



STATUTORY INSTRUMENTS.

S.I. No. 216 of 2020

EUROPEAN UNION (GENETICALLY MODIFIED ORGANISMS)
(RESTRICTION OR PROHIBITION OF CULTIVATION) REGULATIONS
2020

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I, RICHARD BRUTON, Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive (EU) 2015/412 of the European Parliament and of the Council of 11 March 2015¹, hereby make the following regulations:

1. These Regulations may be cited as European Union (Genetically Modified Organisms) (Restriction or Prohibition of Cultivation) Regulations 2020.

2. (1) In these Regulations -

“Agency” means the Environmental Protection Agency;

“assessment report” means the report forwarded by the European Commission to the Agency under Article 14(2) of Directive 2001/18/EC;

“Directive 2001/18/EC” means Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC² as amended by –

- (a) Regulation 1829/2003,
- (b) Regulation (EC) No. 1830/2003 of the European Parliament and of the Council of 22 September 2003³,
- (c) Directive 2008/27/EC of the European Parliament and of the Council of 11 March 2008⁴,
- (d) Directive (EU) 2015/412 of the European Parliament and of the Council of 11 March 2015¹,
- (e) Commission Directive (EU) 2018/350 of 8 March 2018⁵, and

¹ OJ No. L 68, 13.3.2015, p.1

² OJ No. L 106, 17.4.2001, p.1

³ OJ No. L268, 18.10.2003, p.24

⁴ OJ No. L81, 20.3.2008, p.45

⁵ OJ No. L67, 9.3.2018, p.30

(f) Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019⁶;

“GMO Regulations” means the Genetically Modified Organisms (Deliberate Release) Regulations 2003 (S.I. No. 500 of 2003);

“Minister” means the Minister for Communications, Climate Action and Environment;

“opinion” means the opinion of the European Food Safety Authority that is notified to the State under Article 6(6) or Article 18(6) of Regulation 1829/2003;

“Regulation 1829/2003” means Regulation (EC) No. 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed⁷.

(2) A word or expression which is used in these Regulations and which is also used in Directive 2001/18/EC has, unless the context otherwise requires, the same meaning in these Regulations as it has in that Directive.

3. The Agency shall be the competent authority for the purposes of Regulations 5 and 6.

4. (1) Where the Agency receives an assessment report or receives notification of an opinion, the Agency shall inform the Minister within 10 days of that receipt.

(2) During the authorisation procedure of a given GMO submitted in accordance with Part C of Directive 2001/18/EC or in accordance with Article 5 or 17 of Regulation 1829/2003, or during the renewal of such consent, the Minister may within 45 days from the date of receipt of an assessment report, or from the date of notification of an opinion, request the European Commission to adjust the geographical scope of the written consent to exclude all or any part of the State from cultivation of the GMO.

(3) Where the Minister wishes all or part of the State to be reintegrated into the geographical scope of the consent from which it was previously excluded pursuant to a request under paragraph (2), he or she may make a request to that effect to the competent authority which issued the written consent under Directive 2001/18/EC, or the European Commission if the GMO has been authorised under Regulation 1829/2003.

⁶ OJ No. L198, 25.7.2019, p241

⁷ OJ No. L268, 18.10.2003, p.1

(4) Where the Minister does not make a request under paragraph (2), or where the notifier has confirmed the geographical scope of its initial notification in accordance with Article 26b(2) of Directive 2001/18/EC, the Minister may restrict or prohibit the cultivation, in all or part of the State, of a GMO or of a group of GMOs defined by crop or trait, provided such restriction or prohibition conforms with the law of the European Union, is reasoned, proportional and non-discriminatory and is based on compelling grounds such as those related to:

- (a) environmental policy objectives;
- (b) town and country planning;
- (c) land use;
- (d) socio-economic impacts;
- (e) avoidance of GMO presence in other products;
- (f) agricultural policy objectives;
- (g) public policy.

(5) The Minister may invoke the grounds contained in paragraph (4) individually or in combination depending on the particular circumstances pertaining to the State, region or area in which the restriction or prohibition shall apply, other than the ground set out in paragraph (4)(g) which cannot be invoked individually.

(6) No restriction or prohibition taken by the Minister under this Regulation shall conflict with the results of an environmental risk assessment carried out pursuant to Directive 2001/18/EC or Regulation 1829/2003.

(7) The Minister, before restricting or prohibiting the cultivation of a GMO under paragraph (4), shall communicate a draft of his or her proposal and the grounds on which that proposal is based to the European Commission.

(8) During a period of 75 days from the date of the communication referred to in paragraph (7) -

- (a) the Minister shall refrain from adopting and implementing the restriction or prohibition proposed under paragraph (4), and
- (b) the operator shall refrain from planting the GMO or GMOs concerned.

(9) On the expiry of the 75 day period referred to in paragraph (8) the Minister may, for the whole duration of the consent, restrict or prohibit the cultivation in all or part of the State of a GMO or of a group of GMOs either in the form originally proposed under paragraph (7), or as amended by the Minister to take account of any comments of the European Commission.

(10) The Minister shall communicate the restriction or prohibition referred to in paragraph (9) to the European Commission, the Member States and the authorisation holder without delay.

(11) Notice of a restriction or prohibition referred to in paragraph (9) shall be published -

- (a) by the Minister -

- (i) on the website of the Department of Communications, Climate Action and Environment, and
- (ii) in at least one newspaper published and circulating in the State,

and

- (b) by the Agency on its website.

(12) Where the Minister revokes a restriction or prohibition referred to in paragraph (9), the Minister shall notify the European Commission and the Member States without delay.

(13) The Agency may make an application to the High Court under Article 59 of the GMO Regulations for the purposes of ensuring compliance with Regulation 4(8)(b), subject to the modification that the reference in Article 59 of the GMO Regulations to a contravention of those Regulations shall be construed as including a contravention of Regulation 4(8)(b).

5. (1) Where the competent authority and the notifier receive a demand to adjust the geographical scope of a notification under Part III of the GMO Regulations pursuant to Article 26b(1) of Directive 2001/18/EC, the periods specified in Article 32(5) of the GMO Regulations shall be extended by a period of 15 days.

(2) Within 30 days of receipt of a demand referred to in paragraph (1), a notifier may adjust or confirm the geographical scope of its initial notification to the competent authority under Article 29 of the GMO Regulations.

(3) Where a notifier does not confirm the geographical scope of its initial notification within the period specified in paragraph (2), the competent authority shall adjust the geographical scope of any consent granted under Part III of the GMO Regulations.

6. (1) Where the competent authority has granted a consent under Part III of the GMO Regulations and the competent authority receives a request from a Member State pursuant to Article 26b(5) of Directive 2001/18/EC to reintegrate all or part of its territory which was previously excluded from the scope of that consent, the competent authority shall adjust the geographical scope of the consent accordingly.

(2) The competent authority shall communicate any adjustment to the geographical scope referred to in paragraph (1) to the European Commission, the Member States and the authorisation holder.



GIVEN under my Official Seal,
17 June, 2020.

RICHARD BRUTON,
Minister for Communication, Climate Action
and Environment.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations give statutory effect in Ireland to Directive (EU) 2015/412 of the European Parliament and of the Council of 11 March 2015 amending Directive 2001/18/EC as regards the possibility for Member States to restrict or prohibit the cultivation of genetically modified organisms (GMOs) in all or part of their territory.

The Directive grants Member States more flexibility to decide whether or not they wish to cultivate GMOs on their territory or parts of their territory, either in the course of the authorisation procedure or thereafter, and on grounds which are independent of the measures required under Directive 2001/18/EC and Regulation (EC) No 1829/2003.

A Member State's reason to limit cultivation may be related to environmental or agricultural policy objectives, or other compelling grounds such as town and country planning, land use, socioeconomic impacts, coexistence and public policy. They may consider matters such as the maintenance and development of agricultural practices which offer a better potential to reconcile production with ecosystem sustainability, or maintenance of local biodiversity, including certain habitats and ecosystems, or certain types of natural and landscape features, as well as specific ecosystem functions and services.

Grounds may be invoked individually or in combination, depending on the particular circumstances of the Member State, region or area in which those measures will apply.

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