

ANDHRA PRADESH BIO-FERTILISERS (MONITORING AND QUALITY CONTROL), ACT, 2006

6 of 2006

[January,3rd, 2006]

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ANDHRA PRADESH BIO-FERTILISERS (MONITORING AND QUALITY CONTROL), ACT, 2006

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An Act to provide for the maintenance of specified counts of viable cells of microorganism, volume of Biofertilizer and to refrain from the production of contraband or spurious or phyto- toxic material and description of species of micro organism in the manufacture of a particular termed Bio-fertilizer and to monitor the effectiveness of the product in the label by the manufacturer and for the matters connected there-with or incidental thereto. Be it enacted by the Legislative Assembly of the State of the Andhra Pradesh in the Fifty-sixth year of the Republic of India as follows:

CHAPTER 1

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh Bio-fertilisers (Monitoring and Quality Control), Act, 2006.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force with effect on and from the 21st November, 2005.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) 'Bio-fertiliser' means a inert material containing microbial inclulants (living organism) as specified in Schedule I;

(2) 'Certificate of Source' means a certificate issued by the Government or as the case may be the Manufacturer to the Dealer indicating the soruce from which the Bio-fertiliser for purpose of sale is obtained;

(3) 'Controller' means the prson appointed as Controller of Bio-fertiliser by the Government and includes any other person empowered by the Government to exercise-or perform all or any of the. functions as may be prescribed;

(4) 'Dealer' means a person carrying on the business of selling Bio-fertilisers and includes a manufacturer and an agent carrying on such business;

(5) 'Government' means the State Government;

(6) 'Grade' means the living organsim contents in Bio-fertiliser expressed in number of cells/gram of carrier material/millilitre of liquid Bio-fertiliser;

(7) 'Inspector' mean an Inspector appointed under Section 19 of the Act;

(8) 'Label' means any written, printed or graphic matter on the package and any other covering in which the package is placed or packed and includes any written, printed, or graphic matter accompanying the Bio-fertiliser;

(9) 'Manufacturer' means a person who produces Bio-fertilisers and expression manufacturer with its grammatical varitations shall be

construed accordingly;.

(10) 'Non-standard Bio-fertiliser' means,-

(i) if its label contains any statement, design or] graphic statement/ representation thereto which is false or misleading in any material particular, or if its package is otherwise deceptive in respect of its contents; or

(ii) if it is an imitation of, or is sold under the name of another Bio-fertiliser; or

(iii) if any word, statement or other information required by or under this Act to appear on the label is not displayed thereon in such conspicuous manner as the other words, statements or graphic matter have been displayed on the label and in such terms as to render it likely to be read and understood by any ordinary individual under customary conditions of purchase and use; or if it is not packed and labelled as required by or under this Act; or if it is not registered in the manner required by or under this Act; or if the label contains any reference to registration other than the registration number; or

(vii) if the bio-fertiliser is not in conformity with the prescribed standards as specified in Section 2 of sub-section (16) of this Act and packed with any substance which is not included in the registration;

(11) 'Notification' means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly;

(12) 'Officer for sale' includes a reference to intimation by a person and a person who proposed for sale, exhibit the price list, indicating the prices of Bio-fertiliser;

(13) 'Package' means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag wrapper or other thing in which a bio-fertiliser is placed or packed;

(14) 'premises' means any land, shop, stall or place where any bio-fertiliser is manufactured or stored or sold or used and includes a vehicle carrying bio-fertilisers;

(15) 'prescribed; means prescribed by rules made under this Act;

(16) 'Prescribed standard' means prescribed under this Act;

(17) 'Registering Authority' means a registering authority appointed under Section 18 ;

(18) 'Schedule' means the Schedule appended to this Act;

(19) 'State' means the State of Andhra Pradesh.

CHAPTER 2

Price Control

3. Fixation of prices of Bio-Fertilisers :-

(1) The Government may by notifications regulate equitable distribution and also the rates of Bio-fertilisers in the manner as may be prescribed. (2) The Government may have regard to the local conditions of any area, the period of storage of Bio-fertilisers, and other relevant circumstances, fix different prices or rates for Bio-fertilisers having different periods of storage or for different classes of consumers. (3) No dealer or manufacturer shall sell or offer for sale any bio-fertiliser at a price exceeding the maximum price or rate fixed under this Act or printed on the container.

4. Display of Stock Position and Price List :-

Every dealer, who makes or offers to make a sale of any Bio-fertiliser, shall prominently display in his place of business;- (i) The quantities of opening stock of different Bio-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 stock to the extent of sale and receipt of such Bio-fertilisers up to the time of inspection during the day. (ii) A list of prices or rates of such Bio-fertilisers fixed under Section 3 or the Maximum Retail Price printed on the container by the manufacturer.

5. Issue of cash or credit memorandum :-

Every dealer shall issue a cash or credit memorandum to a purchaser of bio-fertilisers in the manner prescribed.

6. Control on distribution of Bio-fertilisers by manufacturers :-

The Government may by notification direct any manufacturer, to secure equitable distribution and availability of bio-fertiliser to the farmers in time, to sell the bio-fertilisers produced by any person in such quantities in such areas of the State and within such periods as may be specified in the notification.

CHAPTER 3

Registration of Manufacturers/Dealers

7. Dealers to be registered :-

No person including manufacturer/ dealer shall offer for sale or carry on business for selling Bio-fertilisers at any place except under and in accordance with terms and conditions of its certificate of registration granted to any person as prescribed, under Section 8 of this Act:

Provided that the Government may if it considers necessary or expedient by notification exempt from the provisions of this section any person selling Bio-fertilisers to the farmers in such areas and subject to such conditions as may be specified in that notification.

8. Application for Registration :-

(1) Every person desiring to obtain a Certificate of Registration under this Act for manufacturing bio-fertilisers by a manufacturer shall make an application for registration to the Registering Authority or the Controller in the manner prescribed.

(2) Every person desiring to obtain a Certificate of Registration under this Act for selling Bio-fertilisers by a Dealer shall make an application for registration to the Registering Authority together with the fee in the manner prescribed.

Provided that where the applicant is a Government or a manufacturer, it shall not be necessary to enclose a certificate of source along with the application:

Provided further that where Bio-fertiliser, are obtained for sale from different sources, a certificate of source from each source shall be furnished in the manner prescribed:

Provided also that a dealer, except a manufacturer shall not issue a certificate of source to authorize another dealer for dealing in Bio-fertiliser.

9. Grant of refusal of Certificate Registration :-

The Registering Authority or as the case may be the Controller shall grant a Certificate of Registration within 30 (thirty) days of the receipt of the application to any person in the manner prescribed:

Provided that no Certificate of Registration shall be granted to a person,-

- (i) if his previous Certificate of Registration is under suspension; or
- (ii) if his previous Certificate of Registration has been cancelled within a period of one year immediately preceding the date of making the application; or
- (iii) If he has been convicted of any offence under his Act or any order made thereunder within three years immediately preceding the date of making the application; or
- (iv) if he fails to enclose with the application, a certificate of source; or (v) if the application is incomplete in any respect.

10. Period of validity of Certificate of Registration :-

Every Certificate of Registration granted Section 9 or as the case may be renewed under .11 , unless suspended or cancelled shall be valid for a maximum period of 3 (three) years from the date of issue.

11. Renewal of certificate of Registration :-

(1) Every holder of a Certificate of registration desiring to renew the Certificate of registration granted under Section 9 shall, before the date of expiry of such certificate of registration make an application for renewal to the Registering Authority or as the case maybe, to the Controller as may be prescribed in duplicate, together with the fee prescribed under Section 30 of the Act for such renewal and a certificate of source as required under Section 8 of the Act.

(2) On receipt of such application together with such fee and certificate of source, the Registering Authority, or as the case may be, the Controller may renew the certificate of registration as maybe prescribed:

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

(3) If any application for renewal is not made before the expiry of the period of validity of the Certificate of registration but is made with in one month from the date of such expiry, the Certificate of registration may be renewed on payment of such additional fee as may be prescribed by the Government, or as the case may be the

Controller, in addition to the fee for renewal of the certificate of registration.

(4) Where the application for renewal is made within the time specified in sub section (1) or sub section (3) the application shall be deemed to have held a valid certificate of registration, until such date as the Registering Authority or as the case may be the Controller passes orders on the application for renewal.

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

CHAPTER 4

Restriction on Manufacture, Sale etc. of Bio-fertilisers

12. Restriction on Manufacture sale and distribution of Bio-fertilisers :-

(1) No person shall himself or by any other person on his behalf,-

(i) manufacture for sale, sell, offer for sale, stock or exhibit for sale or distribute any Bio-fertiliser which is not prescribed standard;

(ii) manufacture for sale, sell, offer for sale, stock or exhibit for sale, or distribute any Bio-fertiliser, which is not of prescribed standard and which does not conform to the particulars specified in the certificate of manufacture granted to him under this Act in respect of Bio-fertilisers:

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

(a) any Bio-fertiliser, the container whereof is not packed and marked in the manner laid down in this Act;

(b) any Bio-fertiliser which is an imitation or substitute for another Bio-fertiliser under the name of which it is sold;

(c) any Bio-Fertiliser which is adulterated.

Explanation: A Bio-Fertiliser shall be deemed to be adulterated, if it contains any substance addition of which is likely to eliminate or decrease the living organisms or make the fertilisers not conforming to the prescribed standard;

(d) any Bio-fertiliser, the label or container whereof bears the name of any individual, firm or company purporting to be manufacturer of the Bio-fertiliser, which individual, firm or company is fictitious or does not exist;

(e) any Bio-fertiliser, the label or container whereof or any thing accompanying therewith bears any statement which makes a false claim for the Bio-fertiliser or which is false or misleading in any material particular;

(f) any substance purported to be a Bio-fertiliser which substance is not, infact, a Bio- fertiliser; or

(g) any bio-fertiliser which is not properly labeled by exhibiting the minimum guaranteed count of living organisms.

(2) Any manufacturer who intends to manufacture for sale/offer for sale/ stock, or exhibit for sale or distribute any bio-fertiliser other than those specified in the Schedule-I shall make an application to the prescribed authority and the same shall be scrutinized by the Technical Committee appointed for this purpose by the Government and be recommended to the Government for final orders by notification by the Government in the manner prescribed.

13. Manufacturers to comply with certain requirements for Laboratory facility :-

Every manufacturer shall is order to ensure the quality of their product possess minimum lab facility as may be specified form time to time by the Controller.

14. Bulk sale of Bio-fertilisers :-

Notwithstanding any thing contained in this Act,-

(i) a dealer shall not retain any container of any variety of bio-fertiliser in an open and unsealed condition for the purpose of sale;

(ii) the Government may by notification authorize a manufacturer to sell any Bio-Fertiliser manufactured by him in bulk also direct to the farmers for such period as may be specified in that notification:

Provided that certificate indicating the minimum living cells be issued by the manufacturer to each farmer at the time of such sale.

15. Disposal of non-standard Bio-fertilisers :-

Not withstanding any thing contained in this Act, no person shall sell or offer for sale, stock, exhibit for sale or distribute, any bio-

fertiliser which does not conform to the prescribed standards unless the Bio-fertiliser is reprocessed by the manufacturer under the supervision of enforcing authorities, in the manner prescribed.

16. Manufacturers to appoint officers responsible for compliance of the Act :-

Every manufacturing organization shall; in consultation with the Government, appoint an officer in that organisation who shall be responsible for compliance with the provisions of this Act.

17. Restriction of sale/use of Bio-fertilisers :-

No person shall, except with prior permission of the Government, and subject to such terms and conditions as may be imposed by the Government, sell or use Bio-Fertilizers for purpose other than fertilisation of soils and increasing productivity of crops.

CHAPTER 5

Enforcement Authorities

18. Appointment of Controller and Registering Authority :-

(1) The Government may by notification appoint an officer as the Controller, for the purposes of this Act.

(2) The Government may by notification appoint such number of persons as it thinks necessary, to be the registering authorities for the purposes of this Act and may in any such notification define the limits of the local area within which each such registering authority shall exercise his jurisdiction.

19. Appointment of Inspectors :-

The Government may by notification appoint such number of persons, as it thinks necessary to be Inspectors of Bio-Fertilisers for the purpose of this Act and may in such notification define the limits of local area within which each such inspector shall exercise his jurisdiction.

20. Qualification for appointment of Inspectors :-

No person shall be eligible for appointment as Bio-fertiliser Inspector, under this Act unless he possesses the qualification namely Graduation in Agriculture from a recognized University and working in the Department of Agriculture, in the State.

21. Powers of Inspectors :-

(1) An Inspector may with a view to securing compliance with this Act,-

(i) require any manufacturer or a dealer to give any information in his possession, with respect to the manufacture, storage and disposal of any Bio-fertiliser manufactured or in any manner handled by him;

(ii) draw samples of any Bio fertilizer in accordance with the procedure for drawal of samples laid down in Schedule II.

Provided that the Inspector shall prepare the sampling details in duplicate as may be prescribed and hand over one copy of the same to the dealer or his representative from whom the sample has been drawn;

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

(iv) seize or detain any Bio-fertiliser in respect of which he has reason to believe that a contravention of this Act has been or is being or is about to be committed;

(v) seize any books of accounts or documents relating to manufacture, storage or sale of Bio- fertiliser etc in respect of which he has reason to believe that any contravention of this Act has been or is being or is about to be committed:

Provided that the Inspector shall give a receipt for such Bio-fertilisers or books of accounts or documents so seized to the person from whom the same has 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 therefrom as certified by such person, have been taken:

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 Act or the rules made thereunder 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.

(2) Where any Bio-fertiliser is seized by any Inspector under this

section he shall forthwith report the fact of seizure to the respective Magistrate and seek further orders.

CHAPTER 6

Analysis of Samples

22. Analysis of samples :-

Bio-fertiliser sample drawn by an Inspector shall be analyzed in accordance with the standards laid down in Schedule -I as per the specification of Bureau of Indian Standards.

23. Qualification for appointment of Bio-fertiliser Analyst in the Bio-fertiliser Control Laboratories :-

No person shall be eligible for appointment as Bio-fertiliser analyst for analysis of Bio- fertiliser samples in the laboratories as may be notified for the purposes of this Act, unless he possesses the qualification namely Graduation in Agriculture from a recognized University with training in Bio-fertilisers quality control and analysis at National Centre for Organic Farming, Ghazibad, or its regional centers:

Provided that the Bio-fertiliser analysts appointed before the commencement of this Act, who do not possess the requisite training, shall undergo the prescribed training with a period of one year National Centre for Organic Farming, Ghazibad, or its regional centres.

24. Time limit for analysis and communication of results :-

(1) Where a sample of Bio-fertiliser has been drawn, the same shall be dispatched along with memorandum in the manner prescribed to such laboratory as may be notified for analysis within a period of 7 (seven) days from the date of its drawal.

(2) The Laboratory shall analyse the sample and forward the analysis report in the form as may be prescribed within 30 (thirty) days from the date of receipt of the sample-in the laboratory to the authorities specified in the said memorandum.

(3) The authority to whom the analysis report is sent under sub-section (2) shall communicate the result of analysis to the dealer/manufacturer from whom the sample was drawn within 15 (fifteen) days from the date of receipt of analysis report.

(4) The report of the Laboratory is final for initiating any criminal proceedings against the dealer/manufacturer.

25. Suspension cancellation of Registration Certificate :-

(1) A registering authority or, as the case may be, the Controller may, after giving the holder of a certificate of registration, or a certificate of manufacture or any other certificate granted under this Act, an opportunity of being heard, suspend or cancel such certificate on any of the following grounds namely: -

(i) that such certificate has been obtained by fraud or misrepresentation as to material particulars;

(ii) that any of the provisions of this Act or any of the terms and conditions of such certificate has been contravened or not fulfilled.

Provided that while, canceling the certificate the holder thereof may be allowed a period of 30 (thirty) days to dispose of the balance stock of bio-fertilisers if any held by him:

Provided further that the stock of Bio-fertiliser lying with the holder after the expiry of the said 30 (thirty) days period shall be confiscated;

(2) Where the contravention alleged to have been committed by a person is; such as should, on being proved, justify canceling of the certificate of registration or, as the case may be certificate of manufacture or any other certificate granted under this Act to such person the registering authority or as the case may be, the Controller may without any notice, suspend such certificate as an interim measure:

Provided that the registering authority, or as the case may be Controller shall immediately furnish to the affected person/persons details and the nature of contravention alleged to have been committed by such person/persons and, after giving the person/persons an opportunity of being heard, pass final orders either revoking the order of suspension or canceling such certificate 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 or, as "the case may

be the Controller may take against the holder of the certificate of registration under sub-section (1).

(3) Whenever a certificate is suspended or cancelled under this section, the registering authority or as the case may be, the controller shall record a brief statement of reasons for such suspension or, as the case may be cancellation and furnish a copy thereof to the person whose certificate has been suspended or cancelled.

(4) Whenever a person is alleged to have committed the contravention, the registering 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 contravention committed and a brief statement of the reasons for such suspension or, as the case may be cancellation:

Provided that the Controller, shall in case of the order of suspension passed by the registering 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 cancelling the certificate of registration, within fifteen days from the date of receipt of the detailed report from the registering authority, failing which the order of interim suspension passed by the registering authority shall be deemed to have been revoked, without prejudice however to any further action which the Controller may take against the holder of certificate of registration under subsection (1). Provided further that the order of cancellation passed by the registering authority shall remain effective as if it has been passed by the Controller till such time the Controller, on receipt of the detailed report from the registering 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.

26. Appeal :-

Any person aggrieved by any of the following orders or action of registering Authority or as the case may be the Controller may appeal to such authority as may be prescribed by the Government,-

(i) refusing to grant, amend or renew the certificate of registration for sale of Bio- fertilisers.

(ii) refusing to grant a certificate of manufacture for production of

Bio-fertilisers.

(iii) suspending or canceling a certificate of registration of a manufacturer/ dealer.

(iv) Non issuance of certificate of Registration to any person within a period of 60 (sixty) days from the date of receipt of such order or as the case may be from the date of expiry of such stipulated period, and the decision of such authority shall be final.

27. Grant of duplicate copies of certificate of Registration etc. :-

Where a certificate of registration or a certificate of manufacture or any other certificate granted or as the case may, be renewed under this Act is lost, torn or spoiled or defaced as the case may be, the registering authority or as the case maybe, the Controller may on an application made in this behalf together with the fee prescribed for the purpose under Section 30 of the Act grant a duplicate copy of such certificate.

28. Amendment of Certificate of Registration :-

The registering authority or as the case may be the Controller may amend the certificate of Registration on an application made in this behalf together with the fee as prescribed under Section 30 of the Act.

29. Maintenance of Records and submission of returns etc :-

(1) The Controller may by an order made in writing direct the dealer/ manufacturer, -

(i) to maintain such books of accounts, records etc, relating to their business in form as may be prescribed, and

(ii) 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 this Act.

(2) Where a person holds certificate of registration for sale of Bio fertilisers, he shall maintain separate books of Account for the sales made by him.

(3) Where the Government or a manufacturer holds a valid certificate of registration for sale of Bio-fertilisers, they shall maintain separate books of accounts for the sales made by them.

30. Fees :-

{1) The fees payable for grant, amendment or renewal of certificate of registration, or certificate of manufacture, or grant of duplicate of such certificates or renewal thereof under this Act shall be such as the Government may from time to time fix for different purposes.

(2) The authority to whom and the manner in which the fee fixed under subsection (1) shall be such as may be notified by the Government.

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

31. Offences and penalties :-

(1) Whoever, -

(i) manufactures, sells, stocks or exhibits for sale or distributes any Biofertiliser deemed to be non-standard under Section 2 of sub-section (10); or

(ii) manufactures, sells, stocks or exhibits for sale or distributes a Bio fertiliser without a certificate of Registration; or

(iii) manufactures, sells or distributes a Bio-fertiliser in contravention of Section 12 ; or

(iv) obstructs a Bio-fertiliser inspector in the exercise of his powers of charge of this Act,- shall be punishable,-

(a) for the first offence, with imprisonment for a term which may extend to one year or with fine which may extend to rupees fifty thousand, or with both;

(b) for the second and subsequent offence with imprisonment of a term which may extend to two years or with fine which may extend to rupees one lakh, or with both.

(2) Whoever contravenes any other provisions of this Act or any conditions of Certificate of registration granted thereunder shall be punishable;-

(a) for the first offence with imprisonment which may extend to six months or with fine which I may extend to five thousand rupees or with both;

(b) for the second subsequent offence with imprisonment for a term which may extend to two years, or with fine which may effected to twenty thousand or with both. (3) If any person convicted by the under this Act committees a like offence afterwards, it shall be lawful for the Court before which the second or subsequent conviction takes place to cause the offenders name and place of residence, the offence and penalty imposed to be published in such newspapers or in such other manner as the court may direct.

32. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against the Government or any officer, authority or person empowered to exercise the powers and perform the functions by or under this Act for anything which is done in good faith or intended to be done under this Act or the rules or orders made thereunder.

33. Power to remove difficulties :-

If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of doubt or difficulty:

34. Power to make Rules :-

(1) The Government may, by notification, make rules for carrying out all or any of the purpose of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

35. Repeal of Ordinance 23 of 2005 :-

The Andhra Pradesh Bio-Fertilisers (Monitoring and Quality Control)

Ordinance, 2005 is hereby repealed.

SCHEDULE 1

PART

Specifications of Bio Fertilisers

PART

Packing Marking and Storage

SCHEDULE 2

PART

PROCEDURE FOR SAMPLING OF BIO-FERTILISERS

PART

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