

Statutory Instrument 2002 No. 63

The Genetically Modified Organisms (Contained Use) (Amendment) Regulations 2002

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STATUTORY INSTRUMENTS

2002 No. 63

HEALTH AND SAFETY

The Genetically Modified Organisms (Contained Use) (Amendment) Regulations 2002

<i>Made</i>	<i>16th January 2002</i>
<i>Laid before Parliament</i>	<i>17th January 2002</i>
<i>Coming into force</i>	<i>8th February 2002</i>

The Secretary of State, being the Minister designated^[1] under section 2(2) of the European Communities Act 1972^[2] in relation to the control and regulation of genetically modified organisms and in the exercise of the powers conferred on him by the said section 2(2)^[3] and sections 15(1) and (2) and 82(3)(a) of, and paragraphs 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974^[4] ("the 1974 Act") and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

1. These Regulations may be cited as the Genetically Modified Organisms (Contained Use) (Amendment) Regulations 2002 and shall come into force on 8th February 2002.

- 2. The Genetically Modified Organisms (Contained Use) Regulations 2000^[5] shall be amended in accordance with the following provisions of these Regulations.
- 3. In regulation 22(3), after the words "following information, which" there shall be inserted the words ", subject to regulation 23A,".
- 4. In regulation 23(3), after the words "following information, which" there shall be inserted the words ", subject to regulation 23A,".
- 5. After regulation 23, there shall be inserted the following regulation, namely -

" Confidentiality in the interests of national security

23A - (1) There shall be kept confidential any information referred to in regulations 22(3) and 23(3) if, and so long as, the Secretary of State is of the opinion that such information should be kept confidential in the interests of national security.

(2) Where the Secretary of State is of the opinion that information referred to in regulation 22(3) should be kept confidential in the interests of national security, that information shall not be disclosed except -

- (a) to the extent necessary to evaluate the notification in question; and
- (b) to the European Commission.

(3) Where the Secretary of State is of the opinion that information referred to in regulation 23(3) should be kept confidential in the interests of national security, that information shall not be disclosed except to the extent necessary to enable the competent authority to comply with its obligations under regulation 21(2).

(4) A person may give written notice to the Secretary of State -

- (a) specifying information which appears to that person to be information to which paragraph (1) may apply; and
- (b) indicating its apparent nature.

(5) If a person gives a written notice pursuant to paragraph (4), at the same time he shall give written notice to the competent authority that he has done so.

(6) Subject to paragraph (7), no information notified pursuant to paragraph (4) shall be disclosed until the Secretary of State has determined that it should not be kept confidential in the interests of national security.

(7) Information notified pursuant to paragraph (4) may be disclosed before the Secretary of State has made the determination referred to in paragraph (6) -

- (a) in the case of information referred to in regulation 22(3) -
 - (i) to the extent necessary to evaluate the notification in question, and
 - (ii) to the European Commission;

(b) in the case of information referred to in regulation 23(3), to the extent necessary to enable the competent authority to comply with its obligations under regulation 21(2).

(8) A person who receives information by virtue of paragraphs (2)(a), (3), (7)(a)(i) or (7)(b) shall not use that information except for the purposes of the competent authority."

6. In regulation 24 -

(a) for paragraph (1), there shall be substituted the following paragraph, namely -

" This regulation is subject to regulation 24A.";

(b) in paragraph (2), for the words "register referred to in paragraph (1)", there shall be substituted the words -

" competent authority shall maintain a register of every notification submitted under regulations 9 to 12 and the register";

(c) in paragraph (3), there shall be omitted the words "referred to in paragraph (1)"; and

(d) after paragraph (10), there shall be added the following paragraph, namely -

" (11) In this regulation, "the register" means the register maintained by the competent authority in accordance with paragraph (2).".

7. After regulation 24 there shall be inserted the following regulation, namely -

" Information not to be included in the register

24A. - (1) No information shall be included in the register if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) For the purpose of securing the exclusion from the register of information to which paragraph (1) applies, the Secretary of State may give to the competent authority directions -

(a) specifying information, or descriptions of information, to be excluded from the register; or

(b) specifying descriptions of information to be referred to the Secretary of State for his determination.

(3) No information referred to the Secretary of State pursuant to paragraph (2)(b) shall be included in the register until the Secretary of State determines that it should be so included.

- (4) The competent authority shall notify the Secretary of State of any information it excludes from the register in accordance with directions given to it under paragraph (2).
- (5) A person may give a written notice to the Secretary of State -
- (a) specifying information which appears to that person to be information to which paragraph (1) may apply; and
 - (b) indicating its apparent nature.
- (6) If a person gives a written notice pursuant to paragraph (5), at the same time he shall give written notice to the competent authority that he has done so.
- (7) No information notified pursuant to paragraph (5) shall be included in the register until the Secretary of State has determined that it shall be so included.
- (8) In this regulation, "the register" means the register maintained by the competent authority in accordance with regulation 24(2)."

Signed by authority of the Secretary of State for Transport, Local Government and the Regions

Alan Whitehead
Parliamentary Under Secretary of State, Department of Transport, Local Government and the Regions

16th January 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Genetically Modified Organisms (Contained Use) Regulations 2000, S.I. 2000/2831 ("the 2000 Regulations"), certain provisions of which implement, as respects Great Britain, Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms, as amended by Commission Directive 94/51/EC and Council Directive 98/81/EC. The principal amendments are contained in -

- (a) regulation 5, which inserts a new regulation, regulation 23A, which makes provision for keeping information confidential in the interests of national security; and
- (b) regulation 7, which inserts a new regulation, regulation 24A, which makes provision for the exclusion from the register, maintained in accordance with regulation 24 of the 2000 Regulations, of information where, in the opinion of the Secretary of State, the inclusion of such information on the register would be contrary

to the interests of national security.

Notes:

[1] S.I. 1991/755.[back](#)

[2] 1972 c.68; the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c.51).[back](#)

[3] As regards Scotland, see also section 57(1) of the Scotland Act 1998 (c.46), which provides that, despite the transfer to the Scottish Ministers by virtue of that Act of functions in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.[back](#)

[4] 1974 c.37; sections 11(2), 15(1) and 50 were amended by section 116 of, and paragraphs 4, 6 and 16 respectively of Schedule 15 to, the Employment Protection Act 1975 (c.71).[back](#)

[5] S.I. 2000/2831.[back](#)

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