



# Plant Varieties and Seeds Act 1964

## 1964 CHAPTER 14

### PART II

#### SEEDS AND SEED POTATOES

##### *Regulation of sales*

#### 16 Seeds regulations.

- (1) The Minister, after consultation with representatives of such interests as appear to him to be concerned, may by statutory instrument make such regulations as appear to him to be necessary or expedient for the purpose—
- of ensuring that reliable and adequate information is afforded as to the nature, condition and quality of seeds which are sold or are for sale,
  - of preventing the sale of seeds which are deleterious, and of preventing the sale of seeds which have not been tested for purity and germination, or which are of a variety the performance of which has not been subjected to trials,
  - of preventing the spread of plant disease by [<sup>F1</sup>means] of seeds,
  - of regulating the descriptions under which seeds are sold, and
  - of prescribing anything which, under this Part of this Act, is authorised or required to be prescribed,

and regulations under this section shall be known as seeds regulations.

[<sup>F2</sup>(1A) Seeds regulations may further make provision for regulating the marketing, or the importation or exportation, of seeds or any related activities (whether by reference to officially published lists of permitted varieties or otherwise), and may in that connection include provision—

- for the registration or licensing of persons engaged in the seeds industry or related activities;
- for ensuring that seeds on any official list remain true to variety;
- for the keeping and inspection of records and the giving of information;
- for conferring rights of appeal to the Tribunal;

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- (e) for excluding, extending or modifying, in relation to or in connection with any provision of the regulations, the operation of any provision made by the following sections of this Part of this Act or of Part IV of this Act, and for the charging of fees.]
- (2) Seeds regulations may include provisions as to the packets, bags, trays or other containers in which seeds may be sold or delivered to purchasers, and requirements as to the marking of such containers.
- (3) Seeds regulations may in particular—
- (a) require information to be given in the prescribed manner (which may include the giving of it on any label, container or package) as regards seeds which are sold or offered or exposed for sale and, in particular, require the seller of any seeds to deliver a statement containing the prescribed particulars to the purchaser within the time limited by the regulations,
  - (b) require any of the particulars contained in a statement to be delivered to a purchaser or other person under seeds regulations to be particulars ascertained on a test of the seeds,
  - (c) prohibit the selling, or the offering or exposing for sale, of seeds which contain more than a prescribed proportion of weed seeds, or of weed seeds of a prescribed kind,
  - (d) prohibit persons from using, in relation to seeds which are sold, or are offered or exposed for sale, a prescribed name or designation or description except where the seeds have been grown or selected under the prescribed conditions,
  - (e) require persons who deal in seeds to supply the Minister with information as to, and to keep records of,—
    - (i) transactions in seeds,
    - (ii) statutory statements given or received by them, and other statements or invoices given or received by them in connection with the sale of seeds,
    - (iii) processes or treatments applied to seeds, and
    - (iv) the results of tests of seeds,
 and authorise officers of the Minister and other persons to call for production of the records,
  - (f) where persons who deal in seeds also grow seeds, require those persons to supply the Minister with information as to, and to keep records of—
    - (i) [F<sup>3</sup>areas] sown, and
    - (ii) the yields of the crops,
 and authorise officers of the Minister and other persons to call for production of the records,
  - (g) regulate the procedure to be observed at, and the conduct of, official testing stations and other establishments at which tests may be carried out for the purposes of the regulations,
  - (h) regulate the manner in which any tests are to be made for the purposes of this Part of this Act,
  - (i) provide for the licensing by the Minister of establishments for the testing of seeds, other than official testing stations, and authorise the Minister to charge a fee for, and to attach conditions to, any such licence and to make the conditions enforceable by withdrawal of the licence or by making a breach of any of the conditions an offence against seeds regulations.

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- (4) In prescribing the manner in which samples are to be taken for the purposes of any provision in this Part of this Act or for the purposes of seeds regulations, the regulations—
- (a) may impose conditions as to the persons authorised to take samples and the places where they may be taken,
  - (b) may require the person taking a sample to give part of it to the owner of the seeds or to some other person, may prescribe the manner in which the sample is to be divided into parts and may impose duties as respects the marking or labelling and the preservation of the parts of the sample, and
  - (c) may provide for the identification, by the labelling or marking of their container or by some other method, of seeds from which a sample has been taken.
- (5) Seeds regulations—
- (a) may exempt, or authorise the Minister to exempt, any person or class of persons, or persons generally, from compliance with any of the provisions of the regulations, and may provide that the exemptions are to be, or may be made, subject to conditions, and
  - (b) may contain such transitional provisions consequent on the repeal of the <sup>M1</sup>Seeds Act 1920 by this Act as may appear to the Minister to be expedient.
- [<sup>F4</sup>(5A) In determining any fees to be charged under seeds regulations the Minister may have regard to the costs incurred by him in connection with the enforcement of the regulations.]
- (6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) If any person—
- (a) in a statutory statement includes anything which is false in a material particular, or
  - (b) contravenes any provision contained in seeds regulations [<sup>F5</sup>he shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup>level 5 on the standard scale]].
- [<sup>F7</sup>(8) The Ministers acting jointly may make seeds regulations for the whole of Great Britain].

#### Subordinate Legislation Made

- P1** S. 16: for previous exercises of this power see Index to Government Orders.
- P2** S. 16(1)(1A)(e)(8) (with s. 36) power exercised by S.I. 1991/656.  
S. 16(1)(1A)(e)(8) (with s. 36) power exercised by S.I. 1991/657.
- P3** S. 16(1)(1A)(5)(8): s. 16(1) (with ss. 16(1A)(5)(8) and 36) power exercised by S.I. 1991/1601  
S. 16(1)(8): s. 16(1) (with ss. 16(8) and 36) power exercised by S.I. 1991/1602
- P4** S. 16(1)(1A)(e): s. 16(1) (with s. 16(1A)(e)) power exercised by S.I. 1991/1537
- P5** S. 16(1)(1A)(2)(3)(4)(5)(8): s. 16(1) (with ss. 16(1A)(2)(3)(4)(5)(8) and 36) power exercised (E.W.S.) (30.9.1991) by S.I.1991/2206

#### Textual Amendments

- F1** Word substituted by European Communities Act 1972 (c. 68), s. 4, Sch. 4 para. 5(2)
- F2** S. 16(1A) inserted by European Communities Act 1972 (c. 68), s. 4, Sch. 4 para. 5(2)

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- F3** Word substituted by [S.I. 1977/1112, reg. 2](#)
- F4** [S. 16\(5A\)](#) inserted (E.W.S.) by Agriculture Act 1986 (c. 49 SIF 2:1), s. 2
- F5** Words substituted by [European Communities Act 1972 \(c. 68\)](#), s. 4, [Sch. 4 para. 5\(2\)](#)
- F6** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.), [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)
- F7** [S. 16\(8\)](#) added by [European Communities Act 1972 \(c. 68\)](#), s. 4, [Sch. 4 para. 5\(3\)](#)

**Modifications etc. (not altering text)**

- C1** [S. 16](#) (in part) extended (N.I.) by [S.I. 1973/609, art. 1](#), [Sch.](#)

**Marginal Citations**

- M1** [1920 c. 54](#).

**17 Civil liabilities of sellers of seeds.**

- (1) If and so far as seeds regulations provide that a statutory statement shall constitute a statutory warranty for the purposes of this section, the statutory statement, when received by the purchaser, shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained in the statutory statement are correct.
- (2) If and so far as seeds regulations apply this subsection to the particulars in a statutory statement and prescribe limits of variation in relation to those particulars, those particulars shall, for the purposes of any legal proceedings on a contract for the sale of the seeds to which the statutory statement relates, be deemed to be true except so far as there is a mis-statement in the statutory particulars which exceeds the limits of variation so prescribed.
- (3) If and so far as seeds regulations apply this subsection to the particulars in a statutory statement, the particulars in the statutory statement shall, for the purposes of any legal proceedings on a contract for the sale of the seeds to which the statutory statement relates, be deemed to be true unless it is made to appear on a test carried out at an official testing station, and made on a sample taken in the manner, and within the period, prescribed by seeds regulations, that the particulars were untrue.
- (4) Where a purchaser intends to obtain a test of seeds for the purposes of subsection (3) of this section, the seller of the seeds shall be given written notice of the purchaser's intention not more than the prescribed period after delivery to the purchaser of the seeds under the sale, and seeds regulations shall prescribe a procedure for taking a sample of seeds to be tested for the purposes of that subsection which will afford to the seller of the seeds or his agent an opportunity of being present when the sample is taken, and of obtaining part of the sample.
- (5) A contravention of seeds regulations shall not affect the validity of a contract for the sale of seeds, or the right to enforce such a contract.
- (6) In Scotland a contract for the sale of seeds may not be treated as repudiated by reason only of a breach of a written warranty having effect by virtue of subsection (1) of this section.

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**Modifications etc. (not altering text)**

- C2** S. 17(2) applied (1.9.1993) by: S.I. 1993/2005, **reg. 10(2)**; S.I. 1993/2006, **reg. 10(2)**; S.I. 1993/2007, **reg. 10(2)**; S.I. 1993/2008, **reg. 11(2)**; S.I. 1993/2009, **reg. 10(2)**
- C3** S. 17(2) applied (E.) (31.1.2003) by: S.I. 2002/3171, **reg. 24(2)**; S.I. 2002/3172, **reg. 27(2)**; S.I. 2002/3173, **reg. 27(2)**; S.I. 2002/3174, **reg. 27(2)**; S.I. 2002/3175, **reg. 27(2)**
- C4** S. 17(2) applied (S.) (26.9.2004) by Oil and Fibre Plant Seed (Scotland) Regulations 2004 (No. 317), regs. 1(1), **23(2)**
- C5** S. 17(2) applied (W.) (13.12.2004) by The Oil and Fibre Plant Seed (Wales) Regulations 2004 (S.I. 2004/2881), regs. 1, **27(2)**
- C6** S. 17(2) applied (W.) (30.4.2005) by The Fodder Plant Seed (Wales) Regulations 2005 (S.I. 2005/1207), regs. 1, **27(2)**
- C7** S. 17(2) applied (S.) (1.7.2005) by Fodder Plant Seed (Scotland) Regulations 2005 (No. 329), regs. 1(2), **24(2)**
- C8** S. 17(2) applied (S.) (1.7.2005) by Cereal Seed (Scotland) Regulations 2005 (No. 328), regs. 1(1), **24(2)**
- C9** S. 17(2) applied (W.) (18.11.2005) by The Cereal Seed (Wales) Regulations 2005 (S.I. 2005/3036), regs. 1(2), **27(2)**
- C10** S. 17(2) applied (W.) (18.11.2005) by The Vegetable Seed (Wales) Regulations 2005 (S.I. 2005/3035), regs. 1(2), **27(2)**
- C11** S. 17(2) applied (W.) (18.11.2005) by The Beet Seed (Wales) Regulations 2005 (S.I. 2005/3037), regs. 1(2), **24(2)**
- C12** S. 17(2) applied (S.) (20.4.2010) by The Beet Seed (Scotland) Regulations 2010 (No. 67), regs. 1(1), **21(2)**
- C13** S. 17(2) applied (S.) (20.4.2010) by The Beet Seed (Scotland) (No. 2) Regulations 2010 (No. 148), regs. 1(2), **21(2)**
- C14** S. 17(3) applied (1.9.1993) by: S.I. 1993/2005, **reg. 10(3)**; S.I. 1993/2006, **reg. 10(3)**; S.I. 1993/2007, **reg. 10(3)**; S.I. 1993/2008, **reg. 11(3)**; S.I. 1993/2009, **reg. 10(3)**
- C15** S. 17(3) applied (E.) (31.1.2003) by: S.I. 2002/3171, **reg. 24(3)**; S.I. 2002/3172, **reg. 27(3)**; S.I. 2002/3173, **reg. 27(3)**; S.I. 2002/3174, **reg. 27(3)**; S.I. 2002/3175, **reg. 27(3)**
- C16** S. 17(3) applied (S.) (26.9.2004) by Oil and Fibre Plant Seed (Scotland) Regulations 2004 (No. 317), regs. 1(1), **23(3)**
- C17** S. 17(3) applied (W.) (13.12.2004) by The Oil and Fibre Plant Seed (Wales) Regulations 2004 (S.I. 2004/2881), regs. 1, **27(3)**
- C18** S. 17(3) applied (W.) (30.4.2005) by The Fodder Plant Seed (Wales) Regulations 2005 (S.I. 2005/1207), regs. 1, **27(3)**
- C19** S. 17(3) applied (S.) (1.7.2005) by Cereal Seed (Scotland) Regulations 2005 (No. 328), regs. 1(1), **24(3)**
- C20** S. 17(3) applied (S.) (1.7.2005) by Fodder Plant Seed (Scotland) Regulations 2005 (No. 329), regs. 1(2), **24(3)**
- C21** S. 17(3) applied (W.) (18.11.2005) by The Cereal Seed (Wales) Regulations 2005 (S.I. 2005/3036), regs. 1(2), **27(3)**
- C22** S. 17(3) applied (W.) (18.11.2005) by The Beet Seed (Wales) Regulations 2005 (S.I. 2005/3037), regs. 1(2), **24(3)**
- C23** S. 17(3) applied (W.) (18.11.2005) by The Vegetable Seed (Wales) Regulations 2005 (S.I. 2005/3035), regs. 1(2), **27(3)**
- C24** S. 17(3) applied (S.) (20.4.2010) by The Beet Seed (Scotland) Regulations 2010 (No. 67), regs. 1(1), **21(3)**
- C25** S. 17(3) applied (S.) (20.4.2010) by The Beet Seed (Scotland) (No. 2) Regulations 2010 (No. 148), regs. 1(2), **21(3)**

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

- (1) If and so far as seeds regulations for the purposes of this section prescribe limits of variation in relation to the particulars in a statutory statement, it shall be a defence to proceedings under this Act for including in a statutory statement any false particulars to prove that the mis-statements in the particulars alleged to be false do not exceed the limits of variation so prescribed.
- (2) Subject to the provisions of this section, it shall be a defence—
- (a) to proceedings under this Part of this Act for including false particulars in a statutory statement,
  - (b) to proceedings under this Part of this Act [<sup>F8</sup>for any other offence],
- to prove—
- (i) that the accused took all reasonable precautions against committing an offence of the kind alleged and had not at the time of the alleged offence any reason to suspect that an offence was being committed by him, and
  - (ii) where the accused obtained the seeds to which the alleged offence relates from some other person, that on demand by or on behalf of the prosecutor the accused gave all the information in his power with respect to the name and address of that other person, and with respect to any statutory statement or other document in his possession or power relating to the seeds, and the contract of sale.
- (3) If in any such proceedings as are mentioned in subsection (2)(a) of this section any of the particulars alleged to be false are particulars which, by seeds regulations, are to be particulars ascertained by means of a test made in accordance with the regulations, the defence under subsection (2) of this section shall not be available unless it is proved—
- (a) that those particulars were ascertained on such a test and that the test was made not earlier than the date, if any, prescribed by seeds regulations for the purpose, or
  - (b) that—
    - (i) the accused purchased the seeds from another person who, in connection with the sale, duly delivered to the accused a statutory statement giving particulars of the seeds which were the same as the particulars alleged to be false, and
    - (ii) the accused had no reason to believe that paragraph (a) of this subsection did not apply in relation to those particulars.

### Textual Amendments

**F8** Words substituted by [European Communities Act 1972 \(c. 68\), s. 4, Sch. 4 para. 5\(2\)](#)

### Modifications etc. (not altering text)

**C26** [S. 18\(2\)](#) (in part) extended (N.I.) by [S.I. 1973/609, art. 1, Sch.](#)

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

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

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20— ..... F9  
23A.

**Textual Amendments**

F9 Ss. 20—23A repealed by [European Communities Act 1972 \(c. 68\)](#), s. 4, [Sch. 3 Pt. III](#)

*Official testing stations*

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

- (1) Subject to this section, the Minister of Agriculture, Fisheries and Food and the Secretary of State shall respectively continue to maintain the official seed testing stations established for England and Wales and for Scotland under the <sup>M2</sup>Seeds Act 1920.
- (2) The Ministers may unite in establishing and maintaining, on such terms as may be agreed between them, a common official seed testing station for the whole of Great Britain.
- (3) Either or both of the Ministers may at any time alter the arrangements made by them for official seed testing stations for England and Wales and for Scotland respectively, and any official seed testing station established by either or both of them may be established in conjunction with any other bodies or persons.
- (4) The Minister or Ministers concerned may, subject to the approval of the Treasury, authorise the charging of fees for the services given at an official seed testing station.
- (5) A certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of this Part of this Act shall be in the form prescribed by seeds regulations.
- (6) A certificate of the result of a test at an official seed testing station of a sample taken for the purposes of this Act, and purporting to be issued by an officer of an official seed testing station,—
  - (a) if the sample was taken by an authorised officer, shall, if a copy of the certificate has been served on the accused with the summons or complaint, be sufficient evidence of the facts stated in the certificate in any proceedings for an offence under this Part of this Act, and
  - (b) if the sample was taken by a person other than an authorised officer in order to obtain the test for the purposes of section 17(3) of this Act, shall be sufficient evidence of the facts stated in the certificate in any such legal proceedings as are mentioned in that subsection,

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

- (7) In any proceedings for an offence under this Part of this Act in which a copy of a certificate of the result of a test has been served with the summons or complaint in pursuance of paragraph (a) of the last foregoing subsection, the accused, unless the court otherwise directs, shall not be entitled to require that the person under whose direction the test was made be called as a witness unless he has, at least three clear days



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before the day on which the summons is returnable or, in Scotland, the case proceeds to trial, given notice to the prosecutor that he intends to do so.

#### **Marginal Citations**

**M2** 1920 c. 54.

#### *Supplemental*

#### **Modifications etc. (not altering text)**

**C27** Ss. 25—27, 30 so far as they relate to ss. 20—23 and s. 29 extended (N.I.) by [S.I. 1964/1574, art. 1, Sch.](#)

### **25 Powers of entry.**

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



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to a purchaser of those seeds, and to deliver it within the time prescribed for such a statement.

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

[<sup>F10</sup>to a fine not exceeding [<sup>F11</sup>level 3 on the standard scale]]

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

- (8) This section shall apply as respects—

- (a) all kinds of seeds in respect of which an offence may under any circumstances be committed under seeds regulations as for the time being in force, . . . <sup>F12</sup>  
(b)

- <sup>F12</sup>(9) A person who obstructs or impedes any person acting in the exercise of the powers conferred by this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

#### Textual Amendments

- F10** Words substituted for s. 25(7) paras. (a)(b) by European Communities Act 1972 (c. 68), s. 4, **Sch. 4 para. 5(2)**  
**F11** Words substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**  
**F12** Word “and” and s. 25(8)(b) repealed by European Communities Act 1972 (c. 68), s. 4, **Sch. 3 Pt. III**

#### Modifications etc. (not altering text)

- C28** S. 25 modified by S.I. 1984/412, **art. 22**  
S. 25 modified (S.) (7.7.2000) by S.S.I. 2000/201, **reg. 21**  
S. 25 applied (with modifications) (1.12.2001) by 2001/3510, **reg. 21(1)**  
**C29** S. 25 modified (11.10.1991) by S.I. 1991/2206, **reg. 23(1)(2)** (with regs. 4, 5)  
**C30** S. 25 modified (E.) (16.5.2006) by Seed Potatoes (England) Regulations 2006 (S.I. 2006/1161), **regs. 1(1), reg. 23(2)-(4)**  
**C31** S. 25 modified (W.) (15.11.2006) by The Seed Potatoes (Wales) Regulations 2006 (S.I. 2006/2929), **regs. 1(1), reg. 23(2)-(4)**  
**C32** S. 25 modified (S.) (1.1.2016) by The Seed Potatoes (Scotland) Regulations 2015 (S.S.I. 2015/395), **regs. 1(1), reg. 23(2)-(4)** (with **reg. 21**)  
**C33** S. 25 modified (E.) (1.1.2016) by The Seed Potatoes (England) Regulations 2015 (S.I. 2015/1953), **regs. 1(1), 24(2)** (with **regs. 1(3), 24(6)**)  
**C34** S. 25(1) modified (11.10.1991) by S.I. 1991/2206, **reg. 23(3)** (with **regs. 4, 5**)  
**C35** S. 25(1) modified (E.) (1.1.2016) by The Seed Potatoes (England) Regulations 2015 (S.I. 2015/1953), **regs. 1(1), 24(3)** (with **regs. 1(3), 24(6)**)  
**C36** S. 25(4) excluded (11.10.1991) by S.I. 1991/2206, **art. 23(4)** (with **regs. 4, 5**)  
**C37** S. 25(4) modified (E.) (1.1.2016) by The Seed Potatoes (England) Regulations 2015 (S.I. 2015/1953), **regs. 1(1), 24(4)** (with **regs. 1(3), 24(6)**)  
**C38** S. 25(9) has effect as if the new penalty there mentioned was a fine not exceeding level 3 on the standard scale by virtue of (E.W.) 1982 c. 48, s. 39, **Sch. 3** and by (S.) 1975 c. 21, s. 289H, **Sch. 7** (which 1975 Act was repealed (1.4.1996) (S.) by 1995 c. 40, s. 6(1), **Sch. 5** (with s. 6(2), **Sch. 6**)) and (1.4.1996) (S.) by 1995 c. 40, **ss. 3, 7(2)**, **Sch. 1 para. 10, Sch. 2 Pt. III** (with **Sch. 3 paras. 1, 16, 17**)

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## 26 Use of samples in criminal proceedings.

- (1) Evidence shall not be adduced in proceedings for an offence under this Part of this Act respecting a sample taken by an authorised officer unless the sample was taken in the manner prescribed by seeds regulations.
- (2) Seeds regulations shall provide for the sample being divided into at least two parts, and for one of the parts being given to the owner of the seeds or to such other person as may be prescribed by seeds regulations, and shall provide for a third part of the sample to be retained for production in all cases where use of it may be made by the court under this section.
- (3) A certificate in the form prescribed by seeds regulations purporting to be issued by an authorised officer and stating that a sample was taken in the prescribed manner shall be sufficient evidence of the facts stated in the certificate.
- (4) If part of a sample taken by an authorised officer is sent to the chief officer of an official testing station, it shall be so sent as soon as practicable after the sample is taken, and the person to whom any other part of the sample is given shall be informed before the first-mentioned part is sent.
- (5) A copy of a certificate issued by an official testing station stating the result of a test of part of a sample taken by an authorised officer shall be sent to the person to whom any other part of the sample is given.
- (6) In any proceedings for an offence under this Part of this Act in respect of seeds which have been sampled by an authorised officer, the summons shall not be made returnable, and, in Scotland, the case shall not proceed to trial, less than fourteen days from the day on which the summons or complaint is served, and a copy of any certificate of an official testing station which the prosecutor intends to adduce as evidence shall be served with the summons or complaint.
- (7) In proceedings for including in a statutory statement false particulars concerning matters which are under seeds regulations to be ascertained, for the purpose of the statement, by a test of the seeds, if any sample of the seeds has been taken by an authorised officer, the third part of that sample required by seeds regulations to be retained as mentioned in subsection (2) of this section shall be produced at the hearing.
- (8) The court may, if it thinks fit, on the request of either party, cause the part so produced to be sent to the chief officer of an official testing station, who shall transmit to the court a certificate of the result of a test of that part of the sample.
- (9) If, in a case where an appeal is brought, no action has been taken under the last foregoing subsection the provisions of that subsection shall apply also to the court by which the appeal is heard.

<sup>F13</sup>(10) .....

### Textual Amendments

**F13** S. 26(10) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 2](#) Group 2

### Modifications etc. (not altering text)

**C39** S. 26 modified by [S.I. 1984/412](#), [art. 22](#)

**C40** S. 26 modified (S.) (7.7.2000) by [S.S.I. 2000/201](#), [reg. 21](#)

S. 26 applied (with modifications) (1.12.2001) by [2001/3510](#), [reg. 21\(1\)](#)

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties and Seeds Act 1964, Part II. (See end of Document for details)*

- C41** S. 26 modified (E.) (16.5.2006) by Seed Potatoes (England) Regulations 2006 (S.I. 2006/1161), regs. 1(1), **23(5)**
- C42** S. 26(2)(4)(5)(6)(7)(8)(9) excluded (11.10.1991) by S.I. 1991/2206, **reg. 23(1)(5)** (with regs. 4, 5)
- C43** S. 26(2) excluded (W.) (15.11.2006) by The Seed Potatoes (Wales) Regulations 2006 (S.I. 2006/2929), regs. 1(1), **23(5)**
- C44** S. 26(2) modified (E.) (1.1.2016) by The Seed Potatoes (England) Regulations 2015 (S.I. 2015/1953), regs. 1(1), **24(5)** (with regs. 1(3), 24(6))
- C45** S. 26(2) excluded (S.) (1.1.2016) by The Seed Potatoes (Scotland) Regulations 2015 (S.S.I. 2015/395), regs. 1(1), **23(5)** (with **reg. 21**)
- C46** S. 26(4)-(9) excluded (W.) (15.11.2006) by The Seed Potatoes (Wales) Regulations 2006 (S.I. 2006/2929), regs. 1(1), **23(5)**
- C47** S. 26(4)-(9) modified (E.) (1.1.2016) by The Seed Potatoes (England) Regulations 2015 (S.I. 2015/1953), regs. 1(1), **24(5)** (with regs. 1(3), 24(6))
- C48** S. 26(4)(5) excluded (S.) (1.1.2016) by The Seed Potatoes (Scotland) Regulations 2015 (S.S.I. 2015/395), regs. 1(1), **23(5)** (with **reg. 21**)
- C49** S. 26(6)(7) excluded (S.) (1.1.2016) by The Seed Potatoes (Scotland) Regulations 2015 (S.S.I. 2015/395), regs. 1(1), **23(5)** (with **reg. 21**)
- C50** S. 26(8)(9) excluded (S.) (1.1.2016) by The Seed Potatoes (Scotland) Regulations 2015 (S.S.I. 2015/395), regs. 1(1), **23(5)** (with **reg. 21**)

## 27 Tampering with samples.

(1) If any person—

- (a) tampers with any seeds so as to procure that a sample taken in the manner prescribed by seeds regulations for any purpose does not correctly represent the bulk of the seeds, or
- (b) tampers with any sample so taken, or
- (c) with intent to deceive sends, or causes or allows to be sent to any official testing station or licensed testing establishment, to be tested for any purpose, a sample of seeds which to his knowledge does not correctly represent the bulk of the seeds,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

(2) In this section “licensed testing establishment” means an establishment licensed under seeds regulations for the testing of seeds.

### Modifications etc. (not altering text)

- C51** S. 27 applied (with modifications) (1.12.2001) by 2001/3510, reg. 21(1)
- C52** S. 27(1) has effect as if the fine mentioned was a fine of level 5 on the standard scale by virtue of (E.W.) 1982 c. 48, s. 39, **Sch. 3** and by (S.) 1975 c. 21, s. 289H, **Sch. 7** (which 1975 Act was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**) and (1.4.1996) (S.) by virtue of 1995 c. 40, ss. 3, 7(2), **Sch. 1 para. 10, Sch. 2 Pt. III** (with **Sch. 3 paras. 1, 16, 17**)

## 28 Institution of criminal proceedings.

(1) Notwithstanding anything in [<sup>F14</sup>section 127(1) of the <sup>M3</sup>Magistrates’ Courts Act 1980] or [<sup>F15</sup>section 331 of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1975] (time limit for proceedings), where a part of a sample has been tested at an official testing station proceedings for including in a statutory statement false particulars concerning the

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties and Seeds Act 1964, Part II. (See end of Document for details)*

matters which are under seeds regulations to be ascertained, for the purposes of the statement, by a test of the seeds, being proceedings relating to the seeds from which the sample was taken, may be brought at any time not more than six months from the time when the sample was taken.

- (2) If at any time before a test is begun at an official testing station to ascertain whether a part of a sample of seeds is of a specified variety or type, and not more than six months after the sample was taken, the person to whom any other part of the sample was given, or any other person, is notified in writing by an authorised officer that it is intended so to test the seeds and that, after the test, proceedings may be brought against that person for including in a statutory statement a false statement that seeds were of a specified variety or type, then notwithstanding anything in [<sup>F16</sup>the said section 127(1)] or [<sup>F15</sup>331], any such proceedings relating to the seeds from which the sample was taken may be brought against the person so notified at any time not more than two years from the time when the sample was taken.

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

- [<sup>F17</sup>(2A) Notwithstanding anything in section 127(1) of the <sup>M5</sup>Magistrates' Courts Act 1980 or section 136 of the <sup>M6</sup>Criminal Procedure (Scotland) Act 1995, proceedings for contravening a provision contained in seeds regulations may be brought at any time not more than one year from the time when the contravention occurred.]

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

#### Textual Amendments

- F14** Words substituted by [Magistrates' Courts Act 1980 \(c. 43\), Sch. 7 para. 44\(a\)](#)  
**F15** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 460\(1\)\(b\)](#)  
**F16** Words substituted by [Magistrates' Courts Act 1980 \(c. 43\), Sch. 7 para. 44\(b\)](#)  
**F17** [S. 28\(2A\)](#) inserted (8.5.1998) by [1997 c. 66, s. 47; S.I. 1998/1028, art. 2](#)

#### Modifications etc. (not altering text)

- C53** [S. 28](#) applied (with modifications) (1.12.2001) by [2001/3510, reg. 21\(1\)](#)  
**C54** [S. 28\(3\)](#) (in part) extended (N.I.) by [S.I. 1973/609, art. 1, Sch. 1](#)

#### Marginal Citations

- M3** [1980 c. 43.](#)  
**M4** [1975 c. 21.](#)  
**M5** [1980 c. 43.](#)  
**M6** [1995 c. 46.](#)

## 29 Application of Part II to seed potatoes.

- (1) This Part of this Act applies to seed potatoes [<sup>F18</sup>to any other vegetative propagating material and to silvicultural planting material] as it applies to seeds, and accordingly, except where the context otherwise requires, references in this Part of this Act to seeds include references to seed potatoes [<sup>F18</sup>to any other vegetative propagating material and to silvicultural planting material].

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties and Seeds Act 1964, Part II. (See end of Document for details)*

[<sup>F19</sup>(2) The [<sup>F20</sup>appropriate authority] may establish and maintain an official seed testing station for silvicultural propagating and planting material, and seeds regulations may confer on [<sup>F21</sup>the appropriate authority] any functions the regulations may confer on a Minister, and [<sup>F22</sup>the appropriate authority] may charge or authorise the charging of fees for services given at any such station or in connection with any such functions; and accordingly—

- (a) references in this part of the Act to an authorised officer shall include an officer of [<sup>F21</sup>the appropriate authority]; and
- (b) in section 25 above the references in subsections (3), (4) and (6) to a person duly authorised by the Minister shall include a person duly authorised by [<sup>F22</sup>the appropriate authority].

[<sup>F23</sup>Any expenses incurred or fees received by the Commissioners by virtue of this subsection shall be defrayed, or as the case may be treated, in accordance with section 41 of the Forestry Act 1967.]

(3) In relation to matters concerning silvicultural propagating or planting material or concerning the [<sup>F24</sup>appropriate authority], “the Minister” shall in this Part of this Act mean, in relation to Wales and Monmouthshire, the Secretary of State, and the reference in section 16(8) to the Ministers shall be construed accordingly.]

[<sup>F25</sup>(4) In this section “appropriate authority” means—

- (a) in relation to Wales, the Welsh Ministers;
- (b) in all other respects, the Forestry Commissioners.]

#### Textual Amendments

- F18** Words inserted by [European Communities Act 1972 \(c. 68\), s. 4, Sch. 4 para. 5\(4\)](#)
- F19** S. 29(2)(3) added by [European Communities Act 1972 \(c. 68\), s. 4, Sch. 4 para. 5\(4\)](#)
- F20** Words in s. 29(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 29\(2\)\(a\)](#) (with Sch. 7)
- F21** Words in s. 29(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 29\(2\)\(b\)](#) (with Sch. 7)
- F22** Words in s. 29(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 29\(2\)\(c\)](#) (with Sch. 7)
- F23** Words in s. 29(2) substituted (16.3.2000) by [S.I. 2000/746, art. 2, Sch. para. 2](#)
- F24** Words in s. 29(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 29\(3\)](#) (with Sch. 7)
- F25** S. 29(4) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 29\(4\)](#) (with Sch. 7)

#### Modifications etc. (not altering text)

- C55** S. 29(1) applied (with modifications) (1.12.2001) by [2001/3510, reg. 21\(1\)](#)
- C56** S. 29(2) amended (1.7.1999) by [S.I. 1999/1797, art. 3, Sch. 12 Pt. II para. 2](#)

## 30 Interpretation of Part II.

- (1) In this Part of this Act, unless the context otherwise requires,—
- “authorised officer” means an officer of the Minister or a person authorised by the Minister to execute this Part of this Act;

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties and Seeds Act 1964, Part II. (See end of Document for details)*

“official testing station” means an official seed testing station maintained . . . <sup>F26</sup> under this Part of this Act;

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

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

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

#### Textual Amendments

**F26** Words repealed by [European Communities Act 1972 \(c. 68\)](#), s. 4, **Sch. 4 para. 5(4)**

#### Modifications etc. (not altering text)

**C57** [S. 30](#) (in part) extended (N.I.) by [S.I. 1973/609](#), art. 1, **Sch.**

**C58** [S. 30\(2\)](#) applied (with modifications) (1.12.2001) by [2001/3510](#), reg. 21(1)

### 31 †Repeals and consequential amendment.

- (1) The enactments mentioned in Schedule 6 to this Act (which include certain enactments which were obsolete before the passing of this Act) shall, <sup>F27</sup> ... be repealed to the extent specified in the third column of that Schedule.

(2)<sup>F28</sup>

#### Textual Amendments

**F27** Words in [s. 31\(1\)](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 2** Group 2

**F28** [S. 31\(2\)](#) repealed by [Trade Descriptions Act 1968 \(c. 29\)](#), **Sch. 2**

#### Modifications etc. (not altering text)

**C59** Unreliable margin note

**Status:**

Point in time view as at 01/01/2016.

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