



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART VI

#### GENETICALLY MODIFIED ORGANISMS

##### *Preliminary*

#### **106 Purpose of Part VI and meaning of “genetically modified organisms” and related expressions. E+W**

[<sup>F1</sup>(1) This Part has effect for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the escape or release from human control of genetically modified organisms.]

(2) In this Part the term “organism” means any acellular, unicellular or multicellular entity (in any form), other than humans [<sup>F2</sup>, human embryos or human admixed embryos] ; and, unless the context otherwise requires, the term also includes any article or substance consisting of or including biological matter.

(3) For the purpose of subsection (2) above “biological matter” means anything (other than an entity mentioned in that subsection) which consists of or includes—

- (a) tissue or cells (including gametes or propagules) or subcellular entities, of any kind, capable of replication or of transferring genetic material, or
- (b) genes or other genetic material, in any form, which are so capable,

and it is immaterial, in determining if something is or is not an organism or biological matter, whether it is the product of natural or artificial processes of reproduction and, in the case of biological matter, whether it has ever been part of a whole organism.

[<sup>F3</sup>(3A) For the purposes of subsection (2) above—

- (a) “human embryo” means an embryo within the meaning given in the provisions of the Human Fertilisation and Embryology Act 1990 (apart from section 4A) by virtue of section 1(1) and (6) of that Act, and
- (b) “human admixed embryo” has the same meaning as it has in that Act by virtue of section 4A(6) and (11) of that Act.]

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- (4) For the purposes of this Part an organism is “genetically modified” if any of the genes or other genetic material in the organism—
- [<sup>F4</sup>(a) have been artificially modified, or]
  - (b) are inherited or otherwise derived, through any number of replications, from genes or other genetic material (from any source) which were so modified.
- [<sup>F5</sup>(4A) Genes or other genetic material in an organism are “artificially modified” for the purposes of subsection (4) above if they are altered otherwise than by a process which occurs naturally in mating or natural recombination.
- This subsection is subject to subsections (4B) and (4C) below.
- (4B) For the purposes of subsection (4) above—
- (a) genes or other genetic material shall be taken to be artificially modified if they are altered using such techniques as may be prescribed for the purposes of this paragraph;
  - (b) genes or other genetic material shall not be regarded as artificially modified by reason only of being altered by the use of such techniques as may be prescribed for the purposes of this paragraph.
- (4C) An organism shall be taken not to be a genetically modified organism for the purposes of this Part if it is an organism of a prescribed description.
- (4D) In subsections (4B) and (4C) above “prescribed” means prescribed by regulations made by the Secretary of State [<sup>F6</sup>or, in relation to Wales, the National Assembly for Wales].]
- (5) <sup>F7</sup> .....
- (6) <sup>F7</sup> .....
- (7) In this Part, where the context permits, a reference to “reproduction”, in relation to an organism, includes a reference to its replication or its transferring genetic material.

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F1** S. 106(1) substituted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **3(2)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 4(1)(2)**
- F2** Words in s. 106(2) substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), **ss. 60(2)**, 68; S.I. 2009/2232, **art. 2**
- F3** S. 106(3A) inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), **ss. 60(3)**, 68; S.I. 2009/2232, **art. 2**
- F4** S. 106(4)(a) substituted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **3(3)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 4(1)(3)**
- F5** S. 106(4A)-(4D) inserted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **3(4)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 4(1)(4)** (as modified by reg. 4(5))

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- F6** Words in s. 106(4D) inserted (W.) (31.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), [reg. 4\(5\)](#)
- F7** S. 106(5)(6) omitted (E.) (17.10.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), [regs. 1\(2\)\(3\), 3\(5\)](#) and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), [reg. 4\(1\)\(7\)](#)

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

- C3** S. 106(4) modified (E.) (temp. from 17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), [regs. 1\(2\)\(3\), 5\(1\)\(2\)](#)
- C4** S. 106(4) modified (W.) (temp. from 31.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), [reg. 6\(1\)\(2\)](#)

#### Commencement Information

- I1** S. 106 wholly in force at 1.2.1993; s. 106 not in force at Royal Assent see [s. 164\(2\)\(3\)](#); [s. 106\(4\)\(5\)](#) in force 1.4.1991 see [S.I. 1991/1042](#), art. 2; [s. 106\(1\)-\(3\)\(6\)\(7\)](#) in force at 1.2.1993 see [S.I. 1992/3253](#), art. 3.

## 106 Purpose of Part VI and meaning of “genetically modified organisms” and related expressions. **S**

<sup>F13</sup>(1) This Part has effect for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the escape or release from human control of genetically modified organisms.]

(2) In this Part the term “organism” means any acellular, unicellular or multicellular entity (in any form), other than humans <sup>F2</sup>, human embryos or human admixed embryos] ; and, unless the context otherwise requires, the term also includes any article or substance consisting of or including biological matter.

(3) For the purpose of subsection (2) above “biological matter” means anything (other than an entity mentioned in that subsection) which consists of or includes—

- (a) tissue or cells (including gametes or propagules) or subcellular entities, of any kind, capable of replication or of transferring genetic material, or
- (b) genes or other genetic material, in any form, which are so capable,

and it is immaterial, in determining if something is or is not an organism or biological matter, whether it is the product of natural or artificial processes of reproduction and, in the case of biological matter, whether it has ever been part of a whole organism.

<sup>F3</sup>(3A) For the purposes of subsection (2) above—

- (a) “human embryo” means an embryo within the meaning given in the provisions of the Human Fertilisation and Embryology Act 1990 (apart from section 4A) by virtue of section 1(1) and (6) of that Act, and
- (b) “human admixed embryo” has the same meaning as it has in that Act by virtue of section 4A(6) and (11) of that Act.]

(4) For the purposes of this Part <sup>F14</sup>, subject to subsection (4C) below,] an organism is “genetically modified” if any of the genes or other genetic material in the organism—

- <sup>F15</sup>(a) have been artificially modified, or]
- (b) are inherited or otherwise derived, through any number of replications, from genes or other genetic material (from any source) which were so modified.

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[<sup>F16</sup>(4A) subject to subsections (4B) and (4C) below, genes or other genetic material in an organism are “artificially modified” for the purposes of subsection (4) above if they are altered otherwise than by a process which occurs naturally in mating or natural recombination.

(4B) For the purposes of subsection (4) above—

- (a) genes or other genetic material shall be taken to be artificially modified if they are altered using such techniques as may be prescribed for the purposes of this paragraph;
- (b) genes or other genetic material shall not be regarded as artificially modified by reason only of being altered by the use of such techniques as may be prescribed for the purposes of this paragraph.

(4C) An organism shall be taken not to be a genetically modified organism for the purposes of this Part if it is an organism of a prescribed description.

(4D) In subsections (4B) and (4C) above, “prescribed” means prescribed by regulations made by the Scottish Ministers.]

(5) <sup>F17</sup> .....

(6) <sup>F17</sup> .....

(7) In this Part, where the context permits, a reference to “reproduction”, in relation to an organism, includes a reference to its replication or its transferring genetic material.

#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F2** Words in s. 106(2) substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), [ss. 60\(2\)](#), 68; S.I. 2009/2232, [art. 2](#)
- F3** S. 106(3A) inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), [ss. 60\(3\)](#), 68; S.I. 2009/2232, [art. 2](#)
- F13** S. 106(1) substituted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 3\(2\)](#)
- F14** Words in s. 106(4) inserted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 3\(3\)\(a\)](#)
- F15** S. 106(4)(a) substituted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 3\(3\)\(b\)](#)
- F16** S. 106(4A)-(4D) inserted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 3\(4\)](#)
- F17** S. 106(5)(6) omitted (S.) (5.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 3\(5\)](#)

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

- C5** S. 106(4) modified (S.) (temp. from 5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 5\(1\)\(2\)](#)

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#### Commencement Information

- II** S. 106 wholly in force at 1.2.1993; s. 106 not in force at Royal Assent see s. 164(2)(3); s. 106(4)(5) in force 1.4.1991 see S.I. 1991/1042, art. 2; s. 106(1)-(3)(6)(7) in force at 1.2.1993 see S.I. 1992/3253, art. 3.

### 107 Meaning of “damage to the environment”, “control” and related expressions in Part VI. **E+W**

- (1) The following provisions have effect for the interpretation of this Part.
- [<sup>F8</sup>(2) The “environment” includes land, air and water and living organisms supported by any of those media.]
- (3) “Damage to the environment” is caused by the presence in the environment of genetically modified organisms which have (or of a single such organism which has) escaped or been released from a person’s control and are (or is) capable of causing harm [<sup>F9</sup>to the living organisms supported by the environment].
- (4) An organism shall be regarded as present in the environment notwithstanding that it is present in or on any human or other organism, or any other thing, which is itself present in the environment.
- (5) Genetically modified organisms present in the environment are capable of causing harm if—
  - (a) they are individually capable, or are present in numbers such that together they are capable, of causing harm; or
  - (b) they are able to produce descendants which will be capable, or which will be present in numbers such that together they will be capable, of causing harm; and a single organism is capable of causing harm either if it is itself capable of causing harm or if it is able to produce descendants which will be so capable.
- [<sup>F10</sup>(6) “Harm” means adverse effects as regards the health of humans or the environment.]
- (7) “Harmful” and “harmless” mean respectively, in relation to genetically modified organisms, their being capable or their being incapable of causing harm.
- (8) The Secretary of State may by regulations provide, in relation to genetically modified organisms of any description specified in the regulations, that—
  - (a) the capacity of those organisms for causing harm of any description so specified, or
  - (b) harm of any description so specified,shall be disregarded for such purposes of this Part as may be so specified.
- [<sup>F11</sup>(9) Organisms of any description are under the “control” of a person where he keeps them contained by measures designed to limit their contact with humans and the environment and to prevent or minimise the risk of harm.]
- (10) An organism under a person’s control is “released” if he deliberately causes or permits it to cease to be under his control or the control of any other person and to enter the environment; and such an organism “escapes” if, otherwise than by being released, it ceases to be under his control or that of any other person and enters the environment.

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[<sup>F12</sup>(11) Genetically modified organisms of any description are “marketed” by a person when products consisting of or including such organisms are placed on the market by being made available to other persons, whether or not for consideration.]

#### Extent Information

**E3** This version of this provision extends to England and Wales; a separate version has been created for Scotland only

#### Textual Amendments

- F8** S. 107(2) substituted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **4(2)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 5(1)(2)(a)**
- F9** Words in s. 107(3) omitted (E.) (17.10.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **4(3)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 5(1)(2)(b)**
- F10** S. 107(6) substituted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **4(4)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 5(1)(2)(c)**
- F11** S. 107(9) substituted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **4(5)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 5(1)(2)(d)**
- F12** S. 107(11) substituted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **4(6)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 5(1)(2)(e)**

#### Commencement Information

**I2** S. 107 wholly in force at 1.2.1993; s. 107 not in force at Royal Assent see s. 164(2)(3); s. 107(8) in force 1.4.1991 see [S.I. 1991/1042](#), art. 2; s. 107(1)-(7)(9)-(11) in force at 1.2.1993 see [S.I. 1992/3253](#), art. 3.

## 107 Meaning of “damage to the environment”, “control” and related expressions in Part VI. **S**

(1) The following provisions have effect for the interpretation of this Part.

[<sup>F18</sup>(2) The “environment” includes land, air and water and the living organisms supported by any of those media.]

(3) “Damage to the environment” is caused by the presence in the environment of genetically modified organisms which have (or of a single such organism which has) escaped or been released from a person’s control and are (or is) capable of causing harm <sup>F19</sup> . . . .

(4) An organism shall be regarded as present in the environment notwithstanding that it is present in or on any human or other organism, or any other thing, which is itself present in the environment.

(5) Genetically modified organisms present in the environment are capable of causing harm if—

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- (a) they are individually capable, or are present in numbers such that together they are capable, of causing harm; or
  - (b) they are able to produce descendants which will be capable, or which will be present in numbers such that together they will be capable, of causing harm;
- and a single organism is capable of causing harm either if it is itself capable of causing harm or if it is able to produce descendants which will be so capable.

[<sup>F20</sup>(6) “Harm” means adverse effects as regards the health of humans or the environment.]

(7) “Harmful” and “harmless” mean respectively, in relation to genetically modified organisms, their being capable or their being incapable of causing harm.

(8) The Secretary of State may by regulations provide, in relation to genetically modified organisms of any description specified in the regulations, that—

- (a) the capacity of those organisms for causing harm of any description so specified, or
- (b) harm of any description so specified,

shall be disregarded for such purposes of this Part as may be so specified.

[<sup>F21</sup>(9) Organisms of any description are under the “control” of a person where that person keeps them contained by specific measure designed to limit their contact with humans and the environment and to prevent or minimise the risk of harm.]

(10) An organism under a person’s control is “released” if he deliberately causes or permits it to cease to be under his control or the control of any other person and to enter the environment; and such an organism “escapes” if, otherwise than by being released, it ceases to be under his control or that of any other person and enters the environment.

[<sup>F22</sup>(11) Genetically modified organisms of any description are “marketed” when products consisting of or including such organisms are placed on the market by being made available to other persons, whether or not for consideration.]

#### Extent Information

**E5** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F18** S. 107(2) substituted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 4(2)**

**F19** Words in s. 107(3) omitted (S.) (5.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 4(3)**

**F20** S. 107(6) substituted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 4(4)**

**F21** S. 107(9) substituted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 4(5)**

**F22** S. 107(11) substituted (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 4(6)**

#### Commencement Information

**I2** S. 107 wholly in force at 1.2.1993; s. 107 not in force at Royal Assent see s. 164(2)(3); s. 107(8) in force 1.4.1991 see [S.I. 1991/1042](#), art. 2; s. 107(1)–(7)(9)–(11) in force at 1.2.1993 see [S.I. 1992/3253](#), art. 3.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(10A) inserted by [2024 asp 13 s. 20\(2\)\(a\)](#)
- s. 33A(10)(a) words in s. 33A(10) renumbered as s. 33A(10)(a) by [2024 asp 13 s. 11\(2\)\(a\)](#)
- s. 33A(10)(a) words substituted by [2024 asp 13 s. 11\(2\)\(b\)](#)
- s. 33A(10)(b) inserted by [2024 asp 13 s. 11\(2\)\(c\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34(6A) inserted by [2024 asp 13 s. 20\(2\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 34ZC inserted by [2024 asp 13 s. 14\(3\)](#)
- s. 44ZA(2)(aa) inserted by [2024 asp 13 s. 16\(3\)\(c\)](#)
- s. 44ZZA inserted by [2024 asp 13 s. 16\(2\)](#)
- s. 46ZA-46ZE inserted by [2024 asp 13 s. 15\(2\)](#)
- s. 47B inserted by [2024 asp 13 s. 17\(2\)](#)
- s. 59(1A) inserted by [2024 asp 13 s. 12\(1\)\(a\)](#)
- s. 59(10)-(13) inserted by [2024 asp 13 s. 12\(1\)\(e\)](#)
- s. 71A inserted by [2024 asp 13 s. 13\(2\)](#)
- s. 88C88D inserted by [2024 asp 13 s. 18\(2\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 140(10A)-(10D) inserted by [2024 asp 13 s. 21\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)