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Seeds Act 1985

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TASMANIA

Seeds Act 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. Short title

This Act may be cited as the Seeds Act 1985 .

2. Commencement

- (1) This section and section 1 shall commence on the day on which this Act receives the Royal assent.
- (2) Except as provided in subsection (1) , this Act shall commence on such day as may be fixed by proclamation.

3. Interpretation

In this Act, unless the contrary intention appears –

accredited person means a person accredited under section 22 ;

crop seed includes seed of pasture, cereal, grain legume, oil seed, flower, vegetable, essential oil or herb;

current certificate means a certificate of analysis issued within the previous 12 months;

hybrid, in relation to a variety of seeds, means the seed produced of a prescribed quality –

- (a) by controlled pollination; or
- (b) from the progeny of controlled pollination;

kind, in relation to seeds or seedlots, means a kind of seeds or seedlots which have the same common name or botanical name;

lot designation means the code, brand, mark or number which distinguishes one seedlot from another seedlot or a part of another seedlot;

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;

prohibited seed means a seed which is prescribed as a prohibited seed;

Secretary means Secretary of the Department;

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; and
- (b) offer, expose, supply or receive for sale; and
- (c) send, forward or deliver for sale or on sale; and
- (d) cause, permit or suffer the doing of an act referred to in paragraph (a) , (b) or (c) ; and

(e) offer or attempt to do an act so referred to; and

(f) have in possession for sale;

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.

4. Application of Act

(1) This Act applies to crop seeds and prohibited seeds.

(2) This Act does not apply to the sale of seeds if the seeds –

(a) are intended to be used for food or for processing; or

(b) are sold under an order made by a court; or

(c) are intended to be used for any experimental or breeding purposes as authorised by the Secretary.

5. Certificate of analysis

(1) A person may sell a package of seeds whether or not there is a current certificate of analysis in respect of that package.

(2) If there is a current certificate of analysis in respect of a package of seeds, the seller is to provide a copy of it to a potential buyer on request.

(3) A certificate of analysis is one of the following:

(a) a certificate issued by the Official Seed Testing Laboratory or a similar official seed testing laboratory endorsed with the word "OFFICIAL";

(b) a certificate issued by a seed testing laboratory endorsed with the word "UNOFFICIAL".

(4) The issue of an official certificate means that the seedlot to which the certificate relates was –

(a) sampled by an accredited person; and

(b) tested by an official seed testing laboratory.

(5) The issue of an unofficial certificate means that the seedlot to which the certificate relates was –

(a) sampled by a person who was not an accredited person and tested by an unofficial seed testing laboratory; or

(b) sampled by an accredited person and tested by an unofficial seed testing laboratory; or

(c) sampled by a person who was not an accredited person and tested by an official seed testing laboratory.

(6) A certificate of analysis is to specify the following particulars:

(a) the address of the testing laboratory that issued the certificate;

(b) the lot designation of the seedlot;

(c) the germinability of the seed comprising the seedlot;

(d) the proportions of all other seeds present in the seedlot;

(e) the date on which it is issued;

(f) any other relevant particulars.

6. Labelling

(1) A package of seeds is to have on it the following information:

(a) the name and address or registered brand of the seller or packer of the package;

- (b) the botanical or common name of the kind of seed or seeds contained in that package;
- (c) the words "CUSTOM MIXTURE" if the seed is mixed at the time of sale to the purchaser's requirements;
- (d) the word "hybrid" if the seed in the package is hybrid seed;
- (e) the lot designation of the seedlot;
- (f) the net mass of the seeds;
- (g) if a chemical treatment has been applied to the seed, the words in red "CAUTION — TREATED WITH A PESTICIDE. DO NOT USE FOR FOOD, FEED OR OIL".

(2) A prepackaged mixture of seeds for sale is to have on it a statement specifying the percentage mass of its components.

(3) This section does not apply to any package of seeds sold for use as stockfeed or birdseed if the package is labelled with the word "STOCKFEED" or "BIRDSEED".

7. Sale of seeds mixed with prohibited seeds

A person must not sell any seeds that are mixed or included with prohibited seed.

Penalty: Fine not exceeding 20 penalty units.

8. Prohibited seeds

(1) Unless he or she is exempted under section 9 , a person must not –

- (a) be in possession of; or
- (b) cause to germinate or propagate –

any prohibited seeds.

Penalty: Fine not exceeding 40 penalty units.

(2) The Secretary by notice in writing served on a person may require the person to –

- (a) destroy any prohibited seeds in the person's possession, custody or control; or
- (b) remove the seeds from Tasmania; or
- (c) otherwise treat the seeds –

in a manner, and within a period, determined by the Secretary and specified in the notice.

(3) A person must comply with a requirement under subsection (2) .

Penalty: Fine not exceeding 40 penalty units and, in the case of a continuing offence, a further fine not exceeding one penalty unit for each day during which the offence continues.

9. Exemptions

The Secretary may, in writing, exempt a person or a class of persons from the operation of section 8 on any conditions that the Secretary thinks fit.

10. Official Seed Testing Laboratory

(1) The Official Seed Testing Laboratory established under the Seeds Act 1930 is continued at such place and under such officers as the Secretary 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 Secretary 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 Secretary is not to divulge any particulars specified in a certificate relating to a sample of seeds unless the seedlot represented by the sample has been offered for sale.

(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.

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21. Seed certification and registration schemes

(1) The Secretary may approve and implement prescribed schemes for the purpose of –

(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 Secretary 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 Secretary 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 Secretary has approved a certification or registration scheme, he may revoke or vary his approval by notice published in the *Gazette*.

(7) Where the Secretary 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 Secretary 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.

22. Accredited persons

The Secretary may accredit a person as a person who is competent to implement a scheme approved under section 21 .

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29. Regulations

(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 fine not exceeding 20 penalty units.

(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.

30. Repeal

The Seeds Act 1950 is repealed.