



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART VI

#### GENETICALLY MODIFIED ORGANISMS

##### *General controls*

#### **109 General duties relating to importation, acquisition, keeping, release or marketing of organisms.**

- (1) A person who—
  - (a) is proposing to import or acquire any genetically modified organisms, or
  - (b) is keeping any such organisms, or
  - (c) is proposing to release or market any such organisms,shall, subject to subsection (5) below, be subject to the duties specified in subsection (2), (3) or (4) below, as the case may be.
- (2) A person who proposes to import or acquire genetically modified organisms—
  - (a) shall take all reasonable steps to identify, by reference to the nature of the organisms and the manner in which he intends to keep them (including any precautions to be taken against their escaping or causing damage to the environment), what risks there are of damage to the environment being caused as a result of their importation or acquisition; and
  - (b) shall not import or acquire the organisms if it appears that, despite any precautions which can be taken, there is a risk of damage to the environment being caused as a result of their importation or acquisition.
- (3) A person who is keeping genetically modified organisms—
  - (a) shall take all reasonable steps to keep himself informed of any damage to the environment which may have been caused as a result of his keeping the organisms and to identify what risks there are of damage to the environment being caused as a result of his continuing to keep them;

*Changes to legislation: Environmental Protection Act 1990, Section 109 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) shall cease keeping the organisms if, despite any additional precautions which can be taken, it appears, at any time, that there is a risk of damage to the environment being caused as a result of his continuing to keep them; and
- (c) shall use the best available techniques not entailing excessive cost for keeping the organisms under his control and for preventing any damage to the environment being caused as a result of his continuing to keep the organisms;

and where a person is required by paragraph (b) above to cease keeping the organisms he shall dispose of them as safely and as quickly as practicable and paragraph (c) above shall continue to apply until he has done so.

(4) A person who proposes to release genetically modified organisms—

- (a) shall take all reasonable steps to keep himself informed, by reference to the nature of the organisms and the extent and manner of the release (including any precautions to be taken against their causing damage to the environment), what risks there are of damage to the environment being caused as a result of their being released;
- (b) shall not release the organisms if it appears that, despite the precautions which can be taken, there is a risk of damage to the environment being caused as a result of their being released; and
- (c) subject to paragraph (b) above, shall use the best available techniques not entailing excessive cost for preventing any damage to the environment being caused as a result of their being released;

and this subsection applies, with the necessary modifications, to a person proposing to market organisms as it applies to a person proposing to release organisms.

(5) This section does not apply—

- (a) to persons proposing to import or acquire, to release or to market any genetically modified organisms, in cases or circumstances where, under section 108 above, they are not required to carry out a risk assessment before doing that act;
- (b) to persons who are keeping any genetically modified organisms and who—
  - (i) were not required under section 108 above to carry out a risk assessment before importing or acquiring them;
  - (ii) have not been required under that section to carry out a risk assessment in respect of the keeping of those organisms since importing or acquiring them; or
- (c) to holders of consents, in the case of acts authorised by those consents.

**Modifications etc. (not altering text)**

**C1** Ss. 108-110 extended (Isles of Scilly) (with modifications) (4.8.2006) by [The Environmental Protection Act 1990 \(Isles of Scilly\) Order 2006 \(S.I. 2006/1381\)](#), [art. 3](#)

**Changes to legislation:**

Environmental Protection Act 1990, Section 109 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)