

THE SEEDS BILL
(No. VIII of 2013)

Explanatory Memorandum

The object of this Bill is to provide for the setting up of the National Plant Varieties and Seeds Office (NPVSO) within the Ministry responsible for the subject of agriculture.

2. NPVSO shall –

- (a) regulate the cultivation, production, trade, exportation and importation of seeds of any variety of any kind of plant;
- (b) be responsible for the enforcement of the Act.

3. There shall also be a National Plant Varieties and Seeds Committee which shall –

- (a) advise the Minister on national policies relating to the cultivation, production, trade, exportation and importation of seeds of any variety of any kind of plant;
- (b) guide and supervise NPVSO in the enforcement of the Act;
- (c) make recommendations to the Minister for the improvement of the seed regulatory system;
- (d) make recommendations to the Minister on the release of any variety in Mauritius;
- (e) carry out such other functions as the Minister may determine.

4. The Bill further provides for registration of varieties of seeds, seed testing, seed inspection and certification of any seed.

S. V. FAUGOO
*Minister of Agro-Industry and
Food Security*

17 May 2013

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ARRANGEMENT OF CLAUSES

Clause

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A BILL

To regulate the cultivation, production, trade, importation and exportation of seed, and for related matters

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Seeds Act 2013.

2. Interpretation

In this Act –

“advertisement” means any statement, picture or design device which is published or brought to the notice of the public through radio or television or in any other manner;

“breeder” means –

- (a) a person who has bred, or discovered and developed, a variety, his employer or the person who commissioned his work; or
- (b) the successor in title of a person referred to in paragraph (a);

“Chairperson” means the Chairperson of the Seeds Committee;

“common knowledge”, in relation to a variety, means a variety –

- (a) which is already in cultivation, has been exploited for commercial purposes, is held in a recognised reference collection or has a precise description in any publication;
- (b) which is or has been the subject of a Plant Breeder’s Right in any State;
- (c) which is or has been entered in a National Variety List in any State; or
- (d) in relation to which an application for a Plant Breeder’s Right or an entry in a National Variety List is under consideration in any State, provided the application is successful;

“container” means a bag, box, bottle, case, tin, barrel, sack, wrapper or receptacle in which seed is placed or packed;

“cultivate” means to grow the seed of any variety of any kind of plant with a view to the multiplication of the seed;

“export” and “import” have the same meaning as in the Customs Act;

“ISTA Rules” means the International Rules for Seed Testing made by the International Seed Testing Association of Switzerland;

“kind of plant” means all related genera, species or subspecies of a plant which are known by the same common name;

“label” means a document which visibly displays specific information in a readable manner on a container to facilitate seed identification and traceability;

“listed variety” means a variety which is registered with NPVSO under section 8(5)(b);

“member” –

(a) means a member of the Seeds Committee; and

(b) includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of agriculture is assigned;

“National Variety List” means the list referred to in section 9;

“NPVSO” means the National Plant Varieties and Seeds Office set up under section 4;

“officer” means an officer of NPVSO;

“packaging” means the method and process of putting seed into a container;

“Plant Breeder’s Right” means the form of intellectual property designed specifically to protect new varieties of plants;

“produce”, in relation to any kind of plant, means to grow for the purpose of producing raw materials to be processed as seeds;

“representative reference sample” means a sample of seed that is submitted in support of registration of a variety and guaranteed by the owner or breeder of the variety as truly representing the variety;

“seed” means the whole or any part of a plant capable of regeneration and giving rise to a plant which is true to such type;

“seed dealer” means a person registered as such under section 12;

“seed processing” means the process by which seeds are dried, threshed, shelled, cleaned, graded or treated;

“seed producer” means a person registered as such under section 22;

“Seeds Committee” or “National Plant Varieties and Seeds Committee” means the Committee referred to in section 6;

“supervising officer” means the supervising officer of the Ministry;

“trade”, in relation to the seed of any variety of any kind of plant, means to buy, sell and barter;

“true to type” –

- (a) in relation to a plant of a particular kind, means that it corresponds to the description of a plant of the kind concerned;
- (b) in relation to a seed of a particular kind, means that it corresponds to the description of a seed of the kind concerned;

“varietal purity”, in relation to seed of a particular variety, means the percentage of the number of plants grown from the seed concerned which corresponds to the description of the plant of that variety and which are clearly distinguishable from any variety of the same kind of plant;

“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 or combination of genotypes;
- (b) distinguished from any other plant grouping by the expression of at least one of the characteristics; and
- (c) considered as a unit with regard to its suitability for being propagated unchanged;

"variety name" means a word, number, letter or number combination used to designate a variety.

3. Application of Act

(1) Subject to subsection (2), this Act shall apply to any seed.

(2) The Minister may, on the recommendation of the Seeds Committee, exempt, by way of regulations, any seed from this Act.

(3) Notwithstanding this Act, the Minister may, by way of regulations, prohibit the use of certain produce, which is meant for consumption, as seeds.

PART II – MANAGEMENT AND ADMINISTRATION OF NATIONAL PLANT VARIETIES AND SEEDS OFFICE

4. National Plant Varieties and Seeds Office

(1) There is set up within the Ministry a National Plant Varieties and Seeds Office or "NPVSO".

(2) NPVSO shall, under the guidance and supervision of the Seeds Committee –

(a) regulate the cultivation, production, trade, exportation and importation of seeds of any variety of any kind of plant;

(b) be responsible for the enforcement of this Act.

5. Officers of NPVSO

(1) There shall be such public officers as may be necessary to assist NPVSO in the proper discharge of its functions under this Act.

(2) The officers of NPVSO shall be under the administrative control of the supervising officer.

6. National Plant Varieties and Seeds Committee

(1) There shall be a National Plant Varieties and Seeds Committee which shall also be known as the Seeds Committee.

(2) The functions of the Seeds Committee shall be to –

- (a) advise the Minister on national policies relating to the cultivation, production, trade, exportation and importation of seeds of any variety of any kind of plant;
- (b) guide and supervise NPVSO in the enforcement of this Act;
- (c) make recommendations to the Minister for the improvement of the seed regulatory system;
- (d) make recommendations to the Minister on the release of any variety in Mauritius;
- (e) carry out such other functions as the Minister may determine.

- of –
- (3) (a) The Seeds Committee shall, subject to paragraph (b), consist
 - (i) a Chairperson, suitably qualified or experienced in the field of agriculture, to be appointed by the Minister;
 - (ii) the supervising officer or his representative;
 - (iii) the Head of NPVSO or his representative;
 - (iv) the Chief Executive Officer of the Mauritius Cane Industry Authority or his representative;
 - (v) the Director-General of the Food and Agricultural Research Council or his representative;
 - (vi) the Director of the Agricultural Research and Extension Unit of the Food and Agricultural Research Council or his representative;
 - (vii) the Dean of the Faculty of Agriculture of the University of Mauritius or his representative;
 - (viii) the Head of the National Plant Protection Office set up within the Ministry under the Plant Protection Act or his representative;
 - (ix) a representative of the Mauritius Chamber of Agriculture;

- (x) a representative of an association of planters, other than sugar cane planters, to be appointed by the Minister; and
- (xi) 3 representatives from the seed industry, to be appointed by the Minister.

(b) The Minister may, where he considers it necessary, vary the composition of the Seeds Committee.

(c) A member, other than a member referred to in paragraph (a)(ii) to (ix), shall hold office for a period of 2 years and shall be eligible for reappointment.

(d) At a meeting of the Seeds Committee, 7 members shall constitute a quorum.

(e) The Seeds Committee may co-opt such other persons as may be of assistance in relation to any matter before it.

(f) Any person co-opted under paragraph (e) may take part in the deliberations of the Seeds Committee but shall have no right to vote.

(g) Every member or co-opted member shall be paid such allowance as the Minister may determine.

(h) The Seeds Committee may set up such subcommittee as may be necessary to assist it in the discharge of its functions.

(i) Subject to this section, the Seeds Committee shall regulate its meetings and proceedings in such manner as it may determine.

PART III – REGISTRATION OF VARIETY

7. Cultivation of seed

No person shall cultivate, for commercial purposes, the seed of any variety of any kind of plant unless that variety is registered with NPVSO.

8. Application to register variety

(1) No variety of any kind of plant shall be registered –

- (a) unless the variety is clearly distinguishable in one or more important characteristics capable of precise recognition and

definition from any other variety of the same kind of plant of which the existence is a matter of common knowledge at the time of the filing of an application for registration;

- (b) unless it is, subject to the variation that may be expected from the particular features of the propagation of the variety, sufficiently uniform with regard to its characteristics;
- (c) unless the variety remains unchanged after repeated propagation or multiplication or, in the case of a particular cycle of propagation or multiplication, at the end of each such cycle;
- (d) unless the variety is identified by a variety name which complies with such requirements as NPVSO may determine;
- (e) unless it is of satisfactory value for cultivation and use; and
- (f) where the variety or its progeny may be detrimental to human or animal health and safety or the environment when grown and used as intended.

(2) A person who wishes to register the variety of any kind of plant shall make an application to NPVSO in such manner as may be prescribed.

(3) (a) An application made under subsection (2) shall –

- (i) be submitted by the breeder of the variety who shall, subject to paragraph (b), be a citizen or resident of, or have a registered office in, Mauritius; and
- (ii) be accompanied by a representative reference sample of the seed of that variety.

(b) Where a breeder is not a citizen or resident of Mauritius, or does not have a registered office in Mauritius, the application shall be submitted through an agent who shall be a resident in Mauritius.

(4) On receipt of an application made under subsection (2), NPVSO shall refer the application to the Seeds Committee for its recommendations.

(5) (a) NPVSO may, after due consideration of the recommendations of the Seeds Committee, grant or reject the application and shall forthwith notify the applicant of its decision.

(b) Where NPVSO grants an application under paragraph (a), it shall, on payment of the prescribed fee, register the variety as a listed variety on such terms and conditions as it may determine.

(6) (a) NPVSO shall issue a certificate of registration to the applicant where his application is granted.

(b) A certificate of registration –

(i) shall be in such form as NPVSO may determine;

(ii) shall be valid for a period of 10 years; and

(iii) may, on written application made not later than 3 months before its expiry, be renewed for a further period of 10 years.

(7) NPVSO may, with the approval of the Seeds Committee, and subject to such directions as it may give to an applicant, grant a certificate of provisional registration, in such form as NPVSO may determine, to protect the interests of the applicant against any abusive act committed by any third party during the period between the date of filing of the application for registration and the date of determination by NPVSO of the application.

(8) The breeder of a listed variety or his agent may apply to NPVSO for a change of the variety name, in such manner as NPVSO may determine.

(9) Notwithstanding this section, a variety may be registered pursuant to any bilateral or regional agreement concerning variety release and registration between Mauritius and one or more States.

9. National Variety List

(1) NPVSO shall keep and maintain a National Variety List in which it shall enter such particulars of every listed variety as it may determine.

(2) NPVSO shall, at such intervals as it may determine, publish the National Variety List.

10. Cancellation of registration

(1) NPVSO shall, subject to the approval of the Seeds Committee, cancel the registration of a listed variety where –

- (a) any information submitted in the application for the registration of the variety or in connection with the application is false or misleading in any material particular;
- (b) the seed of that variety capable of reproducing the variety in such a manner that its characteristics correspond with the characteristics described at the time of the registration cannot readily be obtained;
- (c) the variety no longer conforms to the requirements under this Act; or
- (d) it is in the public interest to cancel such registration.

(2) No cancellation shall be made unless the breeder or agent has been given a reasonable opportunity of being heard in respect of the grounds for such cancellation.

(3) Any cancellation under this section shall be published in the *Gazette*.

11. Maintenance of listed varieties

(1) An applicant who has registered a variety under section 8 shall –

- (a) ensure that, throughout the period of registration of the variety, he is in a position to furnish to NPVSO, such seed of that variety as is capable of so producing it that its identifiable characteristics correspond with those taken into account for the purpose of registration of that variety;
- (b) provide NPVSO at its request with such facilities, free of charge, and with such information as NPVSO considers necessary in order to be satisfied that the breeder or agent is causing the variety to be maintained and is otherwise complying with paragraph (a).

(2) Any facilities requested under subsection (1)(b) may include facilities for inspection which NPVSO has power to undertake for the purposes of that paragraph.

PART IV – REGISTRATION OF SEED DEALER

12. Seed dealer

(1) Subject to section 34, a person who trades in, exports or imports any seed shall make an application to NPVSO to be registered as a seed dealer.

(2) Every application for registration under subsection (1) shall be –

(a) made in such manner as may be prescribed; and

(b) accompanied by such information relating to the applicant's proposed activity and such other information as NPVSO may determine.

(3) NPVSO shall, in considering an application made under subsection (1), undertake such investigations and inspections as it may deem necessary.

(4) NPVSO may, subject to the payment of the prescribed fee and on such terms and conditions as it may determine, register an applicant as a seed dealer and issue to him a certificate of registration in such form as it may determine.

(5) A seed dealer shall cause his certificate of registration to be displayed in a prominent place within his principal place of business.

(6) NPVSO shall keep and maintain a register of seed dealers which shall contain –

(a) the name and address of every seed dealer;

(b) the activity in respect of which every seed dealer is engaged; and

(c) such other particulars as NPVSO may determine.

(7) NPVSO may, after giving a seed dealer an opportunity of being heard, suspend or cancel his certificate of registration –

(a) where his registration as seed dealer is obtained by misrepresentation of any material fact; or

(b) the seed dealer contravenes this Act.

PART V – SEED TESTING

13. Seed testing laboratory

NPVSO shall maintain a seed testing laboratory where testing of the seed of any variety of any kind of plant shall be carried out in such manner as NPVSO may determine.

14. Seed analyst

NPVSO may designate an officer as seed analyst where he complies with such eligibility criteria as it may determine.

15. Testing of seed

(1) Any person who, having produced or acquired any seed which has not been tested pursuant to this Part or under section 28, intends to sell the seed for the purposes of cultivation, shall cause a sample of the seed to be delivered to NPVSO for testing.

(2) On receipt of the sample referred to in subsection (1), NPVSO shall –

- (a) refer the sample to a seed analyst who shall cause the sample to be tested in such manner as NPVSO may determine; and
- (b) furnish to the person who sought the test under subsection (1) a test report, setting out the date on which the test was made, the findings resultant from it, and such other particulars as NPVSO may determine.

(3) NPVSO shall charge the person who sought the test under subsection (1) such fee for the testing of the seed as may be prescribed.

(4) Sampling and testing of seed shall be conducted in accordance with the ISTA Rules.

PART VI – SEED INSPECTION

16. Seed inspector

(1) NPVSO may designate an officer as seed inspector where he complies with such eligibility criteria as it may determine.

(2) (a) The supervising officer shall issue an identity card to every seed inspector.

(b) A seed inspector shall, in the exercise of any power under this Act, produce his identity card before exercising the power.

(c) Any seed inspector shall, where requested by the supervising officer or when he leaves NPVSO, forthwith surrender his identity card.

(d) Any seed inspector who fails to surrender his identity card under paragraph (c) shall commit an offence.

17. Powers of seed inspector

(1) Subject to section 18, a seed inspector may, at any reasonable time, enter any place, premises, vehicle or container in which he believes on reasonable grounds that there is any seed.

(2) A seed inspector may, pursuant to subsection (1) –

(a) open any package found in that place which he believes on reasonable grounds to contain any seed;

(b) examine the seed and take a sample from it;

(c) inspect any operation or process carried out in or at such a place in connection with the production, processing, storage, packaging, labelling, transporting or selling of any seed and require from the person in charge of such an operation or process any information or explanation regarding such an operation or process;

(d) require any person to produce, for inspection or for the purposes of obtaining copies or extracts, any book, shipping bill, bill of lading or other document relating to any seed; or

(e) seize any seed, substance, article, book, record or other document which is or might be relevant to a prosecution under this Act and keep it in his custody.

(3) Any sample of seed taken pursuant to subsection (2)(b) shall –

(a) consist of the prescribed quantity or mass taken in the prescribed manner;

- (b) be taken in the presence of the person in charge of, or the owner or custodian of, the seed, or, if such person, owner or custodian is not available, in the presence of any other witness;
- (c) if necessary, be packed and identified; and
- (d) as soon as practicable, be tested in accordance with this Act.

18. Warrant to enter dwelling house

(1) Where any premises referred to in section 17(1)(a) is a dwelling house, a seed inspector may not enter that dwelling house without the consent of the occupant, except under the authority of a warrant issued by a Magistrate.

(2) A Magistrate may issue a warrant where he is satisfied by information on oath that –

- (a) the conditions for entry described in section 17(1)(a) exist in relation to a dwelling house;
- (b) entry to the dwelling house is necessary for any purpose relating to the enforcement of this Act; and
- (c) entry to the dwelling house has been refused or there are reasonable grounds for believing that entry will be refused.

(3) A seed inspector shall, in executing a warrant issued under this section, not use force unless he is accompanied by a police officer and the use of force has been specifically authorised in the warrant.

19. Assistance to seed inspector

(1) The owner or person in charge of any place, premises, vehicle or container referred to in section 17 and every person found therein shall give a seed inspector all reasonable assistance to enable him to carry out his duties under this Act and shall furnish the seed inspector with any information he may reasonably require with respect to the enforcement of this Act.

(2) No person shall obstruct or hinder a seed inspector in the carrying out of his duties under this Act.

(3) No person shall make a false or misleading statement either orally or in writing to a seed inspector or other officer engaged in carrying out his duties under this Act.

20. Seizure

Where a seed inspector believes on reasonable grounds that this Act has been contravened, he may seize a seed or package by means of or in relation to which the seed inspector believes on reasonable grounds that the contravention was committed.

PART VII – SEED CERTIFICATION AND PRODUCTION

21. Use of seed to produce another seed

No seed shall be used to produce another seed which is true to such type unless –

- (a) the seed is certified as such by NPVSO; and
- (b) it is done by a seed producer.

22. Seed producer

(1) An application for registration as a seed producer shall be made in such manner as may be prescribed and shall be accompanied by the prescribed fee.

(2) On receipt of an application under subsection (1), NPVSO shall –

- (a) where it is satisfied that –
 - (i) the applicant is a person suitably qualified and experienced in seed production and processing, and capable of producing, to the standards prescribed for certification, seed of the variety set out in the application; and
 - (ii) the land proposed to be used for the production of the variety is reasonably suited to the production of the crop,

register the applicant as a seed producer; or

- (b) where it is not satisfied that the applicant complies with the requirements of this Act, refuse to register the applicant as a seed producer.
- (3) NPVSO –
 - (a) may impose such conditions and limitations on any registration under this section as it may determine, including limitations as to the acreage to be used in the cultivation of any particular variety by the applicant, and as to the variety to be produced by the applicant; and
 - (b) shall specify the period of validity of registration under this section.
- (4) NPVSO shall keep and maintain a register of seed producers which shall contain –
 - (a) the names and addresses of every seed producer;
 - (b) particulars of the variety to be grown by every seed producer;
 - (c) particulars of the location and area of the land where each variety is to be grown by a seed producer;
 - (d) particulars of the duration of the registration; and
 - (e) such other particulars as NPVSO may determine.

23. Cancellation of registration of seed producer

- (1) Where a seed producer –
 - (a) fails to comply with any provision of this Act or any condition imposed in respect of the production of any variety intended for certification;
 - (b) parts with the possession of, or is dispossessed from, the land on which a variety intended for certification is in course of production;
 - (c) is convicted of an offence under this Act; or
 - (d) dies or, being a body corporate, is dissolved,

NPVSO shall cancel the registration of the seed producer in respect of that production.

(2) In the event of a cancellation under subsection (1)(b) or (d), the successor in interest to a seed producer may apply for registration as a seed producer in respect of the plant in course of production at the time of the cancellation.

24. Certification of seed

- (1) Where it is shown to the satisfaction of NPVSO that a seed is –
- (a) of a specified variety;
 - (b) of known derivation;
 - (c) produced by a seed producer;
 - (d) produced on land approved by NPVSO;
 - (e) sown, cultivated and produced in such manner as NPVSO has approved;
 - (f) inspected during cultivation in such manner as NPVSO has approved; and
 - (g) found to conform, after being tested, with the standards of germination, varietal and physical purity and seed health, and any other requirements as NPVSO has determined,

NPVSO shall certify the seed under such seed certification scheme as it may set up.

(2) (a) For the purposes of this Act, different schemes may be set up for seed of same or different kinds of plants, and the requirements for different kinds and varieties of seed in a scheme may differ.

(b) NPVSO may recognise certification schemes from other States or other inter-governmental organisations as being equal or of higher standard than the certification schemes set up under this section and may recognise seed produced under such schemes as imported certified seed.

(c) NPVSO may, subject to paragraph (d), recognise other organisations which fulfil eligibility criteria, as being qualified to carry out certification of seed.

(d) Any organisation referred to in paragraph (c) shall be subject to inspection and control by NPVSO.

(e) NPVSO may, for reasons to be recorded in writing, withdraw any recognition granted under paragraph (c), after giving to the organisation a reasonable opportunity of being heard.

(f) Where a certification scheme is set up or recognised, NPVSO shall specify –

- (i) the manner in which and the control subject to which seed intended for certification under a scheme shall be produced;
- (ii) the manner in which and the times at which any inspection of land or seed crops under a scheme shall be carried out;
- (iii) the requirements and standards of quality with which the seed shall comply for certification;
- (iv) the manner in which certified seed shall be packed, marked, labelled, sealed, stored or distributed, and the specifications of the labels and seals to be used;
- (v) the information which shall appear on containers in which certified seeds are packed, or on labels affixed to the containers;
- (vi) the records to be kept and the information to be furnished by a seed producer;
- (vii) the fee payable to NPVSO for certification of seed under a scheme; and
- (viii) such other requirements as it may determine.

(3) Where a seed is certified, NPVSO shall issue to the seed producer a certificate in respect of the seed and enter the particulars of the certification in the register of seed producers.

(4) A seed producer shall, at the time of the sale of a seed certified under this section –

- (a) produce, for inspection by the buyer, the certificate issued under this section in respect of the seed; and
- (b) furnish to the buyer a true copy of the certificate countersigned by him as the producer of the seed.

PART VIII – IMPORT, EXPORT AND TRADE OF SEED

25. Restriction on importation

The Minister may, after consultation with the Seeds Committee, limit or prohibit the importation of the seed of any variety of any kind of plant.

26. Conditions for importation

(1) Notwithstanding any other enactment and subject to this section, no person shall import any seed intended for cultivation or trade –

- (a) under a name other than the variety name entered in the National Variety List; or
- (b) unless –
 - (i) he is a seed importer;
 - (ii) the importation is not restricted under section 25;
 - (iii) the importation is not restricted under the laws of its State of origin;
 - (iv) it is shown to the satisfaction of NPVSO to have been produced under prescribed conditions and to conform to standards equal to, or higher than, those for the production and certification of seed in Mauritius;
 - (v) the seed complies with such standards of germination, varietal and physical purity and seed health, and such other requirements as NPVSO may determine;

- (vi) the container in which the seed is packed complies with such requirements as NPVSO may determine;
- (vii) the kind and variety of plants of the seed, and the country of its origin, are shown on an invoice or delivery note accompanying the seed at the time of its importation;
- (viii) the seed is accompanied by such document and certificate as NPVSO may determine; and
- (ix) the seed shall be of a variety entered in the National Variety List.

(2) (a) NPVSO shall, in the absence of a seed certification system under the laws of a State of origin of imported seed, undertake tests on the imported seed to verify its compliance with such standards as NPVSO may determine.

(b) NPVSO shall issue to a seed importer a certificate in respect of such seed and cause such particulars as NPVSO may determine to be entered in the register of seed importers.

(3) The Minister may, on the recommendation of the Seeds Committee, exempt any seed importer, or any kind of plant, variety or class of seed, from compliance with subsection (1).

(4) (a) This section shall not apply to the importation of seed intended for trade for purposes other than cultivation or for immediate re-export.

(b) Any person importing seed in accordance with paragraph (a) shall furnish to NPVSO a declaration to that effect in such manner as NPVSO may determine.

(c) No person shall redirect seed referred to in paragraph (a) for the purposes of cultivation in Mauritius.

(5) Where any seed has been imported in contravention of this section, NPVSO may, unless the seed is re-exported within such period as NPVSO may determine –

(a) order that the seed shall, after any such period –

(i) be destroyed without compensation; or

(ii) be removed from Mauritius,

at the expense of the importer; or

(b) permit its disposal in Mauritius in such manner and on such conditions it may determine.

27. Test of imported seed

(1) Notwithstanding any other enactment and subject to subsection (3), on importation of any seed, a seed importer to whom the seed was consigned shall, within 30 days of its delivery to him, cause a sample of the seed to be delivered to NPVSO for testing.

(2) Any imported seed shall not be sold or otherwise disposed of by any person before the receipt by the seed importer of a report on such test from NPVSO confirming that the seed conforms to such standards of germination, varietal and physical purity and seed health and such other requirements as NPVSO may determine.

(3) This section shall not apply where, at the time of importation of the seed, the seed importer to whom it was consigned submits to NPVSO for inspection a satisfactory report of analysis from the State of origin, certifying that the seed is of a standard which conforms to such standards of germination, varietal and physical purity and seed health, and such other requirements as NPVSO may determine.

28. Export of seed

(1) Notwithstanding any other enactment and subject to this section, no person shall export any seed unless he is in possession of a certificate from NPVSO authorising the export.

(2) Any person who wishes to obtain a certificate shall apply to NPVSO in such manner as may be prescribed and the application shall be accompanied by the prescribed fee.

(3) (a) On receipt of an application, NPVSO may undertake such inspection of seed intended for export as it considers necessary, take samples and test the samples in such manner as it may determine.

(b) The person who applies for a certificate under this section shall pay to NPVSO the prescribed fee in connection with the inspection and testing.

(4) Where NPVSO is of opinion that a consignment of seed may not be exported, the export of the seed shall be prohibited in writing.

(5) Subsection (1) shall not apply to the export of seed –

- (a) intended for purposes other than cultivation; or
- (b) which does not exceed the prescribed quantity.

(6) The Minister may, after consultation with the Seeds Committee, restrict the export of seed of any kind or variety of plant where he is of opinion that such export may adversely affect the food security of the country, or that the reasonable requirements of the public will not be met, or on such other grounds as he may determine.

29. Trade of seed

(1) No person shall trade the seed of any variety of any kind of plant unless –

- (a) that variety is a listed variety;
- (b) the seed is sold under the variety name entered in the National Variety List;
- (c) a qualifying term or reference is added to or used in connection with the variety name referred to in paragraph (b);
- (d) the seed has been tested under section 15 or is considered to have been tested under section 27, and found to comply with such standards of germination, varietal and physical purity and seed health, and such other requirements as NPVSO may determine; and
- (e) in the case of –
 - (i) individual plants, such information as NPVSO may determine appears on a label affixed to the plant or on the container in which the plant grows or is packed;
 - (ii) seed, other than a plant, which is to be sold in sealed containers, the containers comply with such requirements as NPVSO may determine, and such information as

NPVSO may determine is printed or stamped on each such container or on a label attached or enclosed in such a way as to be legible without opening the container; or

- (iii) seed, which is to be sold in bulk quantities and does not include seed which is packed and sold in sealed containers, a statement in writing in such form and containing such information as NPVSO may determine, is furnished to the buyer at the time of sale.

(2) Where any sample of seed entered in the National Variety List is tested and is found not to conform to the standards for such seed, NPVSO may dispose the seed in such manner as it may determine.

(3) NPVSO may, on good cause shown in writing and subject to the approval of the Seeds Committee, exempt, in writing, any person from compliance with the requirements referred to in subsection (1), subject to such conditions as it may determine.

PART IX – MISCELLANEOUS

30. Confidentiality

- (1) No person shall, except –
 - (a) for the purposes of carrying out his duties under this Act;
 - (b) for the purposes of legal proceedings under this Act or any other enactment;
 - (c) where required to do so by any Court or under any enactment; or
 - (d) with the written consent of the Minister,

disclose any information acquired by him in the carrying out of his duties which relates to seed matters.

(2) No person shall publish any false or misleading advertisement concerning seed or premises to which this Act applies.

31. Appeal against decision of NPVSO

(1) Any person who feels aggrieved by a decision of NPVSO may, within the prescribed period and in the prescribed manner and on payment of the prescribed fee, appeal to the Minister against the decision.

(2) The Minister shall refer the appeal to an Appeal Board appointed by him.

(3) The Appeal Board shall consist of 3 persons, one of whom shall be a specialist in the field concerned and the other 2 shall have a general knowledge of agriculture.

(4) The members of the Appeal Board shall be paid such allowance as the Minister may determine.

(5) The Appeal Board may, after consideration of the appeal –

(a) confirm, set aside or vary the decision of NPVSO; and

(b) order NPVSO to implement the decision of the Appeal Board.

(6) The decision of the Appeal Board shall be in writing, and a copy shall be furnished to NPVSO, the appellant and any other party.

(7) Where the Appeal Board sets aside any decision of NPVSO, the prescribed fee paid by the appellant in respect of the appeal in question shall be refunded to him, or, where the Appeal Board varies any such decision, it may in its discretion direct that the whole or any part of such fee be refunded to the appellant.

32. Offences

(1) Any person who –

(a) contravenes this Act, or any requirement or condition lawfully prescribed;

(b) makes a false entry in the National Variety List or makes a document which falsely purports to be a copy of or excerpt from the National Variety List;

- (c) conducts the business of producing, trading in, importing, exporting or otherwise supplying any seed by himself or by any other person on his behalf, without being registered under this Act;
- (d) trades, for cultivation, the seed of any variety of any kind of plant not registered with NPVSO;
- (e) furnishes any particulars in connection with a seed on any container in which it is sold or on a label which is attached to such plant or container, which do not correspond with the true properties thereof; or
- (f) tampers with any sample taken or any seed, substance or other article seized under this Act,

shall commit an offence.

(2) Any person who commits an offence shall, on conviction, be liable –

- (a) for a first offence, to a fine not exceeding 50,000 rupees or to imprisonment for a term not exceeding one year;
- (b) for a second offence, to a fine not exceeding 100,000 rupees or to imprisonment for a term not exceeding 2 years;
- (c) for a third or subsequent offence, to a fine not exceeding 200,000 rupees or to imprisonment for a term not exceeding 3 years.

(3) Where a person is convicted of an offence, the Court may, in addition to any penalty imposed under subsection (2) –

- (a) withdraw any certificate of registration or any other right held by that person under this Act;
- (b) order any seed in respect of which such offence was committed to be forfeited to the State; or
- (c) order that person to compensate the person who has suffered such loss or damage.

33. Regulations

(1) The Minister may, after consultation with the Seeds Committee, make such regulations as it thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide, in particular, that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

34. Savings and transitional provisions

(1) (a) Any variety that has been released by the Ministry, the Mauritius Cane Industry Authority, the Food and Agricultural Research Council, including the Agricultural Research and Extension Unit, and is available on the market at the commencement of this Act, shall be entered in the National Variety List.

(b) Where a variety that is available on the market at the commencement of this Act has been released by an institution other than one referred to in paragraph (a) or by any other person, it may be entered in the National Variety List where an application in that respect is submitted in the prescribed manner by the institution or person to NPVSO, not later than one year after the commencement of this Act.

(2) A person who at the commencement of this Act trades in, exports or imports seeds shall, within one year of the commencement of this Act, apply to NPVSO to be registered as a seed dealer.

(3) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for that purpose.

35. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
