

## **THE FERTILISER (CONTROL) ORDER 1985 ORDER**

G.S.R. 758 (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

### **1. Short title and commencement**

1. This Order may be called the Fertiliser (Control) Order, 1985.
2. It shall come into force on the date of its publication in the Official Gazette.

### **2. Definitions**

In this Order, unless the context otherwise requires:

(a) "Act" means the Essential Commodities Act, 1955 (10 of 1955).

(aa). Biofertiliser means the product containing carrier based (solid or liquid) living microorganisms which are agriculturally useful in terms of nitrogen fixation, phosphorus solubilisation or nutrient mobilization, to increase the productivity of the soil and/or crop/ ;

(b) "certificate of source" means a certificate given by a State Government, Commodity Board, manufacturer, importer, pool handling agency or as the case may be, wholesale dealer indicating therein the source from which fertiliser for purpose of sale is obtained.

(c) "Commodity Board" means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) or the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947), or the Tea Board constituted under section 4 of the Tea Act, 1953 (29 of 1953), or as the case may be, the Cardamom Board constituted under section 4 of the Cardamom Act, 1965 (42 of 1965).

(d) "compound or complex fertiliser" means a fertilizer containing two or more nutrients during the production of which chemical reaction takes place

(e) "controller" means the person appointed as Controller of Fertilisers by the Central Government and includes any other person empowered by the Central Government to exercise or perform all or any of the powers, or as the case may be, functions of the Controller under this Order.

(ee) "Customised fertiliser" means the fertilizer specified under clause 20 B;

(f) "Dealer" means a person carrying on the business of selling fertilisers whether wholesale or retail or industrial use and includes a manufacturer, Importer, and a pool handling agency carrying on such business and the agents of such person, manufacturer, importer or pool handling agency

(g) Clause 'g' deleted vide S.O. 725 (E) dated 28.7.88.

(h) "fertiliser" means any substance used or intended to be used as a fertiliser of the soil and/or crop and specified in Part A of Schedule I and includes a mixture of fertilizer and special mixture of fertilisers provisional fertiliser ,customised fertilizer, Bio-fertilizers specified in Schedule III and Organic fertilizers specified in Schedule IV and non-edible deoiled cake fertilisers specified in Schedule V.

(i) "Form" means a form appended to this Order.

(j) "Grade" means the nutrient element contents in the fertilizer expressed in percentage;

(k) "Granulated mixture" means a mixture of fertilisers made by intimately mixing two or more fertilisers with or without inert material, and granulating them together, without involving any chemical reaction;

(kk) "importer" means a person who imports fertiliser in accordance with the Export and Import Policy of the Central Government, as amended from time to time.

(l) "inspector" means an Inspector of Fertilisers appointed under clause 27.

(ll) "industrial dealer" means a dealer who sells fertilisers for industrial purposes.

(lll) "industrial purposes" means the use of fertiliser for purposes other than fertilisation of soil and Increasing productivity of crops.

(m) "manufacturer" means a person who produces fertllisers or mixtures of fertilisers and the expression "manufacture" with its grammatical variations shall be construed accordingly.

(n) "mixture of fertilisers" means a mixture of fertllisers made by physical mixing two or more fertilisers with or without inert material in physical or granular form and includes a mixture of NPK fertilisers, a mixture of micronutrient fertilisers and a mixture of NPK with micronutrient fertilizers;

(nn) "Notified Authority" means an authority appointed under clause 26 A;

(nna) "Non-edible de-oiled cake fertiliser" means substance obtained as residue after oil extraction (by expeller and/or through solvent extraction) from crushed seeds of non-edible oilseeds (such as Castor, Neem) for use in soil as fertiliser.

(o) "offer for sale" includes a reference to an intimation by a person of a proposal by him for the sale of any fertiliser, made by publication of a price list, by exposing the fertilizer for sale indicating the price, by furnishing of a quotation or otherwise howsoever;

(oo) "Organic fertilizer" means substances made up of one or more unprocessed material (s) of a biological nature (plant/animal) and may include unprocessed mineral materials that have been altered through microbiological decomposition process;

(p) "physical mixture" means a mixture of fertilisers made by physically mixing two or more fertilisers with or without inert material necessary to make a required grade, without involving any chemical reaction;

(pp) "Provisional fertilizer" means fertilizer specified under clause 20 A'.

(q) "prescribed standard" means:-

(i) in relation to a fertiliser included in column 1 of Part A of Schedule-I, the standard set out in the corresponding entry in column 2, subject to the limits of permissible variation as specified in Part B of that Schedule; and

(ii) in relation to a mixture of fertilisers, the standard set out in respect of that mixture under sub-clause (1) of clause 13 by the Central Government, subject to the limits of permissible variation as specified in Part B of Schedule-I

(iii) in relation to mixture of fertilisers, standard set out in respect of that mixture under sub-clause (2) of clause 13 by the State Government, subject to limits of permissible variation as specified in Part B of Schedule-I.

(iv) in relation to a Biofertiliser included in column 1 of Part A of Schedule-III, the standard set out in the corresponding entry in column 2, subject to the limits of permissible variation as specified in Part B of that Schedule;

(v) in relation to a Organic fertiliser included in column 1 of Part A of Schedule-IV, the standard set out in the corresponding entry in column 2, subject to the limits of permissible variation as specified in Part B of that Schedule.

(vi) In relation to a non-edible de-oiled cake fertiliser specified in column (2) of Part A of Schedule – V, the standard set out in the corresponding entry in column (2) of the said part, subject to the limits of permissible variation as specified in part B of the said Schedule.”

(r) "pool handling agency" means an agency entrusted by the Central Government with functions relating to handling and distribution of imported fertilisers.

(s) "registering authority" means a registering authority appointed under clause 26 in respect of mixture of fertilizers and special mixture of fertilizers

(t) "retail dealer" means a dealer who sells fertilisers to farmers or plantations for \*\*agricultural use such as for fertilisation of soil and increasing productivity of crops.

(u) "Schedule" means a Schedule appended to this Order.

(v) "special mixture of fertilisers" means any mixture of fertilisers prepared for experimental purposes in pursuance of a requisition made by any person (including a person engaged in the cultivation of tea, coffee or rubber) for sale to that person in such quantity and within such period as may be specified in such requisition; and.

(w) "wholesale dealer" means a dealer who sells fertilisers otherwise than in retail-for agricultural use such as for fertilisation of soil and increasing productivity of crops.

## **II. PRICE CONTROL**

### **3. Fixation of prices of fertilisers**

1. The Central Government may, with a view to regulating equitable distribution of fertilisers and making fertilisers available at fair prices, by notification in the Official Gazette, fix the maximum prices or rates at which any fertiliser may be sold by a dealer, manufacturer, importer or a pool handling agency.

2. The Central Government may having regard to the local conditions of any area, the period of storage of fertilisers and other relevant circumstances, fix different prices or rates for fertilisers having different periods of storage or for different areas or for different classes of consumers.

3. No dealer, manufacturer importer or pool handling agency shall sell or offer for sale any fertiliser at a price exceeding the maximum price or rate fixed under this clause.

### **4. Display of stock position and price list of fertilisers**

Every dealer, who makes or offers to make a retail sale of any fertilisers, shall prominently display in his place of business:-

(a) the quantities of opening stock of different fertilisers held by him on each day;

Explanation -The actual stocks at any point of time during the day may be different from that of the displayed opening stocks to the extent of sale and receipt of such fertilisers upto the time of inspection during that day

(b) a list of prices or rates of such fertilisers fixed under clause 3 and for the time being in force.

### **5. Issue of cash/credit memorandum**

a. Every dealer shall issue a cash or credit memorandum to a purchaser of a fertiliser in Form M.

## **III. CONTROL ON DISTRIBUTION OF FERTILISERS BY MANUFACTURER/ IMPORTER**

### **5. Allocation of fertilisers to various States**

The Central Government may, with a view to securing equitable distribution and availability of fertilisers to the farmers in time, by notification in the Official Gazette, direct any manufacturer/importer to sell the fertilisers produced by him in such quantities and In such State or States and within such period as may be specified in the said notification.

## **IV. AUTHORISATION OR REGISTRATION OF DEALERS”**

### **6. Registration of Industrial dealers and authorization of other dealers**

No person shall sell, offer for sale or carry on the business of selling of fertilizer at any place as wholesale dealer or retail dealer except under and in accordance with clause 8;

Provided that a State Government may, if it considers it necessary or expedient, by notification in the Official Gazette, exempt from the provisions of this clause any person selling fertilizer to farmers in such areas and subject to such conditions as may be specified in that notification.

## **7. Application for intimation or registration**

1. Every person intending to sell or offer for sale or carrying on the business of selling of fertilizer as Industrial Dealer shall obtain a certificate of registration from the controller by making an application in Form A together with the fee prescribed under clause 36 and a Certificate of source in Form O.

2. Every person including a manufacturer, an importer, a pool handling agency, wholesaler and a retail dealer intending to sell or offer for sale or carrying on the business of selling of fertilizer shall make a Memorandum of Intimation to the Notified Authority, in Form A1 duly filled in, in duplicate, together with the fee prescribed under clause 36 and certificate of source in Form O.

3. On receipt of a Memorandum of Intimation, complete in all respects, the Notified Authority shall issue an acknowledgement of receipt in Form A2 and it shall be deemed to be an authorization letter granted and the concerned person as authorised dealer for the purposes of this Order.

Provided that a certificate of registration granted before the commencement of the Fertiliser (Control) Amendment Order, 2003, shall be deemed to be an authorization letter granted under the provisions of this Order:

Provided further that where the applicant is a State Government, a manufacturer or an importer or a pool- handling agency, it shall not be necessary for it or him to submit Form O.

Provided also that a separate Memorandum of Intimation shall be submitted by an applicant for whole sale business or retail dealership, as the case may be:

Provided also that where fertilizers are obtained for sale from different sources, a certificate of source from each such source shall be furnished in Form O.”

Provided also that where the manufacturer of organic fertilizer is a State Government or municipality, it shall not be necessary for it to obtain the authorisation letter:

Provided also that where the manufacturer of vermicompost, other than a State Government or municipality, has annual production capacity less than 50 metric tonnes, it shall not be necessary for him to obtain the authorisation letter.

## **9. Grant or refusal of certificate of registration**

The Controller, shall grant a certificate of registration in Form 'B' within thirty days of the receipt of application to any person who applies for it under clause 8;

Provided that no certificate of registration shall be granted to a person: -

- (a) if his previous certificate of registration is under suspension; or
- (b) if his previous certificate of registration has been cancelled within a period of one year immediately preceding the date of application; or
- (c) if he has been convicted of an offence under the Act, or any Order made there under within three years immediately preceding the date of making the application ; or
- (d) if he fails to enclose with the application a certificate of source ; or
- (e) if the application is incomplete in any respect; or
- (f) if he makes an application for obtaining the certificate of registration for industrial dealer and, excepting if he is a manufacturer , importer or pool handling agency, holds [an authorization letter] for wholesale dealer or retail dealer or both, and as the case may be, the vice-versa.

#### **10. Period of validity of certificate of registration and letter of authorization**

Every certificate of registration granted under clause 9 and every authorization letter issued under clause 8 shall, unless renewed, suspended or cancelled, be valid for a period of three years from the date of its issue.

#### **11. Renewal of certificates of registration and authorization letters**

(1) Every holder of a certificate of registration granted under clause 9 or authorization letter granted or deemed to have been granted under clause 8, desiring to renew such certificate or authorization letter shall, before the date of expiry of such certificate of registration or authorization letter, as the case may be, make an application for renewal to the Controller, in Form C, or to the Notified Authority in Form A1, respectively, in duplicate, together with the fee prescribed under clause 36 for such renewal and a certificate of source as required under clause 8.

(2) On receipt of an application under sub-clause (1), together with such fee and certificate of source, the controller may renew the certificate of registration or the Notified Authority, as the case may be shall issue acknowledgement receipt of renewal in form A 2.

Provided that a certificate of registration shall not be renewed if the holder of the same did not sell any fertiliser during the period of one year immediately preceding the date of expiry of the period of validity.

(3) If any application for renewal is not made before the expiry of the period of validity of the certificate of registration or, as the case may be, the authorization letter but is made within one month from the date of such expiry, the certificate of registration or, as the case may be, the authorization letter shall be dealt as provided in sub-clause (2) on payment of such additional fee as may be prescribed under clause 36 in addition to the fee for renewal.

(4) Where the application for renewal of certificate of registration is made within the time specified in sub-clause (1) or sub-clause (3), the applicant shall be deemed to have held a valid certificate of registration until such date as the controller passes orders on the application for

renewal

(5) If an application for renewal of a certificate of registration or authorization letter is not made within one month from the date of expiry of their period of validity, the same shall be deemed to have lapsed on the date on which its validity expired and any business carried on after that date shall be deemed to have been carried on in contravention of clause 7.

## **V. MANUFACTURE OF MIXTURES OF FERTILIZERS, ORGANIC FERTILISER AND BIO- FERTILISER**

### **12. Restriction on preparation of mixtures of fertilizer**

No person shall carry on the business of preparing any mixture of fertilisers. or special mixture of fertilizers, Biofertilizers or Organic fertilisers except under and in accordance with the terms and conditions of a certificate of manufacture granted to him under clauses 15 or 16.

### **13. Standards of mixtures of Fertilisers**

(1) Subject to the other provisions of the order-

(a) no person shall manufacture any mixture of fertilisers whether of solid or liquid fertilizers specified in Part A of schedule I unless such mixture conforms to the standards set out in the notification to be issued by the Central Government in the Official Gazette;

(b) no person shall manufacture any Biofertiliser unless such Biofertiliser conforms to the standards set out in the part A of Schedule – III.

(c) no person shall manufacture any Organic fertilizer unless such organic fertilizer conforms to the standards set out in the part A of Schedule IV.

(2) Subject to the other provisions of this order, no person shall manufacture any “mixture of fertilisers unless such mixture conforms to the standards set out in the notification to be issued by the State Government in the Official Gazette;

Explanation- For the purposes of this sub-clause, mixture of fertilizers shall not include liquid fertilizers and 100% water soluble fertilizers, containing N,P,K.

(3)[omitted]

(4) No Certificate of manufacture shall be granted in respect of any fertiliser which does not conform to the standards set out in the notification referred in sub- clause (1) or (2);

(5) Nothing in this clause shall apply to special mixtures of fertilisers

#### **14. Application for certificate of manufacture of mixtures of fertilisers**

(1) Every person desiring to obtain a certificate of manufacture for preparation of any mixture of fertilisers or special mixture of fertilisers shall possess such qualification as may be prescribed for this purpose by the State Government or shall employ a person possessing such qualifications for the preparation of such mixtures, and possess the minimum laboratory facility as specified in clause 21 A of this Order.

(2) An applicant for a certificate of manufacture for preparation of mixture of fertilisers or special mixture of fertilisers shall make an application to the registering authority

(a) if he is an applicant for a certificate of manufacture for any mixture of fertilisers in Form D, in duplicate, together with the fee prescribed there for under clause 36; or ;

(b) if he is an applicant for a certificate of manufacture for any special mixture, in Form E, in duplicate, together with the fee prescribed there for under the said clause 36 and an attested copy of the requisition of the purchaser.

(3) Every person desiring to obtain a Certificate of Manufacture for preparation or organic fertilizer or biofertiliser shall make an application in Form D, in duplicate, together with a fee prescribed therefore under clause 36, to Registering authority.

“Provided that where the manufacturer of organic fertilizer is a State Government or a municipality, it shall not be necessary for it to obtain the Certificate of Manufacture:

Provided further that where the manufacturer of vermin compost, other than a State Government or municipality, has annual production capacity less than fifty metric tonnes, it shall not be necessary for him to obtain the Certificate of Manufacture for preparation of vermi-compost.”

#### **15. Grant or refusal of certificate of manufacture for preparation of mixtures of fertilizers, Biofertilisers or Organic fertilizer.**

(1) On receipt of an application under clause 14, the registering authority shall, by order in writing, either grant or refuse to grant the certificate of manufacture in respect of any mixture of fertilizer, Biofertiliser, Organic fertiliser or special mixture of fertilizer and shall, within forty-five days from the date of receipt of the application, furnish to the applicant a copy of the order so passed;

(2) Where an application for a certificate of manufacture for mixture of fertilizers, Biofertiliser, Organic fertiliser is not refused under sub-clause (1), the registering authority shall grant a certificate of manufacture in Form F and where an application for a certificate of manufacture for a special mixture is not refused under that sub-clause, such authority shall within forty five dates from the date of receipt of the application, grant a certificate of manufacture to the applicant in Form G

#### **16. Conditions for grant of certificate of manufacture in respect of special mixture of fertilisers and period of validity of such certificate**

(1) No certificate of manufacture in respect of any special mixture of fertilisers shall be granted to an applicant unless he holds a valid certificate of manufacture under this Order for any mixture of fertilisers.

(2) Every certificate of manufacture granted in respect of any special mixture of fertilisers shall be valid for a period of [six months] from the date of its issue;

Provided that the registering authority may, if it is satisfied that it is necessary so to do, extend the said period to such further period or periods as it may deem fit, so however, that the total period or periods so extended shall not exceed twelve months

#### **17. Period of validity of a certificate of manufacture for preparation of mixtures of fertilizers, Biofertilisers or Organic fertilizer.**

Every certificate of manufacture granted under clause 15 for preparation of a mixture of fertilizers, Biofertiliser or Organic fertilizers shall, unless suspended or cancelled, be valid for a period of three years from the date of issue.

#### **18. Renewal of certificate of manufacture for preparation of mixtures of fertilizers, Biofertiliser or Organic fertiliser**

(1) Every holder of a certificate of manufacture for preparation of a mixture of fertilizers, Biofertiliser, Organic fertiliser desiring to renew the certificate, shall, before the date of expiry of the said certificate of manufacture make an application to the registering authority in Form D in duplicate, together with the fee prescribed for this purpose under clause 36.

(2) On receipt of an application for renewal as provided in sub-clause (1), and keeping in view the performance of the applicant and other relevant circumstances, the registering authority may, if he so decides, renew the certificate of manufacture by endorsement on Form F and in case the certificate of registration is not renewed, the registering authority shall record in writing his reasons for not renewing the certificate of manufacture.

(3) If an application for renewal is not made before the expiry of the certificate of manufacture but is made within one month from the date of expiry of the [certificate of manufacture, the certificate of manufacture] may be renewed on payment of such additional fee as may be prescribed by the State Government for this purpose.

(4) Where the application for renewal is made within the time specified in sub-clause (1) or sub-clause (3), the applicant shall be deemed to have held a valid certificate of manufacture until such date as the registering authority passes order on the application for renewal.

(5) If an application for renewal of a certificate of manufacture is not made within the period stipulated under sub-clause (1) or, as the case may be, under sub-clause (3), the certificate of manufacture shall be deemed to have expired immediately on the expiry of its validity period, and any business carried on after that date shall be deemed to have been carried on in contravention of clause 12.

### **VI. RESTRICTIONS ON MANUFACTURE/ IMPORT, SALE, ETC. OF FERTILISER**

#### **19. Restriction on manufacture/import, sale and distribution of fertilisers**

No person shall himself or by any other person on his behalf:-

(a) manufacture/import for sale, sell, offer for sale, stock or exhibit for sale or distribute any fertiliser which

Is not of prescribed standard;

(b) manufacture/Import for sale, sell, offer for sale, stock or exhibit for sale, or distribute any mixture of fertilisers, which is not of prescribed standard\*\* (subject to such limits of permissible variation as may be specified from time to time by the Central Government) or special mixture of fertilisers which does not conform to the particulars specified in the certificate of manufacture granted to him under this Order in respect of such special mixture.

(c) sell, offer for sale, stock or exhibit for sale or distribute:-

(i) any fertiliser the container whereof is not packed and marked in the manner laid down in this Order

(ii) any fertiliser which is an [imitation of or] a substitute for another fertiliser under the name of which it is sold;

(iii) Any fertilizer which is adulterated;

Explanation:- A fertiliser shall be deemed to be adulterated, if it contains any substance the addition of which is likely to eliminate or decrease its nutrient contents or make the fertiliser not conforming to the prescribed standard.

(iv) any fertiliser the label or container whereof bears the name of any individual firm or company purporting to be manufacturer/importer of the fertiliser, which individual, firm or company is fictitious or does not exist.

(v) any fertiliser, the label or container whereof or anything accompanying therewith bears any statement which makes a false claim for the fertiliser of which it is false or misleading in any material particular.

(vi) any substance as a fertiliser which substance is not, in fact, a fertiliser; or

(vii) any fertilizer without exhibiting the minimum guaranteed percentage by weight of plant nutrient.

Provided that specifications of city compost in Schedule IV shall, in case of municipalities, be applicable only when it is traded in packaged form for use in agriculture:

Provided further that the specifications of vermi-compost in Schedule IV shall be applicable only in such cases where it is sold in packaged form and for agricultural purposes.

## **20. Specifications In respect of imported fertilisers**

Notwithstanding anything contained in this Order, the Central Government may by an order, published in the Official Gazette, fix separate specifications in respect of imported fertilisers.

### **20 A. Specification in respect of provisional fertilizer**

Notwithstanding anything contained in this Order, the Central Government may, by order published in the Official Gazette, notify specifications, valid for a period not exceeding three years, in respect of

fertilizers to be manufactured by any manufacturing unit for conducting commercial trials.

**20B. Specifications in respect of customized fertilizers.** - Notwithstanding anything contained in this Order, the Central Government may by order published in the Official Gazette, notify specification, valid for a period not exceeding three years in respect of customized fertiliser to be manufactured by any manufacturing unit.

**21. Manufacturers/Importers pool handling agencies to comply with certain requirements in regard to packing and marking, etc.2**

Every manufacturer/importer and pool handling agency shall, in regard to packing and marking of containers of fertilisers, Biofertiliser, Organic fertiliser or non-edible de-oiled cake fertiliser comply with the following requirements, namely:-

(a) Every container in which any fertiliser is packed shall conspicuously be superscribed with the word "FERTILISER" and shall bear only such particulars and unless otherwise required under any law nothing else, as may from time to time, be specified by the Controller in this behalf, and;

Provided that in case of containers the gross weight of which is 5 kg or less, no such printing of superscription and other particular shall be necessary if such super superscription and other particulars are printed on a separate label which is securely affixed to such container.

(aa) Every container in which any Biofertiliser or Organic fertilizer is packed shall conspicuously be superscribed with the word "BIO-FERTILISER/ ORGANIC FERTILISER OR NON-EDIBLE DE-OILED CAKE FERTILISER" as the case may be and shall bear only such particulars and unless otherwise required under any law nothing else, as may from time to time, be specified by the Controller in this behalf,

(b) Every container shall be so packed and sealed that the contents thereof cannot be tampered with without breaking the seal;

Provided that where fertilizer manufactured in India are packed in bags stitched on hand, such bags shall bear lead seals, so that the contents thereof cannot be tampered with without breaking the seals;

Provided further that lead sealing shall not be necessary:-

(i) if such bags are machine stitched in such a manner that contents thereof cannot be tampered with without a visible break in the stitching; and

(ii) in the case of fertilizers imported from abroad and packed a in bags stitched in hand, in such a manner that the contents thereof cannot be tampered with without visible break in the stitching.

Provided also that in case fertilizer bags are in cut, torn or damaged condition during transportation or mishandling during loading or unloading operation, the manufacturer of such fertilizer may, under intimation to the State Government and the Central Government, repack he fertilizer in new bags or restandardise the quantity in terms of declared weight.

(c). Every fertiliser bag in which any fertiliser is packed for sale shall be of such weight and size as may be specified by the Central Government from time to time in this behalf

## **21 A. Manufacturers to comply with certain requirements for laboratory facilities:-**

Every manufacturer shall, in order to ensure quality of their product, possess minimum laboratory facility, as may be specified from time to time by the Controller.

## **22. Bulk sale of fertilisers**

Notwithstanding anything contained In this Order:-

- (a) a retail dealer may retain at any time one bag or container of each variety of fertiliser in an open and unsealed condition for the purpose of sale;
- (b) a manufacturer/importer may sell the fertillser manufactured/imported by him in bulk to a manufacturer of mixture of fertilisers, compound / complex fertilisers or special mixture of fertilisers; and
- (c) the Central Government may by notification published in the Official Gazette in this behalf authorise a manufacturer/importer to sell any fertiliser manufactured/ imported by him In bulk also direct to farmers for such period as may be specified in that notification;

Provided that a certificate indicating the minimum guaranteed percentage of plant nutrients is issued by the manufacturer/importer to each farmer at the time of such sale.

## **23. Disposal of non-standard fertilisers**

(1) Notwithstanding anything contained In this Order, a person may sell, offer for sale, stock or exhibit for sale or distribute, any fertillser except any fertillser imported by the Central Government which, not being an adulterated fertiliser, does not conform to the prescribed standard (hereinafter in this Order referred to as non-standard fertiliser) subject to the conditions that:-

- (a) the container of such non-standard fertilizer is conspicuously superscribed in red colour with the words "non-standard" and also with the sign "X"; and
- (b) an application for the disposal of non-standard fertilisers in Form H is submitted to the [Notified authority] to grant a certificate of authorisation for sale of such fertilisers and a certificate of authorisation with regard to their disposal and price is obtained in Form I.
- (c) such non-standard fertiliser shall be sold only to the manufacturers of mixtures of fertilisers or special mixtures of fertilisers or research farms of Government or Universities or such bodies.

(2) The price per unit of the non-standard fertiliser shall be fixed by the notified authority after satisfying itself that the sample taken is a representative one, and after considering the nutrient contents in the sample determined on the basis of a chemical analysis of the non-standard fertilizer.

(3)The Central Government may, by notification in the official Gazette and subject to the conditions, if any, laid down in that notification, and subject to guidelines issued in this regard by the Central Government exempt such pool handling agencies, as it deems fit, from complying with conditions laid down in paragraphs (a) and (b) of the sub- clause (1)

(4) Where any fertiliser imported by the Central Government is found to be of non-standard and the Central Government decides that the fertilizer cannot be permitted for direct use in agriculture, it may permit the use of such fertiliser by manufacturers of complex fertilisers, mixture of

fertilisers or special mixture of fertilisers to be sold at such price as may be fixed by the Central Government.

(5) If a manufacturer or importer detects or has reasonable doubt about the standard of the fertilizer manufactured or imported by him, and dispatched for sale as deteriorated in quality during transit due to natural calamity and is not of the prescribed standards, he may, within fifteen days from the date of dispatch from factory or port, apply with detailed justifications to the Central Government for obtaining permission for reprocessing the same in a factory to meet the prescribed standards and the Central Government may, after considering the facts, permit the re-processing of such fertilizer on the terms and conditions as may be notified by the Central Government in this behalf.

Provided that no such application for permission to reprocess the fertilizer by the manufacturer or importer shall be accepted by the Central Government after the expiry of the said period of fifteen days.

#### **24. Manufacturers/Pool handling agencies to appoint officers responsible with compliance of the Order**

Every manufacturing organization, \*\*\*importer and pool handling agency shall appoint in that organization and in consultation with the Central Government, an officer, who shall be responsible for compliance with the provisions of this Order .

#### **25. Restriction on sale/use of fertilisers**

(1) No person shall, except with the prior permission of the Central Government and subject to such terms and conditions as may be imposed by such Government, sell or use fertiliser, for purposes other than fertilisation of soils and increasing productivity of crops.

Provided that the price of fertilisers permitted for sale for industrial use shall be price, excluding all subsidies at the production, import, handling or on sale for agricultural consumers;

Provided further that wherever customs or excise duties are chargeable, these may be added to the price so fixed.

Provided also that in the case of non-standard fertilisers, reductions shall be made from the no profit no loss price, indicated above, proportionate to the loss of nutrient contents.

(2) Notwithstanding anything contained in sub-clause (1), no prior permission for use of fertiliser for industrial purposes shall be necessary when the fertiliser for such purposes is purchased from the Industrial dealer possessing a valid certificate of registration granted under clause 9.

(3) Any person possessing a valid certificate of registration for Industrial dealer, unless such person is a State Government, a manufacturer/importer or a pool handling agency, shall not carry on the business of selling fertilisers for agricultural purposes, including a wholesale dealer or a retail dealer. However, in case of a State Government, a manufacturer or an importer or a pool handling agency possessing a valid certificate of registration for sale of fertiliser for industrial use, and also for sale of fertiliser for agricultural use, whether in wholesale or retail or both, shall not carry on the business of selling fertilisers both for Industrial use and agricultural use in the same premises.

## **VII. ENFORCEMENT AUTHORITIES**

26. Appointment of registering authority The State Government may, by notification in the Official Gazette, appoint such number of persons, as it thinks necessary, to be registering authorities for the purpose of this Order and may, in any such notification define the limits of local area within which each such registering authority shall exercise his jurisdiction.

**26A. Notified Authority-** The State Government may, by notification in the Official Gazette, appoint such number of persons, as it thinks necessary, to be Notified Authorities for the purpose of this Order and define the local limits within which each such Notified Authority shall exercise his jurisdiction.

### **27. Appointment of inspectors**

The State Government, or the Central Government may, by notification in the Official Gazette appoint such number of persons, as it thinks necessary, to be inspectors of fertilisers for the purpose of this Order, and may, in any such notification, define the limits of local area within which each such inspector shall exercise his jurisdictions.

### **27A. Qualifications for appointment of fertiliser Inspectors**

No person shall be eligible for appointment as Fertiliser Inspector under this Order unless he possesses the following qualifications, namely:-

- (1) Graduate In agriculture or science with chemistry as one of the subjects, from a recognised university; and
- (2) Training or experience in the quality control of fertilisers and working in the State or Central Government Department of Agriculture.

### **27B. Qualifications for appointment of fertiliser Inspectors for Biofertiliser and Organic Fertiliser and Non-edible de-oiled cake fertiliser.**

No person shall be eligible for appointment as inspector of biofertiliser, Organic fertilizer and non-edible de-oiled cake fertiliser under this Order unless he may possess the following qualifications, namely:-

- (1) Graduate in agriculture or science with chemistry/microbiology as one of the subject; and
- (2) Training or experience in the field of quality control of biofertilisers/organic fertilizers/non-edible de-oiled cake fertilisers.

### **28. Powers of Inspectors**

(1) An inspector may, with a view to securing compliance with this Order:-

(a) require any manufacturer, importer, pool handling agency, wholesale dealer or retail dealer to give any information in his possession with respect to the manufacture, storage and disposal of any fertilizer manufactured or, in any manner handled by him

(b) draw samples of any fertiliser in accordance with the procedure of drawl of samples laid down in Schedule II.

Provided that the inspector shall prepare the sampling details in duplicate In Form J, and hand over one copy of the same to the dealer or his representative from whom the sample has been

drawn;

(ba) draw samples of any biofertilisers in accordance with the procedure of drawl of samples laid down in schedule III.

(bb) draw samples of any organic fertilisers in accordance with the procedure of drawl of samples laid down in schedule IV.

(bc) draw samples of any non-edible de-oiled cake fertiliser in accordance with the procedure of drawl of samples laid down in Schedule V;

(c) enter upon and search any premises where any fertiliser is manufactured/ Imported or stored or exhibited for sale, if he has reason to believe that any fertiliser has been or is being manufactured/imported, sold, offered for sale, stored, exhibited for sale or distributed contrary to the provisions of this Order;

(d) seize or detain any fertiliser in respect of which he has reason to believe that a contravention of this Order has been or is being or is [attempted] to be committed;

(e) seize any books of accounts or documents relating to manufacture, storage or sale of fertilisers, etc. in respect of which he has reason to believe that any contravention of this Order has been or is being or is about to be committed;

Provided that the Inspector shall give a receipt for such fertilisers or books of accounts or documents so seized to the person from whom the same have been seized;

Provided further that the books of accounts or documents so seized shall be returned to the person from whom they were seized after copies thereof or extracts there from as certified by such person, have been taken.

(2) Subject to the proviso to paragraphs (d) and (e) of sub- clause (1), the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause.

Provided also that the inspector shall give the stop sale notice in writing to the person whose stocks have been detained and initiate appropriate action as per the provisions of this order within a period of twenty one days. If no action has been initiated by the inspector within the said period of twenty one days from the date of issue of the said notice, the notice of stop sale shall be deemed to have been revoked.

(3) Where any fertiliser is seized by an inspector under this clause, he shall forthwith report the fact of such seizure to the collector whereupon the provisions of sections 6A, 6B, 6C, 6D and 6E of the Act, shall apply to the custody, disposal and confiscation of such fertilisers.

(4) Every person, if so required by an inspector, shall be bound to afford all necessary facilities to him for the purpose of enabling him to exercise his powers under sub-clause (1).

## VIII. ANALYSIS OF SAMPLES

### 29. Laboratory for analysis

1. A fertiliser samples, drawn by an inspector, shall be analyzed in accordance with the instructions contained in Schedule II in the -Central Fertiliser Quality Control and Training Institute, Faridabad or Regional Fertiliser Control Laboratories at Mumbai, Chennai or Kalyani (Kolkata) or in any other laboratory notified for this purpose by the State Government [with the prior approval of the Central Government.

(1A) Biofertiliser samples, drawn by an inspector, shall be analyzed in accordance with the instructions contained in Schedule III in the National Centres of Organic Farming, Ghaziabad or Regional Centres of Organic Farming at Bangalore, Bhubaneshwar, Hissar, Imphal, Jabalpur and Nagpur or in any other laboratory notified by the Central or State Government.

(1 B) Organic fertiliser and non-edible de-oiled cake fertiliser samples, drawn by an inspector, shall be analyzed in accordance with the instructions contained in Schedule IV in the –National Centres of Organic Farming, Ghaziabad or Regional Centres of Organic Farming at Bangalore, Bhubaneshwar, Hissar, Imphal, Jabalpur and Nagpur or in any other laboratory notified by the Central or State Government.

(2) Every laboratory referred to in sub-clause (1) shall, in order to ensure accurate analysis, of fertiliser samples, possess minimum equipment and other laboratory facilities, as may be specified from time to time by the Controller in this behalf

### 29A. Qualifications for appointment of fertiliser analyst in the fertiliser control laboratories

No person shall be eligible for appointment as fertiliser analyst for analysis of fertiliser samples in the laboratories notified under clause 29 of the Order, unless he possesses the following qualifications, namely:-

(1) graduate in Agriculture or Science with chemistry as one of the subjects from a recognised university; and

(2) training In fertiliser quality control and analysis at Central Fertlllzer Quality Control and Training Institute, Faridabad.

Provided that the fertiliser analysts appointed before the commencement of this Order, who do not possess the requisite training, shall undergo prescribed training, within a period of three years, in the Central Fertiliser Quality Control " and Training Institute, Faridabad from the date of commencement of this Order.

### 29B Laboratories for referee analysis

(1) Every laboratory referred to in sub-clause (1) of clause 29 shall be designated as referee laboratory for the purpose of analysis of any sample of fertiliser :

Provided that no such laboratory which carried out the first analysis of the fertiliser sample shall be so designated in respect of that sample:

Provided further that in respect of any sample the analysis of which has been challenged, may be sent for referee analysis to any one of the other laboratories except those which are located in the State or where the first analysis has been done.

Provided also that the Central Fertiliser Quality Control and Training Institute and Regional laboratories shall be considered as one group of laboratories and a sample first analysed by any one of them, shall not be sent for referee analysis to any other in that group, but only to any other laboratory notified by a State Government.

(2) Notwithstanding anything contained in this Order, the Appellate Authority as specified under paragraph (b) of sub- clause (1) or paragraph (b) of sub-clause(2) of clause 32, in case of sample analyzed by the State Government laboratory, or the Controller, in case of samples analyzed by Central Fertiliser Quality Control and Training Institute, Faridabad or its Regional Fertiliser Control Laboratories, as the case may be, shall decide and send, one of the two remaining samples, for reference analysis as provided under sub-clause (1).

### **30. Time Limit for analysis, and communication of result**

(1) Where sample of a fertiliser has been drawn, the same shall be dispatched alongwith a memorandum in Form K and in case of Organic fertilizers, Biofertilisers and de-oiled cake fertiliser in Form KI to the laboratory for analysis within a period of seven days from the date of Its drawal.

(2) The laboratory shall analyse the sample and forward the analysis report in Form L and in case of Organic fertilizer, Biofertiliser and de-oiled cake fertilisers in Form L1, L2 and L3, respectively, within 30 days from the date of receipt of the sample in the laboratory to the authority specified in the said memorandum.

(3) The authority to whom the analysis report is sent under sub-clause (2) shall communicate the result of the analysis to the dealer/manufacturer/Importer/pool handling agency from whom the sample was drawn within [15 days] from the date of receipt of the analysis report of the laboratory.

## **IX. MISCELLANEOUS**

### **31 Suspension, Cancellation Or Debarment**

(1) A Notified Authority, registering authority, or as the case may be, the controller may, after giving the authorized dealer or the holder of certificate of registration or certificate of manufacture or any other certificate granted under this Order, an opportunity of being heard, suspend such authorization letter or certificate or debar the dealer from carrying on the business of fertilizer on one or more of the following grounds, namely:-

(a) that the authorization letter or certificate of registration or certificate of manufacture, as the case may be, has been obtained by wilful suppression of material facts or by misrepresentation of relevant particulars:

(b) that any of the provisions of this Order or any terms and condition of the Memorandum of Intimation or certificate of registration or the certificate of manufacture, as the case may be, has been contravened or not fulfilled:

Provided that while debarring from carrying on the business of fertiliser or canceling the certificate, the dealer or the certificate holder thereof may be allowed for a period of thirty days to dispose of the balance stock of fertilizers, if any, held by him:

Provided further that the stock of fertilizer lying with the dealer after the expiry of the said period of thirty days shall be confiscated.

(2) Where the contravention alleged to have been committed by a person is such as would, on being proved, justify his debarment from carrying on the business of selling of fertilizer or, cancellation of authorization letter or certificate of registration or certificate of manufacture or any other certificate granted under this Order to such person the Notified Authority or registering authority or, as the case may be, the controller may, without any notice, suspend such certificate, authorization letter, as an interim measure:

Provided that the registering authority, Notified Authority or, as the case may be, the controller shall immediately furnish to the affected person details and the nature of contravention alleged to have been committed by such person and, after giving him an opportunity of being heard, pass final orders either revoking the order of suspension or debarment within fifteen days from the date of issue of the order of suspension:

Provided further that where no final order is passed within the period as specified above, the order of interim suspension shall be deemed to have been revoked without prejudice, however, to any further action which the registering authority, Notified Authority or, as the case may be, the controller may take against the affected person under sub-clause (1).

(3) Wherever an authorization letter or certificate is suspended, cancelled or the person is debarred from carrying on the business of fertiliser, the Notified Authority, registering authority, or as the case may be, the Controller shall record a brief statement of the reasons for such suspension or, as the case may be, cancellation or debarment and furnish a copy thereof to the person whose certificate or authorization letter has been suspended or cancelled or business has been debarred.

(4) Wherever the person alleged to have committed the contravention is an industrial dealer, the Notified Authority may take action against the holder of such certificate of registration under sub-clause (1) and sub-clause (2):

Provided that where such certificate is suspended or cancelled, the Notified Authority shall, within a period of fifteen days from the date of issue of such order of suspension or cancellation, furnish to the controller also, besides sending the same to the person whose certificate has been suspended or cancelled, a detailed report about the nature of contravention committed and a brief statement of the reasons for such suspension or, as the case may be, cancellation:

Provided further that the controller, shall, in case of the order for suspension passed by the Notified Authority, on receipt of the detailed report and after giving the person an opportunity of being heard, pass final order either revoking the order of suspension or canceling the certificate of registration, within fifteen days from the date of receipt of the detailed report from the Notified Authority, failing which the order of interim suspension passed by the Notified Authority shall be deemed to have been revoked, without prejudice however, to further action which the controller may take against the holder of

certificate under sub-clause (1):

Provided also that the order of cancellation passed by the Notified Authority shall remain effective as if it had been passed by the controller till such time the Controller, on receipt of the detailed report from the Notified Authority, and if deemed necessary, after giving the person a fresh opportunity of being heard, pass the final order either revoking or confirming the order of cancellation.

### **32. Appeals at Central Government level**

(1) In any State, where the fertiliser allocation is made by the Central Government under this Order and if the suspension or cancellation of authorization letter of the manufacturer and or pool handling agency or debarment of business, in any way, has an effect of dislocating the said allocation and if the Central Government is of the opinion that it is necessary or expedient so to do for maintaining the supplies, may direct the concerned State Government to furnish detailed report about the nature of contravention and a brief statement of the reasons for such suspension or cancellation and pass such order as it may think fit, confirming, modifying or annulling the order of State Government.

Provided that if the report called by the Central Government is not received from the State Government within a period of fifteen days from the date of issue of the communication, the Central Government may decide the case without the report, on merit.

(2) Any person aggrieved by the analysis report of Central Fertiliser Quality Control and Training Institute or its regional laboratories may appeal to the Controller for referee analysis of such sample within a period of 30 days from the receipt of analysis report.

Provided that the Controller may entertain an appeal after the expiry of said period of 30 days if it is satisfied that there was sufficient cause for not filling it within that period.

### **32A. Appeal at the State Government level**

(1) The State Government shall, by notification in the Official Gazette, specify such authority as the Appellate authority before whom the appeals may be filed within 30 days from the date of the order appealed against by any person, except by an industrial dealer, aggrieved by any of the following Orders or action of registering authority or a Notified Authority, namely:-

(i) Refusing to grant a certificate of manufacture for preparation of mixture of fertilisers or special mixture of fertilizers; or

(ii) Suspending or canceling a certificate of manufacture; or

(iii) Suspending or canceling authorization letter or debarring from carrying on the business of selling of fertilizer, or

(iv) non-issuance of certificate of manufacture within the stipulated period; or

(v) non-issuance of amendment in authorization letter within the stipulated period.

(2) Any person aggrieved by analysis report of fertilizer Testing laboratories notified by the State Government may appeal to the appellate authority appointed under sub-clause (1) for reference analysis of such sample within thirty days from the date of receipt of analysis report.

### **33. Grant of duplicate copies of [authorization letter or Certificate of manufacture] certificate of registrations, etc.**

Where authorization letter or a certificate of registration or a certificate of manufacture or any other certificate granted or, as the case may be, renewed under this Order is lost or defaced, the notified authority registering authority or, as the case may be, the Controller may, on an application made in this behalf, together with the fee prescribed for this purpose under clause 36, grant a duplicate copy of such certificate.

### **34. Amendment of certificate of registration**

The Notified Authority, registering or controller, as the case may be, may, on application being made by the holder of an authorization letter, a certificate of registration or certificate of manufacture, together with the fee prescribed for the purpose under clause 36, amend an entry in such authorization letter, certificate of registration or certificate of manufacture as the case may be.

### **35. Maintenance of records and submission of returns, etc.**

(1) The controller may by an order made in writing direct the dealers. manufacturers/ importers, and pool handling agencies:-

- (a) to maintain such books of accounts, records, etc. relating to their business in Form 'N'. and
- (b) to submit to such authority, returns and statements in such form and containing such information relating to their business and within such time as may be specified in that order.

(2) Where a person holds certificates of registration for retail sale and wholesale sale of fertilisers, he shall maintain separate books of accounts for these two types of sales made by him.

(3) Where a State Government, a manufacturer, an importer and a pool handling agency holds valid certificates of registration for sale of fertilisers in, wholesale or retail or both and also for sale for industrial use, he shall maintain separate books of accounts for these two or three types of sales made by him.

(4) Every importer shall inform the Director of Agriculture of the State in which he intends to discharge the imported fertilizer, under intimation to the Central Government, before the import is made or within a period of fifteen days after an indent for import is placed, the following details, namely :-

- (i) name of fertiliser
- (ii) name of country of import.
- (iii) name of manufacturer.
- (iv) quantity to be imported
- (v) date of arrival of the consignment.
- (vi) name of the discharge port.
- (vii) other information

### **36. Fees**

(1) The fees payable for grant, amendment or renewal of a[n authorization letter] or certificate of registration or certificate of manufacture a duplicate of such certificates or, renewal thereof under this Order shall be such as the State Government may, from time to time fix, subject to the maximum fees fixed for different purposes by the Central Government and different fees may be fixed for different purposes or for different classes of dealers or for different types of mixtures of fertiliser or special mixture.

(2) The authority to whom and the manner in which the fee fixed under sub-clause (1) shall be paid, shall be such as may be specified by the State Government by notification in the Official Gazette.

(3) Any fee paid under sub-clause (1) shall not be refundable unless the grant or renewal of any certificate of registration or certificate of manufacture or duplicate copy of such certificate or renewal under this Order has been refused.

(4) The fees payable for grant, amendment, renewal or duplicate copy of certificate of registration for industrial dealer and the authority to whom and the manner in which such fee shall be paid, shall be such as may be specified by the Controller from time to time by notification in the Official Gazette.

### **37. Service of orders and directions**

Any order or direction made or issued by the controller or by any other authority under this order shall be served in the same manner as provided in sub-section (5) of section 3 of the Act.

### **38. Advisory Committee**

1. The Central Government may by notification in the Official Gazette and on such terms and conditions as may be specified in such notification, constitute a Committee called the Central Fertiliser Committee consisting of a Chairman and not more than ten other persons having experience or knowledge in the field, who shall be members of the Committee, to advise the Central Government regarding:-

(i) inclusion of a new fertiliser, under this Order;

(ii) specifications of various fertilisers;

(iii) grades/formulations of physical/granulated mixtures of fertilisers that can be allowed to be prepared in a State;

(iv) requirements of laboratory facilities in a manufacturing unit, including a unit manufacturing physical/granulated mixtures of fertilisers;

(v) methods of drawal and analysis of samples.

(vi) any other matter referred by the Central Government to the Committee.

(2) The Committee may, subject to the previous approval of the Central Government, make bye-laws fixing the quorum and regulating its own procedure and the conduct of all business to be transacted by it.

(3) The Committee may co-opt such number of experts and for such purposes or periods as it may deem

fit, but any expert so co-opted shall not have the right to vote.

(4)The Committee may appoint one or more sub-committees, consisting wholly of members of the Committee or or partly of the members of the Committee and partly of co-opted members as it thinks fit, for the purpose of discharging such of its functions as may be delegated to such sub-committee or sub-committees by the Central Fertiliser Committee.

(5)The State Government may by notification in the Official Gazette and on such terms and conditions as may be specified in such notification, constitute a Committee called the State Fertiliser Committee consisting of a Chairman and not more than .4 other members, having experience or knowledge in the field, including a representative from State Agricultural University, the Fertiliser Industry and Indian Micro Fertilisers Manufacturers Association to advise the State Government regarding the grades/formulations of \*mixture or of fertilisers.

### **39. Repeal and saving**

(1) The Fertiliser Control) Order, 1957 is hereby repealed except as respects things done or omitted to be done under the said Order before the commencement of this Order.

(2) Notwithstanding such repeal, an order made by any authority, which is in force immediately before the commencement of this Order and which is consistent with this Order, shall continue in force and all appointments made, prices fixed, certificates granted and directions issued under repealed Order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, fixed, granted or issued in pursuance of this Order till revoked.