

2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Gene Technology Amendment Bill 2007

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2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Gene Technology Amendment Bill 2007

A Bill for

An Act to amend the *Gene Technology Act 2003*

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

1 **1 Name of Act**

2 This Act is the *Gene Technology Amendment Act 2007*.

3 **2 Commencement**

4 This Act commences on a day fixed by the Minister by written
5 notice.

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

8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see Legislation
10 Act, s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the
12 notification day, it automatically commences on the first day after that
13 period (see Legislation Act, s 79).

14 **3 Legislation amended**

15 This Act amends the *Gene Technology Act 2003*.

16 **4 Simplified outline—pt 4**
17 **New section 31 (b) (ia)**

18 *insert*

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

21 **5 Section 32**

22 *substitute*

23 **32 Person not to deal with GMO without licence**

24 A person commits an offence if—

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

- 1 (b) the dealing with the GMO by the person is not authorised by a
2 GMO licence, and the person knows or is reckless about that
3 fact; and
- 4 (c) the dealing with the GMO is not specified in an emergency
5 dealing determination, and the person knows or is reckless
6 about that fact; and
- 7 (d) the dealing is not a notifiable low risk dealing, and the person
8 knows or is reckless about that fact; and
- 9 (e) the dealing is not an exempt dealing and the person knows or is
10 reckless about that fact; and
- 11 (f) the dealing is not included on the GMO Register, and the
12 person knows or is reckless about that fact.

13 Maximum penalty:

- 14 (a) for an aggravated offence—2 000 penalty units, imprisonment
15 for 5 years or both; or
- 16 (b) in any other case—500 penalty units, imprisonment for 2 years
17 or both.

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

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

21 **6 Person not to deal with GMO without licence—strict**
22 **liability offence**
23 **New section 33 (1) (ba)**

24 *insert*

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

1 **7 Section 33 (2)**

2 *after*

3 subsection (1) (b),

4 *insert*

5 (ba),

6 **8 Person must not breach conditions of GMO licence**
7 **Section 34 (1)**

8 *substitute*

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

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

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

14 Maximum penalty:

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

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

19 **9 Section 34 (2) (b) and (c)**

20 *substitute*

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

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

10 New sections 35A and 35B

insert

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

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

3 Maximum penalty:

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

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

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

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

8 **11 New section 40A**

9 *insert*

10 **40A Licences relating to inadvertent dealings**

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

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

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

1 **12 Regulator may require applicant to give further**
2 **information**
3 **New section 42 (3)**

4 *insert*

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

8 **13 Regulator must consider applications except in certain**
9 **circumstances**
10 **Section 43 (2)**

11 *omit*

12 application if—

13 *substitute*

14 application, or may cease considering the application, if—

15 **14 New section 43 (2) (f)**

16 *insert*

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

1 **15 New section 46A**

2 *insert*

3 **46A Division does not apply to an application relating to**
4 **inadvertent dealings**

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

- 7 (a) the dealings proposed to be authorised by the licence are
8 limited to dealings to be undertaken for the purposes of, or for
9 purposes relating to, disposing of a GMO; and
10 (b) the applicant for the licence came into possession of the GMO
11 inadvertently.

12 **16 Section 49**

13 *substitute*

14 **49 Division does not apply to an application relating to**
15 **inadvertent dealings**

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

- 18 (a) the dealings proposed to be authorised by the licence are
19 limited to dealings to be undertaken for the purposes of, or for
20 purposes relating to, disposing of a GMO; and
21 (b) the applicant for the licence came into possession of the GMO
22 inadvertently.

23 **17 Regulator must prepare risk assessment and risk**
24 **management plan**
25 **Section 50 (2)**

26 *omit*

18 Section 50 (3)

omit

The

substitute

Unless section 50A applies in relation to the application for the licence, the

19 New section 50A

insert

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).

- 1 (2) In deciding whether the principal purpose of an application is to
2 enable the licence holder, and people covered by the licence, to
3 conduct experiments, the regulator—
- 4 (a) must have regard to whether the applicant proposes that any or
5 all of the following be authorised by, and done under, the
6 licence:
- 7 (i) testing hypotheses;
- 8 (ii) gaining scientific or technical knowledge;
- 9 (iii) gaining data for regulatory purposes, or for product
10 development or marketing; and
- 11 (b) may have regard to anything else the regulator considers to be
12 relevant.
- 13 (3) In this section:
- 14 ***controls***, in relation to restricting the dissemination or persistence of
15 a GMO and its genetic material in the environment, include the
16 following:
- 17 (a) stated methods for disposal of the GMO or its genetic material;
- 18 (b) data collection requirements, including studies to be conducted
19 about the GMO or its genetic material;
- 20 (c) a restricted geographic area in which the proposed dealings
21 with the GMO or its genetic material may occur;
- 22 (d) compliance, in relation to dealings with the GMO or its genetic
23 material, with—
- 24 (i) a code of practice issued under section 24; or
- 25 (ii) a technical or procedural guideline issued under
26 section 27.

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

- 3 (a) the scope of the dealings with the GMO;
4 (b) the scale of the dealings with the GMO;
5 (c) the locations of the dealings with the GMO;
6 (d) the duration of the dealings with the GMO;
7 (e) the people who are to be permitted to conduct of the dealings
8 with the GMO.

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

10 **20 Matters regulator must take into account in preparing risk**
11 **assessment and risk management plan**
12 **Section 51 (1) (a)**

13 *omit everything after*

14 matters

15 *substitute*

16 prescribed by regulation;

17 **21 Section 51 (1) (b)**

18 *omit*

19 **22 Section 51 (2) (b)**

20 *omit*

1 **23 Public notification of risk assessment and risk**
2 **management plan**
3 **Section 52 (1)**

4 *omit*

5 sections 49 (if applicable), 50 and 51

6 *substitute*

7 section 50 and section 51

8 **24 New section 52 (2) (ba)**

9 *insert*

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

14 **25 Section 52 (2) (d)**

15 *omit everything after*

16 earlier

17 *substitute*

18 than—

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

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

1 **26 Regulator must not issue the licence unless satisfied as**
2 **to risk management**
3 **Section 56 (2) (a) and (b)**

4 *substitute*

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

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

9 **27 Section 56 (2), new note**

10 *insert*

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

13 **28 Other circumstances in which regulator must not issue**
14 **the licence**
15 **New section 57 (3)**

16 *insert*

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

18 **29 Period of licence**
19 **New section 60 (3)**

20 *insert*

21 (3) A licence issued as a result of an inadvertent dealings application
22 must not be expressed to be in force for a period of longer than
23 12 months.

1 **30** **Protection of persons who give information**
2 **Section 67**

3 *omit*

4 or section 66

5 *substitute*

6 , section 66 or the Commonwealth Act, section 72D (2) (h)

7 **31** **Variation of licence**
8 **Section 71 (1)**

9 *substitute*

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

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

13 (b) on application by the licence holder.

14 (1A) An application for a variation must be in writing, and must
15 contain—

16 (a) any information prescribed by regulation; and

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

18 **32** **Section 71 (2)**

19 *omit*

20 However, the

21 *substitute*

22 The

33 New section 71 (2A)

insert

(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.

1 **34 Section 71 (4)**

2 *omit*

3 However, the regulator must not vary the

4 *substitute*

5 The regulator must not vary a

6 **35 New section 71 (5) to (8)**

7 *insert*

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

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

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

16 (8) In this section:

17 *controls*—see section 50A (3).

18 *limits*—see section 50A (3).

19 **36 Regulator to notify of proposed suspension, cancellation
20 or variation
21 New section 72 (8)**

22 *insert*

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

1 **37** **GMO licence—annual charge**
2 **Section 72A**

3 *renumber as section 72AA*

4 **38** **New part 5A**

5 *insert*

6 **Part 5A** **Emergency dealing**
7 **determinations**

8 *Note to pt 5A*

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

10 **72A** **Application of Commonwealth emergency dealing**
11 **determinations**

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

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

16 **72B** **Minister may make emergency dealing determination**

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

20 **72C** **Period of effect of emergency dealing determination**

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

1 **Division 5A.3 Effect and conditions of emergency**
2 **dealing determination**

3 **72D Emergency dealing determination authorises dealings,**
4 **subject to conditions**

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

7 **Division 5A.4 Variation, suspension and revocation**
8 **of emergency dealing determination**

9 **72E Variation, suspension and revocation of emergency**
10 **dealing determination**

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

16 **39 Regulator may include dealings with GMOs on GMO**
17 **register**
18 **Section 78 (4)**

19 *omit*

20 **40 Simplified outline—pt 7**
21 **Section 82 (2) and (4)**

22 *after*

23 Licence conditions

24 *insert*

25 , or conditions to which an emergency dealing determination is
26 subject,

1 **41 Application for certification**
 2 **Section 83 (2), note**

3 *after*

4 licence

5 *insert*

6 , or conditions to which an emergency dealing determination is subject,

7 **42 Regulator to notify of proposed suspension, cancellation**
 8 **or variation**
 9 **New section 89 (8)**

10 *insert*

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

13 **43 New section 89A**

14 *insert*

15 **89A Transfer of certification**

- 16 (1) The holder of a certification and another person (the *transferee*)
 17 may jointly apply to the regulator for the certification to be
 18 transferred from the holder of the certification to the transferee.
- 19 (2) The application must be in writing and must contain—
 20 (a) any information prescribed by regulation; and
 21 (b) any information required, in writing, by the regulator.
- 22 (3) The regulator must not transfer the certification unless satisfied that,
 23 if the certification is transferred, any conditions to which the
 24 certification is subject will continue to be met.
- 25 (4) The regulator must give written notice of his or her decision on the
 26 application to the holder of the certification and the transferee.

- 1 (5) If the regulator decides to transfer the certification—
2 (a) the transfer takes effect on the date stated in the notice; and
3 (b) the certification continues in force; and
4 (c) the certification is subject to the same conditions as those in
5 force immediately before the transfer.

6 **44 Application for accreditation**
7 **Section 91 (1), note**

8 *substitute*

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

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

16 **45 Regulator may accredit organisations**
17 **Section 92 (2) (a)**

18 *omit*

19 , or proposes to establish,

20 **46 Section 92 (2) (b) and (c)**

21 *substitute*

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

- 1 (c) if the organisation has established an institutional biosafety
2 committee—whether the organisation has appropriate
3 indemnity arrangements for its institutional biosafety
4 committee members; and
- 5 (ca) if the organisation has not established an institutional biosafety
6 committee as mentioned in paragraph (a)—whether the
7 organisation will be in a position to use an institutional
8 biosafety committee established by an accredited organisation;
9 and

10 **47 Regulator to notify of proposed suspension, cancellation**
11 **or variation**
12 **New section 97 (8)**

13 *insert*

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

17 **48 Part 8 heading**

18 *substitute*

19 **Part 8** **Gene technology technical**
20 **advisory committee and gene**
21 **technology ethics and**
22 **community consultative**
23 **committee**

1 **49** **Simplified outline—pt 8**
2 **Section 99 (b) and (c)**

3 *substitute*

4 (b) gene technology ethics and community consultative
5 committee.

6 **50** **Division 8.3 heading**

7 *substitute*

8 **Division 8.3** **Gene technology ethics and**
9 **community consultative committee**

10 **51** **Section 106 heading**

11 *substitute*

12 **Gene technology ethics and community consultative**
13 **committee**

14 **52** **Section 106, note**

15 *after*

16 technology

17 *insert*

18 ethics and

53 Section 107

substitute

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.

1 **54 Sections 108 and 109, notes**

2 *omit*

3 consultative

4 *substitute*

5 ethics and community

6 **55 Regulations**
7 **Section 110, note**

8 *omit everything after*

9 membership

10 *substitute*

11 and procedures of the ethics and community committee.

12 **56 Subcommittees**
13 **Section 110A**

14 *omit*

15 **57 New sections 111 and 112**

16 *in division 8.3, insert*

17 **111 Subcommittees**

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

20 **112 Expert advisers**

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

23 **58 Gene technology ethics committee**
24 **Division 8.4**

25 *omit*

1 **59 Quarterly reports**
2 **New sections 136A (2) (ba) and (bc)**

3 *insert*

- 4 (ba) emergency dealing determinations made by the Minister during
5 the quarter;
- 6 (bb) any breaches of conditions of an emergency dealing
7 determination that have come to the regulator's attention
8 during the quarter;

9 **60 Record of GMO and GM product dealings**
10 **New section 138 (1A)**

11 *insert*

- 12 (1A) The GM record must contain the following information, other than
13 confidential commercial information, in relation to each emergency
14 dealing determination made under section 72B:
- 15 (a) the dealings specified in the emergency dealing determination
16 and the GMO to which those dealings relate;
- 17 (b) any conditions to which the emergency dealing determination
18 is subject;
- 19 (c) the date on which the emergency dealing determination takes
20 effect;
- 21 (d) the date on which the emergency dealing determination will
22 cease to have effect.

23 **61 Section 138 (5)**

24 *after*

25 (1),

26 *insert*

27 (1A),

1 **62 Simplified outline—pt 10**
2 **Section 145 (a) (ii)**

3 *after*

4 environment

5 *insert*

6 , or for certain other reasons

7 **63 New section 145 (aa)**

8 *insert*

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

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

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

17 **64 Regulator may give directions**
18 **Section 146 (1) (b)**

19 *substitute*

20 (b) either of the following applies:

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

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

65 Section 146 (2) (a)

substitute

(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

66 Section 146 (2) (b)

substitute

(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;

67 New section 146 (2A)

insert

(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;

- 1 (b) whether measures have been, or are being, taken to address the
2 non-compliance with this Act that the regulator believes is
3 occurring (the *suspected non-compliance*);
- 4 (c) the likelihood of the licence holder or other person not
5 complying with this Act at a future time;
- 6 (d) the severity of the suspected noncompliance;
- 7 (e) whether, on 1 or more occasions, the licence holder or other
8 person—
- 9 (i) has been charged with or convicted of an offence against
10 this Act; or
- 11 (ii) has been given a direction under this section;
- 12 (f) other means available to the regulator to address the suspected
13 noncompliance (including, but not limited to, by cancelling,
14 varying or suspending a licence, accreditation or certification);
- 15 (g) whether, in the regulator's opinion, the suspected
16 noncompliance was deliberate;
- 17 (h) the desirability of deterring future noncompliance with this Act
18 or the regulations.

19 **68 Simplified outline—pt 11**
20 **Section 149 (e)**

21 *after*
22 licence
23 *insert*
24 or an emergency dealing determination

1 **69 Powers available to inspectors for monitoring compliance**
 2 **New section 152 (2) (d)**

3 *insert*

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

7 **70 Section 152 (3)**

8 *omit*

9 subsection (2) (c) does not

10 *substitute*

11 subsection (2) (c) or (d) does not

12 **71 Section 177**

13 *substitute*

14 **177 Pt 11 does not limit power to impose conditions**

15 This part does not limit the regulator's power to impose licence
 16 conditions or the Minister's power to impose conditions on an
 17 emergency dealing determination.

18 **72 Meaning of *reviewable decision* and *eligible person***
 19 **Section 179, table, new item 1A**

20 *before item 1, insert*

1A to refuse to consider an the applicant
 application on the basis that
 the applicant is not a suitable
 person to hold a licence under
 section 43 (2) (f)

1 **73 Section 179, table, new item 5A**

2 *insert*

5A to refuse to vary a licence the licence holder
under section 71

3 **74 Section 179, table, new item 7A**

4 *insert*

7A to refuse to transfer a an applicant for the transfer
certification under section 89A

5 **75 Deadlines for making reviewable decisions**
6 **Section 182 (a)**

7 *substitute*

8 (a) this Act provides for a person to make an application of any
9 kind to the regulator; and

10 **76 Section 182**

11 *omit*

12 decision to refuse the application

13 *substitute*

14 reviewable decision to refuse the application, and the person may
15 seek internal review of the reviewable decision under section 181

1 **77 Regulator may declare information is confidential**
2 **commercial information**
3 **New section 185 (5A)**

4 *insert*

5 (5A) If—

6 (a) a person has made an application under section 184 for a
7 declaration that stated information is confidential commercial
8 information; and

9 (b) the regulator has not yet made a decision on the application;

10 the information is to be treated as confidential commercial
11 information until the regulator makes a decision on the application.

12 **78 Interference with dealings with GMOs**
13 **Section 192A (2), definition of *authorised GMO dealings*,**
14 **new paragraph (aa)**

15 *insert*

16 (aa) that are specified in an emergency dealing determination and
17 are not prohibited from being undertaken at the premises or
18 facility by a condition of the determination; or

19 **79 Section 192A (2), definition of *authorised GMO dealings*,**
20 **paragraph (d)**

21 *after*

22 are

23 *insert*

24 dealings

25 **80 Dictionary, definition of *consultative committee***

26 *omit*

1 **81 Dictionary, definition of *deal with***

2 *omit everything after paragraph (g), substitute*

3 (h) transport the GMO;

4 (i) dispose of the GMO;

5 and includes the possession, supply or use of the GMO for the
6 purposes of, or in the course of, a dealing mentioned in any of
7 paragraphs (a) to (i).

8 **82 Dictionary, new definition of *ethics and community*
9 *committee***

10 *insert*

11 *ethics and community committee* means the gene technology ethics
12 and community consultative committee established by the
13 Commonwealth Act, section 106.

14 **83 Dictionary, definition of *ethics committee***

15 *omit*

16 **84 Dictionary, new definition of *inadvertent dealings*
17 *application***

18 *insert*

19 *inadvertent dealings application* means an application for a GMO
20 licence to which division 5.3 or division 5.4 does not apply because
21 of the operation of section 46A or section 49.

22 **85 Dictionary, definition of *institutional biosafety committee***

23 *substitute*

24 *institutional biosafety committee* means a committee established as
25 an institutional biosafety committee in accordance with the
26 guidelines issued by the regulator under section 98.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2007.

2 Notification

Notified under the Legislation Act on 2007.

3 Republications of amended laws

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

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