



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART VI

#### GENETICALLY MODIFIED ORGANISMS

##### *Enforcement powers and offences*

#### **118 Offences.**

- (1) It is an offence for a person—
- (a) to do anything in contravention of section 108(1) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
  - (b) to fail to comply with section 108(3) above when keeping something which is, and which he knows or has reason to believe is, a genetically modified organism;
  - (c) to do anything in contravention of section 111(1) or (2) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
  - (d) to fail to comply with any requirement of subsection (2), (3)(a), (b) or (c) or (4) of section 109 above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
  - (e) to fail, without reasonable excuse, to comply with section 108(5) or (6) [<sup>F1</sup>or section 111(6A)] above;
  - (f) to contravene any prohibition imposed on him by a prohibition notice;
  - (g) without reasonable excuse, to fail to comply with any requirement imposed under section 115 above;
  - (h) to prevent any other person from appearing before or from answering any question to which an inspector may, by virtue of section 115(3) above, require an answer;
  - (i) intentionally to obstruct an inspector in the exercise or performance of his powers or duties, other than his powers or duties under section 117 above;

*Status: Point in time view as at 12/03/2015.*

*Changes to legislation: Environmental Protection Act 1990, Section 118 is up to date with all changes known to be in force on or before 20 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)*

- (j) intentionally to obstruct an inspector in the exercise of his powers or duties under section 117 above;
  - (k) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under section 116 above;
  - (l) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
    - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or
    - (ii) for the purpose of obtaining the grant of a consent to himself or any other person or the variation of a consent;
  - (m) intentionally to make a false entry in any record required to be kept under section 108 or 111 above;
  - (n) with intent to deceive, to forge or use a document purporting to be issued under section 111 above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;
  - (o) falsely to pretend to be an inspector.
- (2) It shall be a defence for a person charged with an offence under paragraph (a), (b), (c), (d) or (f) of subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (3) A person guilty of an offence under paragraph (c) or (d) of subsection (1) above shall be liable—
- (a) on summary conviction, to [<sup>F2</sup>a fine not exceeding £20,000][<sup>F2</sup>a fine] or to imprisonment for a term not exceeding six months, or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.
- (4) A person guilty of an offence under paragraph (f) of subsection (1) above shall be liable—
- (a) on summary conviction, to [<sup>F3</sup>a fine not exceeding £20,000][<sup>F3</sup>a fine] or to imprisonment for a term not exceeding six months, or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- (5) A person guilty of an offence under paragraph (a) or (b) of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.
- (6) A person guilty of an offence under paragraph (e), (j), (k), (l), (m) or (n) of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

*Status: Point in time view as at 12/03/2015.*

*Changes to legislation: Environmental Protection Act 1990, Section 118 is up to date with all changes known to be in force on or before 20 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)*

- (7) A person guilty of an offence under paragraph (g), (h) or (i) of subsection (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both.
- (8) A person guilty of an offence under paragraph (o) of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) Where a person is convicted of an offence under paragraph (b) of subsection (1) above in respect of his keeping any genetically modified organism, then, if the contravention in respect of which he was convicted is continued after he was convicted he shall be guilty of a further offence and liable on summary conviction to a fine of [<sup>F4</sup>one-fifth of level 5 on the standard scale][<sup>F4</sup>one-fifth of the greater of £5,000 or level 4 on the standard scale] for each day on which the contravention is so continued.
- (10) Proceedings in respect of an offence under this section shall not be instituted in England and Wales except by the Secretary of State or with the consent of the Director of Public Prosecutions or in Northern Ireland except with the consent of the Director of Public Prosecutions for Northern Ireland.

#### Textual Amendments

- F1** Words in s. 118(1)(e) inserted (1.2.1993) by [S.I. 1992/3280](#), **reg. 13(2)** made by specified Ministers acting as respects England, as respects Wales and as respects Scotland.
- F2** Words in s. 118(3)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 22(6)(a)** (with reg. 5(1))
- F3** Words in s. 118(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 22(6)(b)** (with reg. 5(1))
- F4** Words in s. 118(9) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 3 para. 6(6)** (with reg. 5(1))

#### Commencement Information

- I1** S. 118 partly in force; s. 118 not in force at Royal Assent see. s. 164(2)(3); s. 118(1)(a)(c)(e)-(l)(m) (in so far as it relates to s. 111) (n)(o)(2)-(10) in force at 1.2.1993 [S.I. 1992/3253](#), **art. 3**

**Status:**

Point in time view as at 12/03/2015.

**Changes to legislation:**

Environmental Protection Act 1990, Section 118 is up to date with all changes known to be in force on or before 20 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.