

## TRANSLATION

Submitted on {} by the Minister of Food (Mariann Fischer Boel)

DRAFT

### **Proposal**

for

### **Law on the growing etc. of genetically modified crops (The coexistence law)**

#### *Scope of application and definitions of the law*

**1 (1).** The law shall apply to commercial growing, handling, sale and transport of genetically modified crops until the first point of sale, with a view to limiting the possibility of spreading pollen and seeds to other fields and crops from these.

**2 (1).** In this law genetically modified crops are perceived as crops, including seeds and asexual reproduction material, in which new compositions of genetic material with an unnatural origin are found.

**2 (2).** In this law genetically modified material is perceived as the constituent of a genetically modified crop which after spreading with pollen or seeds can be found again in a conventional or organic crop.

#### *Growing, handling, sale, transport etc.*

**3 (1).** The Minister of Food, Agriculture and Fisheries may lay down rules providing that the growing, handling and transport of genetically modified crops may only be carried out by persons who hold a certificate of having successfully finished a training course in the coexistence between genetically modified, conventional and organic crops, and subject to previous authorisation.

**3 (2).** The Minister may lay down specific rules on the purpose of the training course and on the requirements for obtaining the certificate mentioned in 3 (1).

**3 (3).** The Minister may also lay down rules providing that the certificate mentioned in 3 (1) may only be issued by providers of courses authorised by the Minister of Food, Agriculture and Fisheries. The authorisation may be temporary.

**3 (4).** Authorised providers of courses may charge money for the training.

**4 (1).** The Minister of Food, Agriculture and Fisheries may lay down rules on the sales of genetically modified seeds and asexual reproduction material, including that these may only be sold to authorised growers.

4 (2). The Minister may also lay down rules on the reporting on the sales of genetically modified seeds and asexual reproduction material and on the registration of the seller.

**5 (1).** The Minister of Food, Agriculture and Fisheries may lay down rules on the growing, handling and transport of genetically modified crops, including e.g.:

- 1) registration of those who handle or transport genetically modified material;
- 2) obligation to give notice to owners and users of nearby fields, purchasers, partners etc. in connection with:
  - a) growing;
  - b) the use of vehicles, machines, material, store rooms etc.;
  - c) transfer of the right to use or the ownership of fields, vehicles, machines, store rooms etc.;
- 3) reporting of fields with genetically modified crops;
- 4) growing, including rules on the distance to other fields with the same crop and growing intervals;
- 5) storing and transport;
- 6) cleaning of vehicles, machines, material, store rooms etc.

**6 (1).** The Minister of Food, Agriculture and Fisheries may lay down rules or make decisions with a view to implementing directives of the European Communities and decisions on matters covered by this law. The Minister may also lay down rules and take steps necessary for the application of the European Communities' regulations on matters covered by this law. The Minister may lay down rules or make decisions about the deviation from the rules of the above acts, to the extent that these acts provide such access.

#### *Compensation scheme*

**7 (1).** The Minister of Food, Agriculture and Fisheries pays out compensation, within a framework provided for in the Budget, to any farmer who suffers a loss caused by the occurrence of genetically modified material in his crops where:

- 1) in the same growing season, within a specified area, a genetically modified crop of the same or a related species, which may be crossbred into the crop of the claimant, has been grown and
- 2) the genetically modified crop can be identified in the claimant's crop.

7 (2). The Minister lays down rules on the delimitation of the area mentioned in the first point of 7 (1).

7 (3). The Minister may also lay down rules providing that compensation is not paid for losses below a specific amount.

7 (4). The loss entitling to compensation, cf. 7 (1), can amount to no more than the reduction in the selling price of the crop caused by the occurrence of genetically modified material and costs for sampling and analysis.

7 (5). The compensation can be reduced or, depending on the circumstances, be forfeited altogether where the claimant has deliberately or inadvertently contributed to the loss, or due to his behaviour has reduced possibilities of making a recourse claim, cf. section 9.

7 (6). Compensation cannot be paid for the loss which the claimant may have suffered as a result of the occurrence of genetically modified material in his crops where the occurrence of genetically modified material does not exceed a specific threshold value.

7 (7). The Minister lays down rules on the threshold value mentioned in 7 (6).

**8 (1).** Compensation claims must be filed without groundless delay after it has come or should have come to the claimant's knowledge that genetically modified material has been mixed in. Where this is not filed without groundless delay, the right to compensation is forfeited. The Minister of Food, Agriculture and Fisheries lays down specific rules on the requirements for filing and on the information which the farmer must subsequently provide in order to obtain compensation.

8 (2). The right to receive compensation is forfeited where the claim has not been filed by 1 August of the first calendar year after harvesting the crop.

**9 (1).** Where compensation is paid under the rules of this law, the Minister of Food, Agriculture and Fisheries enters into the claimant's possible compensation claim against a tortfeasor. The claimant upholds the right, however, to claim compensation from the tortfeasor for any loss exceeding the amount of the compensation paid.

#### *Administration of the law*

**10 (1).** The Minister of Food, Agriculture and Fisheries can notify bans and injunctions deemed necessary for the compliance with rules laid down according to this law or provisions in European Communities regulations on matters covered by this law.

10 (2). Where an injunction is not complied with within a specific time-limit, the Minister may have the arrangements carried out at the expense of the liable person.

**11 (1).** The Minister of Food, Agriculture and Fisheries may withdraw an authorisation to grow genetically modified crops given on the basis of rules laid down pursuant to section 3, where the person concerned is guilty of serious or repeated violation of rules laid down under this law. The Minister may lay down conditions for renewed authorisation and may decide that new authorisation will not be given for a period of maximum 5 years. The decision must include information about the access to demand a court trial under 11 (2) and about the time-limit for this.

11 (2). The person concerned by the decision may demand that withdrawal of an authorisation under 11 (1) be brought before a court. A request for this must be made with the authority which has notified of the withdrawal, and before 4 weeks after the decision was notified to the person concerned. The case is brought before the court by the authority under the rules of chapter 81 of the Administration of Justice Act without the participation of lay assessors. The request has a delaying effect, but the court may decide that the person concerned is not allowed to carry on the activity during consideration of the case. Where the withdrawal is found legal under the judgement, it may be decided in the judgement that an appeal does not have a delaying effect.

**12 (1).** The Minister of Food, Agriculture and Fisheries may lay down rules on collection and payment of full or partial coverage of expenses for supervision and control under the law and under rules issued pursuant to the law.

12 (2). The Minister may lay down provisions on payment for sampling and for analyses which must be used in connection with the application for compensation under this law.

12 (3). Payment obligations laid down in a regulation, this law or in rules issued under this law, and which are not paid, are, unless otherwise stipulated in EC acts, added an annual interest corresponding to the reference rate laid down in the interest law with additions from the date of

payment. However the added interest amounts to not less than 50 DKK. For reminders a fee of 100 DKK is charged, which is regulated with the adjustment percentage of the law on a rate regulation percentage. The amount is rounded off to the nearest amount in DKK divisible by 10.

12 (4). There is a right to distraint for payment obligations pursuant to rules laid down under 12 (1) and (2), for interests added under 12 (3), for arrangements carried out under 10 (2) and for fines adopted, cf. 17 (1).

13 (1). Where the Minister of Food, Agriculture and Fisheries vests his powers under the law in another institution under the Ministry of Food, Agriculture and Fisheries, the Minister may in this connection lay down rules on the access to file a complaint on the decisions of this authority, including that it should not be possible to file a complaint with another administrative authority, and on the authority's access to reopen a case after a complaint has been filed.

13 (2). The person concerned by the decision may demand that decisions on compensation made by the Minister of Food, Agriculture and Fisheries under sections 7 and 8 or rules laid down under these be brought before a court. A request for this must be made with the authority which has notified of the decision, and before 4 weeks after the decision was notified to the person concerned. Subsequently the case is brought before the court by the authority according to the forms of civil procedure.

14 (1). The Minister of Food, Agriculture and Fisheries or a person authorised by the Minister has, if deemed necessary, at any time, on proof of proper identity and without a Court order, access to public and private property, premises, vehicles, ledgers, papers etc., including material stored electronically, with a view to procuring information for the use of carrying out duties under the law or rules laid down under the law.

14 (2). He who is covered by the rules in this law, or by rules laid down under the law, must by request of the Minister of Food, Agriculture and Fisheries, or the person authorised by the Minister, supply all information, including information concerning economy and accounts, of consequence to the control and must without charge lend his assistance to the Minister or the person authorised by the Minister in connection with control, sampling, copying and handing over of written information and transcripts of electronic data. The Minister or the person authorised by the Minister may take samples for examination without having to pay for this.

15 (1). The Minister of Food, Agriculture and Fisheries may lay down rules on supervision and control with the compliance with the law or the rules laid down under the law or European Communities regulations.

*Provisions regarding penalty and the coming into force of the law*

16 (1). Unless a more severe sentence is deserved under other legislation, a fine is imposed on he who

- 1) violates a ban or fails to obey an injunction notified under 10 (1),
- 2) fails to provide assistance under 14 (2), or
- 3) fails to supply information under 4 (2).

16 (2). Rules issued pursuant to this law may provide that a penalty consisting of a fine is fixed for the violation of the rules. The rules may also fix a penalty consisting of a fine for the violation of provisions laid down by the European Community on matters covered by this law.

16 (3). Companies etc. (juristic persons) may be liable to punishment under the rules of chapter 5 of the penal code.

**17 (1).** Where it is estimated that violation will not involve a punishment more severe than a fine, the Minister of Food, Agriculture and Fisheries may notify that the case can be settled without legal action being taken, if he who has committed the offence pleads guilty of this offence and declares his willingness to pay a fine stated in the notification within a specific time-limit, which may be extended at request.

17 (2). As regards the notification mentioned in 17 (1), the provisions in the rules of the Administration of Justice Act on requirements for the contents of an indictment and on not being under an obligation to give evidence shall apply by analogy.

17 (3). Where the fine is paid in due time, or where it is recovered or a sentence is served after the decision, further prosecution shall lapse.

**18 (1).** The time of coming into force of the law or of parts of the law is laid down by the Minister of Food, Agriculture and Fisheries.

18 (2). 13 (3) of the Law on Environment and Genetic Engineering, cf. consolidated Act no. 981 of 3 December 2002, is repealed.

**19 (1).** This law shall not apply for the Faroe islands and Greenland.