



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART VI

#### GENETICALLY MODIFIED ORGANISMS

##### *General controls*

#### **108 Risk assessment and notification requirements.**

- (1) Subject to subsections (2) and (7) below, no person shall import or acquire, release or market any genetically modified organisms unless, before doing that act—
  - (a) he has carried out an assessment of any risks there are (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition or, as the case may be, to release or market them) of damage to the environment being caused as a result of doing that act; and
  - (b) in such cases and circumstances as may be prescribed, he has given the Secretary of State such notice of his intention of doing that act and such information as may be prescribed.
- (2) Subsection (1) above does not apply to a person proposing to do an act mentioned in that subsection who is required under section 111(1)(a) below to have a consent before doing that act.
- (3) Subject to subsections (4) and (7) below, a person who is keeping genetically modified organisms shall, in such cases or circumstances and at such times or intervals as may be prescribed—
  - (a) carry out an assessment of any risks there are of damage to the environment being caused as a result of his continuing to keep them;
  - (b) give the Secretary of State notice of the fact that he is keeping the organisms and such information as may be prescribed.

*Status: Point in time view as at 08/09/2000.*

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- (4) Subsection (3) above does not apply to a person who is keeping genetically modified organisms and is required under section 111(2) below to have a consent authorising him to continue to keep the organisms.
- (5) It shall be the duty of a person who carries out an assessment under subsection (1) (a) or (3)(a) above to keep, for the prescribed period, such a record of the assessment as may be prescribed.
- (6) A person required by subsection (1)(b) or (3)(b) above to give notice to the Secretary of State shall give the Secretary of State such further information as the Secretary of State may by notice in writing require.
- (7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State [<sup>F1</sup>, or by the Secretary of State and the Food Standards Agency acting jointly,] of exemptions to particular persons or classes of person, from the requirements of subsection (1) or (3) above in such cases or circumstances, and to such extent, as may be prescribed.
- (8) The Secretary of State may at any time—
- (a) give directions to a person falling within subsection (1) above requiring that person to apply for a consent before doing the act in question; or
  - (b) give directions to a person falling within subsection (3) above requiring that person, before such date as may be specified in the direction, to apply for a consent authorising him to continue keeping the organisms in question;
- and a person given directions under paragraph (a) above shall then, and a person given directions under paragraph (b) above shall from the specified date, be subject to section 111 below in place of the requirements of this section.
- (9) Regulations under this section may—
- (a) prescribe the manner in which assessments under subsection (1) or (3) above are to be carried out and the matters which must be investigated and assessed;
  - (b) prescribe minimum periods of notice between the giving of a notice under subsection (1)(b) above and the doing of the act in question;
  - (c) make provision allowing the Secretary of State to shorten or to extend any such period;
  - (d) prescribe maximum intervals at which assessments under subsection (3)(a) above must be carried out;
- and the regulations may make different provision for different cases and different circumstances.
- (10) In this section “prescribed” means prescribed by the Secretary of State in regulations under this section.

#### Textual Amendments

**F1** Words in s. 108(7) inserted (1.4.2000) by 1999 c. 28, s. 18, **Sch. 3 Pt. III para. 17** (with s. 38); S.I. 2000/1066, **art. 2**

#### 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**

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**C2** S. 108(1)(a) restricted (temp. from 15.11.2004 to 18.4.2007) by [The Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), reg. 17A (as inserted by [The Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Amendment Regulations 2004 \(S.S.I. 2004/439\)](#)), [reg. 5](#))

#### Commencement Information

**II** S. 108 partly in force; s. 108 not in force at Royal Assent see [s. 164\(2\)\(3\)](#); [s. 108\(1\)\(b\)\(3\)\(b\)\(5\)\(7\)\(9\)](#) in force 1.4.1991 by [S.I. 1991/1042](#), [art. 2](#); [s. 108\(10\)](#) in force at 1.1.1993 and s. 108(1) in force for certain purposes at 1.2.1993 by [S.I. 1992/3253](#), [arts. 2, 3](#)

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

- (1) A person who—
- is proposing to import or acquire any genetically modified organisms, or
  - is keeping any such organisms, or
  - 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—
- 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
  - 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—
- 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;
  - 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
  - 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—
- 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;

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- (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)**

**C3** 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**

**110 Prohibition notices.**

- (1) The Secretary of State may serve a notice under this section (a “prohibition notice”) on any person he has reason to believe—
  - (a) is proposing to import or acquire, release or market any genetically modified organisms; or
  - (b) is keeping any such organisms;
 if he is of the opinion that doing any such act in relation to those organisms or continuing to keep them, as the case may be, would involve a risk of causing damage to the environment.
- (2) A prohibition notice may prohibit a person from doing an act mentioned in subsection (1)(a) above in relation to any genetically modified organisms or from continuing to keep them; and the prohibition may apply in all cases or circumstances or in such cases or circumstances as may be specified in the notice.
- (3) A prohibition notice shall—
  - (a) state that the Secretary of State is, in relation to the person on whom it is served, of the opinion mentioned in subsection (1) above;
  - (b) specify what is, or is to be, prohibited by the notice; and
  - (c) if the prohibition is not to be effective on being served, specify the date on which the prohibition is to take effect;

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and a notice may be served on a person notwithstanding that he may have a consent authorising any act which is, or is to be, prohibited by the notice.

- (4) Where a person is prohibited by a prohibition notice from continuing to keep any genetically modified organisms, he shall dispose of them as quickly and safely as practicable or, if the notice so provides, as may be specified in the notice.
- (5) The Secretary of State may at any time withdraw a prohibition notice served on any person by notice given to that person.

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

- C4** 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**

**Commencement Information**

- I2** S. 110 partly in force; s. 110 not in force at Royal Assent see s. 164; s. 110 in force for certain purposes at 1.2.1993 see s. 164(2)(3) and S.I. 1992/3253, **art. 3**.

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