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STATUTORY INSTRUMENTS

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**1992 No. 3280**

**The Genetically Modified Organisms  
(Deliberate Release) Regulations 1992**

**PART I  
GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Genetically Modified Organisms (Deliberate Release) Regulations 1992 and shall come into force on 1st February 1993.

**Interpretation**

2. In these Regulations—

“the Act” means the Environmental Protection Act 1990;

“the Commission” means the Commission of the Communities;

“the Deliberate Release Directive” means Council Directive [90/220/EEC\(1\)](#) on the deliberate release into the environment of genetically modified organisms;

“genetically modified organisms” means genetically modified organisms or a combination of genetically modified organisms;

“heritable genetic material” means genes or other genetic material, in any form, capable of being replicated or transferred by any means;

“local authority” means—

- (a) in Greater London, a London borough council, the Common Council of the City of London and the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple,
- (b) outside Greater London, a district council and the Council of the Isles of Scilly, and
- (c) in Scotland, an islands or district council;

“product” means a product consisting of or including genetically modified organisms, and

“approved product” means a product marketed in pursuance of and in accordance with a consent granted by the Secretary of State under section 111(1) of the Act or a written consent given by another competent authority of a member State in accordance with Article 13(4) of the Deliberate Release Directive.

**Artificial techniques of genetic modification**

3. The following techniques are prescribed as artificial techniques for the purposes of section 106(4) of the Act:

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(1) OJNo. L117, 8.5.90, p.15.

- (a) the insertion by any method into a virus, bacterial plasmid or other vector system of a nucleic acid molecule, which has been produced by any method outside that virus, bacterial plasmid or other vector system, so as to produce a new combination of genetic material which is capable of being inserted into an organism in which that combination does not occur naturally and within which it will be heritable genetic material;
- (b) the insertion into an organism, by micro-injection, macro-injection, micro-encapsulation or other direct means, of heritable genetic material prepared outside that organism;
- (c) the fusion (including protoplast fusion) or hybridisation, by any method that does not occur naturally, of two or more cells to form cells which have new combinations of heritable genetic material and which (if derived solely from plant cells) cannot be produced by traditional breeding methods;
- (d) where they involve the use of recombinant DNA molecules—
  - (i) *in vitro* fertilisation,
  - (ii) conjugation, transduction, transformation or any other natural process,
  - (iii) polyploidy induction.

### **Capacity of organisms for causing harm**

4.—(1) For the purposes of sections 110(1), 112(5)(2) and (7)(a) and 117(1) of the Act there shall be disregarded—

- (a) the capacity of genetically modified organisms of the description specified in paragraph (2) for causing harm of the description specified in paragraph (3), and
- (b) harm, caused by genetically modified organisms of the description specified in paragraph (2), which is of the description specified in paragraph (3).

(2) The genetically modified organisms specified in this paragraph are genetically modified organisms which control—

- (a) the number or activity (or both) of any organisms, or
- (b) toxic wastes.

(3) The harm specified in this paragraph is harm caused to any organisms by genetically modified organisms which have been released or marketed in pursuance of and in accordance with—

- (a) a consent granted by the Secretary of State under section 111(1) of the Act, or
- (b) a written consent given by another competent authority of a member State in accordance with Article 13(4) of the Deliberate Release Directive.

## **PART II**

### **RELEASING ORGANISMS**

#### **Consent to release organisms**

5.—(1) Subject to paragraphs (3) and (4), the cases and circumstances prescribed under section 111(1)(a) of the Act in relation to the release of any genetically modified organisms are any cases and circumstances other than the release of an approved product in accordance with the conditions and limitations to which the use of the product is subject.

(2) An application for a consent to release genetically modified organisms must be made in writing to the Secretary of State, and must be made either—

- (a) for one or more releases of one or more descriptions of genetically modified organisms on the same site for the same purpose within a limited period, or
- (b) for one or more releases of one description of genetically modified organisms on one or more sites for the same purpose within a limited period.

(3) Paragraph (1) shall not apply to a person who—

- (a) has notified the Health and Safety Executive, under regulation 5(1)(a) of the Genetic Manipulation Regulations 1989(3), of his intention to carry out an activity involving an intentional introduction into the environment, and
- (b) carries out the activity in accordance with that notification before 2nd May 1993.

(4) Paragraph (1) shall not apply to a person who releases a product which was marketed in the United Kingdom before 1st February 1993 and is not an approved product.

### **Information to be contained in application for consent to release**

**6.—**(1) Subject to regulation 7 (Exemptions from regulation 6), the following is the information which an application for a consent to release genetically modified organisms must contain:—

- (a) the information prescribed in Schedule 1 to these Regulations, to the extent that such information is appropriate to the proposed release,
- (b) information on data or results from any previous release of the organisms, or of organisms of the same description, which has been carried out by the applicant, and information from any previous application for the release of the organisms, or of organisms of the same description, which the applicant has made to the Secretary of State in accordance with the Act and these Regulations or to another competent authority of a member State in accordance with Article 5 of the Deliberate Release Directive,
- (c) a statement evaluating the impacts and risks posed to human health and the environment by the release of the organisms,
- (d) a statement whether the detailed description of the organisms and the details of the purpose for which the organisms will be released have been published, and the bibliographic reference for any information so published,
- (e) a summary, in the format established by the Commission under Article 9(1) of the Deliberate Release Directive, of the information contained in the application.

(2) The information prescribed in Schedule 1 shall be included in the application at the level of detail which is appropriate to the nature and scale of the proposed release.

(3) Where the applicant considers, on the basis that it is not technically possible or it does not appear to the applicant to be necessary, that it is not appropriate for the application to contain the information prescribed in one or more of the paragraphs of Schedule 1, the application shall contain a statement of the reasons why the inclusion of the information is not appropriate.

(4) The application must contain the description of the methods used to obtain the information contained in the application in accordance with paragraph (1) and a bibliographic reference, or, where standardised or internationally recognised methods are used, a reference to which method was used to obtain the information and its bibliographic references, together with the name of the body or bodies responsible for carrying out the studies.

(5) The application may in addition contain data or results from an application for consent to release genetically modified organisms previously made by some other person, provided that a copy of that person's agreement in writing is contained in the application.

### **Exemptions from regulation 6**

7. An application for a consent to release genetically modified organisms need not contain the information prescribed in regulation 6(1)(a) and (b) if—

- (a) the information was contained either—
  - (i) in an application which was made by the same person in relation to a previous release of those organisms or of the same description of organisms, or
  - (ii) in an application which was made by some other person in relation to a previous release of those organisms or of the same description of organisms,
- (b) the application refers to the previous application in which the information was contained, and
- (c) where paragraph (a)(ii) applies, the application contains the agreement in writing of the person who made the previous application to a reference to that application being made.

### **Advertisement of application for consent to release**

8.—(1) Subject to paragraph (2), a person who makes an application for a consent to release genetically modified organisms shall, not less than fourteen days and not more than twenty-eight days after acknowledgement of receipt of that application is sent to him by the Secretary of State, cause to be published in a newspaper or newspapers circulating in the areas likely to be affected by the proposed release a notice containing the following information—

- (a) the name and address of the applicant,
- (b) the general description of the organisms to be released,
- (c) the location and general purpose of the release, and
- (d) the foreseen dates of the release.

(2) Where the information on the location of the release which has been placed on the register kept by the Secretary of State under section 122 of the Act differs in its level of detail from that contained in the application for consent, the notice shall contain the level of detail regarding the location of the release which appears on the register.

(3) A person who makes an application for a consent to release genetically modified organisms shall, not less than fourteen days and not more than twenty-eight days after acknowledgement of receipt of that application is sent to him by the Secretary of State, give to the following persons notice that he has made the application and the information prescribed in paragraph (1)(a) to (d)—

- (a) the owner or owners of the site of the proposed release, if a person other than the applicant,
- (b) the local authority for the area of the proposed release,
- (c) the Nature Conservancy Council for England, Scottish Natural Heritage or the Countryside Council for Wales, as appropriate, according to whether the release will be in England, Scotland or Wales,
- (d) the Countryside Commission, if the release will be in England,
- (e) the Forestry Commission,
- (f) the National Rivers Authority or, if the release will be in Scotland, the river purification board or islands council for the area of the proposed release,

- (g) the water undertaker for the area of the proposed release or, if the release will be in Scotland, the regional or islands council for the area of the proposed release,
- (h) each member of the genetic modification safety committee established by the applicant under regulation 11 of the Genetically Modified Organisms (Contained Use) Regulations 1992(4).

#### **General condition on consents to release organisms**

9. In section 112 of the Act (Consents: limitations and conditions) there shall be substituted for paragraph (b) of subsection (5) the following paragraph—

- “(b) notify the Secretary of State of—
  - (i) any new information which becomes available with regard to any risks there are of damage to the environment being so caused, and
  - (ii) the effects of any releases by him for the assessment of any risks there are of damage to the environment being so caused by such organisms being released or marketed;”.

## **PART III**

### **MARKETING ORGANISMS**

#### **Consent to market products**

10.—(1) The cases and circumstances prescribed under section 111(1)(a) of the Act in relation to the marketing of any genetically modified organisms are any cases and circumstances other than the marketing of a product in accordance with a written consent given by another competent authority of a member State in accordance with Article 13(4) of the Deliberate Release Directive.

(2) An application for a consent to market genetically modified organisms must be made in writing to the Secretary of State, and must be made either—

- (a) where the product has not previously been marketed in pursuance of and in accordance with a consent granted by the Secretary of State under section 111(1) of the Act or a written consent given by another competent authority of a member State in accordance with Article 13(4) of the Deliberate Release Directive, or
- (b) where the product is intended for a use for which it has not previously been marketed in pursuance of and in accordance with a consent granted by the Secretary of State under section 111(1) of the Act or a written consent given by another competent authority of a member State in accordance with Article 13(4) of the Deliberate Release Directive.

#### **Information to be contained in application for consent to market**

11.—(1) The following is the information which an application for a consent to market genetically modified organisms must contain:—

- (a) the information prescribed in Schedule 1 to these Regulations, to the extent that such information is appropriate to the nature and scale of the release which may result from the marketing,
- (b) information on data or results from any previous release of the organisms, or of organisms of the same description, which have been carried out by the applicant, and information

from any previous application for consent to release the organisms, or organisms of the same description, which the applicant has made to the Secretary of State in accordance with the Act and these Regulations or to another competent authority of a member State in accordance with Article 5 of the Deliberate Release Directive,

- (c) subject to paragraph (5), the information prescribed in Schedule 2 to these Regulations,
- (d) a summary, in the format established by the Commission under Article 12(3) of the Deliberate Release Directive, of the information contained in the application.

(2) The information prescribed in Schedule 1 shall be included in the application at the level of detail which is appropriate to the nature and scale of the release which may result from the marketing, and shall take into account the diversity of sites of use of the product, including—

- (a) information on data and results obtained from research and developmental releases concerning the ecosystems which could be affected by the use of the product, and
- (b) an assessment of any risks for human health or the environment related to the genetically modified organisms contained in the product, including information obtained from the research and development stage on the impact of the release on the environment.

(3) Where the applicant considers, on the basis that it is not technically possible or it does not appear to the applicant to be necessary, that it is not appropriate for the application to contain the information prescribed in one or more of the paragraphs of Schedule 1, the application shall contain a statement of the reasons why the inclusion of the information is not appropriate.

(4) The application must contain the description of the methods used to obtain the information prescribed in Schedule 1 and a bibliographic reference or, where standardised or internationally recognised methods are used, a reference to which method was used to obtain the information and its bibliographic references, together with the name of the body or bodies responsible for carrying out the studies.

(5) Where the applicant considers, on the basis of the results of any release in pursuance of and in accordance with a consent granted by the Secretary of State under section 111(1) of the Act or a written consent given by another competent authority of a member State in accordance with Article 13(4) of the Deliberate Release Directive, or on substantive, reasoned scientific grounds, that the placing on the market and use of the product do not pose a risk to human health or the environment, he may propose not to supply the information prescribed in Part II of Schedule 2.

(6) The application may in addition contain data or results from an application for consent to market genetically modified organisms previously made by some other person, provided that a copy of that person's agreement in writing is contained in the application.

### **Transitional provision for marketing**

**12.** Regulation 10(1) shall not apply to a person who markets a product which—

- (a) was marketed by him in the United Kingdom before 1st February 1993, and
- (b) is not an approved product,

until 1st February 1995.

## PART IV

### DUTIES AFTER THE MAKING OF APPLICATIONS

#### **Duty of the applicant after applying for consent**

**13.**—(1) In section 111 of the Act (Consents required by certain persons), after subsection (6) there shall be inserted the following subsection—

“(6A) Where an applicant for consent for releasing or marketing genetically modified organisms becomes aware, before his application is either granted or rejected, of any new information with regard to any risks there are of damage to the environment being caused as a result of the organisms being released or marketed, he shall notify the Secretary of State of that new information forthwith.”

(2) In section 118(1)(e) of the Act (Offences), after the words “section 108(5) or (6)” there shall be inserted the words “or section 111(6A)”.

#### **Duties of the Secretary of State on receiving applications for consent to release**

**14.**—(1) The Secretary of State shall within 30 days of receiving an application for a consent to release genetically modified organisms forward to the Commission a summary of that application in the format established by the Commission under Article 9(1) of the Deliberate Release Directive.

(2) The Secretary of State shall—

- (a) examine an application for a consent to release genetically modified organisms for its conformity with the requirements of the Act and of these Regulations,
- (b) evaluate the risks posed by the proposed release,
- (c) if necessary, carry out such tests or inspections as may be necessary for control purposes,
- (d) where appropriate, take into account any comments made by the competent authority or authorities of member States following the circulation to them by the Commission of the summary referred to in paragraph (1) above, and
- (e) record his conclusions in writing.

#### **Decisions by the Secretary of State on applications for consent to release**

**15.**—(1) The Secretary of State shall not grant a consent to release genetically modified organisms as it relates to the protection of human health without the agreement of the Health and Safety Executive.

(2) The Secretary of State shall communicate his decision on an application for a consent to release genetically modified organisms to the applicant before the end of a period of 90 days beginning with the day on which the application was received.

(3) The period prescribed in paragraph (2) shall not include any period beginning with the day on which the Secretary of State gives notice in writing under section 111(6) of the Act that further information in respect of the application is required and ending with the day on which that information is received by the Secretary of State.

(4) The Secretary of State shall inform the competent authority or authorities of each member State and the Commission of his decision on each application for consent to release genetically modified organisms.

(5) The Secretary of State shall not revoke or vary a consent to release genetically modified organisms as it relates to the protection of human health without the agreement of the Health and Safety Executive.

### **Duties of the Secretary of State in relation to applications for consent to market**

16.—(1) The Secretary of State shall examine an application for consent to market genetically modified organisms for its conformity with the requirements of the Act and of these Regulations, giving particular attention to the environmental risk assessment and the recommended precautions related to the safe use of the product.

(2) Before the end of a period of 90 days beginning with the day on which he receives an application for consent to market genetically modified organisms the Secretary of State shall either—

(a) forward to the Commission—

(i) the application,

(ii) a summary of the application in the format established by the Commission under Article 12(3) of the Deliberate Release Directive,

(iii) a statement of the conditions under which he proposes to consent to the marketing of the product,

(iv) where acceded to by the Secretary of State, details of any proposal by the applicant under regulation 11(5) not to comply with any of the requirements of regulation 11(1)(c), and

(v) his favourable opinion on the application, or

(b) inform the applicant that the proposal does not fulfil the requirements of the Act and of these Regulations and is rejected.

(3) The Secretary of State shall not forward his favourable opinion on the application as it relates to the protection of human health where the Health and Safety Executive has informed him that it does not fulfil the requirements of the Act and of these Regulations.

(4) The period prescribed in paragraph (2) shall not include any period beginning with the day on which the Secretary of State gave notice in writing under section 111(6) of the Act that further information in respect of the application is required and ending with the day on which that information is received by the Secretary of State.

(5) The Secretary of State shall immediately inform the competent authority or authorities of each member State and the Commission of any other information he receives from the applicant before or after the granting of the consent.

(6) Where no objection has been raised by a competent authority of a member State the Secretary of State shall, within a period of 60 days beginning with the day on which the documents referred to in paragraph (2)(a) were forwarded to the competent authority or authorities of the member States by the Commission, grant consent to market the genetically modified organisms and inform the competent authority or authorities of the member States and the Commission that he has done so.

(7) Where an objection has been raised by a competent authority of a member State and the Commission has taken a favourable decision under Article 13(3) of the Deliberate Release Directive, the Secretary of State shall grant consent to market the genetically modified organisms and inform the competent authority or authorities of the member States and the Commission that he has done so.

(8) The Secretary of State shall not revoke or vary a consent to market genetically modified organisms as it relates to the protection of human health without the agreement of the Health and Safety Executive, and shall immediately inform the competent authority or authorities of each member State and the Commission of any decision to revoke or vary a consent.



## PART V

### REGISTER OF INFORMATION

#### **Information to be included in register**

17.—(1) The register kept by the Secretary of State under section 122 of the Act shall contain the particulars set out in paragraphs (2) to (7).

(2) In relation to a prohibition notice served under section 110 of the Act—

- (a) the name and address of the person on whom the notice is served,
- (b) the description of the genetically modified organisms in relation to which the notice is served,
- (c) the location at which the genetically modified organisms are proposed to be released,
- (d) the purpose for which the genetically modified organisms are proposed to be released or marketed,
- (e) the reason for the service of the notice,
- (f) any date specified in the notice as the date on which the prohibition is to take effect.

(3) Subject to paragraph (4), in relation to an application for a consent under section 111(1) of the Act—

- (a) the name and address of the applicant,
- (b) the general description of the genetically modified organisms in relation to which the application is being made,
- (c) the location at which the genetically modified organisms are proposed to be released,
- (d) the general purpose for which the genetically modified organisms are proposed to be released or marketed,
- (e) the foreseen dates of the release,
- (f) the methods and plans for monitoring the genetically modified organisms and for emergency response,
- (g) the evaluation of the environmental impact of the genetically modified organisms, in particular any pathogenic and/or ecologically disruptive effects, and
- (h) either—
  - (i) the conditions or limitations in accordance with which the committee appointed by the Secretary of State under section 124 of the Act has advised that the consent should be granted, or
  - (ii) a summary of the reasons why that committee has advised that the consent should not be granted.

(4) Where—

- (a) the application is for a consent to market genetically modified organisms,
- (b) an application for a consent to release genetically modified organisms contains a statement that a detailed description of the organisms and the details of the purpose for which the organisms will be released have been published, or
- (c) the Secretary of State is notified, under the conditions of a consent to release genetically modified organisms which he granted in relation to an application, that a detailed description of the organisms and the details of the purpose for which the organisms will be released have been published,

the information prescribed under paragraph (3)(b) shall be the detailed description of the organisms in relation to which the application is made and the information prescribed under paragraph (3)(d) shall be the details of the purpose for which the organisms will be released.

- (5) In relation to consents granted under section 111(1) of the Act—
- (a) the fact that the consent has been granted, and a reference to the application in respect of which it was granted,
  - (b) any conditions or limitations to which the consent is subject,
  - (c) any information supplied to the Secretary of State in accordance with those conditions or limitations,
  - (d) the fact that the consent has been revoked or varied, and the contents of the notice by which the consent was revoked or varied.
- (6) In relation to information furnished under section 111(6A)(5) or 112(5)(b)(i)(6) of the Act, any new information which becomes available with regard to any risks there are of damage to the environment, and in relation to information furnished under section 112(5)(b)(ii) of the Act, the effects of any releases for the assessment of any risks there are of damage to the environment.
- (7) In relation to convictions for any offence under section 118 of the Act—
- (a) the name and address of the person convicted,
  - (b) the description of any genetically modified organisms in relation to which the conviction was obtained,
  - (c) the offence which was committed,
  - (d) the penalty imposed and any order made by the court under section 120 of the Act.

### **Keeping of the register**

**18.**—(1) The information prescribed in regulation 17(2) shall be placed on the register within fourteen days of the prohibition notice being served.

(2) Subject to paragraph (3), the information prescribed in regulation 17(3) shall be placed on the register within fourteen days of the receipt by the Secretary of State of the application for consent to release or market.

(3) Where regulation 17(4)(c) applies, the information prescribed in regulation and (d) shall be placed on the register within twenty-eight days of the Secretary of State being notified, under the conditions of a consent to release genetically modified organisms which he granted in relation to an application, that a detailed description of organisms which will be released have been published.

(4) The information prescribed in regulation 17(5)(a), (b) and (d) shall be placed on the register within fourteen days of the consent being granted, revoked or varied, as appropriate.

(5) The information prescribed in regulation 17(5)(c), (6) and (7) shall be placed on the register within fourteen days of its receipt by the Secretary of State.

18th December 1992

*Michael Howard*  
Secretary of State for the Environment

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(5) Section 111(6A) is inserted by regulation 13 of these Regulations.

(6) Section 112(5)(b) is amended by regulation 9 of these Regulations.

In witness whereof the Official Seal of the Ministry of Agriculture, Fisheries and Food is hereunto affixed on 21st December 1992.

L.S.

*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

17th December 1992

*David Hunt*  
Secretary of State for Wales

18th December 1992

*Hector Monro*  
Parliamentary Under Secretary of State, Scottish  
Office