



Victoria Government Gazette

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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.

Dated 1 March 2005

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.

SPECIAL

SCHEDULE 3
CONDITIONS OF EXEMPTION

1. Definitions

In this schedule—

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

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

“**Canola**” means any plant of the species *Brassica napus*;

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

“**GM**” means genetically modified;

“**GMO**” a genetically modified organism;

“**GM cultivation zone**” means an area of land where a GMO is sown;

Note: Any Brassica crop grown in the year of the trial within this zone is to be treated and handled as a GMO.

“**GM trial site**” means the area of land encompassing the GM cultivation zone, Isolation zone and Buffer zone;

“**Isolation Zone**” means the area of land extending 5 metres lateral to the perimeter of the GM 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 January 2005 (Version 2–2005) 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 GM trial management responsibilities and any relevant criminal offence committed by such persons;
- (c) purpose of the trial;
- (d) number and size of proposed GM 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 GM trial sites which specify the location and management control of, and access rights to the GM 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 GM trial sites and facilities and supply of monitoring and audit reports;
- (m) procedures and undertakings to inform persons associated with the GM trial of their obligations under the exemption;
- (n) procedures and undertakings to manage visitors to the GM trial sites;

- (o) procedures and undertakings for the notification of neighbours of the GM trial sites;
- (p) undertakings to provide reports requested and relevant information to the Department of Primary Industries.

2. Compliance with the Request for Exemption

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

3. 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.

4. When a GM crop may be sown

A GMO may only be sown under this exemption in the following crop seasons—

- (a) 1 April 2005 to 31 July 2005;
- (b) 1 September 2005 to 31 January 2006;
- (c) 1 April 2006 to 31 July 2006;
- (d) 1 September 2006 to 31 January 2007.

5. Number of hectares that may be sown

The total area of the GMO that may be sown in any crop season referred to in clause 4 must not exceed 40 hectares.

6. Control of the GM trial site 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 GM 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

- (1) Prior to sowing a GM crop, the Company must notify occupiers of private land within 400 metres of the perimeter of the GM cultivation zone that a GM trial will be sown, the identity of the crop type and an overview of the sowing schedule, including estimated timing of flowering.
- (2) Within 28 days of sowing the GM crop, the Company must provide the Manager Chemical Standards Branch in writing with a sowing schedule including the—
 - (a) date the GM crop was sown;
 - (b) name and address of the landowner on which each GM cultivation zone is sown;
 - (c) the GPS co-ordinates of each GM cultivation zone; and
 - (d) total area (in hectares) of each GM cultivation zone.
- (3) Within 28 days of sowing the GM crop, the Company must publish a notice in a newspaper circulating generally in the area of the GM cultivation zone, declaring that, pursuant to this Exemption, the Company is undertaking small-scale trials of the GM canola variety nominated in Schedule 2 for research and development purposes.

- (4) The notice must identify the GM trial sites (eg. with the name of the closest road and nearest township to the trials) and refer the reader to the DPI website for specific GPS coordinates.

Note: It is agreed by Bayer CropScience that the GPS co-ordinates of the GM trial sites provided by the Company will be published on the DPI website.

8. Isolation Zones and Buffer Zones

A GM cultivation zone must be surrounded by an—

- (a) Isolation Zone in which no crop of any species is to be grown during the cultivation of the GM crop; and
- (b) 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) GM seed harvested at a GM 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, nor sold or used for industrial purposes
- (2) As soon as reasonably practicable, any seed harvested at a GM Cultivation Zone 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 for company use only; 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 GM trial site, no other Canola or *Brassica* plant of any kind may be sown at the GM trial site until all monitoring and management obligations are satisfied.

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