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Act

No. 21 of 2022

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
12th May, 2022

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SCHEDULE

An Act to regulate the release and registration of crop varieties in Malawi; regulate the production, processing, certification and sale of certified seed and importation and exportation of seed; provide for the establishment of the Malawi Seed Regulatory Authority; and matters incidental thereto

ENACTED by the Parliament of Malawi as follows—

PART 1—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Seed Act, 2022, and shall come into force on such date as the Minister may appoint by notice published in the *Gazette*.

Interpretation

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

"Appeals Panel" means an Appeals Panel appointed under section 49(1);

"certified seed" means any seed which is certified under section 31;

"Chairperson" means the Chairperson of the Authority appointed under section 5;

"Authority" means the Malawi Seed Regulatory Authority established under section 3;

"crop variety" means a plant grouping within a single botanical taxon of the lowest known rank, which can be—

(*a*) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;

(*b*) distinguished from other plant grouping by expression of at least one of its genotype characters; and

(*c*) considered as a unit with regard to its suitability for being propagated, which remains unchanged after the propagation;

"Crop Variety Release and Registration Committee" means the Crop Variety Release and Registration Committee established under section 21;

"Director General" means the Director General of the Authority appointed under section 11;

"genetically modified organism" has the meaning ascribed to that term under the Biosafety Act; Cap. 60:03

"imported certified seed" means imported seed which is certified as Imported Certified Seed under section 31;

"label" includes any word, legend, mark, symbol or design applied or attached to, or accompanying seed or a seed container;

"National Crop Variety Catalogue" means a catalogue of crop varieties maintained under section 23;

"owner" includes a person having the possession, custody or control of seed for the time being;

"region" means a regional economic bloc;

"seed" means a botanical structure that contains at least one ripened ovule with or without accessory parts and includes any plant or plant part used as a propagation material such as fruit, root, rhizomes, corm, stem, sprout, tree seedling and leaf capable of regenerating into a crop, tree, shrub or pasture that is true to its type;

"seed analyst" means a seed analyst who is registered and licensed under section 29;

"seed container" includes a bag, barrel, case, tin, package or any other receptacle in which seed is stored or packaged;

"seed exporter" means a person who, either exclusively or in conjunction with another person, exports certified seed;

"seed importer" means a person who, either exclusively or in conjunction with another person, imports seed certified in another country for sale in Malawi;

"seed inspector" means a seed inspector who is registered and licensed under section 29;

"seed processor" means a person registered as a seed processor under section 37;

"seed producer" means a person registered as a seed processor under section 32;

"seed sampler" means a seed sampler who is registered and licensed under section 29;

"seed testing laboratory" means a seed testing laboratory maintained or accredited under section 28;

"sell" includes exchange, barter or offer for sale, or advertise, keep, expose, transmit, convey, deliver or prepare for sale, exchange, barter or disposal for any consideration whatsoever, or transmit, convey or deliver for, or in pursuance of, a sale, exchange or barter; and

"Vice-Chairperson" means the Vice-Chairperson of the Authority appointed under section 5.

PART II——MALAWI SEED REGULATORY AUTHORITY

Establishment of the Malawi Seed Regulatory Authority

3.—(1) There is hereby established the Malawi Seed Regulatory Authority (in this Act otherwise referred to as the "Authority").

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable, by that name, of—

(*a*) doing or performing all such acts as may be necessary or expedient for the furtherance of the provisions of this Act; and

(*b*) subject to this Act, doing or performing all such acts as a body corporate may, by law, do or perform or such as are incidental or appertain to a body corporate.

Functions of the Authority

4.—(1) The Authority shall regulate the release and registration of crop varieties in Malawi and the production, processing, certification and sale of certified seed, and importation and exportation of seed.

(2) Notwithstanding the generality of subsection (1), the Authority shall—

(*a*) formulate procedures and standards for the release and registration of crop varieties and certification of seed;

(*b*) oversee the implementation of the crop variety release and registration and seed certification schemes under this Act;

(*c*) assist in building the capacity of persons or entities involved in the seed value chain;

(*d*) maintain a national crop variety catalogue and registers prescribed under this Act; and

(*e*) do all such acts and things as are necessary or incidental to the implementation of this Act.

Composition of the Authority

5.—(1) The Authority shall consist of nine members who shall be citizens of Malawi and appointed by the Minister as follows—

(*a*) one person who is a plant breeder;

(*b*) one person who is in agri-business;

(*c*) one person who is a legal practitioner;

(*d*) one person who is an economist;

(*e*) one person from a public university who is a seed scientist; and

(*f*) the following *ex-officio* members—

(i) the Secretary responsible for agriculture or his or her designated representative;

(ii) the Secretary to the Treasury or his or her designated representative;

(iii) the Secretary responsible for trade or his or her designated representative; and

(iv) the Director General of the National Commission for Science and Technology or his or her designated representative.

(2) The Minister shall appoint the Chairperson and the Vice-Chairperson of the Authority from among the members appointed under subsection (1) (*a*), (*b*), (*c*), (*d*) and (*e*).

(3) A person shall not be qualified for appointment as a member of the Authority under subsection (1) (*a*), (*b*), (*c*), (*d*) and (*e*), unless that person—

(*a*) possesses a minimum education qualification of a bachelor's degree obtained from an institution recognized or accredited under the National Council for Higher Education Act; Cap. 30.12 and

(*b*) has at least five years' post qualification work experience.

(4) A person shall not be qualified for appointment as a member of the Authority under subsection (1) (*a*), (*b*), (*c*), (*d*) or (*e*), if that person—

(*a*) is an undischarged bankrupt;

(*b*) would, for any other reason, be disqualified by law from serving as a trustee or director of a company; or

(c) holds a political office.

(5) The Minister shall, in making appointments under subsection (1) (*a*), (*b*), (*c*), (*d*) and (*e*)— Cap. 25:06

(*a*) take into account the provisions of the Gender Equality Act; and

(*b*) have regard to the need for continuity in the membership of the Authority so that at least two members of the immediate past Authority shall be retained.

(6) A member of the Authority, other than an *ex-officio* member, shall not, by reason only of the appointment as a member of the Authority, be deemed to be an employee in the public service.

(7) The Minister shall publish, in the *Gazette*, names of all mem-

bers of the Authority as first constituted and every subsequent change in the membership.

Tenure of office and vacancies

6.—(1) A member of the Authority, other than an *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) The office of a member, other than an *ex–officio* member, shall become vacant—

(*a*) on the expiry of the term of office of the member;

(*b*) if the member resigns from office by giving one-month notice, in writing, to the Minister;

(*c*) if the member is absent, without valid reason, from three consecutive meetings of the Authority of which the member has had notice;

(*d*) upon the member becoming mentally or physically ill, where upon a suitably qualified medical practitioner certifies that the member is no longer, by reason of the illness, capable of performing duties of the office of member of the Authority;

(*e*) upon the member being removed from a position of trust by a court of law;

(*f*) upon the member being adjudged or declared bankrupt;

(*g*) upon the member being convicted of an offence and sentenced to a term of imprisonment;

(*h*) upon the member being removed from office in accordance with subsection (3);

(*i*) if a situation arises that if the person was not appointed, would have disqualified the person from being appointed as a member of the Authority; or

(*j*) upon the death of the member.

(3) The Minister may remove from office, a member of the Authority, other than an *ex-officio* member, on any of the following grounds—

(*a*) misconduct that brings the Authority into disrepute;

(*b*) incompetence in the execution of the functions of the office of member;

(*c*) failure to declare a conflict of interest relating to any matter under consideration by the Authority;

(*d*) disclosure or publication to any other person or entity, other than in the course of duty, of any confidential information of the

Authority obtained in the course of duty or otherwise; or

(*e*) being compromised to the extent that his ability to exercise the duties of his office impartially and effectively is seriously in question.

(4) A vacancy in the membership of the Authority shall be filled within sixty days of the occurrence of the vacancy by the appointment of a new member in accordance with section 5.

(5) A person appointed to fill a vacancy under subsection (5) shall serve for the remainder of the term of office but a person shall not be appointed to fill the vacancy where the remainder of the term is less than six months.

(6) The period served by a person appointed under subsection (5) shall not be regarded as a term for purposes of subsection (1).

(7) Subject to section 7 (5), a vacancy in the membership of the Authority shall not affect a decision, the performance of functions or the exercise of powers of the Authority under this Act or any other written law.

Meetings of the Authority

7.—(1) The Authority shall meet for the transaction of its business at least once in every three months, at such places and times as the Chairperson may determine.

(2) The Chairperson shall convene ordinary meetings of the Authority by giving the members not less than fourteen days' written notice.

(3) The Chairperson may, on his own motion and at any time, convene an extraordinary meeting of the Authority upon giving the members not less than three days' written notice.

(4) The Chairperson shall convene an extraordinary meeting within seven days of receipt of a request in writing signed by not less than four members specifying the purpose for which the meeting is to be convened.

(5) A quorum at every meeting of the Authority shall be constituted by at least five members.

(6) The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson shall preside over meetings of the Authority and, in the absence of both the Chairperson and Vice-Chairperson, the members present and forming a quorum shall elect one of their number to preside over the meeting.

(7) A decision of the Authority on any question shall be by consensus but where this is not possible, the decision shall be

determined by a majority vote of members present and voting, and where there is an equality of votes, the Chairperson or, in the absence of the Chairperson, the Vice-Chairperson or other member presiding, shall have a casting vote in addition to that person's deliberative vote.

(8) A member of the Authority, other than an *ex-officio* member, shall attend meetings of the Authority in person.

(9) The Authority may, where necessary and taking into account the nature of the matter to be deliberated, invite any person to attend its meeting and participate in the deliberations or to make a presentation or to be asked questions on any matter, but the person so invited shall have no right to vote.

(10) The Authority may make rules to regulate its proceedings and business or the proceedings and business of any of its committees.

(11) The Director General shall be secretary of the Authority and shall record and keep minutes of meetings of the Authority and the minutes shall be confirmed at the subsequent meeting.

Committees of the Authority

8.—(1) The Authority may establish such number of committees as the Authority determines necessary for the performance of its functions under this Act.

(2) A committee shall consist of either members of the Authority only or members of the Authority and such other suitably qualified persons as the Authority may determine.

(3) The Authority shall appoint a chairperson for each committee from amongst the members of the Authority appointed under section 5 (1) (*a*), (*b*), (*c*), (*d*) or (*e*).

(4) Every committee shall act in accordance with any directions given to it, in writing, by the Authority.

(5) The Director General shall act as secretary to committees of the Authority or may, with the approval of the Chairperson, delegate senior members of staff to act as secretaries to the committees.

Allowances and expenses

9.—(1) Members of the Authority and members of committees of the Authority shall be paid such allowances as the Minister shall determine, after consulting the Minister responsible for finance.

(2) The Authority may reimburse any reasonable expenses incurred by a member of the Authority, a member of a committee of the Authority or a person invited to attend a meeting pursuant to section 7(9).

10. The Authority shall perform its functions and exercise the powers provided for in this Act independent of the direction, influence or interference of any person or entity. Independence of the Authority

11.—(1) The Authority shall appoint a Director General, who shall be the chief executive officer of the Authority and shall, subject to the general direction of the Authority, be responsible for the day-to-day operations of the Authority. Director General

(2) The Director General shall be appointed through a competitive process and on such terms and conditions as the Authority shall determine.

(3) A person shall not be appointed as Director General, unless the person—

(*a*) possesses a minimum qualification of a Master's degree in a relevant field from a reputable education institution accredited or recognized under the National Council for Higher Education Act; Cap. 30:12

(*b*) has proven and demonstrable expertise in agriculture, seed industry, commerce, administration or any field relevant to the functions and responsibilities of the Authority;

(*c*) has not less than ten years' experience in executive management; and

(*d*) does not hold a political office.

(4) A Director General shall not engage in any business connected with the production, processing, sale, importation or exportation of seed.

12.—(1) The Authority may terminate the appointment of a Director General on any of the following grounds— Removal of a Director General

(*a*) incompetence in the execution of the functions of the office;

(*b*) incapacity to perform the functions of the office by reason of physical or mental infirmity;

(*c*) being convicted of an offence and sentenced to a term of imprisonment;

(*d*) being declared or adjudged bankrupt by a competent court of law;

(*e*) failure to declare a conflict of interest relating to any matter under consideration by the office or the Authority; or

(*f*) being found guilty of a misconduct punishable by dismissal under the employment contract.

(2) The Authority shall not terminate the appointment of a Director General, unless the Director General is given an opportunity to be heard.

Other staff of the Authority

13.—(1) The Authority shall employ such other members of staff, subordinate to the Director General, as it considers necessary for the efficient discharge of the functions of the Authority.

(2) The Authority may delegate to the Director General the appointment, discipline and dismissal of members of staff in specified junior ranks and the Director General shall report to the Authority, at its next meeting, every appointment, disciplinary decision or dismissal made pursuant to this subsection.

(3) The members of staff of the Authority appointed under subsection (1) shall—

(*a*) be appointed on such terms and conditions as the Authority shall determine; and

(*b*) not engage in any business connected with the production, processing, sale, importation or exportation of seed.

(4) Section 12 shall apply, with the necessary modifications, to dismissal of members of staff employed under this section.

Oath of secrecy

14. Every—

(*a*) member of the Authority;

(*b*) member of a committee of the Authority;

(*c*) member of staff of the Authority; or

(*d*) person invited to attend a meeting pursuant to section 7(9),

shall, upon assumption of his office or before attending the meeting, take an oath of secrecy in the form set out in the *Schedule*.

Disclosure of interest

15.—(1) A member of the Authority or committee of the Authority, a person invited to attend a meeting of the Authority or any of its committees or a member of staff of the Authority who has a direct or indirect interest in any matter before the Authority or any committee of the Authority, as the case may be, shall disclose the interest as soon as is practicable before or soon after the commencement of the meeting and shall not take part in any consideration or discussion of, or vote on, any question on such matter at that meeting or any subsequent meeting.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a person fails to disclose interest in accordance with subsection (1) and the Authority or committee of the Authority makes a decision which benefits that person, a close relative, professional or business partner of that person, the decision shall, to the extent that it benefits that person, the close relative, professional or business partner, be null and void.

(4) For purposes of this section, "close relative" means spouse, brother, sister, parent, child, child of the spouse and the spouse of any of these relations.

Protection from liability

16. No action or proceeding shall be brought personally against any member of the Authority or a committee of the Authority or member of staff of the Authority in respect of any act or omission done in good faith in the course of carrying out the provisions of this Act.

Common seal

17.—(1) Subject to this section, the common seal of the Authority shall be kept by the Director General and shall not be used except in the manner authorized.

(2) All deeds, instruments, contracts and other documents shall be considered to be duly executed by or on behalf of the Authority—

(*a*) where they are required to be under seal, if sealed with the common seal and authenticated by the Chairperson or any other member nominated in that behalf by the Authority and the Director General or any other officer authorized by the Authority; or

(*b*) where they are not required to be under seal, if executed in that behalf by a member authorized by the Authority for that purpose.

(3) A deed, instrument, contract or any other document executed in accordance with subsection (2) shall, in law, bind the Authority, its assignees and its successors and may be varied or discharged in the same manner that it was executed.

(4) All courts and other persons acting in a judicial capacity shall take judicial notice of the common seal of the Authority affixed to any document and shall presume, unless otherwise proven, that it was duly affixed.

Annual reports

18.—(1) The Authority shall cause to be prepared and submitted to the Minister, within three months after the end of each financial year, an annual report on the general conduct of the affairs of the Authority and the activities carried out during that financial year.

(2) The report submitted under subsection (1) shall be in the format prescribed by the Minister and there shall be appended to the report—

(*a*) an audited statement of financial position;

(*b*) an audited statement of income and expenditure; and

(*c*) such other information as the Minister may consider appropriate.

(3) The Minister shall, as soon as practicable, but not later than six months after the end of the financial year, lay before Parliament a copy of the annual report.

PART III—FUNDS AND PROPERTY OF THE AUTHORITY

Funds and property of the Authority

19.—(1) The funds and property of the Authority shall consist of—

(*a*) such sums as may, from time to time, be payable to the Authority from moneys appropriated by the National Assembly;

(*b*) such sums of money or other property, real or personal, as may be acquired, purchased or received by or transferred to the Authority, whether by way of donations, devise, bequest, purchase or otherwise;

(*c*) such sums of money or other property, real or personal, as may accrue to the Authority in the exercise of its powers or the performance of its functions under this Act;

(*d*) such sums of money as may accrue to or be received by the Authority by way of fees, subsidies, contributions, subscriptions, rents, interest or royalties from the Government or any person; and

(*e*) such sums of money or other property, real or personal, as may be donated to the Authority by any foreign Government, international agency, other external body of persons or individual.

(2) The funds and assets of the Authority shall exclusively be under the control of the Authority and shall be utilized solely for the purposes of this Act in accordance with the written directions of the Authority and for no other purpose.

Cap. 37:01
Cap. 37:02
Cap. 37:03

(3) The Authority shall, at all times, comply with the provisions of the Public Audit Act, the Public Finance Management Act and the Public Procurement and Disposal of Public Assets Act.

20.—(1) The Authority shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Authority in accordance with the Public Finance Management Act. Accounting and audit Cap. 37:02

(2) Accounts of the Authority shall be audited at the end of each financial year in accordance with the Public Audit Act. Cap. 37:01

(3) The financial year of the Authority shall be a period of twelve months in line with the government financial year.

(4) The first financial year of the Authority may be such shorter or longer period than twelve months as the Authority shall determine but being not less than six months nor more than eighteen months.

PART IV—CROP VARIETY RELEASE AND REGISTRATION

21. There shall be a committee of the Authority to be known as the Crop Variety Release and Registration Committee which shall— Crop Variety Release and Registration Committee

(*a*) evaluate applications for release and registration of crop varieties and make appropriate recommendations to the Authority;

(*b*) recommend deregistration of crop varieties to the Authority;

(*c*) recommend crop variety testing guidelines and procedures to the Authority;

(*d*) advise the Authority on fees payable for release and registration of crop varieties;

(*e*) advise the Authority on all technical matters relevant for release and registration of crop varieties; and

(*f*) perform such acts as are assigned to the committee by the Authority which are necessary or incidental to the release and registration of crop varieties.

22. The Crop Variety Release and Registration Committee shall comprise— Composition of the committee

(*a*) a member of the Authority, who shall be the chairperson of the committee; and

(*b*) seven members designated by—

(i) the National Commission for Science and Technology;

(ii) the department responsible for agricultural research services in the Ministry responsible for agriculture;

(iii) the department responsible for agricultural extension services in the Ministry responsible for agriculture;

(iv) the department responsible for crop development in the Ministry responsible for agriculture;

(v) a public university offering seed science programmes;

(vi) farmer organizations; and

(vii) the agro-processing industry.

National Crop Variety Catalogue

23.—(1) The Authority shall maintain a National Crop Variety Catalogue in which shall be registered crop varieties that are eligible for certification under this Act.

(2) A person intending to register a crop variety shall submit an application to the Authority in the prescribed form and the application shall be accompanied by the prescribed fee.

(3) The Authority shall, upon being satisfied that the crop variety has complied with the requirements set out in section 24, register the crop variety.

(4) The Authority shall annually publish in at least two newspapers of wide circulation in the country a list of crop varieties released and registered during the preceding year.

Crop variety registration requirements

24.—(1) A crop variety may be registered in the National Crop Variety Catalogue in accordance with section 23 if it has—

(*a*) passed the distinctiness, uniformity and stability characteristics of a plant variety test and the value for cultivation and use test; or

(*b*) complied with a crop variety release system of a region to which Malawi is a member and Malawi has the recommended agro-ecology for its production.

(2) A genetically modified crop variety shall be registered only if it complies with the provisions of the Biosafety Act.

Cap. 60:03

(3) The applicant shall, upon registration of a crop variety, pay the prescribed registration fee and such annual fees, as may be prescribed, to maintain the crop variety on the National Crop Variety Catalogue.

Withdrawal of a crop variety from the National Crop Variety Catalogue

25. The Authority may withdraw a crop variety from the National Crop Variety Catalogue where it is established that—

(*a*) the information provided on registration of the variety is incorrect;

(*b*) the registrant has not paid the prescribed annual fee;

(*c*) the variety no longer conforms to the original characteristics provided on registration; or

(*d*) the registrant cannot provide the original material of the variety.

Crop variety data base

26. The Authority shall maintain a data base of local crop varieties and such other crop varieties as the Minister may prescribe by notice published in the *Gazette*.

PART V—CERTIFIED SEED

Seed certification scheme

27.—(1) The Minister may, by regulations published in the *Gazette*, prescribe a seed certification system with the object of maintaining the genetic quality of seed.

(2) The seed certification system shall—

(*a*) prescribe the classes and crop varieties to which the system shall apply;

(*b*) provide for the registration of participants and prescribe requirements and conditions for registration;

(*c*) provide for the manner in which, and the control subject to which, seed intended for certification under the system shall be produced and treated;

(*d*) prescribe the manner in which, and intervals at which, seed in the course of production shall be inspected;

(*e*) prescribe forms to be used under the scheme;

(*f*) prescribe requirements and standards for seed certification;

(*g*) prescribe the seed certification processes, the certificate to be issued and the circumstances under which the certificate shall lapse;

(*h*) prescribe the packaging, marking, labelling, sealing, storage and distribution of certified seed;

(*i*) prescribe records to be kept and the information to be furnished by persons registered under the scheme;

(*j*) prescribe fees and charges payable under the system; and

(*k*) provide generally for any other matter which, in the opinion of the Minister, is necessary or expedient in order to further or better achieve the objects of the system.

Seed testing laboratories

28.—(1) The Authority shall establish and maintain a seed testing laboratory accredited by the International Seed Testing Association to carry out the functions provided under this Act.

(2) The Authority may accredit seed testing laboratories operated by other entities in Malawi.

(3) The Authority may revoke the accreditation of a seed testing laboratory upon being satisfied that the laboratory has breached this Act or its obligations under the seed certification scheme.

(4) The accreditation of a seed testing laboratory shall not be revoked under subsection (3) unless the operator of the laboratory is given an opportunity to show cause why the accreditation should not be revoked.

(5) A decision to revoke the accreditation of a seed testing laboratory shall be in writing and shall be delivered to the operator of the laboratory within fourteen days of the decision.

(6) The Authority shall cause to be maintained a register of accredited seed testing laboratories in Malawi.

Seed inspectors, samplers and analysts

29.— (1) The Authority shall register and license seed inspectors, seed samplers and seed analysts who shall—

(*a*) perform such responsibilities as may be assigned to them under this Act; and

(*b*) ensure adherence to technical specifications and standards prescribed under the seed certification system prescribed under section 27.

(2) A person shall not operate as a seed inspector, seed sampler or seed analyst unless that person is registered by the Authority as a seed inspector, seed sampler or seed analyst and has a valid annual licence.

(3) The Minister shall, by regulations published in the *Gazette*, prescribe qualifications, procedure, forms, fees and other requirements as he may think appropriate for a person to be registered and operate as a seed inspector, seed sampler or seed analyst.

(4) The Authority shall cause to be maintained registers of registered and licensed seed inspectors, seed samplers and seed analysts.

(5) The Authority shall, by notice published in the *Gazette*, issue codes of conduct for seed inspectors, seed samplers and seed analysts.

(6) The authority of a seed inspector may be—

(*a*) unlimited, where the seed inspector is designated to exercise all powers of a seed inspector in the whole country; or

(*b*) limited, where the seed inspector is designated to exercise—

(i) specific powers of a seed inspector; or

(ii) all powers of a seed inspector in a specific geographical area.

(7) A seed inspector, seed sampler or seed analyst shall not engage in any business connected with the production, processing, sale, importation or exportation of seed.

(8) The Authority may cancel the registration or revoke the licence of a seed inspector, seed sampler or seed analyst where the Authority is satisfied that the seed inspector, seed sampler or seed analyst has breached this Act or the applicable code of conduct.

(9) The Authority shall not cancel the registration or revoke the licence of a seed inspector, seed sampler or seed analyst, unless the seed inspector, seed sampler or seed analyst is given an opportunity to show cause why the registration or licence should not be cancelled or revoked, as the case may be.

(10) A seed inspector, seed sampler or seed analyst shall produce for inspection his licence upon demand by a person affected by the exercise of the powers of the seed inspector, seed sampler or seed analyst.

(11) A person who contravenes—

(*a*) subsection (2) commits an offence and shall, upon conviction, be liable to a fine of K15,000,000 and to imprisonment for five years; or

(*b*) subsection (4) or (7) commits a misconduct and shall be liable to disciplinary action as prescribed in the applicable code of conduct.

Crop variety and class of seed for production of certified seed

30.—(1) The Minister may, by order published in the *Gazette*, specify the crop variety and class of seed which may be cultivated under the seed certification system.

(2) A person shall not produce seed for certification unless the crop variety is registered in—

(*a*) the National Crop Variety Catalogue;

(*b*) a crop variety catalogue of a region where Malawi is a member; or

(*c*) a crop variety catalogue of any other country or region, other than the one referred to in paragraph (*b*), recognized by the Authority.

Certification of seed

31.—(1) The Authority shall certify seed in the following categories—

(*a*) in the case of seed produced in Malawi, as "Malawi Certified Seed";

(*b*) in the case of genetically modified seed produced in Malawi, as "Malawi Certified Genetically Modified Seed";

(*c*) in the case of imported seed, as "Imported Certified Seed"; and

(*d*) in the case of imported genetically modified seed, as "Imported Certified Genetically Modified Seed".

(2) In the case of seed produced in Malawi, the Authority may certify the seed where it is shown to the satisfaction of the Authority that the seed—

(*a*) is of a specified variety;

(*b*) is of a known source;

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

(*d*) has been produced on land designated for production of that seed;

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

(*f*) has been inspected during cultivation; and

(*g*) has been tested and found to conform to the prescribed standards of moisture content, purity, germination and defects.

(3) In the case of imported seed, the Authority may, on application by a registered seed importer, certify the seed where it is shown to the satisfaction of the Authority that the seed—

(*a*) has been imported into Malawi by the applicant;

(*b*) is certified under the laws of the country of origin;

(*c*) is accompanied by phytosanitary certificate and seed certification documents, as prescribed under the seed certification scheme, issued by a competent authority in the country of origin; and

(*d*) was produced under conditions, and conform to standards equal to, or higher than, those prescribed for the production of certified seed in Malawi.

(4) The Authority shall, upon certification of a seed lot, issue to the producer or importer of the seed, a certificate in the prescribed form in respect of that seed lot and shall enter the particulars of the certification in the register of seed producers or seed importers, as the case may be.

Registration of seed producers

32.—(1) A person shall not produce seed in Malawi for certification unless the person is registered by the Authority as a seed producer.

(2) A person who intends to produce seed for certification shall submit an application for registration to the Authority in the prescribed form and the application shall be accompanied by the prescribed fee.

(3) An application under subsection (2) shall, among other things, specify—

(*a*) the crop variety to be produced;

(*b*) the source of seed to be produced;

(*c*) the class of seed to be produced; and

(*d*) the location where the seed is to be produced.

(4) The Authority shall, within thirty days of receiving the application—

(*a*) register the applicant as a seed producer and issue a registration certificate in the prescribed form; or

(*b*) refuse to register the applicant and give reasons for the decision.

(5) The Authority may register an applicant where the Authority is satisfied that the applicant has complied with the eligibility criteria set out in the seed certification system prescribed under section 27.

(6) The Authority shall not register an applicant as a producer of a genetically modified seed unless the applicant has obtained a Genetically Modified Organism licence under the Biosafety Act. Cap 60:03

(7) The Authority may impose such conditions as it determines necessary on any registration made pursuant to this section.

(8) A registration under this section shall be valid for one growing season.

(9) The Authority shall maintain, in the prescribed form, a register of seed producers.

Cancellation or suspension of registration

33.—(1) The Authority may cancel the registration of a seed producer where the seed producer—

(*a*) fails or ceases to comply with any provision of this Act;

(*b*) parts with the possession of the land on which the seed is being produced; or

(*c*) is convicted of an offence under this Act.

(2) The Authority shall not cancel the registration of a seed producer unless the producer is given an opportunity to show cause why the registration should not be cancelled.

(3) The Authority shall communicate, in writing, a decision made pursuant to subsection (1) to the seed producer within fourteen days of the decision.

(4) Where a seed producer, during the validity of the registration, dies or, being a body corporate, is declared insolvent, wound-up or dissolved, the Authority shall suspend the registration until the successor in interest to the said registered seed producer applies for registration as a seed producer in respect of the seed in the course of production.

(5) An application for registration under subsection (4) shall be made within fourteen days of the death, declaration of insolvency, winding-up or dissolution of the initially registered seed producer.

(6) The Authority shall register the successor in title as a seed producer where it is satisfied that the successor in title will comply with the terms and conditions of the initial registration.

Inspection

34.—(1) A seed inspector shall carry out such field visits for each production cycle as prescribed in the seed certification system and produce a field inspection report, in writing, for each field visit.

(2) A seed inspector shall undertake a field inspection in the presence of a seed producer or an authorized representative of the seed producer.

(3) A field inspection report issued under subsection (1) shall contain—

(*a*) observed conditions of the plot and crops growing thereon;

(*b*) recommendations on actions to be taken to ensure compliance with prescriptions of the seed certification scheme; and

(*c*) for subsequent inspections, observations on implementation of previous recommendations.

(4) A seed inspector may, in a report issued under subsection (1), reject a crop where the inspector is satisfied that the crop is not compliant to prescriptions of the seed certification system or the seed producer has not complied with recommendations given during a previous inspection.

(5) Where a seed producer is not satisfied with a decision of a seed inspector, the seed producer may, within seven days of the inspection, appeal to the Authority against the decision.

(6) The Authority shall, upon receipt of an appeal under subsection (5), conduct such investigations as it shall determine appropriate and render its decision within fourteen days of receipt of the appeal.

(7) A decision of the Authority under subsection (6) shall be in writing and shall be delivered to the seed producer within seven days of the decision.

Seed sample to be tested for certification

35.—(1) The Authority shall not certify seed produced in Malawi unless a sample from the seed lot is tested by a seed testing laboratory to determine its purity and germination capacity in accordance with the seed certification system prescribed under section 27.

(2) A seed sampler shall take a sample of seed for testing under subsection (1) in the presence of the seed producer or an authorized representative of the seed producer.

Testing of seed samples

36.—(1) A seed sampler or seed inspector may submit a seed sample to a seed testing laboratory for testing.

(2) A submission of a seed sample under subsection (1) shall be accompanied by a statement, in writing, specifying such particulars as may be required.

(3) The seed testing laboratory shall, within twenty-eight days of receiving the seed sample, test the sample and issue a test report to the person who submitted the sample.

(4) A test report shall include the following information—

(*a*) the date of the test;

(*b*) the results of the test;

(*c*) particulars of the laboratory that conducted the test; and

(*d*) such other particulars as may appear necessary for, or relevant to, the report.

(5) Where, after a test, a seed sample is found—

(*a*) to conform to the standards of moisture content, purity, germination and defects prescribed for such seed, the seed lot from which the sample was taken shall be certified in accordance with section 31; or

(*b*) not to conform to the standards of moisture content, purity, germination and defects prescribed for such seed, the seed lot from which the sample was taken shall not be certified.

(6) Where seed not certified under subsection (5) (*b*) is in a state that is dangerous to public health or injurious to animals or plants,

the Authority shall order that the seed be destroyed without payment of compensation to the owner.

(7) Where the owner of the seed fails to comply with an order issued under subsection (6) within the prescribed period, the Authority shall destroy the seed at a cost to the owner of the seed and that cost shall be recoverable as a debt due to the Authority.

(8) A seed inspector or sampler may take a sample of any seed from—

(*a*) a seed producer;

(*b*) a person who is in the course of conveying, delivering, or preparing to deliver the seed to a seed processor, purchaser, seller or consignee; or

(*c*) a seed processor, purchaser, seller or consignee,

and submit the sample to a seed testing laboratory, for testing to ensure compliance with this Act.

(9) Where a seed sample taken under subsection (8) is found to be in a state that is dangerous to public health or injurious to animals or plants, subsection (6) and (7) shall apply.

PART VI—PROCESSING AND SALE OF SEED

Processing of seed

37.—(1) A person shall not process seed, unless—

(*a*) the person is registered as a seed processor; and

(*b*) the seed processing unit is licensed by the Authority.

(2) A person who intends to process seed or operate a seed processing unit shall submit an application to the Authority in the prescribed form and the application shall be accompanied by the prescribed fee.

(3) The Authority shall, where it is satisfied that—

(*a*) the applicant has met the prescribed criteria, register the applicant as a seed processor and issue a registration certificate in the prescribed form; or

(*b*) the seed processing unit has met the prescribed specifications, issue a licence in the prescribed form subject to such conditions as the Authority determines appropriate.

(4) The Authority shall, where it is satisfied that the applicant for registration has not met the prescribed criteria or a seed processing unit has not met the prescribed specifications, within thirty days of receipt of the application, reject the application and give reasons for its decision.

(5) The Authority may suspend or revoke the registration certificate or licence issued under subsection (3) where—

(*a*) the registration or licence was obtained by misrepresentation of a material fact; or

(*b*) the seed processor has contravened a condition of the certificate or licence.

(6) The Authority shall not suspend or revoke a certificate or licence under subsection (5), unless the seed processor is given an opportunity to show cause why the registration or licence should not be suspended or revoked.

(7) A decision to suspend or revoke a registration certificate or a licence shall be in writing and shall be delivered to the seed processor within fourteen days of the decision.

(8) The Authority shall cause to be maintained a register, in the prescribed form, of seed processors and licenced seed processing units in Malawi.

Reporting obligations and inspection

38.—(1) A seed processor shall submit to the Authority, at prescribed times and in the prescribed form and manner, periodic returns on the quantity and variety of seeds processed by each seed processing unit.

(2) The Authority shall conduct or cause to be conducted periodic inspections of licenced seed processing units.

Packaging of certified seed

39.—(1) A seed processor shall package certified seed for sale in sealed seed containers.

(2) The seed processor shall cause to be printed or stamped on the seed container or on a label attached to the seed container, in clear and legible words—

(*a*) "Malawi Certified Seed" or "Malawi Certified Genetically Modified Seed", as the case may be;

(*b*) the date of testing;

(*c*) the certificate number issued in respect of the certified seed; and

(*d*) such other particulars as may be prescribed.

Sale of seed by seed producer

40.—(1) A seed producer shall, upon sale of certified seed, in Malawi—

(*a*) produce for inspection by the buyer, the certificate issued under section 31 in respect of the seed; and

(*b*) where the sale is in a bulk quantity, furnish the buyer with a copy of the certificate, endorsed by the seed producer.

(2) A seed producer who fails to comply with subsection (1) commits an offence.

(3) A contract for sale of certified seed shall not be invalidated by failure to comply with subsection (1).

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

Sale of certified seed by seed seller

41.—(1) A person shall not carry on the business of selling certified seed unless—

(*a*) the person is registered by the Authority as a seed seller; and

(*b*) the premises from which the seed is sold is licenced by the Authority.

(2) Subsection (1) shall not apply to the sale of seed by a seed producer.

(3) A seed seller shall not sell certified seed unless the seed is packaged in a seed container which bears a label as prescribed under section 39.

(4) A seed seller shall withdraw from the market any seed that is not sold before its expiry date.

(5) A seed seller shall sell certified seed under the registered crop variety name.

(6) A seed seller who contravenes subsection (1), (3), (4) or (5) commits an offence.

Registration of seed sellers

42.—(1) A person who intends to carry on the business of selling certified seed shall submit an application for registration in the prescribed form to the Authority and the application shall be accompanied by the prescribed fee.

(2) The Authority shall, where it is satisfied that the applicant has met the prescribed criteria for registration, register the applicant as a seed seller and issue a registration certificate in the prescribed form.

(3) A certificate issued under subsection (2) shall be valid for a period of twelve months from the date of issuance and may be renewed on such terms as the Authority may determine.

(4) The Authority shall, where it is satisfied that the applicant has not met the prescribed criteria for registration, within thirty days of receipt of the application, reject the application and give reasons for its decision.

(5) The Authority may suspend or cancel the registration certificate issued under subsection (2) where—

(*a*) the seed seller has contravened a provision of this Act;

(*b*) the registration was obtained by misrepresentation of a material fact;

(*c*) the seed seller has contravened a condition of the registration; or

(*d*) the seed seller has failed or refused to comply with any direction given by the Authority in writing.

(6) Where a seed seller, during the validity of the registration, dies or, being a body corporate, is declared insolvent, wound-up or dissolved, the Authority shall suspend the registration until the successor in interest to the said seed seller applies for registration and is registered as a seed seller.

(7) A decision to suspend or cancel registration shall be in writing and contain reasons for the suspension or cancellation and shall be delivered to the seed seller or, in the event of death, to a member of the immediate family of the deceased seed seller within fourteen days of the decision.

(8) The Authority shall not suspend or cancel a registration certificate under subsection (7), unless the seed seller or a member of the immediate family of the deceased seed seller is given an opportunity to show cause why the registration should not be suspended or cancelled.

(9) An application for registration under subsection (6) shall be made within fourteen days of the death, declaration of insolvency, winding-up or dissolution of the initial seed seller.

(10) The Authority shall register the successor in title as a seed seller where it is satisfied that the successor in title will comply with the terms and conditions of the initial registration.

(11) The Authority shall maintain a register in the prescribed form of seed sellers in Malawi.

(12) A seed seller shall display a copy of his registration certificate at a conspicuous place at his business premises.

Licensing of certified seed selling premises

43.—(1) A seed seller shall obtain from the Authority a licence for each of the premises from which certified seed is to be sold.

(2) Section 42(1), (2), (3), (4), (5), (8), (9), (11) and (12) shall apply, with the necessary modifications, to licencing of seed selling premises.

PART VII—IMPORTATION AND EXPORTATION OF SEED

Restriction on importation and exportation of seed

44.—(1) The Minister may, by order published in the *Gazette*, restrict, limit, impose conditions or prohibit the importation into Malawi or exportation from Malawi of any crop variety or class of seed.

(2) A person who imports or exports seed in contravention of a restriction, limitation, condition or prohibition made under subsection (1) commits an offence.

Importation and exportation of seed

45.—(1) Subject to section 44, a person shall not import into Malawi or export from Malawi, certified seed, unless the person is registered as a seed importer or seed exporter.

(2) A person who intends to import or export certified seed shall submit an application to the Authority in the prescribed form and the application shall be accompanied by the prescribed fee.

(3) The Authority shall, within thirty days of receiving the application—

(*a*) refuse to register the applicant and give reasons for the decision; or

(*b*) register the applicant as a seed importer or seed exporter, as the case may be, and issue a certificate in the prescribed form.

(4) The Authority may impose such conditions as it determines necessary on any registration made pursuant to this section.

(5) A registration under this section shall be valid for one growing season.

(6) The Authority shall cause to be maintained, in the prescribed form, a register of seed importers and seed exporters.

(7) A person who contravenes subsection (1) or a condition imposed under subsection (4) commits an offence.

Conditions for importation of certified seed

46.—(1) A seed importer shall not import seed unless the crop variety—

(*a*) is registered in a crop variety catalogue of a region where Malawi is a member or any other regional or national crop variety catalogue recognized by the Authority;

(*b*) is certified in the country of origin;

(*c*) is packaged in a seed container which is labelled as provided in section 39(2), with the necessary modifications;

(*d*) the genus, species, variety and the country of origin of the seed are shown on an invoice or delivery note accompanying the seed;

(*e*) conforms to standards and other requirements prescribed under this Act; and

(*f*) is accompanied by a phytosanitary certificate and seed certification documents as prescribed under the seed certification scheme.

(2) The Authority may exempt a seed importer or seed of a particular species, variety or class from any or all the requirements in subsection (1) and the exemption may be subject to such conditions as the Authority may prescribe.

(3) Where a seed importer fails to comply with subsection (1) or with any condition prescribed under subsection (2), the Authority shall cancel his registration and seize any seed connected with the Authority of the offence.

Importation of seed samples

47. The Authority may issue a permit to a seed importer to import a seed quantity of no commercial value as a sample on such terms and conditions as the Authority may prescribe.

Testing requirement for seed imported from some countries

48.—(1) A seed importer who imports into Malawi any certified seed from a country—

(*a*) which is not a member of a region where Malawi is a member; and

(*b*) whose national crop variety catalogue is not recognized by the Authority, shall, within seven days of taking delivery of the seed, request a seed inspector or seed sampler to take a sample of the seed for testing at a seed testing laboratory.

(2) The seed importer shall not sell or otherwise dispose of the imported seed prior to receipt of a test report from the seed testing laboratory and certification of the seed by the Authority in accordance with section 31.

(3) A person who contravenes this section commits an offence.

PART VIII—APPEALS PANEL

Establishment of Appeals Panel

49.—(1) There shall be an Appeals Panel consisting of three members, one of whom shall be designated chairperson, appointed by the Minister which shall determine appeals from decisions of the Authority.

(2) The Appeals Panel shall consist of a retired judge, a plant breeder and a seed scientist.

(3) A member of the Appeals Panel shall hold office for three years and shall be eligible for reappointment.

(4) A member of the Appeals Panel shall be paid such honoraria and allowances as the Minister shall determine.

(5) The Minister shall publish, in the *Gazette*, names of all members of the Appeals Panel as first appointed and every subsequent change in the membership.

Procedure of the Appeals Panel

50.—(1) A person who is aggrieved by a decision of the Authority under this Act may, within fourteen days of receipt of the decision, appeal to the Appeals Panel, in writing, for review of the decision.

(2) The Appeals Panel shall, subject to this Act, determine its own procedure.

(3) Proceedings of the Appeals Panel shall be conducted expeditiously with as little formality and technicality as the requirements of the matter under consideration permit.

(3) The Appeals Panel shall not be bound by rules of evidence but may inform itself on any matter as it thinks appropriate.

(4) The Appeals Panel may, in considering an appeal, consult experts in any relevant field as it considers necessary.

Decisions of the Appeals Panel

51.—(1) A decision of the Appeals Panel shall be in writing, and shall include the reasons for the decision, and a statement of its findings on material questions of fact and a reference to the evidence or other material on which those findings are based.

(2) A decision of the Appeals Panel shall be by consensus but where this is not possible, the decision of the Panel shall be determined by a majority of members of the Panel.

(3) In determining an appeal, the Appeals Panel may—

(*a*) affirm the decision under review;

(*b*) vary the decision under review; or

(*c*) set aside the decision under review and—

(i) make a decision in substitution for the decision so set aside; or

(ii) remit the matter to the Authority for reconsideration in accordance with any guidance provided by the Appeals Panel.

(4) The Appeals Panel shall cause a copy of its decision to be served on each party to the proceedings.

(5) The appellant shall pay the costs and expenses of the Appeals Panel in the event that his appeal has not been successful, otherwise the costs and expenses shall be paid by the Authority.

commits an offence and shall, upon conviction, be liable to a fine of K50,000,000 and to imprisonment for ten years.

Prohibition against testing seed in a place other than a seed testing laboratory

56. A person who, in any place which is not a seed testing laboratory, tests or purports to test seed for the purposes of this Act, commits an offence and shall, upon conviction, be liable to a fine of K50, 000, 000 and to imprisonment for ten years.

Prohibition against obstruction, etc., of seed inspector or seed sampler, etc

57. A person who—

(*a*) obstructs or impedes a seed inspector, seed sampler or any officer authorised by the Authority in the exercise of his powers under this Act;

(*b*) refuses to furnish to a seed inspector, seed sampler or any officer authorised by the Authority, without justifiable cause, any information which the seed inspector, seed sampler or officer authorized by the Authority requests; or

(*c*) wilfully or recklessly gives to a seed inspector, seed sampler or officer authorized by the Authority any false or misleading information,

commits an offence and shall, upon conviction, be liable to a fine of K30, 000, 000 and to imprisonment for seven years.

Prohibition against sale of certified seed under name other than varietal name

58.—(1) A person who sells certified seed under a name other than its varietal name commits an offence and shall, upon conviction, be liable to a fine of K30,000, 000 and to imprisonment for seven years.

(2) In this section, "varietal name" means the name given to a crop variety by its breeder.

Breach of confidentiality

59. A person who—

(*a*) being a member of the Authority or a committee of the Authority, a member of staff of the Authority or authorized to perform any function under this Act, publishes or communicates to any other person without lawful authority any information acquired by that person in the course of duty; or

(*b*) is in possession of any information which to that person's knowledge was obtained in contravention of this Act, publishes or communicates that information without lawful authority to any other person,

commits an offence and shall, upon conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

General penalty

60. A person who commits an offence under this Act for which a penalty has not been specified shall be liable to a fine of K30,000,000 and to imprisonment for seven years.

61. A court may, in addition to any penalty imposed for commission of an offence under this Act, order that any seed, machinery, equipment, chemicals or any other thing connected with the commission of the offence be forfeited to the state or be destroyed without compensation.

Forfeiture and disposal of items used in commission of offence

62. Where an offence under this Act is committed by a body corporate, each director or manager of the body corporate at the time the offence is committed, commits the same offence, and unless the director or manager proves that the offence was committed without his consent or connivance and that he exercised such diligence as he ought to have exercised, having regard to the nature of his functions in that capacity, to prevent the commission of the offence.

Offences by body corporates

PART X—MISCELLANEOUS PROVISIONS

63.—(1) A seed inspector or any other officer authorized by the Authority may, at any reasonable time, enter upon and search any land, building, premises, vehicle, receptacle or storage facility where he has reasonable cause to believe an offence is being committed in relation to production, processing, packaging, transportation or sale of seed regulated under this Act.

Power to search and seize goods

(2) The seed inspector or officer authorized by the Authority may, take a sample of seed found in the course of conducting a search pursuant to subsection (1).

(3) The owner of the land, building, premises, vehicle, receptacle or storage facility referred to in subsection (1) or his agent shall, on demand, furnish to the seed inspector or officer authorized by the Authority a statement in writing, containing such particulars as may be required by the seed inspector or officer authorized by the Authority.

(4) Where the inspector or officer authorized by the Authority believes that an offence has been committed or is likely to be committed, the seed inspector or officer authorized by the Authority may seize, remove and detain any seed, container, label, book, record, document or device used or likely to be used in the commission of the offence.

(5) The seed inspector or officer authorized by the Authority shall, upon seizure of any item or thing pursuant to subsection (4), give to the person from whom such item or thing is seized, a notice of seizure signed by the seed inspector or officer authorized by the Authority containing—

(*a*) particulars of the alleged offence;

(*b*) a description of the seized item;

(*c*) quantity of the seized items;

(*d*) date and time of the seizure; and

(*e*) any other information, as the seed inspector or officer authorized by the Authority may think appropriate.

(6) Where after investigation of the matter the Authority decides not to commence any proceedings, the Authority shall, within ten days of the decision, return any item or thing seized under this section to the owner thereof or the person from whose custody it was seized.

Duty to keep records

64.—(1) A seed producer, processor, seller, importer and exporter shall keep within his premises, detailed records by lot, of seed produced, processed, purchased, sold, imported or exported, as the case may be, and the records shall, upon request, be provided to a seed inspector, seed sampler or any other officer authorised by the Authority.

(2) A person who contravenes subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K15,000,000 and imprisonment for three years.

Duty to surrender revoked registration certificate or licence

65.—(1) Where a registration certificate or licence issued under this Act is revoked, the holder of the certificate or licence or a member of the holder's immediate family, in case of death of the holder, shall, within thirty days of receipt of the revocation notice, surrender the certificate or licence to the Authority.

(2) A person who contravenes subsection (1) commits an offence.

Inspection of registers

66. The Authority may allow any person to inspect a register maintained under this Act upon payment of the prescribed fee and on such terms as the Authority may determine.

Regulations

67.—(1) The Minister may, on recommendation of the Authority and by notice published in the *Gazette*, make regulations as are necessary or expedient for the purpose of giving full effect to this Act and prescribing all matters which are necessary or convenient to be prescribed.

(2) Without prejudice to the generality of subsection (1), the regulations may make provision for—

(*a*) forms of registers, notifications, licences, certificates, permits and reports required under this Act;

(*b*) qualifications of seed inspectors, seed samplers and seed analysts;

(*c*) minimum requirements for equipment to be maintained in a seed testing laboratory or seed processing unit;

(*d*) prescribe minimum requirements and procedure for accreditation of seed testing laboratories;

(*e*) the operation and management of seed testing laboratories;

(*f*) procedure, standards and prescription for seed testing and seed certification;

(*g*) standards for storage of certified seed;

(*h*) manner and methods of labelling, stamping, marking or sealing seed containers;

(*i*) manner of advertising certified seed for sale;

(*j*) registration of land for production of seed for certification;

(*k*) examination, testing and cultivation of any seed intended for use by a seed producer in the production of seed for certification;

(*l*) prescribing the methods by which seed testing is to be carried out under the provisions of this Act;

(*m*) prescribing the terms and conditions and the manner in which seed may be inspected, classified and tested;

(*n*) prescribing minimum standards for a seed testing laboratory, seed processing unit, seed warehouse and seed selling premises;

(*o*) prescribing a code of conduct for seed inspectors, seed samplers and seed analysts;

(*p*) fees and charges payable under this Act; and

(*q*) anything required to be prescribed under this Act.

(3) Notwithstanding the provisions of section 21 (*e*) of the General Interpretation Act, the regulations made under subsection (1), may provide for offences the contravention of which may attract a penalty of a fine of K5,000,000 and imprisonment for one year. Cap. 1:01

(4) In addition to the penalty prescribed under subsection (3), the regulations may provide for forfeiture to the State of seed, machinery, equipment, chemicals or any other thing connected with the commission of the offence.

Repeal and savings Cap. 67:06

68.—(1) The Seed Act is hereby repealed.

(2) Any subsidiary legislation made under the Seed Act, repealed by subsection (1), in force immediately before the commencement of this Act—

(*a*) shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and

(*b*) may be replaced, amended or repealed by subsidiary legislation made under this Act.

(3) A licence, permit or authority granted under the Seed Act, repealed by subsection (1), shall continue to have effect as if it was issued under this Act.

(4) All crop varieties registered in the Agricultural Technologies Catalogue, maintained by the Ministry responsible for agriculture immediately before the commencement of this Act, shall, subject to payment of the prescribed fees, be registered in a Provisional National Crop Variety Catalogue for a period of two years pending fulfilment of requirements for registration in the National Crop Variety Catalogue established under section 23.

Duty to keep records

SCHEDULE (s.14)

OATH OF SECRECY

I,....., being a member of the Authority/member of a committee of the Authority/member of staff of the Authority/having been invited to attend a meeting of the Authority, do hereby swear/affirm that I will freely without fear or favour, affection, or ill-will, discharge the functions of a member/member of staff/invitee of the Authority and that I will not directly, or indirectly reveal any matter related to such functions to any unauthorized person or otherwise than in the course of duty. So, help me God/Allah.

SWORN at ..... this ..... day of ....., 20...

Before me:

.....
Commissioner for Oaths

Passed in Parliament this fourth day of April, two thousand and twenty-two.

FIONA KALEMBA
Clerk of Parliament