



Tonga

# **BIOSAFETY ACT**

**Chapter 21.01**

**2020 Revised Edition**





# BIOSAFETY ACT

## AN ACT TO REGULATE LIVING MODIFIED ORGANISMS AND THE APPLICATION OF MODERN BIOTECHNOLOGY<sup>1</sup>

Commencement [13th April 2010]

### PART I - PRELIMINARY

#### 1 Short title

This Act may be cited as the Biosafety Act.

#### 2 Interpretation

In this Act, unless the context otherwise requires —

“**Advanced Informed Agreement Procedure**” means the advanced informed agreement procedure prescribed in the Cartagena Protocol;

“**biological diversity**” has the same meanings and applications under the Convention;

“**Biosafety Clearing-House**” means the Biosafety Clearing-House established under the Cartagena Protocol;

“**Chief Executive Officer**” means the Government chief executive officer who is responsible for the environment;<sup>2</sup>

“**Committee**” means the National Biosafety Advisory Committee established under section 5;

“**Convention**” means the 1992 Convention on Biological Diversity;

“**Cartagena Protocol**” means the Cartagena Protocol on Biodiversity to the Convention adopted at Montreal in January 2000 and any subsequent amendments thereto;

“**contained use**” means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

“**District Committee**” means a District Biosafety Advisory Committee appointed under section 7;

“**environment officer**” means an officer appointed under section 24(1) of this Act;

“**export**” means intentional transboundary movement from the Kingdom to another State;

“**exporter**” means any person, under the jurisdiction of the State of export, who arranges for a living modified organism to be exported;

“**import**” means intentional transboundary movement into the Kingdom from another State;

“**importer**” means any person within the Kingdom who arranges for any living modified organism to be imported;

“**living modified organism**” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

“**living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

“**Minister**” means the Minister responsible for environment;<sup>3</sup>

“**Ministry**” means the Ministry responsible for the environment;<sup>4</sup>

“**modern biotechnology**” means the application of —

- (a) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles;
- (b) fusion of cells beyond taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection; or
- (c) any other process or technique prescribed by regulations made under this Act;

“**State Party**” means a Party to the Cartagena Protocol;

“**transboundary movement**” means the movement of a living modified organism from the Kingdom to another State Party, or from another State

Party to the Kingdom, and where indicated in this Act, it may include the movement to or from non-State Parties.

### **3 Precautionary approach**

- (1) All persons and agencies having responsibilities under this Act, or whose functions and powers may relate to any matter or thing involving the development, use, handling and transboundary movement of living modified organisms and the applications of modern biotechnology within the Kingdom, shall apply a precautionary approach when discharging their responsibilities and functions, or exercising their powers.
- (2) For the purposes of this section, a precautionary approach is applied if, in the event of a threat of damage to the environment or a risk to human health in the Kingdom, a lack of scientific certainty regarding the extent of adverse effects is not used to prevent or avoid a decision being made to minimise the potential adverse effects or risks arising from a living modified organism or the application of modern biotechnology within the Kingdom.

### **4 Act binds the Crown**

The provisions of this Act shall bind the Crown.

## **PART II - ADMINISTRATIVE RESPONSIBILITIES**

### **5 National Biosafety Advisory Committee**

- (1) The National Biosafety Advisory Committee is hereby established.
- (2) The Committee shall consist of the Minister, who shall be the chairman, and one representative each from —
  - (a) the Ministry responsible for Agriculture, Food, Forestry and Fisheries;
  - (b) the Ministry of Health;
  - (c) the Ministry responsible for commerce;<sup>5</sup>
  - (d) the Customs Division of the Ministry responsible for revenue;<sup>6</sup>
  - (e) each relevant non-government organisation; and
  - (f) the Chief Executive Officer.
- (3) The Chief Executive Officer shall be the Acting Chairperson where the Minister is absent.
- (4) The Chairman may co-opt any person to the Committee as appropriate.
- (5) The Ministry shall provide secretariat services to the Committee.
- (6) The Committee shall determine its own procedures.