

SOUTH AUSTRALIA

SEEDS ACT, 1979

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **15 January 1992**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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SEEDS ACT, 1979

being

Seeds Act, 1979, No. 22 of 1979 [Assented to 15 March 1979]¹

as amended by

Seeds Act Amendment Act, 1982, No. 4 of 1982 [Assented to 25 February 1982]¹

Seeds Act Amendment Act, 1984, No. 45 of 1984 [Assented to 24 May 1984]

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

¹ Came into operation 21 July 1983: *Gaz.* 21 July 1983, p. 126.

An Act to regulate the sale of seeds; to repeal the Agricultural Seeds Act, 1938-1975; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Seeds Act, 1979*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Repeal of the Agricultural Seeds Act

3. The *Agricultural Seeds Act, 1938-1975*, is repealed.

Interpretation

4. In this Act, unless the contrary intention appears—

"authorized officer" means a person whom the Minister has, by instrument in writing, authorized to exercise the powers of an authorized officer under this Act:

"noxious organism" means any organism of a species declared by regulation to be a species of noxious organism:

"noxious seeds" means—

(a) the seeds of any pest plant as defined in the *Pest Plants Act, 1975*;

or

(b) any seeds of a species declared by regulation to be a species of noxious seeds:

"parcel" includes bag, case, packet, package or other container:

"purchaser" of seeds includes a person to whom seeds are offered for sale:

"seeds" means any seeds of a species declared by regulation to be a species of seeds to which this Act applies:

"to sell" includes to offer or expose for sale.

Prohibition of sale of noxious seeds, etc.

5. A person who sells—

(a) any noxious seeds;

(b) any seeds with which noxious seeds are admixed (whether intentionally, negligently or otherwise);

or

3.

(c) any seeds infected or contaminated by any noxious organism,

shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Order for destruction of seeds

6. (1) Where an authorized officer is satisfied that any seeds—

(a) are noxious seeds, or contain an admixture of noxious seeds;

or

(b) are infected or contaminated by a noxious organism,

he may by instrument in writing order—

(c) that the seeds be treated or cleaned in a manner specified in the order;

or

(d) that the seeds be destroyed in a manner specified in the order.

(2) A person to whom an order is addressed may appeal to the Minister against the order.

(3) An appeal shall be instituted by an instrument in writing setting out, in detail, the grounds of the appeal.

(4) The Minister may, after consideration of an appeal under this section—

(a) vary or revoke the order;

or

(b) dismiss the appeal.

(5) If—

(a) a person to whom an order has been addressed under paragraph (c) of subsection (1) of this section—

(i) fails to comply with the order within the time allowed by the order;

or

(ii) sells or disposes of the seeds to which the order relates before the seeds have been treated or cleaned in accordance with the order;

or

4.

- (b) a person to whom an order has been addressed under paragraph (d) of subsection (1) of this section fails to comply forthwith with the order,

he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(6) The time allowed for compliance with an order under this section shall, by force of this section, be extended by the period between the institution and determination of an appeal against the order.

Statement to be furnished in relation to sale of seeds

7. (1) A person who sells seeds in the course of a business shall furnish the purchaser, in accordance with this section, with a written statement containing the information required by this section.

(2) Where the seeds are contained in a parcel, the statement must be imprinted on, or attached to, the parcel, and, in any other case, it must be given to the purchaser before delivery of the seeds to him in pursuance of sale.

(3) The statement must contain the following information:

- (a) the species of plant from which the seeds have been obtained;
- (ab) the proportion by mass (expressed as a percentage) that the seeds of the principal species, or, where more than one, each of the principal species, bear to the total mass of the seeds and inert matter mixed with the seeds;
- (ac) the proportionate number (expressed in the prescribed manner) of seeds of prescribed species (other than principal species) that are included in the mixture of seeds and inert matter;
- (b) the proportion (expressed as a percentage) of the seeds of the principal species or, where more than one, of each of the principal species that might reasonably be expected to germinate;
- (c) where the seeds are contained in a parcel, the mass of the contents of the parcel;

* * * * *

(e) all chemical treatment to which the seeds have been subjected during processing;

and

(f) all other prescribed information.

(4) The proportion referred to in paragraph (b) of subsection (3) of this section must be arrived at by carrying out a test, in accordance with the regulations, designed to ascertain that proportion.

5.

(5) Subject to subsection (6) of this section, a person who sells seeds in the course of a business and who—

(a) fails to furnish a statement as required by this section;

or

(b) furnishes a statement relating to seeds (whether required by this section or otherwise) that is false or misleading in a material particular,

shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(5a) A statement is not false for the purposes of subsection (5) if the information contained in the statement conforms with limits of accuracy prescribed by the regulations.

(6) This section does not apply in relation to—

(a) the sale of a quantity of seeds of less than the prescribed mass;

(b) the sale of seeds of prescribed species where the vendor reasonably expects that the seeds will not be used by the purchaser for the germination or propagation of plants;

(c) the sale of seeds that have been mixed for the purpose of sale where—

(i) statements conforming with this Act in relation to the seeds from which the mixture is made are available for perusal by the purchaser;

and

(ii) the purchaser is provided with a statement of the minimum proportion (expressed as a percentage) of the seeds comprising the mixture that might reasonably be expected to germinate;

or

(d) the sale of seeds by a person exempted by or under the regulations from the provisions of this section in relation to the sale.

(7) The regulations—

(a) may exempt, or provide for the exemption of, a person, or persons of a specified class, from the provisions of this section in relation to the sale of seeds generally or in relation to the sale of seeds of specified species;

and

(b) may prescribe conditions that attach, or may be attached, to any such exemption.

(8) In this section—

"inert matter" has the meaning assigned by the regulations:

"principal species" means a species comprising not less than the prescribed percentage, by mass, of the total mass of the seeds and inert matter mixed with the seeds.

Defences

8. It shall be a defence to a charge of an offence against this Act involving the sale of seeds for the defendant to prove—

- (a) that the circumstances of the sale were such that the defendant could not reasonably have expected that the seeds would be used for the germination or propagation of plants;
- (b) that before the sale he obtained an undertaking from the purchaser that the purchaser would treat or clean the seeds before reselling them and that the seeds were sold on the understanding that the purchaser would comply with that undertaking;
- (c) that—
 - (i) the seeds were seeds of wheat, barley, oats, cereal rye, field peas or of a prescribed species;
 - (ii) the sale of the seeds was incidental to a business of primary production;

* * * * *

and

- (iv) the sale—
 - (A) was concluded between parties who carry on the business of primary production at places situated within 50 kilometres of each other;
 - or
 - (B) was approved by the Minister or an authorized officer;

or

- (d) that the seeds were supplied to the defendant in a sealed parcel bearing a statement in apparent conformity with this Act.

Powers of authorized officer

9. (1) An authorized officer may—

- (a) enter any place in which seeds are kept for sale;
- and
- (b) on tender of the ordinary market price take a sample of seeds for analysis.

7.

(2) Where an authorized officer takes a sample of seeds for analysis, he shall—

- (a) thoroughly mix the sample and divide it into three approximately equal parts;
- (b) place each part in a separate package and seal or fasten each package;
- (c) write on each package the address of the premises at which the sample is taken, and the time of taking the sample;
- (d) deliver a package containing one part or the sample to the person in charge, or apparently in charge, of the premises at which the sample is taken;

and

- (e) retain a package containing one part of the sample for future comparison.

(3) A person is not to be regarded as having sold seeds taken by way of sample under this section by reason only of the fact that he accepts the ordinary market price of these seeds.

(4) A person who hinders an authorized officer in the exercise of powers conferred by this section shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Certificate of analysis of seeds

10. In any proceedings for an offence against this Act, an apparently genuine document purporting to be under the hand of a person who holds prescribed qualifications and to relate to the analysis of seeds shall be accepted, in the absence of proof to the contrary, as proof of any statement contained therein—

- (a) tending to identify the seeds subjected to analysis;

or

- (b) as to the nature and results of the analysis.

Proceedings

11. Proceedings for an offence against this Act shall be disposed of summarily.

Regulations

12. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) provide for the analysis of seeds;
- (b) prescribe, and provide for the recovery of, fees in respect of the analysis of seeds;
- (c) provide for the use of codes and marks in the labelling of seeds;

and

8.

- (d) prescribe penalties (not exceeding five hundred dollars) for breach of, or non-compliance with, any regulation.

APPENDIX

LEGISLATIVE HISTORY

Section 7(1):	amended by 4, 1982, s. 3(a)
Section 7(3):	amended by 4, 1982, s. 3(b)-(f)
Section 7(3)(d):	repealed by 45, 1984, s. 2
Section 7(5a):	inserted by 4, 1982, s. 3(g)
Section 7(6):	amended by 4, 1982, s. 3(h), (i)
Section 7(7) and (8):	inserted by 4, 1982, s. 3(j)
Section 8:	amended by 4, 1982, s. 4
Section 8(c)(iii):	repealed by 4, 1982, s. 4(b)
Section 12(2):	amended by 4, 1982, s. 5