STATUTORY INSTRUMENTS

1991 No. 1714 (N.I. 19)

The Genetically Modified Organisms (Northern Ireland) Order 1991

- - - - - - *24th July 1991*

Preliminary

Title and commencement

1.—(1) This Order may be cited as the Genetically Modified Organisms (Northern Ireland) Order 1991.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint[F1].

F1 partly exercised SR 1994/141

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"acquire", in relation to genetically modified organisms, includes any method by which such organisms may come to be in a person's possession, other than by their being imported;

"consent" means a consent granted under Article 8, and a reference to the limitations or conditions to which a consent is subject is a reference to the limitations or conditions subject to which the consent for the time being has effect;

"the Department" means**[**[F3] (subject to Article 22)**]**[F3] the Department of the Environment;

"descendant", in relation to a genetically modified organism, means any other organism whose genes or other genetic material is derived, through any number of generations, from that organism by any process of reproduction;

"import" means import into Northern Ireland (except from Great Britain);

"premises" includes any land;

"prohibition notice" means a notice under Article 7.

F2 1954 c. 33 (N.I.)
F3 1999 c.28

Purpose of Order and meaning of "genetically modified organisms" and related expressions

3.—**[**F4(1) This Order 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.**]**

F4(2) In this Order the term "organism" means any acellular, unicellular or multicellular entity (in any form), other than humans or human embryos; and the term also includes any article or substance consisting of or including biological matter.

(3) For the purpose of paragraph (2) "biological matter" means anything (other than an entity mentioned in that paragraph) 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.

(4) For the purposes of this Order an organism is "genetically modified" if any of the genes or other genetic material in the organism—

[F4(a) have been artificially modified, or**]**

F4(b) are inherited or otherwise derived, through any number of replications, from genes or other genetic material (from any source) which were so modified.

[F4(4A) Genes or other genetic material in an organism are "artificially modified" for the purposes of paragraph (4) if they are altered otherwise than by a process which occurs naturally in mating or natural recombination.

This paragraph is subject to paragraphs (4B) and (4C).

(4B) For the purposes of paragraph (4)—

(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 sub-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 sub-paragraph.

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

(4D) In paragraphs (4B) and (4C) "prescribed" means prescribed by regulations made by the Department.**]**

F4Paras. (5), (6) rep. by SR 2003/167

(7) In this Order, a reference to "reproduction", in relation to an organism, includes a reference to its replication or its transferring genetic material.

F4 SR 2003/167

Meaning of "damage to the environment", "control" and related expressions

4.—(1) Paragraphs (2) to (11) have effect for the interpretation of this Order.

[F5(2) The "environment" includes land, air and water and living organisms supported by any of those media.**]**

[F5](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[F5]....

(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.

[[F5](6) "Harm" means any adverse effects as regards the health of humans or the environment.**]**

[F5](7) "Harmful" and "harmless" mean respectively, in relation to genetically modified organisms, their being capable or their being incapable of causing harm.

(8) The Department 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 Order as may be so specified.

[[F5](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.**]**

[F5](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.

[[F5](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.[F5]**]**

F5 SR 2003/167

General controls

Risk assessment and notification requirements

5.—(1) Subject to paragraphs (2) and (7), no person shall import or acquire, release or market any genetically modified organisms unless, before doing that act—

(a) he has carried out an assessment of any risks there are (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition or, as the case may be, t o release or market them) of damage to the environment being caused as a result of doing that act; and

(b) in such cases as may be prescribed, he has given the Department such notice of his intention of doing that act and such information as may be prescribed.

(2) Paragraph (1) does not apply to a person proposing to do an act mentioned in that paragraph who is required under Article 8(1)(a) to have a consent before doing that act.

(3) Subject to paragraphs (4) and (7), a person who is keeping genetically modified organisms shall, in such cases and at such times or intervals as may be prescribed—

(a) carry out an assessment of any risks there are of damage to the environment being caused as a result of his continuing to keep them;

(b) give the Department notice of the fact that he is keeping the organisms and such information as may be prescribed.

(4) Paragraph (3) does not apply to a person who is keeping genetically modified organisms and is required under Article 8(2) to have a consent authorising him to continue to keep the organisms.

(5) It shall be the duty of a person who carries out an assessment under paragraph (1)(a) or (3)(a) to keep, for the prescribed period, such a record of the assessment as may be prescribed.

(6) A person required by paragraph (1)(b) or (3)(b) to give notice to the Department shall give the Department such further information as the Department may by notice in writing require.

(7) Regulations under this Article may provide for exemptions, or for the granting by the Department[F6,or by the Department and the Food Standards Agency acting jointly,]F6 of exemptions to particular persons or classes of person, from the requirements of paragraph (1) or (3).

(8) The Department may at any time—

(a) give directions to a person falling within paragraph (1) requiring that person to apply for a consent before doing the act in question; or

(b) give directions to a person falling within paragraph (3) requiring that person, before such date as may be specified in the direction, to apply for a consent authorising him to continue keeping the organisms in question;

and a person given directions under sub-paragraph (a) shall then, and a person given directions under sub-paragraph (b) shall from the specified date, be subject to Article 8 in place of the requirements of this Article.

(9) Regulations under this Article may—

(a) prescribe the manner in which assessments under paragraph (1) or (3) are to be carried out and the matters which must be investigated and assessed;

(b) prescribe minimum periods of notice between the giving of a notice under paragraph (1)(b) and the doing of the act in question;

(c) make provision allowing the Department to shorten or to extend any such period;

(d) prescribe maximum intervals at which assessments under paragraph (3)(a) must be carried out.

(10) In this Article "prescribed" means prescribed by the Department in regulations under this Article.

F6 1999 c.28

General duties relating to importation, acquisition, keeping, release or marketing of organisms

6.—(1) A person who—

(a) is proposing to import or acquire any genetically modified organisms, or

(b) is keeping any such organisms, or

(c) is proposing to release or market any such organisms,

shall, subject to paragraph (5), be subject to the duties specified in paragraph (2), (3) or (4), as the case may be.

(2) A person who proposes to import or acquire genetically modified organisms—

(a) shall take all reasonable steps to identify, by reference to the nature of the organisms and the manner in which he intends to keep them (including any precautions to be taken against their escaping or causing damage to the environment), what risks th ere are of damage to the environment being caused as a result of their importation or acquisition; and

(b) shall not import or acquire the organisms if it appears that, despite any precautions which can be taken, there is a risk of damage to the environment being caused as a result of their importation or acquisition.

(3) A person who is keeping genetically modified organisms—

(a) shall take all reasonable steps to keep himself informed of any damage to the environment which may have been caused as a result of his keeping the organisms and to identify what risks there are of damage to the environment being caused as a result of his continuing to keep them;

(b) shall cease keeping the organisms if, despite any additional precautions which can be taken, it appears, at any time, that there is a risk of damage to the environment being caused as a result of his continuing to keep them; and

(c) shall use the best available techniques not entailing excessive cost for keeping the organisms under his control and for preventing any damage to the environment being caused as a result of his continuing to keep the organisms;

and where a person is required by sub-paragraph (b) to cease keeping the organisms he shall dispose of them as safely and as quickly as practicable and sub-paragraph (c) shall continue to apply until he has done so.

(4) A person who proposes to release genetically modified organisms—

(a) shall take all reasonable steps to keep himself informed, by reference to the nature of the organisms and the extent and manner of the release (including any precautions to be taken against their causing damage to the environment), what risks there are of damage to the environment being caused as a result of their being released;

(b) shall not release the organisms if it appears that, despite the precautions which can be taken, there is a risk of damage to the environment bei ng caused as a result of their being released; and

(c) subject to sub-paragraph (b), shall use the best available techniques not entailing excessive cost for preventing any damage to the environment being caused as a result of their being released;

and this paragraph applies, with the necessary modifications, to a person proposing to market organisms as it applies to a person proposing to release organisms.

(5) This Article does not apply—

(a) to persons proposing to import or acquire, to release or to market any genetically modified organisms, in cases where, under Article 5, they are not required to carry out a risk assessment before doing that act;

(b) to persons who are keeping any genetically modified organisms and who—

(i) were not required under Article 5 to carry out a risk assessment before importing or acquiring them;