



New South Wales

# Gene Technology (GM Crop Moratorium) Amendment Act 2004 No 93

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New South Wales

# **Gene Technology (GM Crop Moratorium) Amendment Act 2004 No 93**

Act No 93, 2004

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An Act to amend the *Gene Technology (GM Crop Moratorium) Act 2003* in relation to the making of exemption orders; and for other purposes. [Assented to 15 December 2004]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Gene Technology (GM Crop Moratorium) Amendment Act 2004*.

**2 Commencement**

This Act commences on assent.

**3 Amendment of Gene Technology (GM Crop Moratorium) Act 2003 No 12**

The *Gene Technology (GM Crop Moratorium) Act 2003* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 8 Exemptions from moratorium order

Omit section 8 (2). Insert instead:

- (2) The Minister is not to make an exemption order unless the Advisory Council has been provided with the following material (and any other material that the Minister considers to be relevant) and has been asked to provide, in consideration of the material provided, its written recommendation as to whether an exemption order should be made—if the exemption order is to be made on the written application of a person, a copy of the application.

### [2] Section 8 (6A)–(6D)

Insert after section 8 (6):

- (6A) Without limiting subsection (6), an exemption order may be subject to conditions that relate to one or more of the following:
  - (a) the handling, storage, transport or other use (including destruction or disposal) of any GM food plant that is permitted to be cultivated by the exemption order,
  - (b) the ongoing use or monitoring of any land on which any such plant has been cultivated.
- (6B) The Advisory Council is to consult with the Australian Grain Harvesters Association before an exemption order is granted in relation to the harvesting of GM food plants and the cleaning of equipment that has been used to harvest such plants.
- (6C) A person who cultivates, or has cultivated, a GM food plant as permitted by an exemption order must not, without reasonable excuse, contravene, or cause or permit any other person to contravene, any condition to which the exemption order is subject.

Maximum penalty: in the case of a corporation, 1,250 penalty units or, in any other case, 500 penalty units or imprisonment for 2 years, or both.
- (6D) A person cannot be prosecuted for both an offence against subsection (6C) and an offence against section 7 in relation to the same act or omission.

**[3] Section 9 Notification of making an order**

Insert after section 9 (1):

- (1A) In the case of an exemption order, the Minister is to cause details of the precise location of the area of land to which the exemption order relates:
- (a) to be published with the notice of the order, and
  - (b) to be forwarded to each of the following:
    - (i) the local council for each local government area in which GM food plants are to be cultivated under the order,
    - (ii) the rural lands protection board for each district in which GM food plants are to be cultivated under the order,
    - (iii) any other persons or bodies prescribed by the regulations.

**[4] Section 9 (2)**

Insert “or (1A)” after “subsection (1)”.

**[5] Section 12 Director-General to keep register of orders**

Insert after section 12 (2):

- (2A) The register is also to contain, in the case of an exemption order, details of the area of land to which the exemption order applies.

**[6] Schedule 1 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Gene Technology (GM Crop Moratorium) Amendment Act 2004*

**[7] Schedule 1, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of  
Gene Technology (GM Crop Moratorium)  
Amendment Act 2004**

**3 Conditions imposed on exemption orders**

- (1) Section 8 (6C), as inserted by the *Gene Technology (GM Crop Moratorium) Amendment Act 2004*, does not apply to a condition imposed on an exemption order before the commencement of that Act.

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- (2) Nothing in subclause (1) affects any prosecution under section 7 in relation to a breach of a condition that was imposed on an exemption order before the commencement of that Act.

[Second reading speech made in—

Legislative Council on 27 October 2004

Legislative Assembly on 7 December 2004]

BY AUTHORITY