[redacted]

GENE TECHNOLOGY BILL

Received from the House of Assembly and read a first time.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The Gene Technology Bill 2001 is the South Australian component of the national co-operative regulatory scheme for genetically modified organisms ('GMOs'). The Bill is necessary to ensure that coverage of the national scheme in this State is complete. All Australian Governments have worked together to establish the national scheme with the aim of protecting the safety of the Australian community and the Australian environment, by assessing and managing risks posed by or as a result of GMOs.

The national scheme includes the *Gene Technology Act 2000* of the Commonwealth which commenced on 21 June 2001 ('the Commonwealth Act') together with the Commonwealth Gene Technology Regulations; nationally consistent complementary State and Territory legislation, such as this Bill; a Gene Technology Intergovernmental Agreement; and, a Ministerial Council.

Tasmania has already passed its Gene Technology Bill. The Western Australian, Victorian and Queensland Governments have introduced Gene Technology Bills into their Parliaments.

The application of gene technology in the areas of medicine, agriculture, food production and environmental management is providing, or has the potential to provide benefits to South Australians. However, future benefits can only be realised if the community is confident that any associated risks are rigorously assessed and managed through regulation that is transparent and accountable.

The national regulatory scheme adopts a cautious approach to the regulation of GMOs which is transparent, accountable and based on best practice risk assessment and risk management.

Each 'dealing' with a GMO is assessed on a case by case basis to ensure that any risks are identified and that the level of regulation is commensurate with that risk. This approach will protect our community and environment without stultifying our research and development sector or unnecessarily limiting the possibility of South Australians gaining benefits from the application of gene technology.

Gene Technology Regulator

The Commonwealth Act established the Gene Technology Regulator ('the Regulator'). The Bill confers functions and powers on the Regulator in the same terms as the Commonwealth Act.

The Regulator is a statutory office holder with a high level of autonomy in administering the legislation. The Regulator has the ability to report directly to the Commonwealth Parliament. The office of the Gene Technology Regulator is located in the Commonwealth Department of Health and Aged Care.

Under this Bill and the Commonwealth Act, the Regulator is responsible for regulating 'dealings' with GMOs in South Australia through a national licensing system. 'Deal with' is defined widely in the Bill. For example it includes developing a GMO and conducting experiments with, breeding, growing, propagating and importing a GMO. Consequently it covers contained research, field trials and commercial release. The intentional release of a GMO into the environment in South Australia, such as a field trial with a GM crop or the commercial growth of a GM crop, is prohibited unless licensed by the Regulator.

In deciding whether to approve a licence authorising the release of a GMO into the environment in South Australia, such as growing a GM plant in a field trial or a general release, the Regulator considers the potential impact of the GMO on the environment and public health. The Regulator requires comprehensive information from an applicant on the impacts of the GMO on animals, plants, water, soils and biodiversity. The Regulator independently assesses the information provided, and also seeks additional information from a variety of sources.

The Regulator must be satisfied that any risks identified to the environment or public health can be managed before an application seeking authorisation of the release of a GMO into the environment can be approved. If the Regulator considers that these risks cannot be managed, the application for a licence to release that particular GMO into the environment will be rejected.

The decisions made by the Regulator are based on rigorous scientific assessment of risks to human and environmental safety and must also be consistent with policy principles issued by a Ministerial Council concerning social, cultural, ethical and other non-scientific matters.

All applications for licences which involve the release of GMOs into the environment are available to anyone who wishes to see them. Such applications are automatically provided to the States because the Regulator must seek the advice of States regarding matters relevant to the development of the risk assessment and risk management plan. The Regulator develops the risk assessment and risk management plan taking into account advice provided by States and Territory Governments; the gene technology technical advisory committee; Commonwealth agencies; local councils and the public.

In addition, the advice of the States must be sought regarding the Regulator's draft decision regarding whether or not to issue a licence authorising the release of a GMO into the environment and regarding any conditions to be applied to the licence. The Regulator also seeks the advice of the gene technology technical advisory committee; Commonwealth agencies; local councils and the public.

Ministerial Council

There is a Gene Technology Ministerial Council, on which each Australian jurisdiction will be represented, with the role of setting the policy framework within which the Regulator functions. SA is a member of the Council.

The Bill confers functions on the Ministerial Council in the same terms as the Commonwealth Act enabling it to issue policy principles on social, cultural, ethical and other non-scientific matters. The Regulator cannot act inconsistently with such policy principles. The Council can also issue policy guidelines on matters relevant to the functions of the Regulator and codes of practice which may be applied by the Regulator as a condition of licence.

Advisory committees

The Bill confers functions on three advisory committees in the same terms as the Commonwealth Act. The gene technology technical advisory committee, the gene technology community consultative committee and the gene technology ethics committee will provide advice to the Regulator and Ministerial Council.

Monitoring, enforcement and penalties

Under the Bill the Regulator has the power to appoint inspectors with extensive powers to undertake routine monitoring and spot checks in South Australia. The Bill provides for significant financial penalties and terms of imprisonment, of up to 5 years, for unlawful dealings with GMOs in this State.

Preserving the identity of non-GM crops in South Australia

The Bill and the Commonwealth Act enable the Gene Technology Ministerial Council to issue a policy principle requiring the Regulator to 'recognise areas designated under State law to separate GM and non-GM crops for marketing purposes'. This would enable, but not require States and Territories to enact legislation to designate such areas. These areas would only be recognised by the Regulator if declared for the purpose of preserving the identity of GM or non-GM crops for marketing purposes. As indicated previously, human and environmental safety are matters considered by the Regulator with advice from the gene technology technical advisory committee; State and Territory Governments; Commonwealth agencies; local councils; and, the public.

It is my objective, as the South Australian representative Minister on the Gene Technology Ministerial Council, to have that Council establish the policy principle which recognises 'GM crop restricted areas'. Once this policy principle is established then South Australian legislation can be introduced to effectively declare specific areas 'GM crop restricted areas'.

Currently only two GM crops are permitted to be grown commercially in this State. These are a violet-coloured carnation and a long vase-life carnation. A number of field trials with GM crops are being undertaken in South Australia with crops closest to readiness for commercialisation being canola and field pea. However, it is expected that these would not be commercially grown in this State prior to 2003 and then only if a licence from the Regulator allowed it.

Consequently, we have some time to deal with the issue of preserving the identity of non-GM crops in this State and this time is valuable because the issue requires the thorough consideration of a wide range of factors and implications. To facilitate community discussion of these factors and implications, the Government has released a discussion paper for public consultation titled *Preserving the identity of non-GM crops in South Australia*. The discussion paper highlights the highly complex nature of the issue.

The object of the Bill, like that of the Commonwealth Act with which it corresponds and is complementary, is to protect the safety of the community and the environment. The purpose of declaring 'GM crop restricted areas' may only relate to the marketing of crops which is clearly outside the intent of the Bill. Consequently, this Bill does not contain provisions for declaring 'GM crop restricted areas' in South Australia as it is not the appropriate place for such provisions.

If the State, after taking account of the results of the consultation process, should decide to legislate for 'GM crop restricted areas', it should be done once the Gene Technology Ministerial Council has established the policy principle and by an Act that is separate from the South Australian Gene Technology Act. Therefore, this Bill should proceed without such provisions.

In summary, the national regulatory scheme for GMOs adopts a cautious approach to the regulation of GMOs. It is transparent, accountable and based on best practice risk assessment and risk management. The Bill will form the corresponding South Australian law in the national scheme to ensure that the ability of the scheme to protect our South Australian community and South Australian environment is complete.

Explanation of clauses

The provisions of the Bill are as follows:

PART 1—PRELIMINARY

Clause 1

This clause is formal.

Clause 2

This clause will be brought into operation by proclamation.

Clause 3

Clause 3 provides that the object of this Bill 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 by managing those risks through regulating certain dealings with genetically modified organisms (GMOs).

Clause 4

Clause 4 provides that the object of the Bill is to be achieved through a regulatory framework that will provide that where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation and provides an efficient and effective system for the application of gene technologies. The object of the Bill is also to be achieved through a framework that operates in conjunction with other Commonwealth and State regulatory schemes relevant to GMOs and GMO products.

Clause 5

ause 5 provides that it is intended by Parliament that the Bill form omponent of a nationally consistent scheme for the regulation, by Commonwealth, States and Territories, of certain dealings with MOs.

Clause 6

bclause (1) provides that the Bill will bind the Crown in right of uth Australia and, so far as the legislative power of Parliament rmits, in all its other capacities.

Subclause (2) provides that the Bill does not render the Crown ble to be prosecuted for an offence.

Clause 7

ause 7 comprises a note that states that the Commonwealth Act ludes a provision that extends that Act to every external Territory ıer than Norfolk Island.

Clause 8

ause 8 comprises a note that states that the Commonwealth Act ludes a provision that applies Chapter 2 of the Criminal Code to ences against that Act and construing penalty provisions in that t.

Clause 8A

bclauses (1) and (2) provide that in order to maintain consistency numbering between this Bill and the *Gene Technology Act 2000* the Commonwealth, if a section of the Commonwealth Act is not uired in this Bill, the section number and heading of that section ll be included in the Bill even though the body of that section will t be included.

Clause 8A further provides that if this Bill contains a clause that not included in the Commonwealth Act, that section will be mbered so as to maintain consistency in numbering between tions common to the Bill and Commonwealth Act.

Clause 8(2) provides that a provision number and heading erred to in subclause (1)*(a)* form part of this Bill.

Clause 8B

ause 8B provides that notes do not form part of the Bill.

Clause 8C

ause 8C provides that the provisions appearing at the beginning Parts 2-12, which outline those Parts, are only intended as a guide readers regarding the general scheme and effect of that Part.

PART 2—INTERPRETATION AND OPERATION OF ACT

Division 1—Simplified outline

Clause 9

ause 9 provides a simplified outline of this Part.

Division 2—Definitions

Clause 10

ause 10 provides definitions of words and phrases used in the Bill.

Clause 11

ause 11 describes the circumstances in which a dealing with a MO will be considered to involve an intentional release into the vironment.

Clause 12

ause 12 comprises a note that states that the Commonwealth Act ludes a provision defining 'corresponding State law' for the rposes of that Act.

Division 3—Operation of Act

Clause 13

ause 13 comprises a note that states that the Commonwealth Act ludes a provision about the application of that Act.

Clause 14

ause 14 comprises a note that states that the Commonwealth Act ludes a provision about the giving of wind-back notices by a ate.

Clause 15

ause 15 provides that the Bill is not intended to cover the field in spect of GMOs. The clause provides that the provisions of the Bill in addition to, and not in substitution for, the requirements of any ıer law of South Australia, whether that law was passed or made fore or after the commencement of this clause.

Division 4—Provisions to facilitate a nationally consistent heme

Clause 16

ause 16 comprises a notice that states that the Commonwealth ludes a provision allowing State laws (apart from State laws escribed for the purposes of the provision) to operate concurrently th that Act.

Clause 17

ause 17 comprises a note that states that the Commonwealth Act ludes a provision allowing corresponding State laws to confer functions, powers and duties on certain Commonwealth officers and bodies.

Clause 18

Subclause (1) provides that if an act or omission is an offence against the Bill and is also an offence against the Commonwealth Act, and the offender has been punished for the offence under the Commonwealth Act, then the offender is not liable to be punished for the offence under the Bill.

Subclause (2) provides that if a person has been ordered to pay a pecuniary penalty under the Commonwealth Act, the person is not liable to a pecuniary penalty under the Bill for the same conduct.

Clause 19

Clause 19 comprises a note about the review of decisions under the Commonwealth Act. A different scheme is provided by Part 12 of this Bill for decisions made under the South Australian law.

Clause 20

Clause 20 provides that licences, certificates and other things issued or done under the Bill remain valid although they may also have been done for the purposes of the Commonwealth Act.

Subdivision B—Policy principles, policy guidelines and codes of practice

Clause 21

Subclause (1) enables the Ministerial Council to issue policy principles in relation to specific issues.

Subclause (2) provides that the Ministerial Council must, before issuing a policy principle, be satisfied that the policy principle was developed in accordance with section 22 of the Commonwealth Act. Section 22 requires policy principles to be developed in consultation with specified bodies and groups and required that consultation must be in accordance with any guidelines issued by the Ministerial Council for the purposes of section 22.

Subclause (3) provides that regulations for the purposes of subclause (1)*(b)* may relate to matters beyond public health and safety and the environment, but they must not derogate from the protection of public health and safety or the environment.

Clause 22

Clause 22 comprises of a note that states that the Commonwealth Act includes a provision about how policy principles are to be developed.

Clause 23

Clause 23 allows the Ministerial Council to issue policy guidelines in relation to matters relevant to the Regulator's functions under this Bill or the regulations.

Clause 24

Clause 24 allows the Ministerial Council to issue codes of practice in relation to gene technology, that have been developed in accordance with the consultation requirements specified in section 24(2) of the Commonwealth Act.

Section 24(2) of the Commonwealth Act provides that the Ministerial Council must not issue a code of practice unless the code was developed by the Regulation in consultation with specific bodies and groups.

PART 3—THE GENE TECHNOLOGY REGULATOR

Clause 25

Clause 25 provides a simplified outline of the Part.

Clause 26

Clause 26 comprises a note that states that section 26 of the Commonwealth Act creates the office of Gene Technology Regulator.

Clause 27

Clause 27 sets out the functions of the Regulator.

Clause 28

Clause 28 provides that the Regulator has power to do all things necessary or convenient to be done in connection with the performance of the Regulator's functions under the Bill or the regulations.

Clause 29

Clause 29 provides that the delegates must comply with any directions of the Regulator.

Clause 30

Clause 30 provides that subject to the Bill and to other laws of South Australia, the Regulator has discretion in the performance of his or her functions or powers and the Regulator may not be directed by anyone in respect of whether or not a particular application for a GMO licence is issued or refused, nor in respect of the conditions to which a particular GMO licence is subject.

PART 4—REGULATION OF DEALINGS WITH GMOs

Division 1—Simplified outline

Clause 31

Clause 31 provides a simplified outline of the Part.

Division 2—Dealings with GMOs must be licensed

Clause 32

Clause 32 provides that dealings with GMOs are prohibited unless authorised by a GMO licence, a dealing is a notifiable low risk dealing, a dealing is an exempt dealing, or the dealing is included on the GMO Register.

Clause 33

Clause 33 describes the same offence as clause 32 but enables strict liability to apply in respect of the offence. Such offences are punishable by smaller pecuniary fines.

Clause 33(4) provides that in this clause 'exempt dealing' has the same meaning as in clause 32.

Clause 34

Clause 34(1) provides that a holder of a GMO licence is guilty of an offence if the holder intentionally acts or omits to take an action, knowing that the act or omission contravenes the licence or being reckless as to whether the act or omission contravenes the licence.

Clause 34(2) provides a similar offence for a person who is covered by GMO licence. However, in this case it will also be necessary for the prosecution to establish that the person had knowledge of the conditions of licence.

Clause 35

Clause 35 describes the same offences as clause 34 but enables strict liability to apply in respect of those offences.

Clause 36

Clause 36 provides that a person is guilty of an offence if the person deals with a GMO knowing that it is a GMO, and the dealing is on the GMO Register and contravenes a condition specified in the GMO Register (described in Part 6, Division 3) relating to the dealing. Strict liability applies in relation to establishing that the dealing is on the GMO Register and that the dealing contravened a condition on the Register.

Clause 37

Clause 37 provides that a person is guilty of an offence if the person deals with a GMO knowing that it is a GMO and the dealing is a notifiable low risk dealing, and the dealing contravenes the regulations. Strict liability applies in relation to establishing that the dealing is a notifiable low risk dealing and that it contravened the regulations.

Clause 38

Clause 38 describes the concept of an aggravated offence, as referred to in clauses 32, 33, 34 and 35. An aggravated offence is one that causes significant damage, or is likely to cause significant damage, to the health and safety of people or to the environment.

Clause 38(2) describes what the prosecution must prove in order to prove an aggravated offence.

PART 5—LICENSING SYSTEM

Division 1—Simplified Outline

Clause 39

Clause 39 provides a simplified outline of the Part.

Division 2—Licence applications

Clause 40

Clause 40 describes the requirements for applying to the Regulator for a licence authorising specified dealings with one or more specified GMOs by a person or persons.

Subclause (3) requires the application to specify whether any of the dealings proposed to be authorised by the licence would involve the intentional release of a GMO into the environment.

Subclause (4) sets out the kinds of dealings in respect of which a person may apply for a licence.

Subclause (5) provides that the applicant may apply for a licence that authorises dealings by a specified person or persons, a class of persons or all persons.

Subclause (6) requires the application to be accompanied by any application fee that may be prescribed.

Clause 41

Clause 41 allows the applicant to withdraw a licence application at any time before the licence is issued. However, the application fee is not refundable.

Clause 42

Clause 42 provides that the Regulator may by written notice require an applicant to give the Regulator further information. The notice may specify the period within which information is to be provided.

Clause 43

Clause 43 provides that the Regulator must consider an application under clause 40, but that the regulator is not required to consider the application in the circumstances listed under subclause (2).

Clause 44

Clause 44 provides that before considering an application in accordance with the requirements of Part 5, the Regulator may consult with the applicant or another regulatory agency with respect to any aspect of the application.

Clause 45

Clause 45 provides that if a person provides confidential commercial information in support of a licence application, the Regulator must not take that information into account in considering an application by another person for a GMO licence, unless the first person has given written consent for the information to be taken into account.

Division 3—Initial consideration of licences for dealing not involving intentional release of a GMO into the environment

Clause 46

Clause 46 provides that Division 3 applies to an application for a GMO licence where the Regulator is satisfied that none of the dealings proposed to be authorised by the licence would involve the intentional release of a GMO into the environment.

Clause 47

Clause 47 provides that before issuing a licence, the Regulator must prepare a risk assessment and risk management plan in relation to the dealings proposed to be authorised by the licence.

Subclause (2) and (3) provide that the matters that the Regulator must take into account in so doing and subclause (4) authorises the Regulator to consult with the States, the Gene Technology Technical Advisory Committee, relevant Commonwealth authorities, local councils and any other appropriate person, on any aspect of the application.

Division 4—Initial consideration of licences for dealings involving intentional release of a GMO into the environment

Clause 48

Clause 48 provides that Division 4 applies where the Regulator is satisfied that at least one of the dealings proposed to be authorised by the licence involves the intentional release of a GMO into the environment.

Clause 49

Clause 49 describes the process that the Regulator must follow, and the matters the Regulator must consider, if the Regulator is satisfied that at least one of the dealings proposed to be authorised by the licence may pose significant risks to the health and safety of people or the environment. This process includes publishing a notice in respect of the application in the *Gazette* and having regard to specific issues in order for the Regulator to be satisfied that the dealings may pose significant risks to public health and safety or the environment.

Clause 50

Clause 50 provides that, before issuing a licence, the Regulator must prepare a risk assessment and risk management plan with respect to the dealings proposed to be authorised by the licence.

Subclause (2) provides that the Regulator must do so irrespective of whether the Regulator was required to publish a notice under clause 49.

Subclause (3) provides that, in preparing a risk assessment and risk management plan, the Regulator must seek advice from specific parties, including the Gene Technology Technical Advisory Committee and the States.

Clause 51

Subclause (1) specifies the matters that must be considered by the Regulator in preparing the risk assessment. Those matters include the risks posed by the proposed dealings, public submissions made to the Regulator, and any advice provided by the Gene Technology Technical Advisory Committee, a Commonwealth authority or agency and the States.

Subclause (2) specifies the matters that must be considered by the Regulator in preparing the risk management plan.

Subclause (3) provides that, in ascertaining the means of managing the risks as mentioned in subclause (2)*(a)*, the Regulator is not limited to considering submissions or advice mentioned in subclauses (2)*(b)* to *(f)* and, subject to clause 45, may consider other information including relevant independent research. Clause 45 regulates the use of confidential commercial information.

Clause 52

Clause 52 describes the process the Regulator must follow after having prepared a draft risk assessment and risk management plan. This process includes publishing a notice in the *Government Gazette* advising that a risk assessment and risk management plan have been prepared and inviting submissions in relation to them. The Regulator is also required to seek advice on the risk assessment and risk

management plan from certain entities including the States and the Gene Technology Technical Advisory Committee.

Clause 53

Clause 53 allows the Regulator to take other actions for the purpose of deciding the application, in addition to those required by this Division. These actions may include holding a public hearing.

Subclauses (2) and (3) set out powers of the Regulator in relation to public hearings, including the capacity for the Regulator to give directions restricting the publication of evidence given at a public hearing.

Clause 54

Clause 54 provides that a person may request a copy of a licence application, risk assessment or risk management plan. The Regulator must provide the person with the information, excluding any confidential commercial information and any information about the applicant's relevant convictions (within the meaning of clause 58).

Division 5—Decision on licence etc.

Clause 55

Clause 55 provides that, after taking the steps required by Division 3 or 4 of Part 5 in relation to an application for a GMO licence, the Regulator must decide whether or not to issue a licence. If the Regulator decides to issue a licence, he or she may impose conditions to which the licence is subject.

Clause 56

Subclause (1) provides that the Regulator must not issue the licence unless he or she is satisfied that any risks posed by the dealings proposed to be authorised by the licence are able to be managed in such a way as to protect public health and safety and the environment.

Subclause (2) specifies the matters that the Regulator must have regard to for the purpose of subclause (1), including (where prepared) the risk management and risk management plan, and any submissions received under clause 52 in relation to the licence.

Clause 57

Clause 57 provides that the Regulator must not issue the licence if the Regulator is satisfied that issuing the licence would be inconsistent with a policy principle issued by the Ministerial Council under clause 21 and unless the Regulator is satisfied that the applicant is a suitable person to hold the licence.

Clause 58

Clause 58 provides the matters to which the Regulator must have regard to in deciding whether a natural person or a body corporate is a suitable person to hold a licence. The Regulator may have regard to other matters, in addition to those specified under subclauses (1) and (2).

Clause 59

Clause 59 provides that the Regulator must provide written notification to the applicant of the Regulator's decision, including any conditions imposed

Clause 60

Clause 60 provides that a licence issued under the Bill continues in force either until the end of a specified period, or until it is cancelled or surrendered.

Subclause (2) provides that a licence is not in force during any period of suspension.

Division 6—Conditions of licence

Clause 61

Clause 61 provides that licences may be subject to a range of conditions, including conditions set out in clauses 63, 64 and 65, conditions prescribed by the regulations and conditions imposed by the Regulator at the time of issuing the licence at any time thereafter.

Clause 62

Clause 62 describes matters which licence conditions may include and to which they may relate.

Clause 63

Clause 63 deals with conditions that must be imposed on a GMO licence.

Subclause (1) makes it a condition of a licence that the licence holder inform any person covered by the licence, to whom a particular condition of the licence applies, of the following: the particular condition applying to the person (including any variation of it), the cancellation or suspension of the licence, and the licence holder's surrender of the licence.

Subclause (2) provides that the requirements regarding the manner in which information is provided under subclause (1) may be prescribed by the regulations or specified by the Regulator.

Subclause (3) provides that such requirements may include measures relating to labelling, packaging, conducting training and providing information.

Subclause (4) makes it a condition of a licence that, where requirements for informing people covered by a licence have been prescribed or specified, the licence holder must comply with those requirements.

Clause 64

Subclause (1) provides that, where a person is authorised by a licence to deal with a GMO, and a particular licence condition applies to that dealing, it is a condition of the licence that the person authorised to deal with the GMO must allow the Regulator (or delegate) to enter premises where the dealing is being undertaken, for the purposes of auditing or monitoring the dealing.

Subclause (2) provides that subclause (1) does not limit the conditions that may be imposed by the Regulator or prescribed by the regulations.

Clause 65

This clause makes it a condition of a licence that the licence holder provides information to the Regulator in the following circumstances—

- where he or she becomes aware of additional information as to any risks to public health and safety or to the environment, associated with the dealings authorised by the licence; or
- where he or she becomes aware of any contraventions of the licence by a person covered by the licence; or
- where he or she becomes aware of any unintended effects of the dealings authorised by the licence.

Subclause (2) provides that the licence holder is taken to have become aware of additional information of the kind mentioned under subclause (1) if he or she was reckless as to whether such information existed. The licence holder is also taken to have become aware of contraventions or unintended effects of a kind mentioned in subclause (1) if he or she was reckless as to whether such contraventions had occurred or unintended effects existed.

Clause 66

This clause provides that a person covered by a licence may inform the Regulator if he or she becomes aware of the following: additional information as to any risks to public health and safety or the environment associated with the dealings authorised by the licence; any contraventions of the licence by a person covered by the licence; or any unintended effects of the authorised dealings.

Clause 67

This clause provides that civil proceedings may not be brought against a person who has given information to the Regulator under clause 65 or 66, because another person has suffered loss, damage or injury as the result of that disclosure.

Division 7—Suspension, cancellation and variation of licences

Clause 68

This clause gives the Regulator the power to suspend or cancel a licence. This power may be exercised by the Regulator by giving written notice to the licence holder. The grounds for the exercise of this power are listed in this clause and include: the Regulator's belief on reasonable grounds that there has been a breach of a licence condition; or the Regulator becoming aware of risks associated with the continuation of the authorised dealings and being satisfied that the licensee has not proposed or is not in a position to implement, adequate measures to deal with those risks.

Clause 69

This clause allows a licence holder to surrender a licence, with the consent of the Regulator.

Clause 70

Subclause (1) provides that a licence holder and a transferee may jointly apply to the Regulator for the licence to be transferred to the transferee.

Subclause (2) provides that the application must be in writing and must include information prescribed in the regulations (if any) and information specified in writing by the Regulator.

Subclause (3) requires that the Regulator must not transfer the licence unless satisfied that any risks posed by the authorised dealings will continue to be able to be managed in such a way as to protect public health and safety and the environment.

Subclause (4) provides that the Regulator must not transfer the licence unless satisfied that the transferee is a suitable person to hold the licence.

Subclause (5) requires that the Regulator provide written notice of his or her decision to the licence holder and the transferee.

Subclause (6) provides that if the Regulator decides to transfer the licence, the transfer takes effect on the date specified in the written notice and the licence continues in force as mentioned in clause 60 and is subject to the same conditions as in force immediately before the transfer.

Clause 71

This clause allows the Regulator to vary a licence at any time, by written notice given to the licence holder.

Subclause (2) provides that the Regulator must not vary a licence so as to authorise dealings involving the intentional release of a GMO into the environment if the application for the licence was originally considered under Division 3 of Part 5 (which deals with licence applications where there is to be no release of the GMO into the environment).

Subclause (3) provides that without limiting subclause (1), the Regulator may impose conditions or additional conditions, or remove or vary conditions imposed by the Regulator, or extend or reduce the authority granted by the licence.

Subclause (4) provides that the Regulator must not vary a licence unless satisfied that any risks posed by the dealings proposed to be authorised by the licence as varied, are able to be managed so as to protect public health and safety and the environment.

Clause 72

Clause 72 requires the Regulator to give written notice of a proposed suspension, cancellation or variation to the licence holder, before suspending, cancelling or varying a licence. The notice must state the Regulator's intentions with respect to the licence. The notice may require the licence holder to give the Regulator specific information which is relevant to the proposed changes to the licence, and may invite the licence holder to make a written submission to the Regulator about the proposed suspension, cancellation or variation. The notice must specify a period within which the licence holder must give information requested under subclause (2)*(b)* or make a written submission under subclause (2)*(c)*. This period must not end earlier than 30 days after the day on which the notice was given.

Subclause (5) provides that the requirements set out in this clause do not apply where the suspension, cancellation or variation has been requested by the licence holder.

Subclause (6) provides that clause 72 does not apply to a suspension, cancellation or variation of a licence if the Regulator considers such as being necessary to avoid an imminent risk of death, serious illness, serious injury or serious damage to the environment.

Division 8—Annual charge

Clause 72A

Clause 72A provides that any person who is the holder of a GMO licence at any time during a financial year is liable to pay a charge for the licence for that year.

PART 6—REGULATION OF NOTIFIABLE LOW RISK DEALINGS AND DEALINGS ON THE GMO REGISTER

Division 1—Simplified outline

Clause 73

This clause provides a simplified outline of the Part.

Division 2—Notifiable low risk dealings

Clause 74

This clause allows regulations to be made which declare a dealing with a GMO to be a notifiable low risk dealing for the purposes of this Bill.

Subclause (2) provides that before such regulations are made the Regulator must be satisfied that the dealing would not involve the intentional release of a GMO into the environment.

Subclause (3) specifies the matters to be considered by the Regulator before regulations are made prescribing notifiable low risk dealings. These include whether the GMO is biologically contained so that it is not able to survive or reproduce without human intervention and whether the dealing would involve minimal risk to public health and safety and to the environment, taking into account the properties of the GMO as a pathogen or pest and the toxicity of any proteins produced by the GMO.

Subclause (4) provides that where regulations are made prescribing certain dealings as notifiable low risk dealings, the regulations may be expressed to apply to all dealings with a GMO or specified class of GMOs; or a specified class of dealings with a GMO or with a specified class of GMOs; or one or more specified dealings with a GMO or with a specified class of GMOs.

Clause 75

Subclause (1) allows regulations to be made which regulate a specified notifiable low risk dealing, or a specified class of notifiable low risk dealings for the purpose of protecting public health and safety or the environment.

Subclause (2) specifies that the regulations may prescribe different requirements to be complied with in different situations or by different persons including requirements in relation to: the class of person who may undertake notifiable low risk dealings; notification of the dealings to the Regulator; supervision by an Institutional Biosafety Committee; and the containment level of facilities in which such dealings are undertaken.

Division 3—The GMO Register

Clause 76

This clause comprises a note that states that section 76 of the Commonwealth Act provides for the establishment and maintenance of the GMO Register.

Clause 77

This clause provides that, where the Regulator determines that a dealing with a GMO is to be included on the GMO Register, the Register must contain: a description of the dealing with the GMO; and any condition(s) to which the dealing is subject.

Clause 78

Clause 78 provides that the Regulator may place a dealing with a GMO on the Register if satisfied that the dealing is, or has been, authorised by a GMO licence or the GMO is a GM product and is a genetically modified organism only because it has been declared as such by the regulations.

Clause 79

Subclause (1) prevents the Regulator from placing a dealing with a GMO on the Register unless the Regulator is satisfied that any risks posed by the dealing are minimal, and that it is not necessary for the persons undertaking the dealing to hold, or be covered by, a GMO licence in order to protect public health and safety or the environment.

For the purposes of subclause (1) the Regulator must have regard to the matters specified under subclause (2), which include any data available to the Regulator concerning adverse effects posed by the dealing, and may have regard to any other matters that the Regulator considers relevant.

Clause 80

This clause allows the Regulator to vary the GMO Register by written determination. A variation may remove a dealing from the GMO Register; revoke or vary conditions to which the dealing is subject; or impose additional conditions on the dealing.

Clause 81

This clause comprises a note that states that section 81 of the Commonwealth Act requires the Regulator to permit any person to inspect the GMO Register.

PART 7—CERTIFICATION AND ACCREDITATION

Division 1—Simplified Outline

Clause 82

This clause provides a simplified outline of the Part.

Division 2—Certification

Clause 83

This clause allows a person to apply to the Regulator for certification of a facility to a particular containment level. The application must be in writing, must contain such information as the Regulator requires, and be accompanied by the application fee (if any) as prescribed by the regulations.

Clause 84

This clause authorises the Regulator to certify the facility to a specified containment level if it meets the containment requirements specified in guidelines issued by the Regulator under clause 90.

Clause 85

This clause authorises the Regulator to request an applicant for certification of a facility to provide further information regarding the application as the Regulator requires. The written notice which requests the information may specify the period within which information must be provided.

Clause 86

This clause provides that the certification of a facility is subject to several conditions: those imposed by the Regulator at the time of certification; those imposed after certification varying the original certification; and any conditions prescribed by the regulations.

Clause 87

This clause authorised the Regulator to vary the certification of a facility.

Clause 88

This clause authorises the Regulator to suspend or cancel the certification of a facility if he or she believes on reasonable grounds that a condition of the certification has been breached.

Clause 89

Subclause (1) requires that, before suspending, cancelling or varying a certification, the Regulator must provide written notice of this proposal to the holder of the certification.

Subclause (2) states the formal requirements for the notice and provides that the notice may require the holder of the certification to provide specific information relevant to the proposed suspension,

ıncellation or variation and invite the holder to provide a written ıbmission within a designated timeframe. This period must not be ss than 30 days after the day on which the notice was given.

Subclause (4) provides that the Regulator must consider any ritten submissions made to him or her.

Subclause (5) provides that clause 89 does not apply where the ıspension, cancellation or variation is requested by the holder of the ertification.

Subclause (6) provides that clause 89 does not apply where the egulator considers that the action is necessary to avoid an imminent sk of death, serious illness, serious injury or serious damage to the ıvironment.

Clause 90

his clause authorises the Regulator to issue technical or procedural uidelines regarding the requirements for the certification of ıcilities to specified containment levels and to vary or revoke those uidelines by written instrument.

Division 3—Accredited organisations

Clause 91

his clause enables a person to apply to the Regulator for accredi-ıtion of an organisation. The application must be in writing, and ontain such information as the Regulator requires.

Clause 92

ubclause (1) enables the Regulator to accredit an organisation by ritten instrument.

Subclause (2) provides that in deciding whether to accredit the rganisation, the Regulator must have regard to several matters ıcluding whether the organisation has established, or proposes to stablish, an Institutional Biosafety Committee in accordance with uidelines under clause 98.

Clause 93

his clause enables the Regulator to require an applicant for ccreditation of an organisation to provide further information in elation to the application. The notice requiring the information may ecify a period within which the information is to be provided.

Clause 94

his clause provides that the accreditation of an accredited rganisation is subject to any conditions imposed by the Regulator t the time of the accreditation, conditions imposed by the Regulator fter accreditation which vary the organisation's original accredita-on, and any conditions prescribed by the regulations.

Clause 95

his clause authorises the Regulator to vary the organisation's ccreditation, at any time, by notice in writing.

Clause 96

his clause authorises the Regulator to suspend or cancel the ccreditation of an organisation if the Regulator believes on easonable grounds that a condition of the accreditation has been reached.

Clause 97

his clause provides that before suspending, cancelling or varying n accreditation, the Regulator must provide notice in writing of this roposal to the holder of the accreditation.

Subclause (2) states the formal requirements for the notice and rovides that the notice may require the holder of the accreditation o provide specific information relevant to the proposed suspension, ancellation or variation and may invite the holder of the accredita-on to provide a written submission within a designated timeframe. his period must not be less than 30 days after the day on which the otice was given.

Subclause (4) provides that the Regulator must consider any vritten submissions made to him or her.

Subclause (5) provides that clause 97 does not apply where the uspension, cancellation or variation is requested by the holder of the ccreditation.

Subclause (6) provides that clause 97 does not apply where the egulator considers that the action is necessary to avoid an imminent isk of death, serious illness, serious injury or serious damage to the nvironment.

Clause 98

his clause authorises the Regulator to issue technical or procedural uidelines regarding requirements that must be satisfied in order for n organisation to be accredited under Division 3.

Subclause (2) provides that such guidelines may relate to, but are ot limited to, the establishment and maintenance of Institutional iosafety Committees.

Subclause (3) authorises the Regulator to vary or revoke the uidelines by written instrument.

PART 8—THE GENE TECHNOLOGY TECHNICAL ADVISORY COMMITTEE, THE GENE TECHNOLOGY COMMUNITY CONSULTATIVE COMMITTEE AND THE GENE TECHNOLOGY ETHICS COMMITTEE

Division 1—Simplified outline

Clause 99

This clause provides a simplified outline of the Part.

Division 2—The Gene Technology Technical Advisory Committee

Clause 100

This clause comprises a note that states that section 100 of the Commonwealth Act provides for the establishment and membership of the Gene Technology Technical Advisory Committee.

Clause 101

This clause provides that the function of the Gene Technology Technical Advisory Committee is to provide scientific and technical advice, on the request of the Regulator or the Ministerial Council, on a range of specific matters including gene technology, GMOs and GM products and the biosafety aspects of gene technology.

Clause 102

This clause comprises a note that states that section 102 of the Commonwealth Act provides for the appointment of expert advisers to the Gene Technology Advisory Committee.

Clause 103

This clause comprises a note that states that section 103 of the Commonwealth Act provides for the payment of remuneration and allowances to members of, and expert advisers to, the Gene Technology Technical Advisory Committee.

Clause 104

This clause comprises a note that states that section 104 of the Commonwealth Act empowers the making of regulations relating to the membership and operation of the Gene Technology Technical Advisory Committee.

Clause 105

This clause comprises a note that states that section 105 of the Commonwealth Act deals with the establishment of subcommittees by the Gene Technology Technical Advisory Committee.

Division 3—The Gene Technology Community Consultative Committee

Clause 106

This clause comprises a note that states that section 106 of the Commonwealth Act establishes the Gene Technology Community Consultative Committee.

Clause 107

This clause provides that the function of the Consultative Committee is to provide advice, on the request of the Regulator or the Ministerial Council, on specific matters including matters of general concern identified by the Regulator with respect to applications made under this Bill.

Clause 108

This clause comprises a note that states that section 108 of the Commonwealth Act provides for the membership of the Consultative Committee.

Clause 109

This clause comprises a note that states that section 109 of the Commonwealth Act provides for the payment of remuneration and allowances to members of the Consultative Committee.

Clause 110

This clause comprises a note that states that section 110 of the Commonwealth Act empowers the making of regulations relating to the membership and operation of the Consultative Committee.

Clause 110A

This clause comprises a note that states that section 110A of the Commonwealth Act deals with the establishment of subcommittees by the Consultative Committee.

Division 4—The Gene Technology Ethics Committee

Clause 111

This clause comprises a note that states that section 111 of the Commonwealth Act provides for the establishment and membership of the Gene Technology Ethics Committee.

Clause 112

This clause provides that the function of the Ethics Committee is to provide advice, on the request of the Regulator or the Ministerial Council on specific matters including ethical issues relating to gene technology.

Clause 113

This clause comprises a note that states that section 113 of the

Commonwealth Act provides for the appointment of expert advisers to the Ethics Committee.

Clause 114

This clause comprises a note that states that section 114 of the Commonwealth Act provides for the payment of remuneration and allowances to members of, and expert advisers to, the Ethics Committee.

Clause 115

This clause comprises a note that states that section 115 of the Commonwealth Act empowers the making of regulations relating to the membership and operation of the Ethics Committee.

Clause 116

This clause comprises a note that states that section 116 of the Commonwealth Act deals with the establishment of subcommittees by the Ethics Committee.

PART 9—ADMINISTRATION

Division 1—Simplified outline

Clause 117

This clause provides a simplified outline of the Part.

Division 2—Appointment and conditions of Regulator

Clause 118

This clause comprises a note that states that section 118 of the Commonwealth Act provides for the appointment of the Regulator.

Clause 119

This clause comprises a note that states that section 119 of the Commonwealth Act sets out the circumstances in which the Regulator's appointment may be terminated.

Clause 120

This clause comprises a note that states that section 120 of the Commonwealth Act requires the Regulator to disclose his or her interests to the Minister.

Clause 121

This clause comprises a note that states that section 121 of the Commonwealth Act deals with the appointment of a person to act as the Regulator.

Clause 122

This clause comprises a note that states that section 122 of the Commonwealth Act deals with the terms and conditions of appointment of the Regulator.

Clause 123

This clause comprises a note that states that section 123 of the Commonwealth Act prohibits the Regulator from engaging in paid outside employment without the approval of the Minister.

Clause 124

This clause comprises a note that states that section 124 of the Commonwealth Act provides for the payment of remuneration and allowances to the Regulator.

Clause 125

This clause comprises a note that states that section 125 of the Commonwealth Act deals with the entitlement of the Regulator to leave of absence.

Clause 126

This clause comprises a note that states that section 126 of the Commonwealth Act deals with the procedure for resignation by the Regulator.

Division 3—Money

Clause 127

This clause provides that the Regulator may charge for services provided by, or on behalf of, the Regulator in the performance of his or her functions under this Bill and the regulations.

Clause 128

As the Bill applies to the Crown in all its capacities including the Crown in right of South Australia, clause 128(1) has been included to clarify that fees and charges under the Bill and the regulations are notionally payable by the State and bodies representing the State.

Clause 129

This clause comprises a note that states that section 129 of the Commonwealth Act provides for the establishment of the Gene Technology Account.

Clause 130

This clause provides that certain amounts must be paid to the Commonwealth for crediting to the Gene Technology Account.

Subclause (2) provides that the Consolidated Fund is appropriated to the extent necessary to enable amounts to be paid to the Commonwealth in accordance with subclause (1).

Clause 131

This clause provides that the amounts specified under paragraphs *(a)* to *(c)* may be recovered in court as debts due to the State of South Australia.

Clause 132

This clause comprises a note that states that section 132 of the Commonwealth Act sets out the purposes for which money in the Gene Technology Account may be expended.

Division 4—Staffing

Clause 133

This clause comprises a note that states that section 133 of the Commonwealth Act provides for staff to be made available to assist the Regulator.

Clause 134

This clause comprises a note that states that section 134 of the Commonwealth Act enables the Regulator to engage consultants.

Clause 135

This clause comprises a note that states that section 135 of the Commonwealth Act provides for staff to be seconded to the Regulator.

Division 5—Reporting requirements

Clause 136

This clause requires the Regulator to provide the Minister with an annual report on the operations of the Regulator under this Bill and regulations.

Clause 136A

This clause requires the Regulator to provide the Minister with quarterly reports on the Regulator's operations under the Bill and the regulations. The report must include information on various matters including GMO licences issued during the quarter. The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Clause 137

Subclause (1) provides that the Regulator may, at any time, cause a report about matters relating to the Regulator's functions under this Bill and the regulations to be laid before each House of Parliament.

Subclause (2) requires the Regulator to give a copy of the report to the Minister.

Division 6—Record of GMO and GM product dealings

Clause 138

This clause provides that the Record of GMO and GM product dealings (which is to be maintained by the Regulator) must contain specific information (other than confidential commercial information), in relation to licences issued under clause 55. The Record must also contain specific information (other than confidential commercial information) in relation to each notifiable low risk dealing that is notified in accordance with regulations under clause 75. The Record must also contain any information (excluding confidential commercial information) prescribed by the regulations regarding GM products mentioned in designated notifications provided to the Regulator under any Act.

The Record must also contain a description of each dealing on the GMO Register and any condition to which the dealing is subject. This information must be entered on the Record as soon as is reasonably practicable.

Clause 139

This clause comprises a note that states that section 139 of the Commonwealth Act requires the Regulator to permit any person to inspect the Record.

Division 7—Reviews of notifiable low risk dealings and exemptions

Clause 140

This clause allows the Regulator, at any time, to consider whether a dealing with a GMO should become a notifiable low risk dealing, or whether an existing notifiable low risk dealing should no longer be recognised as such.

Subclause (2) requires that, in making these decisions, the Regulator must consider the matters in clause 74(2) or clause 74(3). These matters include whether the proposed dealings involve an intentional release of a GMO into the environment and whether the GMO can be biologically contained so that it is not able to survive or reproduce without human intervention.

Clause 141

This clause allows the Regulator, at any time, to consider whether an exempt dealing should no longer be such and whether a dealing should be an exempt dealing.

Clause 142

This clause enables the Regulator to publish a notice, at any time, inviting submissions with respect to any matter the Regulator may consider under clauses 140 and 141. This clause also sets out the matters that the Regulator must include in the notice and requires the Regulator to notify the States, the Gene Technology Technical

Advisory Committee, and prescribed Commonwealth agencies. A notice may relate to a single matter or a class of matters.

Clause 143

This clause authorises the Regulator to recommend to the Ministerial Council that a dealing be declared a notifiable low risk dealing once the requirements under clause 143(1) are satisfied.

If a matter relates to whether an existing notifiable low risk dealing be reconsidered and after considering the matters referred to in clause 74, the Regulator considers that the dealing should not be a notifiable low risk dealing, the Regulator may recommend to the Ministerial Council that the regulations be amended accordingly. If the matter relates to whether a dealing should be an exempt dealing or should cease to be an exempt dealing the Regulator may recommend to the Ministerial Council that the regulations be amended accordingly.

Clause 144

This clause provides that the requirement to review notifiable low risk dealings or exemptions, is at the discretion of the Regulator.

PART 10—ENFORCEMENT

Clause 145

This clause provides a simplified outline of the Part.

Clause 146

This clause authorises the Regulator to give directions to the licence holder to take reasonable steps to bring that person back into compliance with the legislation, where the Regulator believes on reasonable grounds that the licence holder is not complying with the Bill or regulations and it is necessary to exercise powers under the clause to protect public health and safety or the environment.

Subclause (2) authorises the Regulator to take the same action with respect to a person covered by a GMO licence.

Subclause (3) imposes penalties for non-compliance with a notice under subclause (1) and (2).

Subclause (4) provides that the Regulator may arrange for the necessary steps to be taken where the licence holder or person does not take the steps within the designated timeframe. Subclause (5) provides that if costs are incurred by the Regulator in arranging those necessary steps, the licence holder or the person covered by the licence is liable to pay to the State an amount equal to the cost.

Clause 147

This clause provides the Supreme Court with power to grant injunctions with respect to breaches of this Bill and the regulations.

Clause 148

This clause provides that a court may order forfeiture of any thing used or involved in the commission of an offence. The forfeited thing becomes the property of the State and may be dealt with in accordance with directions of the Regulator.

PART 11—POWERS OF INSPECTION

Division 1—Simplified outline

Clause 149

This clause provides a simplified outline of the Part.

Division 2—Appointment of inspectors and identity cards

Clause 150

This clause authorises the Regulator to appoint inspectors.

Clause 151

This clause requires the regulator to issue an identity card to an inspector.

Division 3—Monitoring powers

Clause 152

This clause provides powers of entry and monitoring to inspectors for the purpose of discovering whether the Bill or regulations have been complied with.

Clause 153

This clause describes the monitoring powers that an inspector may exercise for the purposes of finding out whether the Bill or regulations have been complied with.

Division 4—Offence related powers

Clause 154

Subclause (1) provides that the clause applies if an inspector has reasonable grounds for suspecting that there may be evidential material on any premises. The clause describes the inspector's powers of entry and seizure. The warrant is taken to authorise the seizure of another thing, where the inspector believes on reasonable grounds that the thing is evidential material and that it is necessary to seize the thing.

Clause 155

This clause describes the powers an inspector may exercise under clause 154(2)*(b)*.

Clause 156

This clause authorises an inspector in specific circumstances to operate equipment at premises, seize equipment, put material in documentary form and to copy material.

Division 5—Expert assistance

Clause 157

This clause authorises the inspector on certain conditions to secure a thing until it has been operated by an expert.

Division 6—Emergency powers

Clause 158

This clause provides an inspector with powers of entry and seizure and power to secure a thing, and to require compliance with the Bill and regulations, when the inspector has reasonable grounds for suspecting that there may be a thing on premises in respect of which the Bill or regulations have not been complied with, and the inspector considers it necessary to use powers under this clause to avoid an imminent risk of death, serious illness, serious injury or to protect the environment. These powers may only be exercised to the extent that it is necessary for the purpose of avoiding an imminent risk of death, serious illness, serious injury or serious damage to the environment.

If the Regulator incurs costs through an inspector taking reasonable steps, or arranging steps to be taken, under clause 158(2)*(e)*, the Regulator can recover the costs of taking those steps.

Division 7—Obligations and incidental powers of inspection

Clause 159

This clause provides that an inspector cannot exercise any of the powers under this Part in relation to premises unless he or she produces his or her identity card upon being requested to do so by the occupier of those premises.

Clause 160

This clause provides that, before obtaining consent from a person to enter premises (under clauses 152(2)*(a)* or 154(2)*(a)*), the inspector must inform the person that he or she may refuse consent.

Clause 161

This clause requires the inspector to make available a copy of a warrant to the occupier of the premises or a person representing the occupier. This copy need not include the signature of the magistrate who issued the warrant. The inspector must also identify himself or herself.

Clause 162

This clause provides requirements for an inspector to follow before entering premises under a warrant. An inspector does not have to comply with these requirements if he or she believes on reasonable grounds that immediate entry is required to ensure a person's safety, to prevent serious damage to the environment or to ensure that the effective execution of the warrant is not frustrated.

Clause 163

This clause details the circumstances in which compensation is payable by the Regulator to the owner of a thing.

Division 8—Power to search goods, baggage etc.

Clause 164

This clause empowers an inspector to examine goods, open and search baggage or a container, if he or she believes on reasonable grounds that the goods are goods to which this clause applies, and the goods may be, or contain, evidential material. The inspector is also authorised to question a person who appears to be associated with the goods, any question regarding the goods. Failure or refusal to answer a question relating to such goods is punishable by a maximum fine of $3 300.

Clause 165

This clause provides that an inspector may seize any goods if he or she has reasonable grounds to suspect the goods are evidential material.

Division 9—General provisions relating to search and seizure

Clause 166

This clause provides that if an inspector seizes, under a warrant, a thing or information that can be readily copied the inspector must, on request of the occupier or their representative who is present when the warrant is executed, give a copy of the thing or the information to that person as soon as practicable after the seizure.

Subclause (2) provides that this clause does not apply where the thing seized was seized under clauses 156(2)*(b)* or *(c)*, or where possession by the occupier of the thing or information could constitute an offence.

Clause 167

This clause provides that if a warrant is being executed, occupiers

or their representatives may observe the search of the premises providing they do not impede the search. This clause provides that it does not preclude the searching of two or more areas of the premises at the same time.

Clause 168

This clause requires inspectors to provide receipts for things seized under this Part and provides that if two or more things are seized, they may be covered in the one receipt.

Clause 169

This clause provides requirements for the return of things seized.

Clause 170

This clause describes the circumstances in which an inspector may apply to the Magistrates Court to retain a thing and in which the Court may make such an order.

Clause 171

This clause allows the Regulator to dispose of a thing seized under this Part, when there is no owner or the owner cannot be located.

Division 10—Warrants

Clause 172

This clause provides that an inspector may apply to a magistrate for a warrant to enter premises and to exercise the monitoring powers set out in clause 153. The clause sets out what the magistrate must be satisfied of before issuing the warrant and details the requirements for the warrant itself.

Clause 173

This clause provides that an inspector may apply to a magistrate for a warrant to enter premises and to exercise the powers set out in clauses 154(3) and 155 and seize the evidential material. This clause sets out what the magistrate must be satisfied of before issuing the warrant and details the requirements for the warrant itself.

Clause 174

This clause allows an inspector in an urgent case to apply for a warrant by telephone or other electronic means. The clause details the steps the inspector and magistrate must take in relation to the warrant.

Clause 175

This clause sets out offences in relation to an application for a warrant.

Division 11—Other matters

Clause 176

This clause provides that nothing in this Part affects the privilege against self-incrimination.

Clause 177

This clause provides that this Part is not to be taken to limit the Regulator's power to impose licence conditions.

PART 12—MISCELLANEOUS

Division 1—Simplified outline

Clause 178

This clause provides a simplified outline of the Part.

Division 2—Review of decisions

Clause 179

This clause provides a table that specifies the decisions that are reviewable and the eligible person in relation to a reviewable decision.

Clause 180

This clause provides the notice requirements that the Regulator must follow after making a reviewable decision.

Clause 181

This clause provides that an eligible person may apply to the Regulator for an internal review of a reviewable decision (other than a decision made personally by the Regulator) and sets out the timeframe for applications to be made. The Regulator is required to review the decision personally. The Regulator may affirm, vary or revoke the original reviewable decision. If the Regulator revokes the decision, the Regulator may make such other decision as the Regulator considers appropriate.

Clause 182

This clause provides that the Regulator is taken to have rejected an application for a reviewable decision, if the Regulator has not notified the applicant of his or her decision during the specified period.

Clause 183

This clause provides that an application may be made by an eligible person in relation to a reviewable decision made by the Regulator personally or a decision made by the Regulator under clause 181. The application is made to the District Court in its Administrative and Disciplinary Division.

Clause 183A

This clause comprises a note that states that section 183A of the Commonwealth Act requires that a State be taken to be a person aggrieved for the purpose of the application of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth in relation to certain decisions, failures or conduct under the Commonwealth Act or regulations.

Clause 183B

This scheme does not affect any other right of appeal under Commonwealth law or the Constitution.

Division 3—Confidential commercial information

Clause 184

This clause provides that a person may apply to the Regulator for a declaration that specified information is confidential commercial information. The application must be in writing and in the form approved by the Regulator.

Clause 185

This clause provides that if the Regulator is satisfied that information is of a kind specified under subclause (1)*(a)* to *(c)* then he or she must declare that information to be confidential commercial information.

Subclause (2) provides that the Regulator may refuse to make a declaration if satisfied that the public interest in disclosure outweighs the prejudice that the disclosure would cause to any person.

Subclause (2A) provides that the Regulator must refuse to declare information as confidential commercial information if the information relates to locations at which field trials involving GMOs are occurring, or are proposed to occur, unless the Regulator is satisfied that significant damage to public health and safety, the environment or property would be likely to occur if the locations were disclosed.

Subclause (3) provides that the Regulator must give the applicant written notice of his or her decision about the application.

Subclause (3A) provides that if the Regulator declares information to be confidential commercial information and the information relates to a location where field trials involving GMOs are occurring, or proposed to occur, the Regulator is required to make publicly available reasons for the declaration, including the matters listed under clause 185(3A)*(c)* to *(e)*. If the Regulator refuses to make a declaration under clause 184(1) the information is to be treated as confidential commercial information until any review rights under clause 181 or 183 are exhausted.

Clause 186

This clause enables the Regulator to revoke a declaration made under clause 185 if the Regulator is satisfied that the information no longer meets the criteria set out in clause 185(1)*(a)*, *(b)* or *(c)*, or that the public interest in disclosure of the information outweighs the prejudice that disclosure would cause to any person. The revocation of a declaration does not take effect until any review rights under clause 181 or 183 have been exhausted.

Clause 187

This clause prohibits the disclosure of confidential commercial information except in the specified circumstances.

Division 4—Conduct by directors, employees and agents

Clause 188

This clause provides for the determination of the elements of offences when a body corporate is involved and when employees or agents of other persons are involved.

Clause 189

This clause defines terms used in clause 188 of the Bill.

Division 5—Transitional provisions

Clause 190

This clause provides for transitional arrangements in relation to dealings with GMOs approved prior to the commencement of the Bill. The clause only covers matters previously approved by the Genetic Manipulation Advisory Committee.

The effect of clause 190(1) and (2) is that if an advice to proceed from the Genetic Manipulation Advisory Committee was in force in relation to a dealing with a GMO before the commencement of the licensing provisions of this Bill, then that dealing is deemed to be licensed under this Act. The licence is taken to be subject to any conditions imposed by the Genetic Manipulation Advisory Committee's advice to proceed.

Clause 191

This clause provides that regulations may be made in relation to transitional matters arising from the enactment of this Bill.

Division 6—Other

Clause 192

This clause provides a prohibition against knowingly giving false or misleading information or producing a document that is false or

isleading in a material particular, in relation to an application or compliance or purported compliance, with the Bill or regulations. he maximum penalty is 1 year imprisonment or $6 600.

Clause 192A

lause 192A provides the penalty and the elements of an offence volving damaging, destroying or interfering with premises at which MO dealings are being undertaken, or damaging, destroying, terfering with a thing, or removing a thing from, such premises.

Clause 192E

lause 192E provides that an attempt to commit an offence against e Bill constitutes the offence of attempting to commit that offence id the penalty for the attempt is the same as for committing the ffence.

Clause 193

his clause provides a regulation making power with respect to atters required or permitted to be prescribed by the Bill, or ecessary or convenient to be prescribed for carrying out or giving ffect to the Bill. The regulations may require a person to comply ith codes of practice or guidelines issued under the Bill.

Clause 194

his clause provides for an independent review of the Bill as soon possible after four years after its commencement.

Schedule

he schedule sets out a related amendment.

The Hon. CAROLYN PICKLES secured the adjournent of the debate.