

SYNOPSIS OF THE PROPOSED AMENDMENTS IN POLICIES AND ACTS

Synopsis Amendment in the Seed Act, 2045 (1988 AD)

- Scope or horizon of the Act has been expanded by adding high-value crops like ornamental plants and pulses (Clause 2.1.2).
- With the federalization, several new organizations have emerged and names of some institutions have been changed. In such context, some amendments have been proposed, e.g. change in the name of ministry has been proposed from Ministry of Agriculture and Cooperatives (MoAC) to Ministry of Agriculture and Livestock Development (MoALD). Some new institutions like Ministry of Land Management, Agriculture, and Cooperatives (MoLMAC) have emerged. Similarly, the Seed Management Committee has been proposed to be formed at provincial level. The titles 'Crop Inspector, Sample Collector' have been proposed to be changed to 'Seed Inspector.'
- Involvement of provincial and local governments, and private sector has been added to harmonize and define seed quality standard (Clause 5.2).
- Some clauses have been added to include the formation of 'Provincial Seed Management Committee' with their terms of reference (Clauses 6 a.1 and 6 a.2).
- Yearly technical audit of laboratory has been made a necessary condition for renewal of laboratory which was not specified in the Act (Clause 10 a). Technical audit is expected to make laboratory tests accurate and reliable.
- There was no clause for provision of compensation by the seed supplier in the Act. Hence, new clauses related to compensation have been proposed in the amendment (Clauses 11 d.1 and 11 d.2). For example, reasonable compensation will have to be borne by an individual or institution which has sold or distributed low-quality seed or has sold seed beyond recommended domain or which has given wrong information about seed.
- Clauses on provision for risk assessment have been added (Clauses 15 a.1 to 15 a.c). Risk assessment should be done for the export and the import of GMOs, LMOs, and terminator seeds. Export and import will be banned if they are not found suitable for export and import.
- New clauses (Clauses 15 b to 15 d) have been proposed for the need to take permission to produce (i) foundation and source seed, (ii) hybrid seed, (iii) varietal development, and conservation. Any individual or institution willing to produce such seeds will have to fulfill specified conditions for getting permission from the Provincial Seed Management Committee.
- Amendment on Clause 16 of the Act has been proposed. One significant proposal for amendment is the provision for the eligibility of an individual outside the government to be the Seed Inspector and Seed Analyst (apart from qualified officer level staffs of federal, province and local level government). However, the individual will have to fulfill the specified qualification and pass the examination conducted by federal and provincial ministries.

- Clause 18 of the Act has also been proposed for amendment to clearly specify the right of ownership, selection, and conservation to remain with farmers for the local seeds and varieties which they have been using traditionally.
- Increased amount of punishment for any breach of law (Clause 19).

Synopsis
Pesticide Management Bill, 2076 (2018 AD)

- The proposed bill will replace the existing Pesticide Act, 2048 (1991 AD).
- This bill has been drafted to regulate production, formulation, export, import, storage, sale, transportation, use, and disposal of pesticide such that it does not have negative impact on human and other lives and on environment. The bill has included several definitions which were not spelt out in the existing Pesticide Act 2048. For example, definition of 'Pesticides' is more elaborate in the bill. The definition of Pesticide in the bill includes organic, botanical, biological, and chemical materials and/or substances which protect plants, agriculture commodities, forest and forest products, living being, birds and animals, human health, storage, packaging material and construction works from disease, insect, mite, nematode, weed, rat, predator, and parasite. Pesticide also includes attractant, growth regulators and inhibitors, defoliant, desiccants, thinning agents, disinfectants etc;
- Important legal provisions made in the bill include: (i) registration and renewal of registration of pesticides; (ii) permission to be taken by individual, institution, or agency for production, formulation, export, import, commercial use, storage, sale, transportation, packaging and re-packaging, and spray of pesticides; (iii) formation of Pesticide Management Committee and its functions, duties, and responsibilities; (iv) establishment of Registration and Management Center to control, regulate, register and management of pesticides together with functions, duties, and responsibilities of the center; (v) use and management of pesticide; (vi) wrongdoing, punishment, and compensation in case the law is breached; and (vii) miscellaneous subjects like constituting Province Pesticide Management Committee, monitoring, construction of store houses in all provinces to store confiscated pesticides which are not fit for use, special program implementation, and right to formulate and enact directives, working procedures, and standards.

Synopsis
Agribusiness Promotion Bill 2076 (2018 AD)

- This bill has been drafted to make legal provisions for promotion and management of all stages of value chain, development of relationship between farmers, agri-entrepreneurs and agro-traders, management of agriculture land and contract farming, and strengthened market for sustainable development of agriculture. The bill focuses on two major aspects viz. (i) land management for commercial agriculture, and (ii) management of agriculture market.
- Major legal provisions made for land management include: (i) defining agriculture area, (ii) development of large agriculture production area, (iii) establishment of agriculture land bank, (iv) provision for rebate and other facilities, (v) facilitation in land leasing process, (vi) provision for land consolidation, (vii) concession on land registration tax to purchase

land for agriculture purpose, (viii) contract for land and commodity trade, and (ix) non-indulgence in illegal and unhealthy competition.

- Similarly, major legal provisions made for management of agriculture market include: (i) establishment and operation of agriculture market; (ii) establishment of a board to work on market development; (iii) deputation of federal level personnel in the board; (iv) defining minimum standard for the market; (v) formation of committee to establish, operate, and regulate wholesale, retail and farmers' market at federal, provincial and local levels; (vi) establishment and operation of agriculture market by private sector and in public–private partnership mode; (vii) obtaining permission from the committee to have space in the market center and conditions to comply with; (viii) punishment for wrong conduct and non-compliance of conditions; and (ix) miscellaneous subjects like registration of entrepreneur, insurance, protection of intellectual property rights, support of Nepalese diplomatic missions from abroad, compensation, priority to transporters carrying highly-perishable commodities, and right to formulate and enact regulations and by-laws.

Synopsis **National Food Safety Policy, 2076**

1. Background

- Institutional initiative on regulating food safety and quality began after the establishment of Department of Food in 2018 (1961 AD). However, regulatory activities legally started after the implementation of Food Act 2023 (1966 AD) and Food Regulation 2027 (1970 AD). Initially, Food Act was enforced only within Kathmandu valley and on 26 Ashadh 2057 (9 July 2000) it was enforced in all 75 districts of the country through Department of Food Technology and Quality Control (DFTQC). Since then, various regulatory activities related to food safety and quality are being implemented to preserve the rights and welfare of consumers.
- Efforts are ongoing to address the risks and challenges related to food safety and quality. Current increasing challenges are to minimize the effect of pesticide, veterinary medicine residue, entry of environmental pollutants, aflatoxin, and harmful microorganisms in food stuffs.
- Article 36 of the Constitution of Nepal considered Food Right as fundamental rights of the people. Similarly, Article 44 (1) of the Constitution states "Every consumer shall have the right to obtain quality goods and services" and Article 44 (2) states "A person who has suffered injury from any substandard goods or services shall have the right to obtain compensation in accordance with law." Regulatory activities related to food safety and quality has been felt necessary in order to implement these fundamental fights of the people.

2. Need for Policy

- Rapid changes are occurring in food habits and several risks are appearing due to maximum use of chemicals in agriculture production, processing, and consumption. In view of the need to comply with the safety and quality standards of food and drinks in the export markets, the existing law and organizational structure is not adequate. Incidence of food borne diseases and diseases outbreak, loss of property and people, individual and

national losses, decrease in export, low technical and competitiveness of food industries and entrepreneurs, extensive food adulteration owing to mixing of inconsumable items in food etc. are increasing. In addition, problems like nonintegrated food safety and quality-related activities, increasing food adulteration and ineffective measures to control it, lack of adequate information on food safety and quality, inadequate and ineffective law on production and control of food quality, lack of timely reform on existing law, lack of cooperation and collaboration with stakeholders, and lack of awareness among people appear as problems and challenges in the field of food safety and regulation. Hence, a National Food Safety Policy has been felt necessary.

- It has been felt necessary to quickly amend and update food act and formulate laws, create organizational set-up, and prepare information and statistics to regulate food system, risk-based inspection and monitoring system, analysis and minimization of probable risks, risk management, quality testing, safety management, and management of probable chemical and biological risks based on SPS and scientific principles and international standards. The need for food safety policy has also been felt necessary to fix and execute production standards such as Good Agriculture Practice (GAP), Good Animal Husbandry Practice (GAHP), Good Healthy Practice (GHP), Good Manufacturing Practice (GMP), etc. The need for execution of food safety policy has also been felt necessary to fulfill Nepal's commitment to international principles on food safety.

3. Key Highlights

- Update all acts, regulations, and guidelines related to food safety and quality to develop and improve food sector as per international and regional provisions.
- Harmonize safety and quality standards equivalent to international and regional standards required for control of food safety and quality.
- Make provision for federal structure-based food safety and quality regulating provisions with division of rights and working area among federal, state, and local entities. The existing DFTQC will be gradually developed into Food Safety and Quality Control Authority (FSQCA).
- Make provision for recommendation to government and regulating body about national and international standards and problems related to safety on food and drink and quality through the organizational development of National Codex Committee.
- Make legal provision to establish and operate independent food scientists' and technicians' council to register human resources working in the field of food safety and quality, execute and regulate code of conduct.
- Assist in the development and use of self-regulating procedure and culture to manage food safety and quality during local food production.
- Gradually implement food safety regulating system by encouraging farmers adopt a code of conduct like GAP and Good Veterinary Practice (GVP) to maintain traceability of safety and quality in primary agriculture production.

- Gradually and compulsorily implement appropriate management system to promote, encourage and enhance capacity to use systems like Codex Guidelines, GAP, GVP, GMP, and Hazard Analysis and Critical Control Point (HACCP) developed by various regulatory bodies for food safety management on the basis of nature of food industries, enterprises and other stakeholders at national and international levels.
- Make effective implementation plan to operate contact points of international organizations like Codex Contact Point, INFOSAN Emergency Contact Point, INFOSAN Focal Point, and SPS National Enquiry Point to exchange and disseminate food safety and quality-related notice and information at international level.
- Prepare and implement methodology in recognition to Codex Alimentarius Committee, International Plant Protection Convention (IPPC), and World Organization for Animal Health (OIE) for the management of risk-based inspection encompassing the basic elements of import and export inspections of food items.
- Develop and effectively implement Food Import Export Inspections and Certification System to maintain food safety and quality.
- Transparently execute regulatory standards at equal footing for imports from different countries and domestic food items while implementing food safety and quality standards.
- Existing mechanisms will be made active, efficient, and strong for outbreak surveillance of food borne diseases as well as assessment, detection of sources, and informing stakeholders through institutional development.
- Adopt risk-based inspection system.
- Make arrangement to increase access of local level to food laboratory testing services.
- Make arrangement to recognize test results and conformity assessment of institutional and private laboratories.
- Conduct orientation programs for different stakeholders and develop information and awareness system.
- Constitute technical committee or team involving different subject matter specialists to conduct studies and research on fixing maximum residue level (MRL) of toxins in food and its effect on human health in order to make scientific and evidence-based communication with international standard formulating bodies like Codex, IPPC, OIE, etc.
- Conduct studies and researches on healthy production and trade facilitation of indigenous food items.

4. Organizational Structure

- Make legal arrangement to establish an IMFSC. Following activities are to be done at central level for the management of food safety and quality.
 - (i) DFTQC will play a main role to maintain food safety and quality,

- (ii) The Department of Agriculture (DoA) and Department of Livestock Services (DLS) will play a complementary and supporting role, and
- (iii) The Department of Health Services (DHS), Department of Commerce (DoC), Department of Customs (DoCs), and Department of Supply Management and Protection of Consumers Interest (DSMPCI) will play supporting roles.

5. Legal Arrangement

- The existing Food Act 2023 (1966) and Food Regulation 2027 (1970) will be revised to formulate a new act and regulation related to food safety and quality.

Synopsis Amendment in the Plant Protection Act 2064

1. Amendments in definitions

- "Pest" means plant, animal, or disease-causing micro-organisms which are injurious to plants and plant products and this term also includes any species or subspecies, breed and biotype of micro-organisms.
- "Regular pest" means pests notified by the Ministry in Nepal Gazette causing economic loss to plants and plant products and this term also includes quarantine pests and regular non-quarantine pests.
- "Regular pest" means pests which cause economic loss to plants and plant products notified by the Ministry in Nepal Gazette and this term also includes quarantine pests and regular non-quarantine pests.
- "Regular non-quarantine pest" means regulated pests whose presence in plant and plant products cause economic loss for its targeted use.
- "Ministry" means Ministry of Agriculture and Livestock Development.
- "Office Chief" means the chief of office established as per Clause 33.

2. Organizational Structure

Establishment of committee. There shall be a Plant Quarantine Committee as given below to advise and suggest to the Government of Nepal policies on the quarantine of plants or plant products:

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| (i) | Secretary, Ministry | - Chairperson |
| (ii) | Joint Secretary, Ministry of Industries, Commerce and Supplies (who is looking after tasks related to World Trade Organization) | - Member |
| (iii) | Joint Secretary, Ministry of Forests and Environment | - Member |
| (iv) | Director General, Department of Customs | - Member |
| (v) | Executive Director, Nepal Agriculture Research Council | - Member |
| (vi) | Representative, Federation of Nepal Chamber of Commerce and Industries | - Member |

- (vii) Two experts including one woman nominated by the Government of Nepal
- Member
- (viii) Three persons including at least one woman nominated by the Government of Nepal from amongst the farmers, agro-entrepreneurs or agro-industrialists who have experience in the subject
- Member
- (ix) Chief, Plant Quarantine and Pesticide Management Center
- Member Secretary

The tenure of the members referred to in clauses (g) and (h) of sub-section (2) shall be of three years.

The Government of Nepal shall remove nominated member if he/she has not fulfilled his/her duties or not have shown conduct as per the post. However, he/she shall be given reasonable opportunity to submit his/her justification against the decision for his/her removal.

If needed, local or foreign technician or subject matter specialist(s) shall be invited in the committee meeting.

3. Functions, Duties, and Powers of the Committee

- The functions, duties, and powers of the Committee shall be as follows:
 - (i) To advice Government of Nepal for the formulation of national policy on phytosanitary including plant quarantine;
 - (ii) To fix or review fees chargeable on the import, export, inspection, and test of plants, plant products, or other regulated and/or controlled items pursuant to the rules made as per or under this Act;
 - (iii) To coordinate between the private sector and the government bodies involved in the import and export of plants, plant products, or other controlled substances pursuant to this Act or the Rules framed hereunder;
 - (iv) To prepare, update, and approve the list of regular pests and recommend to publish it in Nepal Gazette;
 - (v) To maintain a roster of experts related to plant quarantine existing in the country;
 - (vi) To approve standards on sanitation of plants or plant products for import or export;
 - (vii) To facilitate the provincial government to prepare conditions, prohibition, and prepare directives and working procedures for internal quarantine; and
 - (viii) To perform other functions as prescribed.

4. Other Changes

- (i) To facilitate the provincial government to prepare conditions, prohibitions, directives, and working procedures related to internal quarantine and submit it to the Committee for approval.
- (ii) Gradually e-phyto system will be executed to improve phytosanitary certification system.
- (iii) **Power to designate inspectors.** For the purpose of making inspection of plants, plant products, biological control agents, beneficial insects or other articles, the Ministry shall designate any employee of federal, provincial, and local level who possesses the qualifications as prescribed, as inspectors.
- (iv) To ascertain whether or not the wood packaging material has logo and certification as per international standard as prescribed.