

SECOND READING SPEECH

Gene Technology (Western Australia) Bill 2013

The purpose of the bill is to ensure a consistent national approach to the regulation of genetic modification (GM).

Genetic modification (GM) is part of the suite of biotechnology processes used in modern research. GM refers to changing the genes of an organism, such as by introducing a new gene, or activating or deactivating an existing gene. It is used in a number of fields, including medical, pharmaceutical and agricultural research.

As well as the common examples of crops resistant to herbicides or pests, GM has also been used to create vaccines, and help researchers develop targeted medical therapies. GM is also being used to increase the nutritional content of food, to assist in areas where malnutrition is common.

In 2001 the States and Territories signed the Gene Technology Agreement, recognising the need to ensure a consistent national scheme for the regulation of gene technology. The States and Territories agreed to introduce legislation to ensure the Commonwealth Gene Technology laws, comprising the Gene Technology Act 2000 and Gene Technology Regulations 2001, applied consistently across Australia.

The effect of the bill is to replace the current Western Australian Gene Technology Act 2006 with a new Act, applying the Commonwealth Act as a law of the State. This will ensure there are no gaps or loopholes in the legislation and there is consistency with the national approach, in accordance with the Gene Technology Agreement. This approach has already been adopted in New South Wales, the Northern Territory, and Tasmania.

Adopting the Commonwealth Act as a law of Western Australia will remove the need to update the Western Australian Act every time the Commonwealth Act changes, minimising the administrative and operational cost to Western Australia, and ensuring efficient processes are in place. It will ensure all researchers and organisations have a clear understanding of the regulations applicable, and all parties operate on consistent terms across Australia.

The object of the Commonwealth Gene Technology Act is to protect the health and safety of people and the environment, by identifying risks posed by or as a result of gene technology, and manage identified risks through regulating certain dealings with genetically modified organisms (or GMOs). The Commonwealth Act has several key components, including establishing the Office of the Gene Technology Regulator, establishing advisory committees to provide expert advice to the Regulator, creating a process to assess risks associated with various dealings with GMOs (including opportunities for public input) and establishing a centralised, publicly available database of all GMOs and GM products approved in Australia. The Commonwealth Act also contains extensive monitoring, compliance and enforcement powers.

Under the Commonwealth Act, any dealing with a GMO (including research, manufacture, production, release, transport and disposal) requires a licence from the Regulator, unless the dealing is to be an exempt dealing, a Notifiable Low Risk Dealing, is listed on the GMO Register or specified in an Emergency Dealing Determination.

Granting a licence can take from 90 working days (for a dealing not involving release of the GMO into the environment) to 255 working days for a commercial release. The strict process for assessing a dealing involving release of a GMO into the environment (such as a field trial) involves consultation with experts, agencies and authorities, preparation of a risk assessment and management plan, and a second consultation process including public consultation. Following this, a decision will be made whether to issue the licence. All decisions are recorded in the publically available GMO record. For dealings involving release of GMOs into the environment, the licence conditions as well as the risk assessment and management plan are also made publically available.

In accordance with the commitment made under the Gene Technology Agreement, Western Australia enacted the Gene Technology Act 2006, to ensure consistency with the national scheme. Western Australia's legislation mirrors the original Commonwealth legislation, and therefore needs amendment every time the Commonwealth legislation is amended. In 2011, an independent review of the Western Australian Act found that over time, as the Commonwealth Act was updated and amended, the Western Australian Act has become inconsistent.

The effect of this inconsistency is that the same dealing with a GMO could have different requirements depending on the party undertaking the dealing. This results in confusion and uncertainty, creating potential compliance issues.

The proposed Act will not affect the operation of the other Western Australian GM legislation – the Genetically Modified Crops Free Areas Act.

Pursuant to Standing Order 126(1), I advise that this Bill is a uniform legislation Bill. It will give effect to an multilateral intergovernmental agreement between the Commonwealth and all the States and Territories, namely, the Intergovernmental Agreement on Gene Technology. Pursuant to standing Order 126(4) it stands referred to the Uniform Legislation and Statutes Review Committee at the conclusion of this speech.

I commend the bill to the House and table the Explanatory Memorandum.