

# ***Gene Technology (Tasmania) Bill 2012***

## **Clause Notes**

### **Clause 1 Short Title**

### **Clause 2 Commencement**

The Act will commence on a day to be proclaimed.

### **Clause 3 Object of Act**

Subsection (1) states that the Act intends to protect the health and safety of people, and protect the environment, from risks posed by gene technology by regulating certain dealings with genetically modified organisms (GMOs). This is the same as the object of the Commonwealth legislation.

Subsection (2) specifies that the object will be achieved by the Act applying the Commonwealth *Gene Technology Act 2000* and *Gene Technology (Licence Charges) Act 2000* as law of Tasmania, and by providing for the Commonwealth legislation and the Act to be administered by the Commonwealth as if they were a single law.

### **Clause 4 Interpretation**

Defines key terms to be used throughout the Act. Any terms defined by the Commonwealth *Gene Technology Act 2000* will be taken to have the same meaning under the Act unless the contrary intention appears.

### **Clause 5 Act binds Crown**

The Crown will be bound by the Act.

### **Clause 6 Application of Commonwealth gene technology laws to this State**

Section 6 determines that the Commonwealth gene technology laws (the *Gene Technology Act 2000*, *Gene Technology (Licence Charges) Act 2000* and all subordinate legislation) will apply at all times.

### **Clause 7 Modification of Commonwealth gene technology laws**

Subsection (1) prohibits the operation of a licence granted by the national Gene Technology Regulator for dealings with a GMO if the dealings would contravene an order made under section 5 of the *Genetically Modified Organisms Control Act 2004*.

An order made under section 5 of that Act may declare the whole or part of Tasmania to be an area free of GMOs. An order declaring the whole of Tasmania a GMO-free area was made in 2005, and remains in effect.

Subsection (2) allows modification of the Commonwealth gene technology laws by making of regulations, if required. Regulations can be made to specify that a new amendment to the Commonwealth gene technology laws does not take effect in Tasmania.

**Clause 8 Interpretation of Commonwealth gene technology laws**

The Commonwealth *Acts Interpretation Act 1901* will apply to the Act as if it were a Commonwealth Act. The *Acts Interpretation Act 1931* of Tasmania will not apply.

**Part 3 Functions and Powers Under Applied Provisions**

**Clause 9 Functions and powers of Commonwealth Regulator and other authorities and officers**

The Commonwealth Regulator and other authorities and officers will have the same powers and functions under the Act as they do under the Commonwealth gene technology laws.

**Clause 10 Delegations by Commonwealth Regulator**

Any delegation made by the Commonwealth Regulator under the *Gene Technology Act 2000* will extend to the Act.

**Part 4 Offences**

**Clause 11 Object of Part**

Subsection (1) explains the object of the Part is to provide for an offence against the Act to be treated as an offence against the Commonwealth. Subsection (2) explains the purposes for which an offence will be treated in that manner.

**Clause 12 Application of Commonwealth criminal laws to offences against applied provisions**

Subsection (1) states that Commonwealth criminal laws will apply in relation to an offence against the applied provisions.

Subsection (2) makes further clarification that an offence will not be taken as an offence against the laws of Tasmania.

Subsection (3) clarifies that the effect of Subsection (2) might be altered by the making of regulations under the Act.

**Clause 13 Functions and powers conferred on Commonwealth officers and authorities relating to offences**

Subsection (1) explains Commonwealth officers and authorities upon whom functions and powers relating to offences are conferred as per Clause 12 will be able to exercise those functions and powers in Tasmania.

Subsection (2) ensures officers will act in the same manner when exercising their functions or powers in Tasmania as they would in Commonwealth Territories.

**Clause 14 No double jeopardy for offences against applied provisions**

An offender punished for an offence under the Commonwealth gene technology laws will not be punished again for the offence under this Act.

**Part 5 Administrative Laws**

**Clause 15 Application of Commonwealth administrative laws to applied provisions**

Section 15 will cause Commonwealth administrative laws to apply to the Act. It

will enable the Commonwealth Administrative Appeals Tribunal to determine administrative appeals relating to the Act except so far as subsection (3) limits application of Commonwealth laws to the Act by the making of regulations.

**Clause 16 Functions and powers conferred on Commonwealth officers and authorities**

The functions and powers conferred on Commonwealth officers under a Commonwealth administrative law will apply in Tasmania. Officers conferred with those powers will act in the same manner under this Act as they do under the Commonwealth administrative law.

**Part 6 Miscellaneous**

**Clause 17 Things done for multiple purposes**

Anything issued (such as licences and certificates), given or done under Act will not be affected by also being issued, given or done under the Commonwealth gene technology laws.

**Clause 18 Reference in Commonwealth law to a provision of another law**

Commonwealth laws referred to in the provisions of Commonwealth criminal and administrative laws (applying by virtue of sections 12 and 15) will apply to the Act.

**Clause 19 Fees and other money**

Fees, penalties, fines and any other money payable under the Act will be paid to the Commonwealth.

**Clause 20 Regulations**

Regulations may be made subordinate to this Act by the Governor.

**Clause 21 Administration of Act**

The Minister for Primary Industries and Water, and Department of Primary Industries, Parks, Water and Environment are responsible for administration of the Act until an administration order is given under the Tasmanian *Administrative Arrangements Act 1990*, determining otherwise.

**Clause 22 Consequential amendments**

Legislation requiring consequential amendments as a result of this Act is specified in Schedule 1.

**Clause 23 Legislation repealed**

Legislation repealed by this Act is specified in Schedule 2

**Clause 24 Legislation rescinded**

Legislation rescinded by this Act is specified in Schedule 3.

**Clause 25 Legislation revoked**

Legislation revoked by this Act is specified in Schedule 4.

**Schedule 1 Consequential Amendments**

The *Agricultural and Veterinary Chemicals (Tasmania) Act 1994* and the

*Genetically Modified Organisms Control Act 2004* require consequential amendments to update definitions that were referred to in the previous *Gene Technology Act 2001* of Tasmania and are now only contained in the Commonwealth *Gene Technology Act 2000*.

The *Federal Courts (State Jurisdiction) Act 1999* requires consequential amendment to its definition of 'relevant State Act' to ensure State jurisdiction over the Act.

**Schedule 2 Legislation Repealed**

The *Gene Technology Act 2001* is repealed by this Act.

**Schedule 3 Legislation Rescinded**

The *Gene Technology Regulations 2003* are rescinded by this Act.

**Schedule 4 Legislation Revoked**

The *Proclamation under the Gene Technology Act 2001* is revoked by this Act.