



Victoria Government Gazette

No. S 124 Monday 31 May 2004
By Authority, Victorian Government Printer

Control of Genetically Modified Crops Act 2004

EXEMPTION FROM PROHIBITION ON CULTIVATION OF CERTAIN GM CANOLA CROPS FOR BAYER CROPSCIENCE PTY LTD

I, Bob Cameron, Minister for Agriculture, exempt under section 6 of the **Control of Genetically Modified Crops Act 2004**, the persons specified in Schedule 1 to this exemption from the operation of the order set out in the Schedule to the **Control of Genetically Modified Crops Act 2004** for the purpose of allowing the cultivation for research or development of the genetically modified canola varieties specified in Schedule 2 to this exemption, subject to the conditions specified in Schedule 3 to this exemption.

This exemption comes into operation on the day on which it is published in the Government Gazette.

BOB CAMERON MP
Minister for Agriculture

SCHEDULE 1

EXEMPT PERSONS

This exemption applies to Bayer CropScience Pty Ltd, any employee, agent or contractor of Bayer CropScience Pty Ltd, and any other person who is, or has been, engaged by Bayer CropScience Pty Ltd to undertake any activity under this exemption.

SCHEDULE 2

GENETICALLY MODIFIED CANOLA VARIETY

This exemption applies to the cultivation of GM crops consisting of or including plants of the species *Brassica napus*, common name canola, tolerant to the herbicide glufosinate ammonium due to genetic modification derived from lines T45, Topas 19/2, MS1, MS8, RF1, RF2 and RF3 defined in the application under section 40 of the **Gene Technology Act 2000** of the Commonwealth designated DIR010/2001 and DIR021/2002 made to the Gene Technology Regulator appointed under section 118 of the **Gene Technology Act 2000** of the Commonwealth.

Note: This relates to canola plants (generally but not exclusively known as InVigor Canola) which have been genetically modified and have been licensed under the **Gene Technology Act 2000** of the Commonwealth for intentional release into the environment.

SCHEDULE 3

CONDITIONS OF EXEMPTION

1. Definitions

In this schedule—

“**Buffer Zone**” means the area of land extending 50 metres lateral to the perimeter of the Isolation Zone;

“**Brassica**” means any plant of *Brassica juncea*, *Brassica napus* and *Brassica rapa*;

“**Company**” means Bayer CropScience Pty Ltd;

“**GM**” means genetically modified;

“**GMO Cultivation Zone**” means an area of land where a GMO is sown;

Note: Any non-GMO crop sown within this zone is to be treated and handled as a GMO.

“**GMO trial site**” means the area of land encompassing the GMO Cultivation Zone, Isolation Zone and Buffer Zone;

SPECIAL

“**Isolation Zone**” means the area of land extending 5 metres lateral to the perimeter of the GMO Cultivation Zone;

“**Manager Chemical Standards Branch**” means the person occupying or acting in the position of Manager Chemical Standards Branch in the Department of Primary Industries;

“**Request for Exemption**” means the request for exemption submitted by Bayer CropScience Pty Ltd to the Minister for Agriculture dated 27 May 2004 and which includes requirements for information relating to the:

- (a) name of the person or company seeking the exemption;
- (b) names of persons with key GMO trial management responsibilities and any relevant criminal offence committed by such persons;
- (c) purpose of the trial;
- (d) number and size of proposed GMO trial sites;
- (e) proposed design and methodology of trials, including commencement, sowing and harvest dates;
- (f) contracts between the company and the occupier of the proposed GMO trial sites which specify the location and management control of, and access rights to the GMO trial sites;
- (g) measures to be employed to contain the GMO;
- (h) storage and transport procedures for GMO seed to be sown and GMO seed harvested;
- (i) intended use of all harvested GMO material;
- (j) specification of GMO disposal methods;
- (k) intended post-harvest use of the GMO trial sites;
- (l) undertakings for pre- and post-harvest monitoring of GMO trial sites and facilities and supply of monitoring and audit reports;
- (m) procedures and undertakings to inform persons associated with the GMO trial of their obligations under the exemption;
- (n) procedures and undertakings to manage visitors to the GMO trial sites;
- (o) procedures and undertakings for the notification of neighbours of the GMO trial sites;
- (p) undertakings to provide reports requested and relevant information to the Department of Primary Industries;

“**Secretary**” means the Secretary to the Department of Primary Industries;

“**Summer crop 2004**” means any crop sown during the summer sowing season (1 September 2004 to 31 January 2005);

“**Winter crop 2004**” means any crop sown during the winter sowing season (1 April 2004 to 31 July 2004).

2. Compliance with the Request for Exemption

The Company and exempt persons must comply with any undertaking in the Request for Exemption.

3. Variations of the Request for Exemption

Information and undertakings related to technical or administrative matters or operational systems contained in the Request for Exemption may be varied with the approval of the Secretary.

4. Material Changes in circumstances

The Company must immediately, by notice in writing, inform the Manager Chemical Standards Branch of any—

- (a) relevant conviction (as defined in section 58 of the **Gene Technology Act 2000** of the Commonwealth) of the Company occurring after the commencement of this exemption; and
- (b) event or circumstances occurring after the commencement of this exemption that would affect the capacity of exempt persons to meet this exemption.

5. Number of hectares that may be sown

The total area of GMO sown in the GMO Cultivation Zones must not exceed 40 hectares for the Winter crop 2004 and 40 hectares for the Summer crop 2004.

6. Control of locations and other areas used in connection with these conditions

The Company must have a contract with any occupier of land used in connection with the exemption, including the GMO Cultivation Zone and land used to provide Isolation Zones and Buffer Zones, that enables access and control of the land to the extent necessary to comply with the exemption.

7. Notification of Sowing

Prior to sowing the Winter crop 2004 and the Summer crop 2004, the Company must—

- (a) notify occupiers of private land within 400 metres of the perimeter of the Cultivation Zone that a GMO trial will be sown, the identity of the crop type and an overview of the sowing schedule, including estimated timing of flowering and harvest; and
- (b) provide the Manager Chemical Standards Branch in writing with an overview of each sowing schedule including—
 - (i) identification of the GMO type proposed to be grown at a GMO Cultivation Zone;
 - (ii) the date of sowing the GMO;
 - (iii) the total area of any GMO Cultivation Zone; and
 - (iv) the estimated date of flowering and harvest of the GM crop.

8. Isolation Zones and Buffer Zones

A GMO Cultivation Zone must be surrounded by—

- (a) an Isolation Zone in which no crop of any species is to be grown during the cultivation of the GM crop; and
- (b) an adjoining Buffer Zone in which no canola plants (conventional or transgenic) can persist during the cultivation of the GM crop.

9. Harvest and use of GMO Seed and other Crop Materials

- (1) GMO seed harvested at a GMO trial site must not enter the food supply chain (for human or animal consumption) or be sold as consumable grain for domestic or overseas markets.
- (2) As soon as reasonably practicable, any seed harvested at a GMO trial site must be—
 - (a) stored in a sealed durable container that is marked so as to indicate that it contains GM canola seed, within a locked facility that is marked so as to indicate that GM canola seed is stored within the facility; or
 - (b) exported as seed; or
 - (c) rendered unviable by autoclaving; or
 - (d) destroyed by burning; or
 - (e) destroyed by burial under 1 metre of soil.

10. Use of GMO trial site post-harvest

If a GMO is grown at a GMO Trial Site, no other Canola or *Brassica* plant of any kind may be sown at the GMO trial site until all monitoring obligations are satisfied.

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