

To Hon. Matthew Swinbourn

MLC Chair Standing Committee on Environment and Public Affairs

I, Nina Stick would like to support the petition for the creation of Farmer Protection Legislation, and the attached Principles.

The onus for the prevention of GM contamination should be placed on GM farmers and their supply chain and not on GM-Free farmers who currently carry that burden.

We support:

- The burden for preventing GM contamination to fall upon GM farmers and their supply chain.
- Penalties for GM contamination events on and off the farm.
- The protection of zero GM tolerance to equal Certified Organics and Australian Competition and Consumer Commission (ACCC) requirements.
- Legislated farming practices to manage GM and GM-free crop co-existence providing GM farmers with strict policies and severe penalties for non-compliance.
- The Farmer Protection Legislation to replace sole reliance on common law remedies
- All current and emerging Gene Technologies (example CRISPR, Talens) to be regulated and covered by the proposed Farmer Protection legislation.

Regards

Nina Stick

Principles for Farmer Protection Legislation

Objectives:

A Bill to establish a publicly managed fund, paid into by GM seed merchants, in order to compensate non-GM land holders for contamination by GM seed or other GM material.

To strengthen the protection of non-genetically modified landholders (both organic and conventional, and including public land) from all forms of contamination by genetically modified organisms (GMOs).

To strengthen monitoring and detection mechanisms in order to detect contamination early and reduce compensation costs.

This includes, but is not limited to, making the existing guidelines mandatory.

Rationale:

The Farmer Protection Legislation will replace sole reliance on common law remedies by:

- Establishing a Fund to allow simple and efficient compensation for losses suffered by non-GM landholders whose land is contaminated by GM crops, seed or other GM material;
- Making GM seed merchants responsible to compensate landholders when GM contamination occurs, by requiring GM seed merchants to pay a levy on seed sales into the Fund;
- Entitling farmers and other affected parties to rapidly and efficiently recover for any losses, extra costs or harm they suffer, without having to resort to the Common Law.

The Farmer Protection Fund

- The Government will establish a Fund to provide speedy, no-fault compensation in cases of GM contamination for purposes of cleaning up such contamination and compensating for economic loss or other harm;
- The Minister will appoint an independent Administrator to administer the fund;
- The Administrator will have broad investigative powers, including auditing financial records, inspecting properties and recommending enforcement action;
- The Administrator to make recommendations as needed to the Minister regarding any measures he or she believes would reduce the levels of contamination and therefore reduce the amount of the levy;
- The Fund will protect the right of all non-GM landholders to be free of GM contamination, at the limit of detection of the presence of a GM event;
- Non-GM landholders must be able to recover costs and losses related to all manner of contamination by GM seeds and crops, quickly and easily by lodging an application with the Administrator;
- Applicants for compensation funds would have to prove the presence of a GM event on their land or in their seeds or crops and provide a declaration that they did not plant or authorise the planting of the GM seed or crop;
- Funding for the compensation Fund will be annually levied on the GM seed merchants;
- The levy will be assessed per kilo of seed sold;

- All GM seed merchants must submit to the Administrator declarations on the amount of GM seed sold in a financial year, no later than the end of September following;
- The amount of the initial levy will be set in the regulations;
- The Administrator may from time to time recommend changes to the amount of the levy, to the Minister, taking into account the costs of previous GM contamination cases;
- If compensation claims exceed the value of the fund, the Administrator will request from the Minister that the levy in the subsequent year be raised in order to cover the cost of the shortfall;
- The Administrator may seek submissions from third parties regarding compensation and interested parties may appeal decisions under the Judicial Review Act.

Factors to use in determining compensation payments for contamination incidents:

The Administrator will pay non-GM landholders compensation for actual economic loss or extra costs which must include:

- costs for detection and identification of GM seeds or plants;
- all GM contamination clean-up costs;
- lost profits;
- lost premiums on non-GM produce;
- reduced property values;
- compensation for time spent dealing with the contamination;
- harm, where harm includes unwanted GM contamination for the full duration of its impacts.

Note: The Administrator will determine an annual calculation for payable losses, extra costs and harm where continuing GM crop contamination occurs.

Definitions

GM seed merchants - businesses licensed by the GM patent holders for the sale of GM seed, their agents, licensees, subsidiaries or contractors and any other legal entity that deals with the sale or other distribution of GM organisms ('dealing' is defined in the Gene Technology Act 2000).

Non-GM landholders - any party occupying, owning or caring for land (including local or state government) where no-one intended that GM plants would be grown.

Non-GM land - any land on which no-one intended to grow GM plants.

