

Queensland



AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) ACT 1994

**Reprinted as in force on 24 March 1995
(Act not amended up to this date)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 24 March 1995.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 40)
- omit the enacting words (s 42A).

See Endnotes for information about when provisions commenced.

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CHEMICALS (QUEENSLAND) ACT 1994**

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AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) ACT 1994

[reprinted as in force on 24 March 1995]

An Act to apply certain Commonwealth laws about agricultural and veterinary chemical products as Queensland laws, and for other purposes

Parliament’s reasons for enacting this Act are that it recognises that—

1. The protection of the health and safety of human beings, animals and the environment is essential to the wellbeing of society and can be enhanced by putting in place a system to regulate agricultural chemical products and veterinary chemical products (“**chemical products**”).

2. The principle of ecologically sustainable development requires a regulatory system designed to ensure the use of chemical products today will not impair the prospects of future generations.

3. 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 a domestic industry for manufacturing and formulating chemical products—

- (a) are essential for the wellbeing of the economy; and
- (b) require a system for regulating chemical products that is cost effective, efficient, predictable, adaptive and responsive.

4. It is desirable to establish a regulatory system that is open and accountable and gives opportunity for public input about the regulation of chemical products.

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5. The system should, as far as practicable, be uniform throughout Australia.

6. Uniformity could best be achieved by the enactment of legislation by the Commonwealth Parliament as a law for the government of the Australian Capital Territory and the adoption of the legislation by the Parliaments and legislatures of the States and the Northern Territory.

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Definitions

3. In this Act—

“**Agricultural and Veterinary Chemicals Act**” means the *Agricultural and Veterinary Chemicals Act 1994* (Cwlth).

“**Agricultural and Veterinary Chemicals (Administration) Act**” means the *Agricultural and Veterinary Chemicals (Administration) Act 1992* (Cwlth).

“**Agricultural and Veterinary Chemicals Code Act**” means the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

“**Agvet Code of Queensland**” means the provisions applying because of section 5.

“**Agvet Regulations of Queensland**” means the provisions applying because of section 6.

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“applicable provision” of a jurisdiction means a provision of—

- (a) the Agvet Code of the jurisdiction; or
- (b) the Agvet Regulations of the jurisdiction; or
- (c) a Commonwealth law that applies in the jurisdiction to a provision of, or offence against, the Agvet Code or Agvet Regulations of the jurisdiction.

“authority” of the Commonwealth has the meaning given by the Agricultural and Veterinary Chemicals Act.

“Commonwealth administrative laws” means—

- (a) the following Commonwealth Acts—
 - (i) the *Administrative Appeals Tribunal Act 1975*;
 - (ii) the *Administrative Decisions (Judicial Review) Act 1977*;
 - (iii) the *Freedom of Information Act 1982*;
 - (iv) the *Ombudsman Act 1976*;
 - (v) the *Privacy Act 1988*; and
- (b) the regulations in force under the Acts.

“Commonwealth Minister” means ‘the Minister’ within the meaning of the Agvet Code of the participating Territories.

“corresponding Act” means an Act of another jurisdiction that corresponds to this Act.

“corresponding law” means—

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

“instrument” means a document, including, for example—

- (a) an Act or instrument made under an Act; or
- (b) a law of this jurisdiction or an instrument made under a law of

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this jurisdiction; 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
- (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 about, a legal or other proceeding.

“jurisdiction” means a State or the participating Territories.

“law” of a participating Territory means a law of, or in force in, the Territory.

“NRA” means the National Registration Authority for Agricultural and Veterinary Chemicals established by the Agricultural and Veterinary Chemicals (Administration) Act.

“officer” of the Commonwealth has the meaning given by the Agricultural and Veterinary Chemicals Act.

“participating Territory” means—

- (a) the Australian Capital Territory; or
- (b) another Territory declared by regulations in force under the Agricultural and Veterinary Chemicals Act, section 25 to be a participating Territory.

“State” includes the Northern Territory.

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

“this jurisdiction” means Queensland.

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Jervis Bay Territory

4. For the purposes of this Act, and Agvet Code and Agvet Regulations of this jurisdiction, 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

Application of Agvet Code in this jurisdiction

5. The Code set out in the schedule to the Agricultural and Veterinary Chemicals Code Act—

- (a) applies as a law of Queensland; and
- (b) may be cited as the Agvet Code of Queensland.

Application of Agvet Regulations in this jurisdiction

6. The regulations in force under the Agricultural and Veterinary Chemicals Code Act, section 6—

- (a) apply as regulations in force for the purposes of the Agvet Code of Queensland; and
- (b) may be cited as the Agvet Regulations of Queensland.

Interpretation of Agvet Code and Agvet Regulations of this jurisdiction

7.(1) In the Agvet Code, and Agvet Regulations, of this jurisdiction—

“**Commonwealth Interpretation Act**” means the *Acts Interpretation Act 1901* (Cwlth).

“**the Minister for this jurisdiction**” means the Minister.

“**this jurisdiction**” means Queensland.

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(2) Subject to part 1 of the Agvet Code of this jurisdiction, the Commonwealth Interpretation Act applies as a law of this jurisdiction to—

- (a) the Agvet Code, and Agvet Regulations, of this jurisdiction; and
- (b) any instrument made, granted or issued under the Code or Regulations.

(3) For the purposes of subsection (2), the Commonwealth Interpretation Act applies as if—

- (a) the Agvet Code of this jurisdiction were a Commonwealth Act; and
- (b) the Agvet Regulations of this jurisdiction or instruments mentioned in the subsection were regulations or instruments made under a Commonwealth Act.

(4) The *Acts Interpretation Act 1954* does not apply to—

- (a) the Agvet Code, or Agvet Regulations, of Queensland; or
- (b) any instrument made, granted or issued under the Code or Regulations.

Ancillary offences (aiding, abetting, accessories, attempts, incitement or conspiracy)

8.(1) In this section—

“Commonwealth ancillary criminal laws” means—

- (a) the *Crimes Act 1914* (Cwlth), section 5, 6, 7 or 7A; or
- (b) the *Crimes Act 1914* (Cwlth), section 86(1) because of paragraph (a) of that subsection.

(2) The Commonwealth ancillary criminal laws apply as laws of this jurisdiction to an offence against the Agvet Code, or Agvet Regulations, of this jurisdiction—

- (a) as if a reference in the laws to a law of the Commonwealth were a reference to the Code or Regulations; and
- (b) to the exclusion of laws of this jurisdiction to the same or a similar effect.

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(3) In the Agvet Code, or Agvet Regulations, of this jurisdiction, a reference to an offence against the Code or Regulations includes a reference to a related offence against the Commonwealth ancillary criminal laws.

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

References to Agvet Codes and Agvet Regulations of other jurisdictions

9.(1) This section has effect for the purposes of an Act, a law of this jurisdiction or an instrument made under an Act or law of this jurisdiction.

(2) If a law of a jurisdiction other than this jurisdiction provides that the Code set out in the schedule to the Agricultural and Veterinary Chemicals Code Act as in force for the time being applies as a law of the jurisdiction, the Agvet Code of the jurisdiction is the Agvet Code so set out, applying as a law of the jurisdiction.

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

References to Agvet Codes and Agvet Regulations

10.(1) The object of this section is to help ensure the Agvet Code of this jurisdiction can operate, in appropriate circumstances, as if the Code, together with the Agvet Code of each other jurisdiction, made up a single national Agvet Code applying throughout Australia.

(2) A reference in an instrument to the Agvet Codes, or Agvet Regulations, is taken, for the purposes of the laws of this jurisdiction—

- (a) to be a reference to the Agvet Code, or Agvet Regulations, of this jurisdiction; and

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(b) to include a separate reference to the Agvet Code, or Agvet Regulations, of each other jurisdiction.

(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 COMMONWEALTH, STATES AND TERRITORIES

Agvet Code of this jurisdiction

11. The Agvet Code of this jurisdiction binds the State and, so far as the legislative power of the Parliament permits, the Commonwealth, the other States and the Territories.

Agvet Code of other jurisdictions

12. The Agvet Code of each jurisdiction other than this jurisdiction binds the State.

No liability to prosecution

13. Nothing in this part, or the Agvet Code of this jurisdiction, makes the Commonwealth or a State or Territory liable to be prosecuted for an offence.

Overriding the prerogative

14. If, because of this part, a provision of the law of another jurisdiction binds the State, the State is subject to the provision despite any prerogative right or privilege.

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

Object

15. The object of this part is to help ensure the Agvet Code of this jurisdiction and the Agvet Code of each other jurisdiction are administered on a uniform basis.

Application of Commonwealth administrative laws in relation to applicable provisions

16.(1) The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the applicable provisions of this jurisdiction as if the provisions were Commonwealth laws and were not laws of this jurisdiction.

(2) The provisions of the Agvet Code of this jurisdiction that require the NRA to give brief particulars of reasons for decisions do not affect the obligations of the NRA under the *Administrative Appeals Tribunal Act 1975* (Cwlth), section 28, or the *Administrative Decisions (Judicial Review) Act 1977* (Cwlth), section 13, as the section applies as a law of this jurisdiction under subsection (1) of this section.

(3) The provisions of the Agvet Code of this jurisdiction about the disclosure of confidential commercial information do not affect the operation of the *Freedom of Information Act 1982* (Cwlth) as the Act applies as a law of this jurisdiction under subsection (1) of this section.

(4) For the purposes of a law of this jurisdiction, a matter arising in relation to the applicable provisions of this jurisdiction—

- (a) is taken to be a matter arising in relation to Commonwealth laws in the same way as if the provisions were Commonwealth laws; and
- (b) is taken not to be a matter arising in relation to laws of this jurisdiction.

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(5) Subsection (4) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under section 32.

Functions and powers conferred on Commonwealth officers and authorities

17.(1) A Commonwealth administrative law applying because of section 16 that confers on a Commonwealth officer or authority a function or power also confers on the officer or authority the same function or power in relation to a matter arising in relation to an applicable provision of this jurisdiction.

(2) In performing a function or exercising a power conferred by subsection (1), the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power under the Commonwealth administrative law.

Reference in Commonwealth administrative law to a provision of another law

18. 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 the section.

PART 6—JURISDICTION OF COURTS

Jurisdiction of Federal Court

19.(1) Jurisdiction is conferred on the Federal Court of Australia for all civil matters arising under the applicable provisions of this jurisdiction.

(2) This section does not affect the jurisdiction of the courts of this jurisdiction.

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Exercise of jurisdiction under cross-vesting provisions

20. This Act does not affect the operation of a provision of a law of this jurisdiction about cross-vesting of jurisdiction.

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

Conferral of functions and powers on NRA

21.(1) The NRA has the functions and powers conferred or expressed to be conferred on it under this Act or the Agvet Code of this jurisdiction.

(2) Besides the powers mentioned in subsection (1), the NRA may do all things necessary or convenient to be done in performing its functions and, in particular, may—

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

Agreements and arrangements

22.(1) The Minister, or a person authorised in writing by the Minister, may 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.

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(2) The NRA has the functions and powers mentioned in the agreement or arrangement.

Conferral of other functions and powers for purposes of law in this jurisdiction

23. The NRA may do acts in this jurisdiction in the performance or exercise of any function or power—

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

Commonwealth Minister may give directions in exceptional circumstances

24. The power of the Commonwealth Minister to give directions to the NRA under the Agricultural and Veterinary Chemicals (Administration) Act, section 10 extends to giving directions about functions and powers of the NRA conferred under the applicable provisions of this jurisdiction, and the section applies accordingly.

PART 8—MISCELLANEOUS

Orders

25. Orders in force for the time being under the Agricultural and Veterinary Chemicals Code Act, section 7 have the same effect for the purposes of the Agvet Code of this jurisdiction as they would have if they were provisions of the Agvet Regulations of this jurisdiction.

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Manufacturing principles

26. Subject to the Agvet Code, and Agvet Regulations, of this jurisdiction, the manufacturing principles in force for the time being under the Agricultural and Veterinary Chemicals Act, section 23 also have effect for the purposes of part 8 of the Code.

Delegation

27. The power of delegation of the Commonwealth Minister under the Agricultural and Veterinary Chemicals (Administration) Act, section 71 extends to the powers expressed to be conferred on the Commonwealth Minister under this Act or the Agvet Code of this jurisdiction, and the section applies accordingly.

Conferral of powers on State officers

28.(1) This section applies if an officer of a department, administrative unit or authority is authorised, under the Agricultural and Veterinary Chemicals (Administration) Act, section 69F, by the chief executive officer of the NRA to exercise the powers or perform the functions of an inspector for the purposes of a particular relevant law.

(2) The powers and functions are conferred on the officer.

(3) The powers and functions are to be exercised or performed under the authorisation but are taken to have been validly exercised or performed despite any failure to comply with a condition or restriction of the authorisation.

(4) Words and expressions used in this section have the same meanings as they have in the Agricultural and Veterinary Chemicals (Administration) Act, section 69F.

Application of fees and taxes

29. All fees, taxes and other amounts (other than penalties and fines) that, under the applicable provisions of this jurisdiction, are authorised or directed to be payable by or imposed on a person must be paid to the Commonwealth.

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Documents or substances held by previous registering authority may be given to NRA

30. An authority of this jurisdiction that, immediately before the commencement of this section, performed functions under a provision of the law of this jurisdiction that corresponded to a provision of the Agvet Code of this jurisdiction may give to the NRA documents or substances in its possession or custody that were received by it in the performance of the functions or otherwise relate to the performance of the functions.

Section 30 has effect despite any other law

31. Section 30 has effect despite any other law of this jurisdiction, including, for example, the *Libraries and Archives Act 1988*.

Regulations

32. The Governor in Council may make regulations under this Act.

Eligible laws

33. A regulation may declare any law, or provision of a law, to be an eligible law for the purposes of the definition “permit” in section 109 of the Agvet Code of this jurisdiction.

PART 9—IMPOSITION OF FEES AND TAXES

Fees (including taxes)

34. This section imposes the fees (including fees that are taxes) that the Agvet Regulations of this jurisdiction prescribe.

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

Conferral of functions on Commonwealth Director of Public Prosecutions

35. The Commonwealth Director of Public Prosecutions (the “**Commonwealth Director**”) may—

- (a) start prosecutions on indictment for indictable offences against the Agvet Code, or Agvet Regulations, of this jurisdiction; and
- (b) carry on prosecutions of the kind mentioned in paragraph (a) (other than prosecutions started by the Attorney-General or the Director of Prosecutions), whether or not started by the Commonwealth Director; and
- (c) if the Attorney-General or Director of Prosecutions asks the Commonwealth Director in writing to carry on a prosecution of the kind mentioned in paragraph (a) that was started by the Attorney-General or Director of Prosecutions—carry on the prosecution; and
- (d) start proceedings for the commitment of persons for trial for indictable offences against the Agvet Code, or Agvet Regulations, of this jurisdiction; and
- (e) start proceedings for the summary conviction of persons for offences against the Agvet Code, or Agvet Regulations, of this jurisdiction; and
- (f) carry on proceedings of a kind mentioned in paragraph (d) or (e) (whether or not started by the Commonwealth Director); and
- (g) do anything incidental or conducive to the performance of any of the functions mentioned in paragraphs (a) to (f).

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PART 11—TRANSITIONAL PROVISIONS

Transitional regulations

36.(1) A regulation may make provision about any matter of a savings or transitional nature for which—

- (a) it is necessary or convenient to make provision because of the enactment of this Act; and
- (b) this Act does not make provision or adequate provision.

(2) A regulation under subsection (1) may be given retrospective operation to a date not earlier than the commencement of this section.

(3) This part expires 1 year after it commences.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Agricultural and Veterinary Chemicals (Queensland) Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation

Agricultural and Veterinary Chemicals (Queensland) Act 1994 No. 78
 date of assent 1 December 1994
 ss 1–2 commenced on date of assent
 remaining provisions commenced 15 March 1995 (1995 SL No. 51)

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
ch	=	chapter
def	=	definition
div	=	division
exp	=	expires/expired
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
pt	=	part
RA	=	Reprints Act 1992
R1	=	Reprint No. 1
renum	=	renumbered
sdiv	=	subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

PART 11—TRANSITIONAL PROVISIONS

pt 11 (s 36) exp 15 March 1996 (see s 36(3))

PART 12—AMENDMENTS

pt 12 (s 37) om R1 (see RA s 40)

SCHEDULE—AMENDMENTS

om R1 (see RA s 40)