

STATUTORY INSTRUMENTS.

**S.I. No. 54 of 2004**

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GENETICALLY MODIFIED ORGANISMS  
(TRANSBOUNDARY MOVEMENT)  
REGULATIONS 2004

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The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 6, 11 and 111 (as amended by section 17 of the Protection of the Environment Act 2003 (No. 27 of 2003)) of the Environmental Protection Agency Act 1992 (No. 7 of 1992), and for the purpose of giving effect to Regulation No. 1946/2003 of the European Parliament and of the Council of 15 July 2003<sup>1</sup> on transboundary movements of genetically modified organisms, hereby makes the following Regulations:-

Citation

1. These Regulations may be cited as the Genetically Modified Organisms (Transboundary Movement) Regulations 2004.

Commencement

2. These Regulations shall come into operation on 12 February 2004.

Interpretation

3. (1) In these Regulations, unless the context otherwise requires—

“the Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992;

“the EU Regulation” means Regulation No. 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms.

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<sup>1</sup> OJ No. L287, 5.11.2003, p.1

- (2) A word or expression that is used in these Regulations has, unless the context otherwise requires, the same meaning that it has in the EU Regulation.
- (3) (a) In these Regulations, any reference to an article which is not otherwise identified is a reference to an article of these Regulations.
- (b) In these Regulations, any reference to a sub-article, paragraph or subparagraph which is not otherwise identified is a reference to the sub-article, paragraph or subparagraph of the provision in which the reference occurs.

#### Obligations on exporters

- 4. (1) An exporter shall comply with the requirements placed on the exporter by the provisions of Chapter II of the EU Regulation.
- (2) Without prejudice to the generality of sub-article (1), an exporter shall-
  - (a) in respect of a genetically modified organism intended for deliberate release into the environment:
    - (i) give, in accordance with Article 4 of the EU Regulation, a notification in writing to the competent authority of the Party or non-Party of import containing the information specified in Annex I of the said Regulation,
    - (ii) comply with the provisions of Article 5 of the EU Regulation,
    - (iii) retain for a period of 5 years, and send to the Agency and the Commission of the European Communities a copy of, records in accordance with Article 6 of the EU Regulation,
    - (iv) provide to the Secretariat, in accordance with Article 7(2) of the EU Regulation, a copy of any written reminder sent to the competent authority of the Party or non-Party of import,
  - (b) in respect of a genetically modified organism intended for direct use as food or feed, or for processing:
    - (i) comply, in accordance with Article 10(1) of the EU Regulation, with any decision of a Party or a non-Party of import referred to in the said Article 10(1),
    - (ii) not proceed with a first intentional transboundary movement to a Party or a non-Party of import referred to in Article 10(2) of the EU Regulation, other than in accordance with the said Article 10(2),

- (iii) comply with the requirements of Article 10(3) of the EU Regulation,
- (c) comply with the requirements of Article 12 of the EU Regulation in relation to identification and accompanying documentation,
- (d) notify, in accordance with Article 13 of the EU Regulation, the transit of genetically modified organisms through their territory to Parties that have decided to regulate such transit and have informed the Biosafety Clearing-House of the said decision, and
- (e) ensure the accuracy and completeness of any notification or information provided or held by the exporter in accordance with these Regulations or the EU Regulation.

#### Power to give directions

- 5. (1) Without prejudice to the generality of article 4, a competent authority referred to in article 8(2) may, for the purposes of the administration and enforcement of these Regulations and the EU Regulation, give such directions or issue such instructions to an exporter as it sees fit.
- (2) An exporter to whom a direction has been given or an instruction issued under sub-article (1) shall comply with such direction or instruction.

#### Authorised persons

- 6. A competent authority referred to in article 8(2) may appoint such person or persons as it considers appropriate to be an authorised person, within the meaning of the Environmental Protection Agency Act 1992, for the purposes of these Regulations.

#### Prosecutions

- 7. An offence arising from contravention of a provision of these Regulations may be prosecuted summarily by a competent authority referred to in article 8(2).

#### Focal point and competent authorities

- 8. (1) The Agency shall be the focal point for the purposes of the EU Regulation.
- (2) The competent authorities for the purposes of the EU Regulation shall be:
  - (a) in respect of genetically modified organisms intended for deliberate release into the environment, the Agency,

- (b) in respect of genetically modified organisms intended for contained use, the Agency,
- (c) in respect of genetically modified organisms intended for direct use as food or for processing, the Food Safety Authority of Ireland, and
- (d) in respect of genetically modified organisms intended for feed or for processing, the Department of Agriculture and Food.

GIVEN under the Official Seal of the Minister  
for the Environment, Heritage and Local  
Government this 11<sup>th</sup> day of February 2004.

L.S.    Martin Cullen  
Minister for the Environment, Heritage and  
Local Government.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations give effect to Regulation No. 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms.

The Regulations detail the obligations placed on exporters to ensure that all relevant requirements in relation to the transboundary movement of a GMO intended for deliberate release are fulfilled; they give power to the Environmental Protection Agency as competent authority to give such directions to an exporter as it sees fit. The EPA is also designated as the focal point for the purposes of the EU Regulations. In addition, the Food Safety Authority of Ireland and the Department of Agriculture and Food are designated as competent authorities, with appropriate powers.

The Regulations come into effect on 12 February 2004.