

EXPLANATORY STATEMENT

Gene Technology Act 2000

Gene Technology (Inclusion on the GMO Register) Determination (No. 1) 2020

Authority

Subsection 78(1) of the *Gene Technology Act 2000* (the Act) provides authority for the Gene Technology Regulator (the Regulator) to determine that a dealing with a genetically modified organism (GMO) is included on the GMO Register.

The Act is mirrored or applied by laws of New South Wales, Victoria, Queensland, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory (but not by laws of Western Australia). Subsection 78(1) of those mirror or applied laws similarly provide authority for the Regulator to determine that a dealing with a GMO is included on the GMO Register for the purposes of those laws.

Purpose

The purpose of the *Gene Technology (Inclusion on the GMO Register) Determination (No. 1) 2020* (the Determination) is to specify that the dealings of import, transport, and dispose of, in relation to three altered colour carnations which are GMOs are included on the GMO Register. The dealings of import, transport, and dispose of include the possession, supply or use of the GMO for the purposes of, or in the course of, those dealings.

The effect of inclusion on the GMO Register is that any person will be authorised to conduct those dealings with the GMOs.

Background

In accordance with paragraph 78(1)(a) of the Act, and paragraph 78(1)(a) of the applied and mirror laws, the Regulator is satisfied that the specified dealings are authorised by a GMO licence. The specified dealings with these GMOs have been authorised under a GMO licence since October 2015.

In accordance with section 79 of the Act and section 79 of the applied and mirror laws, having regard to the matters referred to in subsections 79(2) and (3) of the Act and subsections 79(2) and (3) of the applied and mirror laws, the Regulator is satisfied that any risks posed by the dealings are minimal, and that it is not necessary for persons undertaking the dealings to hold, or be covered by, a GMO licence in order to protect the health and safety of people or to protect the environment.

The GMOs the subject of the Determination are carnations with altered colour marketed as Moonaqua™, Moonberry™ and Moonvelvet™. These are imported as cut flowers for use within the floristry industry.

The Act and the applied and mirror laws, within their respective areas of operation, prohibit dealings with GMOs unless the dealings are:

- (a) licensed by the Gene Technology Regulator;
- (b) exempt dealings;
- (c) notifiable low risk dealings;

- (d) included on the GMO Register; or
- (e) specified in an emergency dealing determination.

Consultation Undertaken Before the Instrument was Made

Consultation was undertaken for a 6-week period, commencing in February, which sought information on any adverse effects posed by the dealings. Consultation was conducted via electronic notification on the Office of the Gene Technology Regulator's (OGTR) website, emailing the notification directly to recipients registered with the OGTR, publishing a notification in the Australian Government Gazette and in print media, and making a tweet on the Department of Health twitter site.

Included in those directly consulted were Australian government departments and agencies, state and territory government agencies, local government authorities across Australia and contacts in the cut flower industry.

Expert advice was sought from the Gene Technology Technical Advisory Committee.

All submissions and advice received were considered in the context of currently available scientific evidence.

The Instrument is not subject to disallowance

As the Act facilitates the establishment or operation of an intergovernmental gene technology regulation scheme and provides for the making of a GMO Register Determination as part of the scheme, subsection 44(1) of the *Legislation Act 2003* (Legislation Act) operates to exempt a GMO Register Determination from disallowance under section 42 of the Legislation Act.

Commencement

This Determination commences the day after registration on the Federal Register of Legislation.

This Determination is a legislative instrument for the purposes of the Legislation Act.

Details of the Gene Technology (Inclusion on the GMO Register) Determination (No. 1) 2020

1 Name

Section 1 states that the name of the Determination is the *Gene Technology (Inclusion on the GMO Register) Determination (No. 1) 2020*.

2 Commencement

Section 2 states that the Determination commences on the day after the instrument is registered.

3 Authority

Section 3 provides that the authority for the Determination is:

- (a) subsection 78(1) of the Act; and
- (b) that provision as applied by:
 - (i) the *Gene Technology (New South Wales) Act 2003* (NSW); and
 - (ii) the *Gene Technology (Queensland) Act 2016* (Qld); and
 - (iii) the *Gene Technology Act 2012* (Tas.); and
 - (iv) the *Gene Technology (Northern Territory) Act 2004* (NT); and
- (c) that provision as mirrored by:
 - (i) the *Gene Technology Act 2001* (Vic.); and
 - (ii) the *Gene Technology Act 2001* (SA); and
 - (iii) the *Gene Technology Act 2003* (ACT).

By making the Determination under all of these provisions, the intention is to ensure that the dealing is included in the GMO Register under all applied and mirror laws.

4 Definitions

Section 4 notes that a number of expressions used in the Determination are defined in section 10 of the relevant Act referred to in section 3 of the Determination, and provides definitions for ‘registered’ and ‘OECD unique identifier’.

5 Inclusion in the GMO Register

Section 5 specifies that the dealings of import, transport and dispose of, in relation to the GMOs identified by each of their OECD unique identifiers, are included on the GMO Register. The dealings of import, transport, and dispose of include the possession, supply or use of the GMO for the purposes of, or in the course of, those dealings.