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*to provide for controlling and regulating the quality  
of seeds of various varieties of crops,*

WHEREAS it is expedient to provide for controlling and regulating the quality of seeds of various varieties of crops, fruit trees and for matters connected therewith;

It is hereby enacted as follows:

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Seeds Act, 2014.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context,-

- (a) "accredited laboratory" means any seed testing laboratory established in public sector or private sector and accredited by an appropriate agency;
- (b) "Agency" means the Seeds Certification and Registration Agency established under section 4;
- (c) "Approved seed" means seed true to type as approved by an agency;
- (d) "basic seed" means progeny of the pre-basic seed produced by any public or private sector organization and certified by an agency as may be prescribed;
- (e) "certified seed" means seed certified by an agency;
- (f) "Council" means the Seeds Certification Council established under section 3;
- (g) "Department" means Agriculture, Livestock and Cooperation Department of the Province of the Khyber Pakhtunkhwa;
- (h) "genetically modified variety" means plant varieties which have been bred by genetic engineering involving molecular techniques that modify, recombine or transfer genes or segments of genetic material and includes recombinant deoxyribonucleic acid (DNA) techniques that transfer genes or segments of genetic material between genotype and also apply to plant varieties derived through crossing with a Genetically Modified Organism (GMO);
- (i) "Government" means the Government of the Khyber Pakhtunkhwa;

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- (j) "horticulture nursery" means any ground or premises on which nursery plants are propagated, grown or procured for resale and held for sale;
- (k) "hybrid seed" means seed resulting from cross-breeding different entities, e.g. two different species or two purebred parent strains;
- (l) "misbranded seed" means a seed if,-
- (i) it is a substitute for, or resembles in a manner likely to deceive, another plant variety of seed under the name of which it is sold, and is not plainly and conspicuously labeled 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 plant 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 person engaged in seed business and which bears his name or 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 plant 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 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;

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- (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 plant variety; or
- (xi) it is not labeled in accordance with the requirements of this Act or the rules made there under;
- (m) "notified variety or species" means a variety or species which has been notified as such under section 5 of this Act;
- (n) "person" means any person, an association of persons, firm, partnership, society, group, a public or private limited company, corporation, cooperative society or any other body corporate.
- (o) "post-control trial" means trials including recombinant deoxyribonucleic acid, finger-printing to check on health status, varietal authenticity and purity of the pre-basic, basic and certified seeds according to the prescribed standards;
- (p) "pre-basic seed" means seed of high genetic purity produced by a plant breeder;
- (q) "prescribed" means prescribed by rules made under this Act;
- (r) "Province" means the Province of the Khyber Pakhtunkhwa;
- (s) "registered seed grower" means a person or group of persons engaged in producing seed and registered as such under this Act;
- (t) "registered variety" means a variety registered by the Agency under section 4 of this Act;
- (u) "released variety" means a registered variety in Khyber Pakhtunkhwa and approved by the Khyber Pakhtunkhwa Seed Council;
- (v) "rules" mean rules made under this Act;
- (w) "seed" means any of the reproductive or vegetative propagating material (including, but not limited to, seedlings, tubers, bulbs, rhizomes, roots, cuttings, all types of grafts) of the plants of field crops (including, but not limited to, fibre, food and fodder) vegetable crops, fruits, spices, medicinal herbs, flowers, shrubs, other plant species and mushroom spawn used for sowing or planting the genera or species prescribed by Government;
- (x) "Seeds Analyst" means a Seed Analyst appointed under section 10;

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- (y) "Seeds Certification Officer" means a Seed Certification Officer appointed under section 11;
- (z) "Seeds Inspector" means a Seed Inspector appointed under section 12;
- (aa) "species" means a group of plants capable of interbreeding and producing fertile offspring of both genders, and separated from other such groups with which interbreeding does not normally happen; and
- (bb) "variety" means a group of plants belonging to a species which for cropping purpose is considered as an individual unit and can be distinguished from other units of the same species having phenotype and genotype distinct from other varieties, but will hybridize freely with those other varieties.

3. **Establishment, Constitution and Functions of Seeds Certification Council.**---(1) As soon as may be, after the commencement of this Act, Government shall establish and constitute, by notification in the official Gazette, a Council to be known as the Seeds Certification Council, comprising a Chairperson and such other members as may be prescribed.

- (2) The functions of the Council shall be--
  - (a) to advise on policy for the development, operation and regulation of the seed industries;
  - (b) to ensure the operation of the provisions of this Act;
  - (c) to guide in administering the seeds quality control service;
  - (d) to direct initiation of Seeds Projects;
  - (e) to ensure and protect investment in the seeds industry;
  - (f) to approve and sanction seeds standards;
  - (g) to regulate seeds movement to and from other provinces;
  - (h) to recommend to Government on import of seeds;
  - (i) to co-ordinate multiplication and supply of seeds of approved varieties; and
  - (j) to co-ordinate the arrangements for the maintenance of genetic potential.

4. **Establishment, Constitution and Function of Seeds Certification and Registration Agency.**---(1) As soon as may be, after the commencement of this Act, Government shall establish and constitute, by notification in the official Gazette, an Agency to be called the Seeds Certification and Registration Agency. The Agency shall consist of a Chairperson and such other members as may be prescribed.

(2) The Agency shall perform the following functions--

- (a) control and implement the quality of seeds on prescribed standards;
- (b) register seeds growers in such manner and subject to such conditions as may be prescribed;
- (c) certification of seeds;
- (d) field inspection of the crops of registered varieties and released varieties intended for sale as basic seed or certified seeds;
- (e) sampling and testing of seed lots intended for sale in order to ascertain their purity, quality, viability, germination capacity and health status in the prescribed manner;
- (f) issuing certificates for a particular category of seed which meet the prescribed standards;
- (g) carrying out post-control trials;
- (h) sampling and analyzing seed lots delivered to the processing plants to establish a basis for the purchase of such lots;
- (i) arranging training courses for persons engaged in the seeds business;
- (j) providing technical and specialist advice and assistance to the Seeds Council in the performance of its functions;
- (k) conduct pre-registration checking of varieties of both public and private sector submitted for the purpose of,
  - (i) determining agronomic value regarding regional suitability for registration as a plant variety evaluated by Expert Sub Committee providing definitive botanical description of plant varieties, and
  - (ii) providing information on genetic suitability and adaptability of varieties;
- (l) register seeds varieties after conducting pre-registration checking;
- (m) publish a list of registered plant varieties;
- (n) propose procedures for maintaining purity of the seeds stock and conduct research in seed science and technology; and
- (o) perform such other functions as the Seeds Council may entrust to it.

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5. **Power to notify varieties or species of seeds.**--- Government may, by notification in the official Gazette, specify:

- (a) the varieties or species of seed approved for production in the province;
- (b) the minimum limits of germination and purity standards to which such seed shall conform; and
- (c) the mark and label to indicate that such seed conforms to the minimum limits of germination and purity standards and the particulars which such mark or label may contain.

6. **Regulation of sale of seeds of notified varieties and species.**---(1) No person shall, sell, offer for sale, or advertise or hold in stock for sale, or barter or otherwise supply, any seed of any un-notified variety or species.

(2) No person shall, sell, offer for sale, or advertise or hold in stock for sale, or barter or otherwise supply any notified variety or species, unless:

- (a) such seed is identifiable as to its variety or species;
- (b) such seed conforms to the minimum limits of germination and purity standards as laid down under section 5;
- (c) the container of such seed bears the mark and label containing correct particulars thereof, in the prescribed manner; and
- (d) complies with such other requirements as may be prescribed.

(3) No person shall sell, advertise or hold in stock for sale, seed of any plant variety banned by Government.

7. **Cancellation of certification.**---If, at any time after certification, Agency is satisfied, either on a reference made to it in this behalf or otherwise, that-

- (a) the certificate granted by it has been obtained by misrepresentation or suppression of 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, then, without prejudice to any other penalty to which the holder of the certificate may be liable under this Act, the Agency may, after giving the holder an opportunity of showing cause, cancel the certificate.

8. **Appeal.**---(1) Any person aggrieved by the decision of the Agency under section 9 to cancel a certificate may, within thirty days from the date on which the decision to cancel the certificate is communicated to him and on payment of such fee as may be prescribed, prefer an appeal to Government.

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(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose-of the appeal within fifteen days, and such order shall be final.

9. **Seeds Analyst.**---The Agency may appoint any person, with the prescribed qualification, to be a Seeds Analyst to test the quality and purity of seeds produced at the seeds farms before it is given out for commercial cultivation.

10. **Seeds Certification Officer.**---(1) The Agency may appoint such person with prescribed qualification to be a Seeds Certification Officer for such area as may be specified in the notification.

(2) A Seeds Certification Officer shall perform the same functions as are assigned to a Seeds Inspector and also supervise the work of the Seeds Inspectors in the area for which he is appointed.

11. **Seeds Inspector.**---The Agency may, by notification in the official Gazette, appoint such person as it thinks fit to be Seeds Inspectors for such areas as may be specified in the notification.

12. **Power of Seeds Inspectors.**---(1) A Seeds Inspector may, within the area for which he is appointed, inspect and take samples of any seed in labelled containers purporting to contain seed of a notified variety or species of seed from any person producing, selling, delivering, stocking or distributing seed and send such samples for analysis to the nearest authorized laboratory.

(2) The Seeds Inspector may-

- (a) enter and search at all times, with such assistance of law enforcement agency or district administration as he may consider 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-off any stock of such seeds for a specified period not exceeding thirty days or, unless the alleged offence is such that the defect may be removed by the possessors of seeds, seize the stock of such seeds;
- (b) examine any record, register, document or other material object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of any offence punishable under this Act; and
- (c) exercise such powers as may be necessary for carrying out the purposes of this Act or any rule made there under.

(3) Where any sample of any seed of any notified variety or species is taken under sub-section (1), its cost calculated at the rate at which such seed is usually sold in the market, shall be paid on demand to the person from whom it is taken.

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(4) The power conferred by this section includes power to break open any labelled container in which any seed of any notified variety or species may be kept and to break upon the door of any premises where any such seed may be kept for sale:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premise, if he is present therein, refuses to open the door on being called upon to do so.

(5) Where the Seeds Inspector takes any action under sub-section (1), he shall, so far as possible, call not less than two persons of the locality to be present at the time when such action is taken and take their signature on a memorandum to be prepared in the prescribed form and manner.

(6) The provisions of the Code of Criminal Procedure, 1898 (Act No.V of 1898), shall, so far as may be, apply to any search or seizure made under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

**13. Procedure to be followed by Seeds Inspector.**---(1) Whenever a Seeds Inspector intends to take a sample from the seeds of any crop of any notified variety or species for analysis, he shall-

- (a) give notice in writing of his intention to do so to the person from whom he intends to take sample; and
- (b) except in special cases provided by rules, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.

(2) When samples of any seed of any notified variety or species are taken under sub-section (1), the Seeds Inspector shall-

- (a) send, in the prescribed manner, first sample for analysis to the Seeds Testing Laboratory of the area within which such sample has been taken forthwith;
- (b) send the second sample to the reference laboratory; and
- (c) send the third sample to the offices designated by Government as prescribed for use in case of any dispute and will be retained for a period of three months and after that it shall be disposed of.

(3) Where a Seeds Inspector makes an order under clause (a) of sub-section (2) of section 12,-

- (a) he shall use all dispatch in ascertaining whether or not the seeds contravenes any of the specifications laid down under section 5, and, if it is ascertained through the laboratory report that the seed does not so contravene, forthwith revoke the order passed under the said clause or, as the case may be, take such action as may be necessary for the return of the stock of the seed seized thereunder;

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- (b) if the stock of the seed seized under that clause does not conform to the aforesaid specifications, he shall, as soon as may be, report the matter to a Magistrate and take his orders as to the custody thereof; and
- (c) without prejudice to the institution of any prosecution, if the alleged offence is such that the defect may be removed by the possessor of the seeds, he shall, on being satisfied that the defect has been so removed, forthwith revoke the order passed under the said clause.

(4) Where a Seeds Inspector seizes any record, register, documents or any material object under clause (b) of sub-section (2) of section 14, he shall, as soon as may be, report the matter to a Magistrate and take his orders as to the custody thereof.

**14. Report of Seeds Testing Laboratory.**---(1) The Seeds Testing Laboratory shall, as soon as may be, after the receipt of the sample under section 15, analyze the sample and deliver in such form as may be prescribed, one copy of the report of the result of the analysis to the Seeds Inspector and after receiving report, the Inspector shall supply a copy of report to the person from whose possession it was taken.

(2) The production, in any inquiry, trial or other proceedings under this Act of a report under the hand of a Seeds Analyst in the form prescribed shall, until the contrary is proved, be sufficient to prove the facts stated therein.

(3) When any person is accused of an offence under this Act, the Court may, if it considers necessary in the interest of justice and the accused deposits in the Court a sum of money in accordance with the scale prescribed, summon as a witness the Seeds Analyst who analysed the sample in respect of which such person is accused of having committed an offence. and, if such person is acquitted, any sum of money so deposited shall be refunded to him.

**15. Registration of plant variety.**---(1) An application for registration of plant variety shall be made in such form and accompanied by such fee and shall contain such information as may be prescribed.

(2) The Agency may register, or refuse to register, a plant variety as may be prescribed.

(3) The plant varieties imported for general cultivation would be registered by the Agency on the recommendation of the Expert Sub Committee of Seeds Council on the basis of the results of multi-location trials provided by the importer as prescribed.

(4) Any plant variety/hybrid, including Genetically Modified variety/hybrid, registered under this Act shall belong to the person in whose name the said variety/hybrid has been registered and the obtaining certification and sale of the registered variety/hybrid can be done only by the owner or his licensee.

(5) If at any time after registration of a plant variety, the Agency is satisfied, either on a reference made to it in this behalf or otherwise, that the registration granted by it has been obtained by misrepresentation or suppression of essential factor conditions of registration has been changed, then Agency

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may cancel registration of the plant variety in such manner as may be prescribed.

(6) For the purposes of this Act, a register of all registered plant varieties to be called Register of Seeds shall be kept by Agency wherein all specifications, as may be prescribed, shall be maintained.

(7) The Agency shall, within such intervals and in such manner as it thinks appropriate, publish the national list of plant varieties registered during that interval.

**16. Restrictions.**---(1) No person shall-

- (a) conduct seed business in Province unless such person is registered to do so;
- (b) import, sale, stocks or exhibit for sale, barter or otherwise supplies any seed of any variety/hybrid or species which is not registered under this Act for cultivation in Province; or
- (c) import, sale, stocks or exhibit for sale, barter or otherwise supplies any seed of any variety/hybrid or species which is misbranded.

(2) However, farmer has a right to save, use, sow and re-sow, but will not involve in business activities for his produce including seed of a variety/hybrid or species protected under this Act.

**17. Registration to do seeds business.**---(1) Any person may apply on the prescribed form for registration seeds business in the Province.

(2) The application form shall be accompanied with such fee as may be prescribed.

(3) The Department after making such enquiry as may be prescribed, shall grant registration to the applicant.

(4) Every registration granted under this Act shall remain valid for five years from the date of issue of the registration unless earlier suspended or cancelled.

(5) Every holder of the registration desirous to renew the registration shall, before the expiry of the registration period, make an application for renewal to the Agency together with such fee as may be prescribed.

(6) On receipt of such application and prescribed fee, Agency, may renew the registration for another period of five years.

(7) In case the application is made after the expiry of the registration, the registration may be renewed on payment of an additional fee of one thousand rupees for each month or part thereof, in addition to the fee for renewal of registration.

(8) The registration shall be deemed cancelled if-

- (a) the registration is not renewed within six months after the date of expiry of the registration; or
- (b) the person fails to do business for at least three years; or
- (c) the person is found to be in violation of any provision of this Act.

**18. Registration of seeds dealer.**---(1) No person shall sell crop seeds at any place except under the terms and conditions of dealership license granted to him under this Act.

(2) Any person having received prescribed training from the Agency may apply for registration and grant of license on prescribed form to gather with the prescribed fee.

(3) Government shall after making such enquiry as may be necessary, grant registration to the applicant.

(4) Every license issued under this Act shall, unless earlier suspended or cancelled earlier, remain valid for three years from the date of its issue.

(5) Every holder of a license desiring to renew the license shall, before the expiry of license, apply for renewal of the license to Government together with the prescribed fee.

(6) On receipt of such application and fee, Government, on the recommendation of the Agency, may renew the license for another three years.

(7) Every seeds dealer shall clearly display at his place of business the sale prices of different crop seeds held by him including the opening and closing stocks on a daily basis.

(8) The license of any seeds dealer shall be liable to be cancelled if he is found to be in violation of any provision of this Act.

**19. Registration of seed processing units.**---(1) No person shall maintain a seed processing unit unless such unit is registered by Government under this Act.

(2) The Department shall register seed processing unit if it meets the specifications as prescribed in terms of infrastructure, equipment and qualified man power.

(3) Every application for registration shall be made in such form and in such manner and accompanied with by such fee as may be prescribed.

(4) The Department may, after making such inquiry and subject to such conditions as thinks fit, grant a certificate for maintaining a seed processing unit in such form as may be prescribed.

(5) Every seed processing unit shall furnish periodic returns in such form and at such time as may be prescribed.

(6) The registration shall be cancelled if-

- (a) the registration has been obtained by misrepresentation as to a material particular relating to the specification in terms of infrastructure, equipment and qualified man power; or

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- (b) the person is found to be in violation of any provision of this Act or rules made thereunder.

20. Establishment of seeds testing laboratories.---Government may establish one or more seeds testing laboratories in the public sector or declare any existing seeds testing laboratory as an accredited laboratory in the private sector to be a notified seeds testing laboratory, where analysis of seed of any variety/hybrid or species may be carried out under this Act in such manner as may be prescribed.

21. Registration of genetically modified varieties.---Notwithstanding anything contained in this Act, no registration of genetically modified variety/hybrid shall be made, if the application for registration does not accompany,-

- (a) an affidavit from the applicant declaring that such variety does not contain any gene or gene sequence involving terminator technology; and
- (b) the commercialization permission from Bio-safety Committee established by Government to the effect that the genetically modified variety/hybrid shall have no adverse effect on the environment, human, animal or plant life and health.

22. Horticulture nurseries to be registered.---(1) No person shall conduct or carry on the business of horticulture nursery unless such nursery is registered with the Agency with the procedure as may be prescribed.

23. Offences and penalty.---Whoever,-

- (i) contravenes any provision of this Act or any rule made there under;
- (ii) imports, sells, holds in stocks or exhibits for sale or barter or otherwise supplies any seed of any variety/hybrid or species deemed to be misbranded; or
- (iii) imports, sells, holds in stock or exhibits for sale or barter; or otherwise supplies any seed of any variety/hybrid or species which is not a registered plant variety;
- (iv) prevents a Seeds Certification Officer or a Seeds Inspector from taking a sample or inspecting seeds under this Act; or
- (v) prevents any official from exercising any power conferred on him by or under this Act, shall be punishable as under:
- (a) for the first offence, with imprisonment for a term which may extend to six months but not less than three months and with fine which may extend to rupees five hundred thousand but not less than one hundred thousand;
- (b) for repeated offence with imprisonment which may extend to one year and fine which may extend to rupees ten hundred thousand, but not less than two hundred thousand; and

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STATEMENT OF OBJECTS REASONS

It is desirable to amend the Federal Seed Act, 1976, as the subject is devolved to the provinces in wake of 18<sup>th</sup> Amendment of the Constitution of the Islamic Republic of Pakistan. Hence, this Bill.



28/11/13  
13/11/14

MINISTER-IN-CHARGE

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