

The Cotton Seeds Price (Control) Order, 2015

UNION OF INDIA

India

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Rule THE-COTTON-SEEDS-PRICE-CONTROL-ORDER-2015 of 2015

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The Cotton Seeds Price (Control) Order, 2015 Published vide Notification No. G.S.R. 936(E), dated the 7th December, 2015 Ministry of Agriculture and Farmers Welfare (Department of Agriculture, Cooperation and Farmers Welfare) G.S.R. 936(E). - An Order to provide for an effective system for fixation of sale price for cotton seeds to ensure their availability to the farmers at fair, reasonable and affordable prices; Whereas, the Seeds Act, 1966 (54 of 1966) provides for regulating the quality of certain seeds for sale, and for matter connected therewith; Whereas, the Seeds (Control) Order, 1983 regulates the trading activity in seeds; Whereas, there is demand from the farmers to regulate prices of Genetically Modified Cotton Seeds such as seeds of Bt cotton which are found to be highly priced; Whereas, certain State Governments enacted State legislations, in order to regulate the Bt cotton seed prices including trait value component; Whereas, fixation of sale price by multiple authorities resulted in fixation of different prices in different States and necessitated fixing of uniform prices for Bt cotton seeds across the country; And, whereas, it is felt necessary, in view of the foregoing circumstances, to issue the following Cotton Seeds Price (Control) Order for uniform regulation across India of the sale price of cotton seeds with the existing and future Genetic Modification (GM) technologies; GSR No.....(E). - in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order, namely:- Preliminary

1. Short title and extents.

(1) This Order may be called the Cotton Seeds Price (Control) Order, 2015. (2) It extends to the whole of India. (3) It shall come into force on the date of its publication in the Official Gazette. (4) This order is in conjunction with the provisions of the Seeds Act, 1966 and the Seeds (Control) Order, 1983.

2. Definitions.

(1) In this Order, unless the context otherwise requires - (a) "Act" means the Essential Commodities Act, 1955; (b) "Bt" means the bacterium "Bacillus thuringiensis"; (c) "Bt Cotton" means Genetically modified Cotton crop integrated with genes from Bt for providing resistance to bollworms; (d) "Controller" means a person appointed as Controller of Seeds by the Central Government under the Seeds (Control) Order, 1983; (e) "Cotton Seeds" means cotton seeds of any variety and includes transgenic and genetically modified cotton seed varieties such as Bt Cotton used for sowing; (f) "Dealer" means a person carrying on the business of selling, exporting or importing Cotton Seeds, and includes an agent of a dealer and shall also include and mean a Distributor and his agent and his stockist; (g) "Genetic Engineering or Genetic Modification Technology (GM Technology)", means the technology which involves insertion of genes from alien species such as Bt into the genome of a living organism thereby making the resultant organism express a particular trait or character, which does not hitherto occur naturally (resistance to pests such as bollworms or cotton plants resistant to weedicides for ease of crop management). Such genes inserted into a crop are referred to as transgenes and crops containing such transgene are referred to as GM crops; (h) "GM Trait or Genetically Modified Trait" means an attribute (agronomic trait) or a character of an organism resulting from expression of transgene or genetic modification. Bollworm resistance or Herbicide resistance in Cotton are GM traits which are result of expression of the transgene or transgenes; (i) "Government" means the Central Government; (j) "License Agreement" means the agreement between the Licensor and the Licensee under which GM Technology is provided to the Licensee; (k) "Licensee" means the seed producing company, under a license from the Licensor or sub-licensor, using the GM Technology by transferring it into its cotton varieties or hybrids to produce and market their cotton seeds. The term Licensee shall also include and mean Sublicensee; (l) "License Fee" means a onetime payment and other remunerations to be paid to the Licensor on sale of transgenic variety of cotton seeds and shall include any other alternative terms like royalty, Trait Value etc used in the License Agreement for such payments or remuneration; (m) "Licensor" means the company that develops or obtains patent or a person, who obtained License from the Patentee and provides the GM Technology to the Licensee under a License Agreement and shall also include and mean a sub-licensor; (n) "Local Taxes" means any tax or levy (except excise or import duty included in sale price) paid or payable to the Government or the State Government or any local body under any law for the time being in force by the Licensor or Licensee or their agent or Dealer; (o) "Maximum Sale Price" means the maximum price inclusive of Seed Value, License Fee, Trade margin and local taxes or duties, at which the Cotton Seeds or transgenic varieties of Cotton Seeds are sold to the farmers; (p) "Notification" means a notification published in the Official Gazette; (q) "Royalty (Trait Value)" means the amount, which the Licensor collects from the Licensee under the License Agreement for granting license to GM Technology; (r) "Seed Inspector" means a Seed Inspector appointed under the Seeds Act, 1966 or an Inspector of Seeds appointed under clause 12 of the Seeds (Control) Order, 1983; (s) "Seed Value" means the sale value of Cotton seeds without license fee (royalty or trait value) but includes cost of production including processing, packing, distribution etc, research and development costs, administrative and overhead costs, cost related to business risks including obsolescence, after sales service and reasonable returns on investments and efforts; (t) "Transgenic variety" means seed or planting material synthesized or developed by modifying or altering the genetic composition by

means of GM Technology;(u)"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 atleast 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.(2)The words and expressions used in this Order but not defined shall have the same meaning assigned to them in the Act, the Seeds Act, 1966, the Seeds (Control) Order, 1983, and the Environment (Protection) Act, 1986.

3. Powers of Controller.

- In addition to the power conferred to Controller under the Seed (Control) Order 1983, the Controller shall also have the power to regulate the sale price of cotton seed as may be notified by the Government from time to time in the order by notifications;

4. Functions of Controller.

- The Controller shall advise the Government on the following matter, namely:- (a) regulation of sale of Cotton Seeds at notified Maximum Sale Price; (b) prescribe licensing guidelines and format for all the GM Technology Licensing Agreements; and (c) any other matter referred to him for advice by the Government.

5. Power to fix Maximum Sale Price.

(1)The Government, may, after taking into consideration the Seed Value, License Fee which includes one time and recurring Royalty (Trait Value), trade margins and other taxes, whenever necessary, as it may deem fit, from time to time, notify in the Official Gazette, the Maximum Sale Price of cotton seeds on or before 31st March of every year applicable for the next financial year.(2)For the purpose of fixing Maximum Sale Price, the Government may constitute a Committee under the Chairmanship of Joint Secretary (Seed) and Controller, Department of Agriculture, Cooperation and Farmers Welfare to recommend Maximum Sale Price of Cotton Seed after taking into consideration the components of Seed Value, License Fee which includes one time and recurring Royalty (Trait Value), trade margins and other taxes. The Committee may take inputs from such persons or associations or authority, as may be necessary for working out the Maximum Sale Price of the Cotton Seed.(3)The other members of the Committee shall consists of the following, namely:- (i)Agriculture Production Commissioner or Secretary Agriculture from two major cotton growing states.(ii)Assistant Director General (Cash Crops), Indian Council of Agricultural Research.(iii)Member Secretary, Commission for Agricultural Costs and prices, Government of India.(iv)Director, National Institute of Agricultural Economics and Policy Research (ICAR), New Delhi.(v)One representative of Seed Industry.(vi)One farmer's representative.(vii)Deputy Commissioner (Seed), Department of Agriculture, Cooperation and Farmers Welfare - Member Secretary.(4)The Committee while recommending the Maximum Sale Price of Cotton Seeds, under this Order, shall have regard to the following factors which contribute to production of the Seeds,

namely:- (a) Seed Value; (b) Dealer margins; (c) License fees including royalty or trait value for the technology; and (d) Taxes, if any on any of the items above. (5) The Government, while fixing the Maximum Sale Price, shall also fix and regulate the Seed Value and License Fee including royalty or trait value, if any, that constitute components of the Maximum Sale Price. (6) Maximum Sale Price fixation along with fixation of its components under sub-clauses (1) and (5) above shall be binding on all stakeholders including the Licensor and the Licensee, notwithstanding anything contained in any contract or instrument to the contrary. (7) No Licensor, Licensee or Dealer shall cause distribution and sale of seeds above the Maximum Sale Price fixed by the Government under this order. (8) All License Agreements shall be as per the format, as may be prescribed by notification.

6. Power to review.

- Any person aggrieved by any notification issued or order made under this Order, may apply to the Central Government or any such Authority as the Government may specify in this behalf, for a review of the notification or order within a period of thirty days from the date of publication of the notification in the Official Gazette or the date of receipt of the order by him, as the case may be, and such Authority may make order on such application, as it may deem proper, which shall be final: Provided that pending a decision on the application, no Licensor, Licensee or Dealer shall cause sale of Cotton Seeds, as the case may be, at a price exceeding the Maximum Sale Price or collect License Fee in excess of that notified by the Government. Provided further that an application for appeal shall be accompanied with a fee of Rs.100/- by way of demand draft drawn in favour of Pay and Accounts Officer, Department of Agriculture, Cooperation and Farmers Welfare, New Delhi.

7. Penalty.

- Any person who contravenes any of the provisions of this Order or fails to carry out any direction or requisition made thereunder, shall be punishable under section 7 of the Act.