

Act Implementing the Regulations of the European Community or of the European Union in the Field of Genetic Engineering and on Labelling of Food Manufactured without using Genetic Engineering Procedures – EC Genetic Engineering Implementation Act (*Gesetz zur Durchführung der Verordnungen der Europäischen Gemeinschaft oder der Europäischen Union auf dem Gebiet der Gentechnik und über die Kennzeichnung ohne Anwendung gentechnischer Verfahren hergestellter Lebensmittel – EG-Gentechnik-Durchführungsgesetz – EGGentDurchfG*)

Version: Most recently amended by Art. 2 of the Act of 9 December 2010 I 1934

[...]

Section 3a Prerequisites for the labelling of food manufactured without using genetic engineering procedures

(1) Food may only be placed on the market or advertised with labelling that it was manufactured without using genetic engineering processes if the prerequisites of subs. 2 to 5 have been adhered to. Only the label “*ohne Gentechnik*” (literally: “without genetic engineering”, i.e. GMO-free) may be used.

(2) No food and food ingredients may be used which are labelled in accordance with

1. Articles 12 and 13 of Regulation (EC) No. 1829/2003, or
2. Articles 4 or 5 of Regulation (EC) No. 1830/2003

or would have to be so labelled if they were to be placed on the market.

(3) No food and food ingredients may be used which fall within the scope of Regulation (EC) No. 1829/2003, but which are exempted from the labelling regulations in accordance with Article 12(2) of Regulation (EC) No. 1829/2003 or Article 4(7) or (8) or Article 5(4) of Regulation (EC) No. 1830/2003.

(4) In the case of foods or food ingredients of animal origin, the animal from which the food was produced may not have been fed on feed which is labelled in accordance with

1. Articles 24 and 25 of Regulation (EC) No. 1829/2003, or
2. Article 4 or 5 of Regulation (EC) No. 1830/2003

or would have to be so labelled if it were to be placed on the market. For the period prior to production of the food, within which feeding of genetically-modified feed is prohibited, the requirements stipulated in the Annex shall apply to the respectively designated animal species.

(5) No foods, food ingredients, processing aids and substances within the meaning of Article 5(2) of the German Food Labelling Ordinance (*Lebensmittel-Kennzeichnungsverordnung*) in the version of the promulgation of 15 December 1999 (Federal Law Gazette

[BGBl.] Part I p. 2464), most recently amended by Article 1 of the Ordinance of 18 December 2007 (Federal Law Gazette Part I p. 3011), that have been produced by GMOs may have been used to prepare, treat, process or mix an item of food or an ingredient. Sentence 1 shall not apply to foods, food ingredients, processing aids and substances within the meaning of Article 5(2) of the Food Labelling Ordinance for which an exemption is permitted on the basis of a ruling or order of the European Commission in accordance with Article 22(2) (g) in conjunction with Article 37(2) of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ EU L 189 p. 1).

(6)

1. The definition contained in Article 2 (v) of Regulation (EC) No. 834/2007 shall be authoritative for the term “*produced by GMOs*”, and
2. the definition contained in Article 2 (y) of Regulation (EC) No. 834/2007 shall be authoritative for the term “*processing aid*”.

Section 3b Proof for labelling of food produced without using genetic engineering procedures

The party placing food on the market or advertising it labelled with a claim in accordance with section 3a subs. 1 shall in accordance with sentence 2 provide documentation regarding the preparation, treatment, processing or mixing of the food or the feeding of animals that the requirements prescribed for the use of the claim have been adhered to. Suitable documentation shall be the following in particular

1. binding statements on the part of the upstream supplier that the prerequisites for labelling have been complied with,
2. in cases falling under section 3a subs. 2 and 4, labels or accompanying documents of the primary products used, or
3. in cases falling under section 3a subs. 3, analysis reports or documentation showing with sufficient certainty that the prerequisite for labelling has been complied with.

The labelling of an item of food with a claim within the meaning of section 3a subs. 1 shall not be permissible if the documentation in accordance with sentence 1 cannot be provided.

[...]

Section 6 Criminal provisions

(1) Up to three years' imprisonment or a criminal fine shall be imposed on anyone who violates Regulation (EC) No. 1829/2003 by,

1. in contravention of Article 4(2), placing on the market a GMO designated therein or an item of food designated therein, or,
2. in contravention of Article 16(2), placing on the market, using or processing a product designated therein.

(2) Up to three years' imprisonment or a criminal fine shall be imposed on anyone who violates Regulation (EC) No. 1946/2003 by

1. moving a GMO across a boundary without consent in accordance with Article 5(1) sentence 2, or
2. exporting a GMO in contravention of Article 10(3) sentence 2.

(3) Between three months' and five years' imprisonment shall be imposed on anyone who endangers the life or limb of another person, other people's objects of considerable value or components of the ecosystem of considerable ecological significance by means of an act designated

1. in subs. 1 or subs. 2 No. 2, or
2. in subs. 2 No. 1.

(3a) Up to one year's imprisonment or a criminal fine shall be imposed on anyone who places on the market or advertises a food item in contravention of section 3a subs. 1 sentence 1.

(4) The attempt shall be punishable in cases falling under subs. 1 to 3.

(5) Up to one year's imprisonment or a criminal fine shall be imposed on anyone who acts negligently in cases falling under subs. 1 or subs. 2 No. 2.

(6) Up to five years' imprisonment or a criminal fine shall be imposed on anyone who negligently causes the danger in cases falling under subs. 3.

(7) Up to three years' imprisonment or a criminal fine shall be imposed on anyone who acts negligently in cases falling under subs. 3 No. 1 and negligently causes the danger.

(8) The court may reduce the sentence at its discretion (section 49 subs. 2 of the German Criminal Code [*Strafgesetzbuch*]) or refrain from imposing punishment if the offender does not act in pursuance of commercial ends.

Section 7 Provisions relating to regulatory fines

(1) Anyone who negligently commits any act designated in section 6 subs. 3a shall be deemed to have committed a regulatory offence.

(2) Anyone shall be deemed to have committed a regulatory offence who acts in contravention of Regulation (EC) No. 1829/2003 by intentionally or negligently,

1. in contravention of Article 8(1) (a) or (b), in each case in conjunction with Article 8(2) sentence 1, or Article 20(1) (a) or (b), in each case in conjunction with Article 20(2) sentence 1, fails to make the notification required for a product designated therein, or fails to do so correctly, completely or in good time,
2. in contravention of Article 9(1) sentence 2 or Article 21(1) sentence 2, fails to ensure that monitoring is carried out, or fails to submit a report, or fails to do so correctly, completely or in good time,
3. in contravention of Article 9(3) sentence 1 or Article 21(3) sentence 1, fails to provide information designated therein, or fails to do so correctly, completely or in good time,
4. places on the market an item of food designated in Article 12(1) with regard to which a labelling requirement in accordance with Article 13(1) or (2) (a) has not been complied with, or,
5. in contravention of Article 25(2) sentence 1 in conjunction with sentence 2 (a), (b) or (c), places on the market an item of feed designated therein.

(3) Anyone shall be deemed to have committed a regulatory offence who violates Regulation (EC) No. 1830/2003 by intentionally or negligently

1. not guaranteeing, in contravention of Article 4(1) or (2) or Article 5(1), that the information designated therein is transmitted to the operator receiving the product,
2. in contravention of Article 4(4) or Article 5(2), not having a system or procedure designated therein, or,
3. in contravention of Article 4(6) sentence 1, failing to ensure that information designated therein appears on the label, on the container or in connection with the display of the product.

(4) Anyone shall be deemed to have committed a regulatory offence who violates Regulation (EC) No. 1946/2003 by intentionally or negligently,

1. in contravention of Article 6 sentence 1, failing to keep a record designated therein, or to do so for a period of a minimum of five years, or failing to send a copy of the documents designated therein to the Federal Office of Consumer Protection and Food Safety or to the European Commission, or failing to do so promptly after receipt of the decision by the State of import, or,
2. in contravention of Article 12(1) in conjunction with subs. 2 sentence 1, subs. 3 or subs. 4, failing to ensure that the information and declarations designated therein are contained in the accompanying documentation and are transmitted to the importer.

(5) Anyone shall be deemed to have committed a regulatory offence who acts in contravention of a legal ordinance in accordance with section 5a subs. 1 or an enforceable

order based on such a legal ordinance where the legal ordinance refers to this provision on regulatory fines for a specific offence.

(6) Anyone shall be deemed to have committed a regulatory offence who, intentionally or negligently,

1. makes a claim in contravention of section 3a subs. 1 sentence 2,
2. fails to furnish the documentation designated therein, fails to do so correctly or completely, in contravention of section 3b sentence 1, or
3. labels an item of food in contravention of section 3b sentence 3.

(7) In cases falling under subs. 1 and 6 No. 2 and 3, the regulatory offence may be sanctioned with a regulatory fine of up to twenty thousand Euro, in other cases with a regulatory fine of up to fifty thousand Euros.

Annex (re section 3a subs. 4 sentence 2)

Period prior to production of the food within which feeding with genetically-modified food is not permissible

No.	Animal species	Period
1	with equine animals and cattle (incl. Bubalus and Bison species) for meat production	twelve months and definitely at least three-quarters of their lives
2	with small ruminants	six months
3	with swine	four months
4	with animals for milk production	three months
5	with poultry for meat production which was moved to a poultry house before it was three days old	ten weeks
6	with poultry for egg production	six weeks.