

REPORT OF THE SUB-COMMITTEE ON TRANSFER OF CERTIFICATE OF
REGISTRATION (CR) OF ONE PERSON/UNDERTAKING IN THE NAME OF
ANOTHER PERSON/UNDERTAKING; ENDORSEMENT OF FACTORY ADDRESS
AND CHANGE IN NAME OF COMPANY

I] Background of Constitution of Committee:

The Registration Committee (RC) in its 400th meeting held on 23.04.2019 deliberated the issue of Transfer of Certificate of Registration (CR) of one person/undertaking in the name of another person/undertaking. The Committee decided to constitute a committee comprising of the following experts:

1. Dr. Sandhya Kulshrestha, Consultant (Pharma) – Chairperson
2. Sh. Hariom Miglani, Sr. Law Officer – Member
3. Sh. Niraj Kulshrestha, Law Officer – Member Secretary

The committee was asked to examine the issue of the transfer of certificate from one registrant to another company /person keeping in view the earlier decisions of the RC and shall submit appropriate recommendations. In view of the correct interpretation of Rule 6(B) of the Insecticide Rules 1971, of the Insecticides Act, 1968 (the Act) The RC further desired that the committee shall complete the task expeditiously preferably within one month and place its recommendations before the RC. RC further decided that till the recommendations are placed by the committee and are deliberated by the RC, no application of endorsement for transfer of certificates shall be processed.

In 402nd RC meeting while recalling the decision of 400th RC meeting on the subject, the committee observed that apart from the above subject the requirements for endorsement of factory address is also required to be revisited. The committee decided to include Dr. Archana Sinha, JD (Chem) as a member of the above committee. The committee shall examine the issues on the subject in detail and place suitable recommendations before the RC for an appropriate decision.

II] Business Conducted:

The group/sub-committee held four meetings on 22.05.19, 24.06.19, 26.06.19 and 12.07.19 to deliberate and examine the issues. The meetings were attended by all members except Senior Law Officer who was present in two meeting held on 22.05.19 and 12.07.19, but due to his non-availability he could not participated on 24.06.19 and 26.06.19. However, his views as received on mail were considered.

The committee deliberated the issues in detail and made following observations:



A] TRANSFER OF CERTIFICATE OF REGISTRATION:

i) The Committee noted that the Rule 6.B reads as under

“Addition, deletion or alteration on the Certificate of Registration including labels and leaflets

A Fee of rupees one hundred shall be paid in the form of demand draft drawn on the State Bank of India, Faridabad, in favour of the Accounts Officer, Directorate of Plant Protection, Quarantine and Storage, Faridabad, Haryana on each occasion for each Certificate of Registration for addition, deletion, alternation on the Certificate of Registration including labels and leaflets.”

The Committee is of opinion that though rule 6.B does not provide explicitly for transfer of Certificate of Registration (CR), however, transfer of certificate is change of ownership which may be considered under alteration on the CR as there are situations wherein it may be required such as amalgamation and merger of companies; divestment of product globally or regionally by the company, inheritance of company by successor etc.

ii) The Committee also noted that Rule 14 of the Insecticides Act provides

“Transfer of licence 1. The holder of a licence may, at any time, before the expiry of the licence, apply for permission to transfer the licence to any other person. 2. The application under sub-rule (1) shall be accompanied by a fee of rupees one hundred. 3. The licensing officer may, after such inquiry as he thinks fit, accord permission to transfer the licence and on such permission being given, an endorsement to that effect shall be made in the licence. 4. If the permission to transfer a licence is refused, the fee paid therefore shall be refunded to the applicant. “

Hence, the Committee is of the considered opinion that although there are no explicit provisions for transfer of CR, however, it is in line and not in contravention to the provisions of the Act and Rules and the same is not expressly or impliedly barred under the Act.

(iii) The Committee perused the existing guidelines of the RC for transfer of Certificate of Registration and noted that the guidelines need to be further strengthened to prevent its likely misuse for trading of CR. It was suggested to include the requirement of a letter issued by the concerned state licensing authority (of the existing unit/units) to the effect that state licensing authority has deleted the product (with complete details) from the manufacturing license issued in favor of the Transferor on the request of the Transferor and no case is pending in the court of Law against the said licensed product(s). Further, they (State Licensing Authority) have no objection for transfer of CR issued in favour of Transferor to Transferee (**ANNEXURE-I**).

(iv) In addition, No Objection Certificate from the competent court/judicial magistrate first class/executive magistrate that no Court case is either instituted or pending towards its transfer, under any provisions of the Insecticides Act and Rules framed there under and they have no objection to transfer of certificate(s).

(v) The applicant shall submit newspaper cutting published in one National level and other in regional Newspaper for transfer of CRs from transferor Company/Firm to transferee company/firm.

(vi) While transferring the CR, only those manufacturing units for which NOC as indicated in (iii) above has been submitted from the State, should be endorsed. No request for endorsement of new factory address should be considered along-with transfer of CR.

(vii) In case of more than one manufacturing units, if 'NOC' from the concerned state licensing authority is not submitted for any manufacturing unit, then that unit shall be deleted from the CR and information in this regard should be send to concerned state authority also of the deleted unit in the endorsement letter from Sectt.of CIB&RC.

B] ENDORSEMENT OF FACTORY ADDRESS:

i) Regarding endorsement of factory address, it is observed that applications are received either for a.) change in existing factory address or b.) endorsement of new/additional factory address.

ii) The provision under rule 13 regarding varying or amending a license is as under:

"13. Varying or amending a license 1. The licensing officer may either on an application made by the licensee or if he is satisfied that the conditions under which a license has been granted under this chapter have been changed that it is necessary so to do, vary or amend a license, [after satisfying himself that the Registration Committee has amended the registration certificate and after giving an opportunity of being heard to the person holding the license.]"

iii) In case of endorsement of factory address the requirement of obtaining NOC from State Department of Agriculture should continue. The Committee is of view that no additional information/document is required for endorsement of factory address in the country.

iv) The Committee observed that there is no uniform format for NOC issued by the States making it sometimes difficult to examine the cases. Different states /Licensing authorities issue NOC differently. It is, therefore, felt desirable that there should be a prescribed format of RC for issue of NOC **(ANNEXURE-II).**

C] CHANGE IN NAME OF COMPANY:

The Committee also perused the existing guidelines of the RC for Change in Name of the Company/Firm and noted that the guidelines need to be further

strengthened to prevent its likely misuse for trading of CR. The Committee suggested the following for consideration of the RC:

- i) to include the words '*and reasons for the said earlier endorsement*', in the existing requirement of affidavit for endorsement made earlier, besides requirement for publishing of change in the Newspapers and NOC for no court case in the existing checklist No.13. Similar requirements have already been suggested by the group in new proposed/recommended checklist placed herein after. Hence, the new/modified requirements shall be as under:-
 1. *Affidavit duly notarized regarding endorsement made earlier in respect of certificates for which present request is being made, and reasons for the said earlier endorsement (from both parties) and,.*
 2. *The applicant shall submit newspaper cutting published in one National level and other in regional Newspaper for change in name of Company/Firm and,*
 3. No Objection Certificate from the competent court/judicial magistrate first class/executive magistrate that no Court case is either instituted or pending towards its transfer, under any provisions of the Insecticides Act and Rules framed there under and they have no objection to change of name of company in the CRs.

RECOMMENDATIONS:

A] TRANSFER OF CRs:

- i) The group recommended that endorsement of the transfers of CRs shall be permissible in case of the following:-
 - (a) Amalgamation and merger, supported by relevant legal documentary evidences under the Companies Act 1956 & 2013 besides other relevant laws.
 - (b) Divestment globally and in the country (as applicable), supported by relevant legal documentary evidences under the Companies Act 1956 & 2013 besides other relevant laws.
 - (c) In case of Inheritance and Succession, supported by relevant legal documentary evidences i.e. Succession Certificate besides any other proof under relevant laws.
- ii) In all the above three (a,b,c) categories the transfer shall be permissible only along-with the transfer of manufacturing unit(s) of the Transferor to the Transferee.
- iii) The Transfer application shall be considered only after submission of a letter from transferor from the concerned State licensing authority (of the existing unit/units) to the effect that state licensing authority has deleted the product (with complete details) from



the manufacturing license issued in favor of the Transferor on the request of the Transferor no case is pending in the court of Law against the said licensed product(s). Further, they (State Licensing Authority) have no objection in transfer of CR issued in favor of Transferor to Transferee. (*As per format at Annexure- I*).

- iv) No Objection Certificate from the competent court/judicial magistrate first class/executive magistrate that no Court case is either instituted or pending towards its transfer, under any provisions of the Insecticides Act and Rules framed there under and they have no objection to transfer of certificate(s).
- v) The applicant shall submit newspaper cutting published in one National level and other in regional Newspaper for transfer of CRs from transferer Company/Firm to transferee company/firm.
- vi) After the approval of the transfer application in the respective meeting of the Registration Committee (RC), the transferor shall immediately produce the original Certificate Registration(s) in the office of Sectt. of CIB&RC, Faridabad, on any meeting day for putting/affixing a stamp on that original CR to the effects that CR is no more valid for(*name of Transferor*).....and is transferred to(*name of Transferee*)..... .
- vii) Appropriate amendments in the online system be made to block the transferor access and permit the access to transferee to prevent misuse.
- viii) The revised check list for transfer of CRs is at **ANNEXURE- III**.

B]. ENDORSEMENT OF FACTORY ADDRESS:

- i) In case of endorsement of factory address the requirement of obtaining NOC from State Department of Agriculture should continue. However, to have uniformity of NOCs the committee suggested the following format for NOCs to be furnished by the all the State/UT Agriculture departments(Licensing Authority) as per (**ANNEXURE-II**).
- ii) The revised check list for endorsement of factory address is at **ANNEXURE-IV**.

C]. CHANGE IN NAME OF COMPANY:

1. Affidavit duly notarized regarding endorsement made earlier in respect of certificates for which present request is being made, and reasons for the said earlier endorsement (from both parties) and,.



2. The applicant shall submit newspaper cutting published in one National level and other in regional Newspaper for change in name of Company/Firm and,
3. No Objection Certificate from the competent court/judicial magistrate first class/executive magistrate that no Court case is either instituted or pending towards its transfer, under any provisions of the Insecticides Act and Rules framed there under and they have no objection to change of name of company in the CRs.
4. The revised check list for change of company name is at ANNEXURE-V.

DJ. GENERAL RECOMMENDATION:

The group emphasized that the endorsement approval letter from CIB&RC should be reframed. The endorsement approval letter (also uniformly applicable in all categories of endorsements) should clearly indicate that “this endorsement approval letter shall be read with and is valid only with original Certificate of Registration (CR) and label & leaflets(L/Lts) attached with the letter”.\

(Annexure – I to V continued)



(Format)

Letter from State Licensing Authority in favour of transferor

State Department of Agriculture.....

Dte, of Agriculture.....

1. This is to certify that undersigned, the licensing authority has deleted the products (as per details given below) from the manufacturing license issued by this department for the premises/unit located at factory address..... Dist:-..... in the state of in the following Registration Certificates issued by RC, of M/s. (as per list below).
2. This letter is being issued on vrefication of original certificates of registration by the transferor .
3. This is also certified that no case is pending in the court of Law against the said licensed product(s). Further, the State Licensing Authority have no objection in transfer of CR issued in favor of Transferor to Transferee.

S.No	Name of Product	Category of Registration:- 9(3),9(4),Export, Import, FI, TI, TIM, FIM, etc.	Certificate of Registration No.

Signed and Seal
State Department of Agriculture & Licensing Authority
Dte, Of Agriculture

To,

The Secretary,
Central Insecticide Board & Registration Committee,
Directorate of Plant Protection, Quarantine & Storage,
N.H IV, Faridabad, Haryana – 121001

Copy to:-

M/s Applicant
..... Address.



(Format)

NOC for Factory Address/additional Factory address

State Department of Agriculture.....

Dte, Of Agriculture.....

1. This is to certify that undersigned has “No Objection” for endorsement of factory address change of Factory address/ additional manufacturing unit situated at Dist:-..... state..... in the following Registration Certificates issued by RC, of M/s.
2. The NOC is being issued on verification of original certificates of registration.
3. This endorsement permission is subject to the condition that the company shall not undertake any manufacturing activity of above insecticides in the said premises. Until the address is endorsement in CIB certificates by the CIB Registration Authority and in Manufacturing License by concern Licensing Authority.

S N o	Name of Product	Category of Registration:- 9(3),9(4),Export, Import, FI, TI, TIM, FIM, etc.	Certificate of Registration No.

Signed and Seal
State Department of Agriculture & Licensing Authority
Dte, Of Agriculture

To,

The Secretary,
Central Insecticide Board & Registration Committee,
Directorate of Plant Protection, Quarantine & Storage,
N.H IV, Faridabad, Haryana – 121001

Copy to:-

M/s Applicant
..... Address.



TRANSFER OF CERTIFICATE OF REGISTRATION (CR) OF ONE PERSON/UNDERTAKING IN THE NAME OF ANOTHER

1. Index with Page Numbering
2. Authentication of pages by authorized signatory
3. Authorization for the signatory (Notarized copy of BOD resolution/affidavit/partnership deed) *(from Transferor and Transferee – both)*.
4. Affidavit duly notarized regarding endorsement made earlier in respect of certificates for which present request is being made, and reasons for the said earlier endorsement *(from Transferor and Transferee both)*
5. The applicant shall submit newspaper cutting published in one National level and other in regional Newspaper for transfer of certificate(s).
6. Joint application signed by both the parties in respect of each registration certificate on a non-judicial stamp paper duly Notarized with the following details: *(from Transferor and Transferee – both)*.
 - (i) Date of commissioning the EXISTING unit/Accepted date of commissioning of unit/units.
 - (ii) Complete address of the EXISTING manufacturing unit/units.
 - (iii) Details of production of different products for last one year in the EXISTING unit/units.
7. Attested copy of the manufacturing license issued by the State Licensing Authority containing the name of products for which a request for transfer of CR have been made by the Transferor.
8. The Transferor shall submit a letter (As prescribed in Annex I) from the concerned state licensing authority (of the existing unit/units) to the effect that state licensing authority has deleted the product (with complete details) from the manufacturing license issued in favor of the Transferor on the request of the Transferor and that there is no court case pending against the said product/CR. Further, they (State Licensing Authority) have no objection in transfer of CR issued in favor of Transferor to Transferee.
9. Attested copies of Certificate of incorporation issued by the Registrar of Companies in case of Private/Public Ltd. Companies together with copies of Memorandum and Articles of Association/Partnership deed or Deed for dissolution of partnership or LLP certificate or relevant documents/Affidavit from proprietor in case of proprietorship, as applicable. *(from Transferor and Transferee – both)*.



10. Attested copies of the Court Order on amalgamation or merger/documentary proof for divestment approvals/registered Will /documents and Succession Certificate.
11. No Objection Certificate from the competent court/judicial magistrate first class/executive magistrate that no Court case is either instituted or pending towards its transfer, under any provisions of the Insecticides Act and Rules framed there under/they have no objection to transfer of certificate(s).
12. Furnishing of original CR/s:-
After approval of the transfer application in the respective meeting of the Registration Committee (RC), the transferor shall immediately produce the original Certificate Registration(s) in the office of Sectt. of CIB&RC, Faridabad on any public meeting day for putting/affixing a stamp to the effects that CR is no more valid for(*name of Transferor*).....as is under transfer to(*name of Transferee*)on that original CR. The letter of transfer will be issued only after affixing the above said stamp on the CR.



CHECKLIST FOR ENDORSEMENT OF FACTORY ADDRESS FOR THE FIRST TIME/SHIFTING OF FACTORY AND ESTABLISHMENT OF SECOND FACTORY ADDRESS

NAME OF THE APPLICANT: M/S.....

1. Index
2. Page numbering & authentication of pages by authorized signatory.
3. Authorization for the signatory (Notarized copy of BOD resolution/affidavit/partnership deed)
4. Affidavit duly notarized regarding endorsement made earlier in respect of certificates for which present request is being made, and reasons for the said earlier endorsement.
5. No Objection Certificate' from the State Director of Agriculture for shifting of the factory / endorsement of new/additional/second factory address (*as per approved format*).
6. Notarized copy of Certificate (s) of Registration along with approved labels and leaflets.
7. Copy of labels and leaflets (If not approved earlier)




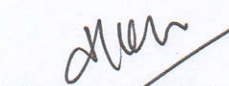
Annexure - V


CHECKLIST FOR ENDORSEMENT OF CHANGE OF NAME OF THE COMPANY/FIRM


Name of the Applicant: M/s.....

1. Index
2. Page Numbering & authentication of pages by authorized signatory
3. Authorization for the signatory (Notarized copy of BOD resolution/affidavit/partnership deed)
4. Notarized copy of Certificate (s) of Registration along with approved labels and leaflets.
5. Copy of labels and leaflets (If not approved earlier)
6. Affidavit duly notarized regarding endorsement made earlier in respect of certificates for which present request is being made, and reasons for the said earlier endorsement enclosing all the CRs and earlier endorsement letter issued till date also stating that applicant is aware that request in piecemeal shall not be entertained for change in name.
7. The applicant shall submit newspaper cutting published in one National level and other in regional Newspaper for change in name of Company/Firm and,
8. No Objection Certificate from the competent court/judicial magistrate first class/executive magistrate that no Court case is either instituted or pending towards its transfer, under any provisions of the Insecticides Act and Rules framed there under and they have no objection to change of name of company in the CRs.
9. In case of firm, copy of the Partnership Deed/ in case of Company, (a) Memorandum of Articles & Association (b) fresh Certificate of Incorporation consequent on change of Name, approved by Registrar of the Company, Ministry of Law, Justice & Company Affairs.


(Niraj Kulshrestha)
Law Officer


(Hariom Miglani)
Sr.Law Officer


(Dr. Archana Sinha)
Joint Director (Chem)


(Dr. Sandhya Kulshrestha)
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