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SPECIAL SUPPLEMENT

Gene Technology (GM Crop Moratorium) Act 2003

Moratorium Order Number 1

I, Ian Macdonald, *NSW* Minister for Agriculture and Fisheries, pursuant to section 6 of the *Gene Technology (GM Moratorium) Act 2003*, prohibit the cultivation in New South Wales of the class of GM food plants specified in the Schedule.

Schedule

Class of GM food plants to which this Moratorium Order applies

GM food plants of the species *Brassica napus*, common name canola, tolerant to the herbicide glufosinate ammonium due to genetic modification which are derived from the lines defined in the applications under Section 40 of the *Gene Technology Act 2000* of the Commonwealth (the **Commonwealth Act**) designated DIR010/2001 and DIR021/2002 made to the Gene Technology Regulator constituted pursuant to Section 26 of the Commonwealth Act and further particularised in the following table.

Line	Genetic Modification
T45	<ul style="list-style-type: none"> tolerance to glufosinate ammonium due to genetic modification to introduce the <i>pat</i> gene from <i>Streptomyces viridichromogenes</i> encoding the protein phosphinothricin acetyl transferase.
Topas19/2	<ul style="list-style-type: none"> tolerance to glufosinate ammonium due to genetic modification to introduce the <i>pat</i> gene from <i>Streptomyces viridichromogenes</i> encoding the protein phosphinothricin acetyl transferase. resistance to aminoglycoside antibiotics due to genetic modification to introduce the <i>nptII</i> gene from <i>Escherichia coli</i> encoding the protein neomycin phosphotransferase II.
MS1	<ul style="list-style-type: none"> tolerance to glufosinate ammonium due to genetic modification to introduce the <i>bar</i> gene from <i>Streptomyces hygroscopicus</i> encoding the protein phosphinothricin acetyl transferase. male sterility due to genetic modification to introduce the barnase gene from <i>Bacillus amyloliquefaciens</i> encoding the Barnase ribonuclease protein. resistance to aminoglycoside antibiotics due to genetic modification to introduce the <i>nptII</i> gene from <i>Escherichia coli</i> encoding the protein neomycin phosphotransferase II.
MS8	<ul style="list-style-type: none"> tolerance to glufosinate ammonium due to genetic modification to introduce the <i>bar</i> gene from <i>Streptomyces hygroscopicus</i> encoding the protein phosphinothricin acetyl transferase. male sterility due to genetic modification to introduce the barnase gene from <i>Bacillus amyloliquefaciens</i> encoding the Barnase ribonuclease protein.
RF1 & RF2	<ul style="list-style-type: none"> tolerance to glufosinate ammonium due to genetic modification to introduce the <i>bar</i> gene from <i>Streptomyces hygroscopicus</i> encoding the protein phosphinothricin acetyl transferase. Fertility restoration of male sterile lines expressing the Barnase protein. Fertility restoration is due to genetic modification to introduce the <i>barstar</i> gene from <i>Bacillus amyloliquefaciens</i> encoding the Barstar ribonuclease inhibitor protein that specifically binds to, and suppresses the activity of, the Barnase protein. resistance to aminoglycoside antibiotics due to genetic modification to introduce the <i>nptII</i> gene from <i>Escherichia coli</i> encoding the protein neomycin phosphotransferase II.
RF3	<ul style="list-style-type: none"> tolerance to glufosinate ammonium due to genetic modification to introduce the <i>bar</i> gene from <i>Streptomyces hygroscopicus</i> encoding the protein phosphinothricin acetyl transferase.

	<ul style="list-style-type: none">• Fertility restoration of male sterile lines expressing the Barnase protein. Fertility restoration is due to genetic modification to introduce the <i>barstar</i> gene from <i>Bacillus amyloliquefaciens</i> encoding the Barstar ribonuclease inhibitor protein that specifically binds to, and suppresses the activity of, the Barnase protein.
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Note

This order applies only to canola plants (generally, but not exclusively, known as *InVigor Canola*) which have been genetically modified and have been licensed under the *Gene Technology Act 2000* of the Commonwealth for intentional release into the environment. The order applies to any canola plant which derives its glufosinate ammonium tolerance from genetic modification whether that modification was to that plant or to any other plant from which that plant is derived (see definition of GM food plant in *Gene Technology (GM Moratorium) Act 2003*).

Date: 22 July 2003.

**IAN MACDONALD, M.L.C.,
NSW Minister for Agriculture and Fisheries**

Gene Technology (GM Crop Moratorium) Act 2003

Exemption Order Number 1

I, Ian Macdonald, *NSW* Minister for Agriculture and Fisheries, pursuant to section 8 of the *Gene Technology (GM Moratorium) Act 2003*, confer the exemptions specified in Schedule 2 from the operation of the moratorium order specified in Schedule 1.

Schedule 1

Moratorium order in respect of which these exemptions are conferred

Moratorium Order Number 1 made on 22 July 2003 (the **moratorium order**) in respect of GM food plants of the species *Brassica napus*, common name canola, tolerant to the herbicide glufosinate ammonium due to genetic modification which are derived from the lines defined in the applications under Section 40 of the Commonwealth Act designated DIR010/2001 and DIR021/2002 made to the Gene Technology Regulator and further particularised in the moratorium order.

Schedule 2

Exemptions conferred

Exemption Number 1

Any cultivation, in accordance with the following conditions, which is not a dealing with the GM food plant which would involve the intentional release of the GMO into the environment within the terms of Section 11 of the Commonwealth Act, whether or not that Act applies to the cultivation.

Note

This exemption does not apply to the cultivation referred to in Exemption Number 2 since that cultivation is a dealing which would involve the intentional release of the GM food plant into the environment within the terms of the Commonwealth Act.

Conditions subject to which Exemption Number 1 is conferred

1. The cultivation is to take place in a facility which is certified pursuant to Division 2 of Part 7 of the Commonwealth Act by the Gene Technology Regulator to a containment level not less than Physical Containment Level PC2.
2. The person in control of the facility (whether the owner of the facility or some other person) in which the cultivation is to take place is an accredited organisation pursuant to Division 3 of Part 7 of the Commonwealth Act.

Notes

1. These conditions are to ensure that the cultivation is conducted in such a way that there is no unintentional release of the GMO into the environment.
2. If the facility is not certified by the Gene Technology Regulator to the PC2 containment level, or if the person in control of the facility is not an accredited organisation, Exemption Number 1 will not apply to the cultivation of the GM food plant and the cultivation will be prohibited by Moratorium Order Number 1.

Exemption Number 2**Exempt person:** Bayer CropScience Pty Limited**Exempt cultivation.**

The cultivation of research trials in accordance with the following conditions.

Note

Exemption Number 2 only authorises the cultivation of plants the subject of Moratorium Order Number 1 by Bayer CropScience Pty Limited for the purpose of field trials planted before 22 July 2003 at the locations specified in condition 3.

Conditions subject to which the cultivation may take place.

1. The cultivation must be under the direct supervision of the exempt person.
2. The exempt GM food plants must have been planted before 22 July 2003.
3. The exempt GM food plants must have been planted only within the areas described in the following table.

Site One		
Area (hectares):	6.5	
Local Government Area (s):	Wagga Wagga	NSW
Street Address / Directions:	<i>Cobden's Rd</i>	
The area bounded by a line joining the points defined by the following GPS Coordinates:		
	Northing	Easting
North Western	6122820	523384
North Eastern	6122805	523583
South Eastern	6122805	523609
South Western	6121990	523422
Site Two		
Area (hectares):	1.8	
Local Government Area (s):	Wagga Wagga	NSW
Street Address / Directions:	<i>Stoll's Lane</i>	
The area bounded by a line joining the points defined by the following GPS Coordinates:		
	Northing	Easting
North Western	6079179	520192
North Eastern	6079151	520423

South Eastern	6078905	520393
South Western	6078932	520168
Site Three		
Area (hectares):	5.4	
Local Government Area (s):	Coolamon	NSW
Street Address / Directions:	<i>Ashbridge Rd</i>	
The area bounded by a line joining the points defined by the following GPS Coordinates:		
	Northing	Easting
North Western	6155108	501193
North Eastern	6155079	501396
South Eastern	6154680	501612
South Western	6154650	501183

4. Application of conditions of licence DIR 010/2001

Note

The purpose of this clause is to ensure that the cultivation of the exempt plants pursuant to Exemption Number 2 continues to be subject, so far as this is appropriate, to the conditions to which the growth of the plants would have been subject if the cultivation had continued pursuant to licence DIR 010/2001 (the version as posted on the NSW Agriculture Website) under the Commonwealth Act. Cultivation in accordance with this exemption will also be subject to the conditions, if any, of licence DIR 021/2002.

- a. Subject to the modifications that follow, the conditions of licence DIR 010/2001 issued by the Gene Technology Regulator will apply to any cultivation pursuant to Exemption Number 2 whether or not the licence otherwise applies to the cultivation.
- b. The following conditions of licence DIR 010/2001 do not apply to any cultivation pursuant to Exemption Number 2:
 - i) Part 1,
 - ii) Conditions 1.1 and 1.2 of Part 3 Section 1,
 - iii) Conditions 1.1 to 2.6, including the tables following condition 2.6, 3, 5.1 and 5.2, of Part 3 Section 2, and
 - iv) Condition 22.
- c. In applying the conditions of licence DIR 010/2001 to any cultivation pursuant to Exemption Number 2 the conditions shall apply subject to the modifications set out below:
 - i) **GMO** is to be read as a reference to the exempt GM food plants,
 - ii) **OGTR** is to be read as a reference to the Director-General of NSW Agriculture,

- iii) **Regulator** is to be read as a reference to the Director-General of NSW Agriculture,
- iv) **Licence holder** is to be read as a reference to the exempt person,
- v) **Licence** is to be read as a reference to Exemption Number 2 in Exemption Order Number 1,
- vi) **Conditions 6 and 7** are to be read so as to require the notices in writing to be given to each of the following persons:
 - (1) The Director-General, and
 - (2) Neighbours.

Neighbours means -

- If the area described in Condition 3 on which the GM food plant is growing comprises part of a **holding**, all occupiers of holdings that are adjacent to that holding; or
- If the area described in Condition 3 on which the GM food plant is growing comprises the whole of a holding (the **first holding**), all occupiers of holdings (the **second holdings**) adjacent to the first holding, and all occupiers of holdings that are adjacent to the second holdings.

The terms **holding** and **occupier** have the same meaning as in the *Rural Lands Protection Act 1998*.

Note

The purpose of this clause is to ensure that persons who may have a legitimate interest in the growth stage of the exempt plants receive notice of flowering and harvesting events.

In this Exemption Order,

- **Commonwealth Act** means the *Gene Technology Act 2000* of the Commonwealth, and
- **Gene Technology Regulator** means the Gene Technology Regulator constituted pursuant to Section 26 of the Commonwealth Act
- **DIR 010/2001** means the version of DIR 010/2001 posted on the NSW Agriculture website.

Date: 22 July 2003.

**IAN MACDONALD, M.L.C.,
NSW Minister for Agriculture and Fisheries**

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