
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 295

**Genetically Modified Organisms (Contained
Use) Regulations (Northern Ireland) 2001**

Part V

Miscellaneous and General

Exemption certificates

25.—(1) Subject to paragraph (2), the competent authority may, by a certificate in writing, exempt—

- (a) any person or class of persons; or
- (b) any genetically modified organism or class of genetically modified organisms,

from all or any of the requirements of, or prohibitions imposed by, these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The competent authority shall not grant an exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, that it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any enactments which apply to the case,

it is satisfied about the matters referred to in paragraph (3).

(3) The matters about which the competent authority shall be satisfied for the purposes of paragraph (2) are—

- (a) that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it; and
- (b) that the environment will not be prejudiced in consequence of the exemption where the exemption is concerned with a requirement of, or a prohibition imposed by, these Regulations which relates to an activity involving genetic modification of a micro-organism.

Enforcement and civil liability

26.—(1) Subject to paragraph (2) and to the extent they would not otherwise do so, the provisions of—

- (a) Articles 18 to 28 (approved codes of practice and enforcement), Articles 31 to 39 (provisions as to offences) and Article 43 (civil liability) of the 1978 Order⁽¹⁾; and

(1) S.I.1978/1039 (N.I. 9); Articles 18 to 20 and 31 were amended by, and Article 34A was inserted by, S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1.

(b) the Health and Safety (Training for Employment) Regulations (Northern Ireland) 1994⁽²⁾, shall apply to these Regulations as if they were health and safety regulations for the purposes of that Order.

(2) A failure to discharge a duty placed on the competent authority or the Executive by these Regulations shall not be an offence, and Article 31(1)(c) of the 1978 Order shall have effect accordingly.

(3) Notwithstanding regulation 4 of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999⁽³⁾, the enforcing authority for these Regulations shall be the Executive.

Fees for notifications and applications

27.—(1) The fee specified in column 2 of the table in Schedule 9 shall be payable by a notifier to the competent authority in relation to any notification or application referred to in the corresponding entry in column 1 of that table.

(2) No fee shall be returned to a notifier where the competent authority returns a notification pursuant to regulation 14(7) or a notifier withdraws his notification pursuant to regulation 15(7).

Transitional provisions

28. Schedule 10 shall have effect.

Appeals

29.—(1) Any person who is aggrieved by a decision of the competent authority—

- (a) that he shall not undertake an activity involving genetic modification referred to in regulation 10(1), 11(1) or 12(1);
- (b) not to agree pursuant to regulation 18(2) that he need not apply a particular containment measure for the activity involving genetic modification in question;
- (c) to revoke an exemption certificate granted to him pursuant to regulation 25(1);
- (d) to grant to him an exemption certificate subject to a condition or a limit of time pursuant to regulation 25(1),

may appeal to the Department of Enterprise, Trade and Investment.

(2) Any person who is aggrieved by—

- (a) a request to him made pursuant to regulation 14(2);
- (b) an instruction given to him pursuant to regulation 14(3);
- (c) a notice given to him pursuant to regulation 15(1),

may appeal to the Department of Enterprise, Trade and Investment.

(3) Any person who is aggrieved by a decision of the competent authority—

- (a) made pursuant to regulation 22(2)(b) or regulation 23(2)(b), not to keep confidential information provided by that person to the competent authority in accordance with these Regulations;
- (b) made pursuant to regulation 22(8) or regulation 23(7), not to withhold information,

may appeal to the Department of Enterprise, Trade and Investment.

(2) S.R. 1994 No. 1
(3) S.R. 1999 No. 90

(4) Chapter I of the Schedule to the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997⁽⁴⁾ shall apply to any appeal made under paragraphs (1) to (3).

(5) Where an appeal is brought under this regulation, none of the following, that is to say—

- (a) a decision of the competent authority other than a decision referred to in paragraph (3);
- (b) an instruction given pursuant to regulation 14(3);
- (c) the operation of paragraphs (2) or (6) of regulation 14;
- (d) a notice given pursuant to regulation 15(1),

shall be suspended pending the final determination of the appeal.

(6) Where an appeal is brought under paragraph (3) in respect of any information provided pursuant to regulation 21, pending the final determination of the appeal, the information shall not be disclosed except to the extent necessary to enable the competent authority to comply with its obligations under paragraph (2)(a), (b) and (d) of that regulation.

(7) Where an appeal is brought under paragraph (3) in respect of information provided pursuant to regulations 9 to 15—

- (a) pending the final determination of the appeal, the information shall not be disclosed except—
 - (i) to the extent necessary to evaluate the notification;
 - (ii) to the Department of Agriculture and Rural Development;
 - (iii) to the Great Britain competent authority; or
 - (iv) to the European Commission.

(b) if—

- (i) the appeal is finally determined in favour of the competent authority, and
- (ii) the information is required to be entered in the register maintained in accordance with regulation 24,

the information shall be entered in that register within 14 days following the day on which the appeal is finally determined.

Application within territorial waters

30. Within territorial waters these Regulations shall apply only to or in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 11 applies.

Revocations, amendments and savings

31.—(1) The following are revoked—

- (a) the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 1994⁽⁵⁾;
- (b) the Genetically Modified Organisms (Contained Use) (Amendment) Regulations (Northern Ireland) 1996⁽⁶⁾;
- (c) the Genetically Modified Organisms (Contained Use) (Amendment) Regulations (Northern Ireland) 1999⁽⁷⁾.

(4) S.R. 1997 No. 269

(5) S.R. 1994 No. 143

(6) S.R. 1996 No. 250

(7) S.R. 1999 No. 14

(2) In paragraph (3)(d) of regulation 8 of the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 1994⁽⁸⁾, for the words “under regulation 11 of the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 1994”, there shall be substituted the words “under regulation 16 of the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2001”.

(3) The Genetically Modified Organisms (Risk Assessment) (Records and Exemptions) Regulations (Northern Ireland) 1996⁽⁹⁾ shall be amended as follows—

- (a) in regulation 2(1), in the definition of “the Contained Use Regulations”, for the words “the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 1994”, there shall be substituted the words “the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2001”;
- (b) in paragraph (2)(b)(i) of regulation 4, for the words “Schedule 1”, there shall be substituted the words “Schedule 2”; and
- (c) in paragraph (2)(b)(ii) of regulation 4, for the words “regulation 3(3) of, and Part III of Schedule 1” there shall be substituted the words “regulation 3(2) of, and Part III of Schedule 2”.

(4) In the Health and Safety (Fees) Regulations (Northern Ireland) 1998⁽¹⁰⁾, regulation 10 and Schedule 7 shall be omitted.

(5) In paragraph 12(5) of Schedule 3 to the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2000⁽¹¹⁾, for the words “Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 1994”, there shall be substituted the words “Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2001”.

(6) Every record required to be kept under regulation 7(5) of the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 1994 shall, notwithstanding paragraph (1), be kept in the same manner and for the same period as specified in that regulation as if these Regulations had not been made.

⁽⁸⁾ S.R. 1994 No. 144
⁽⁹⁾ S.R. 1996 No. 442
⁽¹⁰⁾ S.R. 1998 No. 125
⁽¹¹⁾ S.R. 2000 No. 120