## The Biopirates’ Catalogue

<table>
<thead>
<tr>
<th>Scientific and Common Name</th>
<th>Indigenous uses in India</th>
<th>US Patent No. and Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aloe barbadensis&lt;br&gt;Kumari (Hindi)&lt;br&gt;Aloe Vera (Eng.)</td>
<td>Aloe vera is widely known for its therapeutic properties of preventing infection, stopping bleeding and healing burns.</td>
<td>[5652265] [5449517] [5427776] production of rehin and rehin derivatives, Method and formulation for eliminating fleas on animals, and Aloe water preparation.</td>
</tr>
<tr>
<td>Azadirachta indica&lt;br&gt;Neem (Hindi)&lt;br&gt;Margosa Tree (Eng.)</td>
<td>Neem; medicine, prophylactic, biopesticide, biofertilizer, biofungicide, nitrogen fixer for soil. Same properties as for Melia azadrirachta.</td>
<td>[5405612] [4515785] [4537774] [4556562] [4902713] [4943434] [4946681] [4960791] [5001146] [5009886] [5047242] [5110591] [512449] [436257 B1] There are about 85 patents filed for this plant. It has numerous properties like pesticidal, anti-viral and several other prophylactic properties</td>
</tr>
<tr>
<td>Boswellia serrata&lt;br&gt;Salai (Hindi)&lt;br&gt;Indian Olibanum Tree (Eng.)</td>
<td>Astringent, helpful in the treatment of skin diseases, piles and ulceration.</td>
<td>[5494668] Method for treating musculoskeleton, and a novel composition thereof.</td>
</tr>
<tr>
<td>Cassia fistula&lt;br&gt;Amaltas (Hindi)&lt;br&gt;Purging Cassia (Eng.)</td>
<td>Possessing many remedies, This plant relieves fever, is a good laxative.</td>
<td>[5411733] [5393898] [5391775] Anti-viral agent containing crude drug.</td>
</tr>
<tr>
<td>Cuminum cyrinum&lt;br&gt;Kala jeera (Hindi)&lt;br&gt;Cumin (Eng.)</td>
<td>Strengthens the digestive system, combats diarrohea and urinary problems.</td>
<td>[5653981] [5482711] Use of Nigella sativa to increase immune function.</td>
</tr>
<tr>
<td>Curcuma longa&lt;br&gt;Haldi (Hindi)&lt;br&gt;Turmeric (Eng.)</td>
<td>Wound healing</td>
<td>[5401504] Four patents have been filed. Used in the preparation of topical wound healer. Also used as an anti-inflammatory agent, food additive and in cosmetics.</td>
</tr>
<tr>
<td>Euphorbia hirta&lt;br&gt;Dudhi (Hindi)</td>
<td>Aphrodisiac, and the alleviation of burning sensations.</td>
<td>[5399584] Use of flavone derivatives for gastroprotection.</td>
</tr>
<tr>
<td>Plant Name</td>
<td>Description</td>
<td>Patent/Reference</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Impatiens balsamina</td>
<td>Diuretic, emetic and laxative. Applied to joint pains, burns and scalds.</td>
<td>5427592</td>
</tr>
<tr>
<td>Gulmendhi (Hindi) Garden Balsam</td>
<td></td>
<td><a href="5411733">Delayed Nutrient Release for Mushroom Cultivation</a></td>
</tr>
<tr>
<td>Jatropha curcus Baghberenda (Hindi) Purging Nut (Eng.)</td>
<td>Purgative properties. Applied to skin diseases and rheumatism</td>
<td>5411733, 5466455 Polyphase fluid extraction process, resulting products and methods of use. Antiviral agent containing crude drug.</td>
</tr>
<tr>
<td>Momordica charantia Karela (Hindi) Bitter melon (Eng.)</td>
<td>Cures tumours, colic, worms infections.</td>
<td>5484889 Contains anti-human immunodeficiency virus (HIV) effects.</td>
</tr>
<tr>
<td>Melia azadirachta Neem (Hindi) Margosa Tree (Eng.)</td>
<td>Antifungal antimicrobial, anti-septic, anti-viral, astringent, purgative, emollient, etc.</td>
<td>5478579 Method for orally inducing the absorption of calcium into mammalian bone tissue.</td>
</tr>
<tr>
<td>Oryza sativa Basmati (Hindi &amp; Eng.)</td>
<td>Basmati is highly esteemed for its unique aroma and flavour. Currently there are close to 27 distinct varieties growing in the north-west of India.</td>
<td>5663484 Novel Basmati rice lines and grains, including 19 distinct and separate claims.</td>
</tr>
<tr>
<td>Phyllanthus emblica Amla (Hindi) India Gooseberry (Eng.)</td>
<td>Relieves fatigue, vomiting, flatulence, constipation, and diarrhoea, alleviates burning, anaemia, jaundice.</td>
<td>5529778 Ayurvedic composition for the prophylaxis and treatment of AIDS, flu, TB and other immuno-deficiencies and the process for preparing the same.</td>
</tr>
<tr>
<td>Piper nigrum Kali Marich (Hindi) Pepper (Eng.)</td>
<td>Pepper is found effective in indigestion, dysentery, cough, cold and asthma.</td>
<td>5536506 Use of piperine to increase the bioavailability of nutritional compounds.</td>
</tr>
<tr>
<td>Punica granatum Anar (Hindi) Pomegranate (Eng.)</td>
<td>Relieves, dysentery, tapeworm, conjunctivitis, astringent.</td>
<td>5411733 Antiviral agent containing crude drug.</td>
</tr>
<tr>
<td>Quisqualis indica Rangoon-ki-bel (Hindi) Rangoon creeper (Eng.)</td>
<td>Used for diarrhoea, fever, rickets, parasitic skin and abdomen troubles.</td>
<td>5411733 Antiviral agent containing drug.</td>
</tr>
<tr>
<td>Species</td>
<td>Use</td>
<td>Reference</td>
</tr>
<tr>
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</tr>
<tr>
<td>Ricinus communis</td>
<td>Alleviates cough, fever and in the purification of mercury, skin diseases, boils, sores, and posses purgative properties.</td>
<td>[5510255] [547991] [5497090] [5538868] [5475099] [5576428] [5558834] Process for the production of biologically active peptide via the expression of modified storage seed protein genes in transgenic plants.</td>
</tr>
<tr>
<td>Sapindus mukorossi</td>
<td>Use for pain and swelling, asthma, cough and migraine</td>
<td>[545885] Fire retarding and extinguishing composite.</td>
</tr>
<tr>
<td>Solanum nigrum</td>
<td>Provides relief for inflammatory conditions, skin, ailments and liver disorders.</td>
<td>[546662] [5491285] [5401709] Use of 4-chloro-3-5 difluoromethoxyl- methyl 11as a herbal treatment. Antibiotic AB-041 derived from streptomyces sp. NCIMB 40428, herbal compositions and methods of use.</td>
</tr>
<tr>
<td>Tinospora cordifolia</td>
<td>Curing fever and providing immunity protection is its best known use in Indian traditional medicine.</td>
<td>[5529778] Ayurvedic composition for the prophylaxis and treatment of AIDS, flu, TB and other immuno- deficiencies and the process for the same.</td>
</tr>
<tr>
<td>Tribulus terrestris</td>
<td>Mainly used as diuretic and used in urinary infections.</td>
<td>[5466452] [389031] Pharmaceutical compositions for the treatment of skin disorders.</td>
</tr>
<tr>
<td>Trichosanthes kirilowii</td>
<td>Known for its wide therapeutic properties</td>
<td>[5317009] Derivative compound claims to cure AIDS.</td>
</tr>
<tr>
<td>Sapum sebiferum</td>
<td>Promotes healing of wounds, skin healing. Tonic, diuretic, emetic and purgative properties.</td>
<td>[5380894] production of hydroxy fatty acids and estolide intermediates.</td>
</tr>
<tr>
<td>Plant/Ingredient</td>
<td>Description</td>
<td>Reference</td>
</tr>
<tr>
<td>------------------</td>
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</tr>
<tr>
<td>Withania somnifera (Aswagandha)</td>
<td>A tonic of this plant is taken for emaciation in children and the elderly. It is very good nutrient tonic for weakness.</td>
<td>[549668] Method for treating musculoskeletal disease and a novel composition thereof.</td>
</tr>
<tr>
<td>Zingiber officinale (Ginger)</td>
<td>For removing congestion in the chest and nasal cavity</td>
<td>[5565201], [5603935], [5494668], [5536506] Pharmaceutical composition for the treatment of snoring and method of treating musculoskeletal disease and a novel composition thereof.</td>
</tr>
<tr>
<td>Karela (bittergourd), Jamun (blackberry), Gurmar and Brinjal</td>
<td>Use of Karela, Jamun and Brinjal for control of diabetes is everyday knowledge and practice in India</td>
<td>Cromak Research Inc., US 6900240 For anti diabetic properties</td>
</tr>
<tr>
<td>Indian curry</td>
<td>Common Knowledge in India</td>
<td>072829214 in Japan</td>
</tr>
</tbody>
</table>

Annexure 2

Questionnaire for Household Survey

Name of the Village

Name:

1. No of members in the family:
2. No of children in the family
3. Occupation: Agriculture
4. Landholding
5. Size of land holding (mainly for paddy)
6. What all do you grow?
7. Do you grow paddy once or twice in a year?
8. No of varieties in each year. And names of the varieties..
9. Where do you procure your seeds for all the different varieties that you grow (paddy)?
10. How do you get the seeds? Exchange or from the market or from some agent?
11. If bought, at what price?
12. Do you grow the same variety of paddy every year?
13. Or do you change the varieties after a few year?
14. Who in the family decides the change of variety (which one to grow in the next season?)
15. Do you consume all the rice that you grow? Or do you sell some?
16. How much do you save for seed for the next year?
17. Is the production enough for the entire year's consumption or do you have to buy some?

18. How much do you sell from your produce and at what price?

19. How is the quality of the rice you buy from the market?

20. Do you think it is nutritious?

**Seed Selection**
21. Who is responsible for seed selection in the family?

22. Who is responsible for seed collection in the family?

23. How do you ensure quality seed? How do you decide which grain to save for seed purposes?

**Seed Storage**
24. Who is responsible for seed storage in the family?

25. Describe the method and place for storage of seed.

26. Have you ever tried experimenting with seed to improve productivity?

**Exchange/Sale**
27. What is the mode of exchange of local varieties among farmers - informal, through cooperative?

28. What is the extent of seed exchange network?

29. Has there ever been damage of seeds at the village level due to any disaster? In such a case, where did you procure your seeds from?

30. Do you think there were some good varieties of paddy in the past which have been lost? Would you like to procure seeds of these varieties if available in some seed bank?

31. How do you keep pests/insects away from paddy?

**Rice in Culture and festivals**
32. What are the different ways in custom and beliefs related to rice/paddy in your community/village?

33. What are the different ceremonies in your religion that relate to rice/paddy in your festivals?
34. What different uses can you think of rice/ paddy other than the above mentioned uses?

Conflicts/ norms

35. Are there any specific norms for practices related to seeds – exchange of seeds/ sale of seeds/ purchase of seeds, etc in your village?

36. Have you witnessed or have you ever been engaged / part of any conflicts, disputes, differences with other party/ people in connection with seeds.

37. Are there any disputes in your village/ community related to any other aspects of cultivations – such as water sharing, seeds, practices of cultivation, use or collection of NTFP

38. Who resolves such conflicts? Is there any appeal to the decisions?
THE SEEDS BILL, 2004

A BILL

to provide for regulating the quality of seeds for sale, import and export and to facilitate
production and supply of seeds of quality and for matters connected therewith or
incidental thereto.

BE it enacted by Parliament in the Fifty-Fifth Year of the Republic of India as follows:-

<table>
<thead>
<tr>
<th>Short title, extent, application and commencement.</th>
<th>CHAPTER I</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.(1) This Act may be called the Seeds Act, 2004.</td>
<td>PRELIMINARY</td>
</tr>
<tr>
<td>(2) It extends to the whole of India.</td>
<td></td>
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<tr>
<td>(3) Save as otherwise provided in this Act, it shall apply to-</td>
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<tr>
<td>(a) every dealer; and</td>
<td></td>
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<tr>
<td>(b) every producer of seed except when the seed is produced by him for his own use and not for sale.</td>
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<tr>
<td>(4) It shall come into force on such date as the Central Government may, by notification, appoint.</td>
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</tbody>
</table>

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

(1) "agriculture" includes horticulture, forestry and cultivation of plantation, medicinal and aromatic plants;

(2) "Central Seed Testing Laboratory" means the Central Seed Testing Laboratory established or declared as such under sub-section (1) of section
(3) "Certification Agency" means an agency established under section 26 or accredited under section 27 or recognised under section 30;

(4) "Chairperson" means the Chairperson of the Committee;

(5) "Committee" means the Central Seed Committee constituted under sub-section (1) of section 3;

(6) "container" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which any article or thing is placed or packed;

(7) "dealer" means a person who carries on the business of buying and selling, exporting, or importing seed, and includes an agent of a dealer;

(8) "export" means taking out of India by land, sea or air;

(9) "farmer" means any person who cultivates crops either by cultivating the land himself or through any other person but does not include any individual, company, trader or dealer who engages in the procurement and sale of seeds on a commercial basis;

(10) "horticulture nursery" means any place where horticulture plants are, in the regular course of business, produced or propagated and sold for transplantation;

(11) "import" means bringing into India by land, sea or air;

(12) "kind" means one or more related species or sub-species of crop plants each individually or collectively known by one common name such as cabbage, maize, paddy and wheat;

(13) "member" means a member of the Committee;

(14) "misbranded" - A seed shall be deemed to be misbranded if-

(i) it is a substitute for, or resembles in a manner likely to deceive, another
variety of seed under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true nature;

(ii) it is falsely stated to be the product of any place or country;

(iii) it is sold by a name which belongs to another kind or variety of seed;

(iv) false claims are made for it upon the label or otherwise;

(v) when sold in a package which has been sealed or prepared by, or at the instance, of the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act;

(vi) the package containing it, or the label on the package bears any statement, design or device regarding the quality or the kind or variety of seed contained therein, which is false or misleading in any material particular or if the package is otherwise deceptive with respect to its contents;

(vii) it is not registered in the manner required by or under this Act;

(viii) its label contains any reference to registration other than the registration number;

(ix) its label does not contain a warning or caution which may be necessary, and sufficient, if complied with, to protect human, animal and plant life and health or to avoid serious prejudice to the environment;

(x) the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety; or

(xi) it is not labelled in accordance with the requirements of this Act or the rules made thereunder;

(15) "notification" means a notification published in the Official Gazette;
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</thead>
<tbody>
<tr>
<td>(16)</td>
<td>&quot;prescribed&quot; means prescribed by rules made under this Act;</td>
</tr>
<tr>
<td>(17)</td>
<td>&quot;producer&quot; means a person, group of persons, firm or organisation who grows or organizes the production of seeds;</td>
</tr>
<tr>
<td>(18)</td>
<td>&quot;registered kind or variety&quot;, in relation to any seed, means any kind, or variety thereof, registered under section 13;</td>
</tr>
<tr>
<td>(19)</td>
<td>&quot;Registration Sub-Committee&quot; means the Registration Sub-Committee constituted under sub-section (1) of section 7;</td>
</tr>
<tr>
<td>(20)</td>
<td>&quot;regulation&quot; means a regulation made by the Committee under this Act;</td>
</tr>
<tr>
<td>(21)</td>
<td>&quot;seed&quot; means any type of living embryo or propagule capable of regeneration and giving rise to a plant of agriculture which is true to such type;</td>
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<tr>
<td>(22)</td>
<td>&quot;Seed Analyst&quot; means a Seed Analyst appointed under section 33;</td>
</tr>
<tr>
<td>(23)</td>
<td>&quot;Seed Inspector&quot; means a Seed Inspector appointed under section 34;</td>
</tr>
<tr>
<td>(24)</td>
<td>&quot;seed processing&quot; means the process by which seeds and planting materials are dried, threshed, shelled, ginned or delinted (in cotton), cleaned, graded or treated;</td>
</tr>
<tr>
<td>(25)</td>
<td>&quot;spurious seed&quot; means any seed which is not genuine or true to type;</td>
</tr>
<tr>
<td>(26)</td>
<td>&quot;State Government&quot;, in relation to a Union territory, means the administrator thereof;</td>
</tr>
<tr>
<td>(27)</td>
<td>&quot;State Seed Testing Laboratory&quot;, in relation to any State, means the State Seed Laboratory established or declared as such under sub-section (2) of section 32 for that State;</td>
</tr>
<tr>
<td>(28)</td>
<td>&quot;transgenic variety&quot; means seed or planting material synthesized or developed by modifying or altering the genetic composition by means of</td>
</tr>
</tbody>
</table>
genetic engineering;

(29) "variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be

(i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;

(ii) distinguished from any other plant grouping by expression of at least one of the said characteristics; and

(iii) considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation,

and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety.

Footnote: "essentially derived variety", in respect of a variety (the initial variety) shall be said to be essentially derived from such initial variety when it-

(a) is predominantly derived from such initial variety, or from a variety that itself is predominantly derived from such initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;

(b) is clearly distinguishable from such initial variety; and

(c) conforms (except for the differences which result from the act of derivation) to such initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;

Extant variety - "extant variety" means a variety available in India which is-

(a) notified under section 5 of the Seeds Act, 1966; or
(b) farmers’ variety as defined in PVP Act; or

(c) a variety about which there is common knowledge; or

(d) any other variety which is in public domain.

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**CHAPTER II**

**THE CENTRAL SEED COMMITTEE, REGISTRATION AND OTHER SUB-COMMITTEES**

<table>
<thead>
<tr>
<th>Constitution of Central Seed Committee.</th>
<th>3. (1) The Central Government shall, by notification, constitute, for the purpose of this Act, a Committee to be called the Central Seed Committee.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Composition of the Committee.</td>
<td>4.(1) The Committee shall consist of a Chairperson, members, ex-officio and other members, to be nominated by the Central Government.</td>
</tr>
<tr>
<td></td>
<td>(2) The Secretary to the Government of India in the Department of Agriculture and Co-operation, Ministry of Agriculture, shall be Chairperson, ex officio.</td>
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<td></td>
<td>(3) The Committee shall consist of the following members, ex officio namely:-</td>
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<td></td>
<td>(i) the Agriculture Commissioner, Department of Agriculture and Co-operation, Government of India;</td>
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<td>(ii) the Deputy Director General (Crop Sciences), Indian Council of Agricultural Research;</td>
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<td></td>
<td>(iii) the Deputy Director General (Horticulture), Indian Council of Agricultural Research;</td>
</tr>
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<td></td>
<td>(iv) the Joint Secretary in charge of seeds in the Department of Agriculture and Co-operation, Government of India</td>
</tr>
</tbody>
</table>
(v) the Horticulture Commissioner, Department of Agriculture and Co-operation, Government of India;

(vi) a representative of the Department of Bio-technology, Government of India, not below the rank of Joint Secretary to the Government of India;

(vii) a representative of the Ministry of Environment and Forests, Government of India, not below the rank of Joint Secretary to the Government of India.

(4) The Committee shall consist of the following other members to be nominated by the Central Government, namely:-

(i) the Secretary (Agriculture) from five States, one each from three out of the five geographical zones of the country as mentioned in the Schedule on rotation basis;

(ii) Director, State Seed Certification Agency from one State which is not represented under clause (i);

(iii) Managing Director, State Seeds Corporation, from one State which is not represented under clause (i) or clause (ii);

(iv) two representatives of farmers;

(v) two representatives of seed industry;

(vi) two specialists or experts in the field of seed development.

(5) The Committee may associate with it, in such manner, on such terms and for such purposes as it may deem fit, any person whose assistance or advice it may desire in complying with any of the provisions of this Act, and a person so associated shall have the right to take part in the discussion of the Committee relevant to the purposes for which he has been associated, but shall not have the right to vote and shall be entitled to receive such allowances or fees as may
be fixed by the Central Government.

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<tr>
<td>(6)</td>
<td>A Member nominated under sub-section (5) shall, unless his seat becomes vacant earlier by resignation, death or otherwise, be entitled to hold office for two years from the date of his nomination but shall be eligible for re-nomination provided that the said member shall hold office only for so long as he holds the appointment by virtue of which his nomination was made.</td>
</tr>
<tr>
<td>(7)</td>
<td>Save as otherwise provided, the terms and conditions of service of the members shall be such as may be prescribed.</td>
</tr>
<tr>
<td>(8)</td>
<td>A member other than an ex officio member may resign his office by giving notice in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.</td>
</tr>
<tr>
<td>(9)</td>
<td>A person shall be disqualified for being nominated or appointed as a member if he-</td>
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<td></td>
<td>(i) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or</td>
</tr>
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<td></td>
<td>(ii) is an undischarged insolvent; or</td>
</tr>
<tr>
<td></td>
<td>(iii) is of unsound mind and stands so declared by a competent court.</td>
</tr>
<tr>
<td>(10)</td>
<td>No act or proceeding of the Committee shall become invalid merely by reason of-</td>
</tr>
<tr>
<td></td>
<td>(i) any vacancy therein, or any defect in the constitution thereof; or</td>
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<td></td>
<td>(ii) any defect in the appointment of a person acting as the Chairperson or a member of the Committee; or</td>
</tr>
<tr>
<td></td>
<td>(iii) any irregularity in the procedure of the Committee not</td>
</tr>
</tbody>
</table>
5. The Committee shall be responsible for and shall have all the powers for the effective implementation of this Act and shall advise the Central Government and the State Governments on matters relating to-

(a) seed programming and planning;
(b) seed development and production;
(c) export and import of seeds;
(d) standards for registration, certification and seed testing;
(e) seed registration and its enforcement;
(f) such other matters as may be specified by the Central Government.

6. The Committee may, by notification, specify-

(a) the minimum limits of germination, genetic and physical purity, and seed health, with respect to any seed of any kind of variety;
(b) the mark or label to indicate that such seed conforms to the minimum limits of germination, genetic and physical purity, and seed health specified under clause (a), and other particulars, such as expected performance of the seed in accordance with the information provided by the producer under section 14 which...
such mark or label may contain.

| Registration and other Sub-Committees of the Committee and their functions. | 7.(1) The Committee shall constitute a Sub-Committee to be called the Registration Sub-Committee consisting of a Chairman and such number of other members, to assist him in the discharge of the functions of the Committee, as may be prescribed.  

(2) It shall be the duty of the Registration Sub-Committee-

(a) to register seeds of varieties after scrutinizing their claims as made in the application in such manner as may be prescribed;  

(b) to perform such other functions as are assigned to it by the Committee.  

(3) The Committee may appoint as many other Sub-Committees including a Sub-Committee on Seed Certification as it deems fit consisting wholly of the members of the Committee or wholly of other persons or partly of members of the Committee and partly of other persons as it thinks fit to exercise such powers and perform such duties as may be delegated to them. |

| Procedure of the Committee and its Sub-Committees. | 8. The Committee may, subject to the previous approval of the Central Government, make regulations for the purpose of regulating its own procedure and the procedure of any Sub-Committee thereof. |

| Secretary and other officers of the Committee. | 9. The Central Government shall –  

(a) appoint a person to be the Secretary of the Committee; and  

(b) provide the Committee with such technical and other officers and employees as may be necessary for the efficient performance of the functions of the Committee under this Act. |

| Meetings of the Committee. | 10. (1) The Committee shall meet as and when necessary at such time and place and shall observe such procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations. |
(2) The Chairperson or, in his absence, the Agricultural Commissioner or, in the absence of both the Chairperson and the Agriculture Commissioner, any member chosen by the members present from amongst themselves, shall preside at a meeting of the Committee.

(3) All questions at a meeting of the Committee shall be decided by a majority of votes of the members present and voting and in the case of an equality of votes, the Chairperson or, in his absence, the Agriculture Commissioner or, in the absence of both the Chairperson and the Agriculture Commissioner the person presiding shall have and exercise a second or casting vote.

11. Every State Government shall establish a State Seed Committee to—

(a) advise the Committee on registration of regional or local seeds of any kind or variety;

(b) advise the State Government on registration of seed producing units, seed processing units, seed dealers and horticulture nurseries;

(c) maintain, in each district, a list of seed dealers, seed producers, seed processing units and horticulture nurseries;

(d) seek information from persons engaged in the production, supply, distribution, trade or commerce in seeds of any kind or variety regarding stocks, prices, sales and other information in the manner as may be prescribed;

(e) advise the State Government and the Committee on all matters arising out of the administration and implementation of this Act; and

(f) carry out other functions assigned to, by, or under this Act.
## CHAPTER III
REGISTRATION OF KINDS AND VARIETIES OF SEEDS, ETC.

| Maintenance of National Register of seeds of kinds and varieties. | 12.(1) For the purposes of this Act, a register of all kinds and varieties of seed to be called the National Register of Seeds shall be kept by the Registration Sub-Committee wherein all specifications, as may be prescribed, shall be maintained.  

(2) Subject to the directions of the Committee, the Register shall be kept under the control and management of the Registration Sub-Committee.  

(3) The Registration Sub-Committee shall, within such intervals and in such manner as it thinks appropriate, publish the list of kinds and varieties of seed which have been registered during that interval. |
| Registration of seeds of any kind or variety. | 13.(1) No seed of any kind or variety shall, for the purpose of sowing or planting by any person, be sold unless such seed is registered under sub-section (2) by the Registration Sub-Committee in such manner as may be prescribed.  

(2) Subject to the provisions of sections 14 and 15, the Registration Sub-Committee may register, or refuse any kind or variety of seed on the basis of information furnished by the producer on the results of multi-locational trials for such period as may be prescribed to establish the performance of that seed.  

(3) The Registration Sub-Committee may grant provisional registration as prescribed to the varieties of seeds which are available in the market on the date of commencement of this Act.  

(4) Registration made under this Act shall be valid for a period of fifteen years in the case of annual and biennial crops, and eighteen years for long duration perennials. |
(5) At the expiry of the period granted under sub-section (4), the kind or variety of seed may be re-registered for a like period by the Registration Sub-Committee on the basis of information furnished by the producer on the results of such trials as may be prescribed under sub-section (2) to re-establish performance of the kind or variety of seed.

(6) The Registration Sub-Committee shall have the power to issue such directions to protect the interests of a producer against any abusive act committed by any third party during the period between the date of filing of application for registration and the date of decision by the Committee on such application.

<table>
<thead>
<tr>
<th>Procedure for registration.</th>
<th>14.(1) Every application for registration under sub-section (1) section 13 shall be made in such form and contain such particulars and be accompanied by such fees as may be prescribed.</th>
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<tr>
<td></td>
<td>(2) On receipt of any such application for the registration of a kind or variety of seed, the Registration Sub-Committee may, after such enquiry as it deems fit and after satisfying itself that the kind or variety of seed to which the application relates conforms to the claims made by the importer or by the seller, as the case may be, as regards the efficacy of the kind or variety of seed and its safety to human beings and animals, register the kind or variety, as the case may, of the seed on such conditions as may be specified by it and allot a registration number thereto and issue a certificate of registration.</td>
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<td></td>
<td>(3) The Registration Sub-Committee may, having regard to the efficacy of the seeds and its safety to human beings and animals, vary the conditions subject to which a certificate of registration has been granted and may, for that purpose, require the certificate holder by notice in writing to deliver the certificate to it within such time as may be specified in the notice.</td>
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<tr>
<td>Special provision for</td>
<td>15. (1) Notwithstanding anything contained in section 14, no seed of any transgenic variety shall be registered unless the applicant has</td>
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</table>
| Registration of transgenic varieties. | obtained clearance in respect of the same as required by or under the provisions of the Environment (Protection) Act, 1986:

 Provided that the Registration Sub-Committee may, subject to clearance under the said Act, grant provisional registration, for a period not exceeding two years on the basis of information furnished by the producer on the results of multi-locational trials in the prescribed manner.

(2) Save as otherwise provided in sub-section (1), the form and manner in which and procedure for registration of transgenic variety of seed and the fee payable thereto shall be the same as applicable in case of registration under section 14. |

| Cancellation of registration of seeds of kinds and varieties. | 16.(1) The Registration Sub-Committee may cancel any registration granted under section 13 or section 15 or any one or more of the following grounds, namely:-

(a) that the holder of the certificate has violated any of the terms and conditions of the registration; or

(b) that the registration has been obtained by misrepresentation or concealment of essential data; or

(c) that the variety is not performing in accordance with the information provided by the producer under sub-section (3) of section 14 or has become obsolete or has outlived its utility; or

(d) that prevention of commercial exploitation of such variety of seeds is necessary.

(i) in the public interest;

(ii) to protect public order or public morality; or

(iii) to protect human beings, animal and plant life and health to avoid |
serious prejudice to the environment.

(2) No order of cancellation of registration under this section shall be made unless the holder thereof or the affected person concerned has been given a reasonable opportunity of showing cause in respect of the grounds for such cancellation.

<table>
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<tr>
<th>Notification of cancellation of registration of seeds of kinds and varieties.</th>
<th>17. The Registration Sub-Committee shall notify the cancellation of registration of a seed of any kind or variety made under section 13 or any registration made under section 15 in the Official Gazette</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exclusion of certain kinds or varieties of seed from registration.</td>
<td>18. Notwithstanding anything contained in this Act, no registration of any kind or variety of seed shall be made under this Act, if prevention of commercial exploitation of such kind or variety is necessary to protect public order or public morality or human, animal or plant life and health, or to avoid serious prejudice to the environment.</td>
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<tr>
<td>Evaluation of performance.</td>
<td>(2) A kind or variety of seed containing any technology, which is harmful, or potentially harmful, shall not be registered.</td>
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<td>Explanation.- For the purposes of this sub-section, the expression “technology” includes genetic use restriction technology and terminator technology.</td>
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<td>Compensation to farmer.</td>
<td>19. The Committee may, for conducting trials to assess performance, accredit centers of the Indian Council of Agricultural Research, State Agricultural Universities and such other organizations fulfilling the eligibility requirements as may be prescribed, to conduct trials to evaluate the performance of any kind or variety of seed.</td>
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<td>20. Where the seed of any registered kind or variety is sold to a farmer, the producer, distributor or vendor, as the case may be, shall disclose the expected performance of such kind or variety to the farmer under given conditions, and if, such registered seed fails to provide the expected performance under such given conditions, the farmer may claim compensation from the producer, distributor or vendor under the Consumer Protection Act, 1986.</td>
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</table>
21. (1) No producer shall grow or organize the production of seed unless he is registered as such by the State Government under this Act.

(2) No person shall maintain a seed processing unit unless such unit is registered by the State Government under this Act.

(3) The State Government shall register a producer or seed processing unit if he or it meets the specifications prescribed by the Central Government in terms of infrastructure, equipment and qualified manpower.

(4) Every application for registration under sub-section (3) shall be made in such form and manner and shall be accompanied by such fee as may be prescribed.

(5) The State Government may, after making such enquiry and subject to such conditions as it thinks fit, grant a certificate for maintaining a seed producing or a seed processing unit in such form as may be prescribed.

(6) Every seed producing and processing units shall furnish periodic returns to the Seed Certification Agency in such form and at such time as may be prescribed on the quantity of seeds of different kinds or varieties processed by them.

(7) The State Government may, after giving the holder of certificate of registration under sub-section (1), or sub-section (2), as the case may be, suspend or cancel the registration if—

(a) such registration has been obtained by
<table>
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<tr>
<th>Seed dealers to be registered.</th>
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</table>
| 22.(1) Every person who desires to carry on the business of selling, keeping for sale, offering to sell, bartering, import or export or otherwise supply any seed by himself, or by any other person on his behalf shall obtain a registration certificate as a dealer in seeds from the State Government.

(2) Every applicant for dealership under sub-section (1) shall be required to furnish information about seed stocks, sales and other related information as may be prescribed.

(3) Every application for registration under sub-section (1) shall be made in such form and manner and shall be accompanied by such fee as may be prescribed.

(4) The State Government may, after making such enquiry and subject to such conditions as it thinks fit, grant a certificate of registration as a dealer in seeds in such form as may be prescribed.

(5) Every dealer registered under this section shall furnish such information and returns regarding seed stocks, seed lots, expiry date of seed lots and other related information as may be prescribed to the State Government.

(6) The State Government may, after giving the dealer an opportunity of being heard, suspend or cancel a certificate granted under this Act if-

(a) such registration had been obtained by
misrepresentation of any material fact;
(b) contravenes any of the provisions of this Act or the rules made thereunder.

| Horticulture nursery to be registered. |
---|---|
23.(1) No person shall conduct or carry on the business of horticulture nursery unless such nursery is registered with the State Government.
(2) Every application for registration under sub-section (1) shall be made in such form and contain such particulars and shall be accompanied by such fee as may be prescribed.

| Duties of registration holders of horticulture nursery. |
---|---|
24. Every person who is a holder of a registration of a horticulture nursery under section 23 shall-
(a) keep a complete record of the origin or source of every planting material and performance record of mother trees in the nursery;
(b) keep a layout plan showing the position of the root-stocks and scions used in raising the horticulture plants;
(c) keep a performance record of the mother trees in the nursery;
(d) keep the nursery plants as well as the parent trees used for the production or propagation of horticulture plants free from infectious or contagious insects, pests or diseases affecting plants.
(e) furnish such information to the State Government on the production, stocks, sales and prices of planting material in the nursery as may be prescribed.
## CHAPTER IV
REGULATION OF SALE OF SEED AND SEED CERTIFICATION AGENCIES

| Regulation of sale of seeds of registered kinds and varieties. | 25. No person shall himself, or by any other person on his behalf, carry on the business of selling, keeping for sale, offering to sell, bartering, import or export or otherwise supply any kind of seed of any registered kind or variety unless-

|   | (a) such seed is identifiable as to its kind or variety; |
|   | (b) such seed conforms to the minimum limit of germination and genetic, physical purity, seed health specified under clause (a) of section 6; |
|   | (c) the container of such seed bears in the prescribed manner, the mark or label bearing the correct particulars thereof, specified under clause (b) of section 6; |
|   | (d) the container of such seed, in the case of transgenic varieties, bears a declaration to this effect as specified in sub-clause (2) of section 15; |
|   | (e) he complies with such other requirements as may be prescribed. |

| State Seed Certification Agency. | 26. The Committee may, in consultation with the State Government, by notification, establish a State Seed Certification Agency for the State to carry out the functions entrusted to the State Seed Certification Agency by or under this Act: |

| Accreditation of Seed Certification Agencies. | 27. (1) The Committee may in consultation with the State Government and the State Seed Committee, accredit – |
(a) organizations to carry out certification, on the fulfillment of such criteria, as may be prescribed, or

(b) individuals or seed producing ecogmze ons to carry out self- certification, in such manner as may be prescribed.

(2) The accredited individuals and seed producing ecogmze ons shall be subject to such inspection and control of the Committee, the concerned State Government and State Seed Certification Agency, as may be prescribed.

(3) The accreditation may be withdrawn by the Committee, for reasons to be recorded in writing and after giving to the concerned organization or individual, as the case may be, a reasonable opportunity of being heard.

28.(1) Any person selling, keeping for sale, offering to sell, bartering or otherwise supplying any seed of any registered kind or variety may, if he desires to have such seed certified by the State Seed Certification Agency, apply to that Agency for the grant of a certificate for the purpose.

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

(3) On receipt of an application under sub-section (1), the State Seed Certification Agency may, after such enquiry as it thinks fit and after satisfying itself that the seed to which the application relates conforms to the prescribed standards, grant a certificate in such form and on such conditions as may be prescribed:

Provided that such standards shall not be lower than the minimum limit of germination, genetic and physical
purity specified for that seed under clause (a) of section 6.

| Revocation of certificate. | 29. If the State Seed Certification Agency is satisfied, either on a reference made to it in this behalf or otherwise, that-

(a) the certificate granted by it under section 28 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of the certificate has, without reasonable cause, failed to comply with the conditions subject to which the certificate has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

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

| Recognition of seed certification agencies in foreign countries. | 30. The Central Government may, on the recommendation of the Committee and by notification, recognize any seed certification agency established in any foreign country, for the purposes of this Act.

| Appeals. | 31.(1) Any person aggrieved by a decision of the Registration Sub-Committee under section 14, section 16 or section 27 or of the State Seed Certification Agency under section 28 or section 29 may, within thirty days from the date on which the decision is communicated to him prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the Central Government may think fit to constitute:

| CHAPTER V | APPEALS |

| Appeals. | 31.(1) Any person aggrieved by a decision of the Registration Sub-Committee under section 14, section 16 or section 27 or of the State Seed Certification Agency under section 28 or section 29 may, within thirty days from the date on which the decision is communicated to him prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the Central Government may think fit to constitute:
Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appellate authority shall consist of a single person or three persons as the Central Government may think fit, to be appointed by that Government.

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fee payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the other party an opportunity of being heard, dispose of the appeal as expeditiously as possible.

### CHAPTER VI

**SEED ANALYSIS AND SEED TESTING**

<table>
<thead>
<tr>
<th>Central and State Seed Testing Laboratories.</th>
<th>32.(1) The Central Government may, by notification, establish a Central Seed Testing Laboratory or declare any seed-testing laboratory as the Central Seed Testing Laboratory to carry out the functions entrusted to the Central Seed Testing Laboratory by or under this Act in the prescribed manner.</th>
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<td>(2) The State Government may, in consultation with the Committee, and by notification, establish one or more State Seed Testing Laboratories or declare any seed testing laboratory in the Government or non-Government sector as a State Seed Testing Laboratory where analysis of seed of any kind or variety shall be carried out under this Act in the</td>
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| Seed Analysts. | 33.(1) In case of the Central Seed Laboratory, the Central Government and in other cases the State Government may, by notification, appoint such persons as the Government thinks fit and having the prescribed qualifications to be Seed Analysts and define the local limits of their jurisdiction.  
(2) Every Central Seed Testing Laboratory established or declared under sub-section (1) of section 32 and every State Seed Testing Laboratory established or declared under sub-section (2) of that section shall have as many Seed Analysts as the Central Government or the State Government, as the case may be, specify. |
| Seed Inspectors. | 34.(1) The State Government may, by notification, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Inspectors and define the areas within which they shall exercise jurisdiction.  
(2) Every Seed Inspector shall be subordinate to such authority as the State Government may specify in this behalf. |
| Powers of Seed Inspectors. | 35.(1) The Seed Inspector may-  
(a) take samples of any seed of any kind or variety from-  
(i) any person selling such seed; or |
(ii) any person who is in the course of conveying, delivering or preparing to deliver such seed to a purchaser or a consignee, or

(iii) a purchaser or a consignee after delivery of such seed to him;

(b) send such sample for analysis to the Seed Analyst of the area within which such sample has been taken;

© 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 © and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act; and

(e) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rule or regulation made thereunder.

(2) The power conferred by this section includes the power to break-open any container in which any seed of any kind or variety may be contained or to break-open the door of
CHAPTER VII
EXPORT AND IMPORT OF SEEDS

<table>
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<tr>
<th>Import of seeds</th>
<th>36. (1) All import of seeds –</th>
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<td>(a) shall be subject to the provisions of the Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989, or any corresponding order made under section 3 of the Destructive Insects and Pests Act, 1914;</td>
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<td>(b) shall conform to minimum limits of germination, genetic and physical purity, and seed health as prescribed under section 6; and</td>
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c) shall be subject to registration as may be granted on the basis of information furnished by the importer on the results of multi-locational trials for such period as may be prescribed to establish performance.

(2) The Central Government may, by notification, permit to import an unregistered variety in such quantity and subject to fulfilling such conditions as may be specified in that notification for research purposes.

Export of seeds.

37. The Central Government may, on the advice of the Committee, restrict, by notification, the export of seeds of any kind or variety if it is deemed that such export may adversely affect the food security of the country, or if it is felt that the reasonable requirements of the public will not be met, or on such other grounds as may be prescribed.

CHAPTER VIII
OFFENCES AND PUNISHMENT

Offences and punishment.

38. If any person –

(a) contravenes any provision of this Act or any rule made thereunder; or

(b) imports, sells, stocks or exhibits for sale or barter; and or otherwise supplies any seed of any kind or variety deemed to be misbranded; or

(c) imports, sells, stocks or exhibits for sale or barter, or otherwise supplies any seed of any kind or variety without a certificate of registration; or

(d) obstructs the Committee, Registration Subcommittee or Seed Certification Agency or Seed Inspector or Seed Analyst or any other authority appointed or duly
empowered under this Act in the exercise of its powers or
discharge of their duties under this Act or the rules made
thereunder,

he shall, on conviction, be punishable – with fine which shall
not be less than five thousand rupees but which may extend to
twenty five thousand rupees.

(2) If any person sells any seed which does not conform
to the standards of physical purity, germination or health or
does not maintain any records required to be maintained
under this Act or the rules made thereunder he shall, on
conviction, be punishable with fine which shall not be less
than five thousand rupees but which may extend to twenty-five thousand rupees.

(3) If any person furnishes any false information relating
to the standards of genetic purity, misbrands any seed or
supplies any spurious seed or spurious transgenic variety,
sells any non-registered seeds he shall, on conviction be
punishable with imprisonment for a term which may extend
to six months or with fine which may extend to fifty thousand
rupees or with both.

| Forfeiture of property. | 39. When any person has been convicted under this Act
| | for the contravention of any of the provisions of this Act or
| | the rules made thereunder, the seed in respect of which the
| | contravention has been committed shall be forfeited to the
<table>
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<th></th>
<th>Central Government.</th>
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</table>
| Offences by companies. | 40.(1) Where an offence under this Act has been committed
| | by a company, every person who at the time the offence was
| | committed was in charge of, and was responsible to the
| | company for the conduct of the business of the company, as
| | well as the company, shall be deemed to be guilty of the
| | offence and shall be liable to be proceeded against and |
punished accordingly:

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

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

Explanation. – For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

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<tr>
<th>CHAPTER IX</th>
<th>POWER OF CENTRAL GOVERNMENT</th>
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<tr>
<td><strong>Power of Central Government to give directions to the State Governments.</strong></td>
<td>41. The Central Government may give such directions to any State Governments as may appear to the Central Government to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule made there under.</td>
</tr>
<tr>
<td><strong>Power of Central Government</strong></td>
<td>42.(1) Without prejudice to the foregoing provisions of this Act, the Committee shall, in the discharge of its functions and</td>
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</table>

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| Exemption from registration. | 43. (1) Nothing in this Act shall restrict the right of the farmer to save, use, exchange, share or sell his farm seeds and planting material, except that he shall not sell such seed or planting material under a brand name or which does not conform to the minimum limit of germination, physical purity, genetic purity prescribed under clause (a) or clause (b) of section 6.

(2) The Central Government may, by notification, and subject to conditions, if any, as it may specify therein, exempt from all or any of the provisions of this Act or the rules made thereunder, any educational, scientific or research or extension organization. |

| CHAPTER X | MISCELLANEOUS |
| Protection of action taken in good faith. | 44. No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Act. |

| Power to remove difficulties. | 45. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement |
(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

### Power of Central Government to make rules.

46.(1) The Central Government may by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the terms and conditions of service of members of the Committee under sub-section (7) of section 4;
- (b) the matters to be specified under clause (f) of section 5;
- (c) the functions of the registration sub-committee under sub-section (1) of section 7;
- (d) the manner of scrutinizing applications under clause (a) of sub-section (2) of section 7;
- (e) the specifications which shall be maintained in the National Register of Seeds of kinds or varieties under sub-section (1) of section 12;
- (f) the manner of registration of seed of any kind or variety under sub-section (1) and (3) of section 13;
- (g) the period for which multi-locational trials shall be conducted under sub-section (2) of section 13;
- (h) the form of application and the particulars which should be furnished in such application under sub-section (1) of section 14;
- (i) the eligibility requirement which an organization shall fulfil for accreditation under section 19;
- (j) the specification required to be fulfilled for registration as a producer or seed producing unit under sub-section (3) of section 21;
- (k) the form and manner in which an application for
registration under sub-section (3) of section 21 shall be made and the fee with which such application shall be accompanied under sub-section (5) of said section 21;

(l) the form in which a certificate for maintaining a seed producing or seed processing unit may be granted under sub-section (5) of section 21;

(m) the form in which and time within which periodic returns shall be filled under sub-section (6) of section 21;

(n) the information which an application for dealership in seeds shall be furnished under sub-section (2) of section 22;

(o) the form and manner in which an application for registration as seed dealer under sub-section (1) of section 22 shall be made and the fee which shall accompany such application under sub-section (3) of that section;

(p) the form in which a certificate of registration as a dealer in seeds shall be granted under sub-section (4) of section 22;

(q) the information and return which a registered dealer shall furnish to the State Government under sub-section (5) of section 22;

(r) the form in which an application for registration of a horticulture nursery shall be made, the particulars which such application shall contain and fee which shall accompany such application under sub-section (2) of section 23;

(s) the information on production, stocks, sales and prices of planting material in a nursery shall be furnished to the State Government under section 24;

(t) the requirement which a person carrying on business of selling, etc. of any registered kind or variety of seeds shall comply with under clause (e) of section 25;

(u) the criteria to be fulfilled under clause (a) and the manner of carrying out self-certification under clause (b) of sub-section (1) of section 27;
(v) the inspection and control of the Committee, the concerned State Government and the State Seeds Certification Agency for accrediting individuals and seed producing organizations under sub-section (2) of section 27;

(w) the form of application and the particulars to be furnished in such application and the fee which shall accompany such application under sub-section (2) of section 28;

(x) the form in which and the conditions subject to which a certificate shall be granted under sub-section (3) of section 28;

(y) the form and manner in which an appeal shall be preferred and the fee which such appeal shall accompany under sub-section (3) of section 31;

(z) the manner in which a Central Seed Testing Laboratory established or declared under sub-section (1) of section 32 shall carry out its functions;

(za) the manner of carrying out analysis of seeds shall be made under sub-section (2) of section 32;

(zb) the qualifications which a person to be appointed as Seed Analysts shall possess under sub-section (1) of section 33;

(zc) the qualifications which a person to be appointed as Seed Inspector shall possess under sub-section (1) of section 34;

(ze) the grounds on which the Central Government may restrict export of seeds under section 37;

(ze) any other matter which is to be or may be prescribed.

**Power of Committee to make regulations.**

47. (1) The Committee may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving
effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the procedure for conduct of business to be transacted by the Committee or any Sub-Committee thereof under section 8;

(b) the procedure in regard to transaction of business at meetings of the Committee (including the quorum at meetings) under sub-section (1) of section 10.

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

49. On the commencement of this Act, the Seeds Act, 1966 shall stand repealed;

Provided that such repeal shall not affect,-

(a) the previous operation of the law so repealed or anything duly done or suffered thereunder; or
(b) any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed; or

c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, proceeding, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, proceedings, legal proceeding or remedy may be instituted, continued or enforced; any such penalty forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that, subject to the first proviso and any saving provisions made elsewhere in this Act anything done, any action taken, any rule made, any notifications or orders issued under the provisions of the Act so repealed shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under the corresponding provisions of this Act, and shall continue to be in force accordingly, unless and until expressly or implied repealed by any thing done, action taken, rules made or, notification or orders issued under this Act.

(2) Notwithstanding such repeals any kind or variety of seeds that has been notified under the law as so repealed shall be deemed to have been registered under this Act, and any seed certification agency established under section 18 of the Seeds Act, 1966 shall be deemed to have been established or recognized, as the case may be, under this Act.
THE SCHEDULE
[See section 4(4)(i),(ii) and (iii)]

GEOGRAPHICAL ZONES

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THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996 No.40 OF 1996

(24th December, 1996)

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

Short title

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

Definition

2. In this Act, unless the context otherwise requires, “Scheduled Areas” means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

Extension of part IX of The Constitution

3. The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Exceptions and modifications to part IX of The Constitution

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:-

(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;
(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(e) every Gram Sabha shall-

i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

ii. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause (e);

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution;

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level;

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

(j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;
(k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;

(l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

(m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-

(i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

(ii) the ownership of minor forest produce;

(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

(iv) the power to manage village markets by whatever name called;

(v) the power to exercise control over money lending to the Scheduled Tribes;

(vi) the power to exercise control over institutions and functionaries in all social sectors;

(vii) the power to control over local plans and resources for such plans including tribal sub-plans;

(n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.
Continuance of existing laws on panchayats:

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K.L. MOHANPURIA,
Secy. To the Govt. of India
THE PROTECTION OF PLANT VARIETIES AND FARMER'S RIGHTS ACT, 2001
An Act to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders, to encourage the development of new varieties of plants;

Whereas it is considered necessary to recognise and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the development of new plant varieties;

And whereas for accelerated agricultural development in the country, it is necessary to protect plant breeders' rights to stimulate investment for research and development, both in the public and private sector, for the development of new plant varieties;

And whereas, such protection will facilitate the growth of the seed industry in the country which will ensure the availability of high quality seeds and plant material to the farmers;

And whereas to give effect to the aforesaid objectives, it is necessary to undertake measures for the protection of the rights of farmers and plant breeders;

And whereas India, having ratified the Agreement on Trade Related Aspects of Intellectual Property Rights should interalia make provision for giving effect to sub-paragraph (b) of paragraph 3 of article 27 in Part II of the said Agreement relating to protection of plant varieties;

Be it enacted by Parliament in the Fifty-second Year of the Republic of India as follows—

CHAPTER I
PRELIMINARY
Short Title, extent and commencement.
1. (1) This Act may be called the Protection of Plant Varieties and Farmers' Rights Act, 2001.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions
2. In this Act, unless the context otherwise requires:
(a) "Authority" means the Protection of Plant Varieties and Farmers' Rights Authority established under subsection (1) of section 3;
(b) "benefit sharing" in relation to a variety, means such proportion of the benefit accruing to a breeder of such variety of such proportion of the benefit accruing to the breeder from an agent or a Licensee of such variety, as the case may be, for which a claimant shall be entitled as determined by the Authority under section 26.
(c) "breeder" means a person or group of persons or a farmer or group of farmers or any institution which has bred, evolved or developed any variety;
(d) "Chairman" means the Chairman of the Tribunal;
(e) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of subsection (5) of section 3;
(f) "Convention country" means a country which has acceded to an international convention for the protection of plant varieties to which India has also acceded, or a country which has a law on protection of plant varieties on the basis of which India has entered into an agreement for granting, plant breeders' right to the citizens of both the countries;
(g) "denomination", in relation to a variety or its propagating material or essentially derived variety or its propagating material, means the denomination of such variety or its propagating material or essentially derived variety or its propagating material, as the case may be, expressed by means of letters or a combination of letters and figures written in any language.

(h) "essential characteristics" means such heritable traits of a plant variety which are determined by the expression of one or more genes of other heritable determinants that contribute to the principle features, performance or value of the plant variety;

(i) "essentially derived variety", in respect of a variety (the initial variety) shall be said to be essentially derived from such initial variety when it—

(i) is predominantly derived from such initial variety, or from a variety that is itself predominantly derived from such initial variety, while retaining the expression of the essential characteristics that results from the genotype or combination of genotype of such initial variety;

(ii) is clearly distinguishable from such initial variety; and

(iii) conforms (except for the differences which result from the act of derivation) to such initial variety in the expression of the essential characteristics that result from the genotype or combination of genotype of such initial variety.

(j) "extant variety" means a variety available in India which is—

(i) notified under section 5 of the Seeds Act, 1966(54 of 1966); or

(ii) farmers' variety; or

(iii) a variety about which there is common knowledge; or

(iv) any other variety which is in public domain.

(k) "farmer" means any person who—

(i) cultivates crops either by cultivating the land himself; or

(ii) cultivates crops by directly supervising the cultivation of land through any other person; or

(iii) conserves and preserves, severally or jointly, with any person any wild species or traditional varieties or adds value to such wild species or traditional varieties through selection and identification of their useful properties.

(l) "farmers' variety" means a variety which—

(i) has been traditionally cultivated and evolved by the farmers in their fields; or

(ii) is a wild relative or land race of a variety about which the farmers possess the common knowledge.

(m) "Gene Fund" means the National Gene Fund constituted under subsection (1) of section 45;

(n) "Judicial Member" means a Member of the Tribunal appointed as such under sub-section (1) of section 56 and includes Chairman;

(o) "Member" means a Judicial Member or a Technical member of the Tribunal and includes Chairman;

(p) "Member" means a member of the Authority appointed under clause (b) of sub-section (5) of section 3 and includes the Member-Secretary;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "propagating material" means any plant or its component or part thereof including an intended seed or seed which is capable of or of suitable for regeneration into a plant;

(s) "Register" means a national Register of Plant Varieties referred to in section 13;

(t) "Registrar" means a Registrar of Plant Varieties appointed under sub-section (4) of section 12 and includes the Registrar-General;
(u) "Registrar-General" means the Registrar-General of Plant Varieties appointed under subsection (3) of section 12;

(v) "Registry" means the Plant Variety Registry referred to in sub-section (1) of section 12;

(w) "regulations" means regulations made by the Authority under this Act;

(x) "seed" means a type of living embryo or propagule capable of regeneration and giving rise to a plant which is true to such type;

(y) "Variety", means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be—

(i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;

(ii) distinguished from any other plant grouping by expression of at least one of the said characteristics; and

(iii) considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation, and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety.

(za) "Tribunal" means the Plant Varieties Protection Appellate Tribunal established under section 54;

(a) "Technical Member" means a Member of the Tribunal who is not a Judicial Member.

CHAPTER II
PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS AUTHORITY
Establishment of Authority.

3. (1) The Central Government shall, by notification in the Official Gazette, establish an authority to be known as the Protection of Plant Varieties and Farmers' Rights Authority for the purposes of this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify and the Authority may, with the previous approval of the Central Government, establish branch offices at other places in India.

(4) The Authority shall consist of a Chairperson and fifteen members.

(5) (a) The Chairperson to be appointed by the Central Government, shall be a person of outstanding calibre and eminence, with long practical experience to the satisfaction of that Government especially in the field of plant varietal research or agricultural development.

(b) The members of the Authority, to be appointed by the Central Government, shall be as follows, namely—

(i) the Agriculture Commissioner, Government of India, Department of Agriculture and Cooperation, New Delhi, Member ex-officio;

(ii) the Deputy Director General in charge of Crop Sciences, Indian Council of Agricultural Research, New Delhi, ex-officio;

(iii) the Joint Secretary in charge of Seeds, Government of India, Department of Agriculture & Cooperation, New Delhi, ex-officio;

(iv) the Horticulture Commissioner, Government of India, Department of Agriculture & Cooperation, New Delhi, ex-officio;

(v) the Director, National Bureau of Plant Genetic Resources, New Delhi, ex-officio;

(vi) one member not below the rank of Joint Secretary to the Government of India, to represent the Department of Bio-Technology, Government of India, ex-officio;

(vii) one member not below the rank of Joint Secretary to the Government of India to represent the Ministry of Environment and Forests of the Government of India, ex-officio;

(viii) one member not below the rank of Joint Secretary to the Government of India to
represent the Ministry of Law of the Government of India, ex-officio;
(ix) one representative from a National or State level farmers' organisation to be nominated by the Central Government;
(x) one representative from a tribal organisation to be nominated by the Central Government;
(xi) one representative from the seed industry to be nominated by the Central Government;
(xii) one representative from an agricultural university to be nominated by the Central Government;
(xiii) one representative from a National or State level women's organisation associated with agricultural activities to be nominated by the Central Government;
(xiv) two representatives of State Governments on rotation basis to be nominated by the Central Government.

(c) The Registrar General shall be the ex-officio Member-Secretary of the Authority.

(6) The term of office of the Chairperson and the manner of filling the post shall be such as may be prescribed.

(7) The Chairperson shall appoint a Standing Committee consisting of five members, one of which shall be a member who is a representative from a farmers organisation to advise the Authority on all issues including farmers' rights.

(8) The Chairperson shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters as may be prescribed. The allowances for non-official members for attending the meeting of the Authority will be as such as may be prescribed. The allowances for non-official members for attending the meeting as prescribed.

(9) The Chairperson may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

(10) On the resignation of the Chairperson or on the vacation of the office of Chairperson for any reason, the Central Government may appoint one of the members to officiate as Chairperson till a regular Chairperson is appointed in accordance with clause (a) of subsection (5).

Meetings of Authority.

4. (1) The Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings and the transaction or business of its Standing Committee appointed under subsection 7 of section 3) as may be prescribed.

(2) The Chairperson of the Authority shall preside at the meetings of the Authority.

(3) If for any reason the Chairperson is not able to attend any meeting of the Authority, any member of the Authority chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the Authority shall be decided by a majority of the votes of the members of the Authority present and voting and in the event of equality of votes, the Chairperson of the Authority or in his absence, the person presiding shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(6) No act or proceeding of the Authority shall be invalid merely by reason of—
(a) any vacancy in, or any defect in the constitution of the Authority; or
(b) any defect in the appointment of a person acting as the Chairperson or a member of the Authority; or
(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Committees of Authority.

5. (1) The Authority may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The persons appointed as members of the committee under sub-section (1) shall be
entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

Officers and employees of Authority.
6. Subject to such control and restriction as may be prescribed, the Authority may appoint such other officers and employees as may be necessary for the efficient performance of its functions and the method of appointment, the scale of pay and allowances and other conditions of service of such other office and employees of the Authority shall be such as may be prescribed.

Chairperson to be Chief Executive.
7. The Chairperson shall be the Chief Executive of the Authority and shall exercise such powers and perform such duties as may be prescribed.

General Functions of Authority.
8. (1) It shall be the duty of the Authority to promote, by such measures as it thinks fit, the encouragement for the development of new varieties of plants and to protect the rights of the farmers and breeders.
(2) In particular, and without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1) may provide for—
(a) the registration of extant and new plant varieties subject to such terms and conditions and in the manner as may be prescribed;
(b) developing characterisation and documentation of varieties registered under this Act;
(c) documentation, indexing and cataloguing of farmers' varieties;
(d) compulsory cataloguing facilities for all varieties of plants;
(e) ensuring that seeds of the varieties registered under this Act are available to the farmers and providing for compulsory licensing of such varieties if the breeder of such varieties or any other person entitled to produce such variety under this Act does not arrange for production and sale of the seed in the manner as may be prescribed;
(f) collecting statistics with regard to plant varieties, including the contribution of any person at any time in the evolution or development of any plant variety, in India or in any other country, for compilation and publication;
(g) ensure the maintenance of the National Register of plant variety.

Authentication of orders of Authority.
9. All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf.

Delegation.
10. The Authority may, by general or special order in writing, delegate to the Chairperson, any member or officer of the Authority subject to such conditions or limitations, if any, as may be specified in the order, such of its powers and functions (except the power to make regulations under section 94) under this Act as it may deem necessary.

Power of Authority.
11. In all proceedings under this Act before the Authority or the Registrar—
(a) the Authority or the Registrar, as the case may be, shall have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;
(b) the Authority or the Registrar may, subject to any rules made in this behalf under this Act, make such orders as to cost as it considers reasonable and any such order shall be executable as a decree of a civil court.

B. THE REGISTRY, REGISTRATION OF VARIETIES AND CONDITIONS OF REGISTRATION
Registry and offices thereof.
12. (1) The Central Government shall establish for the purpose of this Act, a Registry which shall be known as the Plant Varieties Registry.

(2) The head office of the Plant Varieties Registry shall be located in the head office of the Authority, and for the purpose of facilitating the registration of plant varieties, there may be established, at such places, as the Authority may think fit, branch offices of the Registry.

(3) The Authority shall appoint a Registrar General of Plant Varieties who shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and such other matters as may be prescribed.

(4) The Authority may appoint such number of Registrars as it thinks necessary for Registration of plant varieties under the superintendence and direction of the Registrar General under this Act and may make regulations with respect to their duties and jurisdiction.

(5) The term of office and the conditions of service of the Registrars shall be such as may be provided by regulations.

(6) The Authority may, by notification in the Official Gazette, define the territorial limits within which a branch office of the Registry may exercise its functions.

(7) There shall be a seal of the Plant Varieties Registry.

National Register of Plant Varieties.

13. (1) For the purposes of this Act, a register called the National Register of Plant Varieties shall be kept at the head office of the Registry, wherein shall be entered the names of all the registered plant varieties with the names and addresses of their respective breeders, the right of such breeders in respect of the registered variety, the particulars of the denomination of each registered variety, its seeds or other propagating material along with specification of salient features thereof and such other matters as may be prescribed.

(2) Subject to the superintendence and direction of the Central Government, the register shall be kept under the control and management of the Authority.

(3) There shall be kept at each branch office of the Registry a copy of the register and such other documents as the Central Government may, by notification in the Official Gazette, direct.

CHAPTER III
REGISTRATION OF PLANT VARIETIES AND ESSENTIALLY DERIVED VARIETY

Application for Registration.

14. Any person specified in section 16 may make an application to the Registrar for registration of any variety-

(a) of such genera and species as specified under sub-section (2) of section 29; or

(b) which is an extant variety; or

(c) which is a farmers' variety.

Registrable varieties.

15. (1) A new variety shall be registered under this Act if it conforms to the criteria of novelty, distinctiveness, uniformity and stability;

(2) Notwithstanding anything contained in sub-section (1) an extant variety shall be registered under this Act within a specified period if it conforms to such criteria of distinctiveness, uniformity and stability as shall be specified under regulations made by the Authority.

(3) For the purposes of sub-section (1) and sub-section (2) as the case may be a new variety shall be deemed to be—

(a) novel, if at the date of filing of the application for registration for protection, the propagating or harvested material of such variety has not been sold or otherwise disposed of by or with the consent of its breeder or his successor for the purposes of exploitation of such variety—

(i) in India, earlier than one year, or

(ii) Outside India in the case of trees or vines earlier than six years, or in any other case, earlier than four years,

before the date of filing such application.
Provided that a trial of a new variety which has not been sold or otherwise disposed of shall not affect the right to protection.

Provided further that the fact that on the date of filing the application for registration the propagating or harvested material of such variety has become a matter of commonly known other than through the aforesaid manner shall not affect the criteria of novelty for such variety;

(b) distinct, if it is clearly distinguishable by at least one essential characteristic from any another variety whose existence is a matter of common knowledge in any country at the time of filing of the application;

Explanation—For the removal of doubts, it is hereby declared that the filing of an application for the granting of a breeder’s right to a new variety or for entering such variety in the official register of varieties in any convention country shall be deemed to render that variety a matter of common knowledge from the date of the application in case the application leads to the granting of the breeder’s right or to the entry of such variety in such official register, as the case may be.

(c) uniform if subject to the variation that may be expected from the particular features of its propagation it is sufficiently uniform in its essential characteristics;

(d) stable, if its essential characteristics remain unchanged after repeated propagation or, in the case a particular cycle of propagation, at the end of each such cycle.

(4) A new variety shall not be registered under this Act if the denomination given to such variety—

(i) is not capable of identifying such variety; and

(ii) consists solely of figures; and

(iii) is liable to mislead or to cause confusion concerning the characteristics, value identity of such variety or the identity of breeder of such variety; or

(iv) is not different from every denomination which designates a variety of the same botanical species or of a closely related species registered under this Act; or

(v) is likely to deceive the public or cause confusion in the public regarding the identity of such variety;

(vi) is likely to hurt the religious sentiments respectively of any class or section of the citizens of India; or

(vii) is prohibited for use as a name or emblem for any of the purpose mentioned in section 3 of the Emblems and Names (Protection of Improper Use) Act, 1950; or

(viii) is comprised of solely or partly of geographical name.

Provided that the Registrar may register a variety, the denomination of which comprises solely or partly of a geographical name, if he considers that the use of such denomination in respect of such variety is an honest use under the circumstances of the case.

APPLICATION FOR REGISTRATION

Persons who may make application.

16. (1) An application for registration under section 14 shall be made by—

(a) any person claiming to be the breeder of the variety; and

(b) any successor of the breeder of the variety; or

(c) any person being the assignee of the breeder of the variety in respect of the right to make such application or

(d) any farmer or group of farmers or community of farmers claiming to be the breeder of the variety;

(e) any person authorised in the prescribed manner by a person specified under clause (a) to
d) to make application on his behalf.

(f) any university or publicly funded agricultural institution claiming to be the breeder of the variety.

(2) An application under sub-section (1) may be made by any of the persons referred to therein individually or jointly with any other person.

Compulsory Plant Variety denomination.

17. Every application shall assign a single and distinct denomination to a variety with respect to which he is seeking registration under this Act in accordance with the regulations.
(2) The Authority shall, having regard to the provisions of any international convention or treaty to which India has become a party, make regulations governing the assignment of denomination to a plant variety.

(3) Where the denomination assigned to the variety do not satisfy the requirements specified in the regulations, the Registrar may require the applicant to propose another denomination within such time as may be provided by such regulations.

(4) Notwithstanding anything contained in the Trade Mark Act, 1999 a denomination assigned to a variety shall not be registered as a trade mark under that Act.

**Form of application.**

18. (1) Every application for registration under section 14 shall—
   (a) be with respect to a variety;
   (b) state the denomination assigned to such variety by the applicant;
   (c) be accompanied by an affidavit sworn by the applicant that such variety does not contain any gene or gene sequence involving terminator technology;
   (d) be in such form as may be specified by regulation.
   (e) contain a complete passport data of the parental lines from which the variety has been derived along with the geographical location in India from where the genetic material has been taken and all such information relating to the contribution, if any, of any farmer, village community, institution or organisation in breeding, evolution or developing the variety;
   (f) be accompanied by a statement containing a brief description of the variety bringing out its characteristics of novelty, distinctiveness, uniformity and stability as required for registration.
   (g) be accompanied by such fees as may be prescribed;
   (h) contain a declaration that the genetic material or parental material acquired for the breeding, evolving or developing the variety has been lawfully acquired; and
   (i) be accompanied by such other particulars as may be prescribed:

   Provided that in case where the application is for the registration of farmers' variety, nothing contained in clause (h) to (i) shall apply in respect of the application and the application in such form as may be prescribed;

   (2) Every application referred to in sub-section (a) shall be filed in the office of the Registrar.

   (3) Where such application is made by virtue of a succession or an assignment of the right to apply for registration, there shall be furnished at the time of making the application, or within such period after making the application as may be prescribed, a proof of the right to make the application.

**Test to be conducted.**

19. (1) Every applicant shall, along with the application for registration made under this Act, make available to the Registrar such quantities of seeds of a variety for registration of which such application is made, for the purpose of conducting tests to evaluate whether such variety along with parental material conform to the standards as may be specified by regulations:

   Provided that the Registrar or any person or test centre to whom such seed has been sent for conducting test shall keep such seed during his or its possession in such manner and in such condition that its viability and quality shall remain unaltered.

   (2) The applicant shall deposit such fee as may be prescribed for conducting tests referred to in sub-section (1).

   The tests under sub-section (1) shall be conducted in such manner and by such method as may be prescribed.

**Acceptance of application or amendment thereof.**

20. (1) On receipt of an application under section 14, the Registrar may, after making such inquiry as he thinks fit with respect to the particulars contained in such application, accept the application absolutely or subject to such condition or limitations as he deems fit.

   (2) Where the Registrar is satisfied that the application does not comply with the requirements of this Act or any rules or regulations made thereunder, he may, either—

   (a) require the applicant to amend the application to his satisfaction;
(b) reject the application;
Provided that no application shall be rejected unless the applicant has been given a reasonable opportunity of presenting his case.

Advertisement of application.
21. (1) Where an application for registration of a variety has been accepted absolutely or subject to conditions or limitations under sub-section (1) of section 20, the Registrar shall, as soon as after its acceptance, cause such application together with the conditions or limitations, if any, subject to which it has been accepted and the specifications of the variety for registration of which such application is made including its photographs or drawings, to be advertised in the prescribed manner calling objections from the persons interested in the matter.
(2) Any person may, within three months from the date of the advertisement of an application for registration on payment of the prescribed fee, give notice, in writing in the prescribed manner, to the Registrar, of his opposition to the registration.
(3) Opposition to the registration under sub-section (2) may be made on the following grounds, namely:—
(a) that the person opposing the application is entitled to the breeder's right as against the applicant; or
(b) that the variety is not registrable under this Act; or
(c) that the grant of certificate of registration may not be in public interest; or
(d) that the variety may have adverse effect on environment.
(4) The Registrar shall serve a copy of the notice of opposition on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner a counter statement of the grounds on which he relies for his application, and if he does not do so, he shall be deemed to have abandoned his application.
(5) If the applicant sends such counter statement, the Registrar shall serve a copy thereof on the person giving notice of opposition.
(6) Any evidence upon which the opponent and the applicant may rely shall be submitted, in the manner prescribed and within the time prescribed, to the Registrar and the Registrar shall give an opportunity to them to be heard, if so desired.
(7) The Registrar shall, after hearing the parties, if so required, and considering the evidence, decide whether and subject to what conditions or limitations, if any, the registration is to be permitted and may take into account a ground of objection whether relied upon by the opponent or not.
(8) Where a person giving notice of opposition or an applicant sending a counter statement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar may require him to give security for the cost of proceedings before him and in default of such security being duly given may treat the opposition or application, as the case may be, as abandoned.
(9) The Registrar may, on request, permit correction of any error in, or any amendment of, a notice of opposition or a counter statement on such terms as he may think fit.

Registrar to consider grounds for opposition.
22. The Registrar shall consider all the grounds on which the application has been opposed and after giving reasons for his decision, by order, uphold or reject the opposition.

REGISTRATION OF ESSENTIALLY DERIVED VARIETY
Registration of essentially derived variety.
23. (1) An application for the registration of an essentially derived variety of the genera or species specified under sub-section (2) of section 29 by the Central Government shall be made to the Registrar by or on behalf of any person referred to in section 14 and in the manner specified in section 18 as if for the word "variety" the words "essentially derived variety" have been substituted therein and shall be accompanied by such documents and fee as may be prescribed.
(2) When the Registrar is satisfied that the requirements of sub-section (1) have been
complied with to his satisfaction, he shall forward the application with his report and all the relevant document to the Authority.

(3) On receipt of an application under sub-section (2), the Authority shall get examined such essentially derived variety to determine as to whether the essentially derived variety is a variety derived from the initial variety by conducting such tests and following such procedure as may be prescribed.

(4) When the Authority is satisfied on the report of the test referred to in sub-section (3) that the essentially derived variety has been derived from the initial variety, it may direct the Registrar to register such essentially derived variety and the Registrar shall comply with the direction of the Authority.

(5) Where the Authority is not satisfied on the report of the test referred to in sub-section (3) that the essentially derived variety has been derived from the initial variety it shall refuse the application.

(6) The rights of the breeder of a variety contained in section 28 shall apply to the breeder of essentially derived variety:
Provided that the authorisation by the breeder of initial variety to the breeder of essentially derived variety under, sub-section (2) of section 28 may be subject to such terms and conditions as both the parties may mutually agree upon;

(7) An essentially derived variety shall not be registered under this section unless it satisfies the requirements of section 15 as if for the word “variety”, the words “essentially derived variety” have been substituted therein.

(8) When an essentially derived variety has been registered by the Registrar in compliance with the direction of the Authority under sub-section (4), the Registrar shall issue to the applicant a certificate of registration in the prescribed form and sealed with seal of the Registry and send a copy thereof to the Authority and to such other authority, as may be prescribed, for information.

CHAPTER IV
DURATION AND EFFECT OF REGISTRATION AND BENEFIT SHARING

Issue of certificate of registration.

24. (1) When an application for registration of a variety (other than an essentially derived variety), has been accepted and either—
(a) the application has not been opposed and the time of notice of opposition has expired; or
(b) the application has been opposed and opposition has been rejected, the Registrar shall register the variety,

(2) On the registration of the variety (other than an essentially derived variety), The Registrar shall issue to the applicant a certificate of registration in the prescribed form and sealed with the seal of the Registry and send a copy to the Authority for determination of benefit sharing and to such other authority, as may be prescribed, for information. The maximum time required by the Registrar for issuing the certificate of registration from the date of filing of the application for registration of a variety shall such as may be prescribed.

(3) Where registration of a variety (other than an essentially derived variety), is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may after giving notice to the applicant in the prescribed manner treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

(4) The Registrar may amend the Register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

(5) The Registrar shall have power to issue such directions to protect the interests of a breeder against any abusive act committed by any third party during the period between filing of application for registration and decision taken by the Authority on such application.

(6) The certificate of registration issued under this section or sub-section (8) of section 23 shall be valid for nine years in the case of trees and vines and six years in the case of other crops and may be reviewed and renewed for remaining period on payment of such fees as may be fixed by the rules made in this behalf subject to the condition that the total aggregate period of validity shall not exceed—
(i) in the case of trees and vines, eighteen years from the date of registration of the variety;
(ii) in the case of extant variety, fifteen years from the date of the notification of that variety by the Central Government under section 5 of the Seeds Act, 1966; and
(iii) in the other cases, fifteen years from the date of registration of the variety.

Publication of list of varieties.
25. The Authority shall, within such intervals as it thinks appropriate, publish the list of varieties which have been registered during that intervals.

Determination of benefit sharing by Authority.
26. (1) On receipt of a copy of the certificate of registration under sub-section (8) of section 23 or sub-section (2) of section 24, the Authority shall publish such contents of the certificate and invite claims of benefit sharing to the variety registered under such certificate in the manner as may be prescribed.
(2) On invitation of the claims under sub-section (1), any person or group of persons or nongovernmental organisation shall submit its claim of benefit sharing to such variety in the prescribed form within such period, and accompanied with such fees, as may be prescribed.
(3) On receiving a claim under subsection (2), the Authority shall send a copy of such claims to breeder of the variety registered under such certificate and the breeder may, on receipt of such copy, submit his opposition to such claim within such period and in such manner as may be prescribed.
(4) The Authority shall, after giving an opportunity of being heard to the parties dispose of the claim received under sub-section (2).
(5) While disposing of the claim under sub-section (4), the Authority shall explicitly indicate in its order the amount of the benefit sharing, if any, for which the claimant shall be entitled and shall take into consideration the following matters, namely:
(a) the extent and nature of the use of genetic material of the claimant in the development of the variety relating to which the benefit sharing has been claimed,
(b) the commercial utility and demand in the market of the variety relating to which the benefit sharing has been claimed.
(6) The amount of benefit sharing to a variety determined under this section shall be deposited by the breeder of such variety in the manner referred to under clause (a) of subsection (1) of section 45 in the National Gene Fund.
(7) The amount of benefit sharing determined under this section shall, on a reference made by the Authority in the prescribed manner, be recoverable as an arrear of land revenue by the District Magistrate within whose local limits of jurisdiction the breeder liable for such benefit sharing resides.

Breeder to deposit seeds or propagating material.
27. (1) The breeder shall be required to deposit such quantity of seeds or propagating material including parental line seeds of registered variety in the National Gene Bank as may be specified in the regulations for reproduction purpose at the breeder's expense within such time as may be specified in that order.
(2) The seeds or propagating material or parental line seeds to be deposited under sub-section (1) shall be deposited to the National Gene Bank specified by the Authority.

Registration to confer right.
28. (1) Subject to the other provisions of this Act, a certificate of registration for a variety issued under this Act shall confer an exclusive right on the breeder or his successor, his agent or licensee, to produce, sell, market, distribute, import or export the variety.
Provided that in the case of an extant variety, unless a breeder or his successor establishes his right, the Central Government, and in cases where such extant variety is notified for a State or for any area thereof under section 5 of the Seeds Act, 1966 the State Government, shall be deemed to be the owner of such right.

Authorisation of breeder.
(2) breeder may authorise any person to produce, sell, market or otherwise deal with a variety registered under this Act subject to such limitations and conditions as may be specified in the
Every authorisation under this section shall be in such form as may be specified by regulations.

Where an agent or a licensee referred to in sub-section (1) becomes entitled to produce, sell, market, distribute, import or export a variety, he shall apply in the prescribed manner and with the prescribed fee to the Registrar to register his title and the Registrar shall on receipt of application and on proof of title to his satisfaction, register him as an agent or a licensee, as the case may be, in respect of the variety for which he is entitled for such right, and shall cause particulars of such entitlement and conditions or restrictions, if any, subject to which such entitlement is made, to be entered in the Register:

Provided that when the validity of such entitlement is in dispute between the parties, the Registrar may refuse to register the entitlement and refer the matter in the prescribed manner to the Authority and withhold the registration of such entitlement until the right of the parties in dispute referred to has been determined by the Authority.

The Registrar shall issue a certificate of registration under sub-section (4) to the application after such registration and shall enter in the certificate the brief conditions of entitlement, if any, in the prescribed manner, and such certificate shall be the conclusive proof of such entitlement and the conditions or restriction thereof, if any.

Subject to any agreement subsisting between the parties, an agent or licensee of a right to a variety registered under sub-section (4) shall be entitled to call upon the breeder or his successor thereof to take proceedings to prevent infringement thereof, and if the breeder or his successor refuses or neglects to do so within three months after being so called upon, such registered agent or licensee may institute proceedings for infringement in his own name as if he were the breeder, making the breeder or his successor a defendant.

Notwithstanding anything contained in any other law, a breeder or his successor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Nothing in this section shall confer on a registered agent or registered licensee of a variety any right to transfer such a right further thereof.

Without prejudice to the registration under sub-section (4), the terms of registration—

(a) may be varied by the Registrar as regards the variety in respect of which, or any condition or restrictions subject to which, it has effect on receipt of an application in the prescribed manner of the registered breeder of such variety, or his successors;

(b) may be cancelled by the Registrar on the application of the registered breeder of such variety or his successor or of the registered agent or registered licensee of such variety;

(c) may be cancelled by the Registrar on the application in the prescribed manner of any person other than the breeder, his successor, the registered agent or the registered licensee on any of the following grounds, namely—

(i) that the breeder of a variety or his successor or the registered agent or registered licensee of such variety, misrepresented, or failed to disclose, some fact material to the application for registration under sub-section (4) which if accurately represented or disclosed would have justified the refusal of the application for registration of the registered agent or registered licensee;

(ii) that the registration ought not to have been granted having regard to the right vested in the applicant by virtue of a contract in the performance of which he is interested.

(d) may be cancelled by the Registrar on the application in the prescribed manner of the breeder of a registered variety, or his successor on the ground that any stipulation in the agreement between the registered agent or the registered licensee, as the case may be, and such breeder or his successor regarding the variety for which such agent or licensee is registered is not being enforced or is not being complied with;

(e) may be cancelled by the Registrar on the application in the prescribed manner of any person in the prescribed manner on the ground that the variety relating to the registration is no longer existing.

The Registrar shall issue notice in the prescribed manner of every application under this section to the registered breeder of a variety or his successor and to each registered agent or registered licensee (not being the applicant) of such variety.

The Registrar shall before making any order under sub-section (9) forward the
application made in that behalf along with any objection received by any party after notice under subsection (10) for the consideration of the Authority, and the Authority may, after making such enquiry as it thinks fit, issue such directions to the Registrar as it thinks fit and the Registrar shall dispose of the application in accordance with such directions.

Exclusion of certain varieties
29. (1) Notwithstanding anything contained in this Act, no registration of a variety shall be made under this Act in cases where prevention of commercial exploitation of such variety is necessary to protect public order or public morality or human, animal and plant life and health or to avoid serious prejudice to the environment.
(2) The Central Government shall, by notification in the Official Gazette, specify the genera or species for the purposes of registration of varieties other than extant varieties and farmers' varieties under this Act.
(3) Notwithstanding anything contained under sub-section (2) above and sub-sections (1) and (2) of section 15, no variety of any genera or species which involves any technology including which is injurious to the life or health of human beings, animals or plants shall be registered under this Act.

Explanation—For the purpose of this sub-section; the expression any "technology" includes genetically use restriction technology and terminator technology.
(4) The Central Government shall not delete any genera or species from the list of genera or species specified in a notification issued under sub-section (2) except in public interest.
(5) Any variety belonging to the genera or species excluded under subsection (4) shall not be eligible for any protection under this Act.

Researcher's Rights
30. Nothing contained this Act shall prevent—
(a) the use of any variety registered under this Act by any person using such variety for conducting experiment or research; and
(b) the use of a variety by any person as an initial source of variety for the purpose of creating other varieties:
Provided that the authorisation of the breeder of a registered variety is required where the repeated use of such variety as a parental line is necessary for commercial production of such other newly developed variety.

Special provisions relating to applications for registration from citizens of convention countries
31. (1) With a view to the fulfilment of a treaty, convention or arrangement with any country outside India which affords to citizens of India similar privileges as granted to its own citizen, the Central Government may, by notification in the Official Gazette, declare such country to be a convention country for the purposes of this Act.
(2) Where a person has made an application for the granting of a breeder's right to a variety or for entering such variety in the official register of varieties in a convention country and that person or any person entitled to make application on his behalf under section 14 or section 23 makes an application for the registration of such variety in India within twelve months after the date on which the application was made in the convention country, such variety shall, if registered under this Act, be registered as of the date on which the application was made in the convention country and that date shall be deemed for the purposes of this Act to be the date of registration.
(3) Where applications have been made for granting of a breeder's right to a variety or for entering such variety in the official register of varieties in two or more convention countries, the period of twelve months referred to in the last preceding sub-section shall be reckoned from the date on which the earlier or earliest of those application was made.
(4) Nothing in this Act shall entitle the breeder of a registered variety to infringement of rights other than protected under this Act which took place prior to the date of application of registration under this Act.

Provisions as to reciprocity.
32. Where any country specified by the Central Government in this behalf by notification in the Official Gazette under sub-section (1) of section 31 does not accord to citizens of India the same rights in respect of the registration and protection of a variety, as it accords to its own nationals, no nationals of such country shall be entitled, either solely or jointly with any other person, to apply for the registration of a variety or be entitled to get a variety registered under this Act.

CHAPTER V
SURRENDER AND REVOCATION OF CERTIFICATE AND RECTIFICATION AND CORRECTION OF REGISTER

Surrender of certificate of registration.
33. (1) A breeder of a variety registered under this Act may, at any time by giving notice in the prescribed manner to the Registrar, offer to surrender his certificate of registration.
(2) Where such an offer is made, the Registrar shall notify in the prescribed manner every registered agent or registered licensee relating to such certificate.
(3) Any of such agent or licensee may within the prescribed period after such notification give notice to the Registrar of his opposition to the surrender and where any such notice is given, the Registrar shall intimate the contents of such notice to the breeder of such variety.
(4) If the Registrar is satisfied after hearing the applicant and all the opponents, if desirous of being heard that the certificate of registration may properly be surrendered, he may accept the offer and by order revoke the certificate of registration.

Revocation of protection on certain grounds.
34. Subject to the provisions contained in this Act, the protection granted to a breeder in respect of a variety may, on the application in the prescribed manner of any person interested, be revoked by the authority on any of the following grounds, namely—
(a) that the grant of the certificate of registration has been based on incorrect information furnished by the applicant;
(b) that the certificate of registration has been granted to a person who is not eligible for protection under this Act;
(c) that the breeder did not provide the Registrar with such information, documents of material as required for registration under this Act;
(d) that the breeder has failed to provide all alternative denomination of the variety which is the subject matter of the registration to the Registrar in case where the earlier denomination of such variety provided to the Registrar is not permissible for registration under this Act;
(e) that the breeder did not provide the necessary seeds or propagating material to the person to whom compulsory licence has been issued under section 48 regarding the variety in respect of which registration certificate has been issued to such breeder;
(f) that the breeder has not complied with the provisions of this Act or provisions of rules or regulations made thereunder;
(g) that the breeder has failed to comply with the directions of the Authority issued under this Act;
(h) that the grant of the certificate of registration is not in the public interest.
Provided that no such protection shall be revoked unless the breeder is given a reasonable opportunity to file objection and of being heard in the matter.

Payment of annual fee and forfeiture of registration in default thereof.
35. (1) The Authority may, with the prior approval of the Central Government and after notification in the Official Gazette, impose a fee to be paid annually, by every breeder of a variety, agent and licensee thereof registered under this Act determined on the basis of benefit or royalty gained by such breeder, agent or licensee, as the case may be, in respect of the variety, for the retention of their registration under this Act.
(2) If any breeder, agent or licensee fails to deposit the fee referred to in sub-section (1) imposed upon him under that sub-section in the prescribed manner up to two consecutive years, the Authority shall issue notice to such breeder, agent or licensee and on service of such notice if he fails to comply with the direction in the notice, the Authority shall declare all the protection admissible under registration certificate issued to such breeder or agent or
licensee forfeited.
(3) the arrears of fee imposed under sub-section (1) shall be deemed to be arrears of land revenue and shall be recoverable accordingly.

Power to cancel or change registration and to rectify the Register
36. (1) On an application made in the prescribed manner to the Registrar by any person aggrieved, the Registrar may make such order as he may think fit for cancelling or changing any certificate of registration issued under this Act on the ground of any contravention of the provisions of this Act or failure of observe a condition subject to which such registration certificate is issued.
(2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry in the register without sufficient cause, or by any entry wrongly remaining on the register, may apply in the described manner to the Registrar and the Registrar may make such order for making, expunging or varying the entry as he may think fit.
(3) The Registrar may in any proceeding, under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.
(4) The Registrar, on his own motion may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard make any order referred to in sub-section (1) or sub-section (2).

Correction of Register.
37. (1) The Registrar may, on an application in the prescribed manner by the breeder of a variety registered under this Act—
(a) correct any error in the register in the name, address or description of such breeder or any other entry relating to such variety;
(b) enter in the register any change in the name, address or description of such breeder;
(c) cancel the entry in the register of the variety in respect of which such application is made; and make any consequential amendment or alteration in the certificate of registration and for that purpose require the certificate of registration to be produced to him.
(2) The Registrar may, on application made in the prescribed register by a registered agent or a registered licensee of a variety and after notice to the registered breeder of such variety, correct any error, or enter any change, in the name, address or description of such registered agent or registered licensee, as the case may be, in the register or certificate of registration under this Act.

Alteration of denomination of a registered variety.
38. (1) The breeder of a variety registered under this Act may apply in the prescribed manner to the Registrar to delete any part or to add to or alter the denomination of such variety in any manner not substantially affecting the identity thereof, and the Registrar may refuse, leave or may grant it on such terms and subject to such limitations as he may think fit to avoid any conflict with the rights of other breeders of the varieties registered under this Act.
(2) The Registrar may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.
(3) Where leave is granted under this section, the denomination of the variety as altered shall be advertised in the prescribed manner, unless the application has already been advertised under sub-section (2).

CHAPTER VI
FARMERS RIGHTS
39. Farmers’ rights
(1) Notwithstanding anything contained in this Act,—
(i) a farmer who has bred or developed a new variety shall be entitled for registration and other protection in like manner as a breeder of a variety under this Act,
(ii) the farmers’ variety shall be entitled for registration if the application contains
declarations as specified in clause (h) of sub-section (1) of section 18.

(iii) the farmer who is engaged in the conservation of genetic resources of land races and wild relatives of economic plants and their improvement through selection and preservation shall be entitled in the prescribed manner for recognition and reward from the National Gene Fund;

Provided that material so selected and preserved has been used as donors of genes in varieties registrable under this Act;

(iv) Shall be deemed to be entitled to save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into force of this Act;

Provided that the farmer shall not be entitled to sell branded seed of a variety protected under this Act.

Explanation: For the purpose of clause (iv) branded seed means any seed put in a package or any other container and labelled in a manner indicating that such seed is of a variety protected under this Act.

(2) Where any propagating material of a variety registered under this Act has been sold to a farmer or a group of farmers or any organisation of farmers, the breeder of such variety shall disclose to the farmer or the group of farmers or the organisation of farmers, as the case may be, the expected performance under given conditions, and if such propagating material fails to provide such performance under such given conditions as the farmer or the group of farmers or the organisation of farmers, as the case may be, may claim compensation in the prescribed manner before the Authority and the Authority shall after giving notice to the breeder of the variety and after providing him an opportunity to file opposition in the prescribed manner and after hearing the parties, it may direct the breeder of the variety to pay such compensation as it deems fit, to the farmer or the group of farmers or the organisation of farmers, as the case may be.

Certain information to be given in application registration.

40. (1) A breeder or other person making application for registration of any variety under chapter III shall disclose in the application the information regarding the use of genetic material conserved by any tribal or rural families in the breeding or development of such variety.

(2) If the breeder or such other person fails to disclose any information under sub-section (1), the Registrar may after being satisfied that the breeder or such person has wilfully and knowingly concealed such information reject the application for registration.

Rights of communities.

41. (1) Any person, group of persons (whether actively engaged in farming or not) or any governmental or non-governmental organisation may on behalf of any village or local community in India, file in any centre notified, with the previous approval of the Central Government by the Authority in the Official Gazette any claim attributable to the contribution of the people of that village or local community as the case may be in the evolution of any variety for the purpose of staking a claim on behalf of such village or local community.

(2) Where any claim is made under sub-section (1), the centre notified under that sub-section may verify the claim made by such person or group of persons or such governmental or nongovernmental organisation in such manner as it deems fit and if it is satisfied that such village or local community has contributed significantly to the evolution of the variety which has been registered under this Act, it shall report its findings to the Authority.

(3) When the Authority, on a report under sub-section (2) is satisfied, after such enquiry as it may deem fit, that the variety with which the report is related has been registered under the provision of this Act, it may issue notice in the prescribed manner to the breeder of that variety and after providing opportunity to such breeder to file objection in the prescribed manner and of being heard, it may subject to any limit notified by the Central Government, by order, grant such sum of compensation to be paid to a person or group of persons or governmental or non-governmental organisation which has made claim under sub-section (1) to the Authority, as it may deem fit.
(4) Any compensation granted under sub-section (3) shall be deposited by the breeder of the variety in the Gene Fund.

(5) The compensation granted under sub-section (3) shall be deemed to be an arrear of land revenue and shall be recoverable by the Authority accordingly.

Protection of innocent infringement.

42. Notwithstanding anything contained in this Act—

(i) a right established under this Act shall not be deemed to be infringed by a farmer who at the time of such infringement was not aware of the existence of such right; and

(ii) a relief which a court may grant in any suit for infringement referred to in section 65 shall not be granted by such court nor any cognizance of any offence under this Act shall be taken for such infringement by any court against a farmer who proves, before such court, that at the time of the infringement he was not aware of the existence of the right so infringed.

Authorisation of farmer's variety.

43. Notwithstanding anything contained in section 28 and sub-section (6) of section 23, where an essentially derived variety is derived from a farmers' variety, the authorisation under sub-section (1) of section 28 shall not be given by the breeder of such farmers' variety except with the consent of the farmers or group of farmers or community of farmers who have made contribution in the preservation or development of such variety.

Exemption from fee.

44. A farmer or group of farmers or village community shall not be liable to pay any fee in any proceeding before the Authority or Registrar or the Tribunal or the High Court under this Act and the rules made thereunder.

Explanation:—For the purposes of this section, fee for any proceeding includes any fee payable for inspection of any document or for obtaining a copy of any decision or order or document under this Act or the rules made thereunder.

Gene Fund.

45. (1) The Central Government shall constitute a Fund to be called the National Gene Fund and there shall be credited thereto—

(a) the benefit sharing received in the prescribed manner from the breeder of a variety or an essentially derived variety registered under this Act or propagating material of such variety or essentially derived variety, as the case may be;

(b) the annual fee payable to the authority by way of royalty under subsection (1) of section 35;

(c) the compensation deposited in the Gene Fund under sub-section (4) of section 41;

(d) the contribution from any national and international organisation and other sources.

(2.) The Gene Fund shall in the prescribed manner be applied for meeting—

(a) any amount to be paid by way of benefit sharing under sub-section (5) of section 26;

(b) the compensation payable under sub-section (3) of section 41;

(c) the expenditure for supporting the conservation and sustainable use of genetic resources including in-situ and ex-situ collections and for strengthening the capability of the Panchayat in carrying out such conservation and sustainable use;

(d) the other expenditures of the schemes relating to benefit sharing, framed under section 46.

Framing of schemes etc.

46. (1) The Central Government shall, for the purposes of section 41 and clause (d) of subsection (2) of section 45 frame by notification in the Official Gazette, one or more schemes.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), —

(a) the registration of the claims for the purposes of section 41 under the scheme and all matters connected with such registration;

(b) the processing of such claims for securing their enforcement and matters connected therewith;

(c) the maintenance of records and registers in respect of such claims;
(d) the utilisation, by way of disbursal (including apportionment) or otherwise, of any amounts received in satisfaction of such claims.
(e) the procedure for disbursal or apportionment by the Authority in the event of dispute regarding such claims;
(f) the utilisation of benefit sharing for the purposes relating to breeding, discovery or development of varieties;
(g) the maintenance and audit of accounts with respect to the amounts referred to in clause (d).

CHAPTER VII
COMPULSORY LICENCE

Power of Authority to make order for compulsory licence in certain circumstances.

47. (1) At any time, after the expiry of three years from the date of issue of a certificate of registration of a variety, any person interested may make an application to the Authority alleging that the reasonable requirements of the public for seeds or other propagating material of the variety have not been satisfied or that the seed or other propagating material of the variety is not available to the public at a reasonable price and pray for the grant of a compulsory licence to undertake production, distribution and sale of the seed or other propagating material of that variety.

(2) Every application under sub-section (1) shall contain a statement of the nature of the applicant's interest together with such particulars as may be prescribed and the facts upon which the application is based.

(3) The Authority, after consultation with Central Government, and if satisfied after giving an opportunity to the breeder of such variety, to file opposition and after hearing the parties, on the issue that the reasonable requirements of the public with respect to the variety have not been satisfied or that the variety is not available to the public at a reasonable price, may order such breeder to grant a licence to the applicant upon such terms and conditions as it may deem fit and send a copy of such order to the Registrar to register such licence under subsection (3) or section 29 on payment of such fee by the applicant as is referred to in that subsection.

When requirement of public deemed to have not been satisfied.

48. In determining the question as to whether the reasonable requirements of the public for seeds of a variety or its propagating material as referred to in sub-section (1) or sub-section (3) of section 47, the Authority shall take into account—

(i) the nature of the variety, the time which has elapsed since the grant of the certificate of registration of the variety, price of the seed of the variety and the measures taken by the breeder or any registered licensee of the variety to meet the requirement of the public; and

(ii) the capacity, ability and technical competence of the applicant to produce and market the variety to meet the requirement of the public.

Adjournment of application for grant of compulsory licence

49. (1) If the breeder of a variety registered under this Act in respect of which any application has been pending before the Authority under section 47 makes a written request to the Authority on the ground that due to any reasonable factor, such breeder has been unable to produce seed or other propagating material of the variety on a commercial scale to an adequate extent till the date of making such request, the Authority may on being satisfied that the said ground is reasonable, adjourn the hearing of such application for such period not exceeding twelve months in aggregate as it may consider sufficient for optimum production of the seed or propagating material of such variety or essentially derived variety, as the case may be, by such breeder.

(2) No adjournment of the application under sub-section (1) shall be granted unless the Authority is satisfied that the breeder of the variety registered under this Act in respect of which such application is made has taken immediate measures to meet the reasonable requirements of the public for the seeds or other propagating material of such variety.

Duration of compulsory licence.

50. The Authority shall determine the duration of the compulsory licences granted under this
Chapter and such duration may vary from case to case keeping in view the gestation periods and other relevant factors but in any case shall not exceed to the total remaining period of the protection of that variety and when a compulsory licence is granted the prescribed authority shall in the prescribed manner make available to the licensee of such compulsory licence, the reproductive material of the variety relating to such compulsory licence stored in the National Gene Bank or any other centre.

**Authority to settle terms and conditions of licence.**

51. (1) The Authority shall, while determining the terms and conditions of a compulsory licence under the provisions of this Chapter, endeavour to secure—
(i) reasonable compensation to the breeder of the variety relating to the compulsory licence having regard to the nature of the variety, the expenditure incurred by such breeder in breeding the variety or for developing it and other relevant factors;
(ii) that the compulsory licensee of such variety possesses the adequate means to provide to the farmers, the seeds or its other propagating material of such variety timely and at reasonable market price.

(2) No compulsory licence granted by the Authority shall authorise the licensee to import the variety relating to such licence or any seed or other propagating material of such variety from abroad where such import would constitute an infringement of the rights of the breeder of such variety.

**Revocation of compulsory licence**

52. (1) The Authority may on its own motion or on application from an aggrieved person made to it in the prescribed form, if it is satisfied that a compulsory licensee registered under this Chapter has violated any terms or conditions of his licence or it is not appropriate to continue further such licence in public interest, it may after giving such licensee an opportunity to file opposition and of being heard make order to revoke such licence.

(2) When a licence is revoked under sub-section (1) by an order of the Authority, the Authority shall send a copy of such order to the Registrar to rectify the entry or correct the register relating to such revocation and the Registrar shall rectify the entry or correct the register accordingly.

**Modification of compulsory licence.**

53. The Authority may on its own motion or on application from the licensee of a compulsory licence, after providing the opportunity of being heard to the breeder of the variety registered under this Act relating to such compulsory licence, if it considers, in public interest, so to do, modify, by order, such terms and conditions as it thinks fit and send a copy of such order to the Registrar to correct the entries and register according to such modification and the Registrar shall ensure such corrections to be made accordingly.

**CHAPTER VIII**

**TRIBUNAL**

54. The Central Government may, by notification in the Official Gazette, establish a Tribunal to be known as the Plant Varieties Protection Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

**Composition of Tribunal.**

55. (1) The Tribunal shall consist of a Chairman and such number of Judicial Members and Technical Members as the Central Government may deem fit to appoint.

(2) A Judicial Member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the Indian Legal Service and has held a post in Grade-I or of that service or any equivalent or higher post for at least three years or who has been an advocate for at least twelve years.

Explanation—For the purposes of this sub-section (1),—

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which
the person has been an advocate or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law; (ii) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.

(3) A Technical Member shall be a person who is an eminent agricultural scientist in the field of plant breeding and genetics and possesses an experience of at least twenty years to deal with plant variety or seed development activity, or who has held the post in the Central Government or State Government dealing with plant variety or seed development equivalent to the Joint Secretary to the Government of India for at least three years and possesses the special knowledge in the field of plant breeding and genetics.

(4) The Central Government shall appoint a Judicial Member of the Tribunal to be the Chairman thereof.

(5) The Central Government may appoint one of the members of the Tribunal to be the Senior Member thereof.

(6) The Senior member or a Member shall exercise such of the powers and perform such of the functions of the Chairman as may be delegated to him by the Chairman by a general or special order in writing.

Appeals to the Tribunal.

56. (1) An appeal shall be preferred to the Tribunal within the prescribed period from any—
(a) order or decision of the Authority or Registrar, relating to registration of a variety; or
(b) registration as an agent or a licensee of a variety; or
(c) determining the benefit sharing by the Authority;
(d) order or decision of the Authority regarding revocation of compulsory licence or modification of compulsory licence; or
(e) order or decision of Authority regarding payment of compensation, made under this Act or rules made thereunder.

(2) Every such appeal shall be preferred by petition in writing and shall be in such form and shall contain such particulars as may be prescribed.

(3) The Tribunal in disposing of an appeal under this section shall have the power to make any order which the Authority or the Registrar could make under this Act.

Orders of the Tribunal.

57. (1) The Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying the mistake apparent from the record, amend any order passed by it under subsection (1), and shall make such amendment if the mistake is brought to its notice by the appellant or the opposite party.

(3) In every appeal, the Tribunal, where it is possible, hear and decide such appeal within a period of one year from the date of filing the appeal.

(4) The Tribunal shall send a copy of any orders passed under this section to the Registrar.

(5) The orders of the Tribunal under this Act shall be executable as a decree of a civil court.

Procedure of Tribunal.

58. (1) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the Chairman of the Tribunal from among the Members thereof.

(2) A bench shall consist of one Judicial Member and one Technical Member.

(3) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred to the Chairman for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

(4) Subject to the provision of this Act, the Tribunal shall have power to regulate its own
procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or the discharge of its functions, including the places at which the Benches shall holding their sitting.

(5) The Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Registrar under section 11, and any proceeding before the Tribunal shall deemed to be judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the code of Criminal Procedure, 1973.

(6) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or any other manner) shall be made on, or in any proceedings relating to an appeal unless—
(a) copies of such appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such appeal is made or proposed to be made; and
(b) opportunity is given to such party to be heard in the matter.

Transitional provision.

59. Notwithstanding anything contained in this Act, till the establishment of the Tribunal under section 54, the Intellectual Property Appellate Board established under section 83 of the Trade Marks Act, 1999 shall exercise the jurisdiction, powers and authority conferred on the Tribunal under this Act subject to the modification that in any Bench of such Intellectual Property Appellate Board constituted for the purpose of this section, for the Technical Member referred to in subsection (2) of section 84 of the Trade Marks Act, 1999, the Technical Member shall be appointed under this Act and he shall be deemed to be the Technical Member for constituting the Bench under the said sub-section (2) of section 84 for the purposes of this Act.

CHAPTER IX
FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

60. The Central government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants and loans of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Authority Fund.

61. (1) There shall be constituted a fund to be called the Protection of Plant Varieties Authority Account and there shall be credited thereto—
(a) all grants and loans made to the Authority by the Central Government under section 60;
(b) all fees received by the Authority and the Registrars except the annual fee determined on the basis of benefit or royalty under subsection (1) of section 35;
(c) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Protection of Plant Varieties Authority Account shall be applied for meeting—
(a) the salaries, allowances and other remuneration of the Chairperson, officers and other employees of the Authority and allowances, if any, payable to the members;
(b) the other expenses of the Authority in connection with the discharge of its functions and for purposes of this Act.

Budget, accounts and audit.

62. (1) the Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the Gene Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor General of India and any other person appointed by him in
connection with the audit of the accounts of the Authority shall have the same right and
privileges and authority in connection with such audit as the Comptroller and Auditor
General generally has in connection with the audit of the government accounts and, in
particular, shall have the right to demand the production of books, accounts, connected
vouchers and other documents and papers and to inspect any of the offices of the Authority.
(4) The accounts of the Authority as certified by the Comptroller and Auditor General of
India or any other person appointed by him in his behalf together with the audit report
thereon shall be forwarded annually to the Central Government and that Government shall
cause the same to be laid before each House of Parliament.

Financial and administrative powers of the Chairperson
63. The Chairperson shall exercise such financial and administrative powers over the
functions of the Authority as may be prescribed:
Provided that the Chairperson shall have the authority to delegate such of his financial and
administrative powers as he may think fit to a member or any other officer of the Authority
subject to the condition that the member or such officer shall, while exercising such
delegated powers, continue to be under the direction, control and supervision of the
Chairperson.

CHAPTER X
A. INFRINGEMENT
Infringement.
64. Subject to the provisions of this Act, a right established under this Act is infringed by a
person—
(a) who, not being the breeder of a variety registered under this Act or a registered agent or
registered licensee of that variety, sells, exports, imports or produces such variety without the
permission of its breeder or within the scope of a registered licence or registered agency
without permission of the registered licensee or registered agent, as the case may be;
(b) who uses, sells, exports, imports or produces any other variety giving such variety, the
denomination identical with or deceptively similar to the denomination of a variety registered
under this Act in such manner as to cause confusion in the mind or general people in
identifying such variety so registered.

Suit for infringement etc.
65. (1) No suit—
(a) for the infringement of a variety registered under this Act; or
(b) relating to any right in a variety registered under this Act,
shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.
(2) For the purpose of clauses (a) and (b) of sub-section (1), "District court having
jurisdiction" shall mean the District Court within the local limit of whose jurisdiction the
cause of action arises.

Relief in suits for infringement.
66. (1) The relief which a court may grant in any suit for infringement referred to in section
65 includes an injunction and at the option of the plaintiff, either damages or a share of the
profits.
(2) The order of injunction under sub-section (1) may include an ex-parte injunction or any
interlocutory order for any of the following matters, namely:—
(a) for discovery of documents;
(b) preserving of infringing variety or documents or other evidence which are related to the
subject matter of the suit;
(c) attachment of such property of the defendant which the court deems necessary to recover
damages, costs or other pecuniary remedies which may be finally awarded to the plaintiff.

Opinion of scientific adviser.
67. (1) When the court has to form an opinion upon any question of fact or a scientific issue,
such court may appoint an independent scientific adviser to suggest it or to enquire and report
upon the matter to enable it to form the desired opinion.
(2) The scientific adviser may be paid such remuneration of expenses as the court may fix.

B. OFFENCES, PENALTIES AND PROCEDURE

Prohibition to apply the denomination of a registered variety.

68. (1) No person other than the breeder of a variety registered under this Act or a registered licensee or registered agent thereof shall use the denomination of that variety in the manner as may be prescribed.

(2) A person shall be deemed to apply the denomination of a variety registered under this Act who—
(a) applies it to the variety itself; or
(b) applies it to any package in or with which the variety is sold, or exposed for sale, or had in possession such package for sale or for any purpose of trade or production; or
(c) places, encloses or annexes the variety which are sold, or exposed for sale, or had in possession for sale or for any purpose of trade or production, in or with any package or other thing to which the denomination of such variety registered under this Act has been applied; or
(d) uses the denomination of such variety registered under this Act in any manner reasonably likely to lead to the belief that the variety or its propagating material in connection with which it is used is designated or described by that denomination; or
(e) in relation to the variety uses such denomination in any advertisement, invoice, catalogue, business letter, business paper, price list or other commercial document and such variety is delivered to a person in pursuance of a request or order made by reference to the denomination as so used.

(3) A denomination shall be deemed to be applied to a variety whether it is woven in, impressed on, or otherwise worked into, or annexed or affixed to, such variety or to any package or other thing.

Meaning of falsely applying the denomination of a registered variety.

69. (1) A person shall be deemed to falsely apply the denomination of a variety registered under this Act who, without the assent of the breeder of such variety—
(a) applies such denomination or a deceptively similar denomination to any variety or any package containing such variety.
(b) uses any package bearing a denomination which is identical with or deceptively similar to the denomination of such variety registered under this Act, for the purpose of packing, filling or wrapping therein any variety other than such variety registered under this Act.
(2) any denomination of a variety registered under this Act falsely applied as mentioned in sub-section (1), is in this Act referred to as false denomination.
(3) In any prosecution for falsely applying a denomination of a variety registered under this Act, the burden of proving the assent of the breeder of such variety shall lie on the accused.

Penalty for applying false denomination etc.

70. (1) Any person who—
(a) applies any false denomination to a variety; or
(b) indicates the false name of a country or place or false name and address of the breeder of a variety registered under this Act in course of trading such variety; Shall unless he proves that he acted, without intent to defraud, be punishable—
(i) With imprisonment for a term which shall not be less than three months but which may extend to two years; or
(ii) fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees; or
(iii) both.

Penalty for selling varieties to which not authorised or to which false denomination is applied, etc.

71. Any person who sells, or exposes for sale, or has in his possession for sale or for any purpose of trade or production any variety to which any false denomination is applied or to which an indication of the country or place in which such variety was made or produced or
the name and address of the breeder of such variety registered under this Act has been falsely
made, shall unless he proves—
(a) that having taken all reasonable precautions against committing an offence against this
section, he had at the time of commission of the alleged offence no reason to suspect the
genuineness of the denomination of such variety or that any offence had been committed in
respect of indication of the country or place in which such variety registered under this Act,
was made or produced or the name and address of the breeder of such variety;
(b) that, on demand by or on behalf of the prosecutor, he gave all the information in his
power with respect to the person from whom he obtained such variety; or
that otherwise he had acted innocently, be punishable—
(i) with imprisonment for a term which shall not be less than six months but which may
extend to two years; or
(ii) with fine which shall not be less than fifty thousand rupees but which may extend to five
lakh rupees; or
(iii) both;

**Penalty for falsely representing a variety as registered.**
72. Whoever makes any representation with respect to the denomination of a variety or its
propagating material or essentially derived variety or its propagating material not being
variety or its propagating material or essentially derived variety or its propagating material
registered under this Act to the effect that it is a variety or its propagating material or
essentially derived variety or its propagating material registered under this Act or otherwise
represents any variety, or its propagating material or essentially derived variety or its
propagating material not registered under this Act to the effect that it is registered under this
Act shall be punishable—
(i) with imprisonment for a term, which shall not be less than six months and may extend to
three years; or
(ii) with fine which shall not be less than one lakh rupees but which may extend to five
lakh rupees; or
(iii) both;

**Penalty for subsequent offence.**
73. Whoever, having already been convicted of an offence under this Act is again convicted
of such offence shall be punishable for the second and for every subsequent offence—
(i) with imprisonment for a term which shall not be less than one year but which may extend
to three years; or
(ii) with fine which shall not be less than two lakh rupees but which may extend to twenty
lakh rupees; or
(iii) both;

**No offence in certain cases.**
74. The provisions of this Act relating to offences shall be subject to the right created as
recognised by this Act and no act or omission shall be deemed to be an offence under the
provisions of this Act if such act or omission is permissible under this Act.

**Exemption of certain persons employed in ordinary course of business.**
75. Where a person accused of an offence under this Act proves that in the ordinary course of
his employment, he has acted without any intention to commit the offence and having taken
all reasonable precautions against committing the offence charged, he had, at the time of the
commission of the alleged offence, no reason to suspect the genuineness of the act so charged
as an offence and on demand made by or on behalf of the prosecutor, he gave all the
information in his power with respect to the persons on whose behalf the offence was
committed, he shall be acquitted.

**Procedure where invalidity of registration is pleaded by the accused.**
76. (1) Where the offence charged under this Act is in relation to a variety or its propagating
material or essentially derived variety or its propagating material registered under this Act
and the accused pleads that the registration of such variety or its propagating material or essentially derived variety or its propagating material, as the case may be, is invalid and the court is satisfied that such offence is prima facie not tenable, it shall not proceed with the charge but shall adjourn the proceedings for three months from the date on which the plea of the accused is recorded to enable the accused to file an application before the Registrar under this Act for the rectification of the register on the ground that the registration is invalid.

(2) If the accused proves to the court that he has made such application within the time so limited or within such further time as the court for sufficient cause allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification.

(3) If within a period of three months or within such extended time as may be allowed by the court, the accused fails to apply to the Registrar for rectification of the register, the court shall proceed with the case as if the registration were invalid.

(4) Where before institution of a complaint of an offence referred to in subsection (1), any application for the rectification of the register concerning the registration of the variety or its propagating material or essentially derived variety or its propagating material, as the case may be, in question on the ground of invalidity of such registration has already been properly made to and is pending before the Registrar, the court shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification.

Offences by companies.

77. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

Explanation — For the purpose of this section—
(a) "company" means any body corporate and includes a firm or other association of individuals; and
(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER XI
MISCELLANEOUS
Protection of security of India.

78. Notwithstanding anything contained in this Act, the Authority or the Registrar shall—
(a) not disclose any information relating to the registration of a variety or any application relating to the registration of a variety under this Act, which is considered prejudicial to the interest of the security of India; and
(b) take any action regarding the cancellation of registration of such varieties registered under this Act which the Central Government may by notification in the Official Gazette specify in the interest of the security of India.

Explanation — For the purpose of this section, the expression "security of India" means any action necessary for the security of India which relates to the use of any produce of any variety registered under this Act directly or indirectly for the purposes of war or military establishment or for the purposes of war or other emergency in international relations.

Implied warranty on sale of registered variety, etc.

79. Where a denomination of a variety or its propagating material or essentially derived
variety or its propagating material registered under this Act has been applied to the variety or its propagating material or essentially derived variety or its propagating material, as the case may be, on sale or in the contract for sale of such variety or its propagating material or essentially derived variety or its propagating material, as the case may be, seller shall be deemed to warrant that the denomination is a genuine denomination and not falsely applied, unless the contrary is expressed in writing signed by or on behalf of the seller and delivered at the time of the sale of the variety or its propagating material or essentially derived variety or its propagating material, as the case may be, on contract to and accepted by the buyer.

Death of party to a proceeding
80. If a person who is a party to a proceeding under this Act (not being proceeding in a court) dies pending the proceeding, the Authority or the Registrar, as the case may be, may, on request, and on proof to the satisfaction of such Authority or Registrar, of the transmission of the interest of the deceased person, substitute in the proceedings his successor in interest in his place, or, if the Authority or the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving party, permit the proceedings to continue without the substitution of his successor in interest.

Right of registered agent and registered licensee to institute suit
81. The registered agent or the registered licensee of a variety or its propagating material or essentially derived variety or its propagating material registered under this Act may institute appropriate proceedings in the court under this Act on behalf of the breeder of such variety or its propagating material or essentially derived variety or its propagating material, as the case may be, if such agent or licensee has been authorised in the prescribed manner by such breeder for doing so.

Evidence of entry in register, etc., and things done by authority and the registrar
82. (1) A copy of any entry in the register, or of any document issued under this Act purporting to be certified by the Authority or the Registrar and sealed with the seal of such Registrar or the Authority, as the case may be, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.
(2) A certificate purporting to be under the hand of the Authority or the Registrar, as the case may be, as to any entry, matter or things that such Authority or the Registrar is authorised by this Act or the rules to make or do shall be prima facie evidence of the entry having been made, and of the content thereof, or of the matter or things having been done or not done.

Authority and registrar and other officers not compellable to production of register, etc.
83. The Authority or the Registrar or any officer working under the Authority or the Registrar, as the case may be, shall not, in any legal proceedings be compelled to produce the register or any other document in its or his custody, the content of which can be proved by the production of a certified copy issued under this Act in the prescribed manner or to appear as a witness to prove the matter therein recorded unless by order of the court, as the case may be, made for special case.

Document open to public inspection.
84. Any person may, on an application to the Authority or the Registrar, as the case may be, and on payment of such fee as may be prescribed, obtain a certified copy of any entry in the register or any other document in any proceedings under this Act pending before such Authority or Registrar or may inspect such entry or document.

Report of the Authority and the Registrar to be placed before Parliament.
85. The Central Government shall cause to be placed before both Houses of Parliament once a year a report regarding the performance of the Authority under this Act.

Government to be bound
86. The provisions of this Act shall be binding on the Government.

Proceedings before authority
87. All proceedings before the Authority or the Registrar, as the case may be, relating to registration of variety or essentially derived variety, registration of agent, registration of licence or registration of compulsory licensing under this Act shall be deemed to be judicial proceedings within the meaning of section 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the Authority or the Registrar, as the case may be, shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

*Protection of action taken in good faith.*

88. No suit, prosecution or other legal proceedings shall lie against the Central Government, or against the Chairperson, or members, or the Registrar or any person acting under such Government, Authority, or Registrar under the provisions of this Act, for anything which is done in good faith or intended to be done in pursuance of this Act or any rule, regulation, scheme or order made thereunder.

*Bar of jurisdiction*

89. No civil court shall have jurisdiction in respect of any matter which the Authority or the Registrar or the Tribunal is empowered by or under this Act to determine.

*Member and staff of Authority etc. to be public servants.*

90. The Chairperson, members and the officers and other employees of such Authority and the Registrar-General and the officers and other employees working under him shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

*Exemption from tax on wealth and income.*

91. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth tax, income tax or any other tax in respect of their wealth, income, profits or gains derived.

*Act to have overriding effect.*

92. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

93. *Power of Central Government to give directions* The Central Government may give directions to the Authority as it may think necessary in the public interest for the execution of all or any of the functions of the Authority under any provisions of this Act or rules and regulations made thereunder.

*Power to remove difficulties.*

94 (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty; Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

*Power to make regulations.*

95 (1) The Authority may, with the previous approval of the Central Government, by notification in the Official Gazette make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following of this Act.

(a) duties and jurisdiction of Registrars under sub-section (4) of section 12;

(b) the terms of office and the conditions of service of the Registrars under sub-section (5) of
section 12;
(c) the criteria of distinctiveness, uniformity and stability for registration of extant variety under sub-section (2) of section 15;
(d) the manner in which a single and distinct denomination to a variety shall be assigned by the applicant under sub-section (1) of section 16;
(e) matters governing the assignment of denomination of variety under sub-section (2) of section 17;
(f) the time within which the Registrar may require the applicant to propose another denomination under sub-section (3) of section 17;
(g) the form of application under clause (d) of sub-section (1) of section 18;
(h) the standards for evaluating seeds during tests under sub-section (1) of section 19;
(i) to specify the quantity of seeds or other propagating material including parental line seeds to be deposited by a breeder under section 27;
(j) the limitations and conditions subject to which a breeder may authorise a person to sell, market or otherwise deal with variety under sub-section (2) of section 28;
(k) the form for authorisation under sub-section (3) of section 28.

Power of the Central Government to make rules.
96. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
(2) In particulars, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely—
(i) the terms of office of the Chairperson and the manner of filling the post under sub-section (6) of section 3;
(ii) the salary and allowances of the Chairperson and his conditions of service in respect of leave, pension, provident fund and other matters under sub-section (7) of section 3;
(iii) the time and place of meetings of the Authority and the rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) and the transaction of business of its Standing Committee appointed under sub-section (7) of section 3 under sub-section (1) of section 4;
(iv) the control and restriction regarding appointment of the officers and employees of the Authority and the method of such appointment, scale of pay and allowances and other conditions of service under section 6;
(v) the powers and duties of the chairperson under section 7;
(vi) the terms and conditions subject to which and the manner in which the measures referred to in sub-section (1) of section 8 may provide for the registration of extant or new varieties under clause (a) of subsection (2) of that section;
(vii) the manner for arranging production and sale of the seeds under clause (d) of subsection (2) of section 8;
(viii) the salary and allowances of Registrar-General of Plant Varieties and the conditions of service in respect of his leave, pension, provident fund and other matter under sub-section (3) of section 12;
(ix) the matters to be included in the National Register of Plant Varieties under sub-section (1) of section 13;
(x) the manner of authorising a person under clause (e) of sub-section (1) of section 16;
(xi) the fee under clause (g) and the other particular under clause (i) which shall accompany the application under sub-section (1) of section 18;
(xii) the period within which after making application a proof of the right to make the application is to be furnished under sub-section (3) of section 18;
(xiii) the form of application under provision to section (1) of section 18;
(xiv) the fee to be deposited by applicant under sub-section (2) of section 19;
(xv) the manner and method of conducting the tests referred to in sub-section (1), under subsection (3) of section 19;
(xvi) the manner of advertising specifications of variety for registration including its photograph or drawing under sub-section (1) of section 21;
(xvii) the manner of making application and the fee payable for allowing further period to give notice and the manner of giving notice under sub-section (2) of section 21;
(xviii) the manner of sending counter statement under sub-section (4) of section 21;
(xix) the manner of submitting evidence and the time within which such evidence may be
submitted under sub-section (6) of section 21;
(xx) the documents and the fee which shall accompany the application under sub-section (2)
of section 22;
(xxi) the tests to be conducted and the procedure to be followed under sub-section (4) of
section 23;
(xxii) the form of a certificate of registration and the other authority to which a copy thereto
shall be sent under sub-section (9) of section 24;
(xxiii) the form of a certificate of registration and the other authority to which a copy thereto
and the maximum time for issuing the certificate of registration shall be sent under subsection
(2) of section 24;
(xxiv) the manner of giving notice to the applicant under sub-section (3) of section 24;
(xxv) the contents of the certificate and the manner of publishing such contents and inviting
claim of benefits sharing under sub-section (1) of section 26;
(xxvi) the form for submitting claims of benefit sharing and the fee to be accompanied
therewith under sub-section (2) of section 26;
(xxvii) the manner in which and the time within which opposition to claims shall be
submitted under sub-section (3) of section 26;
(xxviii) the fee payable for renewal or further renewal of period of validity of certificate of
registration under sub-section (6) of section 26;
(xxix) the manner of making reference under sub-section (7) of section 26;
(xxx) the manner of making an application for registration for title and the fee to be
accompanied therewith under sub-section (4) of section 28;
(xxxi) the manner of referring the disputes regarding registration of entitlement under subsection
(4) of section 28;
(xxxii) the manner to enter into a certificate the brief conditions of entitlement under subsection
(5) of section 28;
(xxxiii) the manner of making an application for varying the terms of registration under
clause (a), of sub-section (9) of section 28;
(xxxiv) the manner of making an application by the registered breeder and certain others for
Cancelling of terms of registration under clause (b) of sub-section (9) of section 28;
(xxxv) the manner of application by any person other than the breeder, his succession, the
registered agent or the registered licensee for cancellation of terms of registration under
clause (c) of sub-section (9) of section 28;
(xxxvi) the manner of application for cancellation of the terms of registration under clause (d)
of sub-section (9) of section 28;
(xxxvii) the manner of application for cancellation of the terms of registration under clause (e)
of sub-section (9) of section 28;
(xxxviii) the manner to issuing notice to Registered breeder, and certain others under subsection
(10) of section 28;
(xxxix) the manner of giving notice to the Registrar under sub-section (1) of section 33;
(xl) the manner of notifying to the registered agent or registered licensee under sub-section (2)
of section 33;
(xli) the period within which the notice of opposition under sub-section (3) of section 33 may
be given;
(xlii) the manner of making application under section 34;
(xliii) the manner depositing fee payable under sub-section (2) of section 35;
(xliv) the manner of making application under sub-section (1) of section 36;
(xlv) the manner of applying to the Registrar under sub-section (2) of section 36;
(xlvi) the manner of giving notice under sub-section (4) of section 36;
(xlvii) the manner of application under sub-section (1) of section 37;
(xlviii) the manner of making application under sub-section (2) of section 37;
(xlix) the manner to apply to the Registrar under sub-section (1) of section 38;
(l) the manner of advertising application and to give notice to the Registrar, and the time
from the date of the advertisement within which a person may give such notice under subsection
(2) of section 38;
(i) the manner of advertising the denomination of the variety under sub-section (3) of section 38;
(ii) the manner of claiming compensation and filing of opposition under sub-section (2) of section 39;
(iii) the manner of recognition and reward from the National Gene Fund under clause (2) of section 42;
(iv) the particulars to be contained in the application under sub-section (2) of section 47;
(v) the authority and the manner in which such authority shall make available to the compulsory licensee the reproduction material of the variety under section 50;
(vi) the form for making application under sub-section (1) of section 52;
(vii) the period within which an appeal shall be preferred under section 56;
(viii) the form of petition and the particulars which such petition shall contain under subsection (3) of section 56;
(ix) the manner of issuing notice and filing objection under sub-section (3) of section 41;
(x) the manner of receiving benefit sharing under clause (9) of subsection (1) of section 45;
(xi) the manner for applying Gene Fund under sub-section (2) of section 45;
(xii) the period within which an appeal shall be made under sub-section (1) of section 60;
(xiii) the form of petition and the particulars which such petition shall contain under subsection (2) of section 60;
(xiv) the form for preparing annual statement of accounts under sub-section (1) of section 62;
(xv) the financial and administrative powers which the Chairperson shall exercise under section 63;
(xvi) the manner of using the denomination of a variety under sub-section (1) of section 68;
(xvii) the manner of authorising registered agent or registered licensee under section 81;
(xviii) the manner of issuing certified copy of Register, or any other document under section 83;
(xix) the fee payable for obtaining a certified copy of any entry in the Register, or any other document under section 84;
(xx) any other matter which is to be, or may be, prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision, is, in the opinion of the Central Government, necessary for the proper implementation of this Act.

Rules, regulations and schemes to be laid before Parliament.
97. Every rule and every regulation and every scheme made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or scheme or both Houses agree that the rule or regulation or scheme should not be made, the rule or regulation or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or scheme.
THE BIOLOGICAL DIVERSITY ACT, 2002

No. 18 OF 2003

(5th February, 2003)

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

Whereas India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

And whereas India is a party to the United Nations Convention on Biological Diversity signed at Rio Janerio on the 5th day of June, 1992;

And whereas the said Convention came into force on the 29th December, 1993;

And whereas the said Convention reaffirms the sovereign rights of the States over their biological resources;

And whereas the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of genetic resources;

And whereas it is considered necessary to provide for conservation, sustainable utilization and equitable sharing of the benefits arising out of utilization of genetic resources and also to give effect to the said Convention.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Biological Diversity Act, 2002.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.
2. In this Act, unless the context otherwise requires:-

(a) "benefit claimers" means the conservers of biological resources, their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;

(b) "biological diversity" means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;

(c) "biological resources" means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material;

(d) "bio-survey and bio-utilisation" means survey or collection of species, subspecies, genes, components and extracts of biological resource for any purpose and includes characterization, inventorisation and bioassay;

(e) "Chairperson" means the Chairperson of the national Biodiversity Authority or, as the case may be, of the State Biodiversity Board;

(f) "commercial utilization" means end uses of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;

(g) "fair and equitable sharing" means sharing of benefits as determined by the National Biodiversity Authority under section 21;

(h) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;

(i) "member" means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;

(j) "National Biodiversity Authority" means the National Biodiversity Authority established under section 8;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "regulations" means regulations made under this Act;
"research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;

"State Biodiversity Board" means the State Biodiversity Board established under section 22;

"sustainable use" means the use of components of biological diversity in such manner and at such rate that does not lead to the decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;

"value added products" means products which may contain portions or extracts of plants and animals in unrecognizable and physical inseparable form.

CHAPTER II

Regulation of Access to Biological Diversity

3. (1) No person referred to in sub-section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilisation.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely:

(a) a person who is not a citizen of India;
(b) a citizen of India; who is a non-resident as defined in clause (30) of section 243 of the Income-tax Act, 1961;
(c) a body corporate, association or organization –
(i) not incorporated or registered in India; or
(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

4. No person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person who is not a citizen of India who is non-resident as defined in clause (30) of the Income-tax Act, 1961 or a body corporate or organization which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management.

Explanation – For the purposes of this section, “transfer” does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

5. (1) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored institutions.
of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).

(2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3), be void:

(3) For the purposes of sub-section (1), collaborative research projects shall—

(a) conform to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government

6. (1) No person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application:

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned:

Provided further that the National Biodiversity shall dispose of the application for permission made to it within a period of ninety days from the date of receipt thereof.

(2) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial benefits arising out of the commercial utilization of such rights.

(3) The provisions of this section shall not apply to any person making an application for any right under any law relating to protection of plant varieties enacted by Parliament.

(4) Where any right is granted under law referred to in sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

7. No person, who is a citizen of India or a body corporate, association or organization which is registered in India, shall obtain any biological resource for commercial utilization, or bio-survey and bio-utilisation for commercial utilization except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaids and hakims, who have been practising indigenous medicine.
8. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Biodiversity Authority.

(2) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.

(4) The National Biodiversity Authority shall consist of the following members, namely:-

(a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;

(b) there *ex officio* members to be appointed by the Central Government, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests of whom one shall be the Additional Director General of Forests or the Director General of Forests;

(c) seven *ex officio* members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with –

(i) Agriculture Research and Education;

(ii) Biotechnology;

(iii) Ocean Development;

(iv) Agriculture and Cooperation;

(v) Indian Systems of Medicine and Homeopathy;

(vi) Science and Technology;

(vii) Scientific and Industrial Research;
(d) five non-official members to be appointed from amongst specialists
and scientists having special knowledge of, or experience in, matters
relating to conservation of biological diversity, sustainable use of
biological resources and equitable sharing of benefits arising out of
the use of biological resources, representatives of industry,
conservers, creators and knowledge-holders of biological resources.

9. The term of office and conditions of service of the Chairperson and the other
members other than ex officio members of the National Biodiversity Authority
shall be such as may be prescribed by the Central Government.

10. The Chairperson shall be the Chief Executive of the National Biodiversity
Authority and shall exercise such powers and perform such duties, as may be
prescribed.

11. The Central Government may remove from the National Biodiversity Authority
any member who, in its opinion, has –

(a) been adjudged as an insolvent; or

(b) been convicted of an offence which involves moral turpitude; or

(c) become physically or mentally incapable of acting as a member; or

(d) so abused his position as to render his continuance in office detrimental
to the public interest; or

(e) acquired such financial or other interest as is likely to affect prejudicially
his functions as a member.

12. (1) The National Biodiversity Authority shall meet at such time and place and
shall observe such rules of procedure in regard to the transaction of business at
its meetings (including the quorum at its meetings) as may be prescribed.

(2) The Chairperson of the National Biodiversity Authority shall preside at the
meetings of the National Biodiversity Authority.

(3) If for any reason the Chairperson is unable to attend any meeting of the
National Biodiversity Authority, any member of the National Biodiversity Authority
chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the National Biodiversity
Authority shall be decided by a majority of votes of the members present and
voting and in the event of equality of votes, the Chairperson or, in his absence,
the person presiding, shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally,
concerned or interested in a matter to be decided at the meeting shall disclose
the nature of his concern or interest and after such disclosure, the member
concerned or interested shall not attend that meeting.
(6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of –

(a) any vacancy in, or any defect in the constitution of, the National Biodiversity Authority; or

(b) any vacancy in, or any defect in the constitution of, any defect in the appointment of a person acting as a member; or

(c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

13. (1) The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity.

Explanation – For the purposes of this sub-section, “agro-biodiversity” means biological diversity of agriculture related species and their wild relatives.

(2) Without prejudice to the provisions of sub-section (1), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its function under this Act.

(3) A committee constituted under this section shall co-opt such number of persons, who are not the members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

14. (1) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

15. All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson or any other member authorized by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorized by it in this behalf.

16. The National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an
appeal under section 50 and the power to make regulations under section 64 as it may deem necessary.

17. The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

CHAPTER IV

FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

18. (1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in section 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in section 3, 4 and 6.

(3) The National Biodiversity Authority may —

(a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;

(b) advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section (1) of section 37 as heritage sites and measures for the management of such heritage sites;

(c) perform such other functions as may be necessary to carry out the provisions of this Act.

(4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

CHAPTER V

APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

19. (1) Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilisation or transfer the results of any research relating to biological resources occurring in,
or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section (1) of section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application.

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

20. (1) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject matter of the said approval except with the permission of the National Biodiversity Authority.

(2) Any person who intends to transfer any biological resource or knowledge associated thereto referred to in sub-section (1) shall make an application in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

21. (1) The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefits claimers.
(2) The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manner, namely:-

(a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(b) transfer of technology;

(c) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;

(e) setting up of venture capital fund for aiding the cause of benefit claimers;

(f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund:

Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organizations, the National Biodiversity Authority may direct the amount to be paid directly to such individual or group of individuals or organizations in accordance with the terms of any agreement and in such manner as it deems fit.

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, bi regulations, frame guidelines.

CHAPTER VI
STATE BIODIVERSITY BOARD

22. (1) With effect from such dates as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by that Government for the purposes of this Act, a Board for the State to be known as the _______________(name of the State) Biodiversity Board.

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:
Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

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

(a) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;

(b) not more than five ex officio members to be appointed by the State Government to represent the concerned Departments of the State Government;

(c) not more than five members to be appointed from among the experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.

(5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

23. The functions of the State Biodiversity Board shall be to –

(a) advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilization of biological resources;

(b) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilisation of any biological resource by Indians;

(c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

24. (1) Any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity if it is of opinion that
such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity:

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

(3) Any information given in the form referred to in sub-section (1) for prior intimation shall be kept confidential and shall be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

25. The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely:-

(a) references to the Central Government shall be construed as references to the State Government:

(b) references to the National Biodiversity Authority shall be construed as references to the State Biodiversity Board:

(c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

26. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

27. (1) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto –

(a) any grants and loans made to the National Biodiversity Authority under section 26;

(b) all charges and royalties received by the National Biodiversity Authority under this Act; and

(c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for –

(a) channeling benefits to the benefit claimers;
(b) conservation and promotion of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed;

(c) socio-economic development of areas referred to in clause (b) in consultation with the local bodies concerned.

28. The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors’ report thereon.

29. (1) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

(4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

30. The Central Government shall cause the annual report and auditor’s report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

31. The State Government may, after due appropriation made by the State Legislature by law in this behalf, as the State Government may think to fit for being utilized for the purposes of this Act.
32. (1) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto;

(a) any grants and loans made to the State Biodiversity Board under section 31;

(b) any grants or loans made by the National Biodiversity Authority;

(c) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government

(2) The State Biodiversity Fund shall be applied for –

(a) the management and conservation of heritage sites;

(b) compensating or rehabilitating any section of the people economically affected by notification under sub-section (1) of section 37;

(c) conservation and promotion of biological resources;

(d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24, in consultation with the local bodies concerned;

(e) meeting the expenses incurred for the purposes authorized by this Act

33. The State Biodiversity Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

34. The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

35. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.
CHAPTER IX

DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

36. (1) The Central Government shall develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, conservation of biological resources, incentives for research, training and public education to increase awareness with respect to biodiversity.

(2) Where the Central Government has reason to believe that any rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures; offering such State Government any technical and other assistance that is possible to be provided or needed.

(3) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

(4) The Central Government shall undertake measures, -

   (i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimize such effects and where appropriate provide for public participation in such assessment;

   (ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

(5) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including sui generic system.

Explanation – For the purposes of this section,-

(a) “ex situ conservation” means the conservation of biological diversity outside their natural habitats;

(b) “in situ conservation” means the conservation of ecosystems and natural habitat and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.
37. (1) Without prejudice to any other law for the time being in force, the State Government may, from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.

(2) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

38. Without prejudice to the provisions of any other law for the time being in force, the Central Government, in consultation with the concerned State Government, may from time to time notify any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

39. (1) The Central Government may, in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.

(2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(3) Any new taxon discovered by any person shall be notified to the repositories or any institution designated for this purpose and he shall deposit the voucher specimens with such repository or institution.

40. Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.

CHAPTER X

BIODIVERSITY MANAGEMENT COMMITTEES

41. (1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro organisms and chronicling of knowledge relating to biological diversity.

Explanation – For the purposes of this sub-section,

(a) "cultivar" means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;
(b) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(c) "landrace" means primitive cultivar that was grown by ancient farmers and their successors.

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resources for commercial purposes from areas falling within its territorial jurisdiction.

CHAPTER XI

LOCAL BIODIVERSITY FUND

42. The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

43. (1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto –

   (a) any grants and loans made under section 42;

   (b) any grants or loans made by the National Biodiversity Authority;

   (c) any grants or loans made by the State Biodiversity Boards;

   (d) fees referred to in sub-section (3) of section 41 received by the Biodiversity Management Committees;

   (e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government

44. (1) Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied, be in the manner as may be prescribed by the State Government.

(2) The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit
of the community in so far such use is consistent with conservation of biodiversity.

45. The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the concerned local body.

46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

47. Every local body constitution a Biodiversity Management Committee under sub-section (1) of section 41, shall cause, the annual report and audited copy of accounts relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.

CHAPTER XII

MISCELANEOUS

48. (1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be writing to it from time to time:

Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

49. (1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

50. (1) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.
(2) Every appeal made under sub-section (1) shall be in such form as may be prescribed by the Central Government.

(3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government;

Provided that before disposing of an appeal, the parties shall be given a reasonable opportunity of being heard.

(4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(5) While adjudicating any dispute sub-section (4), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(6) The National Biodiversity Authority shall have, for the purpose of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witness or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it ex parte;

(g) setting aside any order of dismissal of any application or any order passed by it ex parte;

(h) any other matter which may be prescribed.

(7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

51. All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.
52. Any person, aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, may file an appeal to the High Court within thirty days from the date of communication to him, of the determination or order of the National Biodiversity Authority or the State Biodiversity Board, as the case may be:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

53. Every determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court, in the same manner as a decree of that court.

Explanation – For the purposes of this section and section 52, the expression “State Biodiversity Board” includes the person or group of persons to whom the powers or functions under sub-section (2) of section 22 have been delegated under the proviso to that sub-section and the certificate relating to such person or group of persons under this section shall be issued by such person or group of persons, as the case may be.

54. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made there under:

55. (1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

56. If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second subsequent offence, with fine which
may extend to two lakh rupees and in the case of continuous contravention with additional fine may extend to two lakh rupees everyday during which the default continues.

57. (1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention committed without the knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

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

Explanation – For the purposes of this section, -

(a) “company” means any body corporate and includes a firm or other association of individuals: and

(b) “director” in relation to a firm, means a partner in the firm

58. The offences under this Act shall be cognizable and non-bailable.

59. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to forests or wildlife.

60. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or any rule or regulation or order made thereunder.

61. No Court shall take cognizance of any offence under this Act except on a complaint made by –

(a) the Central Government or any authority or officer authorized in this behalf by that Government; or

(b) any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.

62. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) terms and conditions of service of the Chairperson and members under section 9;

(b) powers and duties of the Chairperson under section 10;

(c) procedure under sub-section (1) of section 12 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 19;

(e) the form and manner of making an application under sub-section (2) of section 19;

(f) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of section 20;

(g) form in which, and the time of each financial year at which, the annual report of the National Biodiversity Authority shall be prepared and the date before which its audited copy of accounts together with auditor’s report thereon shall be furnished under section 28;

(h) form in which the annual statement of account shall be prepared under sub-section (1) of section 29;

(i) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an appeal and the procedure for adjudication, under section 50;

(j) the additional matter in which the National Biodiversity Authority may exercise powers of the civil court under clause (h) of sub-section (6) of section 50;

(k) the manner of giving notice under clause (b) of section 61;

(l) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

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

63. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the other functions to be performed by the State Biodiversity Board under clause (c) of section 23;

(b) the form in which the prior intimation shall be given under sub-section (1) of section 24;

(c) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;

(d) the manner of maintaining and auditing the accounts of the State Biodiversity Board and the data before which its audited copy of the accounts together with auditor’s report thereon shall be furnished under section 34;

(e) management and conservation of national heritage sites under section 37;

(f) the manner of management and custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied under sub-section (1) of section 44;

(g) the form of annual report and the time at which such report shall be prepared during each financial year under section 45;

(h) the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date before which its audited copy of the accounts together with auditor’s report thereon shall be furnished under section 46;

(i) any other matter which is to be, or may be, specified.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

64. The National Biodiversity Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.
65. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.