



# Plant Varieties and Seeds Act 1964

## 1964 CHAPTER 14

### PART II

#### SEEDS AND SEED POTATOES

##### *Regulation of sales*

#### 16 Seeds regulations

- (1) The Minister, after consultation with representatives of such interests as appear to him to be concerned, may by statutory instrument make such regulations as appear to him to be necessary or expedient for the purpose—
  - (a) of ensuring that reliable and adequate information is afforded as to the nature, condition and quality of seeds which are sold or are for sale,
  - (b) of preventing the sale of seeds which are deleterious, and of preventing the sale of seeds which have not been tested for purity and germination, or which are of a variety the performance of which has not been subjected to trials,
  - (c) of preventing the spread of plant disease by the sale of seeds,
  - (d) of regulating the descriptions under which seeds are sold, and
  - (e) of prescribing anything which, under this Part of this Act, is authorised or required to be prescribed,and regulations under this section shall be known as seeds regulations.
- (2) Seeds regulations may include provisions as to the packets, bags, trays or other containers in which seeds may be sold or delivered to purchasers, and requirements as to the marking of such containers.
- (3) Seeds regulations may in particular—
  - (a) require information to be given in the prescribed manner (which may include the giving of it on any label, container or package) as regards seeds which are sold or offered or exposed for sale and, in particular, require the seller of any seeds to deliver a statement containing the prescribed particulars to the purchaser within the time limited by the regulations,

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- (b) require any of the particulars contained in a statement to be delivered to a purchaser or other person under seeds regulations to be particulars ascertained on a test of the seeds,
  - (c) prohibit the selling, or the offering or exposing for sale, of seeds which contain more than a prescribed proportion of weed seeds, or of weed seeds of a prescribed kind,
  - (d) prohibit persons from using, in relation to seeds which are sold, or are offered or exposed for sale, a prescribed name or designation or description except where the seeds have been grown or selected under the prescribed conditions,
  - (e) require persons who deal in seeds to supply the Minister with information as to, and to keep records of.—
    - (i) transactions in seeds,
    - (ii) statutory statements given or received by them, and other statements or invoices given or received by them in connection with the sale of seeds,
    - (iii) processes or treatments applied to seeds, and
    - (iv) the results of tests of seeds,
 and authorise officers of the Minister and other persons to call for production of the records,
  - (f) where persons who deal in seeds also grow seeds, require those persons to supply the Minister with information as to, and to keep records of—
    - (i) acreages sown, and
    - (ii) the yields of the crops,
 and authorise officers of the Minister and other persons to call for production of the records,
  - (g) regulate the procedure to be observed at, and the conduct of, official testing stations and other establishments at which tests may be carried out for the purposes of the regulations,
  - (h) regulate the manner in which any tests are to be made for the purposes of this Part of this Act,
  - (i) provide for the licensing by the Minister of establishments for the testing of seeds, other than official testing stations, and authorise the Minister to charge a fee for, and to attach conditions to, any such licence, and to make the conditions enforceable by withdrawal of the licence or by making a breach of any of the conditions an offence against seeds regulations.
- (4) In prescribing the manner in which samples are to be taken for the purposes of any provision in this Part of this Act or for the purposes of seeds regulations, the regulations—
- (a) may impose conditions as to the persons authorised to take samples and the places where they may be taken,
  - (b) may require the person taking a sample to give part of it to the owner of the seeds or to some other person, may prescribe the manner in which the sample is to be divided into parts and may impose duties as respects the marking or labelling and the preservation of the parts of the sample, and
  - (c) may provide for the identification, by the labelling or marking of their container or by some other method, of seeds from which a sample has been taken.
- (5) Seeds regulations—

- (a) may exempt, or authorise the Minister to exempt, any person or class of persons, or persons generally, from compliance with any of the provisions of the regulations, and may provide that the exemptions are to be, or may be made, subject to conditions, and
  - (b) may contain such transitional provisions consequent on the repeal of the Seeds Act 1920 by this Act as may appear to the Minister to be expedient.
- (6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament
- (7) If any person—
  - (a) in a statutory statement includes anything which is false in a material particular, or
  - (b) contravenes any provision contained in seeds regulations which concerns the use of a name or designation or description in relation to any seeds,he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.
- (8) If a person contravenes any provision contained in seeds regulations, and the contravention does not fall under subsection (7) of this section, he shall be liable on summary conviction—
  - (a) in the case of a first offence under this subsection, to a fine not exceeding twenty pounds, and
  - (b) in the case of a second or subsequent offence under this subsection, to a fine not exceeding fifty pounds.

## **17 Civil liabilities of sellers of seeds**

- (1) If and so far as seeds regulations provide that a statutory statement shall constitute a statutory warranty for the purposes of this section, the statutory statement, when received by the purchaser, shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained in the statutory statement are correct.
- (2) If and so far as seeds regulations apply this subsection to the particulars in a statutory statement and prescribe limits of variation in relation to those particulars, those particulars shall, for the purposes of any legal proceedings on a contract for the sale of the seeds to which the statutory statement relates, be deemed to be true except so far as there is a misstatement in the Statutory particulars which exceeds the limits of variation so prescribed.
- (3) If and so far as seeds regulations apply this subsection to the particulars in a statutory statement, the particulars in the statutory statement shall, for the purposes of any legal proceedings on a contract for the sale of the seeds to which the statutory statement relates, be deemed to be true unless it is made to appear on a test carried out at an official testing station, and made on a sample taken in the manner, and within the period, prescribed by seeds regulations, that the particulars were untrue.
- (4) Where a purchaser intends to obtain a test of seeds for the purposes of subsection (3) of this section, the seller of the seeds shall be given written notice of the purchaser's intention not more than the prescribed period after delivery to the purchaser of the seeds under the sale, and seeds regulations shall prescribe a procedure for taking a sample of seeds to be tested for the purposes of that subsection which will afford to

the seller of the seeds or his agent an opportunity of being present when the sample is taken, and of obtaining part of the sample.

- (5) A contravention of seeds regulations shall not affect the validity of a contract for the sale of seeds, or the right to enforce such a contract.
- (6) In Scotland a contract for the sale of seeds may not be treated as repudiated by reason only of a breach of a written warranty having effect by virtue of subsection (1) of this section.

## **18 Defences in proceedings for offences against seeds regulations**

- (1) If and so far as seeds regulations for the purposes of this section prescribe limits of variation in relation to the particulars in a statutory statement, it shall be a defence to proceedings under this Act for including in a statutory statement any false particulars to prove that the mis-statements in the particulars alleged to be false do not exceed the limits of variation so prescribed.
- (2) Subject to the provisions of this section, it shall be a defence—
  - (a) to proceedings under this Part of this Act for including false particulars in a statutory statement,
  - (b) to proceedings under this Part of this Act for an offence against seeds regulations relating to the nature, condition or quality of any seeds, and
  - (c) to proceedings under this Part of this Act for an offence against seeds regulations relating to a prescribed name or designation or description,
 to prove—
  - (i) that the accused took all reasonable precautions against committing an offence of the kind alleged and had not at the time of the alleged offence any reason to suspect that an offence was being committed by him, and
  - (ii) where the accused obtained the seeds to which the alleged offence relates from some other person, that on demand by or on behalf of the prosecutor the accused gave all the information in his power with respect to the name and address of that other person, and with respect to any statutory statement or other document in his possession or power relating to the seeds, and the contract of sale,
- (3) If in any such proceedings as are mentioned in subsection (2)(a) of this section any of the particulars alleged to be false are particulars which, by seeds regulations, are to be particulars ascertained by means of a test made in accordance with the regulations, the defence under subsection (2) of this section shall not be available unless it is proved—
  - (a) that those particulars were ascertained on such a test and that the test was made not earlier than the date, if any, prescribed by seeds regulations for the purpose, or
  - (b) that—
    - (i) the accused purchased the seeds from another person who, in connection with the sale, duly delivered to the accused a statutory statement giving particulars of the seeds which were the same as the particulars alleged to be false, and
    - (ii) the accused had no reason to believe that paragraph (a) of this subsection did not apply in relation to those particulars.

## **19 Presumption as respects statutory statements under seeds regulations**

For the purposes of this Part of this Act and of any seeds regulations, any statutory statement made as respects seeds which are in distinct portions shall be presumed to be made both as respects the seeds as a whole and also as respects each portion taken separately.

### *The Index*

## **20 Index of names of plant varieties**

- (1) The Ministers may in accordance with this section prepare an index of names of plant varieties for use in connection with the sale of seeds of those varieties (in this Part of this Act referred to as " the Index ").
- (2) The Index shall be compiled in sections, and each section shall define the class of plant varieties to which it relates in such terms as to make it possible to determine whether any plant variety belongs to the class or not, irrespective of whether that variety is for the time being in the Index.
- (3) Different sections of the Index may be prepared, and may come into force, at different times.
- (4) Notice of the coming into force of a section of the Index, and of all additions, corrections and erasures in a section of the Index after it has come into force, shall be published by the Ministers in the gazette to be issued under Part IV of this Act, and in such other manner as appears to the Ministers to be appropriate for ensuring that persons particularly concerned with the Index, or with the class of plant varieties to which the section of the Index relates, have their attention drawn to it.
- (5) After a section of the Index has come into force any person who in selling seed of a plant variety for which a name is given in that section of the Index, or in offering or exposing for sale any such seed, uses some name not given in the Index for that plant variety, being a name which serves or is intended by him to serve to distinguish the seed from seed of other plant varieties within the class to which the section relates, shall be guilty of an offence under this section.
- (6) The Ministers may for the purposes of this section establish, or arrange for the establishment of, a reference collection of plant material.
- (7) Schedule 5 to this Act shall have effect as to the procedure for compiling the Index and the other matters there mentioned.
- (8) In this and the three next following sections, and in Schedule 5 to this Act—
  - " class " means a class of plant varieties to which a section of the Index relates ;
  - " name " includes any designation,and for the purposes of those provisions a plant variety shall not be regarded as distinct from another plant variety unless it is clearly distinguishable by one or more important morphological, physiological or other characteristics.

## **21 Restrictions on sales of seeds of unindexed plant varieties**

- (1) Subject to this section, after a section of the Index has come into force it shall be an offence under this section for any person in selling seed of a plant variety which is within the class to which the section of the Index relates, but which is not in the Index, or in offering or exposing for sale any such seed, to use a name which serves or is intended by him to serve to distinguish the seed from seed of other plant varieties within that class.
- (2) Subsection (1) of this section shall not apply—
  - (a) to a person who reasonably believes that the seed is to be used for scientific purposes or for the purposes of research, or
  - (b) to a person who reasonably believes that the seed will be used outside Great Britain.
- (3) Where any person makes, or proposes to make, arrangements under which some other person uses seed under the control of the first-mentioned person for the purpose of increasing the first-mentioned person's stock, or of carrying out tests or trials, and under which the whole of the material produced, directly or indirectly, from the seed, and any unused seed, becomes or remains the property of the first-mentioned person, subsection (1) of this section shall not apply—
  - (a) to a sale, or offer for sale, of the seed by the first mentioned person to the other person as part of the arrangements, or
  - (b) to a sale by that other person to the first-mentioned person of seed produced, directly or indirectly, from that seed.
- (4) Except as provided by paragraph 3(3) of Schedule 5 to this Act, the Ministers shall not refuse an application for the inclusion of a plant variety in the appropriate section of the Index after it has come into force on any ground other than that in their opinion the plant variety is not distinct from a plant variety which is for the time being in the Index.
- (5) If at any time it appears to the Ministers that they will not be able to give a decision on such an application within two years from the time when the applicant has complied with the conditions prescribed under Schedule 5 to this Act for making the application, they shall make an entry in the Index giving to the plant variety such provisional name as appears to them appropriate; and when the decision has been given they shall make such corrections as may be required to give effect to the decision.
- (6) The applicant may appeal to the Tribunal against the refusal by the Ministers of such an application, and the Tribunal may at any time before the final determination of the appeal require the Ministers to make an entry in the Index giving a provisional name for the plant variety to which the application relates pending the determination of the appeal.

## **22 Performance trials and reports for new varieties within a section of the Index**

- (1) If the Ministers by order bring this section into force for any class of plant varieties in the Index, this section shall apply to any new plant variety within the class.

An order under this subsection may be revoked by a subsequent order, but without prejudice to liability for any offence before the revocation takes effect; and any order under this subsection shall be made by statutory instrument after consultation with representatives of such interests as appear to the Ministers to be concerned and any

such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (2) For the purposes of this section a plant variety shall be a new variety if it was not in the Index when the order under the foregoing subsection came into force unless it has been exempted under the next following subsection.
- (3) The Ministers may on an application from any person, and on being satisfied that seed of a plant variety, although unindexed, was in commercial use in Great Britain before the order under subsection (1) of this section took effect, exempt that plant variety from the provisions of this section.

An appeal shall lie to the Tribunal against the refusal of an application under this subsection.

- (4) Subject to this section, it shall be an offence under this section—
  - (a) to sell seed of a new plant variety to which this section applies, or
  - (b) to offer or expose for sale any such seed, or
  - (c) to advertise for use any such seed,

until seed of that plant variety has been submitted for the purpose of performance trials of that plant variety in accordance with this section, and until a report on the result of the performance trials has been published in the manner prescribed by regulations under this section; and paragraphs (b) and (c) of this subsection shall apply whether or not the offer for sale or advertisement relates only to sales after the performance trials and report.

- (5) Paragraphs (a) and (b) of the last foregoing subsection shall not apply to a sale or offer for sale of seed which is not in Great Britain when the sale or offer for sale is made; but, subject to this section, where a person has acquired seed of a new plant variety to which this section applies, being seed which was not in Great Britain when he acquired it, it shall be an offence under this section for him in the course of business—
  - (a) to use any of that seed in Great Britain as reproductive material at any time when under the last foregoing subsection it is unlawful to sell seed of that plant variety there; or
  - (b) at any such time so to dispose of any of that seed (otherwise than by way of sale) while it is in Great Britain as to make it available for use there as reproductive material.
- (6) Subsection (4) of this section shall not apply to any sale or offer for sale of the kind described in subsection (3) of the last foregoing section, and subsection (5) of this section shall not apply to the use of seed for the purpose of carrying out tests or trials.
- (7) If it appears to the Ministers that a new plant variety to which this section applies has undergone performance trials and that an adequate report of the result of those performance trials is generally available, or that there is any other sufficient reason for dispensing with the requirements of subsections (4) and (5) of this section, they may direct that those subsections shall cease to apply to seed of that plant variety, but without prejudice to liability for any offence previously committed.
- (8) For all new plant varieties to which this section applies there shall be a time limit by which (so far as practicable) the report on the result of the performance trials is to be published in accordance with this section; and if the report on the result of the performance trials of a new plant variety to which this section applies is not published within the time limit, subsections (4) and (5) of this section shall cease to apply to

seed of that plant variety, but without prejudice to liability for any offence committed before the time limit ran out. Except so far as regulations under this section otherwise provide for a class or part of a class, the time limit shall be two years from the date on which the performance trials begin.

(9) The Ministers shall in making entries in a section of the Index after an order under subsection (1) of this section has taken effect—

- (a) employ a method which will distinguish those entries from the earlier entries and indicate which of the later entries relate to plant varieties exempted under subsection (3) of this section, and
- (b) make additional entries showing when subsections (4) and (5) of this section have ceased to apply to seeds of a new plant variety.

(10) The Ministers may by statutory instrument make regulations for the purposes of this section and, in particular, may by those regulations provide—

- (a) for the manner of making applications under subsection (3) of this section, and applications for submitting plant varieties for performance trials,
- (b) for the information to be afforded by an applicant and the materials to be submitted at the time of application or subsequently,
- (c) for the manner in which the reports are to be published and brought to the attention of those concerned,
- (d) for the compiling of a register of applications for the submission of seeds for performance trials, of the reports of the results of those trials, and of the dates of publications of the reports, and for including entries which will show the date when the time limit under subsection (8) of this section will fall,
- (e) for requiring the Ministers to publish notice of any direction under subsection (7) of this section, and of any case where a report is not published within the time limit under subsection (8) of this section,

and regulations under this subsection made with the approval of the Treasury may authorise the charging of fees to applicants for the submission of seeds for performance

A statutory instrument under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) References in this section to advertising are references to advertising in any medium, including sound and television broadcasting ; but for the purposes of this section the communication of information in any publication for scientific purposes or purposes of research shall not be regarded as advertising.

## **23 Punishment for offences in connection with the Index**

- (1) A person guilty of an offence under any of the three last foregoing sections shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.
- (2) 'Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952 or section 23 of the Summary Jurisdiction (Scotland) Act 1954 (time limit for proceedings), proceedings for an offence under any of the three last foregoing sections may be brought at any time not more than two years from the time when the offence was committed.
- (3) It shall be a defence to proceedings for an offence under any of the three last foregoing sections to prove;—

- (a) that the accused took all reasonable precautions against committing an offence of the kind alleged and had not at the time of the alleged offence any reason to suspect that an offence was being committed by him, and
  - (b) where the accused obtained the seeds to which the alleged offence relates from some other person, that on demand by or on behalf of the prosecutor the accused gave all the information in his power with respect to the name and address of that other person, and with respect to any statutory statement or other document in his possession or power relating to the seeds, and the contract of sale.
- (4) If any information submitted to the Ministers by or on behalf of—
- (a) a person making an application or representations as respects any matter connected with the compilation or alteration of the Index, or
  - (b) an applicant under subsection (3) of the last foregoing section,
- is false in a material particular and the person giving the information knows that it is false or gives the information recklessly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

### *Official testing stations*

## **24 Official testing stations and certificates of test**

- (1) Subject to this section, the Minister of Agriculture, Fisheries and Food and the Secretary of State shall respectively continue to maintain the official seed testing stations established for England and Wales and for Scotland under the Seeds Act 1920.
- (2) The Ministers may unite in establishing and maintaining, on such terms as may be agreed between them, a common official seed testing station for the whole of Great Britain.
- (3) Either or both of the Ministers may at any time alter the arrangements made by them for official seed testing stations for England and Wales and for Scotland respectively, and any official seed testing station established by either or both of them may be established in conjunction with any other bodies or persons.
- (4) The Minister or Ministers concerned may, subject to the approval of the Treasury, authorise the charging of fees for the services given at an official seed testing station.
- (5) A certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of this Part of this Act shall be in the form prescribed by seeds regulations.
- (6) A certificate of the result of a test at an official seed testing station of a sample taken for the purposes of this Act, and purporting to be issued by an officer of an official seed testing station.—
  - (a) if the sample was taken by an authorised officer, shall, if a copy of the certificate has been served on the accused with the summons or complaint, be sufficient evidence of the facts stated in the certificate in any proceedings for an offence under this Part of this Act, and
  - (b) if the sample was taken by a person other than an authorised officer in order to obtain the test for the purposes of section 17(3) of this Act, shall be sufficient

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evidence of the facts stated in the certificate in any such legal proceedings as are mentioned in that subsection,

unless, in either case, either party to the proceedings requires that the person under whose direction the test was made be called as a witness ; and in that event, in the case of proceedings in Scotland, the evidence of that person shall be sufficient evidence of the facts stated in the certificate.

- (7) In any proceedings for an offence under this Part of this Act in which a copy of a certificate of the result of a test has been served with the summons or complaint in pursuance of paragraph (a) of the last foregoing subsection, the accused, unless the court otherwise directs, shall not be entitled to require that the person under whose direction the test was made be called as a witness unless he has, at least three clear days before the day on which the summons is returnable or, in Scotland, the case proceeds to trial, given notice to the prosecutor that he intends to do so.

### *Supplemental*

## **25 Powers of entry**

- (1) The powers of entry conferred by subsections (3) and (4) of this section may be exercised for the purpose of exercising—
- (a) the further powers conferred by subsections (5) and (6) of this section, or
  - (b) any powers of calling for, inspecting or taking copies of records or other documents conferred by seeds regulations,
- or for the purpose of ascertaining whether there is, or has been, on or in connection with the premises (including any vehicle or vessel) any contravention of any provision contained in this Part of this Act or in seeds regulations.
- (2) This section shall not authorise entry into any premises which are used exclusively as a private dwelling.
- (3) Any person duly authorised by the Minister in that behalf may, on production if so required of his authority, at all reasonable hours enter any premises which he has reasonable cause to believe to be used for any purpose of a business in the course of which seeds are sold, whether the sale is by wholesale or retail, and whether the person conducting it acts as principal or agent.
- (4) Any person duly authorised by the Minister in that behalf may, on production if so required of his authority, at all reasonable hours enter any premises on which he has reasonable cause to believe that there are any seed potatoes which have been sold and which are to be delivered, or are in the course of delivery, to the purchaser, and the power of entry under this subsection may be exercised when the seed potatoes are in transit in the course of delivery to the purchaser, and in particular when they are in any vehicle or vessel in the course of delivery.
- (5) A person may, on any premises (including any vehicle or vessel) which he has power under this section to enter for the purpose of exercising the powers conferred by this subsection, examine any seeds which he finds there and may without payment take samples of any seeds so found.
- (6) The owner of any seeds which are offered or exposed for sale, or are stored for purposes of sale, or any person authorised to sell those seeds, may be required by a person duly authorised by the Minister in that behalf to deliver to him such a statement,

if any, as the person selling them would by seeds regulations be obliged to deliver to a purchaser of those seeds, and to deliver it within the time prescribed for such a statement.

(7) If any person fails to comply with a requirement under subsection (6) of this section he shall be liable on summary conviction—

- (a) in the case of a first offence under this subsection, to a fine not exceeding twenty pounds, and
- (b) in the case of a second or subsequent offence under this subsection, to a fine not exceeding fifty pounds,

and references in this Part of this Act to a statutory statement shall include references to a statement delivered under subsection (6) of this section.

(8) This section shall apply as respects—

- (a) all kinds of seeds in respect of which an offence may under any circumstances be committed under seeds regulations as for the time being in force, and
- (b) seeds of all plant varieties which are within any class to which a section of the Index which has come into force relates.

(9) A person who obstructs or impedes any person acting in the exercise of the powers conferred by this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

## **26 Use of samples in criminal proceedings**

(1) Evidence shall not be adduced in proceedings for an offence under this Part of this Act respecting a sample taken by an authorised officer unless the sample was taken in the manner prescribed by seeds regulations.

(2) Seeds regulations shall provide for the sample being divided into at least two parts, and for one of the parts being given to the owner of the seeds or to such other person as may be prescribed by seeds regulations, and shall provide for a third part of the sample to be retained for production in all cases where use of it may be made by the court under this section.

(3) A certificate in the form prescribed by seeds regulations purporting to be issued by an authorised officer and stating that a sample was taken in the prescribed manner shall be sufficient evidence of the facts stated in the certificate.

(4) If part of a sample taken by an authorised officer is sent to the chief officer of an official testing station, it shall be so sent as soon as practicable after the sample is taken, and the person to whom any other part of the sample is given shall be informed before the first-mentioned part is sent.

(5) A copy of a certificate issued by an official testing station stating the result of a test of part of a sample taken by an authorised officer shall be sent to the person to whom any other part of the sample is given.

(6) In any proceedings for an offence under this Part of this Act in respect of seeds which have been sampled by an authorised officer, the summons shall not be made returnable, and, in Scotland, the case shall not proceed to trial, less than fourteen days from the day on which the summons or complaint is served, and a copy of any certificate of an official testing station which the prosecutor intends to adduce as evidence shall be served with the summons or complaint.

- (7) In proceedings for including in a statutory statement false particulars concerning matters which are under seeds regulations to be ascertained, for the purpose of the statement, by a test of the seeds, if any sample of the seeds has been taken by an authorised officer, the third part of that sample required by seeds regulations to be retained as mentioned in subsection (2) of this section shall be produced at the hearing.
- (8) The court may, if it thinks fit, on the request of either party, cause the part so produced to be sent to the chief officer of an official testing station, who shall transmit to the court a certificate of the result of a test of that part of the sample.
- (9) If, in a case where an appeal is brought, no action has been taken under the last foregoing subsection the provisions of that subsection shall apply also to the court by which the appeal is heard.
- (10) A sample taken before the coming into force of this Part of this Act in accordance with section 4 of the Seeds Act 1920 shall be regarded as taken in the prescribed manner for the purposes of subsection (1) of this section.

## **27 Tampering with samples**

- (1) If any person—
  - (a) tampers with any seeds so as to procure that a sample taken in the manner prescribed by seeds regulations for any purpose does not correctly represent the bulk of the seeds, or
  - (b) tampers with any sample so taken, or
  - (c) with intent to deceive sends, or causes or allows to be sent to any official testing station or licensed testing establishment, to be tested for any purpose, a sample of seeds which to his knowledge does not correctly represent the bulk of the seeds,
 he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three, months, or to both.
- (2) In this section "licensed testing establishment" means an establishment licensed under seeds regulations for the testing of seeds.

## **28 Institution of criminal proceedings**

- (1) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952 or section 23 of the Summary Jurisdiction (Scotland) Act 1954 (time limit for proceedings), where a part of a sample has been tested at an official testing station proceedings for including in a statutory statement false particulars concerning the matters which are under seeds regulations to be ascertained, for the purposes of the statement, by a test of the seeds, being proceedings relating to the seeds from which the sample was taken, may be brought at any time not more than six months from the time when the sample was taken.
- (2) If at any time before a test is begun at an official testing station to ascertain whether a part of a sample of seeds is of a specified variety or type, and not more than six months after the sample was taken, the person to whom any other part of the sample was given, or any other person, is notified in writing by an authorised officer that it is intended so to test the seeds and that, after the test, proceedings may be brought against that person for including in a statutory statement a false statement that seeds were of a specified variety or type, then notwithstanding anything in the said section 104 or

23, any such proceedings relating to the seeds from which the sample was taken may be brought against the person so notified at any time not more than two years from the time when the sample was taken.

A certificate purporting to be issued by an authorised officer and stating that a person was so notified shall be sufficient evidence of that fact.

- (3) Proceedings for an offence under this Part of this Act relating to a statutory statement which has been delivered to a purchaser of seeds, or relating to seeds which have been sold and delivered to the purchaser, may be brought before a court having jurisdiction at the place of delivery of the statement or seeds.

## **29 Application of Part II to seed potatoes**

This Part of this Act applies to seed potatoes as it applies to seeds, and accordingly, except where the context otherwise requires, references in this Part of this Act to seeds include references to seed potatoes.

## **30 Interpretation of Part II**

- (1) In this Part of this Act, unless the context otherwise requires.—

" authorised officer " means an officer of the Minister or a person authorised by the Minister to execute this Part of this Act;

" official testing station " means an official seed testing station maintained by the Minister or Ministers under this Part of this Act;

" seeds " includes agricultural and horticultural seeds, vegetable seeds, flower seeds, seeds of grasses, whether used for agricultural purposes or other purposes, and seeds of trees;

" statutory statement " means a statement given in pursuance of seeds regulations, whether the statement be in the form of a notice or other document, or in the form of particulars given on any label or container or package, or in any other form, and includes a statement delivered under section 25(6) of this Act.

- (2) In this Part of this Act references to a contravention of any provision contained in this Act or in seeds regulations include references to a failure to comply with such a provision, and references to a contravention of any provision contained in seeds regulations include references to anything which, by the regulations, is expressed to be an offence against a provision contained in the regulations and also include references to any failure to comply with a condition subject to which an exemption is granted by or under seeds regulations.
- (3) In this Part of this Act any reference to an offence under this Part of this Act includes, unless the context otherwise requires, a reference to a contravention of any provision contained in seeds regulations.

## **31 Repeals and consequential amendment**

- (1) The enactments mentioned in Schedule 6 to this Act (which include certain enactments which were obsolete before the passing of this Act) shall, except for the purposes of proceedings for offences thereunder committed before the coming into force of this Part of this Act, be repealed to the extent specified in the third column of that Schedule.

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*Status: This is the original version (as it was originally enacted).*

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- (2) In section 2(1)(a) of the Merchandise Marks Act 1953 (exception for statutory descriptions of agricultural produce) for the words from " the Seeds Act 1920 " to the end of the paragraph there shall be substituted the words " seeds regulations ; or ".