

## Gene Technology (GM Crop Moratorium) Amendment Bill 2004

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The objects of this Bill are:

- (a) to clarify the process by which the Minister for Primary Industries (the **Minister**) consults with the New South Wales Agricultural Advisory Council on Gene Technology (the **Advisory Council**) in relation to the making of an exemption order under the *Gene Technology (GM Crop Moratorium) Act 2003* (the **Principal Act**), and
- (b) to make it clear that the Minister may impose conditions on an exemption order that relate to 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 or that relate to the ongoing use or monitoring of any land on which any such plant has been cultivated, and
- (c) to create an offence if a person who cultivates, or has cultivated, a GM food plant as permitted by an exemption order, without reasonable excuse, contravenes, or causes or permits any other person to contravene, any condition to which the exemption order is subject.

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on assent.

**Clause 3** is a formal provision that gives effect to the amendments to the *Gene Technology (GM Crop Moratorium) Act 2003* set out in Schedule 1.

#### Schedule 1 Amendments

**Schedule 1 [1]** amends section 8 of the Principal Act to clarify the process by which the Minister consults with the Advisory Council in relation to the making of an exemption order. The proposed amendment provides that the Minister is not to make an exemption order unless the Advisory Council has been provided with a copy of certain material in relation to the proposed order and has been asked to provide, in consideration of that material, its written recommendation as to whether an exemption order should be made.

**Schedule 1 [2]** amends section 8 of the Principal Act to make it clear that the Minister may impose conditions on an exemption order that relate to 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 or that relate to the ongoing use or monitoring of any land on which any such plant has been cultivated. The proposed amendment also creates an offence (maximum penalty: in the case of a corporation, \$137,500 or, in any other case, \$55,000 or imprisonment for 2 years, or both) if a person who cultivates, or has cultivated, a GM food plant as permitted by an exemption order, without reasonable excuse, contravenes, or causes or permits any other person to contravene, any condition to which the exemption order is subject. A person cannot be prosecuted for that offence and an offence against section 7 (Offence of contravening moratorium order) in relation to the same act or omission.

**Schedule 1 [3] and [4]** contain provisions of a savings and transitional nature.