

SEEDS ACT 1985

No. 87 of 1985

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SEEDS ACT 1985

 No. 87 of 1985

AN ACT to regulate and control the production, supply, and sale of seeds, to provide for the testing of seeds, and to repeal the Seeds Act 1950.

[Royal Assent 1 November 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Seeds Act 1985*.

Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent.

Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

3—In this Act, unless the contrary intention appears—

Interpretation.

“authorized person” means a person authorized in writing by the Minister to exercise the powers under sections 11 and 19;

- “ crop seed ” means a seed which is prescribed as a crop seed;
- “ declared seed ” means a seed which is prescribed as a declared seed;
- “ Director ” means the Director of the Department of Agriculture;
- “ hybrid ”, in relation to a variety of seeds, means the seed produced—
- (a) by controlled pollination; or
 - (b) from the progeny of controlled pollination and of a prescribed quality;
- “ kind ”, in relation to seeds or seedlots, means a kind of seeds or seedlots which have the same prescribed common name or prescribed botanical name;
- “ lot designation ” means the code, brand, mark, or number which distinguishes one seedlot from another seedlot or a part of another seedlot;
- “ the Official Seed Testing Laboratory ” means the Official Seed Testing Laboratory continued under section 10;
- “ package ” means any container in which seed is stored or sold;
- “ pesticide ” has the meaning assigned to that expression in the *Pesticides Act 1968*;
- “ prohibited seed ” means a seed which is prescribed as a prohibited seed;
- “ seed ” means any part of a plant intended or commonly used for planting or sowing;
- “ seedlot ” means a separate quantity of seed, every portion or package of which is uniform within the prescribed permitted tolerances;
- “ sell ” includes—
- (a) auction or exchange;
 - (b) offer, expose, supply, or receive for sale;
 - (c) send, forward, or deliver for sale or on sale;
 - (d) cause, permit, or suffer the doing of an act referred to in paragraph (a), (b), or (c);
 - (e) offer or attempt to do an act so referred to; and
 - (f) have in possession for sale;

“speciality seed” means a kind of seeds or a mixture of kinds of seeds mixed with, attached to, enclosed in, or coated with, any fertilizer, agricultural lime, soil, compost, peat, moss, mica, plastic, paper, cellulose, or other material;

“treated seeds” means seeds that have been treated with an application of a pesticide;

“variety”, in relation to seeds, has the meaning assigned to that expression in the International Code for Nomenclature for Cultivated Plants published by the International Bureau for Plant Taxonomy and Nomenclature of the International Association for Plant Taxonomy;

“vehicle” means any form of transport which is capable of being used for the carriage of passengers or the carriage or storage of goods, and includes any aircraft, hovercraft, ship, or vessel which is capable of being so used.

4—(1) This Act applies to any—

- (a) prescribed crop seeds;
- (b) declared seeds; and
- (c) prohibited seeds.

Application,
&c., of Act.

(2) This Act applies to seeds supplied to a grower pursuant to an agreement for the growing of a crop to be purchased in whole or in part by the supplier of the seeds and the supplier is deemed to be the seller and the grower is deemed to be the purchaser.

(3) This Act does not apply to a sale of seeds where—

- (a) the purchaser intends to clean the seeds before they are resold or exposed for sale;
- (b) the purchaser gives a notice in writing to the seller of the seeds undertaking to test and label the seeds as provided for in this Act before they are resold or exposed for sale;
- (c) the seeds are intended to be used for food or for processing and all the seeds in the seedlot are to be rendered incapable of germination;
- (d) the seeds are sold pursuant to an order made by a court;
- or
- (e) the seeds are intended to be used for experimental or breeding purposes authorized by the Director.

(4) The burden of proving that any seeds are seeds to which subsection (3) applies lies on the seller of the seeds.

Prohibition
of sale of
seeds in
certain cases.

5—A person shall not sell any seeds—

- (a) the viability of which, when measured as prescribed, is less than the viability prescribed in respect of those seeds;
- (b) which are mixed or included with prescribed seeds, declared seeds, or other prescribed matter in a proportion that exceeds the prescribed proportion;
- (c) are infected with a prescribed pest or prescribed disease; or
- (d) which are mixed or included with prohibited seeds.

Penalty: \$2 000.

Labelling
of packages
of seeds.

6—(1) A person shall not sell a package of seeds unless—

- (a) there is written or printed in the prescribed manner on the package or on a label securely attached to the package a statement specifying the particulars referred to in subsection (2); and
- (b) the seeds comply with those particulars.

(2) The following particulars are required to be specified in a statement referred to in subsection (1) (a):—

- (a) with respect to names and addresses—
 - (i) the name and address of the seller or packer of the package;
 - (ii) where the package was purchased from a previous seller or packer and is for resale in an unbroken state, the name and address of that previous seller or packer; or
 - (iii) where a lot designation consisting of a brand approved under section 25s of the *Weights and Measures Act 1934*, that lot designation;
- (b) the prescribed botanical or prescribed common name of the kind of seed or seeds contained in that package;
- (c) where a variety of seed in the package is a hybrid seed and is in a proportion that exceeds the prescribed proportion, the word “HYBRID”;

- (*d*) the lot designation of the seedlot;
- (*e*) where each kind of seed in the package is in a proportion that exceeds the prescribed proportion—
 - (i) the prescribed botanical or prescribed common name of that kind;
 - (ii) the quality of the seed, other than a declared seed, expressed as prescribed; and
 - (iii) the proportion, expressed as prescribed, of pure seed of that kind in the package;
- (*f*) the total proportion, expressed as prescribed, of all seeds, other than crop seeds, in the package;
- (*g*) the net mass of the seeds contained in the package;
- (*b*) such other particulars as may be prescribed.

(3) Where seeds are sold in or from a bulk container, being a container which holds a mass of seeds exceeding the prescribed mass, the statement referred to in subsection (1) may accompany that bulk container or the part of the contents of that bulk container if that bulk container is labelled with the lot designation of the seedlot.

(4) A person shall not sell a package of seeds of a prescribed species, seeds of a prescribed quality, speciality seeds, and seeds in a package of less than the prescribed mass unless that package is labelled in the prescribed manner.

(5) Packages of seeds sold for use as stock feed or bird seed are exempted from the requirements of subsection (2) where those packages are—

- (*a*) labelled with the words “STOCKFEED” or “BIRD-SEED” or other similar words; and
- (*b*) labelled in such manner as may be prescribed.

(6) Where seeds—

- (*a*) being the whole of a seedlot; or
- (*b*) being part of a seedlot sold separately from the whole of the seedlot,

are sold in a quantity exceeding the quantity prescribed for the purpose, it is sufficient compliance with subsection (2) if—

- (*c*) the seeds are identified in the prescribed manner with the seedlot; and

(d) at the time of the sale of the seeds, the seller gives the purchaser an invoice or docket relating to those seeds setting out the particulars referred to in subsection (2) in respect of that seedlot.

(7) A person shall not specify the name of the variety or strain of seeds contained in a package of seeds which is for sale unless that name conforms with any requirements that may be prescribed.

(8) A person shall not sell a package of treated seeds or a sample taken from a package of treated seeds unless that package has a statement printed in the prescribed manner printed on the package or on a label securely attached to the package or sample stating that the contents of the package or sample are seeds treated with a pesticide.

(9) A person shall not sell a package of seeds as being “hermetically sealed”, “conditioned” or with similar descriptions implying that the moisture content of the seeds is controlled unless—

(a) the seeds are packed in containers in the prescribed manner to restrict the penetration of water vapour; and

(b) the seeds have a prescribed moisture content measured as prescribed.

(10) A person shall not sell seeds, where at the time of the sale, seeds are mixed in accordance with the requirements of the purchaser of the seeds, unless the particulars required to be specified under subsections (2), (4), (5), (8), and (9) in respect of each seedlot comprising the mixture shall be made available to the purchaser at the time of the sale—

(a) where the words “CUSTOM MIXTURE”, or words of a similar meaning, are included on an invoice or docket relating to that sale, by any appropriate means; or

(b) in any other case, by a written or printed statement on the package or on a label attached to the package.

Warranty of
statement.

7—(1) A statement on a package of seeds or on a label attached to a package of seeds relating to the source, kind, quality, or quantity of those seeds constitutes a warranty by the seller of the seeds that the statement is true and correct.

(2) The seller of seeds shall ensure that the particulars required to be specified in a statement under section 6 (2) are correct within the limits of prescribed tolerances.

(3) For the purposes of subsection (2), the particulars required to be specified in a statement under section 6 (2) shall, subject to subsection (4), be deemed to be correct if the results obtained from a test under section 10 (2) or 19 (1) do not differ from the particulars in the statement by more than the prescribed tolerances.

(4) With respect to paragraphs (e) and (f) of section 6 (2) the particulars required to be specified in a statement under section 6 (2) shall be deemed to be correct if they are derived from a sample taken by an authorized person in the prescribed manner within—

- (i) in the case of seeds which are hermetically sealed, 36 months before being sold or exposed for sale; or
- (ii) in any other case, 12 months before sold or exposed for sale.

8—(1) A person who purchases a package of seeds which— Remedy of purchaser where statement untrue, &c.

- (a) does not have a statement referred to in subsections (1), (8), or (10) of section 6;
- (b) has such a statement which is found, as a result of a test carried out in the prescribed manner to be incorrect; or
- (c) is sold contrary to the requirements of subsections (4), (7), or (9) of section 6,

is not bound to accept the seeds and may, subject to prescribed conditions, return the seeds to the seller of those seeds notwithstanding that he has accepted delivery of the seeds.

(2) Where a person has returned seeds to the seller of those seeds pursuant to subsection (1), he may recover in a court of competent jurisdiction as a debt due to him any expenses incurred by him in respect of the seeds returned by him.

9—A person shall not, in any invoice, agreement, circular, or advertisement relating to seeds, or on any package of seeds or any label attached to such a package, use or cause to be used the words Restriction on use of "certified", "registered", &c.

“ approved ”, “ certified ”, “ registered ”, “ disease immune ”, “ disease resistant ”, “ wilt immune ”, “ wilt resistant ”, or “ select quality ” or any other similar words unless the seeds were—

- (a) tested under this Act and found to conform with the prescribed standards; or
- (b) tested in accordance with a prescribed scheme pursuant to section 21 and were duly certified or registered under that scheme.

Penalty: \$2 000.

Official
Seed Testing
Laboratory.

10—(1) The Official Seed Testing Laboratory established under the *Seeds Act* 1930 is continued at such place and under such officers as the Minister may determine.

(2) A person may submit a sample of seeds in the prescribed manner to the Official Seed Testing Laboratory for the testing of those seeds.

(3) A person who submits a sample of seeds for testing pursuant to subsection (2) may, on payment of such fees as are determined by the Minister and published in the *Gazette*, obtain a certificate specifying the prescribed particulars in respect of that sample of seeds.

(4) A certificate obtained under subsection (3) is evidence until the contrary is proved of the particulars specified in that certificate.

(5) The Director shall not divulge any of the particulars specified in a certificate obtained by a person under subsection (3) relating to a sample of seeds to any other person unless the sample of seeds does not comply with section 5.

(6) A test undertaken under this section in respect of a sample which is taken as prescribed from a bulk quantity of seeds is deemed to be a test of that bulk quantity.

(7) The quantity of seeds in a sample of seeds submitted for testing under subsection (2) shall be not less than the quantity prescribed in respect of seeds of the kind to be tested.

11—(1) An authorized person may at any reasonable time enter and remain on any place or vehicle he reasonably believes is kept or used for the sale, storage, delivery, cleaning, treatment, packaging, or transportation of any seeds for the purpose of inspecting any seeds found in that place or vehicle.

Powers of entry, &c., of authorized persons.

(2) Where an authorized person enters a place or vehicle pursuant to subsection (1), he may—

- (a) make such inspections, examinations, and inquiries as he thinks necessary for the purpose referred to in that subsection;
- (b) take in the prescribed manner samples of any seeds;
- (c) submit for testing in the prescribed manner any such samples;
- (d) where he suspects on reasonable grounds that an offence against this Act has been committed, report the suspected offence to the Director;
- (e) detain or seize any package containing seeds which do not comply with the particulars specified on the package or on a label attached to that package;
- (f) detain or seize any seeds the sale of which is prohibited by this Act; and
- (g) attach a prescribed warning notice to, or mark in the prescribed manner, any package containing seeds that are seized or detained under this Act.

(3) Where an authorized person takes samples of seeds pursuant to subsection (2) (b), the person having possession or control of those seeds shall provide the authorized person with such particulars as are known to him which are required under section 6.

(4) A person who—

- (a) without reasonable excuse, fails or refuses to answer a question put by an authorized person during the course of an inspection or examination under subsection (2) (a);
- (b) gives an answer to such a question which, to his knowledge, is false or misleading in a material particular; or
- (c) fails without reasonable excuse to give the particulars required under subsection (3),

is guilty of an offence and liable on summary conviction to a penalty not exceeding \$500.

(5) Where in or on any place or vehicle an authorized person is about to exercise, or is in the course of exercising, a power conferred on him by this section, and another person requests him to produce his authorization to enter that place or vehicle, it is not lawful for him to exercise or to continue to exercise that power unless he produces his written authorization from the Minister.

(6) A person is not obliged to answer a question referred to in subsection (4) (a) unless he has first been informed by the authorized person asking the question that he is obliged to answer the question by virtue of this section.

(7) A person may not refuse to answer a question referred to in subsection (4) (a) on the ground that his so doing might tend to incriminate him or make him liable to any penalty.

(8) Any answer given by a person pursuant to a question referred to in subsection (4) (a), after he has been informed in the manner set forth in subsection (6), shall not be admissible in evidence in any proceedings, civil or criminal, against him, other than in proceedings under subsection (4).

Notice of
detention
and seizure
of seeds.

12—(1) Where, pursuant to section 11, an authorized person detains or seizes any seeds, he shall, as soon as practicable—

(a) give a notice in the prescribed form of the detention or seizure—

(i) where the name and address of the owner or consignor of the seeds appear on the package, or on a label attached to the package, containing the seeds and the address is an address in this State, to that owner or consignor; or

(ii) where the name and address of the owner or consignor does not appear on that package or label, or where the address is not an address in this State, to the person in whose possession the seeds were found; and

(b) take and send a sample of the seeds to the Official Seed Testing Laboratory for testing.

(2) A notice under subsection (1) (a) shall remain in force for such period as is specified in the notice.

(3) A person shall not remove all or any part of seeds detained or seized pursuant to section 11 during any period during which a notice under subsection (1) (a) remains in force except with the written authority or direction of the Director or an authorized person.

13—Where, pursuant to section 12 (1) (b), an authorized person sends a sample of seeds to be tested and the result of the test shows—

Seeds complying with requirements of Act.

(a) that the seeds comply with the particulars as specified in the statement written or printed on the package, or on a label attached to the package, containing the seeds; and

(b) that the sale of the seeds is not prohibited under this Act,

he shall, as soon as practicable—

(c) return the seeds to the owner or consignor of the seeds, or the person in whose possession the seeds were found, as the case may be; and

(d) cancel the notice referred to in section 12 (1) (a).

14—(1) Where an authorized person sends a sample of seeds to be tested pursuant to section 12 (1) (b) and the result of the test shows—

Seeds not complying with requirements of Act.

(a) that seeds do not comply with the particulars as specified in the statement written or printed on the package, or on a label attached to the package, containing the seeds; or

(b) that the sale of the seeds is prohibited under this Act, he shall—

(c) by notice in writing given to the owner or consignor of the seeds, or person in whose possession the seeds were found, as the case may be, state the result of the test;

(d) where no notice has been given under section 12 (1) (a), give that notice in accordance with section 12 (1) (a); and

(e) after consultation with the owner, consignor, or person in whose possession the seeds were found and by notice within 30 days after the giving of the notice

referred to in paragraph (c) in the prescribed form, give such directions to that owner, consignor, or person as the authorized person considers necessary to prevent any contravention of or failure to comply with this Act.

(2) A direction under subsection (1) (e) shall be delivered by hand or sent by post.

(3) A copy of any direction under subsection (1) (e) shall be forwarded to the Director.

(4) The owner, consignor, or person to whom a direction has been given pursuant to this section shall—

(a) comply with the direction—

(i) where no appeal is lodged with the Minister pursuant to section 17, within 30 days after receipt of the direction; or

(ii) where an appeal is lodged with the Minister pursuant to section 17 and the direction is confirmed or varied by the Minister, within 30 days after receipt of the decision of the Minister confirming or varying the direction; and

(b) forward the Director a statutory declaration within 7 days of compliance with the direction as may be confirmed or varied under paragraph (a) (ii) stating that he has so complied.

(5) Any seeds which are the subject of a direction under subsection (1) (e) shall not be released from detention or seizure until the Director receives the statutory declaration referred to in subsection (4) (b).

(6) A person who fails to comply with a direction under this section is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$2 000.

(7) Nothing in this section shall be construed so as to limit the right of the Minister to institute legal proceedings in respect of any seeds which are found not to comply with this Act.

Package of
seeds not
complying with
section 6
of Act.

15—(1) Where, pursuant to section 11 (2) (e), an authorized person detains or seizes a package containing seeds and that package or a label attached to that package does not have written or printed on it a statement specifying the particulars referred to in section

6 (2), a label as required in section 6 (4) and (5), or a statement referred to in section 6 (8), (10), or (11), he may, by notice in writing, direct the owner or consignor of the seeds or the person in whose possession the seeds were found to cause to be written or printed on the package or label the relevant statement.

(2) Any seeds which are the subject of a direction under subsection (1) shall not be released from detention or seizure until the direction is complied with.

- 16**—(1) Where, in respect of a sample of seeds, a person—
- (a) fails to comply with a direction under section 14 or 15;
or
- (b) fails to forward a statutory declaration under section 14 (4) (b),

Treatment,
&c., of seeds
in accordance
with direction.

the Director may cause the seeds to be treated, cleaned, or destroyed in accordance with the direction.

(2) Any expense incurred by the Director in the treatment, cleaning, or destruction of the seeds pursuant to subsection (1) may be recovered in a court of competent jurisdiction as a debt due to the Crown by the person referred to in that subsection.

17—(1) A person who is aggrieved by a direction specified in a notice under section 14 (1) (e) or 15 (1) may appeal to the Minister within 7 days after the date on which he receives the notice.

Appeals in
respect of
directions.

(2) An appeal under this section shall be in writing and shall specify the grounds on which the appeal is based.

(3) On receipt of an appeal under this section, the Minister, by notice delivered by hand or sent by post to the appellant, may revoke, confirm, or vary the directions.

18—(1) The Minister may, on application being made to him by a person, exempt that person from complying with such provisions of the Act as the Minister specifies subject to such conditions as he may determine.

Exemptions.

(2) An application under subsection (1) shall be made in the prescribed form.

(3) The Minister, on being satisfied that a person exempted under subsection (1) has contravened, or failed to comply with, a condition referred to in that subsection, may revoke that exemption.

(4) A person who contravenes, or fails to comply with a condition referred to in subsection (1), is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$2 000.

Provisions
relating to
imported seeds.

19—(1) Seeds prescribed for the purposes of this section shall not be imported into the State unless they are accompanied by a certificate which—

(a) certifies that the seeds have been tested as prescribed; and

(b) contains a statement in the prescribed form specifying prescribed particulars of the test.

(2) Any seeds imported into the State shall not be removed from the wharf, pier, port, airfield, transit shed, or storage depot at the place of importation otherwise than in accordance with subsection (3).

(3) An authorized person may—

(a) permit seeds which have been imported into the State to be removed from the place of importation; or

(b) by notice in the prescribed form, permit the person importing the seeds to remove the seeds subject to any of the following conditions:—

(i) to keep them intact pending a test or specified investigation, or for a specified period;

(ii) to treat them in the prescribed manner;

(iii) to destroy any material removed from them by that treatment;

(iv) to destroy them or send them out of the State if the seeds, notwithstanding such treatment, are unable to be lawfully sold in the State.

(4) Any seeds which have been imported into the State shall not be used in the State unless the seeds—

(a) have been treated in the prescribed manner;

(b) comply with subsection (1); or

(c) have been tested in the prescribed manner.

(5) A person who fails to comply with, or contravenes, a provision of this section is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$2 000.

Appeals in
respect of
conditions
relating to
importation.

20—(1) A person who is aggrieved by the conditions of a notice under section 19 (3) (b) may appeal to the Minister within 7 days after the date on which he receives the notice.

(2) An appeal under subsection (1) shall be instituted in writing and shall specify the grounds on which the appeal is based.

(3) On receipt of an appeal under this section, the Minister, by notice in writing served on the appellant, may revoke, confirm, or vary the conditions.

21—(1) The Minister may approve and implement prescribed schemes for the purpose of—

Seed certification and registration schemes.

(a) testing and certifying—

- (i) the variety, origin, or trueness to type of any class or kind of seeds; and
- (ii) the freedom from or resistance or immunity to prescribed diseases or prescribed pests of any class or kind of seeds; or

(b) testing and registering—

- (i) the variety, origin, or trueness to type of any class or kind of seeds; and
- (ii) the freedom from or resistance or immunity to prescribed diseases or prescribed pests of any class or kind of seeds.

(2) The Minister may, by notice published in the *Gazette*, approve certification or registration schemes similar to those specified in subsection (1) whether operated in this State or outside this State.

(3) The Minister may, by notice published in the *Gazette*, specify such fees as he deems appropriate for the testing, certifying, and registering of any class or kind of seed produced pursuant to a scheme approved under this section.

(4) Any seeds which are certified or registered in accordance with a scheme approved pursuant to subsection (2) are deemed to have been certified and registered under this Act.

(5) Where seeds have been certified or registered in accordance with a scheme approved under subsection (1) or (2), they shall be identified in the prescribed manner as having been so certified or registered.

(6) Where, pursuant to subsection (2), the Minister has approved a certification or registration scheme, he may revoke or vary his approval by notice published in the *Gazette*.

(7) Where the Director is of the opinion that a person who is a participant in a scheme approved pursuant to subsection (1) or (2) in relation to a crop of a variety of seeds has not complied with this Act or the scheme, the Director may exclude that person from participating in the scheme in relation to all or any further crops of that variety of seeds or any other seeds.

False or misleading statements.

22—A person shall not, in any statement required to be made under this Act, provide any information or particulars which to his knowledge is false or misleading in a material respect.

Penalty: \$2 000.

Offences and penalties.

23—(1) A person who—

(a) sells any seeds—

(i) in contravention of this Act; or

(ii) in a package which is not marked or labelled in accordance with this Act; or

(b) obstructs, resists, or impedes an authorized person in the exercise of his powers or in the discharge of his duties under this Act,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$2 000.

(2) No proceedings shall be taken in respect of an offence under this Act except with the authority of the Minister.

(3) In any proceedings taken in respect of an offence under this Act, a certificate referred to in section 10 (3) shall not be used unless—

(a) the complaint to which the proceedings relate was laid within 12 months after the taking of the sample in respect of which the certificate was given; and

(b) a copy of that certificate was served on the defendant with the summons.

Forfeiture.

24—(1) In the case of a conviction under this Act, the seeds or package of seeds to which the conviction relates may, by order of the court, be forfeited to the Crown.

(2) Any seeds or package of seeds forfeited pursuant to subsection (1) may be disposed of as the Minister directs.

25—In any proceedings under this Act instituted by or under the direction of the Minister, proof is not required of— Certain proof not required.

- (a) any order to prosecute;
- (b) the authority of any officer to prosecute; or
- (c) the particular or general appointment of such an officer.

26—(1) Where a person is convicted of an offence against this Act, the court may order that the fees and other expenses incidental to the testing of any seeds in respect of which the conviction is obtained shall be paid by the person so convicted. Fees and expenses of testing.

(2) The fees and other expenses referred to in subsection (1) are deemed to be part of the costs attending the conviction and are recoverable in the same manner as such costs are recoverable.

27—Where an offence for which a seller is liable to a penalty under this Act has been committed by an agent of the seller, the agent is liable to the same penalty as if he were the seller. Agent of seller liable in certain cases.

28—(1) A seller who is charged with an offence against this Act may have any other person whom he alleges is the person who committed that offence brought before the court at the proceedings relating to that offence. Proceedings against actual offender.

(2) If, in the proceedings referred to in subsection (1), the seller proves to the satisfaction of the court that—

- (a) he had used due diligence to enforce compliance with the provisions of this Act;
- (b) the other person referred to in subsection (1) was his agent at the time the offence to which the proceedings relate was committed; and
- (c) that person had committed that offence without the knowledge, consent, or connivance of the seller and in contravention of the orders of the seller,

that person, where the commission of the offence is proved, shall be summarily convicted of that offence.

(3) Where a person is convicted of an offence pursuant to subsection (2), the court may order that the costs incidental to the proceedings and to the seller in respect of the proceedings shall be paid by the person so convicted.

(4) Where an authorized person is satisfied, at the time of discovering an offence against this Act—

- (a) that the seller of the seeds to which the offence relates has used all due diligence to enforce compliance with the provisions of this Act;
- (b) the offence has been committed by another person who is the agent of that seller; and
- (c) that the offence has been committed without the knowledge, consent, or connivance of the seller and in contravention of the orders of the seller,

the authorized person may proceed against that other person without first proceeding against the seller.

Regulations.

29—(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for, or with respect to—

- (a) the carrying out of certification and registration schemes approved pursuant to section 21;
- (b) the taking and testing of samples; and
- (c) the method of proving the results of such testing.

(3) Regulations under this section may incorporate wholly, partially, or by reference, any standards, rules, or codes of practice, whether as in force at the time of incorporation or as amended from time to time, or methods relating to the sampling and testing of seeds and to certification and registration schemes which are prescribed or published by any authority or body.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$2 000.

(5) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations, or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

Repeal.

30—The *Seeds Act* 1950 is repealed.