Australian Capital Territory

Gene Technology Act 2003

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About this republication

The republished law

This is a republication of the *Gene Technology Act 2003* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 September 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 September 2016.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $150 for an individual and $750 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Gene Technology Act 2003

Contents

Australian Capital Territory

Gene Technology Act 2003

An Act to regulate activities involving gene technology, and for related purposes

Part 1 Preliminary

1 Name of Act etc

(1) This Act is the *Gene Technology Act 2003*.

(2) This Act may also be referred to as the Gene Technology Law of the ACT or simply as the Gene Technology Law.

Note This section differs from the Commonwealth Act, s 1.

3 Object of Act

The object of this Act is to protect the health and safety of people, and to protect the environment, by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with GMOs.

4 Regulatory framework to achieve object

The object of this Act is to be achieved through a regulatory framework that—

(a) provides that where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation; and

(b) provides an efficient and effective system for the application of gene technologies; and

(c) operates in conjunction with other Commonwealth and State regulatory schemes relevant to GMOs and GM products.

Note Examples of the schemes mentioned in par (c) are those that regulate food, agricultural and veterinary chemicals, industrial chemicals and therapeutic goods.

5 Nationally consistent scheme

It is the intention of the Legislative Assembly that this Act form a component of a nationally consistent scheme for the regulation of certain dealings with GMOs by the Commonwealth and the States.

6 Act to bind the Crown

Note The Commonwealth Act includes a provision binding the Crown. The provision is unnecessary in the ACT (see Legislation Act, s 121).

7 External Territories

Note The Commonwealth Act includes a provision extending that Act to every external territory other than Norfolk Island.

8 Offences against Act—application of Criminal Code etc

Other legislation applies to offences against this Act.

Note 1 *Criminal Code*

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

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

Note 2 *Penalty units*

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

Note 3 This section differs from the Commonwealth Act, s 8.

8A Numbering

(1) To maintain consistent section numbering between this Act and the Commonwealth Act—

(a) if the Commonwealth Act contains a section that is not needed in this Act—the provision number and heading to the section appearing in the Commonwealth Act are included in this Act despite the omission of the body of the section; and

(b) if this Act contains a section that is not included in the Commonwealth Act—the section is numbered so as to maintain consistency in numbering between sections common to both Acts.

(2) A provision number and heading mentioned in subsection (1) (a) form part of this Act.

(3) If a provision of this Act (other than a section) is numbered differently from the equivalent provision of the Commonwealth Act, the provision of this Act may be referred to using the number of the equivalent provision of the Commonwealth Act.

Note 1 A note appears under each heading of a kind mentioned in s (1) (a) describing the omitted section of the Commonwealth Act.

Note 2 A note appears under each section of a kind mentioned in s (1) (b) highlighting the non-appearance of an equivalent section in the Commonwealth Act.

Note 3 This section does not appear in the Commonwealth Act.

8B Notes

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

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

Note 2 This section does not appear in the Commonwealth Act.

8C Outlines

The provisions appearing at the beginning of parts 2 to 12, outlining the part (simplified outlines), are intended only as a guide to readers about the general scheme and effect of the parts.

Note This section does not appear in the Commonwealth Act.

Part 2 Interpretation and operation of Act

Division 2.1 Simplified outline of pt 2

9 Simplified outline—pt 2

In outline, this part—

(a) provides for the definitions used in this Act; and

(b) contains provisions to facilitate a nationally consistent regulatory scheme; and

(c) enables the ministerial council to issue policy principles, policy guidelines and codes of practice.

Note This section differs from the Commonwealth Act, s 9.

Division 2.2 Interpretation

10 Dictionary etc

(1) The dictionary at the end of this Act is part of this Act.

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

For example, the signpost definition '***aggravated offence***—see section 38 (1).' means that the term 'aggravated offence' is defined in that subsection.

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

(2) If this Act requires or permits the ministerial council to do something, the ministerial council must do it in accordance with the gene technology agreement.

Note Subsection (1) differs from the Commonwealth Act, s 10 (1).

11 Meaning of *intentional release of a GMO into the environment*

A dealing with a GMO involves the ***intentional release of the GMO into the environment*** if the GMO is intentionally 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.

12 Meaning of *corresponding State law*

Note The Commonwealth Act includes a provision defining 'corresponding State law' for that Act.

Division 2.3 Operation of Act

13 Operation of Act

Note The Commonwealth Act includes a provision about the application of that Act.

14 Wind-back of reach of Act

Note The Commonwealth Act includes a provision about the giving of wind-back notices to a State.

15 Relationship to other territory laws

This Act is in addition to, and not in substitution for, the requirements of any other territory law, whether passed or made before or after the commencement of this section.

Note The equivalent section in the Commonwealth Act deals with the relationship of that Act to other Commonwealth laws.

Division 2.4 Provisions to facilitate a nationally consistent scheme

Subdivision 2.4.1 General provisions

16 State laws may operate concurrently

Note The Commonwealth Act includes a provision allowing State laws, other than State laws prescribed for the provision, to operate concurrently with that Act.

17 Conferral of functions on Commonwealth officers and bodies

Note The Commonwealth Act includes a provision allowing corresponding State laws to give functions, powers and duties to certain Commonwealth officers and bodies.

18 No doubling-up of liabilities

If a person has been ordered to pay a pecuniary penalty under the Commonwealth Act, the person is not liable to a pecuniary penalty under this Act in relation to the same conduct.

Note The Commonwealth Act, s 18 also includes a provision preventing a person being punished for an offence against this Act and the Commonwealth Act. The provision is unnecessary in the ACT (see Legislation Act, s 191).

19 Review of certain decisions

(1) Application may be made to the Commonwealth administrative appeals tribunal for review of a reviewable State decision.

(2) A decision made by the regulator in the exercise of a function under this Act is a ***reviewable State decision*** if—

(a) this Act provides for review of the decision by the Commonwealth administrative appeals tribunal; and

(b) the decision is declared by regulations made under the Commonwealth Act to be a reviewable State decision for the Commonwealth Act, section 19.

(3) The Commonwealth Administrative Appeals Tribunal Act (other than part 4A) applies as a territory law in relation to reviewable State decisions.

(4) For this section, a reference in a provision of the Commonwealth Administrative Appeals Tribunal Act (as that provision applies as a territory law) to all or any part of that Act, part 4A is taken to be a reference to all or any part of that part as it has effect as a law of the Commonwealth.

Note 1 A reference to the Commonwealth Administrative Appeals Tribunal Act includes a reference to the regulations in force under that Act from time to time (see Legislation Act, s 102 and s 104).

Note 2 This section differs from the Commonwealth Act, s 19.

20 Things done for multiple purposes

The validity of a licence, certificate or other thing issued, given or done for this Act is not affected only because it was issued, given or done also for the Commonwealth Act.

Subdivision 2.4.2 Policy principles, policy guidelines and codes of practice

21 Ministerial council may issue policy principles

(1) The ministerial council may issue policy principles in relation to the following:

(a) ethical issues relating to dealings with GMOs;

(b) recognising areas (if any) designated under a territory law for the purpose of preserving the identity of 1 or both of the following for marketing purposes:

(i) GM crops;

(ii) non-GM crops;

(c) matters relating to dealings with GMOs prescribed by regulation for this paragraph.

Note 1 Section 57 provides that the regulator must not issue a licence if to do so would be inconsistent with a policy principle.

Note 2 The Legislation Act, s 46 gives power to amend or repeal an instrument made under an Act.

(2) Before issuing a policy principle, the ministerial council must be satisfied that the policy principle was developed in accordance with the Commonwealth Act, section 22.

(3) A regulation for subsection (1) (c) may relate to matters other than the health and safety of people or the environment, but must not derogate from the health and safety of people or the environment.

Note This section differs from the Commonwealth Act, s 21.

22 Consultation on policy principles

Note The Commonwealth Act includes a provision about how policy principles are to be developed.

23 Ministerial council may issue policy guidelines

The ministerial council may issue policy guidelines in relation to matters relevant to the functions of the regulator under this Act.

Note 1 Section 56, among other things, requires the regulator to have regard to policy guidelines when deciding an application for a GMO licence. Section 30 provides that the regulator is not subject to direction in relation to individual decisions.

Note 2 The Legislation Act, s 46 gives power to amend or repeal an instrument made under an Act.

24 Ministerial council may issue codes of practice

The ministerial council may issue codes of practice, developed under the Commonwealth Act, section 24 (2) in relation to gene technology.

Note 1 The Legislation Act, s 46 gives power to amend or repeal an instrument made under an Act.

Note 2 The Commonwealth Act, s 24 includes provisions about how codes of practice are to be developed and making them disallowable instruments.

Part 3 Gene technology regulator

25 Simplified outline—pt 3

In outline, this part provides the functions and powers of the gene technology regulator under this Act.

Note This section differs from the Commonwealth Act, s 25.

26 Gene technology regulator

Note The Commonwealth Act, s 26 creates the office of gene technology regulator.

27 Functions of regulator

The regulator has the following functions:

(a) to exercise functions relating to GMO licences under part 5;

(b) to develop draft policy principles and policy guidelines, as requested by the ministerial council;

(c) to develop codes of practice;

(d) to issue technical and procedural guidelines about GMOs;

(e) to provide information and advice to other regulatory agencies about GMOs and GM products;

(f) to provide information and advice to the public about the regulation of GMOs;

(g) to provide advice to the ministerial council about—

(i) the operations of the regulator and the gene technology technical advisory committee; and

(ii) the effectiveness of the legislative framework for the regulation of GMOs, including about possible amendments of relevant legislation;

(h) to undertake or commission research about risk assessment and the biosafety of GMOs;

(i) to promote the harmonisation of risk assessments for GMOs and GM products by regulatory agencies;

(j) to monitor international practice for regulating GMOs;

(k) to maintain links with international organisations dealing with the regulation of gene technology and with agencies regulating GMOs in places outside the ACT;

(l) to exercise other functions given to the regulator under this Act or any other law.

28 Powers of regulator

Note The Commonwealth Act, s 28 gives the regulator powers. The provision is unnecessary in the ACT (see Legislation Act, s 196).

29 Delegation

(1) The regulator may delegate the regulator's functions under this Act to any of the following:

(a) a public servant;

(b) an officer or employee of a territory agency, if the functions of the territory agency relate, directly or indirectly, to GMOs or GM products;

(c) an employee of a Commonwealth authority, if the functions of the Commonwealth authority relate, directly or indirectly, to GMOs or GM products.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

(2) In exercising a function under a delegation, the delegate must comply with any directions of the regulator.

Note This section differs from the Commonwealth Act, s 29.

30 Independence of regulator

(1) The regulator has discretion in the exercise of the regulator's functions under this Act.

(2) In particular, the regulator is not subject to direction from anyone about—

(a) whether or not a particular application for a GMO licence is issued or refused; or

(b) the conditions to which a particular GMO licence is subject.

Part 4 Regulation of dealings with GMOs

Division 4.1 Simplified outline of pt 4

31 Simplified outline—pt 4

In outline, this part—

(a) deals with the regulation of dealings with GMOs; and

(b) prohibits dealings with GMOs unless—

(i) the person undertaking the dealing is authorised to do so by a GMO licence; or

(ia) the dealing is specified in an emergency dealing determination; or

(ii) the dealing is a notifiable low risk dealing (see division 6.2); or

(iii) the dealing is an exempt dealing; or

(iv) the dealing is included in the GMO register (see division 6.3); and

(c) imposes heavier penalties on unlawful dealings that cause, or are likely to cause, significant damage to the health and safety of people or to the environment.

Division 4.2 Dealings with GMOs must be licensed

32 Person not to deal with GMO without licence

A person commits an offence if—

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

(b) the dealing with the GMO by the person is not authorised by a GMO licence, and the person knows or is reckless about that fact; and

(c) the dealing with the GMO is not specified in an emergency dealing determination, and the person knows or is reckless about that fact; and

(d) the dealing is not a notifiable low risk dealing, and the person knows or is reckless about that fact; and

(e) the dealing is not an exempt dealing and the person knows or is reckless about that fact; and

(f) the dealing is not included on the GMO Register, and the person knows or is reckless about that fact.

Maximum penalty:

(a) for an aggravated offence—2 000 penalty units, imprisonment for 5 years or both; or

(b) in any other case—500 penalty units, imprisonment for 2 years or both.

Note 1 ***Aggravated offence*** is defined in s 38.

Note 2 For provisions corresponding to the Commonwealth Act, s 32 (4), see the Legislation Act, s 48.

33 Person not to deal with GMO without licence—strict liability offence

(1) A person commits an offence if—

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

(b) the dealing with the GMO by the person is not authorised by a GMO licence; and

(ba) the dealing with the GMO is not specified in an emergency dealing determination; and

(c) the dealing is not a notifiable low risk dealing; and

(d) the dealing is not an exempt dealing; and

(e) the dealing is not included on the GMO register.

Maximum penalty:

(a) for an aggravated offence—200 penalty units; or

(b) in any other case—50 penalty units.

(2) Strict liability applies to subsection (1) (b), (ba), (c), (d) and (e).

Note This section differs from the Commonwealth Act, s 33.

34 Person must not breach conditions of GMO licence

(1) The holder of a GMO licence commits an offence if—

(a) the holder intentionally takes an action or omits to take an action; and

(b) the action or omission contravenes the licence, and the holder knows or is reckless about that fact.

Maximum penalty:

(a) for an aggravated offence—2 000 penalty units, imprisonment for 5 years or both; or

(b) in any other case—500 penalty units, imprisonment for 2 years or both.

(2) A person covered by a GMO licence commits an offence if the person—

(a) intentionally takes an action or omits to take an action; and

(b) the person has knowledge of the conditions of the licence; and

(c) the action or omission contravenes a condition of the licence, and the person knows or is reckless about that fact.

Maximum penalty:

(a) for an aggravated offence—2 000 penalty units, imprisonment for 5 years or both ; or

(b) in any other case—500 penalty units, imprisonment for 2 years or both.

(3) A person who contravenes subsection (1) or (2) commits a separate offence for each day (after the first day) during any part of which the contravention continues.

Maximum penalty (for each day):

(a) for an aggravated offence—200 penalty units ; or

(b) in any other case—50 penalty units.

35 Person must not breach conditions of GMO licence—strict liability offence

(1) The holder of a GMO licence commits an offence if the holder—

(a) takes an action or omits to take an action; and

(b) the action or omission contravenes the licence.

Maximum penalty:

(a) for an aggravated offence—200 penalty units; or

(b) in any other case—50 penalty units.

(2) A person covered by a GMO licence commits an offence if—

(a) the person takes an action or omits to take an action; and

(b) the action or omission contravenes the licence; and

(c) the person has knowledge of the conditions of the licence.

Maximum penalty:

(a) for an aggravated offence—200 penalty units; or

(b) in any other case—50 penalty units.

(3) Strict liability applies to subsection (1) (a) and (b) and subsection (2) (a) and (b).

35A Person must not breach conditions of emergency dealing determination

A person commits an offence if—

(a) the person intentionally takes an action or omits to take an action; and

(b) the person has knowledge of the conditions to which an emergency dealing determination is subject; and

(c) the action or omission contravenes such a condition, and the person knows or is reckless about that fact.

Maximum penalty:

(a) for an aggravated offence—2 000 penalty units, imprisonment for 5 years or both; or

(b) in any other case—500 penalty units, imprisonment for 2 years or both.

Note This section differs from the Commonwealth Act, s 35A.

35B Person must not breach conditions of emergency dealing determination—strict liability offence

(1) A person commits an offence if—

(a) the person takes an action or omits to take an action; and

(b) the person has knowledge of the conditions to which an emergency dealing determination is subject; and

(c) the action or omission by the person contravenes such a condition.

Maximum penalty:

(a) for an aggravated offence—200 penalty units; or

(b) in any other case—50 penalty units.

(2) Strict liability applies to subsection (1) (a) and (c).

Note This section differs from the Commonwealth Act, s 35B.

36 Person must not breach conditions on GMO register

(1) A person commits an offence if the person—

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

(b) the dealing is on the GMO register; and

(c) the dealing contravenes a condition about the dealing that is stated in the GMO register.

Maximum penalty: 50 penalty units.

(2) Strict liability applies to subsection (1) (b) and (c).

37 Offence relating to notifiable low risk dealings

(1) A person commits an offence if—

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

(b) the dealing is a notifiable low risk dealing; and

(c) the dealing by the person was not undertaken in accordance with the regulations.

Maximum penalty: 50 penalty units.

(2) Strict liability applies to subsection (1) (b) and (c).

38 Aggravated offences—significant damage to health or safety of people or to environment

(1) An offence is an ***aggravated offence*** if the commission of the offence causes significant damage, or is likely to cause significant damage, to the health and safety of people or to the environment.

(2) To prove an aggravated offence, the prosecution must prove that the person who committed the offence—

(a) intended his or her conduct to cause significant damage to the health and safety of people or to the environment; or

(b) was reckless about whether his or her conduct would cause significant damage to the health and safety of people or to the environment.

Part 5 Licensing system

Division 5.1 Simplified outline of pt 5

39 Simplified outline—pt 5

In outline, this part—

(a) provides a licensing system under which a person can apply to the regulator for a licence authorising dealings with GMOs; and

(b) sets out the processes the regulator must follow for applications involving the following kinds of dealings:

(i) those that involve the intentional release of a GMO into the environment;

(ii) those that do not involve the intentional release of a GMO into the environment; and

(c) provides that a licence can cover dealings by people other than the licence holder and requires the licence holder to tell them of any conditions of the licence that apply to them.

Division 5.2 Licence applications

40 Person may apply for a licence

(1) A person may apply to the regulator for a licence authorising stated dealings with 1 or more stated GMOs.

(2) The application must be in writing, and must contain—

(a) the information (if any) prescribed by regulation; and

(b) the information specified in writing by the regulator.

(3) The application must state whether any of the dealings proposed to be authorised by the licence would involve the intentional release of a GMO into the environment.

(4) The dealings for which a person may apply for a licence may be—

(a) all dealings with a GMO, or with a stated class of GMOs; or

(b) a stated class of dealings with a GMO, or with a stated class of GMOs; or

(c) 1 or more stated dealings with a GMO, or with a stated class of GMOs.

(5) The applicant may apply for a licence authorising the dealings by—

(a) a stated person or stated people; or

(b) a stated class of people; or

(c) all people.

(6) The application must be accompanied by the application fee (if any) prescribed by regulation.

40A Licences relating to inadvertent dealings

(1) If the regulator is satisfied that a person has come into possession of a GMO inadvertently the regulator may, with the agreement of the person, treat the person as having made an inadvertent dealings application.

(2) To remove any doubt, subsection (1) does not prevent a person from making an application under section 40 in relation to a GMO that has inadvertently come into the person's possession.

Note Section 46A and s 49 have the effect that the regulator may expedite consideration of an application to dispose of a GMO that has come into a person's possession inadvertently. These sections have effect whether the application is made under s 40, or is taken to have been made under this section.

41 Application may be withdrawn

(1) The applicant may withdraw the application at any time before the licence is issued.

(2) The application fee is not refundable if the applicant withdraws the application.

42 Regulator may require applicant to give further information

(1) The regulator may, by written notice, require the applicant to give the regulator any further information about the application the regulator requires.

(2) The notice may state the period within which the information must be given.

(3) The regulator may require information to be given under this section at any time before the regulator decides the application, whether before or after the regulator has begun to consider the application.

43 Regulator must consider applications except in certain circumstances

(1) The regulator must consider the application in accordance with this part.

(2) However, the regulator is not required to consider the application, or may cease considering the application, if—

(a) the application does not contain the information specified by the regulator or prescribed by regulation; or

(b) the application does not satisfy section 40 (3); or

(c) the application is not accompanied by the application fee (if any) prescribed by regulation; or

(d) the applicant did not provide further information required by the regulator by notice under section 42 within the period stated in the notice; or

(e) the regulator is satisfied that to issue the licence would be inconsistent with a policy principle in force under section 21; and

(f) the regulator is satisfied (having regard to the matters mentioned in section 58) that the applicant is not a suitable person to hold a licence.

(3) The regulator must issue the licence, or refuse to issue the licence, within the period (if any) prescribed by regulation.

44 Regulator may consult with applicant

Before considering the application, the regulator may consult the applicant, or another regulatory agency, on any aspect of the application.

45 Regulator must not use certain information in considering licence application

If—

(a) a person (the ***first person***) applies for a GMO licence; and

(b) the first person gives information to the regulator for the regulator's consideration of the application; and

(c) the information is confidential commercial information;

the regulator must not take that information into account in considering an application by someone else for a GMO licence, unless the first person has given written consent for the information to be so taken into account.

Division 5.3 Initial consideration of licences for dealings not involving intentional release of GMO into environment

46 Applications to which div 5.3 applies

This division applies to an application for a GMO licence if the regulator is satisfied that none of the dealings proposed to be authorised by the licence would involve the intentional release of a GMO into the environment.

46A Division does not apply to an application relating to inadvertent dealings

Despite section 46, this division does not apply to an application for a GMO licence if the regulator is satisfied that—

(a) the dealings proposed to be authorised by the licence are limited to dealings to be undertaken for the purposes of, or for purposes relating to, disposing of a GMO; and

(b) the applicant for the licence came into possession of the GMO inadvertently.

47 What regulator must do in relation to application

(1) Before issuing the licence, the regulator must prepare a risk assessment and a risk management plan in relation to the dealings proposed to be authorised by the licence (the ***proposed dealings***).

(2) In preparing the risk assessment, the regulator must take into account the risks posed by the proposed dealings, including any risks to the health and safety of people and any risks to the environment.

(3) In preparing the risk management plan, the regulator must take into account the ways of managing any risks posed by the proposed dealings that protect—

(a) the health and safety of people; and

(b) the environment.

(4) The regulator may consult any of the following on any aspect of the application:

(a) the States;

(b) the gene technology technical advisory committee;

(c) relevant Commonwealth authorities or agencies;

(d) any local council the regulator considers appropriate;

(e) anyone else the regulator considers appropriate.

Division 5.4 Initial consideration of licences for dealings involving intentional release of GMO into environment

48 Applications to which div 5.4 applies

This division applies to an application for a GMO licence if the regulator is satisfied that at least 1 of the dealings proposed to be authorised by the licence would involve the intentional release of a GMO into the environment.

49 Division does not apply to an application relating to inadvertent dealings

Despite section 48, this division does not apply to an application for a GMO licence if the regulator is satisfied that—

(a) the dealings proposed to be authorised by the licence are limited to dealings to be undertaken for the purposes of, or for purposes relating to, disposing of a GMO; and

(b) the applicant for the licence came into possession of the GMO inadvertently.

50 Regulator must prepare risk assessment and risk management plan

(1) Before issuing the licence, the regulator must prepare a risk assessment and a risk management plan in relation to the dealings proposed to be authorised by the licence.

(3) Unless section 50A applies in relation to the application for the licence, the regulator must seek advice on matters relevant to the preparation of the risk assessment and the risk management plan from—

(a) the States; and

(b) the gene technology technical advisory committee; and

(c) each Commonwealth authority or agency prescribed by regulation for this paragraph; and

(d) the Commonwealth Environment Minister; and

(e) any local council that the regulator considers appropriate.

50A Limited and controlled release applications

(1) This section applies to an application for a licence if the regulator is satisfied that—

(a) the principal purpose of the application is to enable the licence holder, and people covered by the licence, to conduct experiments; and

(b) the application proposes in relation to any GMO for which dealings are proposed to be authorised—

(i) controls to restrict the dissemination or persistence of the GMO and its genetic material in the environment; and

(ii) limits on the proposed release of the GMO; and

(c) the regulator is satisfied that the controls and limits are of such a kind that it is appropriate for the regulator not to seek the advice mentioned in section 50 (3).

(2) In deciding whether the principal purpose of an application is to enable the licence holder, and people covered by the licence, to conduct experiments, the regulator—

(a) must have regard to whether the applicant proposes that any or all of the following be authorised by, and done under, the licence:

(i) testing hypotheses;

(ii) gaining scientific or technical knowledge;

(iii) gaining data for regulatory purposes, or for product development or marketing; and

(b) may have regard to anything else the regulator considers to be relevant.

(3) In this section:

controls, in relation to restricting the dissemination or persistence of a GMO and its genetic material in the environment, include the following:

(a) stated methods for disposal of the GMO or its genetic material;

(b) data collection requirements, including studies to be conducted about the GMO or its genetic material;

(c) a restricted geographic area in which the proposed dealings with the GMO or its genetic material may occur;

(d) compliance, in relation to dealings with the GMO or its genetic material, with—

(i) a code of practice issued under section 24; or

(ii) a technical or procedural guideline issued under section 27.

limits, in relation to the release of a GMO that is proposed to be authorised by a licence, includes limits on any of the following:

(a) the scope of the dealings with the GMO;

(b) the scale of the dealings with the GMO;

(c) the locations of the dealings with the GMO;

(d) the duration of the dealings with the GMO;

(e) the people who are to be permitted to conduct of the dealings with the GMO.

Note This section differs from the Commonwealth Act, s 50A.

51 Matters regulator must take into account in preparing risk assessment and risk management plan

(1) In preparing the risk assessment in relation to the dealings proposed to be authorised by the licence (the ***proposed dealings***), the regulator must take into account the following:

(a) the risks posed by the proposed dealings, including any risks to the health and safety of people or risks to the environment, having regard to the matters prescribed by regulation;

(c) any advice about the risk assessment given by the following in response to a request under section 50 (3):

(i) a State;

(ii) the gene technology technical advisory committee;

(iii) a Commonwealth authority or agency;

(iv) the Commonwealth Environment Minister;

(v) a local council;

(d) anything else prescribed by regulation for this paragraph.

(2) In preparing the risk management plan, the regulator must take into account the following:

(a) the ways of managing any risks posed by the proposed dealings that protect—

(i) the health and safety of people; and

(ii) the environment;

(c) any advice about the risk management plan given by the following in response to a request under section 50 (3):

(i) a State;

(ii) the gene technology technical advisory committee;

(iii) a Commonwealth authority or agency;

(iv) the Commonwealth Environment Minister;

(v) a local council;

(d) anything else prescribed by regulation for this paragraph.

(3) To remove any doubt, in taking into account the ways of managing risks mentioned in subsection (2) (a), the regulator—

(a) is not limited to considering advice mentioned in subsection (2) (c); and

(b) subject to section 45, may take into account other information, including, for example, relevant independent research.

52 Public notification of risk assessment and risk management plan

(1) After taking the steps mentioned in section 50 and section 51, the regulator must prepare a written notice in accordance with subsection (2).

(2) The notice must—

(a) state that a risk assessment and a risk management plan have been prepared for dealings proposed to be authorised by the licence; and

(b) state that a person may ask for a copy of information about the risk assessment and the risk management plan under section 54; and

(ba) if the regulator is satisfied that 1 or more dealings proposed to be authorised by the licence may pose a significant risk to the health and safety of people or to the environment—state that the regulator is so satisfied; and

(c) invite written submissions about the risk assessment and the risk management plan; and

(d) state the closing date for submissions, which must not be earlier than—

(i) if the notice states that the regulator is satisfied that the dealings proposed to be authorised by the licence may pose a significant risk to the health and safety of people or to the environment—50 days after the date on which the notice was published; or

(ii) in any other case—30 days after the date on which the notice was published.

(3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(4) The regulator must give additional public notice of the notice.

Note ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1). The requirement in s (4) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

(5) The regulator must also seek advice on the risk assessment and the risk management plan from—

(a) the States; and

(b) the gene technology technical advisory committee; and

(c) each Commonwealth authority or agency prescribed by regulation for this paragraph; and

(d) the Commonwealth Environment Minister; and

(e) any local council that the regulator considers appropriate.

Note This section differs from the Commonwealth Act, s 52.

53 Regulator may take other actions

(1) In addition to satisfying the requirements of this division, the regulator may take any other action the regulator considers appropriate for deciding the application, including holding a public hearing.

(2) If the regulator holds a public hearing, the regulator may, having regard to the requirements of this Act about confidential commercial information, direct that any part of the hearing be held in private, and may decide who can attend.

(3) The regulator may give directions prohibiting or restricting the publication of evidence given, or material contained in documents produced, at a public hearing.

(4) A person must not contravene a direction under subsection (3).

Maximum penalty: 30 penalty units.

(5) An offence against subsection (4) is a strict liability offence.

Note For strict liability offences, see the Criminal Code, s 23.

54 Person may request copies of certain documents

(1) A person may ask the regulator for a copy of the following documents:

(a) an application to which this division applies;

(b) a risk assessment or a risk management plan prepared under section 50.

(2) If a person makes a request under subsection (1), the regulator must give the person a copy of the documents, other than—

(a) any confidential commercial information contained in the documents; and

(b) any information contained in the documents about relevant convictions of the applicant for the licence.

Note For information to be confidential commercial information, it must be covered by a declaration under s 185.

(3) In this section:

relevant conviction—see section 58 (4).

Division 5.5 Decision on licence application

55 Regulator must make a decision on licence and licence conditions

After taking any steps required by division 5.3 or division 5.4 for an application for a GMO licence, the regulator—

(a) must decide whether to issue or refuse to issue the licence; and

(b) if the regulator decides to issue the licence—may impose conditions on it.

56 Regulator must not issue the licence unless satisfied as to risk management

(1) The regulator must not issue the licence unless the regulator is satisfied that any risks posed by the dealings proposed to be authorised by the licence are able to be managed in a way that protects—

(a) the health and safety of people; and

(b) the environment.

(2) For subsection (1), the regulator must have regard to the following:

(a) the risk assessment prepared under section 47 or section 50 in relation to the dealings;

(b) the risk management plan prepared under section 47 or section 50 in relation to the dealings;

(c) any submissions received under section 52 about the licence;

(d) any policy guidelines in force under section 23 about—

(i) risks that may be posed by the dealings; or

(ii) ways of managing the risks that protect the health and safety of people and protect the environment.

Note Subsections (2) (a) to (c) do not apply to an inadvertent dealings application.

57 Other circumstances in which regulator must not issue the licence

(1) The regulator must not issue the licence if the regulator is satisfied that issuing the licence would be inconsistent with a policy principle in force under section 21.

(2) The regulator must not issue the licence unless the regulator is satisfied that the applicant is a suitable person to hold the licence.

(3) Subsection (2) does not apply to an inadvertent dealings application.

58 Matters to be taken into account in deciding whether person is suitable to hold licence

(1) Without limiting the matters to which the regulator may have regard in deciding whether an individual is a suitable person to hold a licence, the regulator must have regard to—

(a) any relevant conviction of the individual; and

(b) any revocation or suspension of a licence or permit (however described) held by the individual under a law of the Territory, the Commonwealth, a State or a foreign country about the health and safety of people or the environment; and

(c) the capacity of the individual to meet the conditions of the licence.

(2) Without limiting the matters to which the regulator may have regard in deciding whether a corporation is a suitable person to hold a licence, the regulator must have regard to—

(a) any relevant conviction of the corporation; and

(b) if there is a relevant conviction of the corporation—

(i) whether the offence concerned was committed when anyone who is presently a director of the corporation was a director; and

(ii) whether that offence was committed when any officer or shareholder of the corporation who is presently in a position to influence the management of the corporation was an officer or shareholder of the corporation; and

(c) any revocation or suspension of a licence or permit (however described) held by the corporation under a law of the Territory, the Commonwealth, a State or a foreign country about the health and safety of people or the environment; and

(d) the capacity of the corporation to meet the conditions of the licence.

(3) This section does not affect the *Spent Convictions Act 2000*.

(4) In this section:

relevant conviction, for an applicant for a licence, means a conviction for an offence against a law of the Territory, the Commonwealth, a State or a foreign country, about the health and safety of people or the environment, if—

(a) the offence was committed within 10 years immediately before the making of the application for the licence; and

(b) the offence was punishable by a fine of $5 000 or more, or by imprisonment for 1 year or more.

Note This section differs from the Commonwealth Act, s 58.

59 Notification of licence decision

The regulator must notify the applicant in writing of the regulator's decision, including any conditions imposed by the regulator.

60 Period of licence

(1) A licence continues in force—

(a) if the licence is expressed to be in force for a particular period—until the end of the period; or

(b) otherwise—until it is cancelled or surrendered.

(2) A licence is not in force during a period of suspension.

(3) A licence issued as a result of an inadvertent dealings application must not be expressed to be in force for a period of longer than 12 months.

Division 5.6 Conditions of licences

61 Licence is subject to conditions

A GMO licence is subject to the following conditions:

(a) the conditions stated in section 63, section 64 and section 65;

(b) any conditions prescribed by regulation;

(c) any conditions imposed by the regulator when issuing the licence;

(d) any conditions imposed by the regulator under section 71 after the licence is issued.

62 Conditions that may be prescribed or imposed

(1) Licence conditions may include conditions that impose obligations about GM products derived from a GMO for which particular dealings are licensed.

(2) Licence conditions may relate to, for example, the following:

(a) the scope of the dealings authorised by the licence;

(b) the purposes for which the dealings may be undertaken;

(c) variations to the scope or purposes of the dealings;

(d) documentation and record-keeping requirements;

(e) the required level of containment for the dealings, including requirements about the certification of facilities to stated containment levels;

(f) waste disposal requirements;

(g) measures to manage risks posed to the health and safety of people or to the environment;

(h) data collection, including studies to be conducted;

(i) auditing and reporting;

(j) actions to be taken if a GMO is released from a contained environment;

(k) the geographic area where the dealings authorised by the licence may happen;

(l) requiring compliance with a code of practice issued under section 24, or a technical or procedural guideline issued under section 27;

(m) supervision by, and monitoring by, institutional biosafety committees;

(n) contingency planning for unintended effects of the dealings authorised by the licence;

(o) limiting the dissemination or persistence of the GMO or its genetic material in the environment.

(3) Licence conditions may also include conditions requiring the licence holder to be adequately insured against any loss, damage or injury that may be caused to human health, property or the environment by the dealings authorised by the licence.

63 Condition about telling people of obligations

(1) It is a condition of a licence that the licence holder tell anyone covered by the licence, to whom a particular condition of the licence applies, of the following:

(a) the particular condition, including any variations of it;

(b) the cancellation or suspension of the licence;

(c) the surrender of the licence.

(2) Requirements about how information is given under subsection (1) may be—

(a) prescribed by regulation; or

(b) specified by the regulator.

(3) The requirements may include, for example, measures about labelling, packaging, conducting training and giving information.

(4) If requirements are prescribed or specified, it is a condition of a licence that the licence holder comply with the requirements.

64 Condition about monitoring and audits

(1) It is a condition of a licence that if—

(a) a person is authorised by the licence to deal with a GMO; and

(b) a particular condition of the licence applies to the dealing by the person—

the person must allow the regulator, or a person authorised by the regulator, to enter premises where the dealing is being undertaken, for auditing or monitoring the dealing.

(2) Subsection (1) does not limit the conditions that may be imposed by the regulator or prescribed by regulation.

65 Condition about additional information to be given to regulator

(1) It is a condition of a licence that the licence holder tell the regulator if the licence holder becomes aware of—

(a) additional information about any risks to the health and safety of people, or to the environment, associated with the dealings authorised by the licence; or

(b) any contraventions of the licence by a person covered by the licence; or

(c) any unintended effects of the dealings authorised by the licence.

(2) For subsection (1)—

(a) the licence holder is taken to have become aware of additional information of a kind mentioned in subsection (1) if the licence holder was reckless about whether the information existed; and

(b) the licence holder is taken to have become aware of contraventions, or unintended effects, of a kind mentioned in subsection (1) if the licence holder was reckless about whether the contraventions had happened, or the unintended effects existed.

66 Person may give information to regulator

A person covered by a licence may tell the regulator if the person becomes aware of any of the following:

(a) additional information about any risks to the health and safety of people, or to the environment, associated with the dealings authorised by the licence;

(b) any contraventions of the licence by a person covered by the licence;

(c) any unintended effects of the dealings authorised by the licence.

67 Protection of persons who give information

A person does not incur any civil liability for loss, damage or injury of any kind suffered by someone else because the first person gave information to the regulator under section 65, section 66 or the Commonwealth Act, section 72D (2) (h).

Division 5.7 Suspension, cancellation and variation of licences

68 Suspension and cancellation of licence

The regulator may, by written notice given to the holder of a GMO licence, suspend or cancel the licence if—

(a) the regulator believes on reasonable grounds that a condition of the licence has been breached, whether by the licence holder or a person covered by the licence; or

(b) the regulator believes on reasonable grounds that the licence holder, or a person covered by the licence, has committed an offence against this Act; or

(c) any annual charge payable for the licence remains unpaid after the due date; or

(d) the licence was obtained improperly; or

(e) the regulator becomes aware of risks associated with the continuation of the dealings authorised by the licence, and is satisfied that the licence holder has not proposed, or is not in a position to implement, adequate measures to deal with the risks; or

(f) the regulator is satisfied that the licence holder is no longer a suitable person to hold the licence.

69 Surrender of licence

A licence holder may surrender the licence with the regulator's consent.

70 Transfer of licences

(1) The licence holder and someone else (the ***transferee***) may jointly apply to the regulator for the licence to be transferred from the licence holder to the transferee.

(2) The application must be in writing, and must contain—

(a) the information (if any) prescribed by regulation; and

(b) the information specified in writing by the regulator.

(3) The regulator must not transfer the licence unless the regulator is satisfied that, if the licence is transferred, any risks posed by the dealings authorised by the licence will continue to be able to be managed in a way that protects—

(a) the health and safety of people; and

(b) the environment.

(4) The regulator must not transfer the licence unless the regulator is satisfied that the transferee is a suitable person to hold the licence.

(5) The regulator must give written notice of his or her decision on the application to the licence holder and the transferee.

(6) If the regulator decides to transfer the licence—

(a) the transfer takes effect on the date stated in the notice; and

(b) the licence continues in force as mentioned in section 60; and

(c) the licence is subject to the same conditions as the conditions in force immediately before the transfer.

71 Variation of licence

(1) The regulator may vary a licence, by written notice given to the licence holder—

(a) at any time, on the regulator's own initiative; or

(b) on application by the licence holder.

(1A) An application for a variation must be in writing, and must contain—

(a) any information prescribed by regulation; and

(b) any information specified in writing by the regulator.

(2) The regulator must not vary a licence to authorise dealings involving the intentional release of a GMO into the environment if the application for the licence was originally considered under division 5.3.

Note Applications may only be considered under div 5.3 if none of the dealings proposed to be authorised by the licence would involve the intentional release of a GMO into the environment.

(2A) The regulator must not vary a licence if the original application for the licence was an application to which section 50A applied, unless—

(a) the regulator is satisfied that the principal purpose of the licence as proposed to be varied is to enable the licence holder, and people covered by the licence, to conduct experiments; and

(b) the application for variation proposes, in relation to any GMO for which dealings are proposed to be authorised as a result of the variation—

(i) controls to restrict the dissemination or persistence of the GMO and its genetic material in the environment; and

(ii) limits on the proposed release of the GMO; and

(c) the regulator is satisfied that the controls and limits are of such a kind that it is appropriate for the regulator not to seek the advice mentioned in section 50 (3).

Note Section 50A applies to an application that proposes controls and limits on the dissemination, persistence and release of the GMO concerned and is for the purpose of conducting experiments.

(2B) The regulator must not vary a licence if the regulator is satisfied that the risk assessment and the risk management plan in relation to the original application for the licence did not cover the risks posed by the dealings proposed to be authorised by the licence as varied.

(3) Without limiting subsection (1), the regulator may—

(a) impose licence conditions or additional licence conditions; or

(b) remove or vary licence conditions that were imposed by the regulator; or

(c) extend or reduce the authority granted by the licence.

(4) The regulator must not vary a licence unless the regulator is satisfied that any risks posed by the dealings proposed to be authorised by the licence as varied are able to be managed in a way that protects—

(a) the health and safety of people; and

(b) the environment.

(5) The regulator must not vary a licence unless any local council that the regulator considers appropriate has been consulted about the proposed variation.

(6) The regulator must not vary a licence in the circumstances (if any) prescribed by regulation.

(7) If an application has been made for variation of a licence, the regulator must vary the licence or refuse to vary the licence, within the period (if any) prescribed by regulation.

(8) In this section:

controls—see section 50A (3).

limits—see section 50A (3).

72 Regulator to notify of proposed suspension, cancellation or variation

(1) Before suspending, cancelling or varying a licence under this division, the regulator must give written notice of the proposed suspension, cancellation or variation to the licence holder.

(2) The notice—

(a) must state that the regulator proposes to suspend, cancel or vary the licence; and

(b) may require the licence holder to give to the regulator any information of a kind stated in the notice that is relevant to the proposed suspension, cancellation or variation; and

(c) may invite the licence holder to make a written submission to the regulator about the proposed suspension, cancellation or variation.

(3) The notice must state a period within which the licence holder—

(a) must give the information mentioned in subsection (2) (b); and

(b) may make a submission under subsection (2) (c).

(4) The period must not end earlier than 30 days after the day the notice was given.

(5) In considering whether to suspend, cancel or vary a licence, the regulator must have regard to any submission made under subsection (2) (c).

(6) This section does not apply to a suspension, cancellation or variation requested by the licence holder.

(7) This section does not apply to a suspension, cancellation or variation of a licence if the regulator considers that the suspension, cancellation or variation is necessary to avoid an imminent risk of death, serious illness, serious injury or serious damage to the environment.

(8) This section does not apply to a variation of a licence if the regulator is satisfied that the variation is of minor significance or complexity.

Division 5.8 Annual charge

72AA GMO licence—annual charge

(1) A person who is the holder of a GMO licence at any time during a financial year is liable to pay a charge for the licence for the year.

(2) The amount of the charge for a financial year is the amount prescribed by regulation.

(3) The amount prescribed may be in the nature of a tax and not be related to the cost of providing any service.

Note This section does not appear in the Commonwealth Act. Provision is included, however, in the *Gene Technology (Licence Charges) Act 2000* (Cwlth) for the imposition of an annual charge for a GMO licence.

Part 5A Emergency dealing determinations

Note to pt 5A

This part differs from the Commonwealth Act, pt 5A.

72A Application of Commonwealth emergency dealing determinations

An emergency dealing determination in force under the Commonwealth Act, section 72B applies, as far as applicable, as a law of the Territory.

Note This section differs from the Commonwealth Act, s 72A.

72B Minister may make emergency dealing determination

Note The Commonwealth Act, s 72B permits the Commonwealth Minister to make emergency dealing determinations with a GMO for the purposes of the Commonwealth Act, part 5A.

72C Period of effect of emergency dealing determination

Note The Commonwealth Act, s 72C provides for when an emergency dealing determination takes effect, when it ceases to have effect and how the period of effect may be extended by the Commonwealth Minister responsible for emergency dealing determinations.

72D Emergency dealing determination authorises dealings, subject to conditions

Note The Commonwealth Act, s 72D authorises dealings with a GMO subject to conditions, including those referred to in s 72D (2).

72E Variation, suspension and revocation of emergency dealing determination

Note Under the Commonwealth Act, s 72E, the Commonwealth Minister responsible for emergency dealing determinations may suspend an emergency dealing determination, revoke an emergency dealing determination or vary the conditions to which an emergency dealing determination is subject.

Part 6 Regulation of notifiable low risk dealings on GMO register

Division 6.1 Simplified outline of pt 6

73 Simplified outline—pt 6

In outline, this part—

(a) establishes a mechanism for the regulations to regulate certain dealings with GMOs (***notifiable low risk dealings***) that do not involve the intentional release of GMOs into the environment (see division 6.2); and

(b) provides that a regulation may, among other things, require that the regulator be notified of the dealings; and

(c) enables the regulator to determine that certain dealings previously authorised by a licence be included on the GMO register; and

(d) ensures that, if a dealing is included on the GMO register, anyone may undertake the dealing, subject to stated conditions.

Division 6.2 Notifiable low risk dealings

74 Notifiable low risk dealings

(1) A regulation may declare a dealing with a GMO to be a notifiable low risk dealing for this Act.

(2) Before the Executive makes a regulation declaring a dealing with a GMO to be a notifiable low risk dealing, the regulator must be satisfied that the dealing would not involve the intentional release of a GMO into the environment.

(3) Also, before the Executive makes a regulation declaring a dealing with a GMO to be a notifiable low risk dealing, the regulator must consider the following matters:

(a) whether the GMO is biologically contained so that it is not able to survive or reproduce without human intervention;

(b) whether the dealing with the GMO would involve minimal risk to the health and safety of people and to the environment, taking into account the properties of the GMO as a pathogen or pest and the toxicity of any proteins produced by the GMO;

(c) whether no conditions, or minimal conditions, would be necessary to be prescribed to manage any risk mentioned in paragraph (b).

Note 1 For provisions corresponding to the Commonwealth Act, s 74 (4), see the Legislation Act, s 48.

Note 2 This section differs from the Commonwealth Act, s 74.

75 Regulation of notifiable low risk dealings

(1) A regulation may regulate a notifiable low risk dealing for the purpose of protecting the health and safety of people or the environment.

(2) A regulation may prescribe different requirements to be complied with in different situations or by different people, including requirements in relation to the following:

(a) the people who may undertake notifiable low risk dealings;

(b) notifying the regulator of notifiable low risk dealings;

(c) supervision by institutional biosafety committees of notifiable low risk dealings;

(d) the containment level of facilities in which notifiable low risk dealings may be undertaken.

(3) Subsection (2) does not limit the Legislation Act, section 48 (Power to make instrument includes power to make different provision for different categories etc).

Division 6.3 GMO register

76 GMO register

Note The Commonwealth Act, s 76 provides for the establishment and maintenance of the GMO register.

77 Contents of register

If the regulator determines under section 78 that a dealing with a GMO is to be included on the GMO register, the regulator must state in the GMO register—

(a) a description of the dealing; and

(b) any condition to which the dealing is subject.

78 Regulator may include dealings with GMOs on GMO register

(1) The regulator may, in writing, determine that a dealing with a GMO is to be included on the GMO register if the regulator is satisfied that—

(a) the dealing is, or has been, authorised by a GMO licence; or

(b) the GMO—

(i) is a GM product; and

(ii) is a GMO only because of a regulation made under the definition of ***genetically modified organism***, paragraph (c).

(2) A determination under subsection (1) may be made—

(a) on application by the holder of a licence authorising the dealing; or

(b) on the regulator's own initiative.

(3) A determination under subsection (1) commences on the day stated in the determination.

79 Regulator not to make determination unless risks can be managed

(1) The regulator must not make a determination under section 78 (1) about a dealing with a GMO unless the regulator is satisfied that—

(a) any risks posed by the dealing are minimal; and

(b) it is not necessary for people undertaking the dealing to hold, or be covered by, a GMO licence to protect the health and safety of people or to protect the environment.

(2) For subsection (1), the regulator must have regard to the following:

(a) any data available to the regulator about adverse effects posed by the dealing;

(b) any other information about risks associated with the dealing of which the regulator is aware, including information given to the regulator by a licence holder under section 65 or by someone else under section 66;

(c) whether there is a need for the dealing to be subject to conditions;

(d) any other information about whether the dealing should be authorised by a GMO licence.

(3) The regulator may have regard to any other matters the regulator considers relevant.

80 Variation of GMO register

(1) The regulator may vary the GMO register by written determination.

(2) A variation may—

(a) remove a dealing from the GMO register; or

(b) revoke or vary conditions to which a dealing on the GMO register is subject; or

(c) impose additional conditions to which a dealing on the GMO register is subject.

Note The Commonwealth Act, s 80 (3) provides for determinations to be disallowable instruments.

81 Inspection of register

Note The Commonwealth Act, s 81 requires the regulator to permit any person to inspect the GMO register.

Part 7 Certification and accreditation

Division 7.1 Simplified outline of pt 7

82 Simplified outline—pt 7

(1) In outline, this part establishes a system under which the regulator may certify facilities to stated containment levels in accordance with guidelines issued by the regulator.

(2) Licence conditions, or conditions to which an emergency dealing determination is subject, may require that facilities be certified to stated containment levels (see division 7.2).

(3) Also, this part enables the regulator to accredit organisations in accordance with accreditation guidelines issued by the regulator.

(4) Licence conditions, or conditions to which an emergency dealing determination is subject, may state that dealings must be supervised by an institutional biosafety committee established by an accredited organisation (see division 7.3).

Division 7.2 Certification

83 Application for certification

(1) A person may apply to the regulator for certification of a facility to a particular containment level.

(2) The application must be in writing, and must contain the information the regulator requires.

Note The conditions of a licence, or conditions to which an emergency dealing determination is subject, may require that a facility be certified under this division.

(3) The application must be accompanied by the application fee (if any) prescribed by regulation.

84 When regulator may certify facility

The regulator may, in writing, certify the facility to a stated containment level if the facility meets the containment requirements provided in guidelines issued by the regulator under section 90.

85 Regulator may require applicant to give further information

(1) The regulator may, by written notice, require an applicant for certification of a facility to give the regulator further information about the application.

(2) The notice may state the period within which the information must be given.

86 Conditions of certification

The certification of a facility is subject to the following conditions:

(a) any conditions imposed by the regulator at the time of certification;

(b) any conditions imposed by the regulator under section 87 after certification;

(c) any conditions prescribed by regulation.

87 Variation of certification

(1) The regulator may, at any time, by written notice given to the holder of the certification, vary the certification of a facility.

(2) Without limiting subsection (1), the regulator may—

(a) impose additional conditions; or

(b) remove or vary conditions imposed by the regulator.

88 Suspension or cancellation of certification

The regulator may, by written notice, suspend or cancel the certification of a facility if the regulator believes on reasonable grounds that a condition of the certification has been breached.

89 Regulator to notify of proposed suspension, cancellation or variation

(1) Before suspending, cancelling or varying a certification under this division, the regulator must give written notice of the proposed suspension, cancellation or variation to the holder of the certification.

(2) The notice—

(a) must state that the regulator proposes to suspend, cancel or vary the certification; and

(b) may require the holder of the certification to give to the regulator any information of a kind stated in the notice that is relevant to the proposed suspension, cancellation or variation; and

(c) may invite the holder to make a written submission to the regulator about the proposed suspension, cancellation or variation.

(3) The notice must state a period within which the holder of the certification—

(a) must give the information mentioned in subsection (2) (b); and

(b) may make a submission under subsection (2) (c).

(4) The period must not end earlier than 30 days after the day the notice was given.

(5) In considering whether to suspend, cancel or vary a certification, the regulator must have regard to any submission made under subsection (2) (c).

(6) This section does not apply to a suspension, cancellation or variation requested by the holder of the certification.

(7) This section does not apply to a suspension, cancellation or variation of a certification if the regulator considers the suspension, cancellation or variation is necessary to avoid an imminent risk of death, serious illness, serious injury or serious damage to the environment.

(8) This section does not apply to a variation of a licence if the regulator is satisfied that the variation is of minor significance or complexity.

89A Transfer of certification

(1) The holder of a certification and another person (the ***transferee***) may jointly apply to the regulator for the certification to be transferred from the holder of the certification to the transferee.

(2) The application must be in writing and must contain—

(a) any information prescribed by regulation; and

(b) any information required, in writing, by the regulator.

(3) The regulator must not transfer the certification unless satisfied that, if the certification is transferred, any conditions to which the certification is subject will continue to be met.

(4) The regulator must give written notice of his or her decision on the application to the holder of the certification and the transferee.

(5) If the regulator decides to transfer the certification—

(a) the transfer takes effect on the date stated in the notice; and

(b) the certification continues in force; and

(c) the certification is subject to the same conditions as those in force immediately before the transfer.

90 Guidelines

The regulator may issue written technical or procedural guidelines about the requirements for the certification of facilities to stated containment levels.

Note 1 For provisions corresponding to the Commonwealth Act, s 90 (2), see the Legislation Act, s 46.

Note 2 This section differs from the Commonwealth Act, s 90.

Division 7.3 Accredited organisations

91 Application for accreditation

(1) A person may apply to the regulator for accreditation of an organisation as an accredited organisation.

Note 1 The conditions of a licence may require supervision of dealings by an institutional biosafety committee (see s 62 (2) (m)), and a regulation may require such supervision of notifiable risk dealings (see s 75 (2) (c)).

Note 2 The conditions to which an emergency dealing determination is subject may require supervision of dealings by an institutional biosafety committee (see the Commonwealth Act, s 72D (2) (t)).

(2) The application must be in writing, and must contain the information the regulator requires.

92 Regulator may accredit organisations

(1) The regulator may, in writing, accredit an organisation as an accredited organisation.

(2) In deciding whether to accredit an organisation, the regulator must have regard to—

(a) whether the organisation has established an institutional biosafety committee under guidelines issued by the regulator under section 98; and

(b) if the organisation has established an institutional biosafety committee—whether the organisation will be able to maintain the institutional biosafety committee in accordance with the guidelines; and

(c) if the organisation has established an institutional biosafety committee—whether the organisation has appropriate indemnity arrangements for its institutional biosafety committee members; and

(ca) if the organisation has not established an institutional biosafety committee as mentioned in paragraph (a)—whether the organisation will be in a position to use an institutional biosafety committee established by an accredited organisation; and

(d) any other matters provided in the guidelines.

93 Regulator may require applicant to give further information

(1) The regulator may, by written notice, require an applicant for accreditation of an organisation to give the regulator further information about the application.

(2) The notice may state the period within which the information must be given.

94 Conditions of accreditation

The accreditation of an accredited organisation is subject to the following conditions:

(a) any conditions imposed by the regulator at the time of accreditation;

(b) any conditions imposed by the regulator under section 95 after accreditation;

(c) any conditions prescribed by regulation.

95 Variation of accreditation

(1) The regulator may, at any time, by written notice given to an accredited organisation, vary the organisation's accreditation.

(2) Without limiting subsection (1), the regulator may—

(a) impose additional conditions; or

(b) remove or vary conditions imposed by the regulator.

96 Suspension or cancellation of accreditation

The regulator may, by written notice given to an accredited organisation, suspend or cancel the accreditation if the regulator believes on reasonable grounds that a condition of the accreditation has been breached.

97 Regulator to notify of proposed suspension, cancellation or variation

(1) Before suspending, cancelling or varying an accreditation under this division, the regulator must give written notice of the proposed suspension, cancellation or variation to the holder of the accreditation.

(2) The notice—

(a) must state that the regulator proposes to suspend, cancel or vary the accreditation; and

(b) may require the holder of the accreditation to give to the regulator any information of a kind stated in the notice that is relevant to the proposed suspension, cancellation or variation; and

(c) may invite the holder of the accreditation to make a written submission to the regulator about the proposed suspension, cancellation or variation.

(3) The notice must state a period within which the holder of the accreditation—

(a) must give the information mentioned in subsection (2) (b); and

(b) may make a submission under subsection (2) (c).

(4) The period must not end earlier than 30 days after the day the notice was given.

(5) In considering whether to suspend, cancel or vary an accreditation, the regulator must have regard to any submission made under subsection (2) (c).

(6) This section does not apply to a suspension, cancellation or variation requested by the holder of the accreditation.

(7) This section does not apply to a suspension, cancellation or variation of an accreditation if the regulator considers the suspension, cancellation or variation is necessary to avoid an imminent risk of death, serious illness, serious injury or serious damage to the environment.

(8) This section does not apply to a variation of an accreditation if the regulator is satisfied that the variation is of minor significance or complexity.

98 Guidelines

(1) The regulator may, in writing, issue technical or procedural guidelines about requirements that must be met for an organisation to be accredited under this division.

(2) The guidelines may relate to, but are not limited to, matters about establishing and maintaining institutional biosafety committees.

Note 1 For provisions corresponding to the Commonwealth Act, s 98 (3), see the Legislation Act, s 46.

Note 2 This section differs from the Commonwealth Act, s 98.

Part 8 Gene technology technical advisory committee and gene technology ethics and community consultative committee

Division 8.1 Simplified outline of pt 8

99 Simplified outline—pt 8

In outline, this part sets out the functions under this Act of the following committees:

(a) the gene technology technical advisory committee;

(b) gene technology ethics and community consultative committee.

Note This section differs from the Commonwealth Act, s 99.

Division 8.2 Gene technology technical advisory committee

100 Gene technology technical advisory committee

Note The Commonwealth Act, s 100 provides for the establishment and membership of the gene technology technical advisory committee.

101 Function of gene technology technical advisory committee

The function of the gene technology technical advisory committee under this Act is to provide scientific and technical advice, on the request of the regulator or the ministerial council, on the following:

(a) gene technology, GMOs and GM products;

(b) applications made under this Act;

(c) the biosafety aspects of gene technology;

(d) the need for policy principles, policy guidelines, codes of practice and technical and procedural guidelines about GMOs and GM products and the content of the principles, guidelines and codes.

102 Expert advisers

Note The Commonwealth Act, s 102 provides for the appointment of expert advisers to the gene technology technical advisory committee.

103 Remuneration

Note The Commonwealth Act, s 103 provides for the payment of remuneration and allowances to members of, and expert advisers to, the gene technology technical advisory committee.

104 Members and procedures

Note The Commonwealth Act, s 104 authorises the making of regulations about the membership and operation of the gene technology technical advisory committee.

105 Subcommittees

Note The Commonwealth Act, s 105 deals with the establishment of subcommittees by the gene technology technical advisory committee.

Division 8.3 Gene technology ethics and community consultative committee

106 Gene technology ethics and community consultative committee

Note The Commonwealth Act, s 106 establishes the gene technology ethics and community consultative committee.

107 Function of ethics and community committee

The function of the ethics and community committee under this Act is to provide advice, on request of the regulator or the ministerial council, on the following:

(a) ethical issues relating to gene technology;

(b) the need for, and content of, codes of practice in relation to ethics for conducting dealings with GMOs;

(c) the need for, and content of, policy principles in relation to dealings with GMOs that should not be conducted for ethical reasons;

(d) the need for policy principles, policy guidelines, codes of practice and technical and procedural guidelines in relation to GMOs and GM products and the content of such principles, guidelines and codes;

(e) community consultation about the process for applications for licences covering dealings that involve intentional release of a GMO into the environment;

(f) risk communication matters in relation to dealings that involve the intentional release of a GMO into the environment;

(g) matters of general concern identified by the regulator in relation to applications made under this Act;

(h) matters of general concern in relation to GMOs.

108 Membership

Note The Commonwealth Act, s 108 provides for the membership of the ethics and community committee.

109 Remuneration

Note The Commonwealth Act, s 109 provides for the payment of remuneration and allowances to members of the ethics and community committee.

110 Regulations

Note The Commonwealth Act, s 110 authorises the making of regulations about the membership and procedures of the ethics and community committee.

111 Subcommittees

Note The Commonwealth Act, s 111 deals with the establishment of subcommittees by the ethics and community committee.

112 Expert advisers

Note The Commonwealth Act, s 112 provides for the appointment of expert advisers to the ethics and community committee.

Part 9 Administration

Division 9.1 Simplified outline of pt 9

117 Simplified outline—pt 9

In outline, this part—

(a) provides for financial matters (see division 9.3); and

(b) sets out reporting requirements (see division 9.5); and

(c) requires the regulator to ensure that certain information is entered on a record of GMOs and GM products (see division 9.6); and

(d) permits the regulator to review notifiable low risk dealings and exemptions (see division 9.7).

Note This section differs from the Commonwealth Act, s 117.

Division 9.2 Appointment and conditions of regulator

118 Appointment of regulator

Note The Commonwealth Act, s 118 provides for the appointment of the regulator.

119 Termination of appointment

Note The Commonwealth Act, s 119 sets out the circumstances in which the regulator's appointment may be terminated.

120 Disclosure of interests

Note The Commonwealth Act, s 120 requires the regulator to disclose his or her interests to the relevant Commonwealth Minister.

121 Acting appointment

Note The Commonwealth Act, s 121 deals with the appointment of a person to act as the regulator.

122 Terms and conditions

Note The Commonwealth Act, s 122 deals with the terms and conditions of appointment of the regulator.

123 Outside employment

Note The Commonwealth Act, s 123 prohibits the regulator from engaging in paid outside employment without the relevant Commonwealth Minister's approval.

124 Remuneration

Note The Commonwealth Act, s 124 provides for the payment of remuneration and allowances to the regulator.

125 Leave of absence

Note The Commonwealth Act, s 125 deals with the entitlement of the regulator to leave of absence.

126 Resignation

Note The Commonwealth Act, s 126 deals with the procedure for resignation by the regulator.

Division 9.3 Money

127 Regulator may charge for services

The regulator may charge for services provided by, or on behalf of, the regulator in exercising the regulator's functions under this Act.

128 Notional payments

Note The Commonwealth Act, s 128 provides for fees and charges to be notionally payable by the Commonwealth and allows directions to be given for the section. This provision is unnecessary in the ACT (see *Financial Management Act 1996*).

129 Gene technology account

Note The Commonwealth Act, s 129 provides for the establishment of the gene technology account.

130 Credits to gene technology account

The following amounts must be paid to the Commonwealth for crediting to the gene technology account:

(a) amounts equal to amounts from time to time received by the Territory under division 5.8;

(b) amounts equal to fees received by the Territory under section 40 (6) (Person may apply for a licence) and section 83 (3) (Application for certification);

(c) amounts equal to amounts received by the Territory for the exercise of the regulator's functions under this Act;

(d) amounts equal to amounts recovered by the Territory under section 146 (5) (Regulator may give directions) or section 158 (4) (Powers available to inspectors for dealing with dangerous situations), to the extent that they are referable to costs paid out of the gene technology account.

Note This section differs from the Commonwealth Act, s 130.

131 Recovery of amounts

The following amounts may be recovered in a court of competent jurisdiction as debts owing to the Territory:

(a) amounts payable to the Territory under division 5.8;

(b) fees payable to the Territory under this Act;

(c) amounts payable to the Territory for the exercise of the regulator's functions under this Act.

132 Purposes of account

Note The Commonwealth Act, s 132 sets out the purposes for which money in the gene technology account may be expended.

Division 9.4 Staffing

133 Staff assisting regulator

Note The Commonwealth Act, s 133 provides for staff to be made available to assist the regulator.

134 Consultants

Note The Commonwealth Act, s 134 authorises the regulator to engage consultants.

135 Seconded officers

Note The Commonwealth Act, s 135 provides for staff to be seconded to the regulator.

Division 9.5 Reporting requirements

136 Annual report

(1) As soon as practicable after the end of each financial year, the regulator must prepare and give to the Minister a report on the operations of the regulator under this Act during that year.

(2) The Minister must present a copy of the report to the Legislative Assembly within 6 sitting days after the Minister receives the report.

Note The Commonwealth Act, s 136 (3) requires the regulator to give a copy of his or her report under that section to each State.

136A Quarterly reports

(1) As soon as practicable after the end of each quarter, the regulator must prepare and give to the Minister a report on the operations of the regulator under this Act during the quarter.

(2) The report must include information about the following:

(a) GMO licences issued during the quarter;

(b) any breaches of conditions of a GMO licence that have come to the regulator's attention during the quarter;

(ba) emergency dealing determinations made by the Minister during the quarter;

(bb) any breaches of conditions of an emergency dealing determination that have come to the regulator's attention during the quarter;

(c) auditing and monitoring of dealings with GMOs under this Act by the regulator or an inspector during the quarter.

(3) The Minister must present a copy of the report to the Legislative Assembly within 6 sitting days after the Minister receives the report.

(4) In this section:

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October of any year.

137 Reports to Legislative Assembly

(1) The regulator may at any time give the Minister a report about matters relating to the regulator's functions under this Act and ask the Minister to present the report to the Legislative Assembly.

(2) The Minister must present a copy of the report to the Legislative Assembly within 6 sitting days after the Minister receives the report.

Note 1 The Commonwealth Act, s 137 (2) requires the regulator to give a copy of his or her report under that section to each State.

Note 2 This section differs from the Commonwealth Act, s 137.

Division 9.6 Record of GMO and GM product dealings

138 Record of GMO and GM product dealings

(1) The GM record must contain the following information, other than confidential commercial information, about each licence issued under section 55:

(a) the name of the licence holder;

(b) the people covered by the licence;

(c) the dealings authorised by the licence and the GMO to which those dealings relate;

(d) any licence conditions;

(e) the date the licence was issued, and its expiry date (if any).

(1A) The GM record must contain the following information, other than confidential commercial information, in relation to each emergency dealing determination made under section 72B:

(a) the dealings specified in the emergency dealing determination and the GMO to which those dealings relate;

(b) any conditions to which the emergency dealing determination is subject;

(c) the date on which the emergency dealing determination takes effect;

(d) the date on which the emergency dealing determination will cease to have effect.

(2) The GM record must contain the following information, other than confidential commercial information, about each notifiable low risk dealing notified to the regulator under regulations made for section 75 (2) (b):

(a) the name of the person who notified the dealing;

(b) the particulars of the dealing prescribed by regulation for this paragraph.

(3) The GM record must contain the information prescribed by regulation, other than confidential commercial information, about GM products mentioned in designated notifications given to the regulator under an Act.

(4) The GM record must also contain—

(a) a description of each dealing on the GMO register; and

(b) any condition to which the dealing is subject.

(5) The regulator must ensure that information mentioned in subsection (1), (1A), (2), (3) or (4) is entered on the GM record as soon as reasonably practicable.

(6) In this section:

designated notification means a notification required to be given to the regulator under an Act or any law applying as a territory law by force of an Act.

Note This section differs from the Commonwealth Act, s 138.

139 Inspection of record

Note The Commonwealth Act, s 139 requires the regulator to permit any person to inspect the GM record.

Division 9.7 Reviews of notifiable low risk dealings and exemptions

140 Regulator may review notifiable low risk dealings

(1) The regulator may, at any time, consider—

(a) whether a dealing with a GMO should be a notifiable low risk dealing; or

(b) whether an existing notifiable low risk dealing should no longer be a notifiable low risk dealing.

(2) The basis of the regulator's consideration must relate to—

(a) the matters of which the regulator must be satisfied under section 74 (2); or

(b) the matters the regulator must consider under section 74 (3).

141 Regulator may review exemptions

The regulator may, at any time, consider—

(a) whether an exempt dealing should not be an exempt dealing; or

(b) whether a dealing should be an exempt dealing.

142 Regulator may give notice of consideration

(1) The regulator may publish a notice inviting written submissions about any matter the regulator may consider under section 140 or section 141.

(2) The notice must state—

(a) the matters to which submissions must relate; and

(b) the closing date for submissions, which must not be earlier than 30 days after the day the notice was published.

(3) If the regulator publishes a notice under subsection (1), the regulator must also give written notice, stating the matters mentioned in subsection (2) (a), to—

(a) each State; and

(b) the gene technology technical advisory committee; and

(c) each Commonwealth authority or agency prescribed by regulation for this paragraph.

(4) A notice under this section may be about a single matter or a class of matters.

143 What regulator may do after consideration

(1) If—

(a) the matter is about whether a dealing should be a notifiable low risk dealing; and

(b) the regulator is satisfied as mentioned in section 74 (2); and

(c) the regulator has considered the matters mentioned in section 74 (3);

the regulator may recommend to the ministerial council that the dealing be declared to be a notifiable low risk dealing.

(2) If—

(a) the matter is about whether an existing notifiable low risk dealing be reconsidered; and

(b) after having had regard to the matters mentioned in section 74, the regulator considers the dealing should not be a notifiable low risk dealing;

the regulator may recommend to the ministerial council that the regulations be amended accordingly.

(3) If the matter is about whether a dealing—

(a) should be an exempt dealing; or

(b) should cease to be an exempt dealing;

the regulator may recommend to the ministerial council that the regulations be amended accordingly.

144 Regulator not required to review matters

This division does not require the regulator to consider a matter under section 140 or section 141.

Part 10 Enforcement

145 Simplified outline—pt 10

In outline, this part—

(a) authorises the regulator to give directions to a licence holder or to a person covered by a licence if—

(i) the regulator believes the person is not complying with this Act; and

(ii) the regulator believes it is necessary to give the directions to protect the health and safety of people or to protect the environment, or for certain other reasons; and

(aa) authorises the regulator to give directions to a person permitted by an emergency dealing determination to deal with a GMO if—

(i) the regulator believes that the person is not complying with this Act; and

(ii) the regulator believes that it is necessary to do so in order to protect the health and safety of people or to protect the environment or for certain other reasons; and

(b) authorises the Supreme Court to issue injunctions, and contains a forfeiture provision.

Note This section differs from the Commonwealth Act, s 145.

146 Regulator may give directions

(1) If the regulator believes, on reasonable grounds, that—

(a) a licence holder is not complying with this Act in relation to a thing; and

(b) either of the following applies:

(i) it is necessary to exercise powers under this section in order to protect the health and safety of people or to protect the environment;

(ii) it is desirable in the public interest, having regard to the matters mentioned in subsection (2A), for the regulator to exercise powers under this section;

the regulator may, by written notice, direct the licence holder, within the time stated in the notice, to take stated reasonable steps relating to the thing to comply with this Act.

(2) If the regulator believes on reasonable grounds that—

(a) 1 of the following kinds of people is not complying with this Act in relation to a thing:

(i) a person covered by a GMO licence;

(ii) a person dealing with, or who has dealt with, a GMO specified in an emergency dealing determination; and

(b) either of the following applies:

(i) it is necessary to exercise powers under this section in order to protect the health and safety of people or to protect the environment;

(ii) it is desirable in the public interest, having regard to the matters mentioned in subsection (2A), for the regulator to exercise powers under this section;

the regulator may, by written notice, direct the person, within the time stated in the notice, to take stated reasonable steps relating to the thing to comply with this Act.

(2A) For the purposes of deciding under subsection (1) (b) (ii) or subsection (2) (b) (ii) whether it is desirable to exercise powers under this section to give directions to a licence holder or another person, the regulator must have regard to the following:

(a) the types of dealings with GMOs authorised by the licence or specified in the emergency dealing determination concerned, and, in particular, whether the dealings are ongoing;

(b) whether measures have been, or are being, taken to address the non-compliance with this Act that the regulator believes is occurring (the ***suspected non-compliance***);

(c) the likelihood of the licence holder or other person not complying with this Act at a future time;

(d) the severity of the suspected noncompliance;

(e) whether, on 1 or more occasions, the licence holder or other person—

(i) has been charged with or convicted of an offence against this Act; or

(ii) has been given a direction under this section;

(f) other means available to the regulator to address the suspected noncompliance (including, but not limited to, by cancelling, varying or suspending a licence, accreditation or certification);

(g) whether, in the regulator's opinion, the suspected noncompliance was deliberate;

(h) the desirability of deterring future noncompliance with this Act or the regulations.

(3) A person must not intentionally fail to take the steps stated in a notice under subsection (1) or (2) within the time stated in the notice.

Maximum penalty:

(a) for an aggravated offence—2 000 penalty units; or

(b) in any other case—500 penalty units.

Note ***Aggravated offence*** is defined in s 38 (1).

(4) If the licence holder or the person does not take the steps stated in the notice within the time stated in the notice, the regulator may arrange for those steps to be taken.

(5) If the regulator incurs costs because of arrangements made by the regulator under subsection (4), the licence holder or the person is liable to pay to the Territory an amount equal to the cost.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

(6) A time stated in a notice under subsection (1) or (2) must be reasonable having regard to the circumstances.

Note This section differs from the Commonwealth Act, s 146.

147 Injunctions

(1) If a person has engaged, is engaging, or is about to engage in any conduct that is or would be an offence against this Act, the Supreme Court may, on the application of the regulator or any other aggrieved person, grant an injunction restraining the person from engaging in the conduct.

(2) If—

(a) a person has failed, is failing, or is about to fail, to do a thing; and

(b) the failure is, or would be, an offence against this Act;

the Supreme Court may, on the application of the regulator or any other aggrieved person, grant an injunction requiring the person to do the thing.

(3) The power of the Supreme Court to grant an injunction may be exercised—

(a) whether or not it appears to the court that the person intends to engage, or to continue to engage, in conduct of that kind; and

(b) whether or not the person has previously engaged in conduct of that kind.

(4) The Supreme Court may discharge or vary an injunction granted under this section.

(5) The Supreme Court may grant an interim injunction pending deciding an application under subsection (1).

(6) The powers under this section are in addition to any other powers of the Supreme Court.

Note The Commonwealth Act, s 147 gives a similar power to grant injunctions on the Federal Court.

148 Forfeiture

(1) If a court finds a person guilty of an offence against this Act, the court may order forfeiture to the Territory of anything used or otherwise involved in the commission of the offence.

(2) A thing ordered by a court to be forfeited under this section becomes the property of the Territory and may be sold or otherwise dealt with in accordance with the regulator's directions.

(3) Until the regulator gives a direction, the thing must be kept in the custody the regulator directs.

Note This section differs from the Commonwealth Act, s 148.

Part 11 Powers of inspection

Division 11.1 Simplified outline of pt 11

149 Simplified outline—pt 11

In outline, this part—

(a) provides for powers of inspection for monitoring and offences; and

(b) provides for the appointment of inspectors (see division 11.2); and

(c) deals with the powers and obligations of inspectors and the rights and responsibilities of an occupier of premises when an inspector seeks to exercise powers (see divisions 11.3 to 11.9); and

(d) sets out procedures relating to monitoring warrants and offence-related warrants (see division 11.10); and

(e) does not limit the conditions to which a licence or an emergency dealing determination can be subject, and section 64 imposes a condition about monitoring dealings with GMOs.

Division 11.2 Appointment of inspectors and identity cards

150 Appointment of inspectors

(1) The regulator may, in writing, appoint any of the following people as inspectors:

(a) a public servant;

(b) a person who is appointed or employed by the Commonwealth.

(2) In exercising functions as an inspector, an inspector must comply with any directions of the regulator.

Note This section differs from the Commonwealth Act, s 150.

151 Identity card

(1) The regulator must issue an identity card to an inspector.

(2) The identity card—

(a) must be in the form approved under section 192E; and

(b) must contain a recent photograph of the inspector.

(3) If a person to whom an identity card has been issued ceases to be an inspector, the person must return the identity card to the regulator as soon as practicable.

Maximum penalty: 1 penalty unit.

(4) An offence against subsection (3) is a strict liability offence.

Note For strict liability offence, see the Criminal Code, s 23.

(5) An inspector must carry his or her identity card at all times when exercising functions as an inspector.

Note This section differs from the Commonwealth Act, s 151.

Division 11.3 Monitoring powers

152 Powers available to inspectors for monitoring compliance

(1) For monitoring compliance with this Act, an inspector may—

(a) enter any premises; and

(b) exercise the monitoring powers stated in section 153.

(2) An inspector may enter premises under subsection (1) only if—

(a) the occupier of the premises has consented to the entry; or

(b) the entry is made under a warrant under section 172; or

(c) the occupier of the premises is a licence holder, or a person covered by a licence, and the entry is at a reasonable time; or

(d) the occupier of the premises is a person dealing with, or who has dealt with, a GMO specified in an emergency dealing determination, and the entry is at a reasonable time.

(3) However, subsection (2) (c) or (d) does not authorise entry into any part of premises that is being used solely for residential purposes.

153 Monitoring powers

(1) The monitoring powers an inspector may exercise under section 152 (1) (b) are as follows:

(a) to search the premises and anything on the premises;

(b) to inspect, examine, take measurements of, conduct tests on, or take samples of, anything on the premises that relates to a GMO;

(c) to take photographs, make video or audio recordings or make sketches of the premises or anything on the premises;

(d) if the inspector was authorised to enter the premises by a warrant under section 172, to require anyone in or on the premises to—

(i) answer any questions put by the inspector; and

(ii) produce any document requested by the inspector;

(e) to inspect any document on the premises;

(f) to take extracts from or make copies of any document;

(g) to take onto the premises the equipment and materials the inspector requires to exercise powers relating to the premises;

(h) to secure a thing, until a warrant is obtained to seize it, if the inspector—

(i) finds the thing during the exercise of monitoring powers on the premises; and

(ii) believes on reasonable grounds the thing is evidential material; and

(iii) believes on reasonable grounds the thing would be lost, destroyed or tampered with before the warrant can be obtained.

(2) The monitoring powers include the power to operate equipment at premises to see whether—

(a) the equipment; or

(b) a disk, tape or other storage device that—

(i) is at the premises; and

(ii) can be used with the equipment or is associated with it;

contains information relevant to deciding whether there has been compliance with this Act.

(3) If the inspector, after operating equipment at the premises, finds that the equipment, or a tape, disk or other storage device at the premises, contains information mentioned in subsection (2), the inspector may—

(a) operate facilities at the premises to put the information in documentary form and copy the document so produced; or

(b) if the information can be transferred to a tape, disk or other storage device that—

(i) is brought to the premises; or

(ii) is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises;

operate the equipment or other facilities to copy the information to the storage device, and remove the storage device from the premises.

Division 11.4 Offence-related powers

154 Searches and seizures related to offences

(1) This section applies if an inspector has reasonable grounds for suspecting there may be evidential material on any premises.

(2) The inspector may—

(a) enter the premises, with the consent of the occupier or under a warrant issued under section 173; and

(b) exercise the powers set out in subsection (3) and section 155; and

(c) if the entry is under a warrant and the inspector finds evidential material on the premises—seize the material.

(3) If—

(a) in the course of searching, under a warrant, for a particular thing, an inspector finds another thing that the inspector believes, on reasonable grounds, to be evidential material; and

(b) the inspector believes, on reasonable grounds, that it is necessary to seize that other thing to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating an offence against this Act;

the warrant is taken to authorise the inspector to seize the other thing.

155 Offence-related powers of inspectors for premises

The powers an inspector may exercise under section 154 (2) (b) are as follows:

(a) to search the premises and anything on the premises for the evidential material;

(b) to inspect, examine, take measurements of, conduct tests on, or take samples of the evidential material;

(c) to take photographs, make video or audio recordings or make sketches of the premises or the evidential material;

(d) to take onto the premises the equipment and materials the inspector needs to exercise powers relating to the premises.

156 Use of equipment at premises

(1) The inspector may operate equipment at the premises to see whether evidential material is accessible by doing so, if the inspector believes, on reasonable grounds, that the equipment can be operated without damaging the equipment.

(2) If the inspector, after operating the equipment, finds that evidential material is accessible by doing so, the inspector may—

(a) seize the equipment and any disk, tape or other associated device; or

(b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in documentary form and seize the documents so produced; or

(c) if the material can be transferred to a disk, tape or other storage device that—

(i) is brought to the premises; or

(ii) is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises;

operate the equipment or other facilities to copy the material to the storage device and take the storage device from the premises.

(3) An inspector may seize equipment under subsection (2) (a) only if—

(a) it is not practicable to put the material in documentary form as mentioned in subsection (2) (b) or to copy the material as mentioned in subsection (2) (c); or

(b) possession by the occupier of the equipment could constitute an offence.

(4) An inspector may seize equipment under subsection (2) (a) or documents under subsection (2) (b) only if the inspector entered the premises under a warrant.

Division 11.5 Expert assistance

157 Expert assistance to operate thing

(1) If an inspector believes on reasonable grounds that—

(a) information relevant to deciding whether there has been compliance with this Act, or evidential material, may be accessible by operating a thing at particular premises; and

(b) expert assistance is required to operate the thing; and

(c) the information or material may be destroyed, altered or otherwise interfered with if the inspector does not take action under this subsection;

the inspector may do whatever is necessary to secure the thing, whether by locking it up, placing it under guard or otherwise.

(2) The inspector must give notice to the occupier of the premises of the inspector's intention to secure the thing and of the fact that the thing may be secured for up to 24 hours.

(3) The thing may be secured—

(a) for a period of not longer than 24 hours; or

(b) until the thing has been operated by the expert;

whichever happens first.

(4) If the inspector believes, on reasonable grounds, that the expert assistance will not be available within 24 hours, the inspector may apply to the Magistrates Court for an extension of the period.

(5) The inspector must give notice to the occupier of the premises of the inspector's intention to apply for an extension, and the occupier is entitled to be heard on the application.

Division 11.6 Emergency powers

158 Powers available to inspectors for dealing with dangerous situations

(1) This section applies if—

(a) an inspector has reasonable grounds for suspecting that there may be on any premises a particular thing in relation to which this Act has not been complied with; and

(b) the inspector considers that it is necessary to exercise powers under this section to avoid an imminent risk of death, serious illness, serious injury, or to protect the environment.

(2) The inspector may do any of the following:

(a) enter the premises;

(b) search the premises for the thing;

(c) secure the thing, if the inspector finds it on the premises, until a warrant is obtained to seize the thing;

(d) if the inspector has reasonable grounds for suspecting that a person has not complied with this Act in relation to the thing—

require the person to take the steps the inspector considers necessary for the person to comply with this Act;

(e) take the steps, or arrange for the steps to be taken, in relation to the thing that the inspector considers appropriate.

(3) The inspector may exercise the powers under subsection (2) only to the extent that it is necessary for avoiding an imminent risk of death, serious illness, serious injury or serious damage to the environment.

(4) If the regulator incurs costs because of steps reasonably taken or arranged to be taken by an inspector under subsection (2) (e), the person is liable to pay to the Territory an amount equal to the cost.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

Division 11.7 Obligations and incidental powers of inspectors

159 Inspector must produce identity card on request

An inspector is not entitled to exercise a power under this part in relation to premises if—

(a) the occupier of the premises has required the inspector to produce his or her identity card for inspection by the occupier; and

(b) the inspector fails to comply with the requirement.

160 Consent

(1) When seeking the consent of an occupier for section 152 (2) (a) or section 154 (2) (a), an inspector must—

(a) produce his or her identity card; and

(b) tell the occupier—

(i) the purpose of the entry; and

(ii) that anything found and seized under this part may be used in evidence in court; and

(iii) that consent may be refused.

(2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment—

(a) that the occupier was told—

(i) the purpose of the entry; and

(ii) that anything found and seized under this part may be used in evidence in court; and

(iii) that consent may be refused; and

(b) that the occupier consented to the entry; and

(c) stating the time, and date, when consent was given.

(3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.

(4) A court must presume that an occupier of premises did not consent to an entry to the premises by an inspector under this part if—

(a) the question whether the occupier consented to the entry arises in a proceeding in the court; and

(b) an acknowledgment under this section is not produced in evidence for the entry; and

(c) it is not proved that the occupier consented to the entry.

Note This section differs from the Commonwealth Act, s 160.

161 Details of warrant to be given to occupier etc

(1) If a warrant in relation to premises is being executed and the occupier of the premises or someone else who apparently represents the occupier is present at the premises, the inspector must make a copy of the warrant available to the person present.

(2) The inspector must identify himself or herself to the person.

(3) The copy of the warrant need not include the signature of the magistrate who issued the warrant.

162 Announcement before entry

(1) An inspector must, before entering premises under a warrant—

(a) announce that the inspector is authorised to enter the premises; and

(b) give anyone at the premises an opportunity to allow entry to the premises.

(2) An inspector is not required to comply with subsection (1) if the inspector believes, on reasonable grounds, that immediate entry to the premises is required—

(a) to ensure the safety of a person; or

(b) to prevent serious damage to the environment; or

(c) to ensure that the effective execution of the warrant is not frustrated.

163 Compensation for damage

(1) The owner of a thing is entitled to compensation for damage to the thing if—

(a) the damage was caused to the thing because of it being operated as mentioned in this part; and

(b) the damage was caused because of—

(i) insufficient care being exercised in selecting the person to operate the thing; or

(ii) insufficient care being exercised by the person operating the thing.

(2) Compensation is payable by the regulator.

(3) In deciding the amount of compensation payable, regard is to be had to whether the occupier of the premises and the occupier's employees and agents, if they were available at the time, had provided any warning or guidance about the operation of the thing that was appropriate in the circumstances.

Note The Commonwealth Act, s 163 (2) provides for compensation to be payable out of money appropriated by the Commonwealth Parliament.

Division 11.8 Power to search goods, baggage and containers and seize goods

164 Power to search goods, baggage etc

(1) This section applies to any goods that are to be, are being, or have been, taken off an aircraft that flies between a place outside the ACT and a place in the ACT.

(2) If an inspector believes, on reasonable grounds, that goods are goods to which this section applies, and that the goods may be, or may contain, evidential material, the inspector may—

(a) examine the goods; or

(b) if the goods are baggage—open and search the baggage; or

(c) if the goods are in a container—open and search the container.

(3) An inspector may ask a person who owns, is carrying or is otherwise associated with, or appears to the inspector to be associated with, goods to which this section applies, any question about the goods.

(4) A person must not fail to answer a question put to the person under subsection (3).

Maximum penalty: 30 penalty units.

(5) An offence against subsection (4) is a strict liability offence.

Note 1 For strict liability offences, see the Criminal Code, s 23.

Note 2 This section differs from the Commonwealth Act, s 164.

165 Seizure of goods

An inspector may seize goods mentioned in section 164 if the inspector has reasonable grounds to suspect that the goods are evidential material.

Division 11.9 General provisions relating to search and seizure

166 Copies of seized things to be provided

(1) If an inspector seizes, under a warrant relating to premises—

(a) a document, film, computer file or other thing that can be readily copied; or

(b) a storage device, the information in which can be readily copied;

the inspector must, if asked to do so by the occupier of the premises, or someone else who apparently represents the occupier and who is present when the warrant is executed, give a copy of the thing or the information to that person as soon as practicable after the seizure.

(2) Subsection (1) does not apply if—

(a) the thing that has been seized was seized under section 156 (2) (b) or (c); or

(b) possession by the occupier of the document, film, computer file, thing or information could constitute an offence.

167 Occupier entitled to be present during search

(1) If a warrant in relation to premises is being executed and the occupier of the premises, or someone else who apparently represents the occupier is present at the premises, the person is entitled to observe the search being conducted.

(2) The right to observe the search being conducted ceases if the person impedes the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

168 Receipts for things seized

(1) If a thing is seized under this part, the inspector must provide a receipt for the thing.

(2) If 2 or more things are seized, they may be covered in a single receipt.

169 Keeping seized things

(1) Subject to any contrary order of a court, if an inspector seizes a thing under this part, the inspector must return it if—

(a) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or

(b) the period of 60 days after its seizure ends;

whichever first happens, unless the thing is forfeited or forfeitable to the Territory.

(2) At the end of the 60 days mentioned in subsection (1) (b), an inspector must take reasonable steps to return the thing to the person from whom it was seized, unless—

(a) a proceeding for which the thing may provide evidence was begun before the end of the 60 days and has not been completed (including an appeal to a court in relation to the proceeding); or

(b) an inspector may keep the thing because of an order under section 170; or

(c) to return the thing could cause an imminent risk of death, serious illness, serious injury or serious damage to the environment; or

(d) an inspector is otherwise authorised by a law, or an order of a court, of the Territory or the Commonwealth, to keep, destroy or dispose of the thing.

(3) The thing may be returned under subsection (2) either unconditionally or on the conditions decided by the regulator.

170 Magistrates Court may permit thing to be kept

(1) An inspector may apply to the Magistrates Court for an order that the inspector may keep the thing for a further period if a proceeding for which the thing may provide evidence has not begun before—

(a) the end of 60 days after the day of the seizure; or

(b) the end of a period previously stated in an order of the Magistrates Court under this section.

(2) If the Magistrates Court is satisfied that it is necessary for an inspector to continue to keep the thing—

(a) for an investigation about whether an offence against this Act has been committed; or

(b) to allow evidence of an offence against this Act to be secured for a prosecution;

the court may order that an inspector may keep the thing for a period (not longer than 3 years) stated in the order.

(3) Before making the application, the inspector must—

(a) take reasonable steps to discover who has an interest in the retention of the thing; and

(b) if it is practicable to do so, notify each person whom the inspector believes to have an interest of the proposed application.

Note This section differs from the Commonwealth Act, s 170.

171 Disposal of goods if there is no owner or owner cannot be located

If—

(a) a thing is seized under this part; and

(b) apart from this section, the Territory is required to return the thing to the owner; and

(c) there is no owner or the regulator cannot, despite making reasonable efforts, locate the owner;

the regulator may dispose of the thing in the way the regulator considers appropriate.

Division 11.10 Warrants

172 Monitoring warrants

(1) An inspector may apply to a magistrate for a warrant under this section for premises.

(2) The magistrate may issue the warrant if the magistrate is satisfied, by evidence on oath, that it is reasonably necessary that 1 or more inspectors should have access to the premises for monitoring compliance with this Act.

(3) However, the magistrate may issue the warrant only if the inspector or someone else has given to the magistrate, either orally or by affidavit, the further information (if any) that the magistrate requires about the grounds on which the issue of the warrant is being sought.

(4) The warrant must—

(a) authorise 1 or more inspectors (whether or not named in the warrant), with any necessary and reasonable assistance and force—

(i) to enter the premises; and

(ii) to exercise the powers mentioned in section 153 (Monitoring powers) in relation to the premises; and

(b) state whether the entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and

(c) state the day (not later than 28 days after the day the warrant is issued) that the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

173 Offence-related warrants

(1) An inspector may apply to a magistrate for a warrant under this section for premises.

(2) The magistrate may issue the warrant if the magistrate is satisfied, by evidence on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, evidential material in or on the premises.

(3) However, the magistrate may issue the warrant only if the inspector or someone else has given to the magistrate, either orally or by affidavit, the further information (if any) that the magistrate requires about the grounds on which the issue of the warrant is being sought.

(4) The warrant must—

(a) name 1 or more inspectors; and

(b) authorise the named inspectors, with any necessary and reasonable assistance and force—

(i) to enter the premises; and

(ii) to exercise the powers mentioned in section 154 (3) (Searches and seizures related to offences) and section 155 (Offence-related powers of inspectors for premises); and

(iii) to seize the evidential material; and

(c) state whether the entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and

(d) state the day (not later than 1 week after the issue of the warrant) the warrant ceases to have effect; and

(e) state the purpose for which the warrant is issued.

174 Offence-related warrants by telephone, telex, fax etc

(1) If, in an urgent case, an inspector considers it necessary to do so, the inspector may apply to a magistrate by telephone, telex, fax or other electronic means for a warrant under section 173 for premises.

(2) The magistrate may require communication by voice to the extent that it is practicable in the circumstances.

(3) Before applying for the warrant, the inspector must prepare an affidavit in relation to the premises stating the grounds on which the warrant is sought.

(4) If it is necessary to do so, the inspector may apply for the warrant before the affidavit is sworn.

(5) If the magistrate is satisfied—

(a) after having considered the terms of the affidavit; and

(b) after having received the further information (if any) that the magistrate requires about the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate may complete and sign the same warrant that the magistrate would issue under section 173 if the application had been made under that section.

(6) If the magistrate completes and signs the warrant—

(a) the magistrate must—

(i) tell the inspector what the terms of the warrant are; and

(ii) tell the inspector the date and time the warrant was signed; and

(iii) tell the inspector the day (not later than 1 week after the magistrate completes and signs the warrant) the warrant ceases to have effect; and

(iv) record on the warrant the reasons for issuing the warrant; and

(b) the inspector must—

(i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and

(ii) write on the form the name of the magistrate and the day and time the warrant was signed.

(7) The inspector must also, not later than the day after the day of expiry or execution of the warrant, whichever is the earlier, send to the magistrate—

(a) the form of warrant completed by the inspector; and

(b) the affidavit mentioned in subsection (3), which must have been properly sworn.

(8) When the magistrate receives the documents mentioned in subsection (7), the magistrate must—

(a) attach them to the warrant that the magistrate completed and signed; and

(b) deal with them how the magistrate would have dealt with the affidavit if the application had been made under section 173.

(9) A form of warrant completed under subsection (6) is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.

(10) If—

(a) it is material, in a proceeding, for a court to be satisfied that an exercise of a power was authorised by this section; and

(b) the warrant signed by the magistrate authorising the exercise of the power is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(11) A reference in this part to a warrant under section 173 includes a reference to a warrant signed by a magistrate under this section.

175 Offences relating to warrants

(1) An inspector must not make, in an application for a warrant, a statement that the inspector knows to be false or misleading in a material particular.

Maximum penalty: 120 penalty units , imprisonment for 2 years or both.

(2) An inspector must not—

(a) state a magistrate's name in a document purporting to be a form of warrant under section 174 unless the magistrate issued the warrant; or

(b) state on a form of warrant under section 174 a matter that, to the inspector's knowledge, departs in a material particular from the form authorised by the magistrate; or

(c) purport to execute, or present to someone, a document purporting to be a form of warrant under section 174 that the inspector knows—

(i) has not been approved by a magistrate under that section; or

(ii) departs in a material particular from the terms authorised by a magistrate under that section; or

(d) give to a magistrate a form of warrant under section 174 that is not the form of warrant that the inspector purported to execute.

Maximum penalty: 120 penalty units , imprisonment for 2 years or both.

Division 11.11 Other matters

176 Pt 11 not to abrogate privilege against self-incrimination

Note The Commonwealth Act, s 176 preserves the privilege against self-incrimination. This provision is unnecessary in the ACT. The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

176A Damage etc to be minimised

(1) In the exercise, or purported exercise, of a function under this part, an inspector must take all reasonable steps to ensure that the inspector, and any person assisting the inspector, causes as little inconvenience, detriment and damage as is practicable.

(2) If an inspector, or a person assisting an inspector, damages anything in the exercise or purported exercise of a function under this part, the inspector must give written notice of the particulars of the damage to the person whom the inspector believes, on reasonable grounds, is the owner of the thing.

(3) If the damage happens on premises entered under this part in the absence of the occupier, the notice may be given by securing it in a conspicuous place on the premises.

Note This section does not appear in the Commonwealth Act.

176B Compensation to be paid in certain circumstances

(1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an inspector or a person assisting an inspector.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

Note This section does not appear in the Commonwealth Act.

177 Pt 11 does not limit power to impose conditions

This part does not limit the regulator's power to impose licence conditions or the Minister's power to impose conditions on an emergency dealing determination.

Part 12 Miscellaneous

Division 12.1 Simplified outline of pt 12

178 Simplified outline—pt 12

In outline, this part provides for miscellaneous matters, including the following:

(a) review of decisions;

(b) provisions relating to confidential commercial information;

(c) the making of regulations;

(d) transitional provisions;

(e) review of the operation of the Act.

Division 12.2 Review of decisions

179 Meaning of *reviewable decision* and *eligible person*

The following table sets out—

(a) decisions that are ***reviewable decisions***; and

(b) each ***eligible person*** for a reviewable decision.

column 1 item	column 2 reviewable decision	column 3 eligible person for reviewable decision
1A	to refuse to consider an application on the basis that the applicant is not a suitable person to hold a licence under section 43 (2) (f)	the applicant
1	to refuse to issue a licence under section 55	the applicant for the licence

column 1 item	column 2 reviewable decision	column 3 eligible person for reviewable decision
2	to impose a licence condition under section 55	the licence holder
3	to suspend or cancel a licence under section 68	the licence holder
4	to refuse to transfer a licence under section 70	the licence holder the transferee
5	to vary a licence under section 71	the licence holder
5A	to refuse to vary a licence under section 71	the licence holder
6	to refuse to determine that a dealing with a GMO is to be included on the GMO register under section 78	the applicant for the determination
7	to vary the register in relation to a dealing under section 80	a person undertaking the dealing
7A	to refuse to transfer a certification under section 89A	an applicant for the transfer
8	to refuse to certify a facility under section 84	the applicant for certification
9	to state a condition of a certification under section 86	the holder of the certification
10	to vary a certification under section 87	the holder of the certification
11	to suspend or cancel a certification under section 88	the holder of the certification
12	to refuse to accredit an organisation under section 92	the applicant for accreditation

column 1 item	column 2 reviewable decision	column 3 eligible person for reviewable decision
13	to state a condition of an accreditation under section 94	the holder of the accreditation
14	to vary an accreditation under section 95	the holder of the accreditation
15	to suspend or cancel an accreditation under section 96	the holder of the accreditation
16	to refuse to declare information to be confidential commercial information under section 185	the person who made an application under section 184 in relation to the information
17	to revoke a declaration that information is confidential commercial information under section 186	the person who made an application under section 184 in relation to the information

Note This section differs from the Commonwealth Act, s 179.

180 Notification of decisions and review rights

(1) As soon as practicable after making a reviewable decision, the regulator must give written notice of the decision to each eligible person.

(2) The notice must contain—

(a) the terms of the decision; and

(b) the reasons for the decision; and

(c) a statement setting out particulars of the person's review rights.

(3) A failure to comply with this section in relation to a decision does not affect the validity of the decision.

181 Internal review

(1) An eligible person for a reviewable decision (other than a decision made by the regulator personally) may apply in writing to the regulator for review of the decision.

(2) The application must be made within 30 days after the day the reviewable decision first came to the notice of the applicant, or within any period that the regulator, before or after the end of that period, allows.

(3) On receiving the application, the regulator must review the reviewable decision personally.

(4) The regulator may—

(a) make a decision confirming, varying or revoking the reviewable decision; and

(b) if the regulator revokes the decision—make any other decision the regulator considers appropriate.

182 Deadlines for making reviewable decisions

If—

(a) this Act provides for a person to make an application of any kind to the regulator; and

(b) a period is stated under this Act for giving notice of the decision to the applicant; and

(c) the regulator has not notified the applicant of the regulator's decision within the period;

the regulator is taken, for this Act, to have made a reviewable decision to refuse the application, and the person may seek internal review of the reviewable decision under section 181.

183 Review of decisions by Commonwealth administrative appeals tribunal

(1) Subject to the Commonwealth Administrative Appeals Tribunal Act, an eligible person may apply under that Act for a review of—

(a) a reviewable decision made by the regulator personally; or

(b) a decision made by the regulator under section 181.

(2) In this section:

decision—see the Commonwealth Administrative Appeals Tribunal Act, section 3.

183A Extended standing for judicial review

Note The Commonwealth Act, s 183A requires that a State be taken to be a person aggrieved for the application of the *Administrative Decisions (Judicial Review) Act 1977* (Cwlth) in relation to certain decisions, failures or conduct under the Commonwealth Act.

Division 12.3 Confidential commercial information

184 Application for protection of confidential commercial information

(1) A person may apply to the regulator for a declaration that stated information to which this Act relates is confidential commercial information for this Act.

(2) An application under subsection (1) must be in writing in the form approved under section 192E.

Note This section differs from the Commonwealth Act, s 184 in that the form is approved by the regulator under s 192E.

185 Regulator may declare information is confidential commercial information

(1) If the applicant satisfies the regulator that the information stated in the application is—

(a) a trade secret; or

(b) any other information that has a commercial or other value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or

(c) other information that—

(i) concerns the lawful commercial or financial affairs of a person, organisation or undertaking; and

(ii) if it were disclosed, could unreasonably affect the person, organisation or undertaking;

the regulator must declare that the information is confidential commercial information for this Act.

(2) However, the regulator may refuse to declare that the information is confidential commercial information if satisfied that the public interest in disclosure outweighs the prejudice that the disclosure would cause to anyone.

(3) Also, the regulator must refuse to declare that information is confidential commercial information if the information relates to 1 or more locations where field trials involving GMOs are happening, or are proposed to happen, unless satisfied that significant damage to the health and safety of people, the environment or property would be likely to happen if the locations were disclosed.

Note This means that, in general, information about sites where dealings with GMOs are happening will be required to be disclosed under s 54 and s 138, unless the regulator is satisfied that disclosure would involve significant risks to health and safety.

(4) The regulator must give the applicant written notice of the regulator's decision about the application.

(5) If—

(a) the regulator declares that particular information is confidential commercial information; and

(b) the information relates to 1 or more locations where field trials involving GMOs are happening, or are proposed to happen;

the regulator must make publicly available a statement of reasons for the making of the declaration, including, for example—

(c) the reasons why the regulator was satisfied as mentioned in subsection (1); and

(d) the reasons why the regulator was not satisfied under subsection (2) that the public interest in disclosing the information outweighed the prejudice that the disclosure would cause; and

(e) the reasons why the regulator was satisfied under subsection (3) that significant damage to the health and safety of people, the environment or property would be likely to happen if the locations were disclosed.

(5A) If—

(a) a person has made an application under section 184 for a declaration that stated information is confidential commercial information; and

(b) the regulator has not yet made a decision on the application;

the information is to be treated as confidential commercial information until the regulator makes a decision on the application.

(6) If the regulator refuses an application under section 184 (1) in relation to information, the information is to be treated as confidential commercial information until any review rights under section 181 or 183 in relation to the application are exhausted.

186 Revocation of declaration

(1) The regulator may, by written notice given to the applicant for a declaration under section 185, revoke the declaration if the regulator is satisfied—

(a) that the information concerned no longer satisfies section 185 (1) (a), (b) or (c); or

(b) that the public interest in disclosing the information outweighs the prejudice that disclosure would cause to any person.

(2) The revocation does not take effect until any review rights under section 181 or 183 in relation to the revocation are exhausted.

187 Confidential commercial information must not be disclosed

(1) A person who—

(a) has confidential commercial information; and

(b) has the information only because of exercising functions under this Act or under the Commonwealth Act or a corresponding State law within the meaning of the Commonwealth Act; and

(c) knows that the information is confidential commercial information;

must not disclose the information.

Maximum penalty: 120 penalty units , imprisonment for 2 years or both.

(2) A person who—

(a) has confidential commercial information; and

(b) has it because of a disclosure mentioned in subsection (3); and

(c) knows that the information is confidential commercial information;

must not disclose the information.

Maximum penalty: 120 penalty units , imprisonment for 2 years or both.

(3) This section does not apply to a disclosure of information—

(a) to any of the following entities in the course of carrying out functions under this Act, the Commonwealth Act or a corresponding State law:

(i) a territory agency;

(ii) the Commonwealth or a Commonwealth authority;

(iii) the gene technology technical advisory committee; or

(b) by order of a court; or

(c) with the consent of the person who applied to have the information treated as confidential commercial information.

(4) The *Freedom of Information Act 1989*, section 43 (Documents relating to business affairs etc) applies to information to which subsection (1) or (2) applies.

(5) This section has effect despite anything to the contrary in the *Freedom of Information Act 1989*.

(6) In this section:

corresponding State law—see the Commonwealth Act, section 12.

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

disclose, in relation to information, means give or communicate in any way.

Note This section differs from the Commonwealth Act, s 187.

Division 12.4 Acts and omissions of representatives

188 Acts and omissions of representatives

(1) In this section:

person means an individual.

Note See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(2) This section applies to a prosecution for any offence against this Act.

(3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—

(a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.

(5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

(6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

Division 12.6 Other provisions

192 False or misleading information or document

A person must not—

(a) in connection with an application made to the regulator under this Act; or

(b) in compliance or purported compliance with this Act;

do either of the following:

(c) give information (whether orally or in writing) that the person knows is false or misleading in a material particular;

(d) produce a document that the person knows is false or misleading in a material particular without—

(i) indicating to the person to whom the document is produced that it is false or misleading, and how it is false or misleading; and

(ii) providing correct information to the person to whom the document is produced, if the person producing the document is in possession of, or can reasonably acquire, the correct information.

Maximum penalty: 60 penalty units, imprisonment for 1 year or both.

192A Interference with dealings with GMOs

(1) A person commits an offence if—

(a) the person engages in conduct; and

(b) the conduct—

(i) results in damage to, destruction of, or interference with, premises or a facility where dealings with GMOs are being undertaken; or

(ii) involves damaging, destroying, or interfering with, a thing at, or removing a thing from, the premises or facility; and

(c) the owner or occupier of the premises or facility, or the owner of the thing (as the case requires), has not consented to the conduct; and

(d) in engaging in the conduct, the person intends to prevent or hinder authorised GMO dealings that are being undertaken at the premises or facility; and

(e) the person knows, or is reckless about, the matters mentioned in paragraphs (b) and (c).

Maximum penalty: 120 penalty units , imprisonment for 2 years or both.

(2) In this section—

authorised GMO dealings, for premises or a facility, means dealings with GMOs being undertaken at the premises or facility—

(a) that are authorised to be undertaken at the premises or facility by a GMO licence; or

(aa) that are specified in an emergency dealing determination and are not prohibited from being undertaken at the premises or facility by a condition of the determination; or

(b) that are notifiable low risk dealings; or

(c) that are exempt dealings; or

(d) that are dealings included on the GMO register.

Note This section differs from the Commonwealth Act, s 192A.

192B Cloning of human beings is prohibited

Note The Commonwealth Act, s 192B prohibits the cloning of whole human beings.

192C Certain experiments involving animal eggs prohibited

Note The Commonwealth Act, s 192C prohibits experiments or research involving putting human cells, or a combination of human cells and animal cells, into animal eggs.

192D Certain experiments involving putting human and animal cells into human uterus prohibited

Note The Commonwealth Act, s 192D prohibits experiments or research involving putting a combination of human cells and animal cells into a human uterus.

192E Approved forms

(1) The regulator may, in writing, approve forms for this Act.

(2) If the regulator approves a form for a particular purpose, the approved form must be used for the purpose.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

193 Regulation-making power

(1) The Executive may make regulations for this Act.

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

(2) A regulation may require a person to comply with codes of practice or guidelines issued under this Act as in force at a particular time or from time to time.

(3) A regulation may apply, adopt or incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

Note 3 This section differs from the Commonwealth Act, s 193.

Dictionary

(see s 10 (1))

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

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative unit
- exercise
- function
- public servant
- State.

Note 3 The definitions in this dictionary have equivalent definitions in the Commonwealth Act, s 10 (1).

accredited organisation means an organisation accredited under division 7.3.

aggravated offence—see section 38 (1).

Commonwealth Act means the *Gene Technology Act 2000* (Cwlth).

Commonwealth authority means—

(a) a corporation established for a public purpose under a Commonwealth Act; or

(b) a company in which a controlling interest is held by any 1 of the following, or by 2 or more of the following together:

(i) the Commonwealth;

(ii) a corporation mentioned in paragraph (a);

(iii) an entity mentioned in subparagraph (i) or (ii).

Commonwealth administrative appeals tribunal means the Administrative Appeals Tribunal established under the Commonwealth Administrative Appeals Tribunal Act.

Commonwealth Administrative Appeals Tribunal Act means the *Administrative Appeals Tribunal Act 1975* (Cwlth).

Commonwealth Environment Minister means the Commonwealth Minister responsible for environment and conservation.

confidential commercial information means information declared under section 185 to be confidential commercial information.

containment level, for a facility, means the degree of physical confinement of GMOs provided by the facility, having regard to the design of the facility, the equipment located or installed in the facility and the procedures generally used within the facility.

deal with a GMO means any of the following:

(a) conduct experiments with the GMO;

(b) make, develop, produce or manufacture the GMO;

(c) breed the GMO;

(d) propagate the GMO;

(e) use the GMO in the course of manufacturing a thing that is not the GMO;

(f) grow, raise or culture the GMO;

(g) import the GMO;

(h) transport the GMO;

(i) dispose of the GMO;

and includes the possession, supply or use of the GMO for the purposes of, or in the course of, a dealing mentioned in any of paragraphs (a) to (i).

eligible person, for a reviewable decision—see section 179.

environment includes—

(a) ecosystems and their constituent parts; and

(b) natural and physical resources; and

(c) the qualities and characteristics of locations, places and areas.

ethics and community committee means the gene technology ethics and community consultative committee established by the Commonwealth Act, section 106.

evidential material means any of the following:

(a) a thing in relation to which an offence against this Act has been committed or is suspected, on reasonable grounds, to have been committed;

(b) a thing that there are reasonable grounds for suspecting will provide evidence about the commission of an offence mentioned in paragraph (a);

(c) a thing that there are reasonable grounds for suspecting is intended to be used for committing an offence against this Act.

exempt dealing means a dealing prescribed by regulation as an exempt dealing.

facility includes, but is not limited to, the following:

(a) a building or part of a building;

(b) a laboratory;

(c) an aviary;

(d) a glasshouse;

(e) an insectary;

(f) an animal house;

(g) an aquarium or tank.

gene technology means any technique for modifying genes or other genetic material, but does not include—

(a) sexual reproduction; or

(b) homologous recombination; or

(c) any other technique prescribed by regulation for this paragraph.

gene technology account means the Gene Technology Account established under the Commonwealth Act, section 129.

gene technology agreement means the Gene Technology Agreement made for this Act between the Commonwealth and at least 4 States, as in force from time to time.

gene technology community consultative committee means the Gene Technology Community Consultative Committee established under the Commonwealth Act, section 106.

gene technology ethics committee means the Gene Technology Ethics Committee established under the Commonwealth Act, section 111.

gene technology regulator means the Gene Technology Regulator appointed under the Commonwealth Act, section 118.

gene technology technical advisory committee means the Gene Technology Technical Advisory Committee established under the Commonwealth Act, section 100.

genetically modified organism means—

(a) an organism that has been modified by gene technology; or

(b) an organism that has inherited particular traits from an organism (the ***initial organism***), if the traits occurred in the initial organism because of gene technology; or

(c) anything declared by regulation to be a genetically modified organism;

but does not include—

(d) a human being, if the human being is an organism mentioned in paragraph (a) only because the human being has undergone somatic cell gene therapy; or

(e) an organism declared by regulation not to be a genetically modified organism.

GMO means a genetically modified organism.

GMO licence means a licence issued under section 55.

GMO register means the GMO Register established under the Commonwealth Act, section 76.

GM product means a thing (other than a GMO) derived or produced from a GMO.

GM record means the Record of GMO and GM Product Dealings mentioned in the Commonwealth Act, section 138.

inadvertent dealings application means an application for a GMO licence to which division 5.3 or division 5.4 does not apply because of the operation of section 46A or section 49.

institutional biosafety committee means a committee established as an institutional biosafety committee in accordance with the guidelines issued by the regulator under section 98.

intentional release of a GMO into the environment—see section 11.

licence holder means the holder of a GMO licence.

ministerial council means the Ministerial Council within the meaning of the gene technology agreement.

notifiable low risk dealing means a dealing declared to be a notifiable low risk dealing under section 74.

officer, of the Commonwealth, includes the following:

(a) a Commonwealth Minister;

(b) a person who holds—

(i) an office established under a Commonwealth Act; or

(ii) an appointment made under a Commonwealth Act; or

(iii) an appointment made by the Governor-General or a Commonwealth Minister other than under a Commonwealth Act;

(c) a person who is a member or officer of a Commonwealth authority;

(d) a person who is in the service or employment of the Commonwealth or of a Commonwealth authority, or is employed or engaged under a Commonwealth Act.

organism means any biological entity that is—

(a) viable; or

(b) capable of reproduction; or

(c) capable of transferring genetic material.

person covered by a GMO licence means a person authorised by a GMO licence to deal with a GMO.

premises includes the following:

(a) a building;

(b) a place, including an area of land;

(c) a vehicle;

(d) a vessel;

(e) an aircraft;

(f) a facility;

(g) any part of premises, including premises mentioned in paragraphs (a) to (f).

regulator means the gene technology regulator.

reviewable decision—see section 179.

State includes the Territory.

Note ***State*** also includes the Northern Territory (see Legislation Act, dict, pt 1).

territory agency means—

(a) the Territory; or

(b) a Minister; or

(c) an administrative unit; or

(d) a territory instrumentality, and any other corporation established for a public purpose under a territory law; or

(e) a company in which a controlling interest is held by any 1 of the following, or by 2 or more of the following together:

(i) the Territory;

(ii) a Minister;

(iii) a corporation mentioned in paragraph (d);

(iv) an entity mentioned in subparagraphs (i) to (iii).

thing includes a substance, and a thing in electronic or magnetic form.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

3 Legislation history

Gene Technology Act 2003 A2003-57
notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
remainder commenced 5 June 2004 (s 2 and LA s 79)

as amended by

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.20
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 1 pt 1.20 commenced 5 June 2004 (LA s 79A)

Health Legislation Amendment Act 2006 (No 2) A2006-46 sch 2 pt 2.7
notified LR 17 November 2006
s 1, s 2 commenced 17 November 2006 (LA s 75 (1))
sch 2 pt 2.7 commenced 18 November 2006 (s 2 (1))

Gene Technology Amendment Act 2008 A2008-10
notified LR 21 April 2008
s 1, s 2 commenced 21 April 2008 (LA s 75 (1))
remainder commenced 1 May 2008 (s 2 and CN2008-5)

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.35
notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.35 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.29
notified LR 28 November 2011
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))
sch 3 pt 3.29 commenced 12 December 2011 (s 2)

Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.33
notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.33 commenced 14 October 2015 (s 2)

Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.31

notified LR 25 August 2016

s 1, s 2 commenced 25 August 2016 (LA s 75 (1))

sch 1 pt 1.31 commenced 1 September 2016 (s 2)

4 Amendment history

Commencement
s 2 om LA s 89 (4)

Simplified outline—pt 4
s 31 am A2008-10 s 4

Person not to deal with GMO without licence
s 32 sub A2008-10 s 5

Person not to deal with GMO without licence—strict liability offence
s 33 am A2008-10 s 6, s 7

Person must not breach conditions of GMO licence
s 34 am A2008-10 s 8, s 9

Person must not breach conditions of emergency dealing determination
s 35A ins A2008-10 s 10

Person must not breach conditions of emergency dealing determination—strict liability offence
s 35B ins A2008-10 s 10

Licences relating to inadvertent dealings
s 40A ins A2008-10 s 11

Regulator may require applicant to give further information
s 42 am A2008-10 s 12

Regulator must consider applications except in certain circumstances
s 43 am A2008-10 s 13, s 14

Division does not apply to an application relating to inadvertent dealings
s 46A ins A2008-10 s 15

Division does not apply to an application relating to inadvertent dealings
s 49 sub A2008-10 s 16

Regulator must prepare risk assessment and risk management plan
s 50 am A2008-10 s 17, s 18

Limited and controlled release applications
s 50A ins A2008-10 s 19

Matters regulator must take into account in preparing risk assessment and risk management plan
s 51 am A2008-10 ss 20-22

Public notification of risk assessment and risk management plan
s 52 am A2008-10 ss 23-25; A2015-33 amdt 1.104

Regulator must not issue the licence unless satisfied as to risk management
s 56 am A2008-10 s 26, s 27

Other circumstances in which regulator must not issue the licence
s 57 am A2008-10 s 28

Period of licence
s 60 am A2008-10 s 29

Protection of persons who give information
s 67 am A2008-10 s 30

Variation of licence
s 71 am A2008-10 ss 31-35

Regulator to notify of proposed suspension, cancellation or variation
s 72 am A2008-10 s 36

GMO licence—annual charge
s 72AA (prev s 72A) renum as s 72AA R4 LA (see A2008-10 s 37)

Emergency dealing determinations
pt 5A hdg ins A2008-10 s 38

Application of Commonwealth emergency dealing determinations
s 72A **orig s 72A**
renum as s 72AA
pres s 72A
ins A2008-10 s 38

Minister may make emergency dealing determination
s 72B ins A2008-10 s 38

Period of effect of emergency dealing determination
s 72C ins A2008-10 s 38

Effect and conditions of emergency dealing determination
div 5A.3 hdg ins A2008-10 s 38
om A2009-20 amdt 3.83

Period of effect of emergency dealing determination
s 72D ins A2008-10 s 38

Variation, suspension and revocation of emergency dealing determination
div 5A.4 hdg ins A2008-10 s 38
om A2009-20 amdt 3.83

Variation, suspension and revocation of emergency dealing determination
s 72E ins A2008-10 s 38

Regulator may include dealings with GMOs on GMO register
s 78 am A2008-10 s 39

Simplified outline—pt 7
s 82 am A2008-10 s 40

Application for certification
s 83 am A2008-10 s 41

Regulator to notify of proposed suspension, cancellation or variation
s 89 am A2008-10 s 42

Transfer of certification
s 89A ins A2008-10 s 43

Application for accreditation
s 91 am A2008-12 s 44

Regulator may accredit organisations
s 92 am A2008-10 s 45, s 46

Regulator to notify of proposed suspension, cancellation or variation
s 97 am A2008-10 s 47

Gene technology technical advisory committee and gene technology ethics and community consultative committee
pt 8 hdg sub A2008-10 s 48

Simplified outline—pt 8
s 99 am A2008-10 s 49

Gene technology ethics and community consultative committee
div 8.3 hdg sub A2008-10 s 50

Gene technology ethics and community consultative committee
s 106 hdg sub A2008-10 s 51
s 106 am A2008-10 s 52

Function of ethics and community committee
s 107 sub A2008-10 s 53

Membership
s 108 am A2008-10 s 54

Remuneration
s 109 am A2008-10 s 54

Regulations
s 110 am A2008-10 s 55

Subcommittees
s 110A om A2008-10 s 56

Subcommittees
s 111 om A2008-10 s 58
ins A2008-10 s 57

Expert advisers
s 112 om A2008-10 s 58
ins A2008-10 s 57

Gene technology ethics committee
div 8.4 hdg om A2008-10 s 58

Expert advisers
s 113 om A2008-10 s 58

Remuneration
s 114 om A2008-10 s 58

Members and procedures
s 115 om A2008-10 s 58

Subcommittees
s 116 om A2008-10 s 58

Quarterly reports
s 136A am A2008-10 s 59

Record of GMO and GM product dealings
s 138 am A2008-10 s 60, s 61

Simplified outline—pt 10
s 145 am A2008-10 s 62, s 63

Regulator may give directions
s 146 am A2008-10 ss 64-67; A2011-52 amdt 3.103

Simplified outline—pt 11
s 149 am A2008-10 s 68

Powers available to inspectors for monitoring compliance
s 152 am A2008-10 s 69, s 70

Powers available to inspectors for dealing with dangerous situations
s 158 am A2011-52 amdt 3.104

Acts and omissions of representatives
div 12.4 hdg sub A2004-15 amdt 1.24

Monitoring warrants
s 172 am A2006-46 amdt 2.22

Pt 11 does not limit power to impose conditions
s 177 sub A2008-10 s 71

Meaning of *reviewable decision* and *eligible person*
s 179 am A2008-12 ss 72-74

Deadlines for making reviewable decisions
s 182 am A2008-10 s 75, s 76

Regulator may declare information is confidential commercial information
s 185 am A2008-10 s 77

Acts and omissions of representatives
s 188 sub A2004-15 amdt 1.24

Meaning of terms in s 188
s 189 om A2004-15 amdt 1.24

Transitional provisions
div 12.5 hdg exp 5 June 2006 (s 191A (1))

Transitional provision—dealings covered by genetic manipulation advisory committee advice to proceed
s 190 exp 5 June 2006 (s 191A (1) (LA s 88 declaration applies))

Regulations may relate to transitional matters
s 191 exp 5 June 2006 (s 191A (1))

Expiry of div 12.5
s 191A exp 5 June 2006 (s 191A (1))

Interference with dealings with GMOs
s 192A am A2008-10 s 78, s 79

Review of operation of Act
s 194 am A2006-46 amdt 2.23, amdt 2.24; ss renum R3 LA
exp 5 June 2009 (s 194 (6))

Dictionary
dict am A2016-52 amdt 1.94
def ***consultative committee*** om A2008-10 s 80
def ***deal with*** am A2008-10 s 81
def ***ethics and community committee*** ins A2008-10 s 82
def ***ethics committee*** om A2008-10 s 83
def ***inadvertent dealings application*** ins A2008-10 s 84
def ***institutional biosafety committee*** sub A2008-10 s 85

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 5 June 2004	5 June 2004– 5 June 2006	A2004-15	new Act and amendments by A2004-15
R2 6 June 2006	6 June 2006– 17 Nov 2006	A2004-15	commenced expiry
R3 18 Nov 2006	18 Nov 2006– 30 Apr 2008	A2006-46	amendments by A2006-46
R4 1 May 2008	1 May 2008– 5 June 2009	A2008-10	amendments by A2008-10
R5 6 June 2009	6 June 2009– 21 Sept 2009	A2008-10	commenced expiry
R6 22 Sept 2009	22 Sept 2009- 11 Dec 2011	A2009-20	amendments by A2009-20
R7 12 Dec 2011	12 Dec 2011- 13 Oct 2015	A2011-52	amendments by A2011-52
R8 14 Oct 2015	14 Oct 2015- 31 Aug 2016	A2015-33	amendments by A2015-33