

Malawi

## Seed Act

### Chapter 67:06

Legislation as at 31 December 2014

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# Malawi

## Seed Act

### Chapter 67:06

Commenced on 13 January 1997

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

**An Act to provide for the regulation and control of the production, sale, importation and exportation of seed for sowing, and for the testing and minimum standards of germination and purity thereof, and further to provide for the certification of seed and for matters incidental to or connected therewith**

#### Part I – Preliminary

##### 1. Short title

This Act may be cited as the Seed Act.

##### 2. Interpretation

In this Act, unless the context otherwise requires—

"**advertisement**" includes any statement, picture, design or device—

- (a) published in any newspaper or other publication in general circulation to the public; or
- (b) contained in any handbill, circular or other matter which is distributed to members of the public through the post or brought to the notice of the public in any other manner;

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

"**container**" includes a bag, barrel, case, tin, package or any other container in which seed is placed or packed;

"**contract of sale**" includes an agreement to sell;

"**Controller of Seeds**" means the officer in the public service designated as such under the provisions of [section 3](#);

"**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 IX;

"**label**" includes any legend, work, mark, symbol or design applied or attached to, or accompanying, any seed or package of seed;

"**licensed seed seller**" means any seed seller licensed under Part VI;

"**Malawi certified seed**" means any prescribed seed produced in Malawi and certified as such under the provisions of Part IX;

"**official seed-tester**" means any public officer designated as an official seed-tester under Part IV;

"**owner**", in relation to any seed, includes any person having for the time being the possession, custody or control thereof;

"**prescribed seed**" means any seed declared as such by an order made under [section 33](#);

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

"**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 removing impurities from seed;

"**seed cleaning plant**" includes any premises used for the removal of impurities from seed;

"**seed importer**" means any person who, either exclusively or in conjunction with any other trade or business, imports seed into Malawi for resale;

"**seed inspector**" means any person designated as seed inspector under [section 21](#);

"**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 for the purpose, 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 deliver for or in pursuance of a sale, exchange or barter;

"**special variety**" means any variety of prescribed seed which has been specified by the Minister pursuant to [section 44](#) for the purposes of Part IX;

"**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 reconstituted on each occasion by crossing two or more breeding stocks maintained by inbreeding.

*[9 of 1996]*

## Part II – Administration

### 3. Controller of Seeds

- (1) There shall be a Controller of Seeds for the purposes of this Act, who shall be an officer in the public service, and who, subject to the general and special directions of the Minister, shall be responsible for the administration of this Act.
- (2) The Controller of Seeds may, subject to the general or special directions of the Minister, delegate any of his powers or functions under this Act to any officer in the public service.

### 4. Registers

The Controller of Seeds shall keep and maintain all registers prescribed or required under this Act, each of which shall contain such particulars as are prescribed in respect of such register.

*[9 of 1996]*

## Part III – Registration of seed importers, seed cleaners and seed sellers

### 5. \*\*\*

*[Repealed by 9 of 1996]*

6. \*\*\*  
*[Repealed by 9 of 1996]*
7. \*\*\*  
*[Repealed by 9 of 1996]*
8. \*\*\*  
*[Repealed by 9 of 1996]*
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12. \*\*\*  
*[Repealed by 9 of 1996]*
13. \*\*\*  
*[Repealed by 9 of 1996]*
14. \*\*\*  
*[Repealed by 9 of 1996]*

#### **Part IV – Seed tests**

##### **15. Establishment of seed testing stations**

The Minister may establish and maintain, or designate one or more seed testing stations in Malawi.

*[9 of 1996]*

##### **16. Designation of official seed testers**

Upon the establishment or designation of a seed testing station, and from time to time thereafter as occasion may require, the Minister shall, by notice published in the *Gazette*, designate an official seed tester or official seed testers, as the case may be, for each such seed testing station.

*[9 of 1996]*

## 17. Registers of seed testers and seed testing stations

The Controller of Seeds shall keep and maintain the following registers—

- (a) a register of official seed testers, which shall contain—
  - (i) the name and address of each official seed tester appointed under this Act;
  - (ii) such other particulars as may be prescribed;
- (b) a register of seed testing stations, which stations shall contain—
  - (i) the name and address of each seed testing station established under this Act; and
  - (ii) such other particulars as may be prescribed.

## 18. Prohibition against testing of prescribed seed except in seed testing stations

- (1) Any person who, in any place which is not a seed testing station, tests or purports to test for the purposes of this Act any prescribed seed shall be guilty of an offence.
- (2) Upon the conviction of any person of an offence under subsection (1), the court may, in addition to any other penalty imposed, declare any machinery, equipment and chemicals and any prescribed seed found in the place concerned to be forfeited or order them to be destroyed without compensation.

## 19. Delivery of samples for official test

- (1) Any person who has produced or acquired any prescribed seed which has not been tested may take a sample of the seed to a seed testing station together with a statement in writing specifying such particulars as may be prescribed.
- (2) The delivery of a sample of prescribed seed pursuant to subsection (1) shall be subject to payment of such fee as may be prescribed.
- (3) Upon receipt at the seed testing station of any sample taken pursuant to subsection (1), the official seed tester shall test the sample in the manner prescribed and shall furnish to the person who sought the test a report there of setting out the date upon which the test was made, the findings resultant thereon and such other particulars as may appear to the official seed tester necessary for, or relevant to, the report.

*[9 of 1996]*

## 20. Reports to be in forms prescribed

Any reports, certificates or other documents issued or furnished by a seed testing station for the purposes of this Act shall be in the forms prescribed.

## Part V – Seed inspection

### 21. Seed inspectors

- (1) There shall be seed inspectors licensed as such by the Minister for the purposes of this Act
- (2) An application for a licence as a seed inspector shall be made to the Minister in the prescribed form, and shall be accompanied with the prescribed fees.
- (3) The Minister shall cause a certificate of authority to be issued to each seed inspector.



- (4) A seed 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.

*[9 of 1996]*

## **22. Authority of seed inspectors may be general or limited**

The authority of a seed inspector issued under [section 21](#) may be—

- (a) general, whereby the seed inspector shall be empowered to exercise all the powers of a seed inspector anywhere in Malawi; or
- (b) limited, either—
- (i) as to the specific powers exercisable by the seed inspector; or
- (ii) as to the place or district in which such powers are exercisable by the seed inspector.

## **23. Powers to take samples of seed**

A seed inspector may take samples of any seed for any of the following purposes—

- (a) for test or examination to determine whether the seed is prescribed seed or restricted seed; or
- (b) for test to determine whether if the seed 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 deemed necessary by the seed inspector in relation to the exercise of his powers under this Act.

## **24. Powers to search premises and seize certain goods**

- (1) A seed inspector may, for any of the purposes of this Act, and at all reasonable times, enter upon any land, building, premises or vehicle at or in which he has reasonable cause to believe that any prescribed seed 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 may, without liability for any payment to any person whosoever, take samples of the seed found therein and the owner of the land, building, premises or vehicle, or his agent or the person in custody or control thereof shall on demand furnish to the seed inspector a statement in writing containing such particulars with respect to the seed as may be required by the seed inspector who, further, may seize and remove therefrom and detain any prescribed seed 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) Every seed inspector 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 seed inspector who has seized and detained any item or thing pursuant to the authority under subsection (1), shall give to the person from whom such item or thing was seized a receipt for the seizure and detention thereof signed by such seed inspector.
- (4) Any prosecution for an offence arising from the findings of an inspection conducted under subsection (1) shall be instituted only with the consent of the Chief Public Prosecutor; and in the event of the Controller of Seeds being advised in writing by the Chief Public Prosecutor that no prosecution should be instituted, then any item or thing seized in the course of the inspection shall be returned to the owner thereof or to the person from whose custody it was taken within ten days from the date of the receipt by the Controller of Seeds of such advice.

*[9 of 1996]*

**25. Prohibition against obstruction, etc., of seed inspectors**

Any person who—

- (a) obstructs or impedes a seed inspector in the due exercise of his powers under this Act; or
- (b) refuses to furnish to a seed inspector, on request, any particulars or information to which the seed inspector is entitled under this Act; or
- (c) wilfully or recklessly gives to a seed inspector or an authorized officer any false or misleading particulars or information with respect to any fact or matter to which the seed inspector is entitled under this Act,

shall be guilty of an offence.

**Part VI – Licensing of seed sellers****26. \*\*\***

*[Repealed by 9 of 1996]*

**27. \*\*\***

*[Repealed by 9 of 1996]*

**28. \*\*\***

*[Repealed by 9 of 1996]*

**29. \*\*\***

*[Repealed by 9 of 1996]*

**30. \*\*\***

*[Repealed by 9 of 1996]*

**31. \*\*\***

*[Repealed by 9 of 1996]*

**32. \*\*\***

*[Repealed by 9 of 1996]*

**Part VII – Prescribed seed****33. Power of Minister to declare seed to be prescribed seed**

The Minister may from time to time, by order published in the *Gazette*, declare any seed to be a prescribed seed, and for each kind specify minimum standards of germination and other characteristics of seed quality.

*[9 of 1996]*

### 34. Treating and cleaning of prescribed seed

- (1) If, upon test made under Part IV, it is found and reported by an official seed tester that any prescribed seed does not conform to the prescribed standards of germination or purity, the owner thereof shall forthwith arrange for the prescribed seed to be treated or cleaned.
- (2) Where any prescribed seed has been treated or cleaned pursuant to subsection (1), the owner may request a seed inspector to take, and the seed inspector thereupon shall take, a further sample thereof as required under this Act, which sample shall be sent by the seed inspector to a seed testing station for further test, and the owner may, as often as he so desires, cause further treatments or cleanings of such prescribed seed to be effected and further tests to be made in like manner until such time as the prescribed seed is found and reported by the official seed tester to conform to the standards of germination and purity prescribed therefor.

### 35. Duties of seller on sale of prescribed seed

- (1) Subject to the provisions of this Act, any person who sells, for sowing, any prescribed seed which has been tested in accordance with the provisions of this Act and found to conform to the standards prescribed shall—
  - (a) if the 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 in such a way as to be legible without opening the container, in clear and legible letters and figures—
    - (i) the words "tested seed";
    - (ii) the date upon which the prescribed seed was tested; and
    - (iii) such other particulars as may be prescribed;
  - (b) if the prescribed seed is sold in bulk quantities—
    - (i) and the seller is the person who caused the test to be made, furnish to the buyer at the time of sale a statement in writing containing the name and address of the seed testing station 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 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 ensured such test to be made and shall endorse thereon a declaration that the bulk quantity sold by him is all or a part of that to which such statement was related at the time he procured the prescribed seed.
- (2) Any person who fails to comply with the requirements of subsection (1) 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 bulk quantities" includes any quantity of seed, but does not include seed which is packed and sold in sealed containers;
  - (b) the word "sale" includes "gift".

### 36. Disposals sub-standard prescribed seed

Subject to the provisions of [section 34](#), if a sample 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, the Controller of Seeds may—

- (a) if such prescribed seed has been seized and detained in accordance with the provisions of this Act—
  - (i) subject, to such conditions, as to its sale use as he may impose, direct its return either to the owner thereof or to the person from whose custody or control it was taken and in so directing the Controller of Seeds may impose such conditions as to its sale or use as he may consider necessary; or
  - (ii) order it to be destroyed without payment of compensation to the owner if, upon reasonable grounds, he is satisfied that it is in a state dangerous to public health or injurious to animals or plants;
- (b) if the prescribed seed has not been seized or detained in accordance with the provisions of this Act—
  - (i) permit the owner thereof to retain the prescribed seed subject to such conditions as to its sale or use as the Controller of Seeds may impose;
  - (ii) order it to be destroyed at the premises where located or to be seized by the Controller of Seeds and destroyed, in either case without payment of compensation, to the owner, if, upon reasonable grounds, he is satisfied that it is in a state dangerous to public health or injurious to animals or plants.

## Part VIII – Import and export of seed

### 37. \*\*\*

*[Repealed by 9 of 1996]*

### 38. \*\*\*

*[Repealed by 9 of 1996]*

### 39. Conditions for importation of prescribed seed

- (1) No seed importer shall import any prescribed seed into Malawi unless—
  - (a) such seed is not restricted seed;
  - (b) such seed conforms to the standards of germination and purity and other requirements prescribed therefor;
  - (c) if such seed is packed in a container, such container complies with the provisions of [section 35](#) as to the manner of labelling;
  - (d) the genus, species and variety of such seed, and the country of 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 seed importer, or any particular species, variety or class of prescribed seed, from subsection (1) and such exemption may be subject to such conditions as the Minister may, in his discretion, impose.

- (3) A person who fails to comply with subsection (1) or with any condition imposed by the Minister under subsection (2) shall be guilty of an offence.

*[9 of 1996]*

#### **40. Testing of imported prescribed seed**

- (1) Upon importation into Malawi of any prescribed seed, the seed importer to whom the presented seed is consigned, shall, within seven days of its delivery to him, cause a sample thereof to be taken in the manner prescribed and sent for test to a seed testing station.
- (2) No person shall sell or otherwise dispose of imported prescribed seed prior to the receipt, by the seed importer who imported such prescribed seed, of a report on the test of the sample thereof from the seed testing station confirming that the imported prescribed seed conforms to the prescribed standards of germination and purity.
- (3) A person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence.

*[9 of 1996]*

#### **41. Importation of trade samples**

Nothing contained in this Act shall be construed as prohibiting the importation by any seed importer, by post, of a sample of any prescribed seed not exceeding one kilogram and which is being imported into Malawi solely as a trade sample and its quantity is of no commercial value.

*[9 of 1996]*

#### **42. Court may order forfeiture and disposal of illicit prescribed seed**

Upon the conviction of any person of an offence under this Part the court may, in addition to any other penalty imposed, declare any prescribed seed or restricted seed found in possession or under the control of the defendant and connected with the commission of the offence to be forfeited and may order it to be destroyed without compensation.

### **Part IX – Certification of seed and production of seed for certification**

#### **43. Certification of seed**

Subject to the provisions of this Part, seed may be certified by the Controller of Seeds—

- (a) in the case of seed produced in Malawi, as "Malawi Certified Seed"; or
- (b) in the case of imported seed, as "Imported Certified Seed".

*[9 of 1996]*

#### **44. Variety of certified seed**

The Minister may, by order published in the *Gazette*, specify the variety or varieties of seed which may be cultivated for the purpose of producing seed for certification as Malawi Certified Seed or as Imported Certified Seed.

*[9 of 1996]*

#### **45. Notification of intention to produce seed for certification**

- (1) Any person who intends to produce seed for certification may notify the Controller of Seeds of his intention.

- (2) The notification referred to in subsection (1) shall be made in the prescribed form and shall specify —
- (a) the variety or varieties of seed to be produced;
  - (b) the location where the seed is to be produced;
  - (c) the area in hectares that is to be planted; and
  - (d) the name of the seed inspector who has been engaged to inspect the fields and to test the seed for certification, and shall be accompanied with the prescribed fees.
- (3) Notification under this section shall be valid for one season for the production of one crop only of a particular specified variety or varieties to which it relates.

*[9 of 1996]*

#### **46. Register of seed producers**

For the purposes of this Part, the Controller of Seeds shall keep and maintain a register of seed producers which shall contain—

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

*[9 of 1996]*

#### **47. \*\*\***

*[Repealed by 9 of 1996]*

#### **48. \*\*\***

*[Repealed by 9 of 1996]*

#### **49. \*\*\***

*[Repealed by 9 of 1996]*

#### **50. Certification of seed by the Controller of Seeds**

- (1) Upon it being shown to the satisfaction of the Controller of Seeds that a particular seed lot—
- (a) is of a specified variety;
  - (b) is of known derivation;
  - (c) has been produced on the land designated in the register;
  - (d) has been sown, cultivated and produced as prescribed;
  - (e) has been inspected during cultivation as prescribed; and
  - (f) has been tested in accordance with the provisions of this Act and found to conform to the standards of germination and purity,

the Controller of Seeds may certify such seed as Malawi Certified Seed.

- (2) Having certified any seed as Malawi Certified Seed the Controller of Seeds shall issue to the seed producer a certificate in the prescribed form in respect of such seed, and shall enter the particulars of such certification in the register of seed producers in relation to the seed producer concerned.

*[9 of 1996]*

### **51. Certified seed of Malawi to be produced from approved seed**

No seed producer shall use for the production of Malawi Certified Seed any variety of seed which has not been approved for such purpose by the Controller of Seeds.

*[9 of 1996]*

### **52. Certificate to be produced on sale of Malawi Certified Seed**

- (1) Upon any sale of Malawi Certified Seed by any seed producer, he shall, at the time of such sale—
  - (a) produce for inspection by the buyer the certificate issued under this Part in respect of such seed; and
  - (b) furnish to the buyer a true copy of such certificate countersigned by him as the producer of such Malawi Certified Seed.
- (2) A seed producer who fails to comply with this section shall be guilty of an offence.

*[9 of 1996]*

### **53. Certification of imported seed as Imported Certified Seed**

- (1) The Controller of Seeds may, upon application by a seed importer, certify as Imported Certified Seed any seed of specified variety which—
  - (a) has been imported into Malawi by the applicant;
  - (b) has been tested in accordance with the provisions of this Act;
  - (c) has been certified as certified seed under the laws of the country of its origin;
  - (d) is accompanied by a certificate which the Controller of Seeds considers acceptable for purposes of certification under this Part; and
  - (e) is shown to the satisfaction of the Controller of Seeds to have been produced under conditions, and to conform to standards, equal to or higher than those prescribed for the production and certification of Malawi Certified Seed.
- (2) Where the Controller of Seed has certified any imported seed as Imported Certified Seed, he shall issue to the seed importer a certificate in the prescribed form in respect of such certification.

*[9 of 1996]*

- (3) The Controller of Seeds shall keep and maintain a register of seed importers which shall contain—
  - (a) the name and address of the seed importer;
  - (b) the variety and quantity of seed imported;
  - (c) the country of origin of the seed;
  - (d) the date of testing in the country of origin;
  - (e) the name of the certifying authority in the country of origin;
  - (f) the number of the certificate; and

- (g) such other particulars as may be prescribed.

[9 of 1996]

#### 54. Duties of seller on sale of certified, seed in sealed containers

- (1) Any person who sells, for sowing, any certified seed in sealed containers shall cause to be pruned or stamped upon each such container or on a label attached thereto or enclosed therein in such a way as to be legible without opening the container, in clear and legible letters and figures—
- (a) in the case of Malawi Certified Seed—
- (i) the words "Malawi Certified Seed" in lieu of the words "tested seed" as required under [section 35](#);
  - (ii) the date of testing;
  - (iii) the number of the certificate issued in respect thereof; and
  - (iv) such other particulars as may be prescribed;
- (b) in the case of Imported Certified Seed—
- (i) the words "Imported Certified Seed" in lieu of the words "tested seed" as required under [section 35](#);
  - (ii) the date of testing;
  - (iii) the number of the certificate issued in respect thereof; and
  - (iv) such other particulars as may be prescribed.
- (2) Any person who fails to comply with this section shall be guilty of an offence.

#### 55. Prohibition against sale of uncertified seed

Any person who—

- (a) sells as certified seed any seed which is not certified under this Act; or
- (b) for the purposes of sell, uses, in the description or name of any seed, the word "certified" or any cognate word in relation to seed which is not certified under this Act, shall be guilty of an offence.

#### 56. Prohibition against sale of certified seed without possession of appropriate certificate

- (1) Any person who sells in bulk quantities—
- (a) any Malawi Certified Seed or Imported Certified Seed, for sowing, without having in his possession or under his control, at the time of such sale, the certificate or a copy of the certificate issued or furnished under this Part in respect of such seed;
  - (b) any Malawi Certified Seed or Imported Certified Seed, for sowing, and who fails to furnish the buyer, at the time of such sale, the prescribed certificate or a copy of 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, the expression "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.



## Part X – Offences and miscellaneous provisions

### 57. Failure to comply with Act or regulations

Any person who contravenes or fails to comply with any of the provisions of this Act, or regulations, requirements or conditions lawfully prescribed thereunder, shall be guilty of an offence.

### 58. Prohibition against tampering with samples

Any person who—

- (a) tampers with any seed so as to procure that any samples of such seed, taken under and for the purposes of this Act, does not correctly represent the bulk from which the sample was taken; or
- (b) otherwise tampers with any sample taken under this Act; or
- (c) with intent to deceive, causes or permits to be sent to any seed testing station to be tested, for the purposes of this Act, a sample of any seed which to his knowledge does not represent the bulk from which it was taken,

shall be guilty of an offence.

*[9 of 1996]*

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

Any person who, without lawful authority, alters, defaces or removes—

- (a) any register, index or other such official record maintained in pursuance of this Act or of any order or requirement made thereunder; or
- (b) any entry appearing in any such register, index or other such official record,

shall be guilty of an offence.

### 60. Prohibition against altering, etc., documents and marks

Any person who, without lawful authority, alters or defaces—

- (a) any certificate, report record invoice, accounts 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 or condition made thereunder, or who removes any such label, note, docket or mark from any such container,

shall be guilty of an offence.

### 61. Secrecy

Any person who—

- (a) is 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) is in 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,

shall be guilty of an offence and be liable to a fine not exceeding K500 or to imprisonment not exceeding one year.

**62. \*\*\***

*[Repealed by 9 of 1996].*

**63. Prohibition against sale of untested prescribed seed**

- (1) Save as provided by [section 68](#), 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.
- (2) Any person who fails to comply with this section shall be guilty of an offence.
- (3) Upon the conviction of any person of an offence under this section, the court may, 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.

**64. Prohibition against sale of substandard prescribed seed**

- (1) If, upon test made pursuant to the provisions of this Act, any prescribed seed is not found to conform to the standards of germination and purity prescribed for such seed and is so reported in the report on such test furnished by an official seed tester, such prescribed seed shall not be sold by any person, for sowing, save with the consent in writing of the Controller of Seeds previously obtained, and subject to any conditions as regards such sale as the Controller of Seeds may impose.
- (2) Any person who sells any prescribed seed in contravention of subsection (1) shall be guilty of an offence.
- (3) Upon conviction of any person of an offence under this section, the court may, 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.

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

- (1) Any person who sells, for sowing, any prescribed seed under a description other than its varietal name shall be guilty of an offence.
- (2) In this section, "varietal name" means the name given to a specific variety of seed by its originator or discoverer.

**66. Penalty**

- (1) A person guilty of an offence under this Act for which a penalty has not been specified shall be liable to a fine of K5,000 and to imprisonment for one year.
- (2) Any regulations made under this Act may, notwithstanding the provisions of section 21 (e) of the General Interpretation Act, prescribe a fine of up to K2,000 and imprisonment for up to six months for an offence committed against any provision of such regulations.

*[9 of 1996]*

*[Cap. 1:01]*

**67. Inspection of registers**

All registers maintained by the Controller of Seeds under this Act shall, at all reasonable times, be open to the inspection by any person applying to the Controller of Seeds on payment of the prescribed fee.

## 68. When Act not applicable to sale of prescribed seed

The provisions of this Act shall not apply—

- (a) to any sale of prescribed seed, which is not Malawi Certified Seed and 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 resale; or
  - (ii) to a 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 to which, appear clearly and legibly the words "for cleaning purposes only";
  - (iii) for use as food or as farm feed or for industrial purposes.
- (b) to any sale of prescribed seed, which is not certified seed, by or to a person exempted from the provisions of this Act by an order made by the Minister under [section 69](#).  
*[9 of 1996]*

## 69. Exemptions from the provisions of this Act

The Minister may, from time to time, by order published in the *Gazette*, exempt any person or class of persons from the provisions of this Act.

## 70. \*\*\*

*[Repealed by 9 of 1996].*

## 71. Regulations

The Minister may make regulations for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision for—

- (a) the forms of registers, notifications, certificates, licences and reports required to be prescribed under this Act and such other forms as the Minister deems proper to prescribe for the purposes of this Act;  
*[9 of 1996]*
- (b) the forms of records to be kept by the Controller of Seeds for the purposes of this Act;
- (c) the form of records to be kept and returns to be made by seed cleaners, seed importers, seed producers and seed sellers for purposes of this Act;  
*[9 of 1996]*
- (d) the qualifications of official seed testers under this Act;
- (e) standards of quality and performance of scientific equipment and the variety of such equipment to be maintained in any seed testing station, and the Minister may make provision for different standards and equipment for different seed testing stations;  
*[9 of 1996]*
- (f) the operation and management of seed testing stations, including the number of official seed testers to be attached to each such seed testing station and the forms of records to be kept by seed testing stations for the purposes of this Act;
- (g) 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;

- (h) the methods to be employed by seed testing stations and official seed testers in the testing of prescribed seed;
- (i) the standards of germination and purity of specified varieties for purposes of certification as certified seed under Part IX;
- (j) the conditions under which prescribed seed for sowing intended for sale may be displayed for sale or stored by any seed producer, seed cleaner or seed seller;  
*[9 of 1996]*
- (k) the manner and methods of labelling, stamping, marking or sealing of containers in which any prescribed seed or certified seed is sold;
- (l) the prevention of the use of false or misleading statements in advertising any prescribed seed for sale;
- (m) the prohibition or restriction of the disposal, acquisition or use of any prescribed seed as farm feed or fertilizer;
- (n) standards of quality and performance of equipment and the variety of such equipment to be maintained at any seed cleaning plant;  
*[9 of 1996]*
- (o) the methods to be employed by seed cleaners in and about the cleaning of prescribed seed;
- (p) the inspection of land notified by a seed producer as land on which he intends to produce seed for certification as Malawi Certified Seed;  
*[9 of 1996]*
- (q) the examination and testing of any seed intended for use by a seed producer in the production of seed for certification as Malawi Certified Seed and the methods to be employed by seed producers in and about the cultivation and production of seed for such certification and further for the periodic inspection of growing crops intended for the production of seed for certification as Malawi Certified Seed;  
*[9 of 1996]*
- (r) the control, limitation or prohibition of the cultivation by a seed producer of any specified crops on land contiguous or adjacent to lands upon which seed intended for certification as Malawi Certified Seed is being grown by the seed producer;  
*[9 of 1996]*
- (s) the control of weeds on the land of any seed producer which is being used for the production of seed intended for certification as Malawi Certified Seed or on any other land of the seed producer adjacent or contiguous to such land;  
*[9 of 1996]*
- (t) the country or countries of origin of imported seed of any specified variety, and the certifying authority in such country or countries whose certificate thereof as certified seed may form the basis of an application by a seed importer for the certification of such seed as Imported Certified Seed under Part IX;  
*[9 of 1996]*
- (u) any fees payable under this Act;  
*[9 of 1996]*

- (v) any thing or matter which this Act requires to be prescribed.

*[9 of 1996]*