

**CHAPTER 236  
THE PLANT VARIETY AND SEEDS ACT**

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

Section

- 1.Short title
- 2.Interpretation

**PART II**

**ADMINISTRATION-REGISTRATION OF SEED IMPORTERS AND SEED CLEANERS**

- 3.Control and Certification Institute
- 4.Registers
- 5.Application for registration of seed importer or seed cleaner
- 6.Registration in cases of partnership business of seed importers or seed cleaners
- 7.Inspection on application for registration
- 8.Certificate of registration of seed importer or seed cleaner
- 9.Renewal of registration
- 10.Devolution and transfer of business of registered seed importer or registered seed cleaner
- 11.Cancellation of registration
- 12.Reasons for refusal to register or for cancellation: when to be furnished
- 13.Appeal to Minister
- 14.Alteration of registration of seed importer or seed cleaner
- 15.Exemption from registration

16.Registration fees

### **PART III**

## **TESTING OF SEEDS-CERTIFYING AUTHORITY AND CERTIFYING AGENCY-OFFICIAL SEED-TESTERS**

17.Power to licence Certifying Agency

18.Designation of seed inspectors or testers

Section

19.Rolls of official seed-testers, Certifying Authority and Certifying Agency stations

20.Prohibition against testing of prescribed seed except in Certifying Authority or Certifying Agency stations

21.Delivery of samples for official test

22.Reports, licences and other documents of Certifying Authority

### **PART IV**

## **INSPECTORS OF SEEDS**

23.Inspectors of seeds

24.Duly authorised officers

25.Powers of inspectors or duly authorised officers to take samples of seed

26.Powers of inspectors or duly authorised officers to search premises and seize certain goods

27.Prohibition against obstruction, etc., of inspectors and duly authorised officers

### **PART V**

## **LICENSING OF SEED SELLERS**

28.Non-application of this Part to seed producers or to registered seed importers

29.Seed seller's licence

30.Application for seed seller's licence

31.Refusal to issue seed seller's licence

32.Revocation of seed seller's licence

33.Appeal to Minister

34. Right of former licensee under expired or revoked licence to apply for new licence

### **PART VI**

## **PRESCRIBED SEED**

- 35. Power of Minister to declare seed to be prescribed seed
- 36. Treating and cleaning of prescribed seed
- 37. Duties of seller on sale of prescribed seed
- 38. Disposal of sub-standard prescribed seed

## **PART VII**

### **IMPORT AND EXPORT OF SEED**

#### Section

- 39. Restricted seed
- 40. Prohibition against importation of restricted seed
- 41. Power of Minister to permit importation of restricted seed
- 42. Prohibition against importation of prescribed seed except by registered seed importer
- 43. Conditions for importation of prescribed seed
- 44. Required test of imported prescribed seed
- 45. Importation of trade samples of prescribed seed
- 46. Seizure and disposal of unlawfully imported restricted seed
- 47. Power of Minister to control export of prescribed seed

## **PART VIII**

### **CERTIFIED SEED**

- 48. Certified seed
- 49. Power of Minister to specify specified varieties for certification
- 50. Zambia certified seed
- 51. Imported certified seed
- 52. Registered seed producers
- 53. Register of seed producers
- 54. Registration of seed producers
- 55. Cancellation of registration of registered seed producer
- 56. Reasons for refusal to register or for cancellation: when to be furnished
- 57. Appeal to Minister
- 58. Power of Minister to approve prescribed seed for production of Zambia certified seed.
- 59. Power of Minister to certify seed as Zambia certified seed
- 60. Zambia certified seed to be produced from approved seed

61. Certificate to be produced on sale of Zambia certified seed by registered seed producer

62. Power of Minister to certify imported prescribed seed as imported certified seed

63. Duties of seller on sale of certified seed in sealed containers

64. Prohibition against sale of uncertified seed as certified seed

Section

65. Prohibition against sale of certified seed without possession of appropriate certificate

66. When seed failing to meet certification standards may be sold as quality declared seed

## **PART IX**

### **OFFENCES AND MISCELLANEOUS**

67. Failure to comply with Act or regulations an offence

68. Prohibition against sale of prescribed seed without seed seller's licence

69. Prohibition against sale of untested prescribed seed

70. Prohibition against sale of sub-standard prescribed seed

71. Prohibition against sale of prescribed seed under name other than varietal name

72. Prohibition against tampering with samples

73. Prohibition against altering, defacing or removing official records, etc.

74. Prohibition against altering, etc., documents and marks

75. Secrecy

76. Inspection of registers and rolls

77. When Act applies to contract of sale of prescribed seed as future goods, or upon a contingency

78. When Act not applicable to sale of prescribed seed

79. (*Repealed by Act No. 21 of 1995*)

## **PART X**

### **PROCEEDINGS AND PENALTY**

80. Venue of proceedings for offences

81. Reports on tests *prima facie* evidence of facts reported

82. Presumption of correctness of statement for purposes of civil proceedings on contract of sale

83. Penalty

**PART XI**

**REGULATIONS AND RULES**

Section

84.Regulations

85.Rules of court

FIRST SCHEDULE-Fees payable on first registration as registered seed importer or registered seed cleaner and on renewal thereof

SECOND SCHEDULE-Fees payable on registration of a transferee or successor in interest

**CHAPTER 236**

**PLANT VARIETY AND SEEDS**

14 of 1967

13 of 1994

21 of 1995

An Act to provide for the regulation and control of the production, sale and import of seed for sowing and of the export of seed, and to provide for the testing and for minimum standards of germination and purity thereof, and further to provide for the certification of seed and for matters incidental to or connected with the foregoing.

[1st December, 1968]

**PART I**

**PRELIMINARY**

1. This Act may be cited as the Plant Variety and Seeds Act.

Short title

(As amended by Act No. 21 of 1995)

2. In this Act, unless the context otherwise requires-

Interpretation

"aggrieved party" means any person whose application for registration under Part II has been refused or made subject to any condition by the Certifying Authority, or any person who had been registered under Part II and whose registration has been cancelled by the Certifying Authority;

"authorised officer" means an officer appointed under section *three*.

"certified seed" means any prescribed seed which is certified under the provisions of Part VIII;

"contract of sale" includes an agreement to sell;

"Certifying Agency" means any seed company or institution licenced as a seed testing station under Part II.

"Certifying Authority" means the person designated as such in pursuance of the provisions of section *three*;

"court" means a subordinate court, save where otherwise appears;

"duly authorised officer" means any public officer authorised by the Minister under section *twenty-four* to exercise the powers of an inspector of seeds under this Act;

"future goods", in relation to a contract of sale of prescribed seed, means prescribed seed to be acquired by the seller after the making of the contract of sale;

"imported certified seed" means any prescribed seed certified in the country of its origin imported by a registered seed importer and certified as imported certified seed under the provisions of Part VIII;

"inspector" means a person designated as an inspector of seeds under section *twenty-three*;

"licensed seed seller" means any seed seller licensed as such under Part V;

"official seed-tester" means a person approved by the Certifying Authority as an official seed-tester under section *eighteen*;

"owner", in relation to any seeds, includes any person having for the time being the possession thereof;

"prescribed seed" means any seed to which this Act applies by virtue of a regulation made under section *thirty-five*;

"purity" means analytical purity expressed as a percentage by weight;

"registered seed cleaner" means any seed cleaner registered as such for the time being under Part II;

"registered seed importer" means any seed importer registered as such for the time being under Part II;

"registered seed producer" means any seed producer registered as such for the time being under Part VIII;

"restricted seed" means any seed to which a regulation made under section *thirty-nine* applies;

"sale in sealed containers" means any sale of prescribed seed in containers sealed for the purposes of sale and sold at a price stated and fixed for each container of equal weight, quantity or volume, or any multiple thereof; or any such sale where each container is expressed to contain a specific weight, quantity or volume of seed and the price is calculated on the basis of such weight, quantity or volume, as the case may be;

"sealed container" means any sack, bag, barrel, box, package, carton, envelope or other receptacle which is closed by means of sewing, stitching, stapling, nailing, heat sealing, gumming or glueing;

"seed" means the part of any plant, customarily referred to as seed, intended for planting and includes seed potatoes;

"seed cleaner" means any person engaged in the trade or business of eliminating impurities from seed;

"seed cleaning plant" means any premises used for the elimination of impurities from seed;

"seed importer" means any person who, either exclusively or in conjunction with any other trade or business, imports seed into Zambia for re-sale;

"seed producer" means any person who, either exclusively or in conjunction with any other trade or business, produces seed for sale;

"seed seller" means any person who, either exclusively or in conjunction with any other trade or business, sells seed for sowing;

"seed-testing station" means any premises, suitably equipped therefor, where seed is tested for its purity and germination capacity;

"sell" includes to exchange or barter or to offer, advertise, keep, expose, transmit, convey or delivery for or in pursuance of a sale, exchange or barter, and cognate words shall be construed accordingly;

"specified variety" means any variety of prescribed seed which has been specified by the Minister pursuant to section *forty-nine* for the purposes of Part VIII;

"variety" means a subdivision of any kind which can be differentiated from other subdivisions of that kind by growth, plant, fruit or other characteristics and any uniform group which is a first generation hybrid (F1) reconstituted on each occasion by crossing two or more breeding stocks maintained by inbreeding;

"Zambia certified seed" means any prescribed seed produced by a registered seed producer and certified pursuant to the provisions of Part VIII.

*(As amended by Act No. 21 of 1995)*

## **PART II**

### **ADMINISTRATION-REGISTRATION OF SEED IMPORTERS AND SEED CLEANERS**

**3.** (1) The Seed Control and Certification Institute is hereby designated Control and as the Certifying Authority and shall be responsible for the Certification administration of this Act. Institute

(2)The Certifying Authority may, subject to the general or specific direction of the Minister, delegate any of its functions under this Act to any authorised officer in the public service.

*(As amended by Act No. 21 of 1995)*

**4.** The Certifying Authority shall cause to be kept- Registers

(a) a Register of Seed Importers which shall contain-

(i) the names and addresses, and the principal business addresses in Zambia, of all seed importers registered under this Act;

(ii) such other particulars as may be prescribed;

(b) a Register of Seed Cleaners which shall contain



(i) the names and addresses, and the principal business addresses in Zambia, of all seed cleaners registered under this Act;

(ii) such other particulars as may be prescribed.

**5. (1)** Application for the registration of any seed importer or any seed cleaner shall be made to the Certifying Authority in the prescribed form and shall be accompanied by the prescribed registration fee. Application for registration of seed importer or seed cleaner

(2) As soon as practicable after the receipt of such application the Certifying Authority shall-

(a) if he is satisfied that the applicant complies with the prescribed requirements, enter the name and address and principal business address of the applicant in the appropriate register as a registered seed importer, or registered seed cleaner, as the case may be;

(b) if he is not satisfied that the applicant complies with the prescribed requirements, refuse to register the applicant.

(3) Any registration under this section shall be valid until cancelled under the provisions of this Act, or until and including the 31st March next after the date of such registration, whichever is the earlier.

(4) The Certifying Authority may impose such conditions with regard to any registration under this section as it may deem to be necessary in order to ensure that the applicant complies with the provisions of this Act or with the prescribed requirements.

(5) The refusal of an application under this section for the registration of a seed importer or seed cleaner shall not prevent the making under this section of a fresh application for the registration of the same person as such seed importer or seed cleaner at any subsequent time.

(6) Any person who, having obtained registration as a seed importer or as a seed cleaner, subject to any condition imposed under subsection (4) or as amended by the Minister under section *thirteen*, fails to comply with such condition shall be guilty of an offence.

**6. (1)** Where an application is made under this Act for registration as a registered seed importer or registered seed cleaner, as the case may be, and the business sought to be registered is a partnership firm, the partners shall nominate one member of the firm, who shall, upon the Registration in cases of partnership business of seed

application being granted by the Certifying Authority, be registered as registered seed importer or registered seed cleaner, as the case may be, in respect of the said partnership business. importers or seed cleaners

(2) Registration of any person as a registered seed importer or registered seed cleaner in pursuance of the provisions of this section shall not be construed as affecting or limiting any liability present or future existing or arising between such partners, or between them and any third person.

**7.** (1) Upon application being made under this Act for first registration of any seed importer, the Certifying Authority may, if it deems it necessary for the purposes of its consideration of the said application, cause an inspector to inspect and report on such warehousing, storage and other facilities which the applicant proposes to use in and about the business of the importation of seeds. Inspection on application for registration

(2) Upon application being made under this Act for first registration of any seed cleaner, the Certifying Authority may, if it deems it necessary for the purposes of its consideration of the said application, cause an inspector to inspect and report on such premises, equipment and other facilities which the applicant proposes to use in and about the business of the cleaning of seeds.

*(As amended by Act No. 21 of 1995)*

**8.** (1) Upon the registration of any seed importer or any seed cleaner under this Act, the Certifying Authority shall issue a certificate of registration of a seed importer, or a certificate of registration of a seed cleaner, as the case may be, in the form prescribed, and shall furnish such certificate to the person registered under such registration, or his agent. Certificate of registration of seed importer or seed cleaner

(2) The registered seed importer or registered seed cleaner, as the case may be, shall cause the said certificate to be displayed in a prominent place within his principal place of business in Zambia and shall keep the same so displayed during the continuance of such registration.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence. *(As amended by Act No. 21 of 1995)*

**9.** (1) Any person registered under this Act as a registered seed importer or a registered seed cleaner, as the case may be, may apply to the Certifying Authority, in the form prescribed, for a renewal of his Renewal of registration

registration.

(2) Any application for renewal of any registration under this Act must be made to the Certifying Authority not more than three months and not less than one month before the expiry of such registration. The Certifying Authority may, at any time, extend the time herein prescribed for making such application for renewal of registration.

(3) Any such application for renewal of registration shall be accompanied by the fee prescribed.

(4) In the event of the death of the person registered under this Act as a registered seed importer or a registered seed cleaner within six months before the date of expiry of such registration, the Certifying Authority shall extend the time herein prescribed for making an application for renewal of such registration to a date not more than six months from the date of the death of the person so registered.

(5) In the event of an extension of time for the making of an application for renewal having been granted by the Certifying Authority under any provision of this section and the time granted extends beyond the date of expiry of the registration, the said registration shall be deemed for all of the purposes of this Act to have been extended to the date to which the said extension of time extends:

Provided, however, that upon renewal of such registration being granted the renewed registration shall relate back to the date of the expiry of the former registration, and the duration of the renewed registration shall be calculated from that date.

*(As amended by Act No. 21 of 1995)*

**10.** (1) Where a registered seed importer or a registered seed cleaner, as the case may be, dies, the following provisions shall have effect:

Devolution  
and  
transfer of  
business of  
registered seed  
importer or  
registered seed  
cleaner

(a) the death of the registered seed importer or registered seed cleaner shall not of itself render unlawful the carrying on, during the period of six months from such death, of the business theretofore carried on by the said deceased;

(b) the personal representative of the said deceased or, with the consent of such personal representative, any other person shall (subject

to the provisions of this section) be entitled, on application to the Certifying Authority in the form and manner prescribed, to be registered as registered seed importer or registered seed cleaner, as the case may be, in respect of the business formerly carried on by the said deceased;

(c) where the said deceased has been registered under the provisions of section *six*, the surviving partner or joint owner, or the nominee of the surviving partners or joint owners, as the case may be, shall (subject to the provisions of this section) be entitled, on application to the Certifying Authority in the form and manner prescribed, to be registered for the purposes of this Act as the registered seed importer or as the registered seed cleaner, as the case may be, in respect of the business formerly registered in the name of the said deceased:

Provided, however, that such registration under this paragraph shall be provisional only, until such time as the Certifying Authority is satisfied as to the identity of the person, or persons, actually entitled, in the events which have happened, to the ownership of the said business; whereupon the Certifying Authority may-

(i) confirm the said provisional registration as full registration, if the person so provisionally registered is entitled to such full registration under this Act; or

(ii) may cancel the said provisional registration and register in lieu thereof the person entitled to be so registered in respect of the said business;

(d) from the death of the said deceased registered seed importer or registered seed cleaner, as the case may be, until the registration of another person as such, the person actually carrying on the business of the said deceased shall be deemed to be the registered seed importer or registered seed cleaner, as the case may be, for the purposes of so much of this Act as relates to things to be done in the course of carrying on the said business, and for the purpose of notices required by this Act to be given to the registered seed importer or registered seed cleaner, as the case may be, and the service of such notices.

(2) Where a registered seed importer or registered seed cleaner, as the case may be (in this subsection referred to as the transferor), transfers on sale or otherwise the business carried on by him in respect of which he is so registered under this Act to another person (in this subsection referred to as the transferee), the following provisions shall have effect:

(a) the transferee shall (subject to the provisions of this section) be entitled, on application to the Certifying Authority in the form and manner prescribed, and on satisfying the Certifying Authority that he has become the proprietor of the said business, to be registered as registered seed importer or registered seed cleaner, as the case may be, in respect of the said transferred business;

(b) until the transferee is so registered, the transferor shall, notwithstanding the said transfer, continue to be, for all of the purposes of this Act, the registered seed importer or the registered seed cleaner, as the case may be.

(3) Where an application is made to the Certifying Authority under this section for the registration of a person (in this subsection referred to as the applicant) as a registered seed importer or registered seed cleaner, as the case may be, the following provisions shall apply:

(a) where the applicant is the personal representative of a deceased registered seed importer or of a deceased registered seed cleaner, as the case may be, and is applying under subsection (1) for registration solely in his capacity as such personal representative, and the application is duly made in accordance with the said subsection, the Certifying Authority shall not refuse the application;

(b) in every other case it shall be lawful for the Certifying Authority, if it so thinks proper, to refuse the application on the ground that the applicant was previously registered under this Act, and while he was so registered the said registration was cancelled by the Certifying Authority under and pursuant to this Act; and it shall further be lawful for the Certifying Authority to refuse such application upon any other ground which he deems to be a reasonable ground for refusal to register a person as a registered seed importer or a registered seed cleaner, as the case may be, upon application for first registration as such under this Act.

*(As amended by Act No. 21 of 1995)*

- |  |                                     |
|--|-------------------------------------|
| <p><b>11.</b> If the Certifying Authority is satisfied-</p> <p>(a) that any registered seed importer or registered seed cleaner fails or has ceased to comply with any provision of this Act or with any condition or requirement imposed or prescribed under this Act; or</p> <p>(b) that any such registered seed importer or registered seed cleaner has ceased to carry on business as such, or has been convicted of an offence under this Act, or has been adjudicated or is an undischarged bankrupt; or, if an incorporated body, has been wound up; or</p> <p>(c) that any such registered seed importer or registered seed cleaner, being an individual, has died and no other person has, within six months after such death, been registered in lieu of the said deceased; or</p> <p>(d) that any such registered seed importer or registered seed cleaner, being an incorporated body, has been dissolved and no other person has, within three months after such dissolution, been registered under this Act in respect of the business formerly carried on by the said dissolved registered seed importer or registered seed cleaner;</p> | <p>Cancellation of registration</p> |
|--|-------------------------------------|

he may cancel the registration of such registered seed importer or registered seed cleaner, as the case may be:

Provided that nothing shall be construed to oblige or impose a duty on the said Certifying Authority at any time to exercise the powers by this section conferred upon it.

*(As amended by Act No. 21 of 1995)*

**12.** (1) Any aggrieved party may, within twenty-one days after such refusal, imposition of condition upon, or cancellation of any registration under this Part, in writing request the Certifying Authority to furnish his reasons for refusing to register the applicant or for imposing conditions upon or cancelling such registration. Reasons for refusal to register or for cancellation: when to be furnished

(2) Within fourteen days after the receipt of such request, the Certifying Authority shall furnish in writing to the aggrieved party the reasons-

(a) why it refused the registration applied for; or

(b) why it imposed conditions upon such registration; or

(c) why it cancelled such registration.

*(As amended by Act No. 21 of 1995)*

**13.** (1) Any aggrieved party may, within twenty-one days after his receipt of the reasons furnished pursuant to section *twelve*, appeal to the Minister against the decision of the Certifying Authority. Appeal to Minister

(2) Such appeal must be in writing.

(3) In determining such appeal the Minister may consult with the Certifying Authority, and may affirm the decision of the Certifying Authority, or may order the Certifying Authority-

(a) to register the person, as applied for in the application for registration; or

(b) to strike out all or any of the conditions imposed by the Certifying Authority, or to amend or alter such conditions in such manner as the Minister may direct, or to impose new or further conditions; or

(c) to restore the registration;

and the Certifying Authority shall comply with such order.

(4) No appeal shall lie to any court from the decision of the Minister. (*As amended by Act No. 21 of 1995*)

**14.** (1) The Certifying Authority may, at any time, alter any registration of any registered seed importer or registered seed cleaner upon application by the registered seed importer or registered seed cleaner, as the case may be, or by the personal representative of a deceased registered seed importer or registered seed cleaner or, in the case of an incorporated body being the registered seed importer or registered seed cleaner, as the case may be, by the managing director or the liquidator of such registered seed importer or registered seed cleaner.

(2) The Certifying Authority, at any time, without an application under subsection (1), may alter any registration of any registered seed importer or registered seed cleaner in any respect in which such registration appears to it to be erroneous or misleading.

(3) The following provisions shall apply and have effect in relation to any proposed alteration under subsection (2):

(a) the Certifying Authority shall not make any such alteration unless it has given to the registered seed importer or registered seed cleaner, as the case may be, or his personal representative, or its managing director or liquidator, as the case may be, at least fourteen days' notice in writing that the Certifying Authority has under its consideration the making of such alteration and stating the grounds on which such alteration is so under consideration;

(b) the Certifying Authority shall consider any representations, in relation to such alteration, made to it before the expiration of the said notice by any person interested;

(c) the Certifying Authority may, if it thinks fit, cause an inquiry to be held in relation to such alteration;

(d) such alteration, if made at all, shall be made within three months after the expiration of the said notice.

(*As amended by Act No. 21 of 1995*)



**15.** (1) The Minister may from time to time, as he deems fit, exempt any class of seed importer or seed cleaner from any or all of the provisions of this Part. Exemption from registration

(2) Any exemption granted under this section shall be in writing and shall be published in one issue of the *Gazette* and shall be effective from the date of such publication.

(3) The Minister may at any time revoke any exemption granted under this section, which revocation shall be in writing and shall be effective from the date therein stated, and notice thereof shall be published in one issue of the *Gazette*.

**16.** (1) Subject to the provisions of this section, there shall be payable to the Certifying Authority by any person- Registration fees

(a) on first registration of such person as a registered seed importer under this Act;

(b) on first registration of such person as a registered seed cleaner under this Act;

(c) on the annual renewal of any registration as a registered seed importer under this Act;

(d) on the annual renewal of any registration as a registered seed cleaner under this Act;

the respective registration fees prescribed in the First Schedule.

(2) Subject to the provisions of this section, there shall be payable to the Certifying Authority by any transferee from or successor in interest to any registered seed importer or any registered seed cleaner, as the case may be, on any registration of such transferee or successor in interest as registered seed importer or registered seed cleaner, as the case may be, the respective fees prescribed in the Second Schedule.

(3) Where the personal representative of a deceased registered seed importer or of a deceased registered seed cleaner, as the case may be, is registered as registered seed importer or registered seed cleaner under the provisions of paragraph (b) of subsection (1) of section *ten*, solely in his capacity as such personal representative, no registration fee shall be charged for such provisional registration, but the fee prescribed



by the Second Schedule for renewal of provisional registration shall be payable in the event of any renewal thereof.

(4) Where a surviving or nominated joint owner or partner of a deceased registered seed importer or of a deceased registered seed cleaner, as the case may be, is registered provisionally as such registered seed importer or as such registered seed cleaner under the provisions of paragraph (c) of subsection (1) of section *ten*, no registration fee shall be charged for such provisional registration, but the fee prescribed by the Second Schedule for renewal of provisional registration shall be payable in the event of any renewal thereof.

*(As amended by Act No. 21 of 1995)*

### **PART III**

#### **TESTING OF SEEDS-CERTIFYING AUTHORITY AND CERTIFYING AGENCY-OFFICIAL SEED-TESTERS**

**17.** (1) The Certifying Authority may licence any seed company or institution as a certifying agency in any kind of seed and plant variety. Power to licence certifying agency

(2) The applications for a licence referred to in subsection (2) shall be made in such form and under such conditions as may be prescribed by the Certifying Authority.

*(As amended by Act No. 21 of 1995)*

**18.** (1) The Certifying Authority may approve any person to be an official seed inspector, sampler or tester for a certifying agency for the purposes of this Act.

(2) The application for approval as an official seed inspector, sampler or tester shall be in such form and shall be granted on such conditions as may be prescribed by the Certifying Authority.

*(As amended by Act No. 21 of 1995)*

**19.** The Certifying Authority shall cause the following rolls to be kept: (a) a roll of official seed-testers, which shall contain-  
Designation of seed inspectors or testers

Rolls of official seed-testers, Certifying Authority and Certifying Agency stations

(i) the name and address of each official seed-tester appointed under this Act;

(ii) such other particulars as may be prescribed;

(b) a roll of Certifying Agencies, which shall contain

(i) the name and address of each Certifying Agency established under this Act, together with its post office box number, if any;

(ii) such other particulars as may be prescribed.

(As amended by Act No. 21 of 1995)

**20.** (1) Any person who tests, or purports to test, for the purposes of this Act, any prescribed seed, in any place not being Certifying Agencies shall be guilty of an offence.

Prohibition against testing of prescribed seed except in Certifying Authority or Certifying agency stations

(2) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any machinery, equipment and chemicals and any such prescribed seed found in such place to be forfeited or order them to be destroyed, without compensation; or may both declare them to be so forfeited and order them to be so destroyed, without compensation.

**21.** (1) Save as provided by section *seventy-eight*, any person who, having produced or acquired any prescribed seed which has not been tested pursuant to this section, or deemed to have been tested under the provisions of subsection (4) of section *forty-four*, intends to sell the same for sowing, shall, prior to offering the same for sale, cause a sample thereof to be taken in the manner prescribed, and shall cause the said sample to be delivered to a Certifying Agency together with a statement in writing specifying the origin, kind, variety and quantity of the said prescribed seed, and such other particulars as may be prescribed, and upon such delivery shall pay the prescribed fees.

Delivery of samples for official test

(2) Upon receipt at the certifying agency of any sample taken pursuant to subsection (1), the official seed-tester shall cause the said sample to be tested in the manner prescribed and shall furnish to the person who sought the test a report thereof in the form prescribed, setting out the date upon which the test was made, the findings resultant thereon, and such other particulars as may be prescribed.

**22.** Any reports, licences, certificates, approvals or other documents issued, granted or furnished, as the case may be, by a Certifying Authority for the purposes of this Act shall be in such form as may be prescribed.

Reports,  
licences, and  
other document  
of Certifying  
Authority

*(As amended by Act No. 21 of 1995)*

## **PART IV**

### **INSPECTORS OF SEEDS**

**23.** (1) There shall be inspectors of seeds, who shall be designated as such by the Minister and shall be inspectors for the purposes of this Act.

Inspectors  
of  
seeds

(2) The Minister shall cause a certificate of authority to be issued to each inspector.

(3) An inspector shall produce for inspection his certificate of authority upon the demand of any person affected by the exercise by him of any of his powers under this Act.

**24.** (1) The Minister may, from time to time, and as often as he deems it necessary, authorise any public officer (herein referred to as a duly authorised officer) to exercise the powers of an inspector of seeds under this Act.

Duly authorised  
officers

(2) An authorisation made under this section may be-

general: whereby the duly authorised officer shall be

(a) empowered  
to exercise all of the powers of an inspector of seeds anywhere in  
Zambia; or

(b) limited: either-

(i) as to the specific powers exercisable by the duly authorised officer; or

(ii) as to the place or district in which such powers are exercisable by him; or

(iii) as to both sub-paragraphs (i) and (ii).

(3) An authorisation made under the provisions of this section shall be

in writing.

**25.** (1) An inspector or a duly authorised officer may take samples of any seed for any of the following purposes:

Powers of inspectors or duly authorised officers to take samples of seed

(a) for test or examination to determine whether the said seed is prescribed or restricted seed under this Act; or

(b) for test to determine whether, if it is prescribed seed, it conforms to the standards of purity and germination prescribed therefor under this Act; or

(c) for such other purposes as may be prescribed.

(2) Any sample of seed taken by an inspector or duly authorised officer under this Act shall be taken in the manner prescribed.

**26.** (1) An inspector or any duly authorised officer may, for any of the purposes of this Act, and at all reasonable times, enter upon-

Powers of inspectors or duly authorised

officers to search premises and seize certain goods

(a) any land, building, premises or plant, not being the land, building, premises or plant of a registered seed cleaner, which he has reasonable cause to believe is being used in the cleaning of prescribed seed in contravention of this Act, and inspect the same and any machinery and equipment found therein; and he may seize and remove therefrom and detain any such machinery or equipment, or any prescribed seed, or any book, record or document found therein, which would afford evidence of a contravention of this Act;

(b) any land, building, premises or plant, being used by a registered seed cleaner as a seed cleaning plant, for the purpose of inspecting the same as prescribed by regulations under this Act; and if, upon such inspection, he has reasonable cause to believe that the said seed cleaning plant, or any machinery or equipment to be found therein, is being maintained, operated or used in contravention of this Act, he may seize and remove therefrom and detain any such machinery or equipment or any prescribed seed or any book, record or document found therein, which would afford evidence of a contravention of this Act; and if he has reasonable cause to believe that any of the machinery or equipment found therein is, because of a mechanical or operational defect, contributing to the distribution from the said plant of any prescribed seed which is not cleaned to the standards therefor prescribed, he may by notice in writing require the

registered seed cleaner to rectify the said machinery or equipment within seven days of the receipt of such notice, and in the event of the registered seed cleaner failing to comply with the said notice, the inspector or duly authorised officer shall notify the Certifying Authority of such failure to comply;

(c) any land, building, premises or vehicle at, or in which, he has reasonable cause to believe any prescribed or restricted seed is being stored, sold or transported for sale in contravention of this Act, or is being packed in packages or other containers which are marked or labelled, or are being marked or labelled, with any description, mark or date in contravention of this Act, and in the manner prescribed take, without payment, for testing, samples of any prescribed or restricted seed found therein, and the owner of the said land, building, premises or vehicle, or his agent, or the person in custody or control thereof, shall, on demand, furnish to the inspector or duly authorised officer a statement in writing containing such particulars with respect thereto as are prescribed; and he may seize and remove therefrom and detain any prescribed or restricted seed, or any package or container, or any label, stamp or device for marking, stamping or labelling, or any book, record or document found therein, which would afford evidence of a contravention of this Act.

(2) Any duly authorised officer shall, on demand by the owner, or the person having custody of such land, building, premises, plant or vehicle, produce his authority to enter upon such land, building, premises, plant or vehicle.

(3) Any such inspector or duly authorised officer who, under the provisions of subsection (1), seizes and detains any vehicle, equipment, prescribed or restricted seed, or any package, label, stamp or device for marking, stamping or labelling, or any book, record or document, shall give to the person from whom they were seized a receipt, signed by such inspector or officer, for such vehicle, machinery, equipment, prescribed or restricted seed, package, label, stamp or device for marking, stamping or labelling, or for such book, record or document so seized.

(4) In the event of-

(a) the Certifying Authority being advised in writing by the Director of Public Prosecutions that no prosecution consequent upon any such inspection made under subsection (1) should be instituted under this Act; or

(b) any such prosecution having been finally concluded; then, in either such event, any vehicle, machinery, equipment, prescribed or restricted seed, book, record or document, package, label, stamp or device for marking, stamping or labelling, seized during the course of such inspection and detained under the provisions of subsection (1), shall be returned to the owner thereof, or to the person from whose custody they were taken, and shall be so returned within ten days from the date of the receipt by the Certifying

Authority of such advice that no prosecution should be instituted, or from the date any such prosecution has been finally concluded, as the case may be:

Provided that any such vehicle, machinery, equipment, prescribed or restricted seed, package, label, stamp or device for marking, stamping or labelling, shall not be returnable under this subsection if they have been declared by the court to be forfeited, or ordered to be destroyed, under any provision of this Act.

*(As amended by Act No. 21 of 1995)*

**27.** Any person who-

(a) obstructs or impedes an inspector or a duly authorised officer in the exercise of any of the powers conferred upon him by or under this Act; or

(b) refuses to furnish to an inspector or a duly authorised officer, on request, any particulars or information to which the said inspector or duly authorised officer is entitled by or under this Act; or

(c) wilfully or recklessly gives to an inspector or a duly authorised officer any false or misleading particulars or information with respect to any fact or particular to which the said inspector or duly authorised officer is entitled by or under this Act;

shall be guilty of an offence.

Prohibition against obstruction, etc., of inspectors and duly authorised officers

## **PART V**

### **LICENSING OF SEED SELLERS**

**28.** This Part shall not apply to seed producers or to registered seed importers.

Non-application of this Part to seed producers or to registered seed importers

**29.** (1) A licence issued under this Part shall entitle the licensee to sell, for sowing, prescribed seed, within the terms of the licence, which shall be known as a seed seller's licence.

Seed seller's licence

(2) A seed seller's licence may be-

(a) general: which licence shall be exercisable by the licensee anywhere in Zambia; or

(b) limited: which licence shall be exercisable by the licensee in any

place or premises specified in the licence; or

(c) restricted: which licence shall be a general or a limited licence restricted to the sale of prescribed seed-

(i) by wholesale only; or

(ii) by retail only; or

(d) unrestricted: which licence shall be a general or a limited licence empowering the licensee to sell prescribed seed whether by wholesale or retail within the terms of the licence.

(3) A seed seller's licence shall be valid for the period of time expressed therein or until revoked, whichever is the earlier.

**30.** (1) Application for a seed seller's licence shall be made to the Certifying Authority in the prescribed form and shall be accompanied by the prescribed fee.

(2) As soon as practicable after the receipt of such application, the Certifying Authority shall consider the application and may grant or refuse the same.

(3) The Certifying Authority may impose such conditions with regard to the granting of any licence under this Part as it may deem to be necessary in order to ensure that the applicant complies with the provisions of this Act or with the prescribed requirements.

*(As amended by Act No. 21 of 1995)*

**31.** The Certifying Authority may refuse to issue a seed seller's licence when-

(a) it is satisfied that the applicant has failed to comply with any prescribed condition precedent to the granting of an application for, or to the issue of, such licence; or

(b) the applicant, having formerly been a licensed seed seller or a registered seed importer under this Act, has been convicted of an offence under this Act; or

(c) it is satisfied that the applicant is not a fit or proper person to hold a seed seller's licence.

*(As amended by Act No. 21 of 1995)*

Application for seed seller's licence

Refusal to issue seed seller's licence

**32.** (1) A seed seller's licence shall be revoked by the death or in the case of a company licensee by the dissolution, of the licensee.

Revocation  
of  
seed seller's  
licence

(2) The Certifying Authority may revoke a seed seller's licence at any time, and shall revoke the said licence when-

(a) the licensee has violated the terms of the licence; or

(b) the licensee has failed to comply with any prescribed condition attaching to the said licence; or

(c) the licensee has been convicted of more than one offence under this Act; or

(d) the licensee has failed or refused to comply with any reasonable direction as regards the sale or storage of any prescribed seed given to him in writing by an inspector or by the Certifying Authority.

(3) The Certifying Authority shall notify the licensee in writing, in the form and manner prescribed, of any revocation of his licence under the provisions of subsection (2).

*(As amended by Act No. 21 of 1995)*

**33.** (1) Any applicant for a seed seller's licence whose application has been refused or upon whom any condition has been imposed under subsection (3) of section *thirty* by the Certifying Authority, and any former licensee whose licence has been revoked, may, within one month after receipt of notice of such refusal, imposition of condition, or revocation, appeal to the Minister against the decision of the Certifying Authority:

Appeal to  
Minister

Provided, however, that no appeal to the Minister shall lie against any revocation of any licence under the provisions of paragraphs (a) to (d), inclusive, of subsection (2) of section *thirty-two*.

(2) Every appeal under this section shall be in writing.

(3) In determining such appeal the Minister may consult with the Certifying Authority, and may uphold the decision of the Certifying Authority, or may make an order instructing the Certifying Authority-



- (a) to issue the licence, as applied for in the application; or
  - (b) to strike out all or any of the conditions imposed by the Certifying Authority, or to amend or alter such conditions in such manner as the Minister may direct; or
  - (c) to cancel the revocation of the licence and to restore the same to the former licensee;
- as the case may be.

*(As amended by Act No. 21 of 1995)*

**34.** (1) When a seed seller's licence has expired or has been revoked by the Certifying Authority under the provisions of subsection (2) of section *thirty-two*, the former licensee may apply to the Certifying Authority for a new seed seller's licence.

Right of former licensee under expired or revoked licence to apply for new licence

(2) Any licence issued pursuant to such an application shall not be deemed to be a renewal of the expired or revoked seed seller's licence formerly held by the applicant.

*(As amended by Act No. 21 of 1995)*

## **PART VI**

### **PRESCRIBED SEED**

**35.** (1) The Minister may from time to time by regulation prescribe any seed, including seed potatoes, to be seed to which this Act shall apply, and may from time to time by regulation revoke any such regulation.

Power of Minister to declare seed to be prescribed seed

(2) In this Act, "prescribed seed" means seed which is, by virtue of a regulation made by the Minister under this section, for the time being prescribed seed for the purposes of this Act.

**36.** (1) If, upon made pursuant to section *twenty-one*, it is found and

Treating and

reported by an official seed-tester that any prescribed seed does not conform to the prescribed standards of germination or purity, or both, the owner thereof may cause the said prescribed seed to be treated or cleaned. cleaning of prescribed seed

(2) Where any prescribed seed has been treated or cleaned in pursuance of subsection (1), the said owner may request an inspector to take, and the inspector thereupon shall take a further sample thereof in the manner prescribed, which sample shall be sent by the inspector to a Certifying Authority for further test, and the said owner may, as often as he so desires, cause further treatments or cleanings of the said prescribed seed to be effected and further tests to be made, as herein provided, until such time as the said prescribed seed is found and reported by the official seed-tester to conform to the said standards of germination and purity prescribed therefor.

(3) The report furnished by the official seed-tester upon any such further test of such prescribed seed shall supersede any earlier report of any previous test of the said prescribed seed.

*(As amended by Act No. 21 of 1995)*

**37.** (1) Save as provided by section *seventy-eight*, and subject to the provisions as to date of test of subsection (4) of section *forty-four*, any person who sells, for sowing, any prescribed seed which has been tested or deemed to have been tested in accordance with the provisions of this Act and found to conform to the standards prescribed shall- Duties of seller on sale of prescribed seed

(a) if the said prescribed seed is sold in sealed containers, cause to be printed or stamped upon each such container, or upon a label attached thereto or enclosed therein and legible without opening the said container, in clear and legible letters and figures, the words "quality declared seed" and the date upon which the said prescribed seed was tested, together with such other particulars as may be prescribed;

(b) if the said prescribed seed is sold in bulk quantities-

(i) and the seller is the person who caused the said test to be made, furnish to the buyer at the time of sale a statement in writing in the form prescribed containing the name and address of the Certifying Agency where the test was made, the date of the test, and a declaration by the seller that the bulk quantity sold by him is all or part of that from which the sample tested was taken, together with such other particulars as may be prescribed;

(ii) and the seller is not the person who caused the said test to be made, furnish to the buyer at the time of sale a copy of the statement furnished, under the provisions of subparagraph (i), by the person who caused such test to be made, and shall endorse thereupon a declaration that the bulk quantity sold by him is all or a part of that to which the said statement was related at the time he procured the same, together with a statement by the seller containing such other particulars as may be prescribed.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(3) The validity of a contract for the sale of prescribed seed, or the right to enforce such a contract, shall not be affected by non-compliance with this section.

(4) For the purposes of this section

(a) the expression in "in bulk quantities" includes any quantity of seed taken, for the purpose of a particular sale, from any larger quantity of seed, but does not include seed which is packed and sold in sealed containers;

(b) the word "sale" includes "gift", and cognate words shall be construed accordingly.

(As amended by Act No. 21 of 1995)

**38.** (1) Subject to the provisions of section *thirty-six*, if any sample, taken in the manner prescribed, of any prescribed seed, is, upon test, found and reported by an official seed-tester not to conform to the standards of germination and purity prescribed for such prescribed seed-

(a) the Minister may, if the said prescribed seed is seized and detained under the provisions of this Act-

(i) subject to such conditions as to its sale and use, and to such other conditions as he may impose, direct its return either to the owner

Disposal of sub-standard prescribed seed

thereof, or to the person from whose custody and control it was taken; or

(ii) with the consent of the owner thereof, order it to be destroyed without compensation; or

(iii) bring proceedings in the manner prescribed by subsection (2) for its forfeiture and destruction; or

(iv) if, upon such test, the said prescribed seed is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the

Minister deems it reasonably necessary so to do, order the said prescribed seed to be forfeited and destroyed, without compensation;

(b) the Minister may, if the said prescribed seed has not been seized or detained under the provisions of this Act-

(i) subject to such conditions as to its sale and use and to such other conditions as he may impose, permit the owner thereof to retain the said prescribed seed; or

(ii) with the consent of the owner thereof, order it to be destroyed without compensation;

(iii) bring proceedings in the manner prescribed by subsection (2) for its forfeiture and destruction; and may, if he deems it necessary so to do, at any time prior to or after the commencement of the said proceedings, direct that the said prescribed seed be seized and detained pending the determination of the said proceedings; or

(iv) if, upon such test, the said prescribed seed is also found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it reasonably necessary so to do, order the said prescribed seed to be forfeited and destroyed, without compensation; and may for the purposes of this sub-paragraph, if he deems it necessary so to do, order the seizure and detention of the said prescribed seed.

(2) (a) Where the Minister elects to act in pursuance of sub-paragraph (iii) of paragraph (a) of subsection (1) or of subparagraph (iii) of paragraph (b) of subsection (1), he may, in his name, bring, or cause to be brought, civil proceedings in the court against the owner of the said prescribed seed or against the person from whose custody or control the same was taken, or in whose custody or control the same is found, as agent of the owner; and in the said proceedings the Minister shall claim for a declaration by the court that the said prescribed seed does not conform to the minimum standards of germination or purity prescribed under this Act for such prescribed seed; and for an order that it be forfeited to the Government and destroyed, without compensation.

(b) Such proceedings shall be commenced by filing with the clerk of the court an affidavit, made by a public officer duly authorised by the Minister in that behalf, setting forth the relevant facts and exhibiting the report or certificate or reports or certificates upon which the declaration and order are sought.

(c) (i) Upon the filing of the said affidavit the clerk of the court shall assign a date for the hearing of the claim not less than six weeks from the date of issue of the writ of summons in accordance with the provisions of sub-paragraph (ii).

(ii) The clerk of the court shall thereupon issue a writ of summons in the form prescribed setting forth therein the date assigned for the hearing of the claim by the court.

(d) The said writ of summons shall be served upon the party named as party defendant therein in the manner prescribed in paragraph (e); and notice of the proceedings in the form prescribed shall be published in the *Gazette* not less than fourteen days prior to the date assigned for the hearing of the claim.

(e) For the purposes of this section, any writ of summons issued under the provisions of this section shall be deemed to have been served upon the party defendant if, not less than fourteen days prior to the date assigned for the hearing of the claim by the court, a true copy thereof is-

(i) delivered to the said defendant personally; or

(ii) addressed to him and left or forwarded by post to him at his usual or last known place of abode or business; or

(iii) addressed to him and forwarded by registered post to his usual or last known post office box number; or

(iv) where he is unknown, or where he has no address within Zambia, or his address is unknown, published in one issue of the *Gazette*

(f) If any party defendant served with the said writ of summons as provided in paragraph (e) wishes to defend or oppose or contest the said proceedings, he shall, in the form prescribed, give notice of his intention so to do the clerk of the court not less than five days before the date assigned in the said writ of summons for the hearing of the said claim.

(g) If any person, who is not a party defendant, desires to defend or oppose or contest the said proceedings, he shall, not less than seven days after the publication of the notice of proceedings provided for in paragraph (d), give to the clerk of the court notice in writing of his intention so to do; whereupon he shall be entitled to appear at the hearing of the claim as if he were in every respect a party defendant.

(h) If any party defendant fails to comply with the provisions of paragraph (f), or if he, or any person who has given the notice provided for by paragraph (g), fails to appear at the hearing of the claim on the date assigned therefor, the court shall enter his default and may thereupon proceed to hear and determine the claim forthwith on the evidence of the affidavit filed under paragraph (b), and the reports or certificates exhibited therein, or may adjourn such hearing and determination to a date not more than two weeks from the date assigned for the hearing of the claim.

(i) Upon hearing the evidence adduced the court may make the declaration and order sought; or may dismiss the claim and make such order as to costs, consequential upon such dismissal, as the court deems meet.

(j) In the event of a dismissal of the claim by the court, the Minister may elect to dispose of the said prescribed seed in any other manner thereunto provided by subsection (1).

(3) It is hereby declared that anything done or any proceeding taken in terms of this section shall not prevent the institution of criminal proceedings under this Act, or under any other written law, against the owner of the said prescribed seed or his agent, or the person from whose custody and control it was taken, or in whose custody or control it is found, as the case may be, or against any other person.

(4) Any person who fails to comply with any order made or condition imposed under paragraph (a) or (b) of subsection (1) shall be guilty of an offence.

## **PART VII**

### **IMPORT AND EXPORT OF SEED**

**39.** (1) The Minister may, from time to time and as often as he deems it Restricted seed expedient so to do, by regulation, restrict, limit, make subject to conditions, or prohibit the importation of any particular variety or class of seed into Zambia and may from time to time, by regulation, amend or revoke any such regulation.

(2) Any regulation made under subsection (1) may include any particular variety or class of prescribed seed.

(3) In this Act, "restricted seed" means any seed the importation of which is, by virtue of a regulation made by the Minister under this section, for the time being restricted, limited, subject to condition or prohibited.

**40.** (1) Any person who, without a permit from the Minister as provided by section *forty-one*, imports any restricted seed into Zambia in contravention of any regulation made by the Minister under section *thirty-nine*, shall be guilty of an offence. Prohibition against importation of restricted seed

(2) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such imported restricted seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

**41.** (1) Notwithstanding the provisions of any regulation made under section *thirty-nine*, the Minister may, at any time and as often as he deems it expedient, permit the importation into Zambia of any specific Power of Minister to permit

restricted seed, or of any specific variety or class of restricted seed.                      importation of restricted seed

(2) Any permit granted under subsection (1) shall be in writing, and may be subject to any conditions which the Minister may deem fit to impose.

(3) Where, under the provisions of this section, the Minister permits the importation of any restricted seed which is also prescribed seed, the provisions of this Act applicable to the importation, testing, sale and disposal of prescribed seed shall apply thereto as if the said prescribed seed had not been restricted seed under this Act.

(4) Any person who fails to comply with any conditions imposed by the Minister under this section shall be guilty of an offence.

**42.** (1) No person may import into Zambia for purposes of sale any prescribed seed for sowing, unless he is a registered seed importer.                      Prohibition against importation of prescribed seed except by registered seed importer

(2) Any person who imports any prescribed seed into Zambia in contravention of the provisions of subsection (1) shall be guilty of an offence.

(3) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such imported prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

**43.** (1) No registered seed importer shall import any prescribed seed into Zambia unless-                      Conditions for importation of prescribed seed

(a) such seed is not restricted seed, the importation of which has been prohibited by regulation made under section *thirty-nine*;

(b) such seed is not restricted seed, the importation of which has been made subject to conditions or limitations prescribed by regulation made under section *thirty-nine* and such prescribed conditions or limitations have not been fulfilled or performed;



- (c) such seed being restricted seed, the importation of which has been prohibited by regulation made under section *thirty-nine*, a permit for its importation has issued under the provisions of section *forty-one*;
- (d) such seed being restricted seed, the importation of which has been made subject to conditions or limitations prescribed by regulation made under section *thirty-nine* and such prescribed conditions or limitations have not been fulfilled or performed, a permit for its importation has issued under the provisions of section *forty-one*;
- (e) such seed conforms to the standards of germination and purity and other requirements prescribed therefor;
  - if such seed is packed in a container or containers, such
- (f) container or containers comply with the requirements prescribed;
  - the genus, species and variety of such seed, and the country of
- (g) its origin, is shown on an invoice or delivery note accompanying such seed at the time of its importation.

(2)The Minister may exempt any registered seed importer, or any particular species, variety or class of prescribed seed, from all or any of the provisions of subsection (1).

(3)Any exemption granted by the Minister under subsection (2) may be subject to such conditions in respect of such prescribed seed as the Minister may, in his discretion, impose.

(4)Any person who fails to comply with the provisions of this section or with any condition imposed by the Minister thereunder shall be guilty of an offence.

(5)Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such imported prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

**44.** (1) Upon importation into Zambia of any prescribed seed, the registered seed importer to whom the prescribed seed was consigned shall, within thirty days of its delivery to him, cause a sample thereof to be taken in the manner prescribed and sent for test to a Certifying Agency.

Required test of imported prescribed seed

(2)Any such imported prescribed seed shall not be sold or otherwise disposed of by any person prior to the receipt, by the registered seed importer who imported the said



prescribed seed, of a report on such test from the Certifying Authority confirming that the said imported prescribed seed conforms to the standards of germination and purity prescribed.

(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(4) This section shall not apply if, at the time of importation of the said prescribed seed, the registered seed importer to whom it was consigned submits to the Certifying Agency for inspection a report of analysis from the country of origin certifying that the said seed is of a standard which conforms to the standards prescribed for such seed under this Act, and the Certifying Agency is satisfied to accept such report; whereupon the said prescribed seed shall be deemed to have been tested in accordance with this Act, and the date of test shown in such report shall be the date of test for the purposes of section *thirty-seven* and of paragraph (b) of subsection (1) of section *sixty-three*.

(As amended by Act No. 21 of 1995)

**45.** Nothing contained in this Act shall apply to or operate to prevent the importation by any registered seed importer, by post, of a sample of any prescribed seed, the importation of which has not been prohibited by regulation made under section *thirty-nine*, where such sample does not exceed one pound in weight and is accompanied by a declaration by the exporter that it is being imported into Zambia solely as a trade sample and is of no commercial value.

**46.** (1) Any restricted seed brought to any part of Zambia for purposes of importation in contravention of any of the provisions of this Act or of any particular restriction, limitation or condition of importation thereunder prescribed may, wherever found, be seized and may be detained by the Certifying Agency or an inspector or duly authorised officer, subject to the disposal thereof under the provisions of subsection

(2).

(2) If such restricted seed is detained under the provisions of subsection

(1) the Minister may-

order such restricted

(a) seed-

(i) to be removed from Zambia within such time as may be specified in the order; or

(ii) with the consent of the person to whom the said restricted seed was consigned, or his agent, or of the owner thereof, to be destroyed without compensation; or

bring proceedings in the manner prescribed by subsection (3)

(b) for

its forfeiture and destruction; or

(c) permit the removal thereof subject to such conditions as he may impose; or

(d) if the said restricted seed is also prescribed seed under this Act, order such samples of such restricted seed to be taken and tested in the manner prescribed and

(i) if, upon such test, the said restricted seed is found and certified to conform to the standards prescribed for such prescribed seed, permit the importation thereof into Zambia, subject to such conditions as he may impose; or

(ii) if, upon such test, the said restricted seed is found and certified not to conform to the said standards prescribed, permit the importation thereof into Zambia, subject to such conditions as he may impose; or bring proceedings in the manner prescribed by subsection (3) for its forfeiture and destruction; or

(iii) if, upon such test, the said restricted seed is found and certified to be in a dangerous state or injurious to the health of human beings, animals or plants, and the Minister deems it to be reasonably necessary so to do, order the said restricted seed to be destroyed forthwith, without compensation.

(3) (a) Where the Minister elects to bring proceedings in pursuance of paragraph (b) of subsection (2) or of sub-paragraph (ii) of paragraph (d) of subsection (2), he may, in his name, bring civil proceedings in the court against the owner of the restricted seed, or against the person to whom it was consigned, as agent of the owner, and in the said proceedings the Minister shall claim for a declaration by the court that the said restricted seed was imported into Zambia in contravention of the provisions of this Act, and for an order that it be forfeited to the Government and destroyed.

(b) Such proceedings shall be commenced by filing with the clerk of the court an affidavit, made by a public officer duly authorised by the Minister in that behalf, setting forth the relevant facts and exhibiting any certificate or certificates upon which the declaration and order are sought.

- (c)
- (i) Upon the filing of the said affidavit, the clerk of the court shall assign a date for the hearing of the claim not less than three weeks and not more than six weeks from the date of issue of the writ of summons in accordance with the provisions of sub-paragraph (ii).
  - (ii) The clerk of the court shall thereupon issue a writ of summons in the form prescribed setting forth therein the date assigned for the hearing of the claim by the court.

(d) The said writ of summons shall be served upon the party named as party defendant therein in the manner prescribed in paragraph (e); and notice of the proceedings in the form prescribed shall be published in the *Gazette* not less than fourteen days prior to the date assigned for the hearing of the claim.

(e) For the purposes of this section, any writ of summons issued under the provisions of this section shall be deemed to have been served upon the party defendant if, not less than fourteen days prior to the date assigned for the hearing of the claim by the court, a true copy thereof is-

(i) delivered to the said defendant personally; or

(ii) addressed to him and left or forwarded by post to him at his usual or last known place of abode or business; or

(iii) addressed to him and forwarded by registered post to his usual or last known post office box number; or

(iv) where he is unknown, or where he has no address within Zambia, or his address is unknown, published in one issue of the *Gazette*.

(f) If any party defendant served with the said writ of summons as provided in paragraph (e) wishes to defend or oppose or contest the said proceedings, he shall, in the form prescribed, give notice of his intention so to do to the clerk of the court not less than five days before the date assigned in the said writ of summons for the hearing of the said claim.

(g) If any person, who is not a party defendant, desires to defend or oppose or contest the said proceedings, he shall, not less than seven days after the publication of the notice of proceedings provided for in paragraph (d), give to the clerk of the court notice in writing of his intention so to do; whereupon he shall be entitled to appear at the hearing of the claim as if he were in every respect a party defendant.

(h) If any party defendant fails to comply with the provisions of paragraph (f), or if he, or any person who has given the notice provided for by paragraph (g), fails to appear at the hearing of the claim on the date assigned therefor, the court shall enter his default and may thereupon proceed to hear and determine the claim forthwith on the evidence of the affidavit filed and of any certificate exhibited under paragraph (b), or may adjourn such hearing and determination to a date not more than two weeks from the date assigned for the hearing of the claim.

(i) Upon hearing the evidence adduced, the court may make the declaration and order sought; or may dismiss the claim and make such order as to costs, consequential upon such dismissal, as the court deems meet.

(j) In the event of a dismissal of the said claim, the Minister may elect to dispose of the said restricted seed in any other manner thereunto provided by subsection (1).

(4) It is hereby declared that any act done or ordered or permitted to be done in terms of this section shall not-

(a) prevent the institution of criminal proceedings under this Act or under any other written law against the person to whom the said restricted seed was consigned, or his agent, or the owner thereof, or any other person; or

(b) curtail or limit in any way whatsoever the powers or duties of the Cap. 322 Controller of Customs and Excise or of any customs officer under the Customs and Excise Act; or

(c) affect the liability of any person for the payment of customs duty in respect of the said restricted seed; or

(d) entitle any person to claim a refund of customs duty paid in respect of any restricted seed seized and dealt with in terms of this section.

(5) Any person who fails to comply with any order made or conditions imposed under this section shall be guilty of an offence.

*(As amended by Act No. 21 of 1995)*

**47.** (1) The Minister may, from time to time and as often as he deems it expedient so to do, by regulation, prohibit, limit, control or make subject to conditions, the exportation of any specific species, variety or class of prescribed seed from Zambia. Power of Minister to control export of prescribed seed

(2) Any person who contravenes any regulation made under the provisions of subsection (1) shall be guilty of an offence.

## **PART VIII**

### **CERTIFIED SEED**

**48.** This Part applies to prescribed seed which has been certified by the Minister under this Part as Zambia certified seed or imported certified seed, as the case may be.

**49.** The Minister may from time to time, by statutory notice, specify Power of

any particular variety of prescribed seed (hereinafter called a specified variety) which may be cultivated for the purpose of producing seed for certification as Zambia certified seed, or which may, if imported, be certified as imported certified seed under this Part.

Minister to specify specified varieties for certification

**50.** Zambia certified seed means any prescribed seed of a specified variety which is produced in Zambia by a registered seed producer under and in accordance with the provisions of this Part, and certified by the Minister under this Part as Zambia certified seed.

Zambia certified seed

**51.** Imported certified seed means any prescribed seed of a specified variety which has been certified as certified seed under the laws of the country of its origin, which has been imported into Zambia, and which has been certified by the Minister under this Part as imported certified seed.

Imported certified seed

**52.** (1) Any seed producer who desires to cultivate any specified variety or varieties for purposes of certification as Zambia certified seed, shall apply to the Certifying Authority for registration as a registered seed producer.

Registered seed producers

(2) Application for registration as a registered seed producer shall be in the prescribed form and shall be accompanied by the prescribed registration fee.

*(As amended by Act No. 21 of 1995)*

**53.** For the purposes of this Part, the Certifying Authority shall cause to be kept a register of seed producers which shall contain-

Register of seed producers

- (a) the names and addresses of all registered seed producers;
- (b) particulars of the specified variety or varieties to be grown by each registered seed producer;
- (c) particulars of the location and area of the land where each such specified variety is to be grown by each registered seed producer;
- (d) particulars of the duration of the registration;
- (e) such other particulars as may be prescribed.

*(As amended by Act No. 21 of 1995)*

**54.** (1) As soon as practicable after the receipt of an application for

Registration of

registration as a registered seed producer, the Certifying Authority shall- seed producers

(a) if he is satisfied that-

(i) the applicant is a person suitably qualified and experienced in seed production and capable of producing, to the standards prescribed for Zambia certified seed, seed of the specified variety or varieties set out in the application; and

(ii) the land proposed to be used for the production of such specified variety or varieties is reasonably suited to the production of such crop;

register the applicant as a registered seed producer;

if he is not satisfied as to both (i) and (ii) of paragraph (a),

(b) refuse

to register the applicant.

(2) The Certifying Authority may impose such conditions and limitations upon any registration under this section as he may deem to be necessary, including limitations as to the acreage to be used in the cultivation of any particular prescribed variety by the applicant, and also including limitations as to the specified variety or specified varieties to be produced by such applicant, upon his registration as a registered seed producer.

(3) Registration under this section shall be valid for the production of one crop only of the particular specified variety or varieties to which it relates; but for the purposes of sale of Zambia certified seed produced thereunder it shall be valid for so long as is necessary for the registered seed producer to dispose of such Zambia certified seed.

*(As amended by Act No. 21 of 1995)*

**55.** (1) Where any registered seed producer, during the continuance of his registration as such- Cancellation of registration of registered seed producer

(a) fails or ceases to comply with any provision of this Part or with any requirement or condition prescribed thereunder in respect of the production of any specified variety intended for certification as Zambia certified seed; or

(b) parts with the possession of, or is dispossessed from, the lands upon which a specified variety intended for certification as Zambia certified seed is in course of production; the Certifying Authority shall, forthwith cancel the registration of the said registered seed producer in respect of the production of the said specified variety.

(2) Where any registered seed producer, during the continuance of his registration as such-

- (a) is convicted of an offence under this Act; or  
dies or, being an incorporated body, is
- (b) dissolved;

the Certifying Authority shall forthwith cancel the registration of the said registered seed producer.

(3) In the event of a cancellation under paragraph (b) of subsection (1) or paragraph (b) of subsection (2), the successor in interest to the said registered seed producer may apply under this Part for registration as a registered seed producer in respect of the crop in course of production at the time of such cancellation.

*(As amended by Act No. 21 of 1995)*

**56.** (1) Any seed producer whose application for registration as a registered seed producer has been refused or made subject to any condition or limitation by the Certifying Authority, or any registered seed producer whose registration has been cancelled, may, within twenty-one days after such refusal, imposition of conditions or cancellation, in writing request the Certifying Authority to furnish his reasons for refusing to register the applicant or for imposing conditions or limitations upon or cancelling any registration under this Part.

Reasons for refusal to register or for cancellation: when to be furnished

(2) Within fourteen days after the receipt of such request, the Controller of Seeds shall furnish in writing to the applicant the reasons-

- (a) why he refused to register the applicant as a registered seed producer; or
- (b) why he imposed conditions or limitations upon such registration; or
- (c) why he cancelled such registration.

*(As amended by Act No. 21 of 1995)*

**57.** (1) Any seed producer whose application for registration as a registered seed producer has been refused or made subject to any condition or limitation by the Certifying Authority, or any registered seed producer whose registration has been cancelled, may, within twenty-one days after his receipt of the reasons furnished pursuant to section *fifty-six*, appeal to the Minister against the decision of the Certifying Authority.

Appeal to Minister



(2) Such appeal must be in writing.

(3) In determining such appeal the Minister may consult with the Certifying Authority, and may affirm the decision of the Certifying Authority, or may order the Certifying Authority-

(a) to register the appellant as a registered seed producer in the terms of his application for registration;

(b) to strike out all or any of the conditions or limitations imposed by the Certifying Authority, or to amend or alter such conditions or limitations in such manner as the Minister may direct, or to impose new or further conditions; or

(c) to restore the registration;

and the Certifying Authority shall comply with such order.

(4) No appeal shall lie to any court from the decision of the Minister.

*(As amended by Act No. 21 of 1995)*

**58.** The Minister may approve specific prescribed seed of a specified variety, which is not certified seed, which may be used by a registered seed producer in the production of Zambia certified seed of that specified variety.

Power of Minister to approve prescribed seed for production of Zambia certified seed

**59.** (1) Upon its being shown to the satisfaction of the Minister that particular prescribed seed-

Power of Minister to certify seed as Zambia certified seed

(a) is of a specified variety; and

(b) is of known derivation; and

(c) has been produced by a registered seed producer; and

(d) has been produced on the land designated in the register; and

(e) has been sown, cultivated and produced as prescribed; and



- (f) has been inspected during cultivation as prescribed; and
- (g) has been tested in the manner prescribed and found to conform to the standards of germination and purity prescribed for seed of that specified variety; the Minister may certify such seed as Zambia certified seed.

(2) Upon certification by the Minister of any such seed as Zambia certified seed, the Certifying Authority shall issue to the registered seed producer a certificate in the prescribed form in respect of such seed, and shall cause the prescribed particulars of such certification to be entered as prescribed in the register of seed producers.

*(As amended by Act No. 21 of 1995)*

**60.** No registered seed producer shall use for the production of Zambia certified seed any certified seed which has not been approved for such purpose by the Certifying Authority, nor any other prescribed seed which has not been approved by the Minister under section *fifty-eight*.  
*(As amended by Act No. 21 of 1995)*

Zambia certified seed to be produced from approved seed

**61.** (1) Upon any sale of Zambia certified seed, as Zambia certified seed, by any registered seed producer, he shall, at the time of such sale-

Certificate to be produced on sale of Zambia certified seed by registered seed producer

- (a) produce for inspection by the buyer the prescribed certificate issued under this Part in respect of such seed; and
- (b) furnish to the buyer a true copy of the said prescribed certificate countersigned by him as the producer of the said Zambia certified seed.

(2) Any registered seed producer who fails to comply with the provisions of this section shall be guilty of an offence.

**62.** (1) The Minister may, upon application by a registered seed importer, certify as imported certified seed any prescribed seed of a specified variety which-

- (a) (i) has been imported into Zambia by the applicant; and
- (ii) has been tested, or is deemed to have been tested pursuant to subsection (4) of section *forty-four*; and

(iii) has been certified as certified seed under the laws of the country of its origin; and  
(iv) has been accompanied by a certificate which the Certifying Authority is willing to accept for the purposes of certification under this Part; or

(b) is shown to the satisfaction of the Minister to have been produced under conditions and to conform to standards equal to, or higher than those prescribed for the production and certification of Zambia certified seed.

(2) Upon certification by the Minister of any such seed as imported certified seed, the Certifying Authority shall issue to the registered seed importer a certificate in the prescribed form in respect of such seed, and shall cause the prescribed particulars of such certification to be entered as prescribed in the register of seed importers.

*(As amended by Act No. 21 of 1995)*

**63.** (1) Any person who sells, for sowing, any certified seed in sealed containers shall cause to be printed or stamped upon each such container or on a label or labels attached thereto, or enclosed therein in such a way as to be legible without opening the said container, in clear and legible letters and figures-

Power of Minister to certify imported prescribed seed as imported certified seed

Duties of seller on sale of certified seed in sealed containers

(a) in the case of Zambia certified seed, the words "Zambia

certified

seed" in lieu of the words "quality declared seed" as prescribed by section *thirty-seven*, the date of test and the number of the certificate issued in respect thereof; and

(b) in the case of imported certified seed, the words "Imported certified seed" in lieu of the words "quality declared seed" as prescribed by section *thirty-seven*, the date of test pursuant to section *forty-four*, and the number of the certificate issued in respect thereof; together with such other particulars as are prescribed.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(As amended by Act No. 21 of 1995)

**64.** Any person who-

(a) sells as certified seed any seed which is not certified by the Minister under this Part; or

for the purposes of sale, uses, in the description or name of

(b) any seed, the word "certified" or any cognate word in relation to seed which is not certified by the Minister under this Part;

shall be guilty of an offence.

Prohibition against sale of uncertified seed as certified seed

**65.** (1) Any person who sells in bulk quantities-

Prohibition  
against sale of  
certified seed  
without  
possession of  
appropriate  
certificate

(a) any Zambia certified seed or imported certified seed, for sowing, without having in his possession or under his control, at the time of such sale, the prescribed certificate or copy certificate issued or furnished under this Part in respect of such seed; or

(b) any Zambia certified seed or imported certified seed, for sowing, and who fails to furnish to the buyer, at the time of such sale, the prescribed certificate or copy certificate required to be so furnished under this Part in respect of such seed; shall be guilty of an offence.

(2)The validity of a contract for the sale of certified seed, or the right to enforce such a contract, shall not be affected by non-compliance with this section.

(3)For the purposes of this section, "in bulk quantities" includes any quantity of seed taken, for the purpose of a particular sale, from any larger quantity of seed, but does not include seed which is packed and sold in sealed containers.

<p><b>66.</b> Where, because of non-compliance with any of the provisions of section <i>fifty-nine</i>, the Minister refuses to certify as quality declared seed any seed of a specified variety which was produced by a registered seed producer for the purposes of such certification, and it is shown that, upon the test prescribed, the said seed conforms to the standards of germination and purity prescribed for such variety, the registered seed producer shall not, by reason of such non-certification, be precluded from selling the said seed as quality declared seed, subject to the provisions of this Act applicable to such sale.</p>	<p>When seed failing to meet certification standards may be sold as quality declared seed</p>
--	---

*(As amended by Act No. 21 of 1995)*

## PART IX

### OFFENCES AND MISCELLANEOUS

<p><b>67.</b> Any person who contravenes or fails to comply with any of the provisions of this Act, or with any regulation, requirement or condition lawfully prescribed thereunder, shall be guilty of an offence.</p>	<p>Failure to comply with Act or regulations an offence</p>
---	---

<p><b>68.</b> Any person, who, without a seed seller's licence, sells, by wholesale or retail, for sowing, any prescribed seed shall be guilty of an offence.</p>	<p>Prohibition against sale of prescribed seed without seed</p>
---	---

*(As amended by Act No. 21 of 1995)*

<p><b>69.</b> (1) Save as provided by section <i>seventy-eight</i>, no person shall sell any prescribed seed for sowing unless the said seed has previously been tested as provided by this Act, and upon such test has been found to be of the standards of germination and purity prescribed for such seed.</p>	<p>Prohibition against sale of untested prescribed seed</p>
---	---

(2)Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(3) Upon the conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such untested prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

*(As amended by Act No. 21 of 1995)*

**70.** (1) If, upon test made pursuant to the provisions of this Act, any prescribed seed is found not to conform to the standards of germination and purity prescribed for such seed, and is so reported in the prescribed report on such test furnished by a Certifying Agency, such prescribed seed shall not be sold by any person, for sowing, save with the consent in writing of the Minister previously obtained, and subject to any conditions as regards such sale as the Minister may impose.

Prohibition  
against sale of  
sub-standard  
prescribed  
seed

(2) Any person who sells any prescribed seed in contravention of the provisions of this section shall be guilty of an offence.

(3) Upon conviction of any person of an offence under this section, the court may, at the request of the prosecution, and in addition to any other penalty imposed, declare any such sub-standard prescribed seed found in the possession or under the control of the defendant to be forfeited, or may order it to be destroyed, without compensation, or may both declare it to be so forfeited and order it to be so destroyed, without compensation.

*(As amended by Act No. 21 of 1995)*

**71.** (1) Any person who sells, for sowing, any prescribed seed under name other than varietal name shall be guilty of an offence.

Prohibition

(2) In this section, "varietal name" means the name given to a specific variety of seed by its originator or discoverer.

**72.** Any person who-

(a) tampers with any prescribed seed so as to procure that any sample of such prescribed seed, taken under and for the purposes of this Act, does not correctly represent the bulk from which the said sample was taken; or

(b) otherwise tampers with any sample taken under this Act; or

Prohibition against tampering with samples

(c) with intent to deceive, causes or permits to be sent to any Certifying Agency to be tested, for the purposes of this Act, a sample of any prescribed seed which to his knowledge does not represent the bulk from which it was taken;

shall be guilty of an offence.

*(As amended by Act No. 21 of 1995)*

**73.** Any person who, without lawful authority, alters, defaces or removes-

(a) any register, roll, index or other such official record maintained in pursuance of this Act or of any order, requirement or regulation made thereunder; or

(b) any entry appearing in any such register, roll, index or other such official record;

shall be guilty of an offence.

Prohibition against altering, defacing or removing official records, etc.

**74.** Any person who, without lawful authority, alters or defaces-

(a) any certificate, report, record, invoice, account or other document, prescribed, issued, furnished or kept under this Act or under any order, requirement, condition or regulation made thereunder; or

(b) any label, note, docket or mark placed upon any container under this Act or under any order, requirement, condition or regulation made thereunder, or who removes any such label, note, docket or mark from

Prohibition against altering, etc., documents and marks  
any such container;

shall be guilty of an offence.

**75.** If any person-

Secrecy

(a) being a person employed for the purposes of this Act, publishes or communicates to any person without lawful authority any information acquired by him in the course of his employment; or

(b) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

he shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding two years, or to both.

*(As amended by Act No. 13 of 1994 and 21 of 1995)*

**76.** All registers and rolls maintained by the Certifying Authority under this Act shall, at all reasonable times, be open to the inspection of any person applying to the Certifying Authority on payment of the fee prescribed.

Inspection of registers and rolls

*(As amended by Act No. 21 of 1995)*

**77.** Until such time as specific prescribed seed is ascertained and appropriated to such contract, this Act shall not apply to any contract for the sale of prescribed seed as future goods, nor to any contract for the sale of prescribed seed the acquisition of which by the seller depends upon a contingency which may or may not happen.

**78.** The provisions of this Act shall not apply-

(a) to any sale of prescribed seed (which is not quality declared seed), which has been produced by a seed producer on his own land, and is sold by him

(i) for sowing by the buyer, and not for purposes of re-sale; or

(ii) for use as food or as farm feed or for industrial purposes; or

When Act applies to contract of sale of prescribed seed as future goods, or upon a contingency

When Act not applicable to sale of prescribed seed

(iii) to a registered seed cleaner in order that it may be cleaned before being sold for sowing:

Provided that it is sold in a container or containers, upon which, or upon the label or labels attached thereto, appear clearly and legibly the words "for cleaning purposes only";

(b) to any sale of prescribed seed (which is not certified seed) by or to a person who is a member of a class exempted from the provisions of this Act by an order made by the Minister under section *seventy-nine*.

**79.** (*Repealed by Act No. 21 of 1995*)

## **PART X**

### **PROCEEDINGS AND PENALTY**

**80.** For the purposes of any proceedings for an offence under this Act, the offence may be treated as having been committed either at the place where it was actually committed or at the place where the person charged with the offence is, for the time being, resident, and every subordinate court shall have power to hear and determine proceedings for any such offence accordingly.

Venue of proceedings for offences

**81.** In any proceedings brought under this Act, the production of any report issued by a Certifying Authority, on any test made as prescribed, shall be sufficient evidence of the facts therein stated, unless the defendant or person charged requires, as regards the said report, the official seed-tester or the person who made the test to be called as a witness:

Reports on tests prima facie evidence of facts reported

Provided that this section shall not apply, as regards a report issued by a Certifying Authority, where the sample tested has been taken otherwise than in the manner prescribed.

*(As amended by Act No. 21 of 1995)*

**82.** (1) For the purposes of any civil proceedings on a contract of sale of prescribed seed, being a sale to which this Act applies, the prescribed particulars contained in the statement or copy statement delivered to the purchaser upon such sale in pursuance of this Act, other than the particulars relating to the germination and purity of the said prescribed seed, shall be deemed to be true, unless the contrary is proved, and the particulars relating to the germination and purity of the said prescribed seed shall be deemed to be true, unless it is proved, upon a test made pursuant to the provisions of subsection (2), that the said prescribed seed does not conform to the standards of germination and purity prescribed for such prescribed seed.

Presumption of correctness of statement for purposes of civil proceedings on contract of sale

(2) If the purchaser of any such prescribed seed desires that a test thereof should be made for the purposes of this section, he may, at any time not later than ten days after the said seed and the said statement have been delivered to him, take a sample of the said seed in the manner prescribed and shall cause prescribed portions of the said sample to be delivered to a Certifying Agency for testing, and to such other persons, including the seller, as are prescribed.

*(As amended by Act No. 21 of 1995)*

**83.** Save where otherwise expressly provided by this Act, any person who is convicted by the court of an offence under this Act shall, in the case of a first such offence, be liable to a fine not exceeding twenty penalty units or to imprisonment for a term not exceeding three months, or to both; and in the case of a second or any subsequent offence, to a fine not exceeding fifty penalty units or to imprisonment for a term not exceeding six months, or to both.

Penalty

*(As amended by Act No. 13 of 1994 and 21 of 1995)*

## **PART XI**

### **REGULATIONS AND RULES**



- 84.** The Minister may, by statutory instrument, make regulations for Regulations  
the better carrying out of this Act and, without prejudice to the  
generality of the foregoing, such regulations may make provision for-
- (i) the forms of registers, rolls, applications, nominations for registration, certificates of registration, reports on sampling, reports on tests, and such other forms as the Minister deems fit to prescribe under and for the purposes of this Act;
  - (ii) the forms of records to be kept by the Controller of Seeds for the purposes of this Act;
  - (iii) the forms of records to be kept and returns to be made by registered seed importers, registered seed cleaners, registered seed producers and licensed seed sellers for the purposes of this Act;
  - (iv) the qualifications, professional and otherwise, of official seed-testers under this Act;
  - (v) standards of quality and performance of scientific equipment and the variety of such equipment to be maintained in any Certifying Agency;
  
  - (vi) the operation and management of Certifying Agency, including the number of official seed-testers to be attached to each such seed-testing station;
  - (vii) the forms of records to be kept by Certifying Agency for the purposes of this Act;
  - (viii) the manner in which samples are to be taken under this Act, the forms to be used in and about the taking of such samples, and the fees and expenses to be paid for and in respect of the taking of such samples under particular circumstances;
  - (ix) the methods to be employed by Certifying Agency and official seed-testers in the testing of prescribed seed under and for the purposes of this Act, and the fees to be paid for each such test under particular circumstances;
  - (x) standards of germination and purity of any variety of prescribed seed;
  - (xi) standards of germination and purity of specified varieties for purposes of certification as certified seed under Part VIII;
  - (xii) the conditions under which prescribed seed intended for sale for sowing may be displayed for sale or stored by any seed producer, registered seed importer, registered seed cleaner or licensed seed seller;
  - (xiii) the manner and methods of labelling, stamping, marking or sealing of containers in which any prescribed seed is sold;
  - (xiv) the manner and methods of labelling, stamping, marking or sealing of containers in which any seed certified under Part VIII is sold;
  - (xv) periodic sampling of prescribed seed;
  - (xvi) the prevention of the use of false or misleading statements in advertising any prescribed seed for sale;



- (a) with respect to proceedings brought under and in accordance with the provisions of subsection (2) of section *thirty-eight* and subsection (3) of section *forty-six*, the procedure and practice of the court, the forms to be used therein, the fees payable and the costs and charges to be allowed to legal practitioners practising therein;
- (b) the proper and effectual exercise of jurisdiction by the court;
- (c) the procedure and practice relating to appeals from the court.

**FIRST SCHEDULE (Section 16)**

**FEES PAYABLE ON FIRST REGISTRATION AS REGISTERED SEED IMPORTER OR REGISTERED SEED CLEANER AND ON RENEWAL THEREOF**

Fee units

- |   |    |
|---|----|
| 1. For first registration as a registered seed importer                 | 60 |
| 2. For first registration as a registered seed cleaner                  | 60 |
| 3. For the annual renewal of registration as a registered seed importer | 30 |
| 4. For the annual renewal of registration as a registered seed cleaner  | 30 |

(As amended by Act No. 13 of 1994)

## **SECOND SCHEDULE (*Section 16*)**

### **FEE PAYABLE ON REGISTRATION OF A TRANSFEREE OR SUCCESSOR IN INTEREST**

	Fee units
1. For <b>provisional</b> registration of a transferee from, or successor in interest to, a registered seed importer as a registered seed importer on the register of seed importers	30
2. For <b>provisional</b> registration of a transferee from, or successor in interest to, a registered seed cleaner as registered seed cleaner on the register of seed cleaners	30
3. For full registration of a transferee or successor in interest on the register of seed importers or the register of seed cleaners	60
4. For the <b>annual renewal</b> of any provisional registration	30

*(As amended by Act No. 13 of 1994)*

**SECOND SCHEDULE (Section 16)**

**FEES PAYABLE ON**

**REGISTRATION OF A**

**TRANSFeree OR SUCCESSOR**

**IN INTEREST**

Fee units

1. For provisional registration of a transferee from, or successor in interest to, a registered

seed importer as a registered seed importer on the register  
of seed importers 30

2. For provisional registration of a transferee from, or successor in interest to, a registered  
seed cleaner as registered seed cleaner on the register of  
seed cleaners 30

3. For full registration of a transferee or successor in interest on the register  
of seed importers or the register of seed cleaners 60

4. For the annual renewal of any provisional registration 30

*(As amended by Act No. 13 of 1994)*

<p><b>Source:</b> World Intellectual Property Organization <a href="http://www.wipo.int">http://www.wipo.int</a></p>
--