

5. *Agricultural and Veterinary Chemicals (Administration) Act 1992 (Cth)*



ATTORNEY-
GENERAL'S
DEPARTMENT

Agricultural and Veterinary Chemicals (Administration) Act 1992

Act No. 262 of 1992 as amended

Consolidated as in force on 15 June 1999

(includes amendments up to Act No. 4 of 1999)

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An Act to establish a National Registration Authority for Agricultural and Veterinary Chemicals, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

2 Commencement [see Note 1]

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

3 Object

The object of this Act is to establish a National Registration Authority to administer such laws of the Commonwealth or of the States and Territories relating to agricultural and veterinary chemical products as confer functions and powers on the Authority.

4 Interpretation

In this Act, unless the contrary intention appears:

Chairperson means the Chairperson of the NRA.

chemical product has the same meaning as in the Agvet Code of the participating Territories.

committee means a committee established under section 28.

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Deputy Chairperson means the Deputy Chairperson of the NRA.

director means a director of the NRA and includes the Chairperson.

industry means the agricultural and veterinary chemicals industry.

inspector means:

- (a) a person appointed as an inspector for the purposes of this Act under subsection 69F(1); or
- (b) a person to whom an authorisation referred to in subsection 69F(2) applies for the purposes of this Act.

member of the staff, in relation to the NRA, means:

- (a) a person employed by the NRA under section 45; or
- (b) a person whose services are made available to the NRA under paragraph 46(1)(a) or under arrangements made under subsection 46(2).

NRA means the National Registration Authority for Agricultural and Veterinary Chemicals established by section 6.

participating Territory has the same meaning as in the *Agricultural and Veterinary Chemicals Act 1994*.

State includes the Northern Territory.

Territory does not include the Northern Territory.

5 Extension to external Territories

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

Part 2—Establishment, functions and powers of NRA

6 Establishment

A National Registration Authority for Agricultural and Veterinary Chemicals is established.

7 Functions and powers

- (1) The NRA has any functions and powers that are conferred on it by or under this Act or the Agvet Code, or the Agvet Regulations, of the participating Territories.
- (1A) The functions of the NRA include the following:
 - (a) to assess the suitability for sale in Australia of active constituents for proposed or existing chemical products, chemical products and labels for containers for chemical products;
 - (b) to provide information to the Governments and authorities of the Commonwealth, the States and the participating Territories about approved active constituents for proposed or existing chemical products, registered chemical products and approved labels for such products and to co-operate with those Governments and authorities on matters relating to the management and control of chemical products;
 - (c) to keep records and statistics of approvals and registrations granted, and permits and licences issued, by it under the Agvet Codes;
 - (d) to evaluate the effects of the use of chemical products in the States and participating Territories;
 - (e) to co-operate with Governments and authorities of the Commonwealth, the States and the participating Territories for the purpose of facilitating a consistent approach to the assessment and control of chemicals;
 - (f) in co-operation with Governments and authorities of the Commonwealth, the States and the participating Territories,

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- to develop codes of practice, standards and guidelines for, and to recommend precautions to be taken in connection with, the manufacture, export, import, sale, handling, possession, storage, disposal and use of chemical products in the States and participating Territories;
- (g) to collect, interpret, disseminate and publish information relating to chemical products and their use;
 - (h) to encourage and facilitate the application and use of results of evaluation and testing of chemical products;
 - (i) to exchange information relating to chemical products and their use with overseas and international bodies having functions similar to the NRA's functions;
 - (j) when requested by the Minister, or on its own initiative, to report to or advise the Minister on any matter relating to chemical products or arising in the course of the performance of its functions;
 - (k) to encourage and facilitate the introduction of uniform national procedures for control of the use of chemical products;
 - (l) to fund, and co-operate in, a program designed to ensure that active constituents for proposed or existing chemical products, chemical products, and labels for containers for chemical products, comply with the Agvet Codes and the Agvet Regulations.
- (1B) Expressions used in subsection (1A) have the same meanings as in the Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994*.
- (2) The NRA has any functions and powers that are expressed to be conferred on it by a law of a State.
- (3) The NRA has power to do all things necessary or convenient to be done in connection with the performance of 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
 - (da) make available to the public, either without charge or upon payment of a fee to the NRA, manuals, reports, lists of requirements and other documents; and
 - (e) do anything incidental to any of its powers.
- (4) In the performance of its functions and the exercise of its powers, the NRA is to have regard to the Commonwealth Government's policy in relation to the principle of ecologically sustainable development and, in particular, to the need to use, conserve and enhance the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased.

7A Annual publication of standards for certain residues of chemical products

- (1) The NRA must publish, in an appropriate manner, in each calendar year approved standards for residues of chemical products in protected commodities.
- (2) In this section:
 - protected commodity* means:
 - (a) any substance or thing of a kind used or capable of being used as food or drink by human beings; or
 - (b) any substance or thing of a kind used or capable of being used as an ingredient or additive in, or any substance used in the preparation of, a substance or thing referred to in paragraph (a); or
 - (c) any agricultural commodity; or
 - (d) any animal feed; or
 - (e) any other prescribed substance or thing; or
 - (f) any substance or thing that is capable of being made into anything referred to in a preceding paragraph;

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but does not include a therapeutic good within the meaning of the *Therapeutic Goods Act 1989*.

8 Consultation

- (1) The NRA, for the purpose of considering any matter, or obtaining information or advice, relating to the performance of its functions, may consult with persons, bodies or Governments, including:
 - (a) persons or bodies involved in the industry; and
 - (b) the Commonwealth Government or State Governments or Commonwealth or State authorities having functions relating to agricultural or veterinary chemicals; and
 - (c) persons (including members of the scientific community) having a particular interest in matters associated with the industry; and
 - (d) persons or bodies having a particular interest in the protection of the interests of consumers or in the protection of the environment.

- (1A) If the matter that is being considered by the NRA, or in respect of which the NRA is seeking information or advice, relates to an active constituent for a proposed or existing chemical product, a chemical product, or a label for containers for a chemical product, the NRA may make available to the person, body or Government concerned:
 - (a) information obtained by it with respect to the constituent, product or label; and
 - (b) samples of the constituent, of any of the active constituents of the product, or of the product, or samples or copies of the label, as the case may be.

- (2) The NRA may:
 - (a) pay travel expenses reasonably incurred by a person in connection with consultations by the NRA; and
 - (b) subject to written guidelines given to the NRA by the Minister, pay expenses (other than travel expenses) reasonably incurred by a body or person in connection with consultations by the NRA.

9 Agreements and arrangements

- (1) The Minister, or a person authorised in writing by the Minister, may enter into an agreement or arrangement with a Minister of a State for the performance of functions or the exercise of powers by the NRA as an agent of the State.
- (2) The NRA has such functions and powers as are referred to in such an agreement or arrangement.

9A NRA to comply with policies of Governments of Commonwealth, States and participating Territories

If there is an agreement in force between the Government of the Commonwealth and the Governments of all or any of the States and participating Territories for the purposes of this Act and the Agvet Codes, the NRA must, in the performance of its functions and the exercise of its powers, comply with any policies of those Governments determined under the agreement.

10 Minister may give directions

- (1) Subject to subsection (2), the Minister may give written directions to the NRA concerning the performance of its functions or the exercise of its powers, and the NRA must comply with any such direction.
- (2) The Minister must not give a direction to the NRA unless:
 - (a) the Minister is satisfied that it is necessary to give the direction to the NRA in order to ensure that, in performing its functions, or exercising its powers, the NRA complies with policies referred to in section 9A; and
 - (b) the Minister has given to the NRA a written notice stating that the Minister is considering giving the direction; and
 - (c) the Minister has given to the Chairperson an adequate opportunity to discuss with the Minister the need for the proposed direction.
- (3) Subject to subsection (4), if the Minister gives a direction to the NRA, the Minister must:

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- (a) cause a notice setting out particulars of the direction to be published in the *Gazette* as soon as practicable after giving the direction; and
 - (b) cause a copy of that notice to be laid before each House of the Parliament within 15 sitting days of that House after the publication of the notice in the *Gazette*.
- (4) Subsection (3) does not apply in relation to a particular direction if the Minister determines, in writing, that compliance with the subsection is undesirable because it would, or would be likely to, be prejudicial to the national interest of Australia.
- (5) Section 28 of the *Commonwealth Authorities and Companies Act 1997* does not apply in relation to the NRA.

11 Delegation by NRA

- (1) The NRA may, by writing under its common seal, delegate to:
- (a) a director; or
 - (b) a committee; or
 - (c) a member of the staff of the NRA; or
 - (d) an authority of the Commonwealth; or
 - (e) an officer of, or person employed in, a Department of the Australian Public Service;
- all or any of the NRA's powers and functions.
- (2) A delegate of the NRA is, in the exercise of the delegate's delegated powers and functions, subject to the NRA's directions.