



Plant Varieties and Seeds Act 1964

1964 CHAPTER 14

PART II

SEEDS AND SEED POTATOES

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.

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- (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

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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.
- (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 ".