

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Kerrie Tucker)

GMO (Environment Protection) Bill 2003

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GMO (Environment Protection) Bill 2003

A Bill for

An Act to prohibit certain dealings with genetically modified organisms,
and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as
follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *GMO (Environment Protection) Act 2003*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Dictionary**

9 The dictionary at the end of this Act is part of this Act.

10 *Note 1* The dictionary at the end of this Act defines certain terms used in this
11 Act, and includes references (*signpost definitions*) to other terms
12 defined elsewhere in this Act.

13 For example, the signpost definition '*gene technology*—see the Gene
14 Technology Act, dictionary.' means that the term 'gene technology' is
15 defined in that dictionary and the definition applies to this Act.

16 *Note 2* A definition in the dictionary (including a signpost definition) applies to
17 the entire Act unless the definition, or another provision of the Act,
18 provides otherwise or the contrary intention otherwise appears (see
19 Legislation Act, s 155 and s 156 (1)).

20 **4 Notes**

21 A note included in this Act is explanatory and is not part of this Act.

22 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

1 **5 Offences against Act—application of Criminal Code etc**

2 Other legislation applies in relation to offences against this Act.

3 *Note 1 Criminal Code*

4 The Criminal Code, ch 2 applies to all offences against this Act (see
5 Code, pt 2.1).

6 The chapter sets out the general principles of criminal responsibility
7 (including burdens of proof and general defences), and defines terms
8 used for offences to which the Code applies (eg *conduct*, *intention*,
9 *recklessness* and *strict liability*).

10 *Note 2 Penalty units*

11 The Legislation Act, s 133 deals with the meaning of offence penalties
12 that are expressed in penalty units.

1 **Part 2** **Prohibition on certain dealings**
2 **with GMOs**

3 **6** **Designation of area**

4 The whole of the ACT is designated as an area for the purpose of
5 preserving the identity of non-GM crops for marketing purposes.

6 *Note* The *Gene Technology (Recognition of Designated Areas) Principle*
7 *2003* made under the *Gene Technology Act 2000* (Cwlth), s 21 (1)
8 provides for an area to be recognised as an area that is designated for
9 the purpose of preserving the identity of GM crops or non-GM crops for
10 marketing purposes if the area is designated under a State (which
11 includes an ACT) law.

12 The policy principle has effect for the *Gene Technology Act 2000*
13 (Cwlth), s 43 (Regulator must consider applications except in certain
14 circumstances) and s 57 (1) (Other circumstances in which regulator
15 must not issue the licence).

16 **7** **Offence—release of GMO into environment**

17 (1) A person commits an offence if—

18 (a) the person deals with a GMO, knowing that it is a GMO; and

19 (b) the person—

20 (i) intends the dealing to result in the release of a GMO into
21 the environment; or

22 (ii) is reckless or negligent about the dealing resulting in the
23 release of a GMO into the environment.

24 Maximum penalty: 500 penalty units, imprisonment for 2 years or
25 both.

26 (2) A person may be found guilty of an offence against this section even
27 if there is, or will be, no actual release of a GMO into the
28 environment.

Part 3 Enforcement

8 Appointment of inspectors

- (1) The chief executive may appoint a public servant to be an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) A public servant who is an inspector for the Gene Technology Act is taken to be appointed as an inspector for this Act.

9 Identity cards for inspectors

- (1) The chief executive must issue an inspector with an identity card that states the person's name and appointment as an inspector and shows—

- (a) a recent photograph of the person; and
- (b) the date of issue of the card; and
- (c) the date of expiry of the card; and
- (d) anything else prescribed under the regulations.

- (2) However, for an inspector mentioned in subsection 8 (2), the identity card issued to the inspector under the Gene Technology Act, section 151 is the inspector's identity card for this Act.

- (3) An inspector must carry the inspector's identity card at all times when exercising functions as an inspector.

1 **10 Powers of inspection**

2 (1) The provisions of the Gene Technology Act mentioned in
3 subsection (3) (the *applied provisions*), and any other provisions of
4 that Act relevant to working out the meaning of the applied
5 provisions, apply for this Act as if—

6 (a) a reference to an inspector were a reference to an inspector
7 under this Act; and

8 (b) a reference to the Gene Technology Act were a reference to
9 this Act; and

10 (c) a reference to the regulator were a reference to the Territory;
11 and

12 (d) a reference to the Gene Technology Act, part 11 were a
13 reference to this section; and

14 (e) any other necessary changes were made.

15 (2) The provisions of any regulations made under the Gene Technology
16 Act for the applied provisions apply for this Act as if—

17 (a) the regulations were made under this Act for this section; and

18 (b) any necessary changes were made.

19 (3) The applied provisions of the Gene Technology Act are as follows:

20 (a) division 11.3 (Monitoring powers);

21 (b) division 11.4 (Offence-related powers);

22 (c) division 11.5 (Expert assistance);

23 (d) division 11.6 (Emergency powers);

24 (e) division 11.7 (Obligations and incidental powers of
25 inspectors);

26 (f) division 11.8 (Power to search goods, baggage and containers
27 and seize goods);

- 1 (g) division 11.9 (General provisions relating to search and
2 seizure);
3 (h) division 11.10 (Warrants);
4 (i) division 11.11 (Other matters).

2 11 Regulation-making power

4 *Note* Regulations must be notified, and presented to the Legislative
5 Assembly, under the Legislation Act.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- chief executive
- function
- public servant.

deal with a GMO—see the Gene Technology Act, dictionary.

environment—see the Gene Technology Act, dictionary.

gene technology—see the Gene Technology Act, dictionary.

Gene Technology Act means the *Gene Technology Act 2003*.

genetically modified organism—see the Gene Technology Act, dictionary.

GMO means a genetically modified organism.

inspector means a person who is appointed as an inspector for this Act.

Note A public servant who is an inspector for the Gene Technology Act is taken to be appointed as an inspector for this Act (see s 8 (2)).

release of a GMO into the environment—a dealing with a GMO involves the ***release of a GMO into the environment*** if the GMO is released into the open environment, whether or not it is released with provision for limiting the dissemination or persistence of the GMO or its genetic material in the environment.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2003.

2 Notification

Notified under the Legislation Act on 2003.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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