

South Australia

Gene Technology (Miscellaneous) Amendment Act 2017

An Act to amend the *Gene Technology Act 2001*.

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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 *Gene Technology (Miscellaneous) Amendment Act 2017*.

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 *Gene Technology Act 2001*

3—Amendment of section 10—Definitions

Section 10(1), definition of *Record*—delete "and GM Product"

4—Amendment of section 30—Independence of the Regulator

Section 30(a)—delete paragraph (a) and substitute:

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

5—Amendment of section 46A—Division does not apply to an application relating to inadvertent dealings

Section 46A(a)—delete paragraph (a) and substitute:

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

6—Amendment of section 49—Division does not apply to an application relating to inadvertent dealings

Section 49(a)—delete paragraph (a) and substitute:

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

7—Amendment of section 52—Public notification of risk assessment and risk management plan

- (1) Section 52(1)(b)—delete paragraph (b) and substitute:
- (b) in 1 or more newspapers that the Regulator considers appropriate, having regard to the geographic area in which the dealings proposed to be authorised by the licence may occur; and
- (2) Section 52(1)(c)—delete "(if any)"

8—Amendment of section 71—Variation of licence

Section 71(2B)—delete subsection (2B) and substitute:

- (2B) If an application has been made for variation of a licence, the Regulator must not vary the licence unless the Regulator is satisfied that the risks posed by the dealings proposed to be authorised by the licence as varied are covered by—
- (a) the risk assessment and the risk management plan in respect of the original application for the licence; or
 - (b) the risk assessment and the risk management plan in respect of an application for another licence, but only if that other licence was issued.

9—Amendment of section 74—Notifiable low risk dealings

Section 74(3)—delete subsection (3) and substitute:

- (3) Before the Governor makes regulations declaring a dealing with a GMO to be a notifiable low risk dealing, the Regulator must consider—
- (a) whether the dealing with the GMO would involve any risk to the health and safety of people, or to the environment, taking into account—
 - (i) the properties of the GMO as a pathogen or pest; and
 - (ii) the toxicity of any proteins produced by the GMO; and
 - (b) if there is such a risk—whether 1 or more of the requirements prescribed in the regulations for the purposes of subsection (2) would be sufficient to manage that risk; and
 - (c) any other matter the Regulator considers appropriate.

10—Amendment of section 117—Simplified outline

Section 117(c)—delete "GMOs and GM products" and substitute:

GMO dealings

11—Amendment of section 136—Annual report

Section 136—after subsection (1) insert:

- (1A) The report must include information about the following:
- (a) GMO licences issued during the financial year;
 - (b) any breaches of conditions of a GMO licence that have come to the Regulator's attention during the financial year;
 - (c) emergency dealing determinations made by the Minister during the financial year;
 - (d) any breaches of conditions of an emergency dealing determination that have come to the Regulator's attention during the financial year;
 - (e) auditing and monitoring of dealings with GMOs under this Act by the Regulator or an inspector during the financial year.

Note—

Auditing and monitoring may include spot checks.

12—Repeal of section 136A

Section 136A—delete the section

13—Amendment of heading to Part 9 Division 6

Heading to Part 9 Division 6—delete "**and GM Product**"

Schedule 1—Transitional provisions

1—Interpretation

In this Schedule—

old Act means the *Gene Technology Act 2001* as in force immediately before the commencement of this Schedule.

2—Transitional provision relating to enactment of sections 5 and 6

The amendments of the old Act made by sections 5 and 6 of this Act apply in relation to—

- (a) an inadvertent dealings application made on or after the commencement of this clause; and
- (b) an inadvertent dealings application made, but not decided, before that commencement.

3—Transitional provision relating to enactment of section 8

The amendment of the old Act made by section 8 of this Act applies in relation to—

- (a) an application for variation of a licence made on or after the commencement of this clause; and

- (b) an application for variation of a licence made, but not decided, before that commencement.

4—Transitional provision relating to repeal of section 136A by section 12

If, when this clause commences—

- (a) the Regulator has given a report to the Minister under section 136A(1) of the old Act; and
- (b) the Minister has not yet caused a copy of the report to be laid before each House of the Parliament in accordance with section 136A(3) of the old Act,

subsection (3) of section 136A of the old Act continues to have effect in relation to the report as if that subsection had not been repealed.