



Agricultural and Veterinary Chemicals Legislation Amendment Act 2003

No. 13, 2003

**An Act to amend legislation relating to agricultural
and veterinary chemicals, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
4	Saving of regulations	3

Schedule 1—Amendment of the Agricultural and Veterinary Chemicals Code Act 1994	4
--	----------

Schedule 2—Amendment of the Agricultural and Veterinary Chemicals (Administration) Act 1992	83
--	-----------

Schedule 3—Amendment of the Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994	88
--	-----------



Agricultural and Veterinary Chemicals Legislation Amendment Act 2003

No. 13, 2003

An Act to amend legislation relating to agricultural and veterinary chemicals, and for related purposes

[Assented to 8 April 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Agricultural and Veterinary
Chemicals Legislation Amendment Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	8 April 2003
2. Section 4	A single day to be fixed by Proclamation, subject to subsection (3)	8 October 2003
3. Schedules 1, 2 and 3	At the same time as the provision covered by item 2 of this table	8 October 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If the provision covered by item 2 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Saving of regulations

- (1) This section applies to regulations made for the purposes of a provision of the Agvet Code if:
 - (a) the regulations were in force immediately before the commencement of this section; and
 - (b) the provision is repealed by this Act and a new provision substituted for it.
- (2) The regulations have effect, after the commencement of this section, as if they had been made under the substituted provision.

Schedule 1—Amendment of the Agricultural and Veterinary Chemicals Code Act 1994

1 After section 8

Insert:

9 Certain matter not to form part of this Act

Despite subsection 13(2) of the *Acts Interpretation Act 1901*, the following provisions that are included in the Schedule do not form part of this Act:

- (a) the Table of contents that appears at the beginning of the Schedule;
- (b) the list of terms defined by section 3 of the Schedule that appears immediately after the Table of contents.

2 The Schedule (section 3 of the Agvet Code, definition of *approved person*)

Repeal the definition, substitute:

approved person means:

- (a) in relation to the making of an application or request, or the giving of a notice, consent, information, report, sample or any other thing, by a person:
 - (i) if that person is an individual residing, or a body corporate incorporated, in Australia—that person; or
 - (ii) in any case—an individual residing in Australia who, or a body corporate incorporated in Australia which, that person has notified the NRA in writing is authorised to make the application or request or to give the notice, consent, information, report, sample or other thing on that person's behalf; or
- (b) in relation to the giving of a notice by the NRA that affects a person who is the interested person in relation to an approved active constituent for a chemical product, a registered

chemical product, a registered listed chemical product or an approved label for containers for a chemical product or is the holder of a permit or a licence—an individual residing in Australia who, or a body corporate incorporated in Australia which, that person has notified the NRA in writing is authorised by that person to receive the notice on that person's behalf.

3 The Schedule (section 3 of the Agvet Code)

Insert:

continued use of an active constituent for a proposed or existing chemical product, or of a chemical product, includes any dealing with the constituent or product.

4 The Schedule (section 3 of the Agvet Code, definition of *deal with*)

After “includes”, insert “supply or otherwise”.

5 The Schedule (section 3 of the Agvet Code, definition of *eligible law*)

Omit “the definition of *permit* in section 109”, substitute “this Code”.

6 The Schedule (section 3 of the Agvet Code)

Insert:

established standard for a listable chemical product means a standard established for the product under Division 3 of Part 2A.

7 The Schedule (section 3 of the Agvet Code)

Insert:

instructions for use of an active constituent for a proposed or existing chemical product, or of a chemical product, includes instructions for any dealing with the constituent or product.

8 The Schedule (section 3 of the Agvet Code, definition of *interested person*)

Repeal the definition, substitute:

interested person, in relation to an approved active constituent for a chemical product, a registered chemical product, a registered listed chemical product or an approved label for containers for a chemical product, means:

- (a) subject to paragraphs (b), (c) and (d), the person (the ***original applicant***) who applied for the approval, registration or listed registration or, in the case of a chemical product whose registration or listed registration has been renewed, applied for the renewal, or the last renewal, as the case may be; or
- (b) subject to paragraphs (c) and (d), if:
 - (i) the original applicant has entered into a contract with another person in relation to the constituent or product under which, or as a result of which, the other person will or may apply to the NRA to have the other person's name entered in the relevant particulars in relation to the constituent or product, or to have a label approved in relation to containers for the product; and
 - (ii) the other person's name is entered in those relevant particulars, or such a label is approved, on the application of the other person;the other person; or
- (c) if the person who, apart from this paragraph, would be the interested person because of paragraph (a) or (b) was an individual who has died or is an individual whose affairs are being lawfully administered by another person—the legal personal representative of the individual or the person administering the individual's affairs, as the case may be; or
- (d) if the person who, apart from this paragraph, would be the interested person because of paragraph (a) or (b) was a body corporate—a successor in law of the body corporate.

9 The Schedule (section 3 of the Agvet Code)

Insert:

listable chemical product means a chemical product that is, or is included in a class of chemical products that is, included in the Listing Schedule.

10 The Schedule (section 3 of the Agvet Code)

Insert:

listed registration means listed registration of a listable chemical product that is in force under Part 2A of the Agvet Code of this jurisdiction.

11 The Schedule (section 3 of the Agvet Code)

Insert:

Listing Schedule means the schedule contained in the regulations under section 56C.

12 The Schedule (section 3 of the Agvet Code, definition of *penalty unit*)

Repeal the definition, substitute:

penalty unit has the same meaning as in section 4AA of the *Crimes Act 1914*.

13 The Schedule (section 3 of the Agvet Code)

Insert:

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 plant or animal; or
 - (d) any soil, water or other environmental component; or
 - (e) any other agricultural commodity; or
 - (f) any animal feed; or
 - (g) any other prescribed substance or thing; or
 - (h) any substance or thing that is capable of being made into anything referred to in any of the above paragraphs;
- but does not include a therapeutic good within the meaning of the *Therapeutic Goods Act 1989*.

14 The Schedule (section 3 of the Agvet Code)

Insert:

registered listed chemical product means a listable chemical product that has been granted listed registration.

15 The Schedule (section 3 of the Agvet Code, definition of *relevant particulars*)

Repeal the definition, substitute:

relevant particulars means:

- (a) in relation to the approval of an active constituent for a proposed or existing chemical product—the distinguishing number, instructions for use and other particulars that are required by paragraph 19(2)(a) to be entered in the Record of Approved Active Constituents; and
- (b) in relation to the registration of a chemical product—the distinguishing number and other particulars that are required by paragraph 20(2)(a) to be entered in the Register of Chemical Products; and
- (c) in relation to the listed registration of a chemical product—the notation, distinguishing number and other particulars that are required by paragraph 56M(2)(a) to be entered in the Register of Chemical Products; and
- (d) in relation to the approval of a label for containers for a chemical product—the distinguishing number, and the size and type of, and particulars contained on, the label kept in the relevant NRA file as required by paragraph 21(2)(d);

and includes, in relation to the approval of an active constituent or of a label or in relation to the registration or listed registration of a chemical product, particulars of a variation of relevant particulars that is made under paragraph 29(1)(h), subsection 34(5), section 34A, paragraph 56U(1)(e) or subsection 56Z(5).

16 The Schedule (section 3 of the Agvet Code)

Insert:

reserved means reserved by being a chemical product that is, or is included in a class of chemical products that is, specified in the Reserved Schedule.

17 The Schedule (section 3 of the Agvet Code)

Insert:

reserved chemical product means a chemical product that is, or is included in a class of chemical products that is, specified in the Reserved Schedule.

18 The Schedule (section 3 of the Agvet Code)

Insert:

Reserved Schedule means the schedule contained in the regulations under section 56ZU.

19 The Schedule (section 3 of the Agvet Code, definition of *residues*)

Repeal the definition, substitute:

residues, in relation to an active constituent for a proposed or existing chemical product, or in relation to a chemical product, means:

- (a) subject to paragraph (b), any remains, persisting in or on a protected commodity, of:
 - (i) the active constituent, or the active constituents in the chemical product; or
 - (ii) any derivatives, metabolites, or degradation products, of the active constituent or of the active constituents in the chemical product; or
- (b) if the NRA has published a notice in the *Gazette* for the purposes of this paragraph that applies to the active constituent or chemical product—only such of the remains referred to in paragraph (a) as are specified in the notice to be remains that constitute residues of the active constituent or of the chemical product for the purposes of this Code.

20 The Schedule (at the end of section 6 of the Agvet Code)

Add:

- (2) The NRA may at any time vary or revoke a determination made, approval or exemption given, or other thing done, by it under subsection (1).

21 The Schedule (subsection 9(2) of the Agvet Code)

Repeal the subsection, substitute:

- (2) Division 2 deals with the giving of approvals and the granting of registrations.

22 The Schedule (heading to Division 2 of the Agvet Code)

Repeal the heading, substitute:

Division 2—Granting or refusing approvals and registrations

23 The Schedule (after paragraph 11(1)(b) of the Agvet Code)

Insert:

- (ba) if the application is covered by paragraph 10(a) or (b)—
contain proposed instructions for the use of or other dealing
with the constituent or product; and

24 The Schedule (at the end of subsection 11(1) of the Agvet Code)

Add:

; and (e) be lodged with the NRA.

25 The Schedule (subsections 11(2) and (3) of the Agvet Code)

Omit “the applicant”, substitute “an approved person”.

26 The Schedule (section 12 of the Agvet Code)

Repeal the section, substitute:

11A Preliminary assessment of application

- (1) The NRA must, within one month after an application is lodged under section 11, make a preliminary assessment as to whether the application complies with subsection 11(1).
- (2) If it appears to the NRA from the preliminary assessment that the application complies with subsection 11(1), the NRA must, as soon as practicable, give notice in writing to an approved person stating that the application has passed a preliminary assessment and will be given a full evaluation in due course.

- (3) If it appears to the NRA from the preliminary assessment that the application does not comply with subsection 11(1) but the defects in the application can reasonably be rectified:
 - (a) the NRA must, as soon as practicable, give to an approved person notice in writing:
 - (i) stating that the application does not comply with subsection 11(1); and
 - (ii) giving particulars of the defects in the application; and
 - (iii) requiring the defects to be rectified within one month or within such further period as the NRA allows; and
 - (b) if the defects are not rectified to the satisfaction of the NRA within the period referred to in subparagraph (a)(iii), the NRA may:
 - (i) defer consideration of the application; or
 - (ii) treat the application as having been withdrawn;and, if it does either of those things, it must immediately give to the approved person notice in writing of its decision.
 - (4) If it appears to the NRA from the preliminary assessment that the application does not comply with subsection 11(1) and that the defects in the application cannot reasonably be rectified, it may reject the application on the ground that the application has not been properly made and, if it does so, any fee paid in respect of the application (other than a component of the fee identified by the regulations as being in respect of the preliminary assessment) is repayable.
 - (5) If the NRA rejects the application under subsection (4):
 - (a) it must, as soon as practicable, give notice in writing to an approved person:
 - (i) stating that the application has been rejected on the ground that it has not been properly made; and
 - (ii) setting out the defects in the application; and
 - (iii) giving brief particulars of the reasons why it considers that the application cannot reasonably be rectified; and
 - (iv) telling the approved person that any fee paid in respect of the application (other than a component of the fee identified by the regulations as being in respect of the preliminary assessment) is repayable; and
-

- (b) it may return the application with the notice.
- (6) Section 168 provides for additional matters to be included in a notice under paragraph (3)(b) or (5)(a).
- (7) An application that is rejected by the NRA on the ground that it was not properly made is taken for the purposes of this Code other than this section, and for the purposes of Part 7B of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*, not to have been validly made.

12 NRA to publish notice before deciding whether to approve new active constituent

- (1) Before deciding whether to approve an active constituent not previously contained in a chemical product registered in this or another jurisdiction under the Agvet Code, or a corresponding previous law, of the jurisdiction concerned, the NRA must cause to be published in the *Gazette*, and in any other manner that it thinks appropriate, a notice:
 - (a) stating that it has to decide whether to approve the constituent and setting out the following:
 - (i) the name of the constituent;
 - (ii) particulars of the constituent other than confidential commercial information;
 - (iii) a summary of the NRA's evaluation of the constituent with regard to the matters mentioned in paragraph 14(3)(e);
 - (iv) any other matters that the NRA thinks appropriate; and
 - (b) inviting any person who wishes to do so to make, within a period stated in the notice that ends not earlier than 28 days after the day on which the notice is published in the *Gazette*, a written submission to the NRA as to whether the constituent should be approved and stating the grounds on which the submission is based, which must be grounds that relate to matters that the NRA is required to take into account in deciding whether to approve the constituent.
- (2) The NRA must take into account any submissions made in accordance with an invitation contained in the notice published under subsection (1).

27 The Schedule (section 13 of the Agvet Code)

Repeal the section, substitute:

13 NRA to publish notice before deciding whether to register chemical product containing new active constituent

- (1) Before deciding whether to register a chemical product containing an active constituent not previously contained in a chemical product registered in this or another jurisdiction under the Agvet Code, or a corresponding previous law, of the jurisdiction concerned, the NRA must cause to be published in the *Gazette*, and in any other manner that it thinks appropriate, a notice:
 - (a) stating that it has to decide whether to register the product and setting out the following:
 - (i) the name that the applicant for registration intends to use to describe the product;
 - (ii) particulars of the product and its active constituents other than confidential commercial information;
 - (iii) a summary of the NRA's evaluation of the product with regard to the matters mentioned in paragraphs 14(3)(e) and (f);
 - (iv) any other matters that the NRA thinks appropriate; and
 - (b) inviting any person who wishes to do so to make, within a period stated in the notice that ends not earlier than 28 days after the day on which the notice is published in the *Gazette*, a written submission to the NRA as to whether the product should be registered and stating the grounds on which the submission is based, which must be grounds that relate to matters that the NRA is required to take into account in deciding whether to register the product.
- (2) The NRA must take into account any submissions made in accordance with an invitation contained in the notice published under subsection (1).

28 The Schedule (paragraphs 14(3)(e) and (f) of the Agvet Code)

Omit “recommendations for its use that the NRA proposes to approve”, substitute “instructions for its use that the NRA has approved or approves”.

29 The Schedule (subsections 14(4) and (5) of the Agvet Code)

Omit “recommendations for its use that the NRA proposes to approve”, substitute “instructions for its use that the NRA has approved or approves”.

30 The Schedule (at the end of paragraph 14(5)(f) of the Agvet Code)

Add “or approves”.

31 The Schedule (subsection 14(6) of the Agvet Code)

Omit “recommendations for its use that the NRA proposes to approve”, substitute “instructions for its use that the NRA has approved or approves”.

32 The Schedule (subsection 14(7) of the Agvet Code)

Omit “section 15”, substitute “sections 14A and 15”.

33 The Schedule (after section 14 of the Agvet Code)

Insert:

14A Approval of active constituents for which information is not readily available

Despite section 14, if:

- (a) either of the following applies in relation to an active constituent for a proposed or existing chemical product:
 - (i) the NRA considers that the information referred to in paragraph 11(1)(b) is not readily available in respect of the constituent;
 - (ii) the constituent is, or is part of, a product in respect of which a standard is specified in the European Pharmacopoeia, the British Pharmacopoeia

(Veterinary), the United States Pharmacopoeia or any other publication considered by the NRA to be appropriate; and

- (b) the NRA is satisfied of all the matters mentioned in paragraph 14(3)(e) having regard to matters (***relevant matters***) mentioned in subsection 14(4) where information about the relevant matters is readily available;

the NRA may decide to approve the constituent, whether or not an application has been made for the approval.

34 The Schedule (subsection 17(3) of the Agvet Code)

Repeal the subsection, substitute:

- (3) The Record is to be kept in 3 parts as follows:
- (a) one part is to consist of confidential commercial information relating to constituents approved under section 14;
 - (b) one part is to consist of other information relating to constituents approved under section 14;
 - (c) one part is to consist of information relating to constituents approved under section 14A.

35 The Schedule (section 19 of the Agvet Code)

Repeal the section, substitute:

19 How approval of active constituent is effected

- (1) If the NRA decides to approve an active constituent for a proposed or existing chemical product, it must give a distinguishing number to, and approve, the constituent in accordance with subsection (2), either unconditionally or subject to conditions as mentioned in section 23.
- (2) Approval of an active constituent takes place by entering in the Record of Approved Active Constituents:
- (a) the relevant particulars, which are the distinguishing number, the instructions for the use of the constituent and any other particulars that are prescribed by the regulations; and
 - (b) any conditions of the approval.

36 The Schedule (section 20 of the Agvet Code)

Repeal the section, substitute:

20 How registration of chemical product is effected

- (1) If the NRA decides to register a chemical product, it must give a distinguishing number to, and register, the product in accordance with subsection (2), either unconditionally or subject to conditions as mentioned in section 23.
- (2) Registration of a chemical product takes place by entering in the Register of Chemical Products:
 - (a) the relevant particulars, which are the distinguishing number and any other particulars that are prescribed by the regulations; and
 - (b) any conditions of the registration.

37 The Schedule (section 21 of the Agvet Code)

Repeal the section, substitute:

- (1) If the NRA decides to approve a label for containers for a chemical product, the NRA must give a distinguishing number to, and approve, the label in accordance with subsection (2), either unconditionally or subject to conditions as mentioned in section 23.
- (2) Approval of a label takes place by:
 - (a) determining (if appropriate) the size and type of the label; and
 - (b) giving a distinguishing number to the label; and
 - (c) determining the particulars that are to be contained on the label (which must include the distinguishing number, the instructions for the use of the product and any particulars that are prescribed by the regulations); and
 - (d) placing a label of the determined size and type, and containing the particulars mentioned in paragraph (c), in the relevant NRA file; and
 - (e) recording in that file any conditions of the approval.

38 The Schedule (section 22 of the Agvet Code)

Omit “the relevant distinguishing number and”.

39 The Schedule (at the end of section 22 of the Agvet Code)

Add:

(2) If:

(a) any of the relevant particulars of:

(i) an approval of an active constituent for a proposed or existing chemical product; or

(ii) a registration of a chemical product; or

(iii) an approval of a label for containers for a chemical product; or

(b) any of the conditions of such an approval or registration; are varied pursuant to an application or request made under this Part, then, the date of the approval of the constituent, of the registration of the product, or of the approval of the label, as varied, or as subject to the varied conditions, is the date on which particulars of the variations are entered in the Record of Approved Active Constituents or in the Register of Chemical Products or are recorded in the relevant NRA file, as the case may be.

40 The Schedule (paragraphs 24(1)(a) and 25(1)(a) of the Agvet Code)

Omit “the applicant”, substitute “an approved person”.

41 The Schedule (paragraph 26(1)(b) of the Agvet Code)

Omit “a particular”, substitute “a relevant particular or a condition”.

42 The Schedule (paragraph 26(1)(b) of the Agvet Code)

Omit “, in the Register of Chemical Products or”, substitute “or in the Register of Chemical Products or recorded”.

43 The Schedule (subsection 26(1) of the Agvet Code)

Omit “the incorrect particular and informing the NRA of the correct particular”, substitute “the incorrect particular or condition and informing the NRA of the correct particular or condition”.

44 The Schedule (subsection 26(2) of the Agvet Code)

Repeal the subsection, substitute:

- (2) If the NRA is satisfied that the particular or condition entered in the Record or Register, or recorded in the NRA file, in relation to the constituent, product or label is not correct, the NRA must change the entry or record accordingly.

45 The Schedule (heading to Division 3 of Part 2 of the Agvet Code)

Repeal the heading, substitute:

Division 3—Application for variation of relevant particulars, or of conditions, of approval or registration

46 The Schedule (after paragraph 28(1)(b) of the Agvet Code)

Insert:

- (ba) if the application relates to a label—be accompanied by a proposed new label; and

47 The Schedule (at the end of subsection 28(1) of the Agvet Code)

Add:

- ; and (e) be lodged with the NRA.

48 The Schedule (subsections 28(2) and (3) of the Agvet Code)

Omit “the applicant”, substitute “an approved person”.

49 The Schedule (paragraph 29(1)(a) of the Agvet Code)

Repeal the paragraph, substitute:

- (a) that subsection 28(1) has been complied with;

50 The Schedule (paragraph 29(1)(e) of the Agvet Code)

After “the application, the”, insert “continued”.

51 The Schedule (paragraph 29(1)(e) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

52 The Schedule (paragraph 29(1)(f) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

53 The Schedule (paragraph 29(1)(h) of the Agvet Code)

Repeal the paragraph, substitute:

(h) grant the application and vary those particulars or conditions:

- (i) if the application was for a variation of the relevant particulars or the conditions of the approval of a constituent or the registration of a product—by entering in the relevant Record or Register particulars of the variation and the date on which the entry is made; or
- (ii) if the application was for a variation of the relevant particulars of the approval of a label—by placing in the relevant NRA file a new label containing the relevant particulars as varied and recording in the file the date on which the new label is placed in the file; or
- (iii) if the application was for a variation of the conditions of approval of a label—by recording in the file the conditions as varied; or

54 The Schedule (paragraph 29(1)(i) of the Agvet Code)

Omit “the interested person”, substitute “an approved person”.

55 The Schedule (paragraph 29(4)(a) of the Agvet Code)

Omit “the applicant”, substitute “an approved person”.

56 The Schedule (subsection 31(2) of the Agvet Code)

Repeal the subsection.

57 The Schedule (subsection 32(1) of the Agvet Code)

Omit “or the registration of a chemical product”, substitute “, the registration of a chemical product or the approval of a label for containers for a chemical product”.

58 The Schedule (paragraph 32(1)(a) of the Agvet Code)

Omit “constituent or product”, substitute “approval of the constituent or label or of the registration of the product”.

59 The Schedule (after paragraph 32(1)(a) of the Agvet Code)

Insert:

- (aa) setting out the matters to be dealt with in the reconsideration and stating the requirement or requirements prescribed by the regulations for continued approval or registration that form the basis for the reconsideration; and

60 The Schedule (paragraph 32(1)(b) of the Agvet Code)

Omit “should be continued”, substitute “complies with the prescribed requirements for continued approval or registration”.

61 The Schedule (subsection 32(2) of the Agvet Code)

Omit “the constituent or product”, substitute “the constituent, product or label or an approved person”.

62 The Schedule (subparagraphs 32(2)(b)(i) and (ii) of the Agvet Code)

Omit “the person”, substitute “either the interested person or the approved person”.

63 The Schedule (subsection 32(4) of the Agvet Code)

Repeal the subsection, substitute:

- (4) Subsection (3) does not apply if, before the end of the period stated in the notice, the interested person or an approved person requests the NRA under section 42 to cancel the approval of the constituent, the registration of the product or the approval of the label, as the case may be, and the NRA complies with the request.

64 The Schedule (subsection 33(1) of the Agvet Code)

Omit “, require the person”, substitute “, or given to an approved person, require the interested person”.

65 The Schedule (subsection 33(3) of the Agvet Code)

Omit “the person”, substitute “the interested person or an approved person”.

66 The Schedule (paragraph 34(1)(a) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

67 The Schedule (paragraph 34(1)(b) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

68 The Schedule (paragraph 34(1)(c) of the Agvet Code)

Repeal the paragraph, substitute:

- (c) if the reconsideration relates to an approval of a label:
 - (i) the label would comply with any prescribed requirements under paragraph 14(3)(d); and
 - (ii) the label would contain adequate instructions relating to the matters referred to in paragraph 14(3)(g); and

69 The Schedule (paragraph 34(1)(e) of the Agvet Code)

After “interested person”, insert “or to an approved person”.

70 The Schedule (subsection 34(4) of the Agvet Code)

After “interested person”, insert “or to an approved person”.

71 The Schedule (subsection 34(5) of the Agvet Code)

Repeal the subsection, substitute:

- (5) If the NRA is satisfied that the relevant particulars or the conditions of the approval or registration can be varied in such a way that the requirements prescribed by the regulations for continued approval or registration will be complied with:
 - (a) the NRA must vary the relevant particulars or conditions:
 - (i) if the variation relates to the relevant particulars or the conditions of the approval of a constituent or the registration of a product—by entering in the relevant Record or Register particulars of the variation and the date on which the entry is made; or
 - (ii) if the variation relates to the relevant particulars of the approval of a label—by placing in the relevant NRA file a new label containing the relevant particulars as varied and recording in that file the date on which the new label is placed in the file; or
 - (iii) if the variation relates to the conditions of the approval of a label—by recording in the relevant NRA file particulars of the variation and the date on which the record is made; and

(b) the NRA must:

- (i) state in the notice referred to in subsection (4) that, although it is not satisfied as mentioned in subsection (1), it is satisfied that the relevant particulars or the conditions can be so varied and has varied them accordingly; and
- (ii) set out in the notice details of the variation.

(5A) The NRA may only vary the relevant particulars of the approval of a label if the interested person gives to the NRA a new label containing the particulars as proposed to be varied.

Note: Subsection 40(2) provides for the suspension or cancellation of the approval of the label if the interested person does not give the NRA a new label in accordance with a request by the NRA.

(5B) If a variation of any relevant particulars or conditions under subsection (5) would affect any instructions for the use of an active constituent for an existing or proposed chemical product or for the use of a chemical product or any instructions on a label for containers for a chemical product, the NRA must not make the variation until it has consulted each co-ordinator designated for a jurisdiction and taken into account any recommendations made by the co-ordinators.

72 The Schedule (at the end of Division 4 of Part 2 of the Agvet Code)

Add:

34A Reconsideration of approval of label without notice in certain circumstances

- (1) The NRA may, at any time, reconsider the approval of a label for containers for a chemical product for the purpose of deciding whether the particulars on the label contain adequate instructions relating to matters prescribed by the regulations for the purposes of this section.
- (2) The matters that may be prescribed must be matters that are also prescribed by the regulations in relation to such a label for the purposes of paragraph 14(3)(d) or subparagraph 14(3)(g)(x).

- (3) If the NRA considers that the particulars do not contain adequate instructions in relation to a matter, the NRA must:
- (a) vary the relevant particulars by placing in the relevant NRA file a new label containing the relevant particulars as varied and recording in that file the date on which the new label is placed in the file; and
 - (b) give written notice to the interested person in relation to the product, or to an approved person, setting out particulars of the variation.
- (4) The NRA may only vary the relevant particulars of the approval of a label if the interested person gives to the NRA a new label containing the particulars as proposed to be varied.
- Note: Subsection 41(4) provides for the suspension or cancellation of the approval of the label if the interested person does not give the NRA a new label in accordance with a request by the NRA.
- (5) Sections 30 to 34 do not apply to a reconsideration under this section.

73 The Schedule (paragraph 37(1)(a) of the Agvet Code)

Repeal the paragraph, substitute:

- (a) at the end of the period stated in a notice given to a person under subsection 32(2), the NRA is satisfied that the interested person or an approved person is aware of information relevant to the reconsideration but the information has not been given to the NRA; or

74 The Schedule (paragraph 37(1)(b) of the Agvet Code)

Omit “the person”, substitute “the interested person”.

75 The Schedule (subsection 38(1) of the Agvet Code)

Before “fails”, insert “or an approved person”.

76 The Schedule (subsection 38(1) of the Agvet Code)

Before “161”, insert “160A or”.

77 The Schedule (section 40 of the Agvet Code)

Before “conditions”, insert “relevant particulars or the”.

78 The Schedule (at the end of section 40 of the Agvet Code)

Add:

- (2) If, in the course of reconsidering the approval of a label for containers for a chemical product:
 - (a) the NRA is satisfied that the relevant particulars of the approval of the label can be varied in such a way that the requirements prescribed by the regulations for continued approval will be complied with (see subsection 34(5)); and
 - (b) the interested person does not give the NRA a label containing the particulars as proposed to be varied in accordance with a request by the NRA;the NRA may suspend or cancel the approval.

79 The Schedule (subsection 41(1) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

80 The Schedule (subsection 41(2) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

81 The Schedule (subsection 41(3) of the Agvet Code)

Omit “a direction”, substitute “any of the instructions”.

82 The Schedule (at the end of section 41 of the Agvet Code)

Add:

- (4) If:
 - (a) the NRA considers that the particulars on a label for containers for a chemical product do not contain adequate instructions relating to matters prescribed by the regulations for the purposes of subsection 34A(1); and
 - (b) the interested person does not give the NRA a label containing the particulars as proposed to be varied in accordance with a request by the NRA;the NRA may suspend or cancel the approval of the label.

83 The Schedule (paragraph 42(1)(a) of the Agvet Code)

After “registration”, insert “or an approved person”.

84 The Schedule (subsections 45(2), (3), (4) and (5) of the Agvet Code)

Repeal the subsections, substitute:

45A Notice of suspension or cancellation

- (1) Subject to subsection (3), if the NRA suspends or cancels an approval or registration, it must, as soon as practicable, give written notice of the suspension or cancellation to the interested person, or an approved person, and to any other person to whom, in its opinion, such a notice should be given.
- (2) A notice given to a person under subsection (1):
 - (a) must tell the person of the suspension or cancellation; and
 - (b) in respect of a suspension or cancellation of the approval of an active constituent for a proposed or existing chemical product or the registration of a chemical product—must contain the following matters:
 - (i) brief reasons for the suspension or cancellation; and
 - (ii) instructions for possessing, having custody of, using or otherwise dealing with the constituent or product; and
 - (iii) a warning of the consequences if the person fails to comply with the instructions, including a statement of any period after which it will be an offence against this Code to possess or have custody of the constituent or product with the intention of supply, or to supply the constituent or product; and
 - (iv) any other warnings or explanations in relation to the constituent or product that the NRA thinks desirable; excluding any matters that the NRA thinks it unnecessary for the notice to contain.
- (3) Subsection (1) does not require notice of the cancellation under section 42 of an approval or registration to be given to the person who requested the cancellation.
- (4) Section 168 provides for additional matters to be included in a notice given under subsection (1).

- (5) After a notice of the suspension or cancellation of the approval or registration is given to a person under this section, that person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with the constituent or product, or the product containing the label, as the case may be, in accordance with the instructions contained in the notice until:
- (a) 2 years after the day of the suspension or cancellation; or
 - (b) the NRA revokes the suspension or cancellation; or
 - (c) the NRA, by notice published in the *Gazette*, declares that this subsection ceases to apply in respect of the constituent or product;

whichever first occurs.

- (6) Subject to subsection (8), if:
- (a) a notice of the suspension or cancellation of the approval of an active constituent for a proposed or existing chemical product or the registration of a chemical product is given to a person under this section; and
 - (b) the person has possession or custody of the constituent or product with the intention of supply;
- the person may only possess, have custody of or otherwise deal with the constituent or product if the possession, custody or dealing is in accordance with the instructions contained in the notice.

Penalty: 300 penalty units.

- (7) In paragraph (6)(a), strict liability applies to the physical element of circumstance, that the notice is a notice given to the person under this section.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (8) Subsection (6) does not apply to a possession, custody or dealing with a constituent or product if the constituent was an approved active constituent or the product was a registered chemical product or a reserved chemical product when the possession, custody or dealing took place because of its having been approved or registered or having become reserved after its previous approval or registration had been cancelled.

85 The Schedule (subsection 46(2) of the Agvet Code)

After “interested person”, insert “or an approved person”.

86 The Schedule (after subsection 47(4) of the Agvet Code)

Insert:

(4A) If:

- (a) the registration of a chemical product ends; but
- (b) a person is taken under subsection 54(2) to have been issued with a permit to possess, have custody of, use or otherwise deal with the product;

the approval of a label for containers for the product continues in force until the permit ceases to have effect.

87 The Schedule (at the end of subsection 49(1) of the Agvet Code)

Add:

; and (e) be lodged with the NRA.

88 The Schedule (subsections 49(2), (4) and (6) of the Agvet Code)

Omit “the applicant”, substitute “an approved person”.

89 The Schedule (subsection 53(1) of the Agvet Code)

Before “particulars”, insert “of the relevant”.

90 The Schedule (subsection 53(1) of the Agvet Code)

Before “conditions”, insert “of the”.

91 The Schedule (paragraph 53(2)(a) of the Agvet Code)

Before “particulars”, insert “relevant”.

92 The Schedule (after paragraph 54(b) of the Agvet Code)

Insert:

- (ba) containing instructions for possessing, having custody of, using or otherwise dealing with the product; and
- (bb) containing a warning of the consequences if a person fails to comply with the instructions, including a statement of any

- period after which it will be an offence against this Code to possess or have custody of the product with the intention of supply, or to supply the product; and
- (bc) containing any other warnings or explanations in relation to the product that the NRA thinks desirable; and

93 The Schedule (at the end of section 54 of the Agvet Code)

Add:

- (2) If, after the publication under this section of a notice stating that the registration of a chemical product has ended, a person possesses, has custody of, uses or otherwise deals with the product in accordance with the instructions contained in the notice, the person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with the product in accordance with those instructions until:
- (a) 2 years after the day on which the registration ended; or
- (b) the NRA, by notice published in the *Gazette*, declares that this subsection ceases to apply in respect of the product; whichever first occurs.
- (3) Subject to subsection (5), if:
- (a) a notice stating that the registration of a chemical product has ended has been published under this section; and
- (b) a person has possession or custody of the product for the purpose of supply;
- the person may only possess, have custody of or otherwise deal with the product if the possession, custody or dealing is in accordance with the instructions contained in the notice.

Penalty: 300 penalty units.

- (4) In paragraph (3)(a), strict liability applies to the physical element of circumstance, that the publishing of the notice was under this section.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) Subsection (3) does not apply to a possession, custody or dealing with a product if the product was a registered chemical product or a reserved chemical product when the possession, custody or dealing

took place because of its having been registered or having become reserved after the previous registration had ended.

- (6) If a notice stating that the registration of a chemical product has ended is published under this section, the NRA must:
- (a) as soon as practicable cause a copy of the notice to be given to the interested person in relation to the product or to an approved person; and
 - (b) cause a copy of the notice to be given to any other person who, in the opinion of the NRA, should be given notice of the ending of the registration and of the instructions, warnings and explanations contained in the notice.

94 The Schedule (paragraph 55(2)(c) of the Agvet Code)

Omit “a direction”, substitute “an instruction”.

95 The Schedule (paragraph 55(2)(e) of the Agvet Code)

Omit “using or otherwise dealing with”, substitute “possessing, having custody of, using or otherwise dealing with”.

96 The Schedule (at the end of paragraph 55(2)(f) of the Agvet Code)

Add “with the intention of supply, or to supply the constituent or product”.

97 The Schedule (subsection 55(3) of the Agvet Code)

Repeal the subsection, substitute:

- (3) If, after the publication under this section of a notice of the suspension or cancellation of an approval or registration, a person possesses, has custody of, uses or otherwise deals with the constituent or product, or a product containing a label, as the case may be, in accordance with the instructions contained in the notice, the person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with the constituent or product, or a product containing the label, in accordance with those instructions until:
- (a) 2 years after the day of the suspension or cancellation; or
 - (b) the NRA revokes the suspension or cancellation; or

(c) the NRA, by notice published in the *Gazette*, declares that this subsection ceases to apply in respect of the constituent or product, as the case may be;
whichever first occurs.

98 The Schedule (subsection 55(4) of the Agvet Code)

After “the person must not”, insert “possess, have custody of or otherwise”.

99 The Schedule (subsection 55(5) of the Agvet Code)

Omit “a dealing”, substitute “a possession, custody or dealing”.

100 The Schedule (subsection 55(5) of the Agvet Code)

Omit “when the dealing”, insert “when the possession, custody or dealing”.

101 The Schedule (subsection 55(6) of the Agvet Code)

After “when the person”, insert “possessed, had custody of or”.

102 The Schedule (subsection 55(6) of the Agvet Code)

Omit “the dealing”, substitute “the possession, custody or dealing”.

103 The Schedule (paragraph 55(7)(a) of the Agvet Code)

Omit “in relation to an approved label for a container”.

104 The Schedule (at the end of paragraph 55(7)(a) of the Agvet Code)

Add “or an approved person”.

105 The Schedule (at the end of paragraph 55(8)(a) of the Agvet Code)

Add “or an approved person”.

106 The Schedule (after Part 2 of the Agvet Code)

Insert:

Part 2A—Listable chemical products

Division 1—Preliminary

56A Explanation of Part

- (1) This Part contains provisions relating to:
 - (a) the listing of, and the establishment of standards for, certain chemical products; and
 - (b) the listed registration of those chemical products.
- (2) Division 2 provides for the regulations to list certain chemical products that can be granted listed registration.
- (3) Division 3 provides for the establishment of standards for the listable chemical products.
- (4) Division 4 provides how applications for listed registration are to be dealt with.
- (5) Division 5 deals with applications to vary listed registrations or to vary the conditions of any listed registrations.
- (6) Division 6 provides for the NRA to reconsider listed registrations for the purpose of deciding whether they should remain in force.
- (7) Division 7 sets out the circumstances in which the NRA may suspend or cancel listed registrations.
- (8) Division 8 specifies the period for which listed registrations are to continue in force and makes provision for their renewal.
- (9) Division 9 provides for the NRA to publish notices telling the public of actions that it has taken under this Part.

56B Exclusion of restricted chemical products

This Part does not apply to chemical products that are restricted chemical products.

Division 2—Schedule of listable chemical products

56C Regulations may contain schedule of listable chemical products

- (1) The regulations may contain a schedule listing chemical products, or classes of chemical products, that can be granted listed registration under this Part.
- (2) Before the Governor-General makes a regulation listing a chemical product, or a class of chemical products:
 - (a) the listing of the product, or class of products, must have been recommended to the Minister by the NRA; and
 - (b) the NRA must have given to the Minister:
 - (i) written particulars of the product or class of products; and
 - (ii) a draft of the standard that the NRA proposes to submit for approval by the Minister for the product, or for products in the class, if the product or class is granted listed registration; and
 - (iii) a written explanation as to why the NRA is satisfied that use of the product, or use of products in the class, in accordance with instructions contained in the established standard for the product would satisfy the NRA of all the matters mentioned in paragraphs 56E(1)(a) to (e) having regard to matters (***relevant matters***) mentioned in subsection 56E(2) where information about the relevant matters is readily available; and
 - (iv) a written statement identifying the consultations held by, and setting out the advice given to, the NRA in relation to the proposed listing of the products or class of products.
- (3) The Minister may, before the Governor-General makes a regulation listing a chemical product or class of chemical products, require the NRA to cause to be published in the *Gazette*, and to be published in any other manner that the Minister thinks appropriate, a notice:
 - (a) stating that it has recommended the listing of the product or class of products; and

- (b) setting out particulars of the product or of products in the class; and
 - (c) giving the reasons for the recommendation; and
 - (d) inviting any person who wishes to do so to make, within a period stated in the notice that ends not earlier than 28 days after the day on which the notice appears in the *Gazette*, a written submission to the NRA as to whether the recommendation should be confirmed or withdrawn and stating the grounds on which the submission is based, which must be grounds relating to the matters mentioned in paragraphs 56E(1)(a) to (e).
- (4) If the Minister requires the NRA to publish a notice under subsection (3), the NRA must take into account any submissions made in accordance with the invitation contained in the notice and must inform the Minister whether it confirms or withdraws its recommendation.

Division 3—Establishing standards for listable chemical products

56D NRA to prepare standards

- (1) This section applies in respect of each listable chemical product, whether or not the product is the subject of a monograph in the British Pharmacopoeia or the British Pharmacopoeia (Veterinary) or in a similar publication.
- (2) The NRA must prepare in writing a standard for each listable chemical product and must submit the standard to the Minister for his or her approval of the standard. A particular standard may relate to a specified chemical product or specified chemical products or to each chemical product in a specified class of chemical products.
- (3) The standard for a listable chemical product must require that the product be labelled in a manner, or kept in containers that comply with requirements, specified in the standard.

- (4) Without limiting the generality of subsection (3), the NRA may, in a standard, direct that the particulars required by the standard be set out, in a manner specified in the standard, on:
 - (a) chemical products, or a class of chemical products, identified in the standard; or
 - (b) a container containing chemical products, or a class of chemical products, identified in the standard; or
 - (c) a label for containers for chemical products, or a class of chemical products, identified in the standard.
- (5) Without limiting the generality of the preceding provisions of this section, a standard for a listable chemical product:
 - (a) may be specified by reference to any one or more of the following:
 - (i) the composition and form of the constituents of the product;
 - (ii) the physical and chemical properties of the chemical product;
 - (iii) the quantity of the chemical product when contained in specified containers;
 - (iv) procedures to be carried out in the manufacture of the chemical product;
 - (v) a monograph in the British Pharmacopoeia or the British Pharmacopoeia (Veterinary);
 - (vi) a monograph in another publication approved by the NRA for the purposes of this subparagraph;
 - (vii) a monograph referred to in subparagraph (v) or (vi) as modified in a manner specified in the standard;
 - (viii) a standard published by Standards Australia International Limited;
 - (ix) such other matters as the NRA thinks fit; and
 - (b) may require that a matter relating to the standard be determined in accordance with a particular test.
- (6) If the Minister decides not to approve a standard for a listable chemical product:
 - (a) the Minister must inform the NRA of the reasons for the decision; and

- (b) the NRA must prepare in writing such revised standard or standards for the product as may be required until the Minister endorses his or her approval on the instrument containing the standard concerned.
- (7) If the Minister decides to approve a standard for a listable chemical product:
 - (a) the approval is effected by the Minister endorsing his or her approval on an instrument containing the standard; and
 - (b) that standard becomes the standard established for the product from the time of endorsement.
- (8) The NRA must cause a copy of the standard established for a listable chemical product to be published in the *Gazette*.

56E Matters to be taken into account in preparing a standard

- (1) The NRA must not submit a standard for a chemical product to the Minister for approval unless the NRA is satisfied that use of the product in accordance with the standard:
 - (a) would ensure that the product would not be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; and
 - (b) would ensure that the product would not be likely to have an effect that is harmful to human beings; and
 - (c) would ensure that the product would not be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; and
 - (d) would not unduly prejudice trade or commerce between Australia and places outside Australia; and
 - (e) would be effective according to criteria determined by the NRA for the product; and
 - (f) would contain, or would require a label for containers for the product to contain, adequate instructions relating to such of the following as are appropriate:
 - (i) the circumstances in which the product should be used;
 - (ii) how the product should be used;
 - (iii) the times when the product should be used;
 - (iv) the frequency of the use of the product;

- (v) the withholding period after the use of the product;
 - (vi) the re-entry period after the use of the product;
 - (vii) the disposal of the product when it is no longer required;
 - (viii) the disposal of containers of the product;
 - (ix) the safe handling of the product and first aid in the event of an accident caused by the handling of the product;
 - (x) any other matters prescribed by the regulations.
- (2) In satisfying itself for the purposes of subsection (1) whether a standard would ensure that a chemical product would not be an undue hazard as mentioned in paragraph (1)(a), would not be likely to have an effect that is harmful as mentioned in paragraph (1)(b) or would not be likely to have an unintended effect that is harmful as mentioned in paragraph (1)(c), the NRA may have regard to such matters as it thinks relevant but must have regard to the following:
- (a) the toxicity of the product and its residues in relation to relevant organisms and ecosystems, including human beings;
 - (b) the relevant poison classification of the product under the law in force under this jurisdiction;
 - (c) how the product is formulated;
 - (d) the composition and form of the constituents of the product;
 - (e) the acceptable daily intake of each active constituent contained in the product;
 - (f) whether any trials or laboratory experiments have been carried out to determine the residues of the product and, if so, the results of those trials or experiments and whether those results show that the residues of the product will not be greater than limits that the NRA has approved or approves;
 - (g) the stability of the product;
 - (h) the specifications for containers for the product;
 - (i) any other matters prescribed by the regulations.
- (3) In satisfying itself for the purposes of paragraph (1)(e) whether the use of a product in accordance with a standard would be effective, the NRA must have regard to:
- (a) whether any trials or laboratory experiments have been carried out to determine the efficacy of the product and, if so, the results of those trials or experiments; and
-

- (b) any other matters prescribed by the regulations.

56F Variation or revocation of standards

- (1) The NRA may at any time prepare, in writing, a variation of the standard established for a listable chemical product and submit the variation to the Minister for his or her approval.
- (2) If the Minister decides to approve the variation:
 - (a) the approval is effected by the Minister endorsing his or her approval on an instrument varying the standard; and
 - (b) the standard as varied becomes the established standard for the product from the time of endorsement.
- (3) The NRA may, by writing, with the approval of the Minister, revoke the standard established for a listable chemical product.
- (4) The NRA must cause a copy of an instrument of variation or revocation of the standard established for a listable chemical product to be published in the *Gazette*.

56G Date of effect of standards

- (1) A standard established for a listable chemical product takes effect on the day on which a copy of the instrument containing the standard is published in the *Gazette* or on such later day as is specified in that instrument.
- (2) An instrument varying or revoking a standard established for a listable chemical product takes effect on the day on which a copy of the instrument of variation or revocation is published in the *Gazette* or on such later day as is specified in that instrument.

56H Standards to be disallowable

Instruments containing standards, and instruments varying or revoking standards, established for listable chemical products are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Division 4—Application for registration of listable chemical products

56I Application

A person may apply to the NRA for a chemical product:

- (a) that is a listable chemical product; and
 - (b) for which there is an established standard;
- to be granted listed registration.

56J How application is to be made

- (1) The application must:
 - (a) be in writing in or to the effect of the approved form; and
 - (b) contain, or be accompanied by, any information that the NRA requires; and
 - (c) be signed by an approved person; and
 - (d) be accompanied by the prescribed fee (if any); and
 - (e) be lodged with the NRA.
- (2) The NRA may, with the written consent of an approved person, alter the application.
- (3) At any time after an application has been made and before it has been determined, an approved person:
 - (a) may give to the NRA information additional to or varying information previously given to the NRA; and
 - (b) may withdraw the application by giving to the NRA a written notice of the withdrawal signed by an approved person.

56K Grant or refusal of application

- (1) The NRA must grant an application under section 56I if it is satisfied:
 - (a) that the applicant has complied with subsection 56J(1); and
 - (b) that any requirement made under section 157 or 159 has been complied with; and

- (c) that, if necessary, paragraph 8A(2)(a) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* has been complied with; and
 - (d) that the chemical product complies with the relevant established standard and with such other requirements as are prescribed by the regulations; and
 - (e) that the fee (if any) prescribed in respect of the listed registration, and any other amount (including an amount in respect of a tax or penalty) that is payable (whether by the applicant or by any other person) to the NRA in respect of the product under this Code or any other law in force in this or any other jurisdiction, have been paid.
- (2) In satisfying itself for the purposes of subsection (1), the NRA may:
- (a) have regard to the results of its own inquiries; or
 - (b) rely on a written declaration produced to it by an approved person;
- as it thinks appropriate.
- (3) If the NRA is not satisfied as mentioned in subsection (1) it must refuse the application.

56L Multiple listed registrations

The listed registration of a chemical product on the application of a person does not preclude the listed registration of the same chemical product on the application of another person.

56M How listed registration of chemical product is effected

- (1) If the NRA grants an application for a listable chemical product to be granted listed registration, it must give a distinguishing number to the product and grant listed registration in respect of the product in accordance with this section, either unconditionally or subject to conditions as mentioned in section 56O.
- (2) Listed registration of a chemical product takes place by entering in the Register of Chemical Products:
 - (a) the relevant particulars, which are a notation that the product is a listable chemical product, the distinguishing number and

any other particulars that are prescribed by the regulations;
and

(b) any conditions of the listed registration.

56N Date of listed registration

- (1) The date of listed registration of a chemical product is the date on which the relevant particulars are entered in the Register of Chemical Products.
- (2) If:
 - (a) any of the relevant particulars of the listed registration of a chemical product; or
 - (b) any of the conditions of such a listed registration;are varied pursuant to an application or request made under this Part, then, the date of the listed registration of the product, as varied, or as subject to the varied conditions, is the date on which particulars of the variations are entered in the Register of Chemical Products.

56O Conditions of listed registration

- (1) The conditions of the listed registration of a chemical product are the conditions that the NRA thinks appropriate.
- (2) Without limiting subsection (1), listed registration of a chemical product may be granted:
 - (a) on the condition that the product is supplied only in a container of a kind referred to in the condition or prescribed by the regulations; or
 - (b) on the condition that the product is not supplied in a container of a kind referred to in the condition or prescribed by the regulations.
- (3) Listed registration of a chemical product may be granted on the condition that the listed registration remains in force only for a stated period that is not more than one year.
- (4) If the listed registration is subject to a condition referred to in subsection (3) and the conditions of listed registration have not been varied before the end of the period referred to in the

condition, or the end of that period as previously extended under this subsection, so as to remove the condition, the NRA may vary the condition so as to extend the period for a further period of not more than one year or for further periods each of which is not more than one year.

56P Notice of listed registration

- (1) If an application for listed registration of a chemical product is granted, the NRA:
 - (a) must give to an approved person written notice of the listed registration; and
 - (b) may cause to be made publicly available, in an appropriate manner, a material safety data sheet in respect of the product.
- (2) The notice referred to in paragraph (1)(a) must contain the information that is prescribed by the regulations.
- (3) Section 168 provides for additional matters to be included in a notice granting listed registration in respect of a chemical product subject to conditions.

56Q Notice of refusal of application

- (1) If an application for listed registration of a chemical product is refused, the NRA must:
 - (a) give to an approved person written notice of the refusal; and
 - (b) include in the notice brief particulars of the reasons for the refusal.
- (2) Section 168 provides for additional matters to be included in a notice under this section.

56R Notice of incorrectly registered particulars

- (1) If a person:
 - (a) is the interested person in relation to a registered listed chemical product; and
 - (b) has reasonable cause to believe that, because of a change in circumstances, inaccurate recording or any other reason, a relevant particular or a condition entered in the Register of
-

Chemical Products in relation to the product is not correct in a material respect;

the person must, as soon as practicable, give to the NRA a written notice, signed by an approved person, identifying the incorrect particular or condition and informing the NRA of the correct particular or condition.

Penalty: 60 penalty units.

- (2) If the NRA is satisfied that the particular or condition entered in the Register of Chemical Products in relation to the product is not correct, the NRA must change the entry accordingly.

Division 5—Application for variation of relevant particulars, or of conditions, of listed registration

56S Who may apply

The interested person in relation to a registered listed chemical product may apply to the NRA for variation of the relevant particulars, or variation of the conditions, of the listed registration.

56T How application is to be made

- (1) The application must:
- (a) be in writing in or to the effect of the approved form; and
 - (b) contain, or be accompanied by, the information that the NRA requires; and
 - (c) be signed by an approved person; and
 - (d) be accompanied by the prescribed fee (if any); and
 - (e) be lodged with the NRA.
- (2) The NRA may alter the application with the written consent of an approved person.
- (3) At any time after an application has been made and before it has been determined, an approved person may withdraw the application by giving to the NRA written notice of the withdrawal signed by an approved person.

56U Grant or refusal of application

- (1) If the NRA is satisfied of the following:
- (a) that subsection 56T(1) has been complied with;
 - (b) that any requirement made under section 157 or 159 has been complied with;
 - (c) that, if necessary, paragraph 8A(2)(a) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* has been complied with;
 - (d) that any requirements prescribed by the regulations in relation to the variation of the relevant particulars, or of the conditions, of a listed registration have been complied with;
 - (e) that, if those particulars or conditions were varied in accordance with the application, the continued use of, or any other dealing with, the product in accordance with instructions contained in the established standard:
 - (i) would not be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; and
 - (ii) would not be likely to have an effect that is harmful to human beings; and
 - (iii) would not be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; and
 - (iv) would not unduly prejudice trade or commerce between Australia and places outside Australia; and
 - (v) would be effective according to criteria determined by the NRA for the product;
 - (f) that the fee (if any) prescribed in respect of the listed registration, and any other amount (including an amount in respect of a tax or penalty) that is payable (whether by the applicant or by any other person) to the NRA in respect of the product under this Code or any other law in force in this or any other jurisdiction, have been paid;
- it must:
- (g) grant the application and vary those particulars or conditions by entering in the Register of Chemical Products particulars of the variation and the date on which the entry is made; and

- (h) give written notice to an approved person stating that the variation has been made and setting out particulars of the variation.
- (2) In satisfying itself for the purposes of subparagraph (1)(e)(i), (ii) or (iii), the NRA must have regard to the matters referred to in subsection 56E(2).
- (3) In satisfying itself for the purposes of subparagraph (1)(e)(v), the NRA must have regard to the matters referred to in subsection 56E(3).
- (4) If the NRA is not satisfied as mentioned in subsection (1), it must refuse the application.
- (5) If the application is refused, the NRA must:
 - (a) give to an approved person written notice of the refusal; and
 - (b) include in the notice brief particulars of the reasons for the refusal.
- (6) Section 168 provides for additional matters to be included in a notice under subsection (5).

Division 6—Reconsideration of listed registration

56V NRA may invite the public to propose registered listed chemical products for reconsideration

- (1) The NRA may cause to be published in the *Gazette*, and in any other manner it thinks appropriate, notices inviting persons to propose chemical products whose listed registration the NRA might reconsider.
- (2) A notice under subsection (1) must state the criteria that are to be taken into account by the NRA in reconsidering the listed registration.
- (3) A proposal made by a person because of an invitation contained in a notice under subsection (1) must submit reasons, based on the criteria stated in the notice, in support of the proposal.

56W NRA may reconsider listed registration

The NRA may at any time, in accordance with this Division, reconsider the listed registration of a chemical product.

56X NRA may give notice of proposed reconsideration

- (1) Before reconsidering the listed registration of a chemical product, the NRA may, if it thinks it desirable to do so, cause to be published, in a manner that it thinks appropriate, a notice:
 - (a) stating that the NRA proposes to reconsider the listed registration and setting out the relevant particulars of the listed registration of the product; and
 - (b) setting out the matters to be dealt with in the reconsideration and stating the requirement or requirements prescribed by the regulations for continued approval or registration that form the basis for the reconsideration; and
 - (c) inviting any person who wishes to do so to make, within a period stated in the notice that ends not earlier than 28 days after the publication of the notice, a written submission to the NRA as to whether the listed registration complies with the prescribed requirements for continued listed registration.
- (2) The NRA must give written notice to the interested person in relation to the product or to an approved person:
 - (a) telling the person the matter or matters that it proposes to reconsider and its reasons for so proposing; and
 - (b) requiring the person, within a period stated in the notice that ends not earlier than 28 days after the day on which the notice is given, to give to the NRA:
 - (i) any information of a kind stated in the notice of which either the interested person or the approved person is aware and which is relevant to the reconsideration; or
 - (ii) any information of which either the interested person or the approved person is aware that is relevant to the reconsideration; and
 - (c) inviting the person, within that period, to make a written submission to the NRA about the matter or matters referred to in paragraph (a).

- (3) A person must comply with a requirement made of the person under paragraph (2)(b).

Penalty: 120 penalty units.

- (4) In subsection (3), strict liability applies to the physical element of circumstance, that the requirement is made of the person under paragraph (2)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) Subsection (3) does not apply if, before the end of the period stated in the notice, the interested person or an approved person requests the NRA under section 56ZG to cancel the listed registration of the product and the NRA complies with the request.

- (6) The NRA must take into account any submissions made in accordance with an invitation contained in a notice published under subsection (1) or in a notice given under subsection (2).

56Y NRA may require trials or laboratory experiments to be conducted

- (1) The NRA may, by written notice given to the interested person in relation to a registered listed chemical product or given to an approved person, require the interested person, within a reasonable period stated in the notice:
- (a) to conduct, or cause to be conducted, trials or laboratory experiments in relation to the product that the NRA thinks necessary for the purposes of its reconsideration of the listed registration of the product; and
 - (b) to give the results of the trials or experiments to the NRA.

- (2) A person must comply with a requirement made of the person under subsection (1).

Penalty: 120 penalty units.

- (3) In subsection (2), strict liability applies to the physical element of circumstance, that the requirement is made of the person under subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) Subsection (2) does not apply if, before the end of the period stated in the notice, the interested person or an approved person requests the NRA under section 56ZG to cancel the listed registration of the product and the NRA complies with the request.
- (5) This section does not affect the NRA's powers under section 159.

56Z Reconsideration by NRA of continued listed registration

- (1) If the NRA is satisfied that:
 - (a) any requirement made under section 159 has been complied with; and
 - (b) if necessary, paragraph 8A(2)(a) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* has been complied with; and
 - (c) provided that the conditions to which a listed registration is currently subject are complied with, the continued use of, or other dealing with, the product in accordance with instructions contained in the established standard:
 - (i) would not be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; and
 - (ii) would not be likely to have an effect that is harmful to human beings; and
 - (iii) would not be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; and
 - (iv) would not unduly prejudice trade or commerce between Australia and places outside Australia; and
 - (v) would be effective according to criteria determined by the NRA for the product; and
 - (d) any other prescribed requirements for the continued listed registration would be complied with;the NRA must as soon as practicable:
 - (e) give written notice to the interested person or to an approved person stating that it affirms the listed registration on the conditions to which the listed registration is currently subject and giving brief particulars of the reasons for its decision; and

- (f) if it caused a notice to be published under subsection 56X(1) in relation to its proposed reconsideration of the listed registration—cause to be published, in the same way as the first-mentioned notice, a notice stating that it has affirmed the listed registration on the conditions to which the listed registration is currently subject.
- (2) In satisfying itself as mentioned in subparagraph (1)(c)(i), (ii) or (iii), the NRA must have regard to the matters referred to in subsection 56E(2).
- (3) If the NRA is not satisfied as mentioned in subsection (1), subsections (4) to (6) apply.
- (4) The NRA must give written notice to the interested person or to an approved person stating that the NRA is not so satisfied.
- (5) If the NRA is satisfied that the relevant particulars or the conditions of the listed registration can be varied in such a way that the requirements for continued listed registration will be complied with:
 - (a) the NRA must vary the relevant particulars or conditions of listed registration by entering in the Register of Chemical Products particulars of the variation and the date on which the entry is made; and
 - (b) the NRA must:
 - (i) state in the notice referred to in subsection (4) that, although the NRA is not satisfied as mentioned in subsection (1), it is satisfied that the relevant particulars or the conditions can be so varied and has varied them accordingly; and
 - (ii) set out in the notice particulars of the variation.
- (6) A notice given under subsection (4) must give brief particulars of the reasons for the NRA's decision and, if subsection (5) applies, also give brief particulars of the reasons for the variation of the conditions of the listed registration.
- (7) Section 168 provides for additional matters to be included in a notice to which subsection (5) applies.

- (8) Section 56ZE provides for the suspension or cancellation of the listed registration if the NRA is not satisfied that the conditions of the listed registration can be varied as mentioned in subsection (5).

Division 7—Suspension or cancellation of listed registration

56ZA Notice of proposed suspension or cancellation to be given to co-ordinators

The NRA must not suspend or cancel a listed registration unless:

- (a) it has given notice of the proposed suspension or cancellation to each co-ordinator designated for a jurisdiction; and
- (b) a period of 10 working days, or any other period that the NRA thinks adequate in a particular case, has elapsed since the notice was given.

56ZB Suspension or cancellation of listed registration for breach of condition

If there is a contravention of a condition of the listed registration of a chemical product, the NRA may suspend or cancel the listed registration.

56ZC Suspension of listed registration for failing to give information, or results of trials or experiments, to NRA

- (1) If:
- (a) at the end of the period stated in a notice given to a person under subsection 56X(2), the NRA is satisfied that the interested person or an approved person is aware of information relevant to the reconsideration but the information has not been given to the NRA; or
 - (b) at the end of the period stated in a notice given to a person under subsection 56Y(1), the NRA is satisfied that the interested person has not conducted, or caused to be conducted, the trials or experiments or has not given the results of the trials or experiments to the NRA;
- the NRA may suspend the listed registration.
-

- (2) Subject to subsection (4), the NRA must revoke a suspension imposed under paragraph (1)(a) when it is satisfied that all the information relevant to the reconsideration has been given to it.
- (3) Subject to subsection (4), the NRA must revoke a suspension imposed under paragraph (1)(b) when it has received the results of the trials or experiments.
- (4) If the information or the results of the trials or experiments are not given to the NRA within a period after the suspension takes place that the NRA thinks reasonable, the NRA may cancel the listed registration.

56ZD Suspension of listed registration for failing to give information, report or sample to NRA

- (1) If the interested person in relation to a registered listed chemical product, or an approved person, fails to comply with a requirement contained in a notice under section 159 or with section 160A or 161, the NRA may suspend the listed registration.
- (2) Subject to subsection (3), the NRA must revoke a suspension imposed under subsection (1) if it is satisfied that the relevant information, report or sample has been given to it.
- (3) If the information, report or sample is not given to the NRA within a reasonable period after the suspension takes place, the NRA may cancel the listed registration.

56ZE Suspension or cancellation of listed registration following reconsideration

If, in the course of reconsidering the listed registration of a chemical product, the NRA is not satisfied that the relevant particulars or the conditions of the listed registration can be varied in such a way that the prescribed requirements for continued listed registration will be complied with, the NRA may suspend or cancel the listed registration.

56ZF Suspension or cancellation of listed registration for non-compliance with criteria

- (1) The NRA may suspend or cancel the listed registration of a chemical product if it appears to the NRA that, having regard to the matters referred to in subsection 56E(2), the continued use of, or any other dealing with, the product in accordance with instructions contained in the established standard:
 - (a) may be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; or
 - (b) may be likely to have an effect that is harmful to human beings; or
 - (c) may be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; or
 - (d) may unduly prejudice trade or commerce between Australia and places outside Australia.
- (2) The NRA may suspend or cancel the listed registration of a chemical product if it appears to the NRA that, having regard to the matters referred to in subsection 56E(3), the continued use of the product in accordance with the instructions contained in the standard may not be effective according to criteria determined by the NRA for the product.

56ZG Cancellation of listed registration on request

- (1) If:
 - (a) the interested person in relation to a listed registration, or an approved person, gives to the NRA a written notice:
 - (i) requesting the NRA to cancel the listed registration; and
 - (ii) stating the reasons for the request; and
 - (b) the NRA is satisfied that there are no valid reasons why it should not agree to the request;the NRA must cancel the listed registration.
- (2) The NRA must give written notice of its decision on a request under subsection (1) to the person or persons who made the request.

56ZH Effect of suspension of listed registration

- (1) A suspension of a listed registration must be for a stated period.
- (2) A listed registration is taken for the purposes of this Code other than section 75 not to be in force during any period in which it is suspended.
- (3) A listed registration may be cancelled even though it is suspended.

56ZI How listed registration is suspended or cancelled

- (1) Suspension or cancellation of a listed registration is made by entering in the Register of Chemical Products:
 - (a) the fact that the listed registration has been suspended or cancelled; and
 - (b) in respect of a suspension—the period of the suspension; and
 - (c) the date on which the entry is made.
- (2) Subject to subsection (4), if the NRA suspends or cancels a listed registration, it must, as soon as practicable, give written notice of the suspension or cancellation to the interested person, or an approved person, and to any other person to whom, in its opinion, such a notice should be given.
- (3) A notice given to a person under subsection (2) must:
 - (a) tell the person of the suspension or cancellation; and
 - (b) contain the following matters:
 - (i) brief reasons for the suspension or cancellation;
 - (ii) instructions for possessing, having custody of, using or otherwise dealing with the product;
 - (iii) a warning of the consequences if the person fails to comply with the instructions, including a statement of any period after which it will be an offence against this Code to possess or have custody of the product with the intention of supply, or to supply the product;
 - (iv) any other warnings or explanations in relation to the product that the NRA thinks desirable;excluding any matters that the NRA thinks it unnecessary for the notice to contain.

- (4) Subsection (2) does not require notice of the cancellation under section 56ZG of a listed registration to be given to the person who requested the cancellation.
 - (5) Section 168 provides for additional matters to be included in a notice given under subsection (2).
 - (6) After a notice of the suspension or cancellation of the listed registration of a chemical product is given to a person under this section, the interested person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with the product in accordance with the instructions contained in the notice until:
 - (a) 2 years after the day of the suspension or cancellation; or
 - (b) the NRA revokes the suspension or cancellation; or
 - (c) the NRA, by notice published in the *Gazette*, declares that this subsection ceases to apply in respect of the product;
 whichever first occurs.
 - (7) Subject to subsection (9), if:
 - (a) a notice of the suspension or cancellation of the listed registration of a chemical product is given to a person under this section; and
 - (b) the person has possession or custody of the product with the intention of supply;
 the person may only possess, have custody of or otherwise deal with the product if the possession, custody or dealing is in accordance with the instructions contained in the notice.

Penalty: 300 penalty units.
 - (8) In paragraph (7)(a), strict liability applies to the physical element of circumstance, that the notice is given to the person under this section.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
 - (9) Subsection (7) does not apply to a possession, custody or dealing with a product if the product was a registered chemical product, a registered listed chemical product or a reserved chemical product as the case may be, when the possession, custody or dealing took place because of its having been registered or granted listed
-

registration or having become reserved after its previous listed registration had been cancelled.

56ZJ How suspension or cancellation of listed registration is revoked

- (1) Suspension or cancellation of a listed registration is revoked by entering in the Register of Chemical Products:
 - (a) the fact that the suspension or cancellation has been revoked; and
 - (b) the date on which the entry is made.
- (2) If the NRA revokes the suspension or cancellation of a listed registration, it must, as soon as practicable, give written notice of the revocation to the interested person or an approved person, and to any other person to whom, in its opinion, such a notice should be given.
- (3) If the cancellation of a listed registration is revoked, the cancellation is taken never to have occurred.

Division 8—Duration and renewal of listed registration

56ZK Period of listed registration

- (1) The listed registration of a chemical product ends at the end of 30 June next following the day on which the listed registration was granted or renewed, or last renewed, as the case may be.
- (2) This section has effect subject to:
 - (a) any condition of a kind referred to in subsection 56O(3) to which a listed registration is subject; and
 - (b) subsection 56ZH(2) (which relates to suspension of a listed registration); and
 - (c) the following provisions of this Division.

56ZL Application for renewal of listed registration of chemical product

- (1) The interested person may apply for the renewal, or further renewal, as the case may be, of the listed registration of a chemical product.
- (2) Subject to subsection (3), the application must be made not later than one month, or a shorter period that the NRA permits, before the listed registration ends.
- (3) In circumstances that are prescribed by the regulations and upon payment of the prescribed fee (if any), the NRA may accept a late application if the application is made on or before a date that the NRA determines.

56ZM How application for renewal of listed registration is to be made

- (1) The application must:
 - (a) be in writing in or to the effect of the approved form; and
 - (b) contain, or be accompanied by, the information that the NRA requires; and
 - (c) be signed by an approved person; and
 - (d) be accompanied by the prescribed fee (if any); and
 - (e) be lodged with the NRA.
- (2) The NRA may, with the written consent of an approved person, alter the application.
- (3) At any time after an application has been made and before it has been determined, the applicant may withdraw the application by giving to the NRA written notice of the withdrawal signed by an approved person.
- (4) Subject to subsection (5), the NRA must grant the application:
 - (a) if the application was made in accordance with subsection 56ZL(2)—before the listed registration ends; or
 - (b) if the application was made in accordance with subsection 56ZL(3)—within one month after the application was made;

and must give written notice to an approved person of the renewal and the period of the renewal.

- (5) If an amount (including an amount in respect of a tax or penalty) that is payable (whether by the applicant or by any other person) to the NRA in respect of the product under any law in force in any jurisdiction has not been paid, the NRA may refuse to grant the application for renewal.
- (6) If the application was made in accordance with subsection 56ZL(2) and the NRA fails to grant the application before the listed registration ends, the listed registration continues in force until:
 - (a) the NRA grants the application; or
 - (b) if the NRA decides to refuse to grant the application because of non-payment of an amount as mentioned in subsection (5)—the NRA gives written notice of its decision to the applicant.
- (7) If the NRA accepts a late application under subsection 56ZL(3) and grants the application, the listed registration continues in force, or is taken to have continued in force, as the case may be, until the application is or was granted.

56ZN Renewal of listed registration of chemical product

The renewal of the listed registration of a chemical product:

- (a) is granted by entering in the Register of Chemical Products a statement that the listed registration has been renewed and the date on which the renewed listed registration ends; and
- (b) takes effect, or is to be regarded as having taken effect, as the case may be, at the beginning of the day immediately following the day on which the previous listed registration ends or ended.

Division 9—Publication of notices and certain other instruments by NRA

56ZO Publication of notice of listed registration of chemical product

- (1) If the NRA grants listed registration in respect of a chemical product, it must, as soon as practicable after the listed registration, cause notice of the listed registration to be published in accordance with subsection (2), unless the NRA thinks it unnecessary, in the circumstances, to publish such a notice.
- (2) The notice:
 - (a) is to be published in the *Gazette* and in any other manner that the NRA thinks appropriate; and
 - (b) must state that the product has been granted listed registration, and state the date of the listed registration; and
 - (c) must contain a brief statement of the conditions of the listed registration that directly regulate the use of the product.

56ZP Publication of notice of variations of listed registration of chemical product

- (1) If the NRA varies any of the relevant particulars of the listed registration of a chemical product or any of the conditions of such a listed registration, it must, as soon as practicable after the variation, cause notice of the variation to be published in the *Gazette* and in any other manner that it thinks appropriate, unless the NRA thinks it unnecessary, in the circumstances, to do so.
- (2) The notice must:
 - (a) state that the relevant particulars or conditions have been varied and state the date of the variation; and
 - (b) contain a brief statement of the nature of, and reasons for, the variation.

56ZQ Publication of notice of end of listed registration of chemical product

- (1) If the listed registration of a chemical product ends and is not renewed, the NRA must, as soon as practicable, cause to be
-

published in the *Gazette*, and in any other manner that it thinks appropriate, a notice:

- (a) stating that the listed registration has ended; and
- (b) containing instructions for possessing, having custody of, using or otherwise dealing with the product; and
- (c) containing a warning of the consequences if a person fails to comply with the instructions, including a statement of any period after which it will be an offence against this Code to possess or have custody of the product with the intention of supply, or to supply the product; and
- (d) containing any other warnings or explanations in relation to the product that the NRA thinks desirable; and
- (e) setting out the date on which the listed registration ended; and
- (f) containing any other information that the NRA thinks appropriate;

unless the NRA thinks that, in the circumstances, it is unnecessary to publish such a notice.

- (2) If, after the publication under this section of a notice stating that the listed registration of a chemical product has ended, a person possesses, has custody of, uses or otherwise deals with the product in accordance with the instructions contained in the notice, the person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with the product in accordance with those instructions until:

- (a) 2 years after the day on which the registration ends; or
- (b) the NRA, by notice published in the *Gazette*, declares that this subsection ceases to apply in respect of the product;

whichever first occurs.

- (3) Subject to subsection (5), if:

- (a) a notice stating that the listed registration of a chemical product has ended has been published under this section; and
- (b) a person has possession or custody of the product with the intention of supply;

the person may only possess, have custody of or otherwise deal with the product if the possession, custody or dealing is in accordance with the instructions contained in the notice.

Penalty: 300 penalty units.

- (4) In paragraph (3)(a), strict liability applies to the physical element of circumstance, that the publishing of the notice was under this section.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) Subsection (3) does not apply to a possession, custody or dealing with a product if the product was a registered listed chemical product, a registered chemical product or a reserved chemical product when the possession, custody or dealing took place because of its having been granted listed registration, having been registered or having become reserved after the previous listed registration had ended.
- (6) If a notice stating that the listed registration of a chemical product has ended is published under this section, the NRA must cause a copy of the notice to be given to any person who, in the opinion of the NRA, should be given notice of the ending of the listed registration and of the instructions, warnings and explanations contained in the notice.

56ZR Publication of notice of suspension or cancellation of listed registration

- (1) If the NRA suspends or cancels the listed registration of a chemical product, it must, as soon as practicable, cause to be published in the *Gazette*, and in any other manner that it thinks appropriate, notice of the suspension or cancellation containing any information that it thinks relevant.
- (2) If the reason, or one of the reasons, for the suspension or cancellation was that the continued use of the product:
- (a) might be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; or
 - (b) might be likely to have an effect that is harmful to human beings; or
 - (c) might be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; or

- (d) might not be effective according to criteria determined by the NRA for the product;
- the notice must contain the following:
- (e) a statement to that effect;
 - (f) instructions for possessing, having custody of, using or otherwise dealing with the product;
 - (g) a warning of the consequences if a person fails to comply with the instructions, including a statement of any period after which it will be an offence against this Code to possess or have custody of the product with the intention of supply, or to supply the product;
 - (h) any other warnings or explanations in relation to the product that the NRA thinks desirable.
- (3) If, after the publication under this section of a notice of the suspension or cancellation of a listed registration, a person possesses, has custody of, uses or otherwise deals with the product in accordance with the instructions contained in the notice, the person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with the product in accordance with those instructions until:
- (a) 2 years after the day of the suspension or cancellation; or
 - (b) the NRA revokes the suspension or cancellation; or
 - (c) the NRA, by notice published in the *Gazette*, declares that this subsection ceases to apply in respect of the product;
- whichever first occurs.
- (4) Subject to subsection (6), if:
- (a) a notice of the suspension or cancellation of the listed registration of a chemical product, has been published under this section; and
 - (b) a person has possession or custody of the product with the intention of supply;
- the person may only possess, have custody of or otherwise deal with the product if the possession, custody or dealing is in accordance with the instructions contained in the notice.

Penalty: 300 penalty units.

- (5) In paragraph (4)(a), strict liability applies to the physical element of circumstance, that the publishing of the notice was under this section.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) Subsection (4) does not apply to a possession, custody or dealing with a product if the product was a registered listed chemical product or a reserved chemical product when the possession, custody or dealing took place because of its having been granted listed registration or having become reserved after its previous listed registration had been cancelled.
- (7) If the NRA causes a notice of the suspension or cancellation of the listed registration of a chemical product to be published under this section, the NRA must cause a copy of the notice to be given to any person who, in the opinion of the NRA, should be given notice of the suspension or cancellation and of the instructions, warnings and explanations contained in the notice.

56ZS Notice of revocation of suspension or cancellation to be published

If the NRA revokes the suspension or cancellation of the listed registration of a chemical product, it must, as soon as practicable, cause to be published in the *Gazette*, and in any other manner that it thinks appropriate, notice of the revocation containing any information that it thinks relevant.

56ZT Publication of instrument varying established standard for listable chemical product

If, after a copy of an instrument varying the established standard for a listable chemical product is published in the *Gazette* under section 56G, a person possesses, has custody of, uses or otherwise deals with part of any stock of the product that complies with the standard that was established for the product immediately before the variation, the person is taken to have been issued with a permit to possess, have custody of, use or otherwise deal with that part of the stock of the product in accordance with the instructions contained in the standard as in force immediately before the variation until:

- (a) 2 years after the day of the publication of the notice; or
 - (b) the NRA, by notice published in the *Gazette*, declares that this section ceases to apply in respect of the product;
- whichever first occurs.

Part 2B—Reserved chemical products

56ZU Regulations may contain schedule of reserved chemical products

- (1) Subject to subsection (2), the regulations may contain a schedule specifying chemical products, or classes of chemical products, that are reserved chemical products for the purposes of this Code.
- (2) The schedule cannot specify a chemical product that is, or a class of chemical products that includes, a restricted chemical product.
- (3) Regulations containing a schedule mentioned in subsection (1) must state the conditions to which the possession, having custody of, use of, or other dealing with, each chemical product, or each chemical product included in a class of chemical products, specified in the schedule is subject.
- (4) Before the Governor-General makes a regulation for the purposes of this section:
 - (a) the reservation of the product, or class of products, must have been recommended to the Minister by the NRA; and
 - (b) the NRA must have given to the Minister:
 - (i) written particulars of the product or class of products; and
 - (ii) a draft of the conditions to which the NRA proposes the product, or products in the class, should be subject; and
 - (c) the NRA must have given to the Minister a written explanation as to why the NRA is satisfied that use of the product, or use of the products in the class, in accordance with the proposed conditions:
 - (i) would not be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; and

- (ii) would not be likely to have an effect that is harmful to human beings; and
- (iii) would not be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; and
- (iv) would not unduly prejudice trade or commerce between Australia and places outside Australia; and
- (v) would be effective according to criteria determined by the NRA for the product; and
- (d) the NRA must have given to the Minister a written statement identifying the consultations held by, and setting out the advice given to, the NRA in relation to the proposed reservation of the products or class of products.

107 The Schedule (subsection 59(1) of the Agvet Code)

Omit “subsection (2)”, substitute “subsections (1A) and (2)”.

108 The Schedule (after subsection 59(1) of the Agvet Code)

Insert:

- (1A) Subsection (1) does not apply if the information is the same as information previously given to the NRA otherwise than in compliance with a requirement referred to in that subsection.

109 The Schedule (paragraph 72(2)(c) of the Agvet Code)

Repeal the paragraph, substitute:

- (c) the supply of approved constituents, registered products, registered listed products or reserved products in contravention of the conditions of their approval, registration, listed registration or reservation.

110 The Schedule (subsections 75(1) and (3) of the Agvet Code)

After “registered chemical product”, insert “, a registered listed chemical product or a reserved chemical product”.

Note: The heading to section 75 of the Agvet Code is replaced by the heading “**Possession or custody of chemical products, other than registered, registered listed or reserved products, with the intention of supply**”.

111 The Schedule (subsection 78(1) of the Agvet Code)

After “registered chemical product”, insert “, a registered listed chemical product or a reserved chemical product”.

Note: The heading to section 78 of the Agvet Code is replaced by the heading “**Supply of chemical products that are not registered products, registered listed products or reserved products**”.

112 The Schedule (subparagraphs 78(1)(c)(i) to (iii) of the Agvet Code)

Repeal the subparagraphs, substitute:

- (i) at a time or times before the supply takes place, the product had been registered, granted listed registration, or reserved, under this Code or had been registered under a corresponding previous law;
- (ii) the period beginning on the day when the product ceased, or last ceased, to be so registered, granted listed registration, or reserved, and ending on the day when the supply takes place is not longer than a period that the NRA has determined in relation to the product for the purposes of this subparagraph;
- (iii) the supply is a supply of part of a stock of the product that was in the person’s possession or custody immediately before the product ceased, or last ceased, to be so registered, granted listed registration, or reserved;

113 The Schedule (subparagraph 78(1)(c)(vi) of the Agvet Code)

After “registration”, insert “or listed registration”.

114 The Schedule (at the end of subsection 78(3) of the Agvet Code)

Add “, a registered listed chemical product or a reserved chemical product”.

115 The Schedule (after section 79 of the Agvet Code)

Insert:

79A Supply of registered listed chemical products in contravention of conditions of listed registration

A person may only supply, or cause or permit to be supplied, a registered listed chemical product whose listed registration is subject to conditions if:

- (a) the supply is in accordance with those conditions; or
- (b) the supply is authorised by a permit.

Penalty: 300 penalty units.

79B Supply of reserved chemical products contrary to conditions specified in the regulations

- (1) A person may only supply, or cause or permit to be supplied, a reserved chemical product if:
 - (a) the supply is in accordance with the conditions specified in regulations made for the purposes of section 56ZU that relate to the product; or
 - (b) the supply is authorised by a permit.

Penalty: 300 penalty units.

- (2) In subsection (1), strict liability applies to the physical element of circumstance, that the conditions relating to the product were specified in regulations made for the purposes of section 56ZU.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

116 The Schedule (subsection 80(1) of the Agvet Code)

Omit “an approved”, substitute “a”.

Note: The heading to section 80 of the Agvet Code is replaced by the heading “**Supply of chemical products without a label**”.

117 The Schedule (subsection 80(2) of the Agvet Code)

Omit “an approved”, substitute “a”.

118 The Schedule (subsection 81(1) of the Agvet Code, excluding the penalty)

Repeal the subsection, substitute:

- (1) A person may only supply, or cause or permit to be supplied, a registered chemical product in a container if:
 - (a) the label attached to the container is identical (except for particulars relating to the batch number, date of manufacture or expiry date of the product) to the approved label for containers for the product; or
 - (b) the supply is authorised by a permit.

Note: The heading to section 81 of the Agvet Code is replaced by the heading “**Supply of registered chemical products with unapproved label**”.

119 The Schedule (at the end of section 81 of the Agvet Code)

Add:

- (3) Subsection (1) does not apply to the supply of a registered chemical product in a container in the circumstances mentioned in that subsection if:
 - (a) the label attached to the container is identical (except for particulars relating to the batch number, date of manufacture or expiry date of the product) to a label (the *earlier approved label*) that was an approved label for containers for the product at a time before the supply takes place; and
 - (b) the NRA has determined that this subsection is to apply in respect of the earlier approved label; and
 - (c) the supply takes place not later than 2 years (or such shorter or longer period as the NRA allows) after the earlier approved label ceased to be the approved label for containers for the product.

120 The Schedule (after section 83 of the Agvet Code)

Insert:

83A Supply of substances whose constituents differ from constituents of registered listed chemical product

- (1) A person must not supply, or cause or permit to be supplied, a substance or mixture of substances in a container to which is attached a label containing a name of a registered listed chemical product if:

- (a) the constituents of the substance or mixture differ by more than the prescribed extent from the constituents of the registered listed chemical product that were shown in the particulars of the registered listed chemical product contained in the Register of Chemical Products; or
- (b) the concentration of the constituents of the substance or mixture differ by more than the prescribed extent from the concentration of the constituents of the registered listed chemical product that was shown in those particulars; or
- (c) the composition or purity of any constituent of the substance or mixture differs by more than the prescribed extent from the composition or purity of the corresponding constituent of the registered listed chemical product that was shown in those particulars.

Penalty: 300 penalty units.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

121 The Schedule (subsection 84(1) of the Agvet Code)

After “registered chemical product” (first and second occurring), insert “or registered listed chemical product”.

122 The Schedule (at the end of subsection 84(1) of the Agvet Code)

Add “or inconsistent with any instruction required by an established standard for the registered listed chemical product to be included on a label for a container for the registered listed chemical product, as the case may be”.

123 The Schedule (subsection 86(1) of the Agvet Code)

After “containers for the product”, insert “or identical to any matter required by an established standard for the product to be included on a label for containers for the product”.

124 The Schedule (subsection 87(1) of the Agvet Code)

After “chemical product”, insert “(other than a listable chemical product)”.

125 The Schedule (after section 87 of the Agvet Code)

Insert:

87A Supply of registered listed chemical product that does not conform to established standard

A person may only supply, or cause or permit to be supplied, a substance or mixture of substances in a container to which is attached a label containing the name of a registered listed chemical product if:

- (a) the substance or mixture conforms to the established standard for the product; or
- (b) the supply is authorised by a permit.

Penalty: 300 penalty units.

126 The Schedule (subsection 88(1) of the Agvet Code)

Insert:

chemical product does not include a reserved chemical product.

127 The Schedule (paragraph 88(2)(b) of the Agvet Code)

Omit “not a registered chemical product”, substitute “neither a registered chemical product nor a registered listed chemical product”.

128 The Schedule (paragraph 88(2)(c) of the Agvet Code)

After “registration”, insert “or listed registration”.

129 The Schedule (subparagraph 88(2)(d)(i) of the Agvet Code)

Omit “not a registered chemical product”, substitute “neither a registered chemical product nor a registered listed chemical product”.

130 The Schedule (at the end of paragraph 88(3)(b) of the Agvet Code)

Omit “not a registered chemical product”, substitute “neither a registered chemical product nor a registered listed chemical product”.

131 The Schedule (before section 90 of the Agvet Code)

Insert:

89A Exclusion of certain chemical products

This Division does not apply to a chemical product that is a listable chemical product or is a reserved chemical product.

132 The Schedule (paragraph 97(4)(b) of the Agvet Code)

After “registration”, insert “or listed registration”.

133 The Schedule (subsection 99(2) of the Agvet Code)

After “Part 2”, insert “, or has been granted listed registration under Division 4 of Part 2A,”.

134 The Schedule (subsection 99(3) of the Agvet Code)

After “prescribed standard” (wherever occurring), insert “, established standard or”.

135 The Schedule (subsection 101(1) of the Agvet Code)

Repeal the subsection, substitute:

(1) If:

- (a) a chemical product (other than a reserved chemical product) is not registered, and has not been granted listed registration, under the Agvet Code of this jurisdiction; or
- (b) the NRA is reconsidering:
 - (i) the registration of a chemical product under Division 4 of Part 2 of that Code; or
 - (ii) the listed registration of a chemical product under Division 6 of Part 2A of that Code;

the NRA may give written notice to any person (the *notified person*) who has, or has had, possession or custody of stocks of the product, or of a particular batch of the product, in this jurisdiction,

requiring the notified person to do any one or more of the things mentioned in subsection (2).

Note: The heading to section 101 of the Agvet Code is replaced by the heading “**Recall of products that are not registered and do not have listed registration or whose registration or listed registration is being reconsidered**”

136 The Schedule (paragraph 101(2)(c) of the Agvet Code)

After “registered”, insert “and has not been granted listed registration”.

137 The Schedule (after paragraph 102(1)(a) of the Agvet Code)

Insert:

- (aa) having regard to the matters referred to in subsection 56E(2), the continued use of a registered listed chemical product in accordance with the established standard for the product:
 - (i) may be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; or
 - (ii) may be likely to have an effect that is harmful to human beings; or
 - (iii) may be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; or
 - (iv) may unduly prejudice trade or commerce between Australia and places outside Australia; or
 - (v) may not be effective according to criteria that the NRA has determined for the product; or

138 The Schedule (after paragraph 102(1)(b) of the Agvet Code)

Insert:

- (ba) the constituents of stocks of a registered listed chemical product or of a particular batch of such a product differ by more than the prescribed extent from the constituents stated in relation to the product in the Register of Chemical Products; or

139 The Schedule (after paragraph 102(1)(c) of the Agvet Code)

Insert:

- (ca) the concentration of the constituents of stocks of a registered listed chemical product or of a particular batch of such a product differs by more than the prescribed extent from the concentration of the constituents stated in relation to the product in the Register of Chemical Products; or

140 The Schedule (after paragraph 102(1)(d) of the Agvet Code)

Insert:

- (e) the composition or purity of any constituent of stocks of a registered listed chemical product or of a particular batch of such a product differs by more than the prescribed extent from the composition or purity of the constituent stated in relation to the product in the Register of Chemical Products; or

141 The Schedule (subsection 103(1) of the Agvet Code)

Repeal the subsection, substitute:

- (1) If it appears to the NRA:

- (a) that labels attached to the containers of stocks of a registered chemical product, or of a particular batch of a registered chemical product, differ from the approved label kept in, or in conjunction with, the relevant NRA file in relation to the product; or
- (b) that labels attached to the containers of stocks of a registered listed chemical product, or of a particular batch of a registered listed chemical product, differ from the label required by the relevant standard for the product;

the NRA may give written notice to any person (the *notified person*) who has, or has had, possession or custody of any of those stocks or of that batch in this jurisdiction requiring the person to do any one or more of the things mentioned in subsection (2).

Note: The heading to section 103 of the Agvet Code is replaced by the heading “**Recall of products with labels that are not approved or are not authorised by an established standard**”

142 The Schedule (paragraph 103(2)(c) of the Agvet Code)

After “file”, insert “or the label required by the established standard for the product, as the case may be”.

143 The Schedule (subsections 108(2) and (3) of the Agvet Code)

Repeal the subsections, substitute:

- (2) Examples of circumstances in which a permit could be sought are:
- (a) if someone wants to conduct a trial or experiment in relation to a constituent that is not an approved constituent, or in relation to a chemical product that is not a registered chemical product, a registered listed chemical product or a reserved chemical product, in order to decide whether to make an application for approval, registration or listed registration; or
 - (b) if someone wants to use a registered chemical product in a way that is not authorised by the approved label for containers for the product; or
 - (c) if someone wants to use a registered listed chemical product in a way that is not authorised by the labels for containers for the product as required by the standard approved for the product.

144 The Schedule (section 109 of the Agvet Code, paragraph (a) of the definition of *permit*)

Repeal the paragraph, substitute:

- (a) an offence against section 74, 75, 76, 77, 78, 79, 79A, 79B, 80, 81, 84, 85, 87, 87A or 91; or

145 The Schedule (paragraph 111(1)(b) of the Agvet Code)

Repeal the paragraph, substitute:

- (b) if:
 - (i) the NRA has given a copy of the application and documents referred to in paragraph (a) to a co-ordinator; and
 - (ii) the co-ordinator requests any additional information for the purpose of enabling him or her to make a recommendation to the NRA about the application;

then, unless the NRA has reasonable grounds for refusing the request:

- (iii) the NRA must, by written notice given to the applicant, require the applicant to give the additional information to the NRA; and
- (iv) when the NRA receives the additional information, it must, as soon as practicable, give the information to the co-ordinator; and

146 The Schedule (paragraph 112(2)(b) of the Agvet Code)

After “co-ordinator”, insert “to the NRA”.

147 The Schedule (paragraph 112(2)(i) of the Agvet Code)

After “registration”, insert “or listed registration”.

148 The Schedule (after section 120 of the Agvet Code)

Insert:

120A Exclusion of certain chemical products

This Part does not apply to chemical products that are listable chemical products or are reserved chemical products.

149 The Schedule (at the end of subsection 122(1) of the Agvet Code)

Add:

; and (e) be lodged with the NRA.

150 The Schedule (subsection 122(2) of the Agvet Code)

Omit “may, by written notice given to an applicant for a licence,”, substitute “may, in relation to an application for a licence, by written notice given to an approved person,”.

151 The Schedule (paragraph 124(1)(a) of the Agvet Code)

Omit “the applicant”, substitute “an approved person”.

152 The Schedule (subsection 127(1) of the Agvet Code)

Omit “may, by written notice given to the holder of a licence,”,
substitute “may, in relation to a licence, by written notice given to an
approved person,”.

153 The Schedule (paragraph 127(2)(a) of the Agvet Code)

Repeal the paragraph, substitute:

- (a) by written notice given to an approved person, set out the
action that the NRA proposes to take and the reasons for the
proposed action; and

154 The Schedule (section 145 of the Agvet Code)

Repeal the section, substitute:

145 False or misleading information or document

- (1) A person commits an offence if, for the purposes of, or in
connection with, the consideration by the NRA, in the course of the
performance of any of its functions or the exercise of any of its
powers under this Code, of any matters referred to in subsection
14(4), (5) or (6), subsection 56K(1) or paragraph 123(1)(a), the
person:
 - (a) gives information (whether orally or in writing) that the
person knows to be false or misleading in a material
particular; or
 - (b) produces a document that the person knows to be false or
misleading in a material particular without:
 - (i) indicating to the person to whom the document is
produced that it is false or misleading and the respect in
which it is false or misleading; and
 - (ii) providing correct information to that person if the
person producing the document is in possession of, or
can reasonably acquire, the correct information.
 - (2) The penalty for an offence against subsection (1) is a fine not
exceeding 300 penalty units.
 - (3) A person commits an offence if, for the purposes of, or in
connection with, the consideration by the NRA, in the course of the
performance of any of its functions or the exercise of any of its
-

powers under this Code, of any matters other than matters referred to in subsection (1), the person:

- (a) gives information (whether orally or in writing) that the person knows to be false or misleading in a material particular; or
 - (b) produces a document that the person knows to be false or misleading in a material particular without:
 - (i) indicating to the person to whom the document is produced that it is false or misleading and the respect in which it is false or misleading; and
 - (ii) providing correct information to that person if the person producing the document is in possession of, or can reasonably acquire, the correct information.
- (4) The penalty for an offence against subsection (3) is a fine not exceeding 60 penalty units.

155 The Schedule (subsection 149(1) of the Agvet Code)

Repeal the subsection, substitute:

- (1) This section has effect for the purposes of any proceeding:
 - (a) under or for the purposes of this Code or an eligible law of this jurisdiction; and
 - (b) before a court or tribunal of this jurisdiction or an authority or person having power to require the production of documents or the answering of questions in this jurisdiction; other than a proceeding for an offence that is directly punishable by imprisonment.

156 The Schedule (paragraph 149(3)(b) of the Agvet Code)

Omit “or a registered chemical product”, substitute “, a registered chemical product or a registered listed chemical product”.

157 The Schedule (at the end of paragraph 149(3)(c) of the Agvet Code)

Add “or a label for containers for a chemical product that is required by an established standard for the product”.

158 The Schedule (paragraph 149(3)(g) of the Agvet Code)

After “approved label”, insert “or on a label for containers for a chemical product that is required by an established standard for the product”.

159 The Schedule (subsection 152(2) of the Agvet Code)

After “registration” (wherever occurring), insert “or listed registration”.

160 The Schedule (subsection 159(1) of the Agvet Code)

Repeal the words and paragraphs before paragraph (e), substitute:

For the purposes of:

- (a) an application under this Code in relation to:
 - (i) an active constituent for a proposed or existing chemical product; or
 - (ii) a chemical product; or
 - (iii) a label for containers for a chemical product; or
- (b) an application under this Code in relation to a permit in respect of:
 - (i) an active constituent for a proposed or existing chemical product; or
 - (ii) a chemical product; or
- (c) reconsidering the approval of an active constituent for a proposed or existing chemical product, the registration of a chemical product, the approval of a label for containers for a chemical product or the listed registration of a chemical product; or
- (d) deciding whether to suspend or cancel:
 - (i) an approval of an active constituent for a proposed or existing chemical product; or
 - (ii) the registration of a chemical product; or
 - (iii) the approval of a label for containers for a chemical product; or
 - (iv) the listed registration of a chemical product; or
 - (v) a permit in respect of an active constituent for a proposed or existing chemical product or in respect of a chemical product;

the NRA or another prescribed authority may, by written notice given to the interested person or an approved person, require the interested person, or the applicant for or holder of the relevant permit, within a reasonable period stated in the notice, or within a further period that the NRA allows, to do any one or more of the following:

Note: The heading to section 159 of the Agvet Code is replaced by the heading “**NRA or other authority may require, or require additional, information, report or sample in certain circumstances**”.

161 The Schedule (paragraph 159(1)(g) of the Agvet Code)

Omit “or further sample”.

162 The Schedule (after subsection 159(1) of the Agvet Code)

Insert:

- (1A) The power of the NRA or another authority under subsection (1) to require a person to give to the NRA or to that authority information, a report or a sample includes a power to require the person to give to the NRA or to that authority such information or such a report or sample in addition to any information, report or sample previously given by the person to the NRA or to that authority under any provision of this Code other than this section or under a previous application of this section.

163 The Schedule (paragraph 160(c) of the Agvet Code)

After “registration”, insert “or listed registration”.

164 The Schedule (after section 160 of the Agvet Code)

Insert:

160A Notification of new information to NRA in respect of pending application

- (1) This section applies if:
- (a) an application has been lodged with the NRA for:
 - (i) approval of an active constituent for a proposed or existing chemical product; or
 - (ii) registration of a chemical product; or
 - (iii) listed registration of a chemical product; or

- (iv) a permit in respect of such an active constituent or in respect of a chemical product; or
 - (v) a licence in respect of the manufacture of a chemical product; and
 - (b) the NRA has not determined the application; and
 - (c) an appropriate person becomes aware of any relevant information in relation to the constituent, or in relation to the product or any of its constituents.
- (2) The appropriate person must, as soon as practicable after the person becomes aware of the information, give the information to the NRA.
- Penalty: 300 penalty units.
- (3) A person is an **appropriate person** in relation to an application referred to in paragraph (1)(a) if:
- (a) in the case of an application referred to in subparagraph (1)(a)(i), (ii) or (iii)—the person would be an interested person in relation to the constituent or product if the application were granted; or
 - (b) in any other case—the person who made the application.
- (4) Information is **relevant information** if it:
- (a) contradicts any information given to the NRA under this Code; or
 - (b) shows that the use of, or any other dealing with, the constituent or chemical product in accordance with the proposed instructions for its use or for such a dealing contained in the application, or shows that the use of, or any other dealing with, the chemical product in accordance with the instructions for its use or for such a dealing contained in an established standard:
 - (i) may be an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; or
 - (ii) may be likely to have an effect that is harmful to human beings; or

- (iii) may be likely to have an unintended effect that is harmful to animals, plants or things or to the environment; or
 - (c) shows that the use of the chemical product in accordance with the proposed instructions for its use contained in the application, or in accordance with the instructions for its use contained in an established standard, may be ineffective according to criteria determined by the NRA for the product; or
 - (d) would have had to be given to the NRA in connection with the application if the applicant had been aware of the information when the application was made.
- (5) A corporation is taken to be aware of any information if a related corporation is aware of that information.
- (6) The question whether 2 corporations are related to each other is to be determined in the same way as that question would be determined under the *Corporations Act 2001*.
- (7) Any information that a person has to give to the NRA under this section must be given in writing signed by an approved person.

165 The Schedule (paragraph 161(1)(a) of the Agvet Code)

After “registered chemical product”, insert “or a registered listed chemical product”.

166 The Schedule (paragraphs 161(2)(b) and (c) of the Agvet Code)

Omit “recommendations”, substitute “instructions”.

167 The Schedule (paragraph 161(2)(d) of the Agvet Code)

After “registration”, insert “, listed registration”.

168 The Schedule (after subsection 161(2) of the Agvet Code)

Insert:

- (2A) A corporation is taken to be aware of any information if a related corporation is aware of that information.

- (2B) The question whether 2 corporations are related to each other is to be determined in the same way as that question would be determined under the *Corporations Act 2001*.

169 The Schedule (subparagraph 162(3)(a)(ii) of the Agvet Code)

After “disclosing”, insert “the relevant”.

170 The Schedule (subparagraph 162(3)(b)(i) of the Agvet Code)

After “registration”, insert “or listed registration”.

171 The Schedule (subparagraph 162(3)(b)(ii) of the Agvet Code)

Repeal the subparagraph, substitute:

- (ii) for the purposes of the NRA’s reconsideration of the registration of the product under Division 4 of Part 2 or of the listed registration of the product under Division 6 of Part 2A—by disclosing the relevant particulars of the product; or

172 The Schedule (after subsection 162(13) of the Agvet Code)

Insert:

- (13A) A reference in this section to information about:

- (a) an active constituent for a proposed or existing chemical product; or
- (b) a chemical product; or
- (c) any of the constituents of a chemical product; or
- (d) a label for containers for a chemical product;

includes a reference to information about any substance or thing that was at any time such an active constituent, such a chemical product, such a constituent of a chemical product or such a label, as the case may be.

173 The Schedule (before paragraph 167(1)(a) of the Agvet Code)

Insert:

- (aa) a decision under section 11A that the application does not comply with subsection 11(1);
- (ab) a decision under section 11A to defer consideration of an application for approval of an active constituent for a proposed or existing chemical product, for registration of a chemical product or for approval of a label for containers for a chemical product, or to treat such an application as having been withdrawn;
- (ac) a decision under section 11A to reject an application for approval of an active constituent for a proposed or existing chemical product, for registration of a chemical product or for approval of a label for containers for a chemical product;
- (ad) a decision under subparagraph 11A(3)(a)(iii) refusing to extend a period;

174 The Schedule (after paragraph 167(1)(f) of the Agvet Code)

Insert:

- (fa) a decision under Division 4 of Part 2A to refuse an application for listed registration of a chemical product;
- (fb) a decision under Division 4 of Part 2A to grant listed registration of a chemical product subject to particular conditions;
- (fc) a decision under Division 5 of Part 2A to refuse an application to vary the relevant particulars of the listed registration of a chemical product;
- (fd) a decision under Division 5 of Part 2A to refuse an application to vary the conditions of the listed registration of a chemical product;
- (fe) a decision under Division 5 of Part 2A to vary the conditions of the listed registration of a chemical product;
- (ff) a decision under Division 7 of Part 2A to suspend or cancel the listed registration of a chemical product;

175 The Schedule (paragraph 167(1)(g) of the Agvet Code)

After “48(3)”, insert “or 56ZL(3)”.

176 The Schedule (after paragraph 167(1)(i) of the Agvet Code)

Insert:

- (ia) a decision under subsection 81(3) shortening, or extending or refusing to extend, a period;

177 The Schedule (subsection 178(2) of the Agvet Code)

After “taken by”, insert “paragraph 174(1)(c) or”.

Schedule 2—Amendment of the Agricultural and Veterinary Chemicals (Administration) Act 1992

1 Paragraph 7(1A)(b)

Omit “and approved labels for such products”, substitute “, registered listed chemical products, reserved chemical products and approved labels for containers for chemical products”.

2 Subsection 7A(2) (definition of *protected commodity*)

Repeal the definition, substitute:

protected commodity has the same meaning as in the Agvet Code.

3 Subparagraphs 8A(2)(a)(ii), (b)(ii) and (c)(ii)

After “registration”, insert “or listed registration”.

4 Paragraph 43(5)(b)

Omit “which”, substitute “with”.

5 Subsection 50(1)

Repeal the subsection, substitute:

- (1) The NRA must give to the Minister a corporate plan on or before 1 June (or such later day as the Minister in a particular calendar year allows) in each calendar year.

(1A) If:

- (a) apart from this subsection, the NRA would be required to give to the Minister a corporate plan on or before 1 June (or a later date) in a particular calendar year (the *relevant calendar year*); and
- (b) if the corporate plan were given, the first year to which it would be required to relate would be a year to which a previous corporate plan given by the NRA to the Minister relates; and

(c) the Minister, at the request of the NRA, determines that this subsection is to apply in respect of the relevant calendar year; the NRA is not required to give to the Minister a corporate plan in the relevant calendar year.

(1B) However, if the NRA does not give to the Minister a corporate plan in a particular calendar year, the NRA:

- (a) must inform the Minister of any proposed changes to the strategies set out in the last corporate plan given by it to the Minister; and
- (b) must not make those changes unless they have been approved by the Minister.

6 Application

The amendment made by item 5 applies for the calendar year beginning on 1 January 2003 and all following calendar years.

7 Subsection 55(1)

Repeal the subsection, substitute:

- (1) The NRA must, on or before 1 June (or such later day as the Minister in a particular calendar year allows) in each calendar year, give to the Minister an annual operational plan relating to the period of 12 months beginning on 1 July in that calendar year.

8 Application

The amendment made by item 7 applies for the calendar year beginning on 1 January 2003 and all following calendar years.

9 Subparagraph 69B(1)(a)(ii)

Repeal the subparagraph, substitute:

- (ii) a chemical product that is not a registered chemical product, a registered listed chemical product, a reserved chemical product or an exempt chemical product; or

10 Section 69EO

Repeal the section, substitute:

69EO False or misleading information or document

- (1) A person commits an offence if, for the purposes of, or in connection with, the making of a decision by the NRA as to whether it should give a consent under section 69B, the person:
 - (a) gives information (whether orally or in writing) that the person knows to be false or misleading in a material particular; or
 - (b) produces a document that the person knows to be false or misleading in a material particular without:
 - (i) indicating to the person to whom the document is produced that it is false or misleading and the respect in which it is false or misleading; and
 - (ii) providing correct information to that person if the person producing the document is in possession of, or can reasonably acquire, the correct information.
- (2) The penalty for an offence against subsection (1) is a fine not exceeding 300 penalty units.
- (3) A person commits an offence if, in compliance or purported compliance with a requirement made by an inspector under this Part, or for the purposes of, or in connection with, any provision (other than section 69B) of this Part, the person:
 - (a) gives information (whether orally or in writing) that the person knows to be false or misleading in a material particular; or
 - (b) produces a document that the person knows to be false or misleading in a material particular without:
 - (i) indicating to the person to whom the document is produced that it is false or misleading and the respect in which it is false or misleading; and
 - (ii) providing correct information to that person if the person producing the document is in possession of, or can reasonably acquire, the correct information.
- (4) The penalty for an offence against subsection (3) is a fine not exceeding 60 penalty units.

11 Subsection 69ES(1)

Repeal the subsection, substitute:

- (1) This section has effect for the purposes of any proceeding before a court or tribunal or an authority or person having power to require the production of documents or the answering of questions, other than a proceeding for an offence that is directly punishable by imprisonment.

12 Paragraph 69ES(3)(d)

Omit “Part.”, substitute “Part;”.

13 At the end of subsection 69ES(3)

Add:

- (e) any matter that could be stated in a certificate given under section 149 of any of the Agvet Codes.

14 Paragraph 69H(1)(b)

Repeal the paragraph, substitute:

- (b) the handling of a registered chemical product, a registered listed chemical product or a reserved chemical product; or

15 Paragraph 69H(1)(e)

After “registration,” (wherever occurring), insert “listed registration,”.

16 After paragraph 69H(2)(b)

Insert:

- (ba) a registered listed chemical product; or

17 Subsection 69H(2)

After “registered the product,”, insert “granted listed registration to the product,”.

18 Subsection 70(1)

Repeal paragraph (b) and omit all the words after it, substitute:

- (b) states any of the following:
 - (i) that the NRA has done any act or thing or formed any opinion;

-
- (ii) that a substance referred to in a certificate was, or was not, at a particular time, or during a particular period, an active constituent, or an approved active constituent, for a proposed or existing chemical product;
 - (iii) that a chemical product referred to in the certificate was, or was not, at a particular time, or during a particular period, a chemical product, a registered chemical product, a registered listed chemical product or a reserved chemical product;

is, upon mere production, receivable as prima facie evidence of the matters stated in the certificate.

Schedule 3—Amendment of the Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994

1 Subsection 3(1) (definition of *offence against this Act*)

Repeal the definition.

2 Subsection 3(1) (definition of *registered*)

Repeal the definition, substitute:

registered, in relation to a jurisdiction, means registered under a registration law of the jurisdiction and, if such a registration law is an Agvet Code of the jurisdiction, includes a listed registration under Part 2A of that Code.

3 Subsection 3(1) (paragraph (a) of the definition of *registration law*)

Repeal the paragraph, substitute:

- (a) if there is an Agvet Code of the jurisdiction that is in force—
Part 2 or 2A of that Code, including (to avoid doubt) Part 2 of that Code as it has effect because of the operation of Part 11 of that Code; or

4 After subsection 11(1)

Insert:

- (1A) The regulations may prescribe a rate of levy in respect of chemical products having a listed registration under Part 2A of the Agvet Code of a jurisdiction that is a lower rate than the rate of levy prescribed in respect of chemical products registered under Part 2 of that Code.

5 After subsection 12(1)

Insert:

- (1A) The regulations may prescribe a rate of levy in respect of chemical products having a listed registration under Part 2A of the Agvet

Code of a jurisdiction that is a lower rate than the rate of levy prescribed in respect of chemical products registered under Part 2 of that Code.

*[Minister's second reading speech made in—
House of Representatives on 12 December 2002
Senate on 3 March 2003]*

(276/02)
