GENE TECHNOLOGY AMENDMENT BILL 2001

EXPLANATORY MEMORANDUM

THIS BILL ACCOMPANIES THE GENE TECHNOLOGY BILL 2001.

CLAUSE 1 – SHORT TITLE

STATES THE SHORT TITLE OF THE BILL.

CLAUSE 2 – COMMENCEMENT

SUB-CLAUSE (1) PROVIDES THAT IF THE ACT RECEIVES THE ROYAL ASSENT BEFORE THE GENE TECHNOLOGY ACT 2001 RECEIVES THE ROYAL ASSENT, IT COMES INTO OPERATION IMMEDIATELY AFTER THAT ACT RECEIVES THE ROYAL ASSENT.

SUB-CLAUSE (2) PROVIDES THAT IF THE ACT RECEIVES THE ROYAL ASSENT AFTER THE GENE TECHNOLOGY ACT RECEIVES THE ROYAL ASSENT IT IS DEEMED TO HAVE COME INTO OPERATION IMMEDIATELY AFTER THAT ACT RECEIVES THE ROYAL ASSENT.

THIS CLAUSE ENSURES THAT, WHICHEVER ROYAL ASSENT COMES FIRST, WHEN PASSED INTO LAW, THIS ACT WILL COME INTO OPERATION (OR BE DEEMED TO HAVE COME INTO OPERATION) IMMEDIATELY AFTER THE GENE TECHNOLOGY BILL 2001 IS PASSED INTO LAW. THIS IS NECESSARY BECAUSE THIS IS A BILL FOR AN ACT TO AMEND THE GENE TECHNOLOGY ACT AND AS SUCH IT COULDN'T OPERATE IF THAT ACT WAS NOT YET IN EXISTENCE.

CLAUSE 3 – SECTION 72A AMENDED

THIS CLAUSE WILL AMEND SECTION 72A OF THE *GENE TECHNOLOGY ACT 2001*. CLAUSE 72A OF THE BILL FOR THAT ACT PROVIDES THAT A PERSON WHO IS THE HOLDER OF A GMO LICENCE AT ANY TIME DURING A FINANCIAL YEAR IS LIABLE TO PAY A CHARGE FOR THE LICENCE IN RESPECT OF THAT YEAR (72A(1)). THE AMOUNT OF THE CHARGE IS SUCH AMOUNT AS IS PRESCRIBED BY THE REGULATIONS (72A(2)).

THIS CLAUSE WILL INSERT SUBSECTIONS (3) AND (4). SUBSECTION (3) WILL SPECIFICALLY PROVIDE THAT THE

CHARGE PRESCRIBED MAY BE IN THE NATURE OF A TAX AND NOT BE RELATED TO THE COST OF PROVIDING ANY SERVICE. SUBSECTION (4) WILL PROVIDE THAT TO THE EXTENT THAT A CHARGE REFERRED TO IN SUBSECTION (3) IS A TAX, THIS SECTION IMPOSES THE TAX.

THESE SUB-CLAUSES NEEDED TO BE INSERTED BY A SEPARATE BILL, RATHER THAN INCLUDED IN THE GENE TECHNOLOGY BILL 2001 SO AS NOT TO OFFEND SECTION 46(7) OF THE *CONSTITUTION ACTS AMENDMENT ACT 1899*. THAT SECTION PROVIDES THAT A BILL IMPOSING TAXATION SHALL DEAL ONLY WITH THE IMPOSITION OF TAXATION.