

Legislative Council—No 48

As introduced and read a first time, 2 May 2012

South Australia

Genetically Modified Crops Management (Right to Damages) Amendment Bill 2012

A BILL FOR

An Act to amend the *Genetically Modified Crops Management Act 2004*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Genetically Modified Crops Management (Right to Damages) Amendment Act 2012*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Genetically Modified Crops Management Act 2004*

10 3—Insertion of section 27A

After section 27 insert:

27A—Right to damages

- (1) In this section—

genetically modified plant material has the same meaning as it has in section 27.

- (2) For the purposes of this section, a person has a proprietary interest in any genetically modified plant material if the person—

- (a) holds a patent or other form of registered interest; or
- (b) is the owner of intellectual property, with respect to the material.

- (3) If—

- (a) genetically modified plant material is present on any land; and
- (b) the existence of the material on the land is attributable to the spread, dissemination or persistence of the material; and

(c) the original introduction of such material to the land is not attributable to any act by or on behalf of any person who is, or who has been, an owner or occupier of the land; and

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(d) a person who is an owner or occupier of the land has suffered loss on account of the fact that the material is on the land,

then the person who has suffered the loss is entitled to damages under this section.

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(4) An action for damages under this section lies against any person who has a proprietary interest in the material.

(5) An action for damages under this section will be in the nature of an action in tort but it will not be necessary for a plaintiff to establish negligence.

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(6) This section does not limit or derogate from any other civil right or remedy that a person who may be entitled to damages under this section may have apart from this section but nothing in this section is intended to allow a person to be compensated more than once for a particular loss.

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(7) This section does not extend to any case where genetically modified plant material was present on land before the commencement of this section.