

NORTHERN TERRITORY OF AUSTRALIA
GENE TECHNOLOGY (NORTHERN TERRITORY) ACT 2004

Act No. 67 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 67 of 2004

AN ACT

to apply the *Gene Technology Act 2000* and the *Gene Technology (Licence Charges) Act 2000* of the Commonwealth as a law of the Territory, and for related purposes

[Assented to 21 December 2004]
[Second reading 13 October 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Gene Technology (Northern Territory) Act 2004*.

2. Commencement

This Act comes into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

3. Object of Act

(1) The object of this Act is to adopt in the Territory a uniform Australian approach to the regulation of genetically modified organisms.

Gene Technology (Northern Territory) Act 2004

- (2) For that purpose, this Act –
- (a) applies the *Gene Technology Act 2000* and the *Gene Technology (Licence Charges) Act 2000* of the Commonwealth as a law of the Territory; and
 - (b) makes provision to help ensure that the Commonwealth Acts and the applied law of the Territory are administered on a uniform basis by the Commonwealth as if they constituted a single law of the Commonwealth.

4. Interpretation

- (1) In this Act –

"applied provisions" means the Commonwealth gene technology laws that apply as a law of the Territory because of section 6, including any modification under section 7;

"Commonwealth administrative laws" means the following Acts and regulations of the Commonwealth:

- (a) the *Administrative Appeals Tribunal Act 1975* (excluding Part IVA);
- (b) the *Freedom of Information Act 1982*;
- (c) the *Ombudsman Act 1976*;
- (d) the *Privacy Act 1988*;
- (e) the regulations in force under any of those Acts;

"Commonwealth Gene Technology Act" means the *Gene Technology Act 2000* of the Commonwealth;

"Commonwealth gene technology laws" means –

- (a) the Commonwealth Gene Technology Act;
- (b) the Commonwealth Licence Charges Act; and
- (c) all regulations, guidelines, principles, standards and codes of practice in force under either of those Acts;

"Commonwealth Licence Charges Act" means the *Gene Technology (Licence Charges) Act 2000* of the Commonwealth;

"Commonwealth Regulator" means the Gene Technology Regulator appointed under the Commonwealth Gene Technology Act;

"function" includes duty;

"modifications" includes additions, omissions and substitutions.

(2) If an expression is defined in the Commonwealth Gene Technology Act and is also used in this Act, the expression as used in this Act has, unless the contrary intention appears, the same meaning as in that Act.

(3) In this Act, a reference to a Commonwealth Act includes a reference to –

- (a) the Commonwealth Act as amended and in force from time to time; and
- (b) another Act enacted in substitution for the Commonwealth Act and, if it is amended, that other Act as amended and in force from time to time.

5. Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

PART 2 – APPLIED PROVISIONS

6. Application of Commonwealth gene technology laws to Territory

(1) The Commonwealth gene technology laws, as in force from time to time and as modified by or under this Act, apply as a law of the Territory.

(2) Those Commonwealth gene technology laws so apply as if they extended to matters in relation to which the Territory may make laws –

- (a) whether or not the Commonwealth may make laws in relation to those matters; and
- (b) even though the Commonwealth gene technology laws provide that they apply only to specified matters with respect to which the Commonwealth may make laws.

7. Modification of Commonwealth gene technology laws

(1) The Regulations may modify the Commonwealth gene technology laws.

(2) Without limiting subsection (1), the Regulations may provide that the Commonwealth gene technology laws apply under section 6(1) as if an

amendment to the Commonwealth gene technology laws made by a law of the Commonwealth and specified in the Regulations had not taken effect.

8. Interpretation of Commonwealth gene technology laws

(1) The *Acts Interpretation Act 1901* of the Commonwealth applies as a law of the Territory in relation to the interpretation of the applied provisions.

(2) That Act so applies as if the applied provisions were a Commonwealth Act or were regulations or other instruments under a Commonwealth Act, as the case requires.

(3) The *Interpretation Act* of the Territory does not apply in relation to the applied provisions.

PART 3 – FUNCTIONS AND POWERS UNDER APPLIED PROVISIONS

9. Functions and powers of Commonwealth Regulator and other authorities and officers

The Commonwealth Regulator and other authorities and officers referred to in the applied provisions have the same functions and powers under the applied provisions as they have under the Commonwealth gene technology laws as those laws apply to the Commonwealth.

10. Delegations by Commonwealth Regulator

A delegation by the Commonwealth Regulator under the Commonwealth Gene Technology Act is taken to extend to, and have effect for, the corresponding provision of the applied provisions.

PART 4 – OFFENCES

11. Object of Part

(1) The object of this Part is to further the object of this Act by providing for an offence against the applied provisions to be treated as if it were an offence against a law of the Commonwealth.

(2) The purposes for which an offence is to be treated as mentioned in subsection (1) include, for example (but without limitation) the following:

- (a) the investigation and prosecution of offences;
- (b) the arrest, custody, bail, trial and conviction of offenders or persons charged with offences;
- (c) proceedings relating to a matter referred to in paragraph (a) or (b);

- (d) appeals and reviews relating to criminal proceedings and to proceedings of the kind referred to in paragraph (c);
- (e) the sentencing, punishment and release of persons convicted of offences;
- (f) fines, penalties and forfeitures;
- (g) liability to make reparation in connection with offences;
- (h) proceeds of crime;
- (i) spent convictions.

12. Application of Commonwealth criminal laws to offences against applied provisions

(1) The relevant Commonwealth laws apply as laws of the Territory in relation to an offence against the applied provisions as if those provisions were a law of the Commonwealth and not a law of the Territory.

(2) For a law of the Territory, an offence against the applied provisions –

- (a) is taken to be an offence against the laws of the Commonwealth in the same way as if those provisions were a law of the Commonwealth; and
- (b) is taken not to be an offence against the laws of the Territory.

(3) Subsection (2) has effect for a law of the Territory except as provided by the Regulations.

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

(1) A Commonwealth law applying because of section 12 that confers on a Commonwealth officer or authority a function or power in relation to an offence against the Commonwealth gene technology laws also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the applied provisions.

(2) In performing a function or exercising a power conferred by this section, the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power in relation to an offence against the corresponding provision of the Commonwealth gene technology laws.

14. No double jeopardy for offences against applied provisions

If –

- (a) an act or omission is an offence against both the applied provisions and an offence against the Commonwealth gene technology laws; and
- (b) the offender has been punished for that offence under those Commonwealth laws,

the offender is not liable to be punished for the offence under the applied provisions.

PART 5 – ADMINISTRATIVE LAW

15. Application of Commonwealth administrative laws to applied provisions

(1) The Commonwealth administrative laws apply as laws of the Territory to any matter arising in relation to the applied provisions as if those provisions were a law of the Commonwealth and not a law of the Territory.

(2) For a law of the Territory, a matter arising in relation to the applied provisions –

- (a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if those provisions were a law of the Commonwealth; and
- (b) is taken not to be a matter arising in relation to laws of the Territory.

(3) Subsection (2) has effect for a law of the Territory except as provided by the Regulations.

(4) A provision of a Commonwealth administrative law applying because of this section that purports to confer jurisdiction on a federal court is taken not to have that effect.

(5) For this section, a reference in a provision of the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (as that provision applies as a law of this jurisdiction) to the whole or any part of Part IVA of that Act is taken to be a reference to the whole or any part of that Part as it has effect as a law of the Commonwealth.

16. Functions and powers conferred on Commonwealth officers and authorities

(1) A Commonwealth administrative law applying because of section 15 that confers on a Commonwealth officer or authority a function or power also confers on the officer or authority the same function or power in relation to a matter arising in relation to the applied provisions.

(2) In performing a function or exercising a power conferred by this section, the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power under the Commonwealth administrative law.

PART 6 – MISCELLANEOUS

17. Things done for multiple purposes

The validity of a licence, certificate or other thing issued, given or done for the applied provisions is not affected only because it was issued, given or done also for the Commonwealth gene technology laws.

18. Reference in Commonwealth law to provision of another law

For sections 12 and 15, a reference in a Commonwealth law to a provision of that or another Commonwealth law is taken to be a reference to that provision as applying because of that section.

19. Fees and other money

All fees, penalties, fines and other money that, under this Act and the applied provisions, are authorised or directed to be payable by or imposed on any person (but not including an amount ordered to be refunded to another person) must be paid to the Commonwealth.

20. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted to be prescribed by this Act; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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