

AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) BILL 1994

EXPLANATORY NOTES

GENERAL OUTLINE

Objective of the Legislation

The objective of the Bill is to apply Commonwealth legislation relating to the registration of agricultural and veterinary (agvet) chemicals as Queensland law, thereby transferring the responsibility for the registration of these chemicals to the National Registration Authority (NRA). The Bill also includes consequential amendments to the *Agricultural Chemicals Distribution Control Act 1966* and the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, to reflect the changes required as a result of the transfer of registration from the State to the NRA.

Reasons for the Bill

Recommendations were made in 1990-1991 by the Australian Agricultural Council (now Agricultural and Resources Management Council of Australia and New Zealand) and the Special Premiers Conference that the Commonwealth develop national procedures for the registration of agvet chemicals.

In August 1991 the Commonwealth and State/Territory Governments agreed on a national registration scheme for agvet chemicals. Under the scheme, the Commonwealth would be responsible for agvet chemicals up to the point of sale, with the States and Territories retaining responsibility for controls over use.

Cabinet considered the matter in May 1993 and agreed (Decision Number 02847) that, as part of micro-economic reform, responsibility for registration of agvet chemicals and associated compliance monitoring be transferred to the Commonwealth.

The framework for the National Registration Scheme for Agricultural and Veterinary Chemicals has been established with legislation passing through the House of Representatives in December 1993 and the Senate in February 1994. The legislation establishes the Agricultural and Veterinary Chemicals Code (Agvet Code). The Agvet Code is to be applied by the legislatures of other Australian jurisdictions as the law of those jurisdictions. This Bill is to give effect to that application.

The Agricultural Standards Bill 1994 will repeal the provisions under which the State registration of agvet chemicals is currently carried out.

As a consequence of the transfer of registration to the National Registration Authority, amendments are required to the *Agricultural Chemicals Distribution Control Act 1966* and the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*. These Acts provide controls over the use of agvet chemicals and refer to those chemicals as being registered under Queensland provisions, that is, under the *Agricultural Standards Act 1952*. The consequential amendments reflect the change to national registration and also update administrative procedures relating to enforcement and appeal provisions.

Estimated Cost for Government Implementation

There will be no additional cost to the government with the implementation of the legislation.

Resource allocation to these functions has already been rationalised during the interim phase of the transition from State to NRA control, resulting in savings to the Government of \$250,000.

The NRA has agreed to fund the compliance monitoring program undertaken in each State on its behalf. This has resulted in an allocation of \$210,000 for 1994/95.

Consultation

The Senate Standing Committee on Rural and Regional Affairs held public hearings and received evidence from individuals and organisations who had an interest in the proposals.

Peak industry groups, including the National Farmers' Federation, the Association representing many agricultural and veterinary chemical companies (AVCARE), the Australian Veterinary Association, and the Veterinary Manufacturers and Distributors Association all have registered their support for the national registration scheme.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 states that the short title of the Act is to be the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*.

Clause 2 provides that the Act is to commence on a day to be fixed by proclamation.

Clause 3 sets out definitions for the purpose of the Act.

Clause 4 provides that for the purposes of the Act and the Queensland Agvet Code and Agvet Regulations, the Jervis Bay Territory is taken to be part of the Australian Capital Territory.

PART 2—THE AGVET CODE, AND AGVET REGULATIONS, OF THIS JURISDICTION

Clause 5 provides that the Agvet Code as set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994 (Commonwealth)*, applies as a law of Queensland and may be cited as the Agvet Code of Queensland.

Clause 6 provides that the regulations in force under section 6 of the *Agricultural and Veterinary Chemicals Code Act 1994 (Commonwealth)* apply as regulations in force for the purposes of the Agvet Code of Queensland, and may be cited as the Agvet Regulations of Queensland.

Clause 7 provides that the *Acts Interpretation Act 1901* (Commonwealth) applies as a law of Queensland to the Agvet Code of Queensland, and the Agvet Regulations of Queensland, and to any instrument made, granted or issued under the Code or Regulations.

Clause 8 provides that the Commonwealth ancillary criminal laws (sections 5, 6, 7 or 7A of the *Crimes Act 1914* (Commonwealth) and section 86(1) of the *Crimes Act 1914* (Commonwealth)) apply as laws of Queensland to an offence under the Agvet Code of Queensland or the Agvet Regulations of Queensland.

PART 3—CITING THE AGVET CODES, AND THE AGVET REGULATIONS, OF OTHER JURISDICTIONS

Clause 9 provides that the Agvet Code and the Agvet Regulations of a jurisdiction other than Queensland apply as laws of that jurisdiction.

Clause 10 has the object of helping to ensure that the Agvet Code of Queensland can operate as if the Code, together with the Agvet Code of all other jurisdictions, make up a single national Agvet Code applying throughout Australia.

PART 4—APPLICATION OF AGVET CODES TO THE COMMONWEALTH, STATES AND TERRITORIES

Clause 11 provides that the Agvet Code of Queensland binds the State and, as far as the legislative power of the Queensland Parliament permits, the Commonwealth, the other States and the Territories.

Clause 12 provides that the Agvet Code of each other jurisdiction binds the State of Queensland.

Clause 13 provides that nothing in Part 4 of the Act, or in the Agvet Code of Queensland, makes the Commonwealth or a State or Territory liable to be prosecuted for an offence.

Clause 14 provides that Part 4 of the Act overrides any prerogative, right or privilege of the State of Queensland in respect of being bound by the provisions of the law of another jurisdiction.

PART 5—APPLICATION OF COMMONWEALTH ADMINISTRATIVE LAWS TO AGVET CODE AND AGVET REGULATIONS OF THE JURISDICTION

Clause 15 states that the object of Part 5 of the Act is to help to ensure that the Agvet Code of Queensland, and the Agvet Code of the other jurisdictions, are administered on a uniform basis.

Clause 16 provides that the Commonwealth administrative laws (as defined in clause 3) apply as laws of Queensland to matters arising in relation to the specified applicable provisions as if these provisions were Commonwealth laws.

Clause 17 provides that where a Commonwealth administrative law that confers a function or power on a Commonwealth officer or authority applies because of section 16, that law confers on the officer or the authority the same function or power to a matter arising under an applicable provision of the jurisdiction.

Clause 18 states that for the purposes of section 16, a reference in a Commonwealth administrative law to a provision of that or another Commonwealth administrative law is taken to be a reference to the provision as applying because of section 16.

PART 6—JURISDICTION OF COURTS

Clause 19 confers jurisdiction on the Federal Court of Australia for all civil matters arising under the applicable provisions of this jurisdiction without affecting the jurisdiction of the Queensland courts.

Clause 20 provides that the Act does not affect the operation of the cross-vesting of jurisdiction provisions of any Queensland law.

PART 7—THE NATIONAL REGISTRATION AUTHORITY FOR AGRICULTURAL AND VETERINARY CHEMICALS

Clause 21 confers functions and powers on the National Registration Authority (NRA) and provides that the NRA may do all things necessary or convenient to be done in performing its functions.

In particular, the NRA has power—

- (a) to enter into contracts;
- (b) to acquire, hold and dispose of real and personal property;
- (c) to occupy, use and control any land or building owned or leased by the Commonwealth, a State or a Territory and made available for the purposes of the NRA;
- (d) to appoint agents and attorneys, and act as an agent; and
- (e) to do anything incidental to its powers.

Clause 22 empowers the Minister, or a person authorised in writing by the Minister, to enter into an agreement or arrangement with the Commonwealth Minister for the performance of functions or the exercise of powers by the NRA as an agent of the State.

Clause 23 permits the NRA to do acts in Queensland in the performance or exercise of any function or power—

- (a) conferred on it by a law of another jurisdiction that corresponds to the Act or the Queensland Agvet Code; or
- (b) mentioned in an agreement or arrangement made under a provision corresponding to section 22 in an Act of a jurisdiction other than Queensland.

Clause 24 extends the power of the Commonwealth Minister to give directions to the NRA under section 10 of the *Agricultural and Veterinary Chemicals (Administration) Act* (Commonwealth) to the performance and exercise of functions and powers by the NRA under this Act.

PART 8—MISCELLANEOUS

Clause 25 provides that orders in force under section 7 of the *Agricultural and Veterinary Chemicals Code Act* (Commonwealth) apply for the purposes of the Queensland Agvet Code as if they were provisions of the Queensland Agvet Regulations.

Clause 26 provides that, subject to the Queensland Agvet Code and Agvet Regulations, the manufacturing principles in force under section 23 of the *Agricultural and Veterinary Chemicals Act* (Commonwealth), have effect for the purposes of Part 8 of the Agvet Code.

Clause 27 extends the power of delegation of the Commonwealth Minister under section 71 of the *Agricultural and Veterinary Chemicals (Administration) Act* (Commonwealth), to the powers conferred on the Commonwealth Minister under this Act or the Queensland Agvet Code.

Clause 28 provides for the conferral by the Chief Executive Officer of the NRA of the functions and powers of an inspector upon an officer of a Queensland department, administrative unit or authority.

Clause 29 provides that fees, taxes and other amounts (except for penalties and fines) that are payable under the applicable laws of this jurisdiction are to be paid to the Commonwealth.

Clause 30 empowers a Queensland authority which performed functions under a provision of a Queensland law that corresponded to a provision of the Queensland Agvet Code, immediately before this Act commenced, to give to the NRA documents or substances in its possession or custody that were received by it in the performance of the functions.

Clause 31 provides that the power granted to a previous registering authority to give documents or substances to the NRA, by section 30, has effect despite any other Queensland law.

Clause 32 empowers the Governor in Council to make regulations under the Act.

Clause 33 permits a regulation to declare a law to be an eligible law for the purposes of the definition of “permit” in section 109 of the Queensland Agvet Code.

PART 9—IMPOSITION OF FEES AND TAXES

Clause 34 imposes the fees that the Queensland Agvet Regulations prescribe.

PART 10—CONFERRAL OF FUNCTIONS ON COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

Clause 35 confers functions on the Commonwealth Director of Public Prosecutions to start and carry on prosecutions and committal and summary proceedings for offences under the Queensland Agvet Code and Agvet Regulations.

PART 11—TRANSITIONAL PROVISIONS

Clause 36 provides for the making of transitional regulations which may be given retrospective operation to a date not earlier than the commencement of the Act, to enable provision for necessary or convenient matters which arise because of the enactment of the Act and because the Act does not make provision or adequate provision.

PART 12—AMENDMENTS

Clause 37 provides for the consequential amendment of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* and the *Agricultural Chemicals Distribution Control Act 1966* in the Schedule.

SCHEDULE

The Schedule amends the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* and the *Agricultural Chemicals Distribution Control Act 1966* as provided.