

2017

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Health)

# Gene Technology Amendment Bill 2017

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## Gene Technology Amendment Bill 2017

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### A Bill for

An Act to amend the *Gene Technology Act 2003* and the *Gene Technology Regulation 2004*

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Gene Technology Amendment Act 2017*.

4 **2 Commencement**

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

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

8 **3 Legislation amended**

9 This Act amends the [Gene Technology Act 2003](#) and the [Gene  
10 Technology Regulation 2004](#).

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1 **Part 2** **Gene Technology Act 2003**

2 **4 Independence of regulator**  
3 **Section 30 (2) (a)**

4 *substitute*

- 5 (a) whether a GMO licence is issued or refused in relation to a  
6 particular application; or

7 **5 Division does not apply to an application relating to**  
8 **inadvertent dealings**  
9 **Section 46A (a)**

10 *substitute*

- 11 (a) the dealings proposed to be authorised by the licence are  
12 limited to 1 or more of the following for purposes relating to  
13 disposing of a GMO:
- 14 (i) conducting experiments with the GMO;
  - 15 (ii) propagating the GMO;
  - 16 (iii) growing, raising or culturing the GMO;
  - 17 (iv) transporting the GMO;
  - 18 (v) any other dealings to be undertaken for the purposes of,  
19 or for purposes relating to, disposing of the GMO; and

1 **6 Division does not apply to an application relating to**  
2 **inadvertent dealings**  
3 **Section 49 (a)**

4 *substitute*

5 (a) the dealings proposed to be authorised by the licence are  
6 limited to 1 or more of the following for purposes relating to  
7 disposing of a GMO:

8 (i) conducting experiments with the GMO;

9 (ii) propagating the GMO;

10 (iii) growing, raising or culturing the GMO;

11 (iv) transporting the GMO;

12 (v) any other dealings to be undertaken for the purposes of,  
13 or for purposes relating to, disposing of the GMO; and

14 **7 Variation of licence**  
15 **Section 71 (2B)**

16 *substitute*

17 (2B) If an application has been made for variation of a licence, the  
18 regulator must not vary the licence unless the regulator is satisfied  
19 that the risks posed by the dealings proposed to be authorised by the  
20 licence as varied are covered by—

21 (a) the risk assessment and the risk management plan in relation to  
22 the original application for the licence; or

23 (b) the risk assessment and the risk management plan in relation to  
24 an application for another licence, but only if that other licence  
25 was issued.

1 **8 Notifiable low risk dealings**  
2 **Section 74 (3), except notes**

3 *substitute*

4 (3) Also, before the Executive makes a regulation declaring a dealing  
5 with a GMO to be a notifiable low risk dealing, the regulator must  
6 consider—

7 (a) whether the dealing with the GMO would involve any risk to  
8 the health and safety of people, or to the environment, taking  
9 into account—

10 (i) the properties of the GMO as a pathogen or pest; and

11 (ii) the toxicity of any proteins produced by the GMO; and

12 (b) if there is such a risk—whether 1 or more of the requirements  
13 prescribed by regulation for section 75 (2) would be sufficient  
14 to manage the risk; and

15 (c) any other matter the regulator considers appropriate.

16 **9 Simplified outline—pt 9**  
17 **Section 117 (c)**

18 *omit*

19 GMOs and GM products

20 *substitute*

21 GMO dealings

- 1 **10 Annual report**  
2 **New section 136 (1A)**
- 3 *insert*
- 4 (1A) The report must include information about the following:
- 5 (a) GMO licences issued during the financial year;
- 6 (b) any breaches of conditions of a GMO licence that have come  
7 to the regulator’s attention during the financial year;
- 8 (c) emergency dealing determinations made by the Minister during  
9 the financial year;
- 10 (d) any breaches of conditions of an emergency dealing  
11 determination that have come to the regulator’s attention  
12 during the financial year;
- 13 (e) auditing and monitoring of dealings with GMOs under this Act  
14 by the regulator or an inspector during the financial year.
- 15 *Note* Auditing and monitoring may include spot checks.
- 16 **11 Quarterly reports**  
17 **Section 136A**
- 18 *omit*
- 19 **12 Division 9.6 heading**
- 20 *substitute*
- 21 **Division 9.6 Record of GMO dealings**
- 22 **13 Section 138 heading**
- 23 *substitute*
- 24 **138 Record of GMO dealings**



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1 **14 Section 138 (3)**

2 *omit*

3 **15 Section 138 (5)**

4 *omit*

5 (2), (3) or (4)

6 *substitute*

7 (2) or (4)

8 **16 Section 138 (6), except note**

9 *omit*

10 **17 New part 13**

11 *insert*

12 **Part 13 Transitional—Gene Technology**  
13 **Amendment Act 2017**

14 **200 Meaning of *commencement day*—pt 13**

15 In this part:

16 *commencement day* means the day the *Gene Technology*  
17 *Amendment Act 2017*, section 3 commences.

18 **201 Inadvertent dealings applications—s 46A (a) and s 49 (a)**

19 (1) This section applies to an inadvertent dealings application made  
20 before the commencement day if, immediately before the  
21 commencement day, the application had not been decided.

- 1 (2) Section 46A (a) and section 49 (a), as amended by the *Gene*  
2 *Technology Amendment Act 2017*, apply in relation to the  
3 application.

4 **202 Variation of licence applications—s 71 (2B)**

- 5 (1) This section applies to an application for variation of a licence made  
6 before the commencement day if, immediately before the  
7 commencement day, the application had not been decided.
- 8 (2) Section 71 (2B), as amended by the *Gene Technology Amendment*  
9 *Act 2017*, applies in relation to the application.

10 **203 Record of GMO dealings—s 138**

- 11 (1) This section applies if, immediately before the commencement day,  
12 information—
- 13 (a) was on the GM record; and
- 14 (b) was included on the GM record because the information  
15 included GM products.
- 16 (2) The regulator may remove the information from the GM record.

17 **204 Expiry—pt 13**

18 This part expires 2 years after the commencement day.

19 *Note* Transitional provisions are kept in the Act for a limited time. A  
20 transitional provision is repealed on its expiry but continues to have  
21 effect after its repeal (see [Legislation Act](#), s 88).

22 **18 Dictionary, definition of *GM record***

23 *omit*

24 and GM Product

1 **Part 3** **Gene Technology**  
2 **Regulation 2004**

3 **19** **Section 39 heading**

4 *substitute*

5 **39** **Record of GMO dealings**

6 **20** **Section 39 (2)**

7 *omit*

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### Endnotes

1 **Presentation speech**

Presentation speech made in the Legislative Assembly on 30 March 2017.

2 **Notification**

Notified under the [Legislation Act](#) on 2017.

3 **Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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