

Legislative Brief

The Seeds Bill, 2004

The Bill was introduced in the Rajya Sabha on December 9, 2004.

It has been referred to the Standing Committee on Agriculture (Chair: Prof Ram Gopal Yadav).

Highlights of the Bill

- ◆ The Seeds Bill, 2004 aims to regulate the quality of seeds sold, and replaces the Seeds Act, 1966.
- ◆ All varieties of seeds for sale have to be registered. The seeds are required to meet certain prescribed minimum standards.
- ◆ The Bill does not restrict the farmer's right to use or sell his farm seeds and planting material, provided he does not sell them under a brand name. All seeds and planting material sold by farmers will have to conform to the minimum standards applicable to registered seeds.
- ◆ If a registered variety of seed fails to perform to expected standards, the farmer can claim compensation from the producer or dealer under the Consumer Protection Act, 1986.
- ◆ The Bill permits self certification of seeds by accredited agencies and allows the central government to recognize certification by foreign seed certification agencies.
- ◆ Every seed producer and dealer, and horticulture nursery has to be registered with the state government.

Key Issues and Analysis

- ◆ Some provisions of the Seeds Bill, 2004 contradict and overlap with the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPVFR Act).
- ◆ Although farmers are exempt from registering their seed varieties, the seeds have to conform to standards prescribed for commercial seeds. Farmers may find it difficult to adhere to the standards required of commercially sold seeds.
- ◆ Compensation for underperformance of seeds will be governed by consumer courts. This provision is unlike the PPVFR Act, which allows compensation to be decided by the Authority established under that Act.
- ◆ Seed inspectors can take samples from anyone selling purchasing or transporting seed. They have the power of search and seizure without a warrant.
- ◆ It is not clear whether the Bill bans certain genetic engineering technologies such as "genetic use restriction technology" and "terminator technology." These technologies preserve intellectual property rights by either requiring specific additives, or by making the next generation seeds sterile.

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May 31, 2006

PART A: HIGHLIGHTS OF THE BILL

Context

Agricultural growth in India averaged just 2.8% per annum during the period of 1991-2005, much lower than the average annual GDP growth of 6.2% during this period. Given that about two-thirds of the country's population is dependent on farm related income, increasing agricultural growth rate will be beneficial not just for the country's food security but also for improving the livelihood of a large proportion of the population. Availability of good quality seeds to farmers is a necessary condition for boosting agricultural output.

Currently, the seed sector is governed by the Seeds Act, 1966, the Seeds Control Order, 1983 (under the Essential Commodities Act, 1955), and the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPVFR Act). The Seeds Act, 1966 regulates the quality of certified seeds; the Seeds Control Order, 1983 regulates and licenses the sale of seeds; and the PPVFR Act protects the intellectual property rights of plant breeders.

The seeds sector has witnessed many changes since 1966 when the existing Seeds Act was passed. These include new technologies such as genetically modified seeds, and the entry of private and foreign seeds companies. In order to address these changes, the proposed Seeds Bill, 2004 seeks to replace the Seeds Act, 1966. The principal changes include regulation and registration of all seeds to be sold (instead of only notified kinds), provisions for self-certification and accreditation of private seed testing laboratories, and regulation of transgenic seeds*.

Key Features

The Bill aims to promote the production and supply of quality seeds. It will regulate the quality of seeds for sale, import and export. The proposed Act would replace the Seeds Act, 1966.

Registration and Certification

- The Bill proposes to establish a Central Seed Committee (CSC), which may appoint as many Sub-Committees as needed. One of the sub-committees that would be established is the Registration Sub-Committee, which shall maintain a National Register of Seeds for all varieties of seed. Every state government would establish a State Seed Committee which would have an advisory role. The CSC may, after consulting with state governments, establish a State Seed Certification Agency in the respective states.
- Any type of seed for sale has to be registered with the Registration Sub-Committee. The registration is valid for 15 years for annual/biennial crops (such as paddy, where harvesting is done once or twice a year) and 18 years for long duration perennial crops (such as mango). On expiry, the registration can be renewed for a similar period. All registered seeds need to meet minimum standards with respect to the proportion of seeds that must germinate, levels of genetic and physical purity, and the permitted proportion of diseased seeds.
- No transgenic variety of seed would be registered unless the applicant has obtained clearance under the provisions of the Environment (Protection) Act, 1986. A variety of seed containing any technology considered harmful or potentially harmful shall not be registered.
- Any seller of seeds can get the seed certified by the State Seed Certification Agency or any other accredited certification agency; self certification may also be permitted to accredited agencies. The central government may recognize certification by a foreign seed certification agency.
- Every seed producer and dealer, and horticulture nursery has to be registered with the state government. Seed producers need to meet specifications regarding infrastructure, equipment and qualified manpower. An owner of a horticulture nursery has to keep records such as the origin of every planting material, a layout plan as well as the performance record of every mother tree in the nursery.

Rights of Farmers

- Exemption: The Bill protects the right of a farmer to save, use, exchange, share or sell his farm seeds and planting material. However, the farmer cannot sell seeds or planting material under a brand name. Also, all

* Transgenic seeds refer to genetically engineered seeds whose DNA has been modified by integrating part of the DNA sequence from another organism. This results in the organism displaying new characteristics. For example, the FlavrSavr tomato developed by Calgene Inc. in 1992 contained a gene that interfered with the production of an enzyme which softens the cell walls of a ripening fruit. This resulted in the tomato resisting rotting, without change in taste or vitamin, proteins and minerals. See <http://www.geo-pie.cornell.edu/crops/tomato.html> for a history of genetically engineered tomatoes.

seeds sold by farmers need to conform to the minimum standards regarding germination, physical purity and genetic purity applicable to registered seeds.

- Compensation: For all registered varieties, seed producers, distributors and vendors have to disclose the expected performance under certain given conditions. If the seed fails to perform to expected standards, the farmer can claim compensation from the dealer, distributor or vendor under the Consumer Protection Act, 1986.

Regulatory Structure

- The central government shall establish the Central Seed Committee (CSC), consisting of a Chairperson, seven ex officio members and thirteen members nominated by the central government. These include two members each to represent the seed industry and farmer interests. The CSC would advise the central and state governments on matters related to seed planning, seed development and production, export and import of seeds, standards for registration, certification and seed testing, and seed registration and its enforcement. CSC may also specify the details to be stated on the label of seed container to indicate minimum standards and expected performance.
- State Seed Committees would advise the CSC and the state government on issues related to the registration of local seeds, and of producers, dealers and nurseries. They will maintain a district-wise list of seed dealers, seed producers, seed processing units and horticulture nurseries.
- The Registration Sub-Committee would register the varieties of seeds after scrutinizing their claims in the prescribed manner. It will maintain a National Register of Seeds for registering all kinds of seeds and publish the list at appropriate intervals.
- The central government shall constitute an appellate authority consisting of a single person or three persons. This authority will hear appeals from persons aggrieved by the decision of the Registration Sub-Committee or the State Seed Certification Agency.
- Central and State Seed Testing Laboratories, would analyse all varieties of seed. Every Seed Testing Laboratory would employ Seed Analysts who have the prescribed qualifications.
- State governments would appoint seed inspectors. The Seed Inspector may (a) take samples of any variety from a seed seller; (b) send the samples for analysis to the Seed Analyst; (c) enter and search any place where he has reason to believe that an offence has been committed against the provisions of the Act; (d) examine any record or document and seize it if he thinks that it may be necessary for providing evidence against an offence punishable under this Act; and (e) break open any container of seeds or any door where any such seed may be kept for sale.

Import and Export

- Import of seeds would be subject to the Plant Quarantine (Regulation of Import into India) Order, 2003 or any corresponding order under the Destructive Insects and Pests Act, 1914. Such seeds also need to conform to the standards of germination, genetic and physical purity and seed health, as applicable for registered seeds. The central government can restrict export of seeds if it is deemed to affect the food security of the country.

Penalties

- Any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered, can be punishable by a fine between Rs 5,000 and Rs 25,000. The penalty for giving false information is a prison term up to six months and/or a fine up to Rs 50,000. In case of companies, the person(s) in charge of conduct of the business of the company will be held accountable.

PART B: KEY ISSUES AND ANALYSIS

The Seeds Bill, 2004 should be seen in the context of the Seeds Act, 1966 which it replaces, and the PPVFR Act, 2001. The main objective of the Seeds Bill is to ensure availability of quality seeds to farmers. The proposed Bill seeks to update the existing Act in order to address changes in technology and the structure of the seeds sector. The PPVFR Act sets up a framework to protect the intellectual property rights of breeders, while safeguarding the rights of farmers. We list below the main changes in the Seeds Bill 2004 from the Seeds Act, 1966.

Table 1: Comparison of Seeds Act, 1966 and Seeds Bill, 2004

	Seeds Bill, 2004	Seeds Act, 1966
Definitions	<p>“Agriculture” includes horticulture, forestry, cultivation of plantation, medicinal and aromatic plants.</p> <p>Definitions of “Seed” and “Variety” have been changed to make them more specific and technical.</p> <p>Defines terms such as “Dealer”, “Essentially Derived Variety”, “Extant Variety”, “Farmer”, “Horticulture Nursery”, “Misbranded”, “Spurious Seed”, and “Transgenic Variety”.</p>	<p>“Agriculture” includes horticulture.</p> <p>Does not define these terms</p>
Registration	All seeds for sale must be registered.	Only varieties notified by the government need to be registered.
Seed Committee	Constitutes Central and State Seed Committees. A Registration Sub-Committee would register seeds of all varieties.	Constitutes Central Seed Committee. The central government, after consulting with the CSC, may notify a seed in order to regulate the quality of seed.
Transgenic Varieties	Special provisions for registration of transgenic varieties of seeds.	No provision for transgenic varieties of seeds.
Compensation to Farmers	Provides for compensation to farmers under the Consumer Protection Act, 1986 in the event of under performance of seeds.	No specific provision for compensation mentioned in the Act.
Export and Import	All seed imports are regulated by the Plant Quarantine (Regulation of Import into India) Order, 2003 or any corresponding order of the Destructive Insects and Pests Act, 1914; shall conform to minimum limits of germination etc. Exports can be restricted if it adversely affects the food security of the country.	A person is restricted from exporting or importing notified variety of seed unless it conforms to minimum limits of germination etc.
Penalties	Any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered, can be punishable by a fine of Rs 5,000 to Rs 25,000. The penalty for giving false information is a prison term up to six months and/or a fine up to Rs 50,000.	Any person who contravenes any provisions of the Act, prevents a Seed Inspector from taking samples etc. shall be punished for the first offence with a fine which may extend to Rs 500. If the offence is repeated he may be imprisoned for a maximum term of six months and/or fined up to Rs 1,000.

There are several contradictions and overlaps between the PPVFR Act and the Seeds Bill, 2004. We list these below. Unless these are reconciled and there is clarity on which of these two legislations will supercede the other in cases of conflict, there would be scope for litigation.

Table 2: Comparison of Seeds Bill, 2004 and PPVFR Act, 2001

	Seeds Bill, 2004	PPVFR Act, 2001
Definitions	<p>“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.</p>	<p>“Farmer” means any person who cultivates crops by cultivating the land himself or cultivates crops by directly supervising the cultivation or land through any other person; or conserves and preserves, severally or jointly, with any other 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.</p>
Registration	<p>Establishes a Registration Sub-Committee, which would maintain a National Register of Seeds.</p> <p>No specifications regarding parentage of variety.</p> <p>Registration is for 15 years for annual/biennial crops and 18 years for long duration perennials. On expiry, registration can be renewed for a similar period.</p>	<p>Establishes a Plant Varieties Registry, which would maintain a National Register of Plant Varieties.</p> <p>Specifies details under which a variety may be registered such as a complete passport data of the parental lines from which a variety has been derived.</p> <p>Registration is for 15 years for annual/biennial crops and 18 years for long duration perennials. Registration cannot be renewed.</p>
Farmers’ Rights	A farmer can save, use, exchange, share or sell his farm seeds and planting material. He cannot sell seeds under a brand name. Seeds sold have to conform to the minimum limit of germination, physical purity, genetic purity prescribed by the Act.	A farmer is entitled to save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under the Act in the same manner before this Act came into force. He cannot sell branded seed of a variety protected under the Act.
Compensation	The seed producer, distributor or vendor will have to disclose the expected performance of a particular variety of seed under certain given conditions. If the seed fails to perform to expected standards, the farmer can claim compensation from the dealer, distributor or vendor under the Consumer Protection Act, 1986.	If a breeder of a propagating material of a variety registered under the Act sells his product to a farmer, he has to disclose the expected performance under given conditions. If the propagating material fails to perform, the farmer can claim compensation in the prescribed manner before the Protection of Plant Varieties and Farmers’ Rights Authority.

	Seeds Bill, 2004	PPVFR Act, 2001
Penalties	Any person who contravenes any provisions of the Act, prevents a Seed Inspector from taking samples etc. shall be punished for the first offence with a fine up to Rs 500. If the offence is repeated he may be imprisoned up to six months and/or fined up to Rs 1,000.	Penalty for applying false denomination to a variety is imprisonment up to two years and/or a fine between Rs 50,000 and Rs five lakh. Penalty for falsely representing a variety as registered is imprisonment up to three years and/or a fine between Rs one lakh and Rs five lakh or both. Penalty for subsequent offence is imprisonment up to three years and/or a fine between Rs two lakh and Rs 20 lakh.

Protection of Farmers' Rights

Exemption for farmers

This Bill exempts a farmer from compulsory registration of seed varieties in order to use, exchange, share or sell his farm seeds or planting material. However, it stipulates that he cannot sell any seed under a brand name. Also, any seed sold by a farmer has to conform to the minimum limits of germination, and physical and genetic purity as applicable to commercially sold seeds. This last proviso (minimum standards of germination and purity) could be difficult to implement. It is estimated that seeds saved and exchanged by farmers constitute above 80% of the seeds planted¹, and there would be a need to establish the physical infrastructure required to test these. Such testing would also lead to an increase in the cost of seeds.

In contrast, The PPVFR Act, 2001, only restricts the farmer from selling branded seed. There is no other requirement for a farmer to sell seeds. The exemption clause given in the PPVFR Act is easier to implement².

Compensation

The farmer has to approach the Consumer Courts to claim compensation if the seeds do not perform to expected levels. There is a contradiction between this provision and the PPVFR Act which permits farmers to claim compensation through the Authority set up under that Act. Given the number of factors (such as climate, fertilizer, water) that affect the performance of a crop, it may be difficult to prove that underperformance of a crop was on account of poor quality of seed. Indeed, there have been recent cases where the issue has not been fully resolved³. Furthermore, it is not clear whether the compensation would include the value of the crop or only the cost of the seed⁴.

Registration and Certification

Exclusivity

Only those varieties of seeds that are registered may be sold. The Bill does not clarify whether a seed producer may sell seed which is registered by a different producer. The absence of a non-exclusivity requirement could lead to a monopoly on existing and common varieties by the first mover on any registration. Issues regarding intellectual property rights may be addressed through the provisions of the PPVFR Act.

Disclosure of Parentage

The Bill leaves it to regulations to specify the information that an applicant has to furnish, such as data about the source and geographical origin, in order to register a seed variety. It might lead to a situation where seeds could be registered without disclosing the parentage or origin of the seed. Although the PPVFR Act, 2001, makes it mandatory for the applicant to issue specific details about the parental lines of a variety, it is not clear which legislation would take precedence in case of conflict. In such a case, an applicant might be able to register a variety of seed which has traditionally been used by a farmer (i.e., farmers' variety). The Bill also does not have the provision of benefit sharing* (as mentioned in the Convention on Biological Diversity and the PPVFR Act), in which case any applicant can register and use a farmer's variety of seed without compensating the farmer.⁵

Traceability and Quality Assurance

The Bill does not provide for a mechanism to trace back a packet of seed to the dealer, processor and producer. Also, there is no specification of quality assurance systems. This would make it difficult to trace back a defective lot, and rectify any deficiencies in the supply chain.

* Benefit sharing means that if a farmer's variety of seed has been used in breeding a new variety, farmers are entitled to share in the profits through a benefit sharing mechanism.

Transgenic Varieties

The Bill forbids the use of any technology that may be harmful or potentially harmful, and includes “genetic use restriction technology” and “terminator technology”^{*} in the definition of “technology”. It is not clear whether both these technologies are explicitly banned in this Bill. A farmer planting seeds containing terminator technology cannot use the seed from his crop for the next generation, and has to purchase new seed every season. The PPVFR Act, 2001 does not permit registration of any variety containing terminator technology.

Self Certification and testing before registration

Seed producers would be permitted to self-certify the performance of their seeds under certain conditions. The seed companies need to provide the results of multi-locational trials before registration. This opens up the possibility of false declaration by seed companies. To prevent this, there could be a case for allowing only government agencies to conduct these trials and grant certification.

Horticulture Nurseries

Every horticultural nursery has to be registered with the state government and has to maintain records of layout plan, source of every planting material etc. The argument is that performance of horticultural planting material (such as mango) is known only after a number of years, and these trees are harvested for a number of years. The investment and risk for the farmer is significantly higher than in the case of one-season grain, and this justifies stricter norms. That said, nurseries in the unorganized sector may find it difficult to adhere to these conditions.

Role of Seed Inspectors

The Seed Inspector has the power to enter and search as well as break open container or break open doors, without a warrant. This is different from the provisions under the Code of Criminal Procedure, 1973 under which a warrant signed by the district magistrate, sub-divisional magistrate or first class magistrate is necessary for search and seizure.

Penalties

The penalty for selling substandard seeds is between Rs 5,000 and Rs 25,000. This may not prove to be a deterrent for a large seed company but which may be significant for a farmer or a small dealer.

Finances

The financial memorandum estimates that Rs 36 lakh may be required to meet the recurring and non-recurring expenditure during the financial year 2004-05. It does not estimate the expenditure that would be required to establish central and state testing laboratories and appointing seed inspectors and seed analysts.

Notes

1. Estimated by the Ministry of Agriculture, Department of Agriculture and Cooperation, Seeds Division (see [http://agricoop.nic.in/RabiCampaing05_06/RabiCamp05_06/JS\(Seed\).ppt#1](http://agricoop.nic.in/RabiCampaing05_06/RabiCamp05_06/JS(Seed).ppt#1)).
2. See Devinder Sharma, “India’s New Seed Bill”, Seedling, July 2005, available at <http://grain.org/seedling/?id=338> for a critique of the Bill, and a discussion on why the exemption given to farmers is unlikely to be effective.
3. A cotton farmer from Andhra Pradesh, T. Ramanaiah, filed a case against Monsanto in 2003. (see Greenpeace Manual for Legal Protection to Farmers available at www.grain.org/h/how_to_sue.pdf).
4. Frontline (2003, Vol 20, Issue 11) reports that a seed company agreed to pay only for the failure to germinate and absence of the genetic purity promised to farmers, and not for loss in yields. See <http://www.flonnet.com/fl2011/stories/20030606005912300.htm>
5. Dr Suman Sahai, “The Controversial New Seed Bill”, Gene Campaign, March 15, 2005 (see <http://www.genecampaign.org/Publication/Pressrelease/THE%20CONTROVERSIAL%20NEW%20SEED%20BILL.pdf>).

^{*} Genetic use restriction technology (GURT) involves programming specific genes in the organism to restrict certain traits, which would be expressed in the absence of such programming. Terminator technology is a special case of GURT which leads to the seed (or offspring) being unable to reproduce. Another type of GURT triggers genetic enhancement only if the crop is treated with a specific chemical.

The Annual Budget Process – Some Frequently Asked Questions

What is the Union Budget?

The Union Budget is an “annual financial statement” or an estimate of receipts and expenditure of the Government of India. It gives the actual expenditure for the preceding financial year (April 1 to March 31), the revised estimates for the current financial year and the budget estimates for the next financial year.

Who prepares the Union Budget? When and how is it presented in Parliament?

The overall responsibility of preparing the budget rests with the Finance Ministry. The division takes cognizance of the availability of funds as well as the proposals from the numerous departments and ministries. It also consults the Comptroller and Auditor-General. The budget, however, needs the final approval of the Prime Minister before it can be presented in Lok Sabha. The President decides on which day the budget is to be presented. By convention, it is presented on the last day of February.

The Budget is presented in Lok Sabha by the Minister of Finance. The speech announcing the General Budget is divided into two parts:

Part A: deals with a survey of the economy and outlining policy initiatives; and

Part B: contains taxation proposals for the ensuing financial year.

Following the budget presentation, the annual financial statement relating to the Government of India (duly authenticated by the Finance Minister) is laid on the table. Also, the Finance Bill is introduced at this time.

What is the process by which the Budget is approved in the Parliament?

The procedure for approving the Budget in the Parliament involves many steps:

- (a) Presentation of the Budget: The Finance Minister introduces the Budget in Lok Sabha, in February, with a speech giving an overview of the budget. At the conclusion of the Finance Minister's speech in Lok Sabha, the Budget documents are tabled in both Lok Sabha and Rajya Sabha.
- (b) Discussion on the Budget: The Parliament allots some time for discussion after the presentation. The Budget is discussed in two stages – the “General Discussion” followed by a detailed “discussion and voting on the demands for grants”. Besides, there are other opportunities for further discussions on financial proposals during consideration and passing of Appropriation Bill and Finance Bill. The Rajya Sabha is restricted to discussing the budget in general terms.
- (c) Voting on Demands: At the end of the prescribed period of debate, the Speaker stops all discussions and puts all outstanding demands for grants to vote. This process is known as “Guillotine”. Voting on demands is the exclusive privilege of the Lok Sabha. Demands for grants are subjected to Cut Motions by the members of the Lok Sabha.
- (d) Appropriation Bill: The Bill is introduced after all demands for grants are passed by the Lok Sabha. The Bill paves the way for the enactment of the Appropriation Act and is certified as a Money Bill. It allows the government to withdraw money from the Consolidated Fund of India.
- (e) Finance Bill: This Bill includes all taxation proposals including any amendments and paves the way for enacting the Finance Act.

What are Demands for Grants with regard to the Budget?

Demands for Grants are requests made by the government to the Lok Sabha for the authority to spend the amount asked for each year. Thus, they are related to the expenditure part of the Budget. The demands have to be made in the form of motions. Members may disapprove a policy pursued by the Ministry or suggest measures for economy in the administration or focus attention of the Ministry to specific local grievances. Members can do so by moving subsidiary motions, called Cut Motions.

What are the various types of Cut Motions?

The motion to reduce the amounts demanded as grants is known as a Cut Motion. There are three types of Cut Motions:

- Disapproval of Policy Cut: This is the most drastic of them all because it says “that the amount of demand be reduced to Re.1”. A Member of Parliament has to give precise reasons for such a cut.
- Economy Cut: This motion means that a member would like to reduce expenditure by making a specific cut in the grant demanded. The form of this motion is “that the amount of demand be reduced to Rs. ...”.
- Token Cut: This motion is widely used by members. Its object is to voice a particular grievance for which the Government of India is responsible. The motion says “that the amount of the demand be reduced by Rs. 100”.

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