

“contained use” means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

“District Committee” means a District Biosafety Advisory Committee appointed under section 7;

“environment officer” means an officer appointed under section 24(1) of this Act;

“export” means intentional transboundary movement from the Kingdom to another State;

“exporter” means any person, under the jurisdiction of the State of export, who arranges for a living modified organism to be exported;

“import” means intentional transboundary movement into the Kingdom from another State;

“importer” means any person within the Kingdom who arranges for any living modified organism to be imported;

“living modified organism” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

“living organism” means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

“Minister” means the Minister of Environment;

“Ministry” means the Ministry of Environment;

“modern biotechnology” means the application of –

- (a) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles;
- (b) fusion of cells beyond taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection; or
- (c) any other process or technique prescribed by Regulations made under this Act;

“State Party” means a Party to the Cartagena Protocol;

“Secretary” means the Secretary for Environment;

“transboundary movement” means the movement of a living modified organism from the Kingdom to another State Party, or from another State Party to the Kingdom, and where indicated in this Act, it may include the movement to or from non-State Parties.

BIOSAFETY ACT 2009

Arrangement of Sections

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I assent,

GEORGE TUPOU V,

2nd March, 2010.

AN ACT

TO REGULATE LIVING MODIFIED ORGANISMS AND THE APPLICATION OF MODERN BIOTECHNOLOGY

[29th October, 2009].

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Biosafety Act 2009.

2. Interpretation

In this Act, unless the context otherwise requires –

“Advanced Informed Agreement Procedure” means the advanced informed agreement procedure prescribed in the Cartagena Protocol;

“biological diversity” has the same meanings and applications under the Convention;

“Biosafety Clearing-House” means the Biosafety Clearing-House established under the Cartagena Protocol;

“Committee” means the National Biosafety Advisory Committee established under section 5;

“Convention” means the 1992 Convention on Biological Diversity;

“Cartagena Protocol” means the Cartagena Protocol on Biodiversity to the Convention adopted at Montreal in January 2000 and any subsequent amendments thereto;

- (ii) otherwise identified as being or containing living modified organisms as required by any law and by the Cartagena Protocol;
- (i) arranging for certain information to be treated as confidential in accordance with this Act and the Cartagena Protocol;
- (j) facilitating and cooperating in the development and strengthening of human resources and institutional capacities within the Kingdom in the field of biosafety;
- (k) conducting programs of public awareness and education in relation to living modified organisms and applications of modern biotechnology, and facilitating public participation in relation to the processes prescribed by this Act and envisaged by the Cartagena Protocol in relation to their use and development within the Kingdom;
- (l) facilitating bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living modified organisms, and for the sharing of information and the enhancement of institutional capacities for the purposes of applying the provisions of the Cartagena Protocol;
- (m) ensuring that the customs and traditions of the Kingdom are taken into account when the development and use of living modified organisms and the application of modern biotechnology is under consideration; and
- (n) the proper administration of this Act.

9. Powers of the Secretary

- (1) The Secretary shall have the power to:
 - (a) specify the means by which scientifically based risk assessments are to be carried out and reported upon, including:
 - (i) the appropriate bodies to undertake the risk assessments;
 - (ii) the scope of the risk assessments and the methodologies to be applied; and
 - (iii) payment of the cost of risk assessments, and reimbursement to the Government of any costs associated with undertaking the risk assessments.
 - (b) require additional risk assessments to be undertaken when decisions are to be reviewed in accordance with Article 12 of the Cartagena Protocol;
 - (c) require that further information be provided under the Advanced Informed Agreement Procedure, and in relation to any other matter associated with meeting the obligations and exercising the rights of the Kingdom under the Cartagena Protocol;
 - (d) make arrangements for the keeping of certain information confidential in accordance with the provisions of this Act and the Cartagena Protocol;

3. Precautionary approach

- (1) All persons and agencies having responsibilities under this Act, or whose functions and powers may relate to any matter or thing involving the development, use, handling and transboundary movement of living modified organisms and the applications of modern biotechnology within the Kingdom, shall apply a precautionary approach when discharging their responsibilities and functions, or exercising their powers.
- (2) For the purposes of this section, a precautionary approach is applied if, in the event of a threat of damage to the environment or a risk to human health in the Kingdom, a lack of scientific certainty regarding the extent of adverse effects is not used to prevent or avoid a decision being made to minimise the potential adverse effects or risks arising from a living modified organism or the application of modern biotechnology within the Kingdom.

4. Act binds the Crown

The provisions of this Act shall bind the Crown.

PART II - ADMINISTRATIVE RESPONSIBILITIES

5. National Biosafety Advisory Committee

- (1) The National Biosafety Advisory Committee is hereby established.
- (2) The Committee shall consist of the Minister, who shall be the chairman, and one representative each from:
 - (a) the Ministry responsible for Agriculture, Food, Forestry and Fisheries;
 - (b) the Ministry of Health;
 - (c) the Ministry of Labour, Commerce and Industries;
 - (d) the Customs Division of the Revenue Services Department;
 - (e) each relevant non-government organisation; and
 - (f) the Secretary.
- (3) The Secretary shall be the Acting Chairperson where the Minister is absent.
- (4) The Chairman may co-opt any person to the Committee as appropriate.
- (5) The Ministry shall provide secretariat services to the Committee.
- (6) The Committee shall determine its own procedures.
- (7) The members of the Committee may be remunerated in accordance with current government policies and practices.
- (8) The Committee may authorise the Secretary to exercise a power related to any of its functions in a manner which is consistent with any procedures approved by the Committee.

6. Functions of the National Biosafety Advisory Committee

- (1) The Committee shall be the Competent National Authority in the Kingdom for all matters arising from the Cartagena Protocol.
- (2) The functions of the Committee as a competent authority shall be to:
 - (a) oversee the implementation within the Kingdom of all aspects of the Cartagena Protocol, including the Advanced Informed Agreement Procedure;
 - (b) authorise the giving of any notice required by this Act and the Cartagena Protocol to be given by or on behalf of the Kingdom;
 - (c) determine and assess appropriate and cost effective means by which risk assessments are to be undertaken in a scientifically sound manner as required by the Cartagena Protocol;
 - (d) make or endorse decisions consistent with the provisions of the Cartagena Protocol, including:
 - (i) the exemption of certain living modified organisms from the requirements of Part III by the appropriate application of Article 13 of the Cartagena Protocol; and
 - (ii) the review of decisions in accordance with Article 12 of the Cartagena Protocol;
 - (e) monitor the development, use, handling and transboundary movement of living modified organisms within the Kingdom, and all matters related to the application of modern biotechnology, and coordinate responses to unintentional and unlawful transboundary movements;
 - (f) devise and implement policies consistent with this Act and the Cartagena Protocol, and which take account of the particular impacts of living modified organisms on communities and areas within the Kingdom;
 - (g) arrange for the preparation of reports, and authorise the provision of information in accordance with this Act and the Cartagena Protocol; and
 - (h) ensure that Cabinet, and all Ministries and agencies, are fully informed of any unintended release of living modified organisms within the Kingdom, and of any other matter associated with living modified organisms which may affect the well-being of the nation or the health of its people.

7. District Biosafety Advisory Committees

- (1) The Minister may appoint District Biosafety Advisory Committees for any of the islands of the Kingdom.

- (2) The members of the District Committees shall include representatives of relevant non-government organisations active within the respective islands.
- (3) The District Committees shall be chaired by the respective Governors or Government representatives.
- (4) The functions of District Committees shall be as determined by the Minister, and may relate to any matter concerning the use and regulation of living modified organisms as provided for by this Act.

8. Role of the Ministry

For matters relating to the Cartagena Protocol, the Ministry shall be the designated focal point and shall be responsible for:

- (a) providing secretariat and support services to the Committee and District Committees;
- (b) communicating notices, information and reports to the Biosafety Clearing House, and as otherwise required by the Cartagena Protocol;
- (c) dealing with requests for the review of decisions in accordance with Article 12 of the Cartagena Protocol, and referring such matters to the Committee with such reports and additional information as is required for a decision to be effectively reviewed;
- (d) arranging for and facilitating the review of risk assessments undertaken in accordance with this Act and the Cartagena Protocol;
- (e) establishing and maintaining appropriate mechanisms, measures and strategies for the regulation, management and control of risks associated with living modified organisms and the application of modern biotechnology within the Kingdom;
- (f) implementing measures to control and prevent unintentional and illegal transboundary movements of living modified organisms, and to respond to such movements, including the taking of necessary emergency responses;
- (g) ensuring that living modified organisms which are subject to transboundary movement are handled, packaged and transported under conditions of safety, and that relevant international standards and rules are applied in this regard;
- (h) liaising with and providing assistance to other Ministries and agencies to ensure that living modified organisms within the Kingdom, or proposed to be imported into the Kingdom, are used, handled, stored and transported in accordance with the requirements of this Act and the Cartagena Protocol, and that –
 - (i) they are packaged and labelled so as to disclose their living modified organism content; and

14. Confidential information

- (1) When giving notice under section 11 or providing any additional information that is required, the notifier may indicate that certain information is of a confidential nature, if it is information other than:
 - (a) the name and address of the notifier;
 - (b) a general description of the living modified organism or organisms;
 - (c) a summary of the risk assessment undertaken; and
 - (d) any proposed methods and plans for emergency response.
- (2) If the Secretary is satisfied that the nature of the information justifies it being kept confidential, the information may only be provided to members of the Committee, persons undertaking the relevant risk assessment and environment officers.
- (3) No person, to whom the information has been provided under sub-section (2), may disclose it to any other person, and it may not be used for any commercial purpose within the Kingdom, except with the written consent of the notifier.
- (4) If the Secretary is not satisfied that the nature of the information justifies it being kept confidential:
 - (a) the notifier shall be advised of the Secretary's decision;
 - (b) reasons for the decision shall be provided upon request from the notifier;
 - (c) the Secretary shall consult with the notifier if requested; and
 - (d) the decision may be reviewed under section 16.

15. Exemptions from the procedure

- (1) The Committee may exempt the importation of a living modified organism from the provisions of this Act where the notice given under section 11 indicates that the living modified organism is:
 - (a) to be in transit through the Kingdom;
 - (b) to be the subject of contained use within the Kingdom;
 - (c) is for direct use as food, feed or for processing;
 - (d) of a type that the State Parties to the Cartagena Protocol have agreed is unlikely to have adverse effects on biological diversity or pose a risk to human health;
 - (e) of a type that the Committee considers to be within the scope of any notice given under Article 13 of the Cartagena Protocol, and if all requirements of other laws are met in relation to its import into the Kingdom; and

- (e) communicate decisions made under this Act and in accordance with the Cartagena Protocol, and provide information and reports required by it;
- (f) arrange for the monitoring and reporting of the effects to the environment arising from living modified organisms and the application of modern biotechnology within the Kingdom;
- (g) approve any appropriate program of public information and education concerning living modified organisms and the implementation of the Cartagena Protocol; and
- (h) do any other act or thing necessary to:
 - (i) manage the risks associated with living modified organisms and the application of modern biotechnology within the Kingdom;
 - (ii) ensure that the Ministry fulfils its role as focal point under Article 19 of the Cartagena Protocol; and
 - (iii) effectively liaise with the Biosafety Clearing-House and the Secretariat and Conference of the Parties to the Convention.
- (2) Where the Committee has exercised a power under section 6(2) which concerns a matter specified in sub-section (1), the Secretary shall exercise the power specified in sub-section (1) in a manner which is consistent with the decision or determination of the Committee.

10. Other statutory powers not to be affected

- (1) No power or requirement provided for in any other Act is to be affected by or derogated from, by any provision of this Act, and all approvals, permits and licences required to be obtained in relation to the importation, exportation, development, use, storage, handling or movement of any living modified organism shall be obtained under any applicable Act, notwithstanding that additional provision is made under this Act.
- (2) Without limiting the generality of sub-section (1), any person seeking to import, export, develop, use, store or handle a living modified organism in the Kingdom shall comply with all statutory requirements applying to the particular living modified organism under laws relating to:
 - (a) plant and animal quarantine and disease control;
 - (b) the assessment of impacts on the environment;
 - (c) the use of pesticides;
 - (d) the importation and exportation of fish and the development of aquaculture;
 - (e) the carriage of goods by air or sea; and
 - (f) the development and use of medicinal drugs.

- (3) Nothing in this Act shall affect or derogate from the exercise of any power under any Act, or the obligation to comply with any Act relating to:
- (a) the importation, exportation and transportation of living organisms;
 - (b) the assessment of impacts of activities on the environment;
 - (c) the protection of human health;
 - (d) the development, sale and use of therapeutic goods;
 - (e) the establishment and undertaking of business activities; and
 - (f) consumer protection and the provision of product information to consumers.

PART III - IMPORT PROCEDURE

11. Notices of transboundary movements

- (1) No living modified organism may be imported into the Kingdom unless notice of the intended transboundary movement has been given to the Secretary by the exporter or the competent authority of the country from where the living modified organism is to be exported.
- (2) A notice given under sub-section (1) shall be:
 - (a) in the prescribed form;
 - (b) accompanied by the prescribed fee; and
 - (c) delivered to the Secretary.
- (3) The Secretary shall acknowledge the receipt of the notice within 90 days of its receipt, and the acknowledgement shall state:
 - (a) the date of receipt of the notice;
 - (b) whether the notice appears to be in compliance with sub-section (2)(a); and
 - (c) whether an approval is required from the Committee under section 12, or that it has determined that the approvals required by other applicable laws in the Kingdom shall be sufficient authorisation for the intended transboundary movement.
- (4) Any failure to acknowledge receipt in accordance with sub-section (3) shall not be deemed to be consent to the importation of the living modified organism.

12. Approvals for imports

- (1) Subject to section 15, this section shall apply to all imports of living modified organisms notified under section 11, unless the Secretary has given notice under section 11(3)(c), that the Committee has determined that other applicable laws shall constitute sufficient authorisation.

- (2) Subject to sub-section (1), no living modified organism may be imported into the Kingdom unless approval for the transboundary movement has been given by the Committee under this section.
- (3) After consideration of the intended transboundary movement of any living modified organism under section 13, the Committee shall, within 270 days of the receipt of the notice relating to it,:
 - (a) approve the import, with or without conditions;
 - (b) prohibit the import;
 - (c) request additional information from the notifier;
 - (d) advise the notifier that the time required for the determination of the matter is to be extended by a stated period; or
 - (e) defer a decision until the costs associated with the required risk assessment have been paid.
- (4) Reasons for any decision shall be provided to the notifier, unless the decision is an unconditional approval for the import.
- (5) Any failure to communicate a decision in accordance with sub-section (3) may not be deemed to be consent to the importation of the living modified organism.

13. Scientific risk assessments

- (1) Decisions made under section 12(3) shall be based upon risk assessments which shall:
 - (a) comply with any general requirements imposed by the Committee;
 - (b) be in accordance with any requirements imposed by the Secretary under this Act;
 - (c) be undertaken in a scientifically sound manner taking into account recognised risk assessment methodologies and techniques;
 - (d) be based upon the information supplied in the notice given under section 11 and other available scientific evidence to identify and evaluate possible adverse effects on biological diversity and risks to human health; and
 - (e) be reviewed and assessed by the Secretary.
- (2) Risk assessments shall be undertaken by the exporter and the cost of them shall be the responsibility of the notifier or the exporter, unless the Secretary determines otherwise.
- (3) Nothing in this Act shall prevent a risk assessment being undertaken in conjunction with any assessment required under any other Act applying to the importation of a living modified organism.

and shall consult with any affected or potentially affected country to enable them to determine appropriate responses, including the taking of emergency measures.

- (4) A notice given under sub-section (3) shall comply with Article 17(3) of the Cartagena Protocol.

22. Illegal releases and transboundary movements

- (1) No person may permit, arrange, assist with, counsel, procure, aid or abet a release of a living modified organism within the Kingdom, if the release:
- (a) does not require approval under this Act; or
 - (b) arises from the breach of a condition of any approval given under this Act.
- (2) No person may permit, arrange, assist with, counsel, procure, aid or abet a transboundary movement of a living modified organism from the Kingdom, if the transboundary movement –
- (a) does not require approval consistent with the Cartagena Protocol; or
 - (b) arises from the breach of a condition of any approval given in relation to it.
- (3) In addition to any other penalty imposed for a breach of this section, the person responsible for the breach may be ordered to pay the costs associated with the disposal of the living modified organism, including all costs associated with its repatriation from or destruction in any country to which it has been permitted to move.

PART V - MISCELLANEOUS

23. Offences

- (1) Any person who:
- (a) imports a living modified organism into the Kingdom in respect of which no notice has been given as required under this Act;
 - (b) fails to give any notice required under this Act;
 - (c) fails to fully disclose all information known to be relevant to the living modified organism in a notice or application relating to it;
 - (d) imports a living modified organism into the Kingdom without having an approval required under this Act;
 - (e) fails to comply with any condition or requirement imposed under this Act;
 - (f) fabricates any risk assessment, or misrepresents any matter associated with a risk assessment, undertaken in accordance with this Act;

- (f) a pharmaceutical for human consumption that is addressed by other relevant agreements and subject to the control of other international organisations.
- (2) The Committee may, in granting an exemption under sub-section (1), impose any conditions or requirements relating to the use, storage, handling or movement of the living modified organism to minimise any impact on biological diversity or risk to human health.
- (3) The Committee may, in granting an exemption for living modified organisms intended for direct use as food, feed or for processing, require that the first import of such an organism shall be subject to a risk assessment in accordance with Annex III of the Cartagena Protocol and approval by the Committee, and any decision in relation to that import shall be given not later than 270 days after notice has been given.

Provided that the failure to make or communicate a decision within 270 days may not be deemed to be consent to the importation of the living modified organism.

16. Review of decisions

- (1) An exporter or person who has given notice under section 11 may request the Minister to review any decision made by the Committee or the Secretary under this Act, on the grounds that:
- (a) a change in circumstances has occurred that may influence the outcome of the risk assessment upon which a decision has been based; or
 - (b) additional relevant scientific or technical information has become available since the decision was made.
- (2) Upon receipt of a request under sub-section (1), the Minister shall respond in writing to the request within 30 days of its receipt, and shall:
- (a) provide the reasons given for the decision that is the subject of the request for review;
 - (b) indicate whether a further risk assessment is to be undertaken;
 - (c) refer the matter, together with all relevant information that has been provided in support of the request, to the Committee; and
 - (d) otherwise deal with the review of the decision in the manner prescribed by Regulations.
- (3) The Committee may review and change any decision made under this Act on the grounds stated in sub-section (1) on its own motion, and in that event the notifier shall be informed of the change of decision within 30 days.
- (4) No change of decision made under this section shall avoid the requirement to give notices under section 11 for subsequent imports of the living

modified organism to which the change of decision relates, or prevent the Secretary from requiring that risk assessments be undertaken in relation to the subsequent imports.

PART IV - OTHER REGULATORY REQUIREMENTS

17. Exportation of Living Modified Organisms

- (1) A person who, exports any living modified organism from the Kingdom to a State Party, shall, prior to the export of the organism, give written notice to:
 - (a) the Secretary; and
 - (b) the competent authority in the country where the organism is being exported to.
- (2) A notice given under sub-section (1) shall:
 - (a) contain the information specified in Annex 1 to the Cartagena Protocol;
 - (b) contain any further information required by the Ministry or the relevant competent authority; or
 - (c) otherwise be in compliance with any Regulation prescribing matters relevant to the export of living modified organisms from the Kingdom.
- (3) No export of a living modified organism may be made from the Kingdom to any State Party unless:
 - (a) it is approved by the competent authority of the State Party;
 - (b) it is in accordance with any conditions imposed by the relevant competent authority; and
 - (c) it has any other approval required under any law.
- (4) No living modified organism may be exported to a non-State Party without the approval of the Committee.

18. Transit of Living Modified Organisms

No living modified organisms may be brought into the Kingdom in transit to any other country unless:

- (a) notice has been given under section 11;
- (b) any condition imposed under section 15(2) is complied with; and
- (c) the requirements of any law relating to customs and excise, quarantine and any other relevant matter are complied with.

19. Use for food, feed and for processing

- (1) No person may use any living modified organism as food, feed or for processing in the Kingdom, unless:

- (a) section 15(3) has been complied with, if it is being imported into the Kingdom for the first time; and
 - (b) all relevant laws regulating its use are complied with, in every case.
- (2) The Ministry shall, where approval is given for the direct use of a living modified organism as food, feed or for processing under any relevant law, and the living modified organism may be subject to transboundary movement from the Kingdom:
 - (a) notify the Biosafety Clearing-House in accordance with Annex II of the Cartagena Protocol, within 15 days of an approval for export being given; and
 - (b) give other notices and information in accordance with Article 11(1) and 11(3) of the Cartagena Protocol.

20. Contained use

Any contained use of a living modified organism within the Kingdom shall be in accordance with any condition, requirement or restriction:

- (a) imposed under any relevant law; and
- (b) prescribed by Regulations, which shall not be inconsistent with the procedures and requirements imposed under any relevant law.

21. Unintentional release and transboundary movements

- (1) Any person who permits or becomes aware of an unintentional release of a living modified organism into the environment within the Kingdom, or an unintentional transboundary movement of a living modified organism from the Kingdom, shall immediately notify the Ministry and provide such information as the Secretary may require.
- (2) An unintentional release or transboundary movement of a living modified organism for the purposes of this section, is one which –
 - (a) does not require approval under this Act; or
 - (b) arises from the breach of a condition of any approval given under this Act, but which has not been intentionally released or moved by any person having control of it.
- (3) Upon receiving a notice under sub-section (1), the Ministry shall immediately give notice of the unintentional release or transboundary movement to:
 - (a) the members of the Committee;
 - (b) the Biosafety Clearing-House;
 - (c) any affected or potentially affected State Party or non-State Party; and
 - (d) any other international organisation which the Secretary determines,

- (g) fabricates or misrepresents any scientific or technical information relied upon for the purposes of requesting a review of any decision under this Act;
- (h) exports a living modified organism from the Kingdom in respect of which no notice has been given under this Act;
- (i) exports a living modified organism from the Kingdom without having an approval under this Act;
- (j) fails to notify the Ministry of an unintentional release of a living modified organism or an unintentional transboundary movement of a living modified organism; or
- (k) fails to comply with any other obligation or requirement imposed under this Act,

commits an offence and shall be liable upon conviction to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 10 years, or to both.

- (2) Any person who provides false information in or for any notice given under this Act or when required under this Act to provide any information, commits an offence and shall be liable upon conviction to a fine not exceeding \$15,000.
- (3) Any person who divulges or deals with confidential information contrary to section 13(2) or (3) commits an offence and shall be liable upon conviction to a fine not exceeding \$15,000.

24. Designated environment officers

- (1) The Minister may, by notice in the Gazette, designate any person as an environment officer for purposes of exercising the powers under this Act.
- (2) For the purposes of enforcing the provisions of this Act, all environment officers may exercise the powers relating to investigating, monitoring, prosecuting and preventing the continuation of any breach that are vested in them in any other Act.
- (3) In relation to any living modified organism which has been imported into the Kingdom in contravention of this Act, or which is or remains in the Kingdom in breach of this Act or any condition imposed under it, an environment officer may:
 - (a) seize the living modified organism;
 - (b) destroy the living modified organism as determined by the Committee; or
 - (c) deliver the living modified organism to an officer of another Ministry to be dealt with in accordance with law.

- (4) Nothing in this Act shall affect the powers to search, seize and deal with items under laws relating to plant and animal quarantine, customs and excise and any other law that has application to the development, use, handling, storage or movement of living modified organisms.

25. Regulations

- (1) The Minister may, with the consent of Cabinet, make Regulations for the purposes of implementing the provisions of this Act and the Cartagena Protocol, which are not inconsistent with this Act.
- (2) Without limiting the generality of sub-section (1), the Regulations may make provision in relation to:
 - (a) any forms or fees relating to any notice, approval or other procedure under this Act;
 - (b) the keeping of information confidential as provided by this Act;
 - (c) any requirements, consistent with laws regulating the carriage of goods by air or sea, relating to the transportation of living modified organisms;
 - (d) emergency responses to any unintentional or unlawful release of a living modified organism, or any other release which has, or may have, an adverse impact on biological diversity or which poses a risk to human health; and
 - (e) the application of agreed rules and procedures relating to liability and redress for damage resulting from transboundary movements of living modified organisms.
- (3) Regulations made under sub-section (1) may prescribe offences and impose penalties of fines not exceeding \$10,000.

26. Delegation

The Minister may delegate in writing any of his powers under this Act to designated environment officers.

27. Indemnities

No person exercising any power under this Act shall be liable for any loss or damage in relation to any exercise of such power.

Passed by the Legislative Assembly this 29 day of October 2009.