

# **Chemical Usage (Agricultural and Veterinary) Control (Record Keeping and Training) Amendment Regulation 2020**

Explanatory notes for SL 2020 No. 96

made under the

*Chemical Usage (Agricultural and Veterinary) Control Act 1988*

## **General Outline**

### **Short title**

*Chemical Usage (Agricultural and Veterinary) Control (Record Keeping and Training) Amendment Regulation 2020*

### **Authorising law**

Section 38 of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

### **Policy objectives and the reasons for them**

The purpose of the subordinate legislation is to implement the national harmonisation reforms for the use of agricultural and veterinary chemicals (AgVet chemicals) agreed at the fifth meeting of the Agriculture Ministers' Forum on 26 July 2017.

There are two elements of the reforms being implemented by the subordinate legislation:

- to establish nationally consistent minimum record keeping requirements for users of agricultural chemical products; and
- to establish nationally consistent minimum training requirements for users of AgVet chemicals that are restricted chemical products or particular chemical products containing a poison classified as a schedule 7 poison by the *Standard for the Uniform Scheduling of Drugs and Poisons* published by the Australian Health Ministers' Advisory Council (schedule 7 poison).

### **Achievement of policy objectives**

The subordinate legislation achieves its first objective by amending the *Chemical Usage (Agricultural and Veterinary) Control Regulation 2017* (Chemical Usage Regulation) to establish nationally consistent minimum record keeping for users of agricultural chemical products.

The new record keeping requirements expand when a record is required to be made so that it applies to the use of all agricultural chemical products in Queensland. Currently, records are required to be made for the use of agricultural chemical products if:

- the approved label for the product or a permit for the use of the product requires the person to make a stated record for the chemical's use; or
- the agricultural chemical product is a prescribed agricultural Environmentally Relevant Activities (ERA) product used to carry out an ERA, that is cattle grazing or sugarcane cultivation; or
- the agricultural chemical product is applied in the course of the business of, at the direction of, or under the authority of a licensed distribution contractor (a requirement under the *Agricultural Chemicals Distribution Control Act 1966*).

The subordinate legislation achieves its second objective by amending the Chemical Usage Regulation to establish nationally consistent minimum competency requirements for persons who use Restricted Chemical Products or particular chemical products containing a poison classified as a schedule 7 poison. The minimum competency requirements for users of these high-risk chemical products have been established through the Australian Qualifications Framework, with training provided by registered training organisations nationally.

The amendments in this subordinate legislation that relate to any new or additional usage requirements for agricultural chemical products containing a schedule 7 poison as a liquid fumigant, avicide or timber treatment, and veterinary chemical products, will take effect one year after commencement of the subordinate legislation. The phase-in period will ensure businesses and individuals have sufficient time to complete training through a registered training provider. It will also allow training organisations to prepare in readiness to deliver additional training if and when required.

## **Consistency with policy objectives of authorising law**

The subordinate legislation is consistent with the objectives of the Act.

## **Inconsistency with policy objectives of other legislation**

The subordinate legislation is consistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

The subordinate legislation is the only way to achieve the policy objectives and to give effect to the nationally harmonised approach for AgVet chemical regulatory policy.

## **Benefits and costs of implementation**

The costs of mandatory record keeping requirements to users of agricultural chemical products are minimal, as the majority of agricultural chemical users recognise that record keeping is best practice and, therefore, already maintain records in a number of formats for a variety of reasons (quality assurance, agronomic/pest management, stewardship). This legislation aims to make record requirements consistent with the regulatory information required to manage agricultural chemical risk. The costs of minimum training requirements for users for persons who use Restricted Chemical Products or particular

chemical products containing Schedule 7 Poisons are minimal as a high percentage will already meet these requirements. Agreement on the national harmonisation training reforms was reached in July 2017 and members of the agricultural industry have since benefited from a targeted project to deliver training that meets the new requirements.

Benefits of establishing nationally consistent minimum record keeping and training requirements also include reduced costs of compliance; reduced confusion regarding applicable requirements for users of agricultural and veterinary chemicals; and greater confidence in quality of our production systems for international trade partners.

The costs to Government of administering a harmonised regulatory system are not considered significant and will be funded by existing budget allocations.

## **Consistency with fundamental legislative principles**

The subordinate legislation has been drafted with regard to, and is consistent with, the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. A potential inconsistency with fundamental legislative principles was identified as set out below.

### **Legislation should have sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992* section 4(2)(a)**

The subordinate legislation imposes additional record keeping requirements and user competency requirements for users of AgVet chemicals. This will impose an additional regulatory burden on these persons and, for this reason, may affect the rights and liberties of these persons to carry out their business or other activities without government interference. However, the need for these requirements is justified as nationally consistent competency and record keeping requirements are essential to controlling the risks associated with the use of these chemicals.

## **Consultation**

A Decision Regulation Impact Statement (Decision RIS) on a nationally harmonised scheme of assessment, registration and control-of-use of AgVet chemicals was undertaken by the Council of Australian Governments in 2013. All stakeholder groups consulted as part of the Decision RIS indicated support for harmonised record keeping requirements.

The Department of Agriculture and Fisheries undertook consultation with Queensland industry representatives in 2017. None of the stakeholders consulted by the department raised concerns with the proposed legislative amendments.

The department sought advice from the Office of Best Practice Regulation (OBPR), within the Queensland Productivity Commission (the Commission), on the proposed amendments. The Commission agreed that the proposal was exempt from further regulatory impact assessment under OBPR-assessed exclusion category L – Regulatory proposals that have already undergone an extensive impact assessment process. The Commission noted that the proposed legislative amendments align with the national Decision RIS and considered that the proposals concerning minimum record keeping requirements are unlikely to result in significant impacts. The Commission considered that the proposed minimum training requirements will result in adverse impacts, however, as these impacts are well understood as a result of all the consultation undertaken, the

proposal would not benefit from further regulatory impact assessment.

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