

Act on the Growing etc. of Genetically Modified Crops

WE MARGRETHE THE SECOND, by the Grace of God Queen of Denmark, do hereby make known:
Folketinget has passed and We have provided the following Act with Our Royal Assent:

Scope and Definitions of the Act

1. This Act shall apply to commercial growing, handling, sale and transport of genetically modified crops as far as the first buyer with a view to limiting the possibility of dispersal of pollen, seeds and vegetative propagation material to other fields and crops therefrom.

2(1). In this Act genetically modified crops shall mean crops, including seeds and vegetative propagation material, in which the genetic material has been altered in a way that does not occur naturally by mating or natural recombination.

(2). In this Act genetically modified material shall mean that part of a genetically modified crop which after dispersal with pollen, seeds or vegetative propagation material can be found again in a conventional or organic crop.

Growing, Handling, Sale, Transport etc.

3(1). The Minister for Food, Agriculture and Fisheries may lay down rules providing that the growing, handling and transport of genetically modified crops may only be performed by persons holding a license to prove that they fulfil certain education requirements within the field of coexistence between genetically modified, conventional and organic crops, and subject to previous authorisation.

(2). The Minister may lay down specific rules on the aims of such education and on the requirements for being granted the licence mentioned in (1) above.

(3). The Minister may also lay down rules providing that the licence mentioned in (1) above may only be granted by providers of courses authorised by the Minister for Food, Agriculture and Fisheries. Such authorisation may be temporary.

(4). Authorised providers of courses may charge payment for the teaching.

4. The Minister for Food, Agriculture and Fisheries may lay down provisions to the effect that an authorisation for growing may be subject to certain restrictions and the Minister may in this regard exempt certain types of crops from the authorisation.

5(1). The Minister for Food, Agriculture and Fisheries may lay down rules governing the sale of genetically modified seeds and genetically modified vegetative propagation material, including that they may only be sold to authorised growers.

(2). The Minister may also lay down rules governing the reporting of sales of genetically modified seeds and genetically modified vegetative propagation material and governing the registration of the seller.

6(1). The Minister for Food, Agriculture and Fisheries may lay down rules on the growing, handling and transport of genetically modified crops, including on:

- i) The registration of anyone who handles or transports genetically modified material.
- ii) An obligation to notify owners and users of nearby fields, purchasers, partners etc. in con-

nection with:

- a) Growing.
- b) Use of vehicles, machines, equipment, storage rooms etc.
- c) Transfer of the right to use or the ownership of fields, vehicles, machines, equipment, storage rooms etc.
- iii) Reporting of fields with genetically modified crops.
- iv) Growing, including also rules on the distance to other fields with the same crop etc. and on growing intervals.
- v) Storage and transport.
- vi) Cleaning of vehicles, machines, equipment, storage rooms etc.

7(1). The Minister for Food, Agriculture and Fisheries may lay down rules governing the publication by name of results as well as type and scope of sanctions based on supervision and control measures carried through pursuant to this Act or rules issued in pursuance of this Act or of the regulations of the European Community. In this regard the Minister may lay down rules providing that any appeals shall not act as a stay of proceedings. The Minister may also lay down rules stipulating in which way and in which form the control results may be made available to the public at the place of control.

(2). The Minister may lay down rules stipulating the form of and scope of the publication, including that publication may take place electronically.

(3). The Minister may decide that publication shall take place based on an electronic information system established by the Minister concerning control results. For the purposes of publication the Minister may at any time, including periodically, pass on isolated pieces of information as well as mass information from the information system to an unspecified group of recipients. Anybody shall have access to obtain information from the information system which either has been published or which is to be published. This access shall comprise individual pieces of information as well as mass information.

(4). The Minister may decide that publication of information about fields on which genetically modified crops are grown may take place via the Internet based on an information system established by the Minister concerning information about growing. Anybody shall have access to obtain information from the information system which either has been published or which is to be published. This access shall comprise individual pieces of information as well as mass information.

8. The Minister for Food, Agriculture and Fisheries may lay down rules or make decisions with a view to implementing the directives and decisions of the European Community on matters covered by this Act. The Minister may also lay down any rules and take any measures necessary for the application of the regulations of the European Community on matters covered by this Act. The Minister may lay down rules or make decisions about the deviation from the rules of the above acts to the extent they provide such access.

Compensation Scheme and Obligation to Contribute

9(1). Within a framework provided for in the Budget the Minister for Food, Agriculture and Fisheries shall pay compensation to any farmer who suffers a loss due to the occurrence of genetically modified material in his crops if:

- i) in the same growing season within a specified area, a genetically modified crop of the same or a related variety has been grown which may be crossbred into the crop of the farmer suffering the loss and
- ii) the genetically modified crop can be identified in the crop of the farmer suffering the loss.

(2). The Minister shall lay down rules on the delimitation of the area mentioned in (1)(i) above.

(3). The amount entitling a farmer to compensation cf. (1) above shall not exceed:

- i) the reduction in the sales price of the crop caused by the occurrence of genetically modified material,
- ii) the costs for sampling and analysis and
- iii) any losses as a consequence of requirements for conversion of organic areas or animals due to the occurrence of genetically modified material.

(4). Irrespective of the provisions of (1)(i) and (ii) above, the Minister will pay compensation if an authorised organic farmer suffers a loss due to the occurrence of genetically modified seed in his seed for sowing. The loss entitling such farmer to compensation shall be calculated in accordance with the provisions of (3) above.

(5). The compensation may be reduced or, depending on the circumstances, be forfeited altogether if the farmer suffering the loss has deliberately or inadvertently contributed to the occurrence of the loss or due to his behaviour has reduced his opportunities of making a recourse claim, cf. section 11.

(6). Compensation cannot be paid for any loss suffered by such farmer as a consequence of the

occurrence of genetically modified material in the crops of the farmer suffering the loss if the occurrence of genetically modified material does not exceed a specific threshold value fixed by the Minister.

10(1). Compensation claims shall be filed without undue delay after it has come or should have come to the knowledge of the person suffering the loss that genetically modified material has been mixed in with his crop. If a claim is not filed without undue delay, the right to compensation shall be forfeited. The Minister for Food, Agriculture and Fisheries shall lay down specific rules governing the requirements for filing such claims and the information which the farmer is subsequently required to provide in order to obtain compensation.

(2). The right to receive compensation shall be forfeited if the claim has not been filed by 1 August in the first calendar year after harvesting the crop.

11. To the extent compensation is paid under the rules of this Act, the Minister for Food, Agriculture and Fisheries shall be subrogated to any claims for damages the farmer suffering the loss may have as against the person responsible for the loss, always provided that the farmer suffering the loss shall retain his right to put forth claims against the person responsible for the loss with regard to losses in excess of the compensation paid.

12(1). In whole or partial cover of the costs associated with the compensation scheme DKK 100 shall be payable per year per hectare on which genetically modified crops are grown.

(2). The Minister for Food, Agriculture and Fisheries shall lay down provisions governing the collection and payment of the amount mentioned in (1) above.

Administration of the Act

13(1). The Minister for Food, Agriculture and Fisheries may impose any bans and make any orders deemed necessary to comply with this Act or with any rules stipulated in pursuance of this Act or provisions in the regulations of the European Community on matters covered by this Act.

(2). If an order is not complied with within a defined time-limit, the Minister may take measures at the expense of the person liable.

14(1). If a person authorised under rules laid down in pursuance of section 3 above through gross or wilful violation of provisions in this Act or rules laid down in pursuance of this Act has dispersed genetically modified material or is accountable for a risk of dispersal thereof, such person may be deprived of his authorisation by judgment. The provisions in section 79(3) and (4) of the Danish Criminal Code shall apply correspondingly.

(2). If the Minister for Food, Agriculture and Fisheries finds that the conditions for deprivation in pursuance of (1), first sentence, above are fulfilled, the Minister may, if there is likely to be a risk of abuse, suspend an authorisation issued according to rules laid down in pursuance of section 3 above. Any person whose authorisation has been so suspended may request that the suspension be brought before the courts of law. Any request to that effect shall be made within four weeks after the person in question was notified about the decision, such decision containing information about the access to request a trial before a court of law and the time-limit in this regard. The Minister will institute legal proceedings against the person concerned under the rules of civil procedure.

(3). A request for legal proceedings shall act as a stay of proceedings but the court may order that the person in question shall be prevented from exercising the right concerned pending the trial. If the Minister's decision is held to be legal in the judgment, the judgment may stipulate that an appeal thereof shall not act as a stay of proceedings.

(4). The Minister for Food, Agriculture and Fisheries may stipulate conditions for renewed authorisation.

15(1). The Minister for Food, Agriculture and Fisheries may lay down rules on the collection and payment in full or partial cover of expenses for supervision and control under this Act and under rules issued in pursuance of this Act.

(2). The Minister may lay down provisions on payment for sampling and for analyses necessary in connection with the application for compensation under this Act.

(3). From the date of payment an annual interest corresponding to the reference rate laid down in the Interest Rate Act plus added interest will be added to payment obligations laid down in a regulation, in this Act or in rules issued under this Act and which are not paid, unless otherwise stipulated in EC acts. Such added interest shall

amount to not less than DKK 50. For reminders a fee of DKK 100 shall be charged, such amount to be regulated by the adjustment percentage of the Act on a rate regulation percentage applicable for the fiscal year in question as per 1 January. The amount is to be rounded off to the nearest amount in DKK divisible by 10.

(4). Payment obligations pursuant to rules laid down under (1) and (2) above, interest added in pursuance of (3) above, payment obligations in pursuance of section 12 above, measures taken in pursuance of section 13(2) above and fines imposed, cf. section 20(1), shall be subject to statutory debt collection.

16(1). If the Minister for Food, Agriculture and Fisheries vests the powers under this Act in an institution under the Ministry of Food, Agriculture and Fisheries, the Minister may in this connection lay down rules on the access to appeal the decisions of such authority, including that there shall be no appeal to any other administrative authority and regarding the authority's access to reopen a case after an appeal has been lodged.

(2). The person concerned by a decision on compensation made by the Minister for Food, Agriculture and Fisheries in pursuance of sections 9 and 10 or rules stipulated in pursuance thereof may request that such be brought before the courts of law. Any request to that effect shall be made as to the authority that has given notice of the decision and within four weeks after notice about the decision was given to such person. Subsequently the case will be brought before the court by the authority under the rules of civil procedure.

17(1). The Minister for Food, Agriculture and Fisheries or any person so authorised by the Minister shall, if deemed necessary, from time to time on proof of proper identity and without a court order be granted access to public and private property, premises, vehicles, ledgers, papers etc., including also material stored electronically, with a view to procuring information for use in the performance of tasks pursuant to this Act, rules stipulated in pursuance of this Act or provisions in the regulations of the European Community concerning matters covered by this Act.

(2). Anyone covered by the rules in this Act or by rules laid down in pursuance of this Act or by provisions in the regulations of the European Community concerning matters covered by this Act shall by request of the Minister for Food, Agriculture and Fisheries or any person so

authorised by the Minister, provide any information, including concerning financial and accounting matters, of importance to the performance of the control and shall without charge lend any assistance necessary to the Minister or any person so authorised by the Minister in connection with the control, sampling, copying and handing over of written material and transcripts of information stored in electronic form. The Minister or any person so authorised by the Minister shall be entitled to take samples for examination purposes without having to pay for such samples.

18. The Minister for Food, Agriculture and Fisheries may lay down rules on supervision and control with the compliance with this Act or the rules laid down under this Act or the regulations of the European Community.

Provisions regarding Penalty and Coming into Force

19(1). Provided that a more severe penalty is not applicable under other legislation, any person who

- i) violates a ban or fails to comply with an order issued in pursuance of 13(1) above
- ii) fails to supply information in pursuance of 17(2) above or
- iii) fails to provide assistance in pursuance of 17(2) above

shall be subject to a fine.

(2). Rules issued in pursuance of this Act may provide that anyone violating the rules shall be subject to a fine. Such rules may also fix a penalty consisting of a fine for violation of provisions in rules laid down by the European Community concerning matters covered by this Act.

(3). Companies etc. (legal persons) may be liable to a penalty under the rules in Part 5 of the Criminal Code.

20(1). If it is deemed that the penalty for a violation will not be more severe than a fine, the Minister for Food, Agriculture and Fisheries may declare that the case can be settled without instituting legal proceedings, if the person who has committed the violation pleads guilty of such violation and accepts to pay the fine stated in the declaration within a specific time-limit, which may be extended on request.

(2). With regard to the declaration mentioned in (1) above, the provisions of the Administration of Justice Act on the requirements for the contents of an indictment and on an accused person not being under an obligation to make a statement shall apply correspondingly.

(3). If the fine is paid in due time, or if it is collected or served after the decision, there shall be no further proceedings.

21(1). The time of coming into force of this Act or parts of this Act shall be laid down by the Minister for Food, Agriculture and Fisheries.

(2). Section 13(3) of the Act on Environment and Genetic Engineering, cf. consolidated Act No. 981 of 3 December 2002, shall be repealed.

22. This Act shall not extend to the Faroe Islands and Greenland.

Given at Christiansborg Palace, 9 June 2004

Under Our Royal Hand and Seal

MARGRETHE R.

/Mariann Fischer Boel