

Passed by both Houses



New South Wales

# **Agricultural and Veterinary Chemicals (New South Wales) Amendment Bill 2001**

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2001*



New South Wales

## **Agricultural and Veterinary Chemicals (New South Wales) Amendment Bill 2001**

Act No , 2001

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*An Act to amend the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994* with respect to the functions and powers of certain Commonwealth authorities and officers of the Commonwealth; and for other purposes.*

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See also *Co-operative Schemes (Administrative Actions) Act 2001*.

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Agricultural and Veterinary Chemicals (New South Wales) Amendment Act 2001*.

**2 Commencement**

This Act commences immediately before section 4 (1) of the *Co-operative Schemes (Administrative Actions) Act 2001* commences.

**3 Amendment of Agricultural and Veterinary Chemicals (New South Wales) Act 1994 No 53**

The *Agricultural and Veterinary Chemicals (New South Wales) Act 1994* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

*confer* includes impose.

*function* includes a duty.

### [2] Part 5

Omit the Part. Insert instead:

## **Part 5 Application of Commonwealth administrative laws to Agvet Code and Agvet Regulations of this jurisdiction**

### **15 Object**

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

### **16 Application of Commonwealth administrative laws in relation to applicable provisions**

- (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 those provisions were laws of the Commonwealth 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 section 28 of the *Administrative Appeals Tribunal Act 1975* of the Commonwealth as that section applies as a law of this jurisdiction under subsection (1) of this section.

- (3) The provisions of the Agvet Code of this jurisdiction that relate to the disclosure of confidential commercial information do not affect the operation of the *Freedom of Information Act 1982* of the Commonwealth as that 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 laws of the Commonwealth in the same way as if those provisions were laws of the Commonwealth, and
  - (b) is taken not to be a matter arising in relation to laws of this jurisdiction.
- (5) Subsection (4) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under section 32.

**17 Functions and powers conferred on Commonwealth officers and authorities**

- (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.

**18 Reference in Commonwealth administrative law to a provision of another law**

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 that provision as applying because of that section.

**18A Construction of references to Part IVA of Commonwealth AAT Act**

For the purposes of section 16, a reference in a provision of the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (as that provision applies as a law of this jurisdiction) to the whole or any part of Part IVA of that Act is taken to be a reference to the whole or any part of that Part as it has effect as a law of the Commonwealth.

**[3] Sections 28A and 28B**

Insert after section 28:

**28A Inspectors and analysts**

(1) In this section:

*officer* means:

- (a) an inspector appointed under section 69F (1) of the Agricultural and Veterinary Chemicals (Administration) Act, or
- (b) an analyst approved under section 69G of the Agricultural and Veterinary Chemicals (Administration) Act.

(2) An officer has, in respect of a matter arising in relation to an applicable provision of this jurisdiction, the functions and powers conferred or expressed to be conferred on him or her under the applicable provisions of this jurisdiction.

**28B Validation of actions of inspectors and analysts**

(1) In this section:

*officer* has the same meaning as in section 28A.

*relevant provision* means Schedule 1 [3] of the *Agricultural and Veterinary Chemicals (New South Wales) Amendment Act 2001*.

*relevant time*, in relation to a thing, means the time at which the thing was done or omitted to be done or purported to have been done or omitted to be done.

- (2) Anything done or omitted to be done by an officer before the commencement of the relevant provision that would have been validly done or omitted had the relevant provision commenced before the relevant time has, and is taken always to have had, the same force and effect as it would have had if the relevant provision had commenced before the relevant time.

**Note.** Part 2 of the *Co-operative Schemes (Administrative Actions) Act 2001* applies to administrative actions taken by an officer as affected by this section.

**[4] Section 33A**

Insert after section 33:

**33A Transitional provision—Agricultural and Veterinary Chemicals (New South Wales) Amendment Act 2001**

- (1) In this section:  
*substitution provision* means Schedule 1 [2] of the *Agricultural and Veterinary Chemicals (New South Wales) Amendment Act 2001*.
- (2) Part 5 of this Act, as substituted by the substitution provision, applies in relation to matters arising in relation to the applicable provisions of this jurisdiction, and decisions made or other things done or omitted to be done under the Commonwealth administrative laws in respect of such matters, before, on or after the commencement of the substitution provision.