

No.11-12/2009-IC/NFSA  
Government of India  
Ministry of Consumer Affairs, Food and Public Distribution  
Department of Food and Public Distribution

Gate No.6, Krishi Bhawan,  
Rajendra Prasad Road, New Delhi-1  
Dated: 16.03.2010

**NOTE FOR EMPOWERED GROUP OF MINISTERS (EGOM)**

Subject: **National Food Security Act**

**1. Background**

1.1 The Department of Food and Public Distribution has circulated a Concept Note on 05.06.2009 and 10.06.2009 on the proposed National Food Security Act to all State / Union Territory Governments and concerned Central Ministries and examined the responses received. The Department has also held consultations with the State Food Secretaries, representatives of various Central Ministries, Planning Commission, experts and other stakeholders.

1.2 To examine various issues relating to the proposed Law, an Empowered Group of Ministers (EGoM) has been constituted. The EGoM has so far held three meetings, in which the proposed law has been discussed, on 01.09.2009, 16.09.2009 and an exclusive meeting on the said Act on 12.02.2010.

1.3 In the meeting held on 01.09.2009, the EGoM decided that:

- (i) The poverty estimates as notified by the Planning Commission shall be the basis for determining the number of BPL families under the proposed Act.

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- (ii) There is no need to have a separate BPL list exclusively for the purpose of this Act and that a common BPL list based on (i) above will form the basis for determining the number of families to be covered under the proposed Act.
- (iii) The methodology for identification of BPL families for both rural and urban areas will be discussed in the next meeting. For this purpose the two concerned nodal Ministries, viz Ministry of Rural Development and Ministry of Housing & Urban Poverty Alleviation may be advised to bring up their proposals.
- (iv) The other issues relating to the proposed Act were deferred for the next meeting. Once the salient features of the draft legislation are finalized, the same may be put on the website of the Department of Food & Public Distribution for wider consultations and suggestions from the public which could then be used for firming up the legislation.

1.4 In the meeting held on 16.09.2009, EGoM decided that:

The Ministries of Rural Development and Housing & Urban Poverty Alleviation should finalise the methodology for identification of BPL families in rural and urban areas and place it before the EGoM.

1.5 An exclusive meeting of the EGoM was held on 12.02.2010 to discuss the enactment of the proposed National Food Security Bill. After detailed discussions on all issues, the EGoM arrived at the following decisions as detailed in paragraph 2.1 below.

**2. Decisions/directions of EGoM in the meeting held on 12.02.2010**

2.1 (a) The definition of Food Security should be limited to the specific issue of foodgrains security (wheat and rice) and be delinked from the larger issue of nutritional security.

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(b) The commitment under the Food Security Act should be for below poverty line families only including AAY which would not remain as a separate category under the proposed Act.

(c) BPL families would be entitled under the law to foodgrains @ 25 kg. per family per month. Present APL allocations as also the present higher (35 kg. per family) allocations for BPL may continue under the existing dispensation of TPDS. However, there would be no commitment under the Act for APL families, nor for more than 25 kg. allocations for BPL.

(d) The issue price of Rs.3 per kg for BPL families is to remain valid only for the period of the mandate of the present Government and hence the issue price should not be specified in the Act, but be provided for in the Rules. The draft Act may clearly specify that the guarantee will be extended to the notified number of poor only.

(e) The numerical ceiling of BPL families will be based on poverty estimates of the Planning Commission and the census data of the Registrar General of India.

(f) The Planning Commission may take a final decision on estimation of poverty on priority. These revised estimates as well as the decadal census data of RGI may be used as the base for determining the number of poor to be covered.

(g) Guidelines for identification of BPL families would be issued by the concerned Ministries in consultation with the Planning Commission, i.e. Ministry of Rural Development for rural areas and Housing and Poverty Alleviation Ministry for urban areas. Provision will be made for periodical BPL surveys and updation of BPL lists.

(h) Destitutes like street children, beggars and homeless may be included in BPL.

(i) Regarding Other Welfare Schemes, as many of these as possible, may be merged. Institution-based schemes could continue, while individual-based schemes such as Annapurna and emergency feeding programme for KBK districts of Orissa could be subsumed under TPDS.

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(j) There is no need for making provision for direct transfer of food subsidy in cash to State Governments.

(k) There should be clear delineation of the specific roles and responsibilities of the Centre and State / Union Territory Governments in the law itself. The Centre should be responsible for prescribing the methodology for identification of BPL families, fixation of numerical ceiling of BPL families and making foodgrains available to the States at the designated base depots. The State Governments should be responsible for identification of BPL families following the prescribed methodology and within the numerical ceiling, issue of ration cards, lifting of foodgrains, their storage and transportation right up to Fair Price Shops (FPS), ensuring functionality of FPS and availability of foodgrains to BPL families. The local bodies may be involved in the identification of BPL families and monitoring of FPS.

(l) The Central Government should compensate States / Union Territories for the cost of foodgrains if required quantities of foodgrains are not made available by it to States / UTs.

(m) State Governments would be required to pay Food Security Allowance if targeted beneficiaries are not provided the entitled quantity of foodgrains. Each State / Union Territory should set up a dedicated Food Security Fund for the purpose.

(n) The law should make it mandatory for State Governments to take up reforms for effective delivery of entitled foodgrains to the targeted families. This would include creation of adequate storage capacity, adoption of technology-based applications, doorstep delivery of foodgrains to Fair Price Shops and effective monitoring through Vigilance Committees.

(o) There is no need to set up any tribunal or special courts under the Act. There should be provision for an effective and quick grievance redressal mechanism at the taluka / tahsil / block level under the SDM/Tahsildar/BDO, and an appellate mechanism at the District level under the District Collector.

(p) A draft Bill based on the above decisions should be prepared by the DoFPD, in consultation with Ministry of Law and placed before the EGoM before it is put on the web site of

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the DFPD for public scrutiny and comments. The draft Law must be brief having only essential provisions with details being spelt out in Schedules/Rules/Government notifications from time to time.

2.2 Subsequent to the circulation of the minutes of the meeting held on 12.02.2010, Ministry of Housing & Urban Poverty Alleviation (HUPA), vide their O.M. No.K-14014/13/2009-UPA, dated 25.02.2010 (Annex-I(a)), have observed that as per ID No.730/31/C/18/09-ES2, dated 18.11.2009, from the Prime Minister's Office (Annex-I(b)), it is for the Planning Commission to finalise the guidelines for survey of the urban poor and not the Ministry of HUPA, whereas the minutes of the meeting mentions that M/o HUPA will issue guidelines for survey of the urban poor.

### **3. Draft National Food Security Bill**

Based on the various issues placed before the EGoM and the decisions / directions given by the EGoM in its meeting held on 12.02.2010 as detailed above, a draft Bill has been attempted and is placed at Annex-II. A Statement showing the decisions of the EGoM and the corresponding provision in the draft Bill, with comments, is at Annex-III.

### **4. Interim Orders of the Supreme Court.**

4.1 In a PIL – Civil Writ Petition No.196 of 2001 – People's Union for Civil Liberties vs Union of India & Others, the Hon'ble Supreme Court has passed certain interim orders which are at Annex.IV . Some important issues pertaining to the draft Bill in the light of these interim orders which appear to have a bearing on the draft Bill, are discussed below.

- (i) The Supreme Court, in its order dated 28.11.2001, has issued directions regarding 8 schemes which are as follows:
  - (1) Targeted Public Distribution Scheme (TPDS)
  - (2) Antyodaya Anna Yojana
  - (3) Mid Day Meal Scheme (MDMS)
  - (4) National Old Age Pension Scheme (NOAPS)
  - (5) Annapurna Scheme

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- (6) Integrated Child Development Scheme (ICDS)
  - (7) National Maternity Benefit Scheme (NMBS)
  - (8) National Family Benefit Scheme
- (ii) Vide Order dated 27.04.2004, the Court has directed that no scheme covered by the orders made by the Supreme Court shall be discontinued or restricted in any way without the prior approval of the Court.
- (iii) Vide Order dated 02.05.2003, the Court has directed that certain groups of people are to be placed in the AAY category, such as – aged, infirm, disabled, destitute men and women, pregnant and lactating women, widows and single women without any regular support, primitive tribes etc.
- (iv) Vide Order dated 20.04.2004, it has been directed that Govt. of India shall issue guidelines so that condition of possession of BPL card for inclusion in AAY category is dispensed with.
- (v) Vide order dated 10.01.2008, the Court has increased the scale of issue of foodgrains per family per month to 35 kgs from the 25 kgs it had directed vide its earlier Order dated 28.11.2001.

4.2 While the draft Bill makes no mention of the merger/ discontinuance of any existing scheme, the EGoM had advised that as many of the Other Welfare Schemes as possible, excluding institution-based schemes, could be subsumed under TPDS.

4.3 EGoM, in its meeting on 12.02.2010, had decided that the commitment under the Food Security Act should be for below poverty line families only including AAY which would not remain as a separate category under the proposed Act. In the draft Bill there is no mention of AAY as a separate category to be covered under the proposed Act.

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4.4 As regards scale of issue of foodgrains, EGoM had decided that there should be no commitment under the Act for APL families, nor for any allocation in excess of 25 kg per family per month for BPL families. The draft Bill provides for 25 kg per family per month to BPL families. However, this is the minimum quantity that is guaranteed in the proposed Act. Proviso under section 3 of the proposed Bill allows the Government to make additional allocations of foodgrains depending upon availability and at such prices as may be prescribed. The draft Bill does not provide for any commitment for allocation of foodgrains for APL families.

**5. Reference to the Ministry of Law**

The draft Bill prepared by the Department of Food and Public Distribution has been referred to the Legislative Department of the Ministry of Law and Justice. A second reference requesting vetting of the draft Bill in the light of the Supreme Court's interim orders mentioned above, has also been made to the Legislative Department, as well as to the Department of Legal Affairs, of the Law Ministry. Advice/vetting is awaited from Ministry of Law.

6. The foregoing is submitted for consideration of the EGoM and further directions, if any, at this stage.

7. The above Note has the approval of the Minister of Consumer Affairs, Food & Public Distribution.

( C.Viswanath )  
Joint Secretary to the Govt. of India  
T.No.23384308

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