

The Jammu and Kashmir Saffron Act, 2007

JAMMU & KASHMIR

India

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Act 5 of 2007

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The Jammu and Kashmir Saffron Act, 2007 Act No. 5 of 2007 An Act to provide for regulating the quality of saffron and to ensure its genuineness for sale and export and for matters connected therewith or incidental thereto. Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-eighth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Jammu and Kashmir Saffron Act, 2007. (2) It shall extend to the whole of the State of Jammu and Kashmir. (3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint and different dates may be appointed for different provisions of the Act and for different areas.

2. Definitions.

- In this Act unless the context otherwise requires, - (a) 'Act' means the Jammu and Kashmir Saffron Act, 2007 ; (b) 'Appellate Authority' means the Commissioner/Secretary Incharge of the Agriculture Department ; (c) 'Container' means a box, casket, tin, bag, casket, wrapper for packing of saffron as the case may be; (d) 'Enforcement Inspector' means the Enforcement Inspector or any other officer of the Agriculture Department not below the rank of a Gazetted Officer declared as such for enforcing the quality of the saffron ; (e) 'Export' means taking out of State saffron to any other place; (f) 'Government' means the Government of Jammu and Kashmir ; (g) 'Grade' means any of the grades of dried saffron, as prescribed by the Bureau of India Standards (B.I.S.); (h) 'Import' means bringing into State saffron from any place out side the State ; (i) 'Labelling' means depicting the grade, mark, weight and constituents of saffron on the container or packed as the case may be ; (j) 'Phyto-sanitary Certificate' means the certificate issued by the Director of Agriculture concerned or any other authority as may be notified by the Government in this behalf with respect to the health and grade of dried saffron; (k) 'Prescribed ' means as prescribed by rules made under this Act; (l) 'Quality Control Laboratory' means quality control laboratory already notified by the

Government of India and includes any laboratory as such may be notified by the Government from time to time;(m)'Registration Authority' means the Director Agriculture concerned and shall include such other officer not below the rank of Joint Director, as the Government may appoint for any area; and(n)'State' means the Jammu and Kashmir State.

3. Notification of Saffron Belts.

(1)The Government may, by notification in the Government Gazette, notify the Saffron Belts in Districts of Pulwama and Doda and potential saffron growing belts in other districts of the State.(2)On issuance of the notification under sub-section (1), no land within the area so notified shall be used for any purpose other than growing of saffron lullis:Provided that an area not exceeding two Kanals of land may be used for construction of residential house by owner with the previous permission of the Agriculture Minister.(3)The Government shall undertake directly or through universities or other agencies studies of the problems of saffron in areas notified under sub-section (1) or sub-section (2).

4. Prohibition on conversion of land.

(1)Notwithstanding any thing to the contrary contained in any other Law for the time being in force no land which grows or has been growing within the preceding two years, saffron lullis shall be used for any other purpose without previous permission in writing of the Agriculture Minister.(2)The land under cultivation of saffron lullis shall not be used for construction (commercial or residential) or for brick kiln.(3)No material change shall be made in the land referred to under sub-section (2).

5. Penalty for conversion.

- Any person who uses such land in contravention of the provisions of section 3 or section 4 shall be punishable with imprisonment for a term not exceeding one year and fine not exceeding rupees ten thousand.

6. Registration.

(1)Every person carrying out trade in saffron shall before the expiration of one month from the date on which he undertakes such trade or before the expiration of two months from the date of coming into force of this section, apply to the Registering Authority to be registered as a trader of saffron :Provided that the Registering Authority may, for sufficient reasons, extend the time limit for registration by such period as it thinks fit.(2)Registration once made shall continue to be in force until it is cancelled by the Registering Authority.

7. Regulation for stocking, sale and export of saffron of standard quality.

(1)The Government shall regulate stocking and export of saffron of standard quality and for this purpose make arrangements for registration in the prescribed manner in which certificating and

export permits are to be issued, the contents of such certificate or export permit and registration thereof by the Registering Authority.(2)The Government shall promote sale and marketing of saffron and may for this purpose forge links with established marketing agencies wherever necessary or feasible.

8. Application, cancellation, fee payable and other matters relating to registration.

- The form of application for registration under section 6 or section 7 and for cancellation of such registration, the fee payable on such applications, the particulars to be included in such applications and the procedure to be followed in granting and cancelling registration shall be such as may be prescribed.

9. Appeal.

(1)Any person aggrieved by an order of the Registering Authority under section 6 or section 7 may appeal to the Appellate Authority in the prescribed manner.(2)No appeal shall be entertained after the expiry of two months from the date of the order.(3)The Appellate Authority may, after affording a reasonable opportunity to the parties, pass such orders as it may deem just and proper.(4)An appeal under sub-section (1) shall be decided, as far as practicable, within a period of three months.

10. Prescription of grade designation.

- The Government may, by notification in the Government Gazette, provide for all or any of the following matters, namely:-(a)fixing grade designations to indicate the quality of saffron;(b)defining the quality indicated by every grade designation ;(c)specifying grade designation marks to represent particular grade designations;(d)authorizing a person or a body of persons, subject to any prescribed conditions, to mark with a grade designation, mark saffron in respect of which such mark has been prescribed or any covering containing or label attached to such saffron;(e)specifying the conditions referred to in clause (d) including in respect of conditions as to the manner of marking, the manner in which the saffron shall be packed, the type of covering to be used , and the quantity by weight, number or otherwise to be included in each covering ; and(f)providing for the confiscation and disposal of saffron marked otherwise than in accordance with the prescribed conditions with a grade designation mark.

11. Compulsory grade designation.

(1)Saffron shall not be sold or distributed in the State, unless it is marked with the grade designation mark in the manner prescribed.(2)Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding ten thousand rupees.

12. Quality control.

(1) The Enforcement Inspectors and such other officers of the Agriculture Department as the Government may, by notification in the Government Gazette, appoint, shall be authorized to take such steps as may be necessary for implementing the provisions of the Act and the rules made thereunder. (2) Without prejudice to the generality of the powers under sub-section (1), the Enforcement inspectors may—(i) take samples of saffron from—(a) any seller, retailer, wholesaler or other trade; (b) any purchaser, consignee or transporter for quality analysis. (ii) seize entire quantity of saffron, being exported by any trader or transporter or other agency in respect of which any offence under the Act has been committed, for quality analysis; (iii) send the sample of saffron to the Quality Control Laboratory for analysis, and—(a) deliver one sample to the person from whom it has been taken; and (b) retain the remaining sample for production, in case any legal proceedings are taken or for analysis by the Central Quality Control Laboratory, as the case may be; (iv) enter and search, at all reasonable times, with such assistance as he considers necessary, any place in which he has reason to believe that any offence under the Act has been, or is being committed, and order in writing to the person in possession of saffron, in respect of which the offence has been or is being committed, not to dispose of any stock of such saffron for a specific period not exceeding 30 days or seize the stock of such dried saffron or direct the possessor to remove the defect in such saffron in his presence; (v) examine any record, register, document or any other material object found in any place mentioned in clause (iv) and seal the same, if he has reason to believe that it may furnish evidence of the commission of an offence punishable under the Act; or (vi) break open any container/bag in which the saffron of any-notified grade may be contain or to-break open the door of any premises where such saffron may be kept for sale. (3) If the person, from whom the samples have been taken refuses to accept one of the samples, the Enforcement Inspector shall send intimation to the Seed Pathologist, heading the Seed Pathology Laboratory and Agriculture Chemist, heading the Quality Control Laboratory and where chemical analysis is to be carried out of the samples, of such refusal and there upon the Seed Pathologist receiving the sample for analysis, shall divide it into three parts and shall seal or fasten up one of these parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the Enforcement Inspector or other officer who shall retain it for production in case legal proceedings are taken. (4) Where the Enforcement Inspector takes any action under sub-section (2), he shall, as far as possible call not less than two persons to be present at the time when such action is taken and their signatures on a memorandum to be prepared in the prescribed form and manner. (5) The provisions of the Code of Criminal Procedure, Samvat 1989, relating to search or seizure shall, so far as may be, apply to any search or seizure under this section. (6) Any person who prevents any Enforcement Inspector from taking samples or prevents them from exercising any other power under the Act, shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding ten thousand rupees.

13. Appeal.

- Any person aggrieved with the order of the Enforcement Inspector may file appeal to the Director of Agriculture concerned within thirty days from the date of such order.

14. Phyto-Sanitary Certificate.

- After test of the samples or quantity meant for export, the Director of Agriculture concerned or any other authority notified by the Government shall issue Phyto-Sanitary Certificate in the prescribed manner as to quantity of the saffron.

15. Packing of Saffron.

(1) Saffron to be exported by a trader or exporter shall be packed in Papier Mache boxes of different sizes, as per requirement viz. 50 gram, 100 gram, 200 gram boxes, 500 gms/1000 gms/2000gms or plastic boxes of the same dimensions and shall be labelled properly. (2) Saffron for local consumption shall be packed in plastic boxes of 5grams, 10 grams, 20 grams and 40 grams and labelled properly. (3) Saffron for industrial houses shall be packed in boxes of 1000 grams, and 2000 grams. (4) The grade and contents (chemical composition) of the saffron, packed in a given box shall be pasted on the box or packet.

16. Import.

(1) Any person, trader, or company, intending to import dried saffron into the State, shall inform Director of Agriculture concerned one month in advance of such import indicating therein the quantity to be imported and source. (2) Such saffron shall be sold in the State in the prescribed manner.

17. Penalty for un-authorized marking with grade designation mark.

(1) Whoever marks saffron packing, not being authorized to do so under the Act or the rules made there under, shall be punishable with imprisonment for a term not exceeding one year and fine not exceeding twenty thousand rupees. (2) Whoever imports saffron and marks its packing with a grade designation mark or brand name to indicate that it is a local product or sells it as 'Kashmir Saffron' under any brand name or mark, shall be punishable with imprisonment for a term not exceeding one year and fine not exceeding fifty thousand rupees.

18. Penalty for counterfeiting grade designation mark.

- Whoever counterfeits any grade designation mark or has in his possession any dye, plate or other instrument for the purposes of counterfeiting a grade designation mark with respect to saffron, shall be punishable with imprisonment for a term not exceeding one year and with fine not exceeding twenty thousand rupees.

19. Penalty for selling misgraded/misbranded saffron.

- Whoever sells saffron which is misgraded/misbranded shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding ten thousand rupees.

20. Adulteration.

- Whoever adulterates saffron, or sells such saffron in the State, shall be punishable with imprisonment for a term not exceeding two years and fine not exceeding twenty thousand rupees. Explanation. - For purposes of this section, saffron shall be deemed to be adulterated :-(i) If it contains any substance which affects injuriously the nature, substance or quality thereof; (ii) If any inferior or cheaper substance has been mixed with it or wholly substituted for it; (iii) If any of its constituents has been wholly or in part abstracted so as to affect the nature, substance or quality thereof; (iv) If it has been packed or kept under insanitary conditions whereby it has become contaminated or injurious to health or whereby its quality has deteriorated; (v) If different grades or brands of saffron have been mixed and offered for sale under one grade or brands, as the case may be; or (vi) If the quality or purity of saffron is below the prescribed standards.

21. Other Penalties.

- Whoever attempts or abets the contravention of any provisions of the Act or of any rule made thereunder, shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees.

22. Offences by companies.

- Where an offence under the Act is committed by a company, the person who has been nominated to be in charge of and responsible to, the company (hereinafter in this section referred to as 'person responsible') or if no person has been nominated, every person who at the time of commission of offence was in charge of, or was responsible to, the company for the conduct of its business and the company shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly: Provided that nothing contained in the such section shall render any such person liable to any punishment under the Act if he proves that the offence was committed without his knowledge.

23. Prosecution.

- No court shall take cognizance of any offence punishable under the Act except upon a complaint in writing made by-(i) the Government. (ii) Registering authority or any officer authorized by the Government in writing; (iii) the person aggrieved; or (iv) a recognized consumer association. Explanation. - For the purpose of this section, recognized consumer association means a voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.

24. Jurisdiction.

- The offences punishable under this Act shall be triable by a Judicial Magistrate not below the rank of Chief Judicial Magistrate.

25. Price control.

(1)The Government may, by order, fix in respect of saffron of any description, grade or mark specified therein the maximum price or the minimum price or maximum and minimum price which may be charged by a grower, dealer, wholesaler or retailer of saffron.(2)Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding ten thousand rupees.

26. Protection of actions taken in a good faith.

- No suit, prosecution or other legal proceeding shall lie against the Government, Appellate Authority, Registering Authority or any officer or employee of the Government authorized by the Government for any thing which is in good faith done or intended to be done under the Act or the rules made thereunder.

27. Act to have overriding effect.

- The provisions of the Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

28. Power to make rules.

- The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of the Act.(2)Without prejudice to the generality of the foregoing power, rules made under this section may provide for-(i)the manner in which certificating and export permits are to be issued and registration thereof is made under sub-section (1) of section 7;(ii)the contents of such certificate and export permit;(iii)the form of registration under section 6 or section 7 and of cancellation of such registration as provided under section 8;(iv)the fees payable on such forms and applications;(v)the particulars to be included in such forms/applications ;(vi)the procedure to be followed in granting and cancelling such registration ;(vii)manner and procedure of appeal under section 9;(viii)manner of marking saffron with the grade designation mark ;(ix)issuance of Phyto-Sanitary Certificate under section 14;(x)selling of dried saffron imported of in the State; and(xi)such other matters as are, or may be, required to be prescribed under the Act.