

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Primary Industries and Energy)

**AGRICULTURAL AND VETERINARY CHEMICALS
BILL 1993**

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Object
4. Definitions
5. Jervis Bay Territory
6. Extension to external Territories

**PART 2—THE AGVET CODE, AND THE AGVET REGULATIONS, OF THE
PARTICIPATING TERRITORIES**

7. Application of Agvet Code in the participating Territories
8. Application of Agvet Regulations in the participating Territories
9. Agvet Code of the participating Territories taken to be an Act

TABLE OF PROVISIONS—*continued*

Section

10. Relationship between the Agvet Code and Agvet Regulations of the participating Territories and the laws of a participating Territory

PART 3—CITING THE AGVET CODE AND THE AGVET REGULATIONS

11. References to Agvet Code and Agvet Regulations of other jurisdictions
12. References to Agvet Codes and Agvet Regulations

PART 4—APPLICATION OF AGVET CODES TO THE CROWN

13. Agvet Code of the participating Territories
14. Agvet Code of other jurisdictions
15. Crown not liable to prosecution
16. This Part overrides the prerogative

PART 5—PERFORMANCE OF FUNCTIONS THAT CORRESPONDING LAWS OF STATES CONFER ON COMMONWEALTH AUTHORITIES AND OFFICERS

17. Ministers
18. Commonwealth authorities and officers
19. *Gazette* notices under corresponding laws

PART 6—JURISDICTION OF COURTS

20. Jurisdiction of Federal Court and courts of Territories
21. Exercise of jurisdiction under cross-vesting provisions

PART 7—MISCELLANEOUS

22. Orders
23. Manufacturing principles
24. Repeal and transitional provisions
25. Regulations

PART 8—IMPOSITION OF FEES AND TAXES

26. Fees (including taxes)

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A BILL

FOR

An Act to make a law for the government of certain Territories in relation to the evaluation, registration and control of agricultural and veterinary chemical products, and for related purposes

RECOGNISING:

- 5
- (a) that the protection of the health and safety of human beings, animals and the environment is essential to the well-being of society and can be enhanced by putting in place a system to regulate agricultural chemical products and veterinary chemical products; and
 - (b) that the principle of ecologically sustainable development requires a regulatory system that is designed to ensure that the use of such products today will not impair the prospects of future generations; and

- (c) that the furthering of trade and commerce between Australia and places outside Australia, and the present and future economic viability and competitiveness of primary industry and of a domestic industry for manufacturing and formulating such products, are essential for the well-being of the economy and require a system for regulating such products that is cost-effective, efficient, predictable, adaptive and responsive; and 5
- (d) that it is desirable to establish a regulatory system that is open and accountable and gives opportunity for public input with respect to the regulation of such products; and 10
- (e) that the system should, so far as practicable, be uniform throughout Australia; and
- (f) that uniformity could best be achieved by the enactment of legislation by the Parliament of the Commonwealth as a law for the government of the Australian Capital Territory and the adoption of that legislation by the Parliaments and legislatures of the States and the Northern Territory: 15

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title 20

1. This Act may be cited as the *Agricultural and Veterinary Chemicals Act 1993*.

Commencement

2.(1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation. 25

(2) If this Act does not commence under subsection (1) within the period of 12 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

Object

3.(1) The object of this Act is to make a law for the government of certain Territories in relation to the evaluation, registration and control of agricultural chemical products and veterinary chemical products, and for related purposes. 30

(2) This Act has effect, and is to be interpreted, accordingly.

(3) Despite subsection (1) and section 9, this Act, the *Agricultural and Veterinary Chemicals Code Act 1993* and the *Agvet Code* of the participating Territories are not, for the purposes of subsection 22(3) of the *Acts Interpretation Act 1901*, Acts providing for the administration or government of a Territory. 35

Definitions

4. In this Act, unless the contrary intention appears:

5 “**Agvet Code of the participating Territories**” has the meaning given by subsection 5(1) of the *Agricultural and Veterinary Chemicals Code Act 1993*;

“**Agvet Codes**” has the meaning given by section 12;

“**Agvet Regulations**” has the meaning given by section 12;

10 “**Agvet Regulations of the participating Territories**” has the meaning given by subsection 5(2) of the *Agricultural and Veterinary Chemicals Code Act 1993*;

“**applicable provision**”, in relation to a jurisdiction, means a provision of:

- 15 (a) the Agvet Code of that jurisdiction; or
(b) the Agvet Regulations of that jurisdiction; or
(c) a law of the Commonwealth that applies in that jurisdiction in relation to a provision of the Agvet Code or Agvet Regulations of that jurisdiction;

“**Australia**” includes the external Territories to which this Act extends;

“**authority**”, in relation to the Commonwealth, includes:

- 20 (a) a body corporate, or an unincorporated body, established for a public purpose by or under an Act; and
(b) a court, tribunal or authority established by or in accordance with an Act;

“**chemical product**” has the same meaning as in the Agvet Code of the participating Territories;

25 “**corresponding Act**” means an Act of a State that corresponds to this Act;

“**corresponding law**” means:

- 30 (a) a corresponding Act; or
(b) regulations made under a corresponding Act; or
(c) the Agvet Code, Agvet Regulations, or another applicable provision, of a State; or
(d) rules of court made under a corresponding Act;

“**instrument**” means any document whatever, including:

- 35 (a) an Act or an instrument made under an Act; or
(b) a law of a participating Territory or an instrument made under such a law; or
(c) an award or other industrial determination or order, or an industrial agreement; or
(d) any other order (whether executive, judicial or otherwise); or
(e) a notice, certificate or licence; or
40 (f) an agreement; or

- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose; or
- (h) an indictment, presentment, summons or writ; or
- (i) any other pleading in, or process issued in connection with, a legal or other proceeding;

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“jurisdiction” means:

- (a) a State; or
- (b) the participating Territories;

“modifications” includes additions, omissions and substitutions;

“NRA” means the National Registration Authority for Agricultural and Veterinary Chemicals established by the *Agricultural and Veterinary Chemicals (Administration) Act 1992*; 10

“officer”, in relation to the Commonwealth, includes:

- (a) a Minister; and
- (b) a person holding:
 - (i) an office established by or under an Act; or
 - (ii) an appointment made under an Act; or
 - (iii) an appointment made by the Governor-General or a Minister but not under an Act; and

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- (c) a person who is a member or officer of an authority of the Commonwealth; and 20
- (d) a person who is in the service or employment of the Commonwealth, or of an authority of the Commonwealth, or is employed or engaged under an Act;

“participating Territory” means: 25

- (a) the Australian Capital Territory; or
- (b) another Territory that is declared by regulations in force under section 25 to be a participating Territory;

“repealed Act” means the *Agricultural and Veterinary Chemicals Act 1988*;

“State” includes the Northern Territory; 30

“Territory” does not include the Northern Territory, Norfolk Island, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands.

Jervis Bay Territory

5. For the purposes of this Act, the Jervis Bay Territory is taken to be part of the Australian Capital Territory. 35

Extension to external Territories

6. This Act extends to every external Territory that is a participating Territory.

PART 2—THE AGVET CODE, AND THE AGVET REGULATIONS, OF THE PARTICIPATING TERRITORIES

Application of Agvet Code in the participating Territories

5 7.(1) The Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1993* as in force for the time being applies as a law for the government of the participating Territories.

(2) The provisions of that Code as so applying are in addition to, and do not affect, the *Industrial Chemicals (Notification and Assessment) Act 1989*, the *National Food Authority Act 1991* and the *Therapeutic Goods Act 1989*.

10 (3) The powers to require the recall of chemical products that are conferred on the NRA under that Code as so applying are in addition to, and do not affect, the powers conferred by section 65F of the *Trade Practices Act 1974*.

15 (4) The provisions of that Code as so applying that require the NRA to give brief particulars of reasons for decisions do not affect the obligations of the NRA under section 28 of the *Administrative Appeals Tribunal Act 1975* or section 13 of the *Administrative Decisions (Judicial Review) Act 1977*.

20 (5) The provisions of that Code as so applying that relate to the disclosure of confidential commercial information do not affect the operation of the *Freedom of Information Act 1982*.

Application of Agvet Regulations in the participating Territories

8. The regulations in force for the time being under section 6 of the *Agricultural and Veterinary Chemicals Code Act 1993* apply as regulations in force for the purposes of the Agvet Code of the participating Territories.

Agvet Code of the participating Territories taken to be an Act

25 9. The Agvet Code of the participating Territories is taken for all purposes to be an Act.

Relationship between the Agvet Code and Agvet Regulations of the participating Territories and the laws of a participating Territory

30 10.(1) In this section:

“the Code” means the Agvet Code, and the Agvet Regulations, of the participating Territories.

(2) The object of this section is to avoid or resolve inconsistencies between the Code and the laws of a participating Territory.

35 (3) Regulations under section 25:

(a) may provide that specified laws of a participating Territory have effect despite the Code or specified provisions of the Code; and

(b) may provide that the Code, or specified provisions of the Code, has or have effect with such modifications as the regulations prescribe.

(4) Regulations under section 25 that take effect within 12 months after an external Territory becomes a participating Territory may amend or repeal laws of that Territory.

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PART 3—CITING THE AGVET CODE AND THE AGVET REGULATIONS

References to Agvet Code and Agvet Regulations of other jurisdictions

11.(1) This section has effect for the purposes of an Act, a law of a participating Territory, or an instrument made under an Act or such a law.

(2) If a law of a State provides that the Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1993* as in force for the time being applies as a law of that State, the Agvet Code of that State is the Code so set out, applying as a law of that State.

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(3) If a law of a State provides that the regulations in force for the time being under section 6 of the *Agricultural and Veterinary Chemicals Code Act 1993* apply as regulations in force for the purposes of the Agvet Code of that State, the Agvet Regulations of that State are those regulations as so applying.

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References to Agvet Codes and Agvet Regulations

12.(1) The object of this section is to help ensure that the Agvet Code of the participating Territories can operate, in appropriate circumstances, as if that Code, together with the Agvet Code of each State, constituted a single national Agvet Code applying throughout Australia.

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(2) Subject to this section, a reference in an instrument to the Agvet Codes, or to the Agvet Regulations, is taken, for the purposes of the laws of the Commonwealth and of the laws of the participating Territories:

(a) to be a reference to the Agvet Code, or to the Agvet Regulations, as the case may be, of the participating Territories; and

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(b) to include a separate reference to the Agvet Code, or to the Agvet Regulations, as the case may be, of each State.

(3) Subsection (2) has effect except so far as the contrary intention appears in the instrument or the context of the reference otherwise requires.

PART 4—APPLICATION OF AGVET CODES TO THE CROWN

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Agvet Code of the participating Territories

13. The Agvet Code of the participating Territories binds the Crown in all its capacities.

Agvet Code of other jurisdictions

14. The Agvet Code of each State binds the Crown in right of the Commonwealth, of the Australian Capital Territory and of Norfolk Island.

Crown not liable to prosecution

5 15. Nothing in this Part, or in the Agvet Code of any jurisdiction, renders the Crown liable to be prosecuted for an offence.

This Part overrides the prerogative

10 16. If, because of this Part, a provision of a law of the Commonwealth or of a State binds the Crown in right of the Commonwealth, of the Australian Capital Territory or of Norfolk Island, the Crown in that capacity is subject to that provision despite any prerogative right or privilege.

**PART 5—PERFORMANCE OF FUNCTIONS THAT
CORRESPONDING LAWS OF STATES CONFER ON
COMMONWEALTH AUTHORITIES AND OFFICERS**

15 **Ministers**

17. A corresponding law may confer prescribed functions and powers on a Minister.

Commonwealth authorities and officers

20 18. A corresponding law may confer prescribed functions and powers on authorities and officers of the Commonwealth.

Gazette notices under corresponding laws

19. A corresponding law may require or permit a document, or a copy of a document, to be published in the *Gazette*.

PART 6—JURISDICTION OF COURTS

25 **Jurisdiction of Federal Court and courts of Territories**

20.(1) Jurisdiction is conferred on the Federal Court of Australia with respect to all civil matters arising under the Agvet Code of the participating Territories or the Agvet Regulations of the participating Territories.

30 (2) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977*, jurisdiction is conferred on the courts of the participating Territories with respect to all civil matters arising under the Agvet Code of the participating Territories or the Agvet Regulations of the participating Territories.

35 (3) Jurisdiction is conferred on the courts of the participating Territories with respect to all criminal matters arising under the Agvet Code of the participating Territories or the Agvet Regulations of the participating Territories.

(4) The Federal Court of Australia may exercise jurisdiction (whether original or appellate) conferred on that Court by a law of a State corresponding to this Part with respect to matters arising under the Agvet Code or the Agvet Regulations of that State.

Exercise of jurisdiction under cross-vesting provisions

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21. This Act does not affect the operation of a provision of any other law of the Commonwealth, or any law of a State or of a participating Territory, relating to cross-vesting of jurisdiction.

PART 7—MISCELLANEOUS

Orders

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22. Orders in force for the time being under section 7 of the *Agricultural and Veterinary Chemicals Code Act 1993* have the same effect for the purposes of the Agvet Code of the participating Territories as they would have if they were provisions of the Agvet Regulations of those Territories.

Manufacturing principles

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23.(1) The NRA may determine for the purposes of Part 8 of the Agvet Code of the participating Territories written principles to be observed in the manufacture of chemical products that are consistent with the Agvet Codes, the Agvet Regulations and the laws of any jurisdiction that relate to occupational health or safety.

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(2) The manufacturing principles may relate to:

(a) the standards to be maintained, and the equipment to be used, at premises used for the manufacture of chemical products; or

(b) procedures for quality assurance and quality control to be employed in the manufacture of chemical products; or

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(c) the qualifications and experience required of persons employed in the manufacture of chemical products; or

(d) the manufacturing practices to be employed in the manufacture of chemical products; or

(e) other matters relevant to the quality, safety and efficacy of chemical products that are manufactured in this jurisdiction;

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and may include codes of good manufacturing practice.

(3) Manufacturing principles are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Repeal and transitional provisions

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24.(1) The *Agricultural and Veterinary Chemicals Act 1988* is repealed.

(2) Despite subsection (1), section 47 of the repealed Act:

- (a) continues in force for the purposes of its application in relation to the period beginning on 1 July 1993 and ending immediately before the commencement of this Act; and
- (b) if that period is shorter or longer than one year—applies as if that period were a year.

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Regulations

25. The Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed.

PART 8—IMPOSITION OF FEES AND TAXES

10 Fees (including taxes)

26. This section imposes the fees (including fees that are taxes) that the Agvet Regulations of the participating Territories prescribe.

