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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 86**

**The Genetically Modified Organisms (Deliberate Release etc.)  
(Miscellaneous Amendments) (Scotland) Regulations 2019**

**Amendment to the Genetically Modified Organisms (Deliberate Release) (Scotland)  
Regulations 2002**

13. After regulation 29, insert—

**“Restrictions on cultivation**

**29A.**—(1) This regulation applies to—

- (a) a consent given by the Scottish Ministers under section 111(1) of the Act (including a renewed consent given under regulation 26),
- (b) an approved product, or
- (c) an authorisation under the Food and Feed Regulation,

in respect of which the circumstances in paragraph (2) apply.

(2) The circumstances mentioned in paragraph (1) are—

- (a) the Scottish Ministers did not make a demand under regulation 26A(1), or
- (b) the applicant refused to agree with a demand made under regulation 26A(1) within a period of 30 days of being notified of it by the Commission.

(3) The Scottish Ministers may, in the circumstances prescribed in paragraph (7), do any of the following—

- (a) include a condition in the consent or renewed consent to limit its geographical scope as regards Scotland in respect of the cultivation of a genetically modified organism,
- (b) issue a suspension notice in respect of a consent or renewed consent,
- (c) issue a suspension notice in respect of the approved product, or
- (d) issue a suspension notice in respect of the authorisation under the Food and Feed Regulation.

(4) The effect of a suspension notice issued under paragraph (3)(b) is to suspend the operation of the consent in respect of the cultivation of a genetically modified organism for all or a specified geographical area of Scotland.

(5) The effect of a suspension notice issued under paragraph (3)(c) is to suspend, so far as it applies to the requirement in section 111(1)(a) of the Act for all or a specified geographical area of Scotland, the operation of the exemption in regulation 15(a) (exempt activities), in respect of the cultivation of a specified approved product.

(6) The effect of a suspension notice issued under paragraph (3)(d) is to suspend, so far as it applies to the requirement in section 111(1)(a) of the Act for all or a specified geographical area of Scotland, the operation of the exemption in regulation 15(g), in respect

of the cultivation of genetically modified food or feed authorised under the Food and Feed Regulation.

(7) The prescribed circumstances are that the Scottish Ministers are of the view that it is necessary to restrict the cultivation of a genetically modified organism, or a group of genetically modified organisms, on the basis of compelling grounds that—

- (a) may include one or more of the following—
  - (i) environmental policy objectives,
  - (ii) town and country planning,
  - (iii) land use,
  - (iv) socio-economic impacts,
  - (v) the avoidance of the presence of genetically modified organisms in other products, without prejudice to any measures adopted in respect of Article 26a of the Deliberate Release Directive,
  - (vi) agricultural policy objectives,
  - (vii) subject to paragraph (8), public policy,
- (b) are in conformity with EU law,
- (c) are proportional,
- (d) are non-discriminatory, and
- (e) do not conflict with the environmental risk assessment carried out pursuant to the Deliberate Release Directive or the Food and Feed Regulation.

(8) Public policy can only be relied upon in combination with at least one other ground included in sub-paragraph (a)(i) to (vi) of paragraph (7).

(9) Before taking any of the actions in paragraph (3), the Scottish Ministers must—

- (a) notify the Commission of—
  - (i) a draft of the condition or suspension notice, and
  - (ii) the applicable grounds under paragraph (7)(a),
- (b) where they consider appropriate, in the case of a notice served under regulation 29A(3)(d), notify Food Standards Scotland, and
- (c) make the reasons for the decision to take those actions available to the public.

(10) A condition or suspension notice under paragraph (3) must not take effect until the expiry of the period of 75 days starting on the date of the notification under paragraph (9).

(11) The Scottish Ministers may amend a condition or suspension notice to take account of comments from the Commission or another member State prior to its coming into force.

(12) The Scottish Ministers must—

- (a) communicate the condition or suspension notice to the Commission, the other member States and the consent or authorisation holder without delay, and
- (b) make details of the condition or suspension notice available to the public.

### **Removal of restrictions under regulation 29A**

**29B.**—(1) The Scottish Ministers may, at any time, do any of the following in respect of measures adopted under regulation 29A—

- (a) vary a condition in a consent to remove the limit on geographical scope in respect of the cultivation of a genetically modified organism,

- (b) withdraw a suspension notice in respect of a consent,
  - (c) withdraw a suspension notice in respect of an approved product,
  - (d) withdraw a suspension notice in respect of an authorisation under the Food and Feed Regulation.
- (2) The Scottish Ministers must notify the Commission and the other member States of any action taken under paragraph (1) without delay.”.