

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 10 September, 1974.*

## **New South Wales**



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No.       , 1974.**

An Act to make further provisions with respect to the advertising of therapeutic goods, cosmetics and articles of food; for this purpose to amend the Therapeutic Goods and Cosmetics Act, 1972; and for purposes connected therewith.

**BE**



*Therapeutic Goods and Cosmetics (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

1. This Act may be cited as the "Therapeutic Goods and Short title.  
Cosmetics (Amendment) Act, 1974".

2. (1) Except as provided in subsection (2), this Act Commence-  
shall commence on the date of assent to this Act. ment.

10 (2) Section 4 shall commence on such day as may  
be appointed by the Governor in respect thereof and as may  
be notified by proclamation published in the Gazette.

3. The Therapeutic Goods and Cosmetics Act, 1972, is Amendment  
amended— of Act No.  
14, 1972.

15 (a) by inserting in the definition of "advertisement" Sec. 4.  
in section 4 (1) after the word "sale" the words (Interpre-  
"or use"; tation.)

(b) (i) by inserting in section 28 (1) after the words Sec. 28.  
"therapeutic goods," the words "or a claim, (Order  
20 if made in respect of a cosmetic,"; prohibiting  
false or  
misleading  
representa-  
tions or  
names.)

(ii) by inserting in section 28 (1) after the word  
"representation" where secondly occurring the  
words "or claim";

25 (iii) by inserting in section 28 (1) after the word  
"goods" where secondly occurring the words  
"or cosmetic";

(iv) by inserting in section 28 (2) after the word  
"goods" where firstly occurring the words "or  
cosmetic";

30 (v) by inserting in section 28 (2) after the word  
"goods" where secondly and thirdly occurring  
the words "or that cosmetic".

*Therapeutic Goods and Cosmetics (Amendment).*

4. The Therapeutic Goods and Cosmetics Act, 1972, is further amended—

Further amendment of Act No. 14, 1972.

5 (a) by omitting section 26 (1), (2), (3), (4) and (5) and by inserting instead the following subsections :—

Sec. 26. (Prohibition of certain representations in advertisements.)

10 (1) In this Part, "representation", in relation to any therapeutic goods or article of food, means a representation, whether express or implied, with respect to the use or consumption of those goods or that article for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- 15 (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting any micro-organisms that may be harmful to man or animal.

20 (2) A person shall not publish an advertisement in respect of—

- (a) any therapeutic goods or article of food if it contains a representation prescribed as a prohibited representation;
- 25 (b) any prescribed therapeutic goods or prescribed article of food if it contains a representation prescribed as a prohibited representation;
- 30 (c) any prescribed therapeutic goods or prescribed article of food unless it contains a representation prescribed as a required representation; or

(d)



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*Therapeutic Goods and Cosmetics (Amendment).*

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5 (d) any prescribed therapeutic goods or prescribed article of food if it contains a representation other than a representation prescribed as a required representation under paragraph (c).

(3) A person shall not publish an advertisement in respect of any prescribed therapeutic goods.

10 (4) A person shall not publish an advertisement that contains any representation if the advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies any representation prescribed for the purposes of subsection (2).

15 (5) The regulations may prescribe in relation to any prescribed therapeutic goods or prescribed article of food or all therapeutic goods or articles of food a representation for the purposes of subsection (2) (a), (b) and (c) notwithstanding that the regulations prescribe a representation in relation to those therapeutic goods or that article or those articles of food for the purposes of all other or another of those paragraphs.

20 (b) by omitting from section 26 (6) the words "one or two of this section" and by inserting instead the matter "(2) or (3)".

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**BY AUTHORITY**

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[5c]



No. , 1974.

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# A BILL

To make further provisions with respect to the advertising of therapeutic goods, cosmetics and articles of food; for this purpose to amend the Therapeutic Goods and Cosmetics Act, 1972; and for purposes connected therewith.

[MR WADDY—27 August, 1974.]

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BE



*Therapeutic Goods and Cosmetics (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
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Parliament assembled, and by the authority of the same, as  
5 follows :—

1. This Act may be cited as the "Therapeutic Goods and Short title.  
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2. (1) Except as provided in subsection (2), this Act Commence-  
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3. The Therapeutic Goods and Cosmetics Act, 1972, is Amendment  
amended— of Act No.  
14, 1972.

15 (a) by inserting in the definition of "advertisement" Sec. 4.  
in section 4 (1) after the word "sale" the words (Interpre-  
"or use"; tation.)

20 (b) (i) by inserting in section 28 (1) after the words Sec. 28.  
"therapeutic goods," the words "or a claim, (Order  
if made in respect of a cosmetic,"; prohibiting  
false or

(ii) by inserting in section 28 (1) after the word misleading  
"representation" where secondly occurring the representa-  
words "or claim"; tions or  
names.)

25 (iii) by inserting in section 28 (1) after the word  
"goods" where secondly occurring the words  
"or cosmetic";

(iv) by inserting in section 28 (2) after the word  
"goods" where firstly occurring the words "or  
cosmetic";

30 (v) by inserting in section 28 (2) after the word  
"goods" where secondly and thirdly occurring  
the words "or that cosmetic".

4.



*Therapeutic Goods and Cosmetics (Amendment).*

4. The Therapeutic Goods and Cosmetics Act, 1972, is further amended—

Further amendment of Act No. 14, 1972.

(a) by omitting section 26 (1), (2), (3), (4) and (5) and by inserting instead the following subsections :—

Sec. 26.  
(Prohibition of certain representations in advertisements.)

(1) In this Part, “representation”, in relation to any therapeutic goods or article of food, means a representation, whether express or implied, with respect to the use or consumption of those goods or that article for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting any micro-organisms that may be harmful to man or animal.

(2) A person shall not publish an advertisement in respect of—

- (a) any therapeutic goods or article of food if it contains a representation prescribed as a prohibited representation;
- (b) any prescribed therapeutic goods or prescribed article of food if it contains a representation prescribed as a prohibited representation;
- (c) any prescribed therapeutic goods or prescribed article of food unless it contains a representation prescribed as a required representation; or

(d)



*Therapeutic Goods and Cosmetics (Amendment).*

5 (d) any prescribed therapeutic goods or prescribed article of food if it contains a representation other than a representation prescribed as a required representation under paragraph (c).

(3) A person shall not publish an advertisement in respect of any prescribed therapeutic goods.

10 (4) A person shall not publish an advertisement that contains any representation if the advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies any representation prescribed for the purposes of subsection (2).

15 (5) The regulations may prescribe in relation to any prescribed therapeutic goods or prescribed article of food or all therapeutic goods or articles of food a representation for the purposes of subsection (2) (a), (b) and (c) notwithstanding that the regulations prescribe a representation in relation  
20 to those therapeutic goods or that article or those articles of food for the purposes of all other or another of those paragraphs.

25 (b) by omitting from section 26 (6) the words "one or two of this section" and by inserting instead the matter "(2) or (3)".



**THERAPEUTIC GOODS AND COSMETICS  
(AMENDMENT) BILL, 1974**

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**EXPLANATORY NOTE**

THE objects of this Bill are—

- (a) to amend the Therapeutic Goods and Cosmetics Act, 1972, so as—
  - (i) to extend the definition of “advertisement” to include the promotion of the use of certain goods;
  - (ii) to prohibit advertisements in respect of certain therapeutic goods;
  - (iii) to regulate representations that may be made in advertisements in respect of therapeutic goods and articles of food; and
  - (iv) to permit the prohibition of the publication of claims in respect of a cosmetic where the Commission is of the opinion that a claim made in respect of the cosmetic is false or misleading; and
- (b) to make other provisions of a minor or ancillary nature.



# Therapeutic Goods and Cosmetics (Amendment) Bill, 1974

## EXPLANATORY NOTE

The purpose of this Bill is to amend the Therapeutic Goods and Cosmetics Act, 1972, in order to give effect to the recommendations of the Committee of Enquiry into the Regulation of Therapeutic Goods and Cosmetics, which was set up by the Government in 1971. The Committee's report was published in 1973 and its recommendations are set out in the accompanying document. The Bill gives effect to the following recommendations of the Committee:

- (a) to amend the definition of "therapeutic goods" to include certain types of medical devices;
- (b) to amend the definition of "cosmetics" to include certain types of hair dyes and hair treatments;
- (c) to amend the provisions relating to the registration of manufacturers and suppliers of therapeutic goods and cosmetics;
- (d) to amend the provisions relating to the inspection and control of therapeutic goods and cosmetics;
- (e) to amend the provisions relating to the enforcement of the Act.



PROOF

No. , 1974.

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## A BILL

To make further provisions with respect to the advertising of therapeutic goods, cosmetics and articles of food; for this purpose to amend the Therapeutic Goods and Cosmetics Act, 1972; and for purposes connected therewith.

[MR WADDY—27 August, 1974.]

---

BE



*Therapeutic Goods and Cosmetics (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Therapeutic Goods and Cosmetics (Amendment) Act, 1974". Short title.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act. Commence-  
ment.

10 (2) Section 4 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Therapeutic Goods and Cosmetics Act, 1972, is amended— Amendment  
of Act No.  
14, 1972.

15 (a) by inserting in the definition of "advertisement" in section 4 (1) after the word "sale" the words "or use"; Sec. 4.  
(Interpre-  
tation.)

(b) (i) by inserting in section 28 (1) after the words "therapeutic goods," the words "or a claim, if made in respect of a cosmetic,"; Sec. 28.  
(Order  
prohibiting  
false or  
misleading  
representa-  
tions or  
names.)

20 (ii) by inserting in section 28 (1) after the word "representation" where secondly occurring the words "or claim";

25 (iii) by inserting in section 28 (1) after the word "goods" where secondly occurring the words "or cosmetic";

(iv) by inserting in section 28 (2) after the word "goods" where firstly occurring the words "or cosmetic";

30 (v) by inserting in section 28 (2) after the word "goods" where secondly and thirdly occurring the words "or that cosmetic".

*Therapeutic Goods and Cosmetics (Amendment).*

4. The Therapeutic Goods and Cosmetics Act, 1972, is further amended—

Further amendment of Act No. 14, 1972.

5 (a) by omitting section 26 (1), (2), (3), (4) and (5) and by inserting instead the following subsections :—

Sec. 26.  
(Prohibition of certain representations in advertisements.)

10 (1) In this Part, "representation", in relation to any therapeutic goods or article of food, means a representation, whether express or implied, with respect to the use or consumption of those goods or that article for the purpose of or in connection with—

- 15 (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting any micro-organisms that may be harmful to man or animal.

20 (2) A person shall not publish an advertisement in respect of—

- (a) any therapeutic goods or article of food if it contains a representation prescribed as a prohibited representation;
- 25 (b) any prescribed therapeutic goods or prescribed article of food if it contains a representation prescribed as a prohibited representation;
- 30 (c) any prescribed therapeutic goods or prescribed article of food unless it contains a representation prescribed as a required representation; or

(d)



*Therapeutic Goods and Cosmetics (Amendment).*

5 (d) any prescribed therapeutic goods or prescribed article of food if it contains a representation other than a representation prescribed as a required representation under paragraph (c).

(3) A person shall not publish an advertisement in respect of any prescribed therapeutic goods.

10 (4) A person shall not publish an advertisement that contains any representation if the advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies any representation prescribed for the purposes of subsection (2).

15 (5) The regulations may prescribe in relation to any prescribed therapeutic goods or prescribed article of food or all therapeutic goods or articles of food a representation for the purposes of subsection (2) (a), (b) and (c) notwithstanding that the regulations prescribe a representation in relation to those therapeutic goods or that article or those articles of food for the purposes of all other or another of those paragraphs.

20 (b) by omitting from section 26 (6) the words "one or two of this section" and by inserting instead the matter "(2) or (3)".



# New South Wales



ANNO VICESIMO TERTIO

## ELIZABETHÆ II REGINÆ

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**Act No. 69, 1974.**

An Act to make further provisions with respect to the advertising of therapeutic goods, cosmetics and articles of food; for this purpose to amend the Therapeutic Goods and Cosmetics Act, 1972; and for purposes connected therewith. [Assented to, 22nd October, 1974.]

BE



*Therapeutic Goods and Cosmetics (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.      **1.** This Act may be cited as the "Therapeutic Goods and Cosmetics (Amendment) Act, 1974".

Commence-      **2.** (1) Except as provided in subsection (2), this Act  
ment.            shall commence on the date of assent to this Act.

(2) Section 4 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment      **3.** The Therapeutic Goods and Cosmetics Act, 1972, is  
of Act No.    amended—  
14, 1972.

Sec. 4.            (a) by inserting in the definition of "advertisement"  
(Interpre-        in section 4 (1) after the word "sale" the words  
tation.)            "or use";

Sec. 28.            (b) (i) by inserting in section 28 (1) after the words  
(Order            "therapeutic goods," the words "or a claim,  
prohibiting        if made in respect of a cosmetic,";

false or            (ii) by inserting in section 28 (1) after the word  
misleading        "representation" where secondly occurring the  
representa-        words "or claim";

tions or            (iii) by inserting in section 28 (1) after the word  
names.)            "goods" where secondly occurring the words  
"or cosmetic";

(iv) by inserting in section 28 (2) after the word  
"goods" where firstly occurring the words "or  
cosmetic";

(v) by inserting in section 28 (2) after the word  
"goods" where secondly and thirdly occurring  
the words "or that cosmetic".

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*Therapeutic Goods and Cosmetics (Amendment).*

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4. The Therapeutic Goods and Cosmetics Act, 1972, is further amended—

Further amendment of Act No. 14, 1972.

- (a) by omitting section 26 (1), (2), (3), (4) and (5) and by inserting instead the following subsections :—

Sec. 26.  
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(1) In this Part, “representation”, in relation to any therapeutic goods or article of food, means a representation, whether express or implied, with respect to the use or consumption of those goods or that article for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting any micro-organisms that may be harmful to man or animal.

(2) A person shall not publish an advertisement in respect of—

- (a) any therapeutic goods or article of food if it contains a representation prescribed as a prohibited representation;
- (b) any prescribed therapeutic goods or prescribed article of food if it contains a representation prescribed as a prohibited representation;
- (c) any prescribed therapeutic goods or prescribed article of food unless it contains a representation prescribed as a required representation; or

(d)



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*Therapeutic Goods and Cosmetics (Amendment).*

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- (d) any prescribed therapeutic goods or prescribed article of food if it contains a representation other than a representation prescribed as a required representation under paragraph (c).
- (3) A person shall not publish an advertisement in respect of any prescribed therapeutic goods.
- (4) A person shall not publish an advertisement that contains any representation if the advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies any representation prescribed for the purposes of subsection (2).
- (5) The regulations may prescribe in relation to any prescribed therapeutic goods or prescribed article of food or all therapeutic goods or articles of food a representation for the purposes of subsection (2) (a), (b) and (c) notwithstanding that the regulations prescribe a representation in relation to those therapeutic goods or that article or those articles of food for the purposes of all other or another of those paragraphs.
- (b) by omitting from section 26 (6) the words "one or two of this section" and by inserting instead the matter "(2) or (3)".

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

*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.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 24 September, 1974.*

## New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

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Act No. 69, 1974.

An Act to make further provisions with respect to the advertising of therapeutic goods, cosmetics and articles of food; for this purpose to amend the Therapeutic Goods and Cosmetics Act, 1972; and for purposes connected therewith. [Assented to, 22nd October, 1974.]

BE

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

J. H. BROWN,  
*Chairman of Committees of the Legislative Assembly.*



*Therapeutic Goods and Cosmetics (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.      **1.** This Act may be cited as the "Therapeutic Goods and Cosmetics (Amendment) Act, 1974".

Commence-  
ment.      **2.** (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 4 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment  
of Act No.  
14, 1972.      **3.** The Therapeutic Goods and Cosmetics Act, 1972, is amended—

Sec. 4.  
(Interpre-  
tation.)      (a) by inserting in the definition of "advertisement" in section 4 (1) after the word "sale" the words "or use";

Sec. 28.  
(Order  
prohibiting  
false or  
misleading  
representa-  
tions or  
names.)      (b) (i) by inserting in section 28 (1) after the words "therapeutic goods," the words "or a claim, if made in respect of a cosmetic,";  
(ii) by inserting in section 28 (1) after the word "representation" where secondly occurring the words "or claim";

(iii) by inserting in section 28 (1) after the word "goods" where secondly occurring the words "or cosmetic";

(iv) by inserting in section 28 (2) after the word "goods" where firstly occurring the words "or cosmetic";

(v) by inserting in section 28 (2) after the word "goods" where secondly and thirdly occurring the words "or that cosmetic".



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*Therapeutic Goods and Cosmetics (Amendment).*

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4. The Therapeutic Goods and Cosmetics Act, 1972, is further amended—

Further amendment of Act No. 14, 1972.

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(Prohibition of certain representations in advertisements.)

(1) In this Part, “representation”, in relation to any therapeutic goods or article of food, means a representation, whether express or implied, with respect to the use or consumption of those goods or that article for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting any micro-organisms that may be harmful to man or animal.

(2) A person shall not publish an advertisement in respect of—

- (a) any therapeutic goods or article of food if it contains a representation prescribed as a prohibited representation;
- (b) any prescribed therapeutic goods or prescribed article of food if it contains a representation prescribed as a prohibited representation;
- (c) any prescribed therapeutic goods or prescribed article of food unless it contains a representation prescribed as a required representation; or

(d)



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*Therapeutic Goods and Cosmetics (Amendment).*

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- (d) any prescribed therapeutic goods or prescribed article of food if it contains a representation other than a representation prescribed as a required representation under paragraph (c).
- (3) A person shall not publish an advertisement in respect of any prescribed therapeutic goods.
- (4) A person shall not publish an advertisement that contains any representation if the advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies any representation prescribed for the purposes of subsection (2).
- (5) The regulations may prescribe in relation to any prescribed therapeutic goods or prescribed article of food or all therapeutic goods or articles of food a representation for the purposes of subsection (2) (a), (b) and (c) notwithstanding that the regulations prescribe a representation in relation to those therapeutic goods or that article or those articles of food for the purposes of all other or another of those paragraphs.
- (b) by omitting from section 26 (6) the words "one or two of this section" and by inserting instead the matter "(2) or (3)".

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 22nd October, 1974.*