

Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002

Public Act 2002 No 13
Date of assent 27 May 2002

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002.
- (2) In this Act, the Hazardous Substances and New Organisms Act 1996 is called “the principal Act”.

**Part 1
Preliminary provisions**

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Expiry

Sections 6 and 9 expire on the close of 29 October 2003.

4 Purpose

The purpose of this Act is—

- (a) to require the Environmental Risk Management Authority (the **Authority**) to consider additional matters when considering certain applications in relation to genetically modified organisms and, if it approves the applications, to include particular controls for field tests and certain developments; and
- (b) to impose a restriction, from 29 October 2001 to the close of 29 October 2003, on the Authority considering or approving applications to import new organisms for release or to release new organisms from containment if the new organisms are genetically modified organisms; and
- (c) to provide exceptions to the restriction; and
- (d) to provide transitional provisions for approved applications relating to certain genetically modified organisms.

Part 2 Amendments to principal Act

5 Interpretation

Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**containment structure** means a containment facility that is a vehicle, room, building, or other structure, set aside and equipped for the development of genetically modified organisms

“**genetic element**, in relation to a new organism, means—

“(a) heritable material; and

“(b) any genes, nucleic acids, or other molecules from the organism that can, without human intervention, replicate in a biological system and transfer a character or trait to another organism or to subsequent generations of the organism

“**heritable material**, in relation to a new organism, means viable biological material, including gametes and spores, arising from the organism that can, without human intervention, regenerate the organism or reproduce a new generation of the same species of the organism”.

6 New section 25AA inserted

[Repealed]

Section 6 was repealed, as from 30 October 2003, by section 13(2) Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

7 New section 44A inserted

(1) The principal Act is amended by inserting, after section 44, the following section:

“**44A Additional matters to be considered for certain developments and field tests**

“(1) This section applies to an application—

“(a) to develop a new organism in containment that is a genetically modified organism, to the extent that the development does not take place in a containment structure:

“(b) to field test a new organism in containment if the new organism is a genetically modified organism.

“(2) In deciding whether to approve or decline an application, the Authority must take into account—

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- “(a) any adverse effects of developing or field testing the organism on—
 - “(i) human health and safety; and
 - “(ii) the environment, in particular ecosystems and their constituent parts; and
 - “(b) any alternative method of achieving the research objective that has fewer adverse effects on the matters referred to in paragraph (a) than the development or field test; and
 - “(c) any effects resulting from the transfer of any genetic elements to other organisms in or around the site of the development or field test.
- “(3) The matters referred to in subsection (2) are in addition to the matters referred to in sections 44 and 45.
- “(4) In this section, **field test** does not include large-scale fermentation of micro-organisms inside a containment structure.”
- (2) This section does not apply in relation to applications for approvals to develop new organisms in containment made before 1 April 2002.

8 New section 45A inserted

- (1) The principal Act is amended by inserting, after section 45, the following section:

“45A Controls required for certain developments and for all field tests

- “(1) This section applies to an approval under section 45—
 - “(a) to develop a new organism in containment that is a genetically modified organism, to the extent that the development does not take place in a containment structure; or
 - “(b) to field test a new organism in containment if the new organism is a genetically modified organism.
- “(2) An approval—
 - “(a) must include controls to ensure that, after the end of the development or field test, the organism and any heritable material from the organism is removed or destroyed; and

- “(b) may include controls to ensure that, after the end of the development or field test and after heritable material is removed or destroyed, some or all of the genetic elements remaining from the organism are removed or destroyed.
- “(3) In subsection (2), **destroyed** includes leaving genetic elements to break down or become inactive at the site of the development or field test.”
- (2) This section does not apply in relation to applications for approvals to develop new organisms in containment made before 1 April 2002.

9 New Part 5A inserted

[Repealed]

Section 9 was repealed, as from 30 October 2003, by section 43(2) Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

10 Transitional provision

- (1) This section applies to an approval issued by the Authority if—
- (a) the approval was issued in the period beginning on 29 October 2001 and ending on the close of the day before the date on which this Act receives the Royal assent; and
 - (b) had this Act been in force when the approval was issued, sections 44A and 45A of the principal Act would have applied to the approval.
- (2) The Authority must review the approval within 5 working days after the commencement of this Act.
- (3) The Authority must cancel the approval if, after reviewing the approval, it decides that, had section 44A of the principal Act been in force when it considered whether to approve or decline the application, it would have declined the application.
- (4) If the Authority cancels an approval under subsection (3), the owner of the organism must, within the time specified by the Authority,—
- (a) stop the field test of the organism; and
 - (b) dispose of the organism in accordance with the controls as to disposal in the approval.

- (5) The Authority must include additional controls, or substitute controls, or both, if, after reviewing the approval, it decides that,—
- (a) had section 45A of the principal Act been in force when it approved the application, it would have included in the approval controls relating to the matters referred to in that section:
 - (b) had section 44A of the principal Act been in force when it approved the application, it would have included in the approval different controls.
- (6) Controls added or substituted under subsection (5) apply immediately.
- (7) No compensation is payable by the Crown to any person for any loss or damage arising from the enactment or operation of this section.

11 Schedule 3 amended

- (1) Part 1 of Schedule 3 of the principal Act is amended by omitting from clause 6 the words “or field testing”.
- (2) Part 1 of Schedule 3 of the principal Act is amended by inserting, after clause 6, the following clauses:

“6A

Controls imposed on an approval to field test a genetically modified organism—

“(a) must specify—

“(i) inspection and monitoring of containment facilities during the field test; and

“(ii) inspection and monitoring of the site, after the field test, to ensure that all heritable material is removed or destroyed; and

“(b) may specify inspection of the site before field testing commences.

“6B

Clause 6A applies, with all necessary modifications, to controls imposed on an approval to develop a new organism that is a genetically modified organism, to the

extent that the development does not take place in a containment structure.”

Legislative history

21 May 2002	Divided from Genetically Modified Organisms and Restricted Biotechnical Procedures Bill (Bill 175-2) as Bill 175-3A
22 May 2002	Third reading
27 May 2002	Royal assent
