



New South Wales

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.

First print



New South Wales

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Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Gene Technology (GM Crop Moratorium) Act 2003 No 12	2
Schedule 1 Amendments	3



New South Wales

Gene Technology (GM Crop Moratorium) Amendment Bill 2004

No. , 2004

A Bill for

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

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Gene Technology (GM Crop Moratorium) Amendment Act 2004</i> .	3 4
2 Commencement	5
This Act commences on assent.	6
3 Amendment of Gene Technology (GM Crop Moratorium) Act 2003 No 12	7
The <i>Gene Technology (GM Crop Moratorium) Act 2003</i> is amended as set out in Schedule 1.	8 9

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 8 Exemptions from moratorium order	3
	Omit section 8 (2). Insert instead:	4
	(2) The Minister is not to make an exemption order unless the Advisory Council has been given a copy of either or both of the following and has been asked to provide, in consideration of that material, its written recommendation as to whether an exemption order should be made:	5
	(a) the application made to the Minister by the person seeking the exemption order,	6
	(b) written details of the proposal to make the exemption order.	7
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[2]	Section 8 (6A)–(6C)	14
	Insert after section 8 (6):	15
	(6A) Without limiting subsection (6), an exemption order may be subject to conditions that relate to one or more of the following:	16
	(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,	17
	(b) the ongoing use or monitoring of any land on which any such plant has been cultivated.	18
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	(6B) 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.	21
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	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.	28
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	(6C) A person cannot be prosecuted for both an offence against subsection (6B) and an offence against section 7 in relation to the same act or omission.	31
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[3]	Schedule 1 Savings, transitional and other provisions	34
	Insert at the end of clause 1 (1):	35
	<i>Gene Technology (GM Crop Moratorium) Amendment Act 2004</i>	36

[4] Schedule 1, Part 3	1
Insert after Part 2:	2
Part 3 Provisions consequent on enactment of Gene Technology (GM Crop Moratorium) Amendment Act 2004	3 4 5
3 Conditions imposed on exemption orders	6
(1) Section 8 (6B), as inserted by the <i>Gene Technology (GM Crop Moratorium) Amendment Act 2004</i> , does not apply to a condition imposed on an exemption order before the commencement of that Act.	7 8 9 10
(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.	11 12 13