



8 March 2021

SA Gene Technology Act Consultation Paper

Gene Technology (Adoption of
Commonwealth Amendments) Amendment
Bill 2021



Government
of South Australia

SA Health

Background

South Australia is a signatory to the national gene technology scheme outlined in the Gene Technology Agreement (GTA). The GTA is an inter-governmental agreement that sets out an understanding between Commonwealth, State and Territory governments regarding the establishment of a nationally consistent regulatory system for gene technology and commits the states and territories to pass laws in line with the Commonwealth legislation (corresponding laws). The GTA aims to ensure national fulfilment of the objectives of the gene technology system:

- > to protect the health and safety of people; and
- > to protect the environment, by identifying risks posed by, or as a result of, gene technology by managing those risks through regulating certain dealings with genetically modified organisms (GMOs).

The *Commonwealth Gene Technology Act 2000* (the Commonwealth GT Act) regulates processes that use gene technology, such as medical and agricultural research. Over the 20 years that the national system has been in place, SA has consistently adopted all changes to the Commonwealth GT Act and its subordinate legislation in order to maintain consistency with the national scheme.

What is the problem?

The *South Australia Gene Technology Act 2001* (SA GT Act) currently undergoes a full legislative amendment process in order to adopt changes applied to the Commonwealth GT Act. This takes a substantial amount of time and resources, including parliamentary time and results in periods of misalignment between the national and state legislation. This can create confusion and uncertainty for SA research institutions and industries undertaking gene technology processes and may increase the risk of operator error (i.e. risk to public health and environmental harm).

What changes are being proposed?

To amend the current SA GT Act to include a provision that allows for ‘adoption by regulation’ of the Commonwealth GT Act.

‘Adoption by regulation’ is a process that provides for the changing of an Act using a regulation making power as opposed to drafting a new legislative Bill. Applying an ‘adoption by regulation’ approach will simplify and speed up the process of adopting changes to the Commonwealth GT Act in the future, and allow redirection of departmental and parliamentary resources to areas with greater public value.

The ‘adoption by regulation’ approach still provides the South Australian Government with the opportunity to choose not to adopt a proposed amendment or to modify the change for SA, ensuring continued oversight for the best outcomes for South Australia.

A number of Australian jurisdictions adopt the Commonwealth GT legislation using an ‘application of laws’ approach which means any changes to the Commonwealth legislation are immediately adopted, without Parliamentary oversight. The SA approach is an intermediate option which provides some of the advantages of the application of laws approach but retains the ability for Parliament to review changes.

What are the impacts for South Australian stakeholders?

South Australia is actively engaged in changes to the Commonwealth gene technology legislation via the Minister for Health and Wellbeing’s role on the Gene Technology Forum and through responding to public and targeted consultation. This means that the SA government has significant opportunity to contribute to and review proposed changes to the Commonwealth legislation. SA stakeholders will also continue to have opportunity to provide comment on proposed legislative amendments to the national law through public and targeted consultation processes.

Adoption of Commonwealth gene technology law into SA law may have a positive impact on the South Australian economy. By maintaining alignment with the national system, it may reduce the impression that dealing with gene technology in SA has additional regulatory hurdles compared to the rest of the country and, therefore, may encourage investment into the state, especially in the food and agricultural space.

Research and industry techniques that utilise gene technology (gene technology dealings) will continue to be regulated by the Office of the Commonwealth Gene Technology Regulator. The proposed change will not impact on this arrangement but will provide the security of a seamless system.

Who might want to have a say?

All stakeholders are welcome to provide their views on this proposal. SA Health is particularly seeking comments from the public, government agencies, industries operating under the gene technology legislation and the Gene Technology Regulator.

How can you have your say?

You can join the conversation about this draft Bill via the online discussion and survey on YourSAy: www.yoursay.sa.gov.au/gene-technology-act-review.

To seek further details:

Email: FoodPolicyPrograms@sa.gov.au

Or Write to:

Food Standards Development

PO Box 6,

Rundle Mall,

Adelaide, SA 5000.

The consultation period closes at 5pm 19 April 2021

What happens to your feedback?

A summary of all submissions will be presented to the SA Government for consideration as part of the normal legislative process.

For more information

Health Protection and Licensing Services
SA Health
11 Hindmarsh Square
Adelaide SA 5000
Telephone: (08) 8226 7100
www.sahealth.sa.gov.au



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