



Environmental Protection Act 1990

1990 CHAPTER 43

PART VI

GENETICALLY MODIFIED ORGANISMS

General controls

108 Risk assessment and notification requirements.

- (1) Subject to subsections (2) and (7) below, 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, to release or market them) of damage to the environment being caused as a result of doing that act; and
 - (b) in such cases and circumstances as may be prescribed, he has given the Secretary of State such notice of his intention of doing that act and such information as may be prescribed.
- (2) Subsection (1) above does not apply to a person proposing to do an act mentioned in that subsection who is required under section 111(1)(a) below to have a consent before doing that act.
- (3) Subject to subsections (4) and (7) below, a person who is keeping genetically modified organisms shall, in such cases or circumstances 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 Secretary of State notice of the fact that he is keeping the organisms and such information as may be prescribed.

Changes to legislation: Environmental Protection Act 1990, Section 108 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) Subsection (3) above does not apply to a person who is keeping genetically modified organisms and is required under section 111(2) below 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 subsection (1) (a) or (3)(a) above to keep, for the prescribed period, such a record of the assessment as may be prescribed.
- (6) A person required by subsection (1)(b) or (3)(b) above to give notice to the Secretary of State shall give the Secretary of State such further information as the Secretary of State may by notice in writing require.
- (7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State [^{F1}, or by the Secretary of State and the Food Standards Agency acting jointly,] of exemptions to particular persons or classes of person, from the requirements of subsection (1) or (3) above in such cases or circumstances, and to such extent, as may be prescribed.
- (8) The Secretary of State may at any time—
- (a) give directions to a person falling within subsection (1) above requiring that person to apply for a consent before doing the act in question; or
 - (b) give directions to a person falling within subsection (3) above 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 paragraph (a) above shall then, and a person given directions under paragraph (b) above shall from the specified date, be subject to section 111 below in place of the requirements of this section.
- (9) Regulations under this section may—
- (a) prescribe the manner in which assessments under subsection (1) or (3) above 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 subsection (1)(b) above and the doing of the act in question;
 - (c) make provision allowing the Secretary of State to shorten or to extend any such period;
 - (d) prescribe maximum intervals at which assessments under subsection (3)(a) above must be carried out;
- and the regulations may make different provision for different cases and different circumstances.
- (10) In this section “prescribed” means prescribed by the Secretary of State in regulations under this section.
- [^{F2}(11) In the application of this section to Scotland, the reference in subsection (7) to the Food Standards Agency is to be read as a reference to Food Standards Scotland.]

Textual Amendments

- F1** Words in s. 108(7) inserted (1.4.2000) by 1999 c. 28, s. 18, **Sch. 3 Pt. III para. 17** (with s. 38); S.I. 2000/1066, **art. 2**
- F2** S. 108(11) inserted (S.) (1.4.2015) by Food (Scotland) Act 2015 (asp 1), s. 63(2), **sch. para. 4(2)** (with s. 62); S.S.I. 2015/99, **art. 2**

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Modifications etc. (not altering text)

- C1** Ss. 108-110 extended (Isles of Scilly) (with modifications) (4.8.2006) by [The Environmental Protection Act 1990 \(Isles of Scilly\) Order 2006 \(S.I. 2006/1381\)](#), [art. 3](#)
- C2** S. 108(1)(a) restricted (temp. from 15.11.2004 to 18.4.2007) by [The Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), [reg. 17A](#) (as inserted by [The Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Amendment Regulations 2004 \(S.S.I. 2004/439\)](#)), [reg. 5](#)

Commencement Information

- I1** S. 108 partly in force; s. 108 not in force at Royal Assent see s. 164(2)(3); s. 108(1)(b)(3)(b)(5)(7)(9) in force 1.4.1991 by [S.I. 1991/1042](#), [art. 2](#); s. 108(10) in force at 1.1.1993 and s. 108(1) in force for certain purposes at 1.2.1993 by [S.I. 1992/3253](#), [arts. 2, 3](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)