

Western Australia

LEGISLATIVE COUNCIL

(Introduced by the Hon J. Scott, MLC)

**Genetically Modified Material (Temporary
Prohibition) Bill 1999**

A Bill for

**An Act to regulate the possession, disposition, cultivation or release
of genetically modified material.**

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Genetically Modified Material
(Temporary Prohibition) Act 1999*.

2. Commencement and duration

- (1) This Act comes into operation 60 days after the date of Royal Assent.
- 5 (2) Subject to subsection (3), this Act ceases to have effect 2 years from the date on which it comes into operation.
- (3) The Governor, by order published in the *Gazette*, may extend the operation of this Act beyond the time provided for in subsection (2) for a further period not exceeding 2 years.

3. Interpretation

10 In this Act —

“disposition” means —

- (a) any physical transfer or parting with the possession of; or
- 15 (b) any conveyance of part or all of a right, title, or interest in,
- any genetically modified material, whether or not for valuable consideration;

20 **“genetically modified material”** means any plant material or other organism whose genetic characteristics have been altered by the deliberate introduction of other genetic material that is not obtained or derived from the same species of plant material or other organism into which it is introduced, and includes any pollen or other matter

25 produced, naturally or not, by the plant material or other organism subsequent to that introduction;

“Minister” the Minister to whom the administration of this Act is committed by the Governor;

“person” includes an agent or instrumentality of the Crown;

“secure conditions” means —

- (a) a building, or a dedicated part of it, in which research or experiments can be conducted in a fully-isolated environment; and
- 5 (b) the regime of an acceptable and recognized standard that applies to, and is intended to ensure, the integrity and safety of a fully-isolated environment within such a building.

10 **4. Limitations on use or dealing with genetically modified material**

(1) Except as this Act otherwise provides, the possession, disposition, cultivation, or release of any genetically-modified material by any person is prohibited.
Penalty: \$10 000; or \$50 000 in the case of a corporation.

- 15 (2) At the time at which this Act comes into operation, subsection (1) does not apply to —
- (a) a person who is otherwise in lawful possession of genetically modified material;
 - 20 (b) a crop containing genetically modified material that is under cultivation but yet to be harvested,
 - (c) research or experiments involving the use, but not the production or release, of genetically modified material that have not been completed.

5. Approval to carry out research or experiments

25 (1) The Minister may approve the conduct of research or an experiment in secure conditions that may produce, or will involve the possession, disposition, or cultivation, but not the release, of genetically modified material.

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- (2) A person seeking the Minister's approval must provide information that —
- (a) identifies the scope, purpose, and intent of the research or experiment;
 - 5 (b) nominates the person having the control or supervision of the research or experiment;
 - (c) shows that the research or experiment will be conducted at all times in secure conditions,
- in a form, and to an extent, as the Minister may require.
- 10 (3) The Minister, in granting approval under subsection (1), may —
- (a) attach conditions that apply before the research or experiment is commenced, throughout its duration, or subsequent to its completion;
 - 15 (b) require the provision of reports to the Minister as to the progress of the research or experiment;
 - (c) impose a time limit within which the research or experiment is to be completed with or without provision for an extension of that period.
- 20 (4) The decision of the Minister to grant or refuse approval is final and without appeal.

6. Suspension or cancellation for non-compliance

- (1) Where the Minister is satisfied that there has been, or there is likely to be, a breach of any condition or requirement imposed under section 5 (3), or for any reason there has been a failure to
- 25 maintain the secure conditions under which the research or experiment is, or was, to be conducted, the Minister may immediately suspend or cancel an approval given under section 5 (1) by written notice to the person nominated under section 5 (2) (b), and that person must comply with the requirements of
- 30 that notice.

(2) A notice given under subsection (1) may include a requirement for the surrender to the Minister, or the destruction of, genetically modified material used or produced under the authority of an approval given under section 5 (1).

5 (3) A person who —
(a) fails to comply; or
(b) hinders or obstructs another person in the course of complying,

10 with the requirements of a notice issued under this section commits an offence.

Penalty: \$50 000 and \$5 000 for each day for a continuing offence.

7. Approved research or experiments continued

15 (1) When this Act expires in accordance with section 2(2) or (3), any approval granted under section 5 (1), and then in force, continues to have effect.

(2) The provisions of this Act continue to apply to an approval to which subsection (1) applies.

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