 3.

³2.1.5 "Laboratory" means the Seeds Testing Laboratory established pursuant to Section 9.

2.1.6 "Notified Seeds" means the seeds prescribed pursuant to Section 11.

2.1.7 "Container" means a box, tin can, bottle, bag, jute-bag, bin, barrel or similar other container used to store the seeds.

2.1.8 "Breeder" means a person, organization or body which brings into use any variety of the crops by ⁴breeding or selecting it for the first time.

⁵2.1.9 "Type" means all close species or sub-species of any plant that is identified or identifiable by the same general name.

³ Amended by the First Amendment.

⁴ Amended by the First Amendment.

⁵ Amended by the First Amendment.

⁶2.1.10 “Variety” means a plant grouping within a single botanical taxon of the lowest known rank, which can be defined by the expression of the characteristics resulting from a given genotype of that plant grouping, distinguished from any other plant grouping by expression of at least one of the said characteristics and considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation.”

2.1.11 “Label” means a description relating to the Seeds ⁷label affixed on the Container in a visible manner.

2.1.12 “Prescribed” or “As Prescribed” means prescribed or as prescribed in the Rules framed under this Act.

3. Constitution of National Seeds Board:

3.1 There shall be constituted a National Seeds Board to formulate and implement policies relating to the Seeds and to give necessary advice to Government of Nepal on the matters pertaining to the Seeds.

⁸3.2 The following chairperson and members shall comprise of the Board:

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|-------|---|--------------|
| 3.2.1 | Secretary, Ministry of Agriculture and co-operative. | -Chairperson |
| 3.2.2 | Director General, Department of Agricultural | - Member |
| 3.2.3 | Executive Director, Nepal Agricultural Research council | - Member |
| 3.2.4 | General Manager, Agricultural Inputs Organization LTD. | - Member |

⁶ Amended by the First Amendment.

⁷ Inserted by the First Amendment.

⁸ Amended by the First Amendment.

- 3.2.5 General Manager, Agricultural Development Bank - Member
- 3.2.6 General Manager, National Seeds Organization LTD. - Member
- 3.2.7 Three Scientist includes woman related with agriculture, veterinary and forest science, nominated by Government of Nepal. - Member
- 3.2.8 Seeds Expert (At least Assistant professor), Agriculture and Veterinary Science Study Institute, Tribhuvan University. - Member
- 3.2.9 Two Seeds Entrepreneurs includes woman nominated by Government of Nepal - Member
- 3.2.10 Two Seeds producer and farmer includes woman nominated by Government of Nepal - Member
- 3.2.11 Chief, Seeds Quality Control Centre -Member- Secretary
- ⁹3.3 The tenure of the Member nominated by Government of Nepal pursuant to Sub-sections 3.2.7, 3.2.9 and 3.2.10 shall be Two years.
- 3.4 Notwithstanding anything contained in Sub-section 3.3, Government of Nepal may remove any member nominated pursuant to Sub-sections ¹⁰3.2.7, 3.2.9 and 3.2.10 prior to the expiry of his/her term of office.
- 3.5 Government of Nepal may, by publishing a notification in the Nepal Gazette, make necessary addition or subtraction or alteration in the membership of the Board, if it deems necessary.

⁹ Amended by the First Amendment.

¹⁰ Amended by the First Amendment.

3.6 The Board may, if it deems necessary, invite any native or foreign expert or adviser to take part in a meeting of the Board as an observer.

4. Meeting and Decision of the Board:

4.1 The meeting of the Board shall be held on such date, in such time and place as appointed by the Chairperson of the Board

4.2 If fifty percent Members of the total number of Members of the Board are present at a meeting of the Board, it shall be deemed to constitute a quorum for the meeting.

4.3 The meeting of the Board shall be chaired by the chairperson of the Board and in the event of his absence, it shall be chaired by a Member selected by the Member's present at the meeting from amongst themselves.

4.4 The opinion of the majority shall prevail at the meeting of the Board, and in the event of ties, the Chairperson shall exercise the casting vote

4.5 The decision of the Board shall be authenticated by the Member-Secretary.

4.6 Other procedures relating to the meetings of the Board shall be as determined by the Board itself.

5. Functions, Duties and Powers of the Board:

5.1 To provide advice to Government of Nepal to formulate the national policy relating to the Seeds

5.2 To maintain co-ordination between the private and government sectors in the activity of the production and distribution of the Seeds.

- 5.3 To encourage the private sector to make investment in the Seeds industry.
- ¹¹5.4 To regulate or control the quality-standards of the Seeds to be produced within Nepal or imported outside the country.
- 5.5 To approve, release and register the Seeds of new variety as prescribed.
- 5.6 To test the specialty, uniformity and permanency of the Seeds of new Variety and grant the right of ownership to the Breeder as prescribed.
- 5.7 To determine the quality-standards of the Seeds.
- 5.8 To approve the quality-standards of the Seeds determined by native or foreign bodies as per necessity.
- ¹²5.8a To give advice to Government of Nepal on service charges relating to Seeds,
- ¹³5.8b To give advice to Government of Nepal on the notification of the type and variety of crops.
- ¹⁴5.8c To cancel the license who has conducted laboratory without renewal.
- ¹⁵5.8d To take examination of Seeds Inspector, Seeds Sample Collector or Seeds Analyst for license to work.
- 5.9 To carry out other necessary activities relating to the Seeds.

¹¹ Amended by the First Amendment.

¹² Inserted by the First Amendment.

¹³ Inserted by the First Amendment.

¹⁴ Inserted by the First Amendment.

¹⁵ Inserted by the First Amendment.

6. Power to Constitute Sub-Committees:

- 6.1 The Board may, as per necessity, constitute different sub-committees for the purpose of making available the qualitative Seeds by smoothly carrying out the act of production, processing and sale and distribution of the Seeds.
- 6.2 The functions, duties and powers as well as procedures relating to the meetings of the sub-committees shall be as prescribed.

¹⁶7. **Establishment of Seeds Quality Control Centre:** Government of Nepal may, by publishing a Notification in the Nepal Gazette, establish a Seeds Quality Control Centre in order to control, examine and authenticate the quality of Seeds."

8. Functions, Duties and Powers of ¹⁷Seeds Quality Control Centre:

- 8.1 The functions, duties and powers of the ¹⁸Seeds Quality Control Centre shall be as follows:-
- 8.1.1 To prepare necessary prerequisites in relation to ¹⁹quality control and authentication of the Seeds and submit them to the Board.
- 8.1.2 To authenticate the Seeds in consonance with the mode, level and parameter approved by the Board and grant the certificate as per necessity.
- ²⁰8.1.3 To monitor the activities of the person or organization, who has received the license pursuant to Sub-section 9.4,

¹⁶ Amended by the First Amendment.

¹⁷ Amended by the First Amendment.

¹⁸ Amended by the First Amendment.

¹⁹ Inserted by the First Amendment.

²⁰ Inserted by the First Amendment.

whether the terms and conditions have been complied with or not.

8.2 Other functions, duties and powers of the ²¹Seeds Quality Control Centre and the procedures required to be followed by such ²²centre to control the Quality of seeds while authenticating the Seeds shall be as prescribed.

9. Establishment of ²³.....Seeds Testing Laboratory:

9.1 Government of Nepal may, by publishing a Notification in the Nepal Gazette, establish a Central Seeds Testing Laboratory to carry out the testing of the Seeds and other acts pertaining thereto.

9.2 Seeds Testing Laboratories may, as per necessity, be established in different places ²⁴of Nepal, subject to the control and supervision of the Laboratory established under Sub-section 9.1

²⁵9.3 Any person or organization who intends to establish and operate laboratory in private sector, has to make an application to the Board in a prescribed format and fees as prescribed.

²⁶9.4 If, upon the evaluation of the application obtained pursuant to Section 9.3 is found appropriate, the Board may provide license to establish and operate laboratory under as prescribed terms and conditions.

279.5 Notwithstanding anything contained in this Section, Seeds Testing Laboratory established in private sector prior to this Act,

²¹ Amended by the First Amendment.

²² Amended by the First Amendment.

²³ Deleted by the First Amendment.

²⁴ Amended by the First Amendment.

²⁵ Amended by the First Amendment.

²⁶ Inserted by the First Amendment.

²⁷ Inserted by the First Amendment.

shall take license within One year from commencement of this Act in accordance with this Act.

10. Functions, Duties and Powers of Laboratory: The functions, duties and powers of the Laboratory shall be as prescribed.

²⁸**10A. Renewal:**

10A.1 The laboratory which is established pursuant to this Act, shall renew its license every year.

10A.2 If a laboratory, which is established pursuant to this Act, fails to renew its license in the prescribed time, the license shall *ipso facto* be cancelled and the Board may cause to close such laboratory.

11. Powers to Notify the Type or Variety of the Seeds: If Government of Nepal deems it necessary to regulate and control the quality standards for any Type or Variety of the Seeds to be used for the Agricultural Activity, it may, in consultation with the Board, prescribe the Seeds of such Type or Variety as the Notified Seeds, by publishing a Notification in the Nepal Gazette, and while so prescribing it may also prescribe the Type or Variety of the Seeds appropriate for different regions.

²⁹**11A. License to be obtained:**

11A.1 Any person or organization has to make an application in a prescribed format to the prescribed authority and obtain the license as prescribed, prior to the sale and distribution of Seeds along with the prescribed fees.

²⁸ Inserted by the First Amendment.

²⁹ Inserted by the First Amendment.

11A.2 Seeds inspector shall seize such seeds if the sales and distribution of seeds has been made without taking license pursuant to Sub-section 11A.1.

³⁰ **11B. Not notified seeds shall not be sold or distributed:**

11B.1 Except for the purpose of agriculture investigation, nobody may sell and distribute seeds which is not notified pursuant this Act.

11B.2 Seeds inspector shall seize such seeds if the sales and distribution of seeds has been made beyond the Notification as pursuant to Sub-section 11B.1.

³¹ **12. Prescription of minimum limit of quality of Seeds:** Government of Nepal may, in consultation with the Board, and by publishing a Notification in the Nepal Gazette, prescribe the minimum limit of the quality standard of any Seeds out of the Notified Seeds."

³² **13. Provisions on Sale and Distribution of Notified Seeds:**

13.1 Any person or organization who sells and distributes the Notified Seeds shall mention the following descriptions in the packet (pot) of the seed:

13.1.1 The Type and Variety of the Seeds,

13.1.2 The minimum limit of quality standard prescribed pursuant to Section 12,

13.1.3 If treatment has been done by using a chemical substance, description thereof,

13.1.4 Other necessary matters as prescribed.

14. ³³

³⁰ Inserted by the First Amendment.

³¹ Amended by the First Amendment.

³² Amended by the First Amendment.

15. To Obtain Permit to Export or Import the Notified Seeds:

15.1 Any person desiring to export or import the Notified Seeds of any Type or Variety shall have to submit an application, accompanied by ³⁴the fees and the details as prescribed, to the prescribed authority for a permit to export or import the same.

15.2 The prescribed authority may upon receiving an application pursuant to Sub-section 15.1 provide approval.

15.3 Notwithstanding anything contained in Sub-section 15.1, an industry established with an objective of exporting or importing the Seeds may export or import the Notified Seeds by giving such details of the Notified Seeds intended to be exported or imported to the prescribed authority.

³⁵**15A. Powers to restrict export or import:** Government of Nepal may, by publishing a notice in the Nepal Gazette, restrict the import of the Seeds of any such specific Variety which may cause damage to or adverse impacts on the agricultural activities in Nepal or the export of the Seeds of any such specific Variety of Nepalese origin as should not be exported for any specific reason.

³⁶**16. Provisions relating to Seeds Inspector, Seeds Sample Collector and Seed Analyst:**

16.1 Government of Nepal may appoint, who has qualification as prescribed, any Seeds Inspectors, Seeds Sample Collector and Seeds Analyst as per necessity.

³³ Deleted by the First Amendment.

³⁴ Inserted by the First Amendment.

³⁵ Inserted by the First Amendment.

³⁶ Amended by the First Amendment.

- 16.2 In cases where Seeds Inspector, Seeds Sample Collector and Seeds Analyst have not been so appointed, Government of Nepal may designate any civil employee to carry out the functions of such Inspector, Seeds Sample Collector or Analysts.
- 16.3 Except otherwise provided in Sub-section 16.1 and 16.2, nobody should inspect, collect sample and analyze the seeds.
- 16.4 A person who intends to obtain a license and who has the qualification as prescribed pursuant to Sub-section 16.3, has to pass the examination to be taken by the Board.
- 16.5 A person who has passed the examination pursuant to Sub-section 16.4 has to make an application in a prescribed format and along with the prescribed fees to the Board for a license to carry on the business as the Seeds Inspector, Seeds Sample Collector or Seeds Analyst.
- 16.6 If an application is made pursuant to Sub-section 16.5, the Board shall issue a license in a prescribed format and upon receiving the prescribed fees maintaining the prescribed conditions and such license shall be valid for a period of Two years.
- 16.7 The license issued pursuant to Sub-section 16.6 shall be renewed as prescribed.
- 16.8 In case such license is not renewed pursuant to Sub-section 16.7, such license shall *ipso facto* be cancelled.
- 16.9 Other procedure relating to examination pursuant to Sub-section 16.4 shall be as prescribed.

³⁷ **17. Functions, Duties and Powers of Seeds Inspector, Seeds Sample Collector or Seeds Analyst:** The functions, duties and powers of the Seeds Inspector, Seeds Sample Collector or Seeds Analyst shall be as prescribed.

³⁸ **17A. Service Charges may be levied:**

17a.1 Government of Nepal may collect service charges for providing services pursuant to this Act, as prescribed by publishing a Notification in the Nepal Gazette.

17a.2 Person or organization may collect service charges pursuant to this Act as approved by the board.

18. Recognition by Government of Nepal: Government of Nepal may, in consultation with the Board and by publishing a Notification in the Nepal Gazette, grant recognition to a foreign or international or national organization which examines or authenticates seeds or examines the variety of the seeds for the purpose of the Act.

³⁹ **18A. Ownership to be maintained:** The ownership of the local varieties of the seeds of the crops which are traditionally in use in Nepal shall be maintained as prescribed.

⁴⁰ **19. Punishment:**

19.1 Any person who operates laboratory without obtaining the license pursuant to Section 9 shall be fined Fifty Thousand Rupees.

19.2 Any person who sells or distributes or causes for the same in contravention of Section 11A and 11B shall be fined ranging from Ten Thousand Rupees to Twenty Thousand Rupees.

³⁷ Amended by the First Amendment.

³⁸ Inserted by the First Amendment.

³⁹ Inserted by the First Amendment.

⁴⁰ Amended by the First Amendment.

19.3 Any person who sells, distributes or causes for the same without setting out the descriptions as referred to in Section 13 shall be fined from Ten Thousand Rupees to Fifteen Thousand Rupees.

19.4 Any person who carries out act in contravention of Section 16.3 shall be fined Twenty Five Thousand Rupees.

19.5 Any person or organization who carries out any act in contravention of this Act and the Regulation framed hereunder, save the activity set forth in the above Sub-sections 19.1, 19.2, 19.3 and 19.4 shall be fined from Ten Thousand Rupees to Twenty Thousand Rupees.

20. Government to be plaintiff: Government of Nepal shall be the plaintiff in the cases under this Act.

21. Investigation and Institution of Cases.

21.1 The ⁴¹Seeds Sample Collector shall investigate the cases relating to the offences punishable pursuant to this Act and, shall after the completion of such investigation institute the case before the Adjudicating Authority empowered to hear the case.

21.2 While investigating and instituting the case pursuant to Sub-section 12.1, the ⁴²Seeds Sample Collector may seek opinion of the Government Attorney. After the institution of the case, the Government Attorney shall carry out the pleading, dealing with and appealing in the case.

22. Power to Hear Cases:

22.1 The authority as prescribed shall have the power to hear the case under this Act.

⁴¹ Amended by the First Amendment.

⁴² Amended by the First Amendment.

22.2 In hearing and settling the case pursuant to Sub-section 22.1, the prescribed authority shall follow the procedures as referred to in the Special Court Act, 2059 (2003).

23. Saving of Actions Carried Out in Good Faith: Seeds Inspector or ⁴³Seeds Sample Collector or Seeds Analyst or any employee authorized to act under this Act shall not be personally liable for any act and action carried out in good faith in the course of discharging his/her functions pursuant to this Act.

Provided that, the concerned person shall be liable for any act carried out by him/her with an intention of causing unnecessary harm, harassment or trouble to anyone.

24. Power to Frame Rules: Government of Nepal may frame necessary Rules in order to carry out the objectives of this Act.'

⁴³ Amended by the First Amendment.

Note

1. Words altered by Special Court Act, 2059 :
The words "Special Court Act, 2031" has been altered by "Special Court Act, 2059".
2. Words altered by Some Nepal Acts Amendment Act, 2063-
The words "His Majesty the Government" has been converted by "Government of Nepal".
3. The words "*prasasti* of His Majesty" and "Kingdom" has been deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010)