



Agricultural and Veterinary Chemicals (Administration) Act 1992

No. 262 of 1992

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Agricultural and Veterinary Chemicals (Administration) Act 1992

No. 262 of 1992

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

[Assented to 24 December 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

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

Commencement

2.(1) Subject to subsection (2), this Act commences on a day to be
fixed by Proclamation.

10 (2) If this Act does not commence under subsection (1) within the
period of 6 months beginning on the day on which it receives the

Royal Assent, it commences on the first day after the end of that period.

Object

3. The object of this Act is to establish a National Registration Authority to administer such laws of the Commonwealth or of the States and Territories relating to agricultural and veterinary chemical products as confer functions and powers on the Authority. 5

Interpretation

4. In this Act, unless the contrary intention appears:

“**certificate of clearance**” has the same meaning as in the *Agricultural and Veterinary Chemicals Act 1988*; 10

“**Chairperson**” means the Chairperson of the NRA;

“**chemical product**” has the same meaning as in the *Agricultural and Veterinary Chemicals Act 1988*;

“**committee**” means a committee established under section 28; 15

“**Deputy Chairperson**” means the Deputy Chairperson of the NRA;

“**director**” means a director of the NRA and includes the Chairperson;

“**industry**” means the agricultural and veterinary chemicals industry;

“**member of the staff**”, in relation to the NRA, means:

(a) a person employed by the NRA under section 45; or 20

(b) a person whose services are made available to the NRA under paragraph 46(1)(a) or under arrangements made under subsection 46(2);

“**NRA**” means the National Registration Authority for Agricultural and Veterinary Chemicals established by section 6; 25

“**State**” includes the Australian Capital Territory or the Northern Territory of Australia;

“**Territory**” means a Territory other than the Australian Capital Territory and the Northern Territory.

Extension to external Territories 30

5. This Act extends to every external Territory to which the *Agricultural and Veterinary Chemicals Act 1988* applies.

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS OF NRA

Establishment 35

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

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Functions and powers

7.(1) The NRA has such functions and powers as are conferred on it by or under this Act or the *Agricultural and Veterinary Chemicals Act 1988*.

5 (2) The NRA has any functions and powers that are expressed to be conferred on it by a law of a State.

(3) The NRA has power to do all things necessary or convenient to be done in connection with the performance of its functions and, in particular, may:

- 10 (a) enter into contracts; and
- (b) acquire, hold and dispose of real and personal property; and
- (c) occupy, use and control any land or building owned or held under lease by the Commonwealth, a State or a Territory and made available for the purposes of the NRA; and
- 15 (d) appoint agents and attorneys, and act as agent for other persons; and
- (e) do anything incidental to any of its powers.

Consultation

20 8.(1) The NRA, for the purpose of considering any matter, or obtaining information or advice, relating to the performance of its functions, may consult with persons, bodies or Governments, including:

- (a) persons or bodies involved in the industry; and
- (b) the Commonwealth Government or State Governments or Commonwealth or State authorities having functions relating to
- 25 agricultural or veterinary chemicals; and
- (c) persons (including members of the scientific community) having a particular interest in matters associated with the industry; and
- (d) persons or bodies having a particular interest in the protection
- 30 of the interests of consumers or in the protection of the environment.

(2) The NRA may:

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

Agreements and arrangements

9.(1) The Minister, or a person authorised in writing by the Minister, may enter into an agreement or arrangement with a Minister of a State for the performance of functions or the exercise of powers by the NRA as an agent of the State.

5

(2) The NRA has such functions and powers as are referred to in such an agreement or arrangement.

Minister may give directions in exceptional circumstances

10.(1) Subject to subsection (2), the Minister may give written directions to the NRA concerning the performance of its functions or the exercise of its powers, and the NRA must comply with any such direction.

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(2) The Minister must not give a direction to the NRA unless:

(a) the Minister is satisfied that, because of the existence of exceptional circumstances, it is necessary to give the direction to the NRA in order to ensure that the performance of the functions, or the exercise of the powers, of the NRA does not conflict with major Government policies; and

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(b) the Minister has given to the NRA a written notice stating that the Minister is considering giving the direction; and

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(c) the Minister has given to the Chairperson an adequate opportunity to discuss with the Minister the need for the proposed direction.

(3) Subject to subsection (4), if the Minister gives a direction to the NRA, the Minister must:

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(a) cause a notice setting out particulars of the direction to be published in the *Gazette* as soon as practicable after giving the direction; and

(b) cause a copy of that notice to be laid before each House of the Parliament within 15 sitting days of that House after the publication of the notice in the *Gazette*.

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(4) Subsection (3) does not apply in relation to a particular direction if the Minister determines, in writing, that compliance with the subsection is undesirable because it would, or would be likely to, be prejudicial to the national interest of Australia.

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Delegation by NRA

11.(1) The NRA may, by writing under its common seal, delegate to:

(a) a director; or

(b) a committee; or

(c) a member of the staff of the NRA; or

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(d) an authority of the Commonwealth; or
(e) an officer of, or person employed in, a Department of the Australian Public Service;
all or any of the NRA's powers and functions.

- 5 (2) A delegate of the NRA is, in the exercise of the delegate's delegated powers and functions, subject to the NRA's directions.

PART 3—CONSTITUTION AND MEETINGS OF NRA

NRA is body corporate etc.

12.(1) The NRA:

- 10 (a) is a body corporate with perpetual succession; and
 (b) is to have a common seal; and
 (c) may sue and be sued in its corporate name.

 (2) The common seal of the NRA must be kept in such custody as the NRA directs and must not be used except as authorised by the
15 NRA.

 (3) All courts, judges and persons acting judicially must take judicial notice of the imprint of the common seal of the NRA appearing on a document and must presume that it was duly affixed.

Constitution of NRA

20 13.(1) The NRA consists of a Chairperson and 7 other directors.

 (2) The performance of a function or the exercise of a power of the NRA is not affected by a vacancy or vacancies in the membership of the NRA.

Appointment of directors

25 14.(1) The directors are to be appointed by the Minister.

 (2) In making appointments of directors other than the Chairperson, the Minister is to ensure that:

- (a) 2 directors have experience in the regulation of chemical products under the law of a State or Territory; and
30 (b) 2 directors have experience in the industry; and
 (c) one director has experience in the protection of the interests of consumers; and
 (d) one director has experience in primary production; and
 (e) one director has experience in occupational health and safety
35 as an officer or employee of an organisation of employees.

 (3) The appointment of a person as a director is not invalid because of a defect or irregularity in connection with the person's appointment.

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Deputy Chairperson

15.(1) The Minister may appoint a director to be the Deputy Chairperson of the NRA.

(2) Before appointing a person to be the Deputy Chairperson, the Minister must consult with the Chairperson. 5

(3) The Minister may at any time terminate an appointment made under subsection (1).

(4) A person appointed as Deputy Chairperson ceases to hold that office if the person ceases to be a director.

(5) A person appointed as Deputy Chairperson may resign as Deputy Chairperson by giving to the Minister a signed notice of resignation. 10

(6) During any period when:

(a) the office of Chairperson is vacant (whether or not an appointment has previously been made to that office); or

(b) the Chairperson is absent from Australia or is, for any reason, unable to perform the duties of that office; 15

the Deputy Chairperson is to act as Chairperson.

(7) The Deputy Chairperson has, when acting as Chairperson, all the powers, duties and rights of the Chairperson.

(8) Anything done by or in relation to a person purporting to act as Chairperson under subsection (6) is not invalid merely because: 20

(a) there was a defect or irregularity in connection with the appointment of the person as Deputy Chairperson; or

(b) the person's appointment as Deputy Chairperson had ceased to have effect; or 25

(c) the occasion for the person to act as Chairperson had not arisen or had ceased.

Acting appointments

16.(1) The Minister may appoint a director to act as the Deputy Chairperson: 30

(a) during a vacancy in the office of Deputy Chairperson, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office of Deputy Chairperson. 35

(2) A director has, when acting as Deputy Chairperson, all the powers, duties and rights of the Deputy Chairperson including those mentioned in subsections 15(6) and (7). 40

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- (3) The Minister may appoint a person to act as a director:
- (a) during a vacancy in the office of that director, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when that director is absent from Australia or is, for any reason, unable to perform the duties of the office.

(4) A person has, when acting as a director, all the powers, duties and rights of a director.

(5) The Minister may at any time terminate an appointment made under subsection (1) or (3).

(6) A person appointed to act as Deputy Chairperson ceases to hold the appointment if the person ceases to be a director.

(7) A person appointed to act as Deputy Chairperson or as a director may resign the appointment by giving to the Minister a signed notice of resignation.

(8) Anything done by or in relation to a person purporting to act as the Deputy Chairperson, or as a director other than the Deputy Chairperson, is not invalid merely because:

- (a) there was a defect or irregularity in connection with the person's appointment; or
- (b) the person's appointment had ceased to have effect; or
- (c) the occasion for the person to act had not arisen or had ceased.

Term of office

17. A director holds office, subject to this Part, for such period not exceeding 3 years as is specified in the instrument of his or her appointment, but is eligible for re-appointment.

Directors hold office on part-time basis

18. The directors hold office on a part-time basis.

Remuneration and allowances

19.(1) A director or a member of a committee is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination is in operation, the director or member is to be paid such remuneration as is prescribed.

(2) A director or a member of a committee is to be paid such allowances as are prescribed.

(3) If a person who is a director or a member of a committee:

- (a) is a member of the Parliament of a State; or
- (b) is a candidate for election to the Parliament of a State and, under the law of the State, would not be eligible to be elected

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- as a member of that Parliament if the person were entitled to remuneration or allowances under this Act; or
- (c) is in service or employment of a State, or of an authority of a State, on a full-time basis; or
- (d) holds or performs the duties of an office or position established by or under a law of a State on a full-time basis; 5
- the person must not be paid remuneration or allowances under this Act, but is to be reimbursed the expenses that the person reasonably incurs in performing duties under this Act.
- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*. 10
- (5) In this section:
- “Parliament”:
- (a) in relation to the Australian Capital Territory—means the Legislative Assembly for the Australian Capital Territory; or 15
- (b) in relation to the Northern Territory—means the Legislative Assembly of the Northern Territory.
- Directors may receive other benefits**
- 20.(1) In addition to remuneration and allowances under section 19, a director is to be provided with such other benefits (if any) as the Minister determines. 20
- (2) A determination under subsection (1):
- (a) must be made by writing; and
- (b) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. 25
- (3) The benefits in respect of which the Minister may make a determination under subsection (1) are such benefits as the Minister considers are necessary or desirable to assist a director in, or place a director in a position that may facilitate, the performance of his or her functions. 30
- Leave of absence**
- 21.(1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as the Minister considers appropriate.
- (2) The Chairperson may grant leave of absence to another director on such terms and conditions as the Chairperson considers appropriate. 35
- Resignation**
22. A director may resign by giving to the Minister a signed notice of resignation.

Disclosure of interests

23.(1) A director who has a direct or indirect financial interest in a matter being considered or about to be considered at a meeting of the NRA must, as soon as possible after the director becomes aware of the relevant facts, disclose the nature of the interest at a meeting of the NRA.

(2) The disclosure must be recorded in the minutes of the meeting and the director must not, unless the NRA or the Minister otherwise determines:

- (a) be present during any consideration of the matter by the NRA; or
- (b) take part in any decision of the NRA with respect to the matter.

(3) For the purpose of the making by the NRA of such a determination in relation to the director who has made the disclosure, any director who has a direct or indirect financial interest in the matter to which the disclosure relates must not:

- (a) be present during any consideration of the matter by the NRA for the purpose of making the determination; or
- (b) take part in the making by the NRA of the determination.

(4) A director who has a direct or indirect financial interest in a matter being considered or about to be considered by the NRA in accordance with section 27 must, as soon as practicable after the director becomes aware of the relevant facts, disclose the nature of that interest to the Minister.

(5) A director who is required to make a disclosure under subsection (4) in respect of a matter must not, unless the Minister otherwise determines, participate in a resolution with respect to that matter in accordance with section 27.

Termination of appointment

24.(1) The Minister may terminate the appointment of a director for:

- (a) misbehaviour or physical or mental incapacity; or
- (b) inefficiency or incompetence.

(2) If a director:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (b) without reasonable excuse, contravenes section 23; or

- (c) being the Chairperson, is absent, except with the leave of the Minister, from 3 consecutive meetings of the NRA; or
- (d) being a director other than the Chairperson, is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the NRA;

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the Minister may terminate the appointment of the director.

Terms and conditions of appointment not provided for by Act

25. A director holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

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Meetings of NRA

26.(1) Subject to subsection (2), meetings of the NRA are to be held at such times and places as the NRA from time to time determines.

(2) The Chairperson may at any time convene a meeting.

(3) The Chairperson is to preside at any meeting at which he or she is present.

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(4) If the Chairperson and Deputy Chairperson are not present at a meeting, the directors present are to appoint one of their number to preside at the meeting.

(5) At a meeting:

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(a) at least two-thirds of the number of directors form a quorum; and

(b) a question is to be decided by a majority of the votes of the directors present and voting; and

(c) the director presiding has a deliberative vote and, if the votes cast in favour and against a motion are equal, also has a casting vote.

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(6) The NRA must keep minutes of its proceedings.

(7) The NRA may invite a person to attend a meeting for the purpose of advising or informing it on any matter and may pay expenses incurred by the person in attending the meeting.

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(8) Subject to this section, the procedure at or in relation to a meeting is to be as determined by the NRA.

(9) Without limiting subsection (8), the NRA may permit directors to participate in a particular meeting, or all meetings, by:

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(a) telephone; or

(b) closed-circuit television; or

(c) any other means of communication.

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(10) A director who is permitted to participate in a meeting under subsection (9) is taken to be present at that meeting.

Resolutions without formal meetings

- 5 27. If the NRA so determines, a resolution is taken to have been passed at a meeting of the NRA if, without a meeting, at least two-thirds of the number of the directors indicate agreement with the resolution in accordance with a method determined by the NRA.

Establishment of committees

- 10 28.(1) The NRA may establish committees to assist it in the performance of its functions and the exercise of its powers, and may abolish any such committee.

(2) A committee is to consist of such persons (whether directors or not) as the NRA determines.

Meetings of committees

- 15 29.(1) The NRA may determine:
- (a) the manner in which a committee is to perform its functions; and
 - (b) the procedure to be followed at or in relation to the meetings of a committee, including matters with respect to:

20 (i) the convening of meetings; and

(ii) the number of members of the committee who are to form a quorum; and

(iii) the selection of a member of the committee to be the Chairperson of the committee; and

25 (iv) the manner in which questions arising at a meeting are to be decided.

- 30 (2) If a member of a committee has a direct or indirect financial interest in a matter being considered, or about to be considered, by the committee, the member must, as soon as practicable after the member becomes aware of the relevant facts, disclose the nature of the interest at a meeting of the committee.

- (3) A disclosure under subsection (2) must be recorded in the minutes of the meeting and the member must not, unless the NRA otherwise determines:
- 35 (a) be present during any deliberation of the committee with respect to that matter; or
 - (b) take part in any decision of the committee with respect to that matter.

Arrangements relating to staff etc.

30. The Chairperson of a committee is to arrange with the Chairperson of the NRA for the services of employees of, and consultants to, the NRA, and for facilities of the NRA, to be made available to the committee.

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PART 4—CHIEF EXECUTIVE OFFICER

Chief Executive Officer

31. There is to be a Chief Executive Officer of the NRA.

Duties

32.(1) The Chief Executive Officer is to manage the affairs of the NRA. 10

(2) The Chief Executive Officer must act in accordance with any policies determined by, and any directions given by, the NRA.

(3) All acts and things done in the name of, or on behalf of, the NRA by the Chief Executive Officer are taken to have been done by the NRA. 15

Appointment

33.(1) The Chief Executive Officer is to be appointed by the NRA by writing under its common seal.

(2) A director is not eligible for appointment as the Chief Executive Officer. 20

(3) The appointment of a person as Chief Executive Officer is not invalid because of a defect or irregularity in connection with the person's appointment.

Term of appointment 25

34. The Chief Executive Officer holds office for such period not exceeding 5 years as is agreed in writing between the NRA and the Chief Executive Officer, but is eligible for re-appointment.

Remuneration and allowances

35.(1) The Chief Executive Officer is to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration is in force, is to be paid such remuneration as is determined in writing by the NRA. 30

(2) The Chief Executive Officer is to be paid such allowances as are determined in writing by the NRA. 35

(3) A determination by the NRA does not have effect unless it has been approved by the Minister.

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(4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Chief Executive Officer may receive other benefits

5 36.(1) In addition to remuneration and allowances under section 35, the Chief Executive Officer is to be provided with such other benefits (if any) as the NRA determines in writing.

(2) A determination does not have effect unless it has been approved by the Minister.

10 (3) The benefits in respect of which the NRA may make a determination under subsection (1) are such benefits (including benefits by way of financial or other assistance in connection with housing, transport, insurance, long service leave and superannuation) as the NRA considers are necessary or desirable to assist the Chief Executive Officer in, or place the Chief Executive Officer in a position that may
15 facilitate, the performance of his or her functions.

Terms and conditions of appointment

37. The Chief Executive Officer holds office on such terms and conditions in relation to matters not provided for by this Act as are determined by the NRA with the written approval of the Minister.

20 **Chief Executive Officer not to engage in other paid employment**

38. The Chief Executive Officer must not engage in paid employment outside the duties of his or her office except with the approval of the NRA.

Leave of absence for recreation

25 39. Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.

Leave of absence for other purposes

30 40. The Chairperson may grant to the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the NRA determines with the written approval of the Minister.

Resignation

35 41. The Chief Executive Officer may resign by giving to the Chairperson a signed notice of resignation.

Disclosure of interests

40 42. The Chief Executive Officer must give written notice to the Chairperson of all direct or indirect financial interests that the Chief Executive Officer has or acquires in any business or in any body corporate carrying on any business.

Acting Chief Executive Officer

43.(1) The NRA may appoint a person to act as Chief Executive Officer:

- (a) during a vacancy in the office of Chief Executive Officer, whether or not an appointment has previously been made to that office; 5
or
- (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office of Chief Executive Officer; 10

but a person appointed to act during a vacancy must not continue so to act for more than 12 months.

(2) The NRA may terminate an appointment under this section.

(3) A person appointed under this section may resign the appointment by giving to the Chairperson a signed notice of resignation. 15

(4) Unless the contrary intention appears, a reference in this Act other than this section, to the Chief Executive Officer is taken, if a person is acting as Chief Executive Officer, to be a reference to the person so acting.

(5) Anything done by or in relation to a person purporting to act under subsection (1) is not invalid merely because: 20

- (a) the occasion for the person's appointment had not arisen; or
- (b) there is a defect or irregularity in connection with the person's appointment; or
- (c) the person's appointment had ceased to have effect; or 25
- (d) the occasion for the person to act had not arisen or had ceased.

Delegation by the Chief Executive Officer

44. The Chief Executive Officer may, by signed writing, delegate to a member of the staff of the NRA all or any of the powers and functions of the Chief Executive Officer under this Act. 30

PART 5—EMPLOYEES AND CONSULTANTS

Employees

45.(1) The NRA may engage such employees as it considers necessary for the performance of its functions and the exercise of its powers.

(2) The terms and conditions of employment are to be determined by the NRA. 35

(3) A person must not be employed by the NRA on terms and conditions more favourable than those applying to the Chief Executive Officer.

Staff to be made available to the NRA

46.(1) The NRA is to be assisted by:

- 5 (a) officers and employees of Departments of the Australian Public Service, and of authorities of the Commonwealth, whose services are made available to the NRA in connection with the performance or exercise of any of its functions or powers; and
- (b) persons whose services are so made available under arrangements made under subsection (2).

10 (2) The NRA may make with the appropriate authority or officer of a State or Territory an arrangement under which the State or Territory may make officers or employees available to the NRA to perform services in connection with the performance or exercise of any of its functions or powers.

15 (3) In the performance of services for the NRA under this section, a person is subject to the directions of the Chief Executive Officer.

Consultants

47.(1) The NRA may engage persons having suitable qualifications and experience as consultants to the NRA.

20 (2) The terms and conditions of engagement are to be determined by the NRA.

Human resources development program

48.(1) The NRA must develop and implement a human resources development program (including an equal employment opportunity program) for the NRA.

25 (2) The NRA must take whatever action is necessary to give effect to the human resources development program, and any person who exercises powers in relation to employment matters in the NRA must have regard to the program in exercising those powers.

Merit principle to apply

30 **49.** Nothing in this Act requires or permits anyone to do anything incompatible with the principle that employment matters should be dealt with on the basis of merit.

PART 6—CORPORATE AND ANNUAL OPERATIONAL PLANS

Development of corporate plan

35 **50.(1)** The NRA must give to the Minister a corporate plan before 1 May 1993 and before 1 May, or such later day as the Minister in a particular year allows, in each later calendar year.

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(2) In preparing a corporate plan, the NRA may consult any person or body considered by the NRA to be appropriate.

(3) A corporate plan is to relate to a period beginning on the following 1 July and extending for 3, 4 or 5 years, as the NRA chooses.

(4) A corporate plan must: 5

(a) define what the NRA considers should be its principal goals during the period to which the plan relates; and

(b) give a broad outline of the strategies that the NRA considers should be pursued during that period for achieving those goals; and 10

(c) set out the NRA's assessment of the factors that will affect its operations during the period of the plan in performing its functions; and

(d) include such performance indicators as the NRA considers appropriate against which its performance can be assessed during the period of the plan; and 15

(e) include the human resources development program developed under section 48.

Approval of corporate plan

51.(1) The Minister may, by written notice given to the NRA: 20

(a) approve the corporate plan; or

(b) if the Minister thinks that the interests of the administration of the *Agricultural and Veterinary Chemicals Act 1988* so require— request the NRA to revise the plan appropriately.

(2) If the Minister makes a request under paragraph (1)(b), the Minister is to set out the reasons for the request in the notice. 25

(3) The NRA must consider a request for the revision of a corporate plan and the reasons for the request, make such revision of the plan as it considers appropriate and submit the revised plan to the Minister for approval. 30

(4) A corporate plan comes into force:

(a) at the beginning of the period to which the plan relates; or

(b) on the day on which the NRA receives written notice of the Minister's approval; 35

whichever is the later.

Variation of corporate plan by NRA

52.(1) Subject to subsection (4), the NRA must not vary a corporate plan except with the agreement of the Minister.

(2) If the NRA wishes to vary a corporate plan, it must prepare written proposals for the variations and give a copy of the proposals to 40

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the Minister together with a statement setting out its reasons for making the proposals.

(3) The Minister may, after considering proposals for the variation of a corporate plan and the reason for making those proposals, by written notice given to the NRA, agree with or reject the proposals.

(4) This section does not prevent the NRA from making variations of a minor nature to a corporate plan without the agreement of the Minister but the NRA must inform the Minister of the variation as soon as practicable after making it.

10 Variation at request of Minister

53.(1) The Minister may, at any time, give to the NRA written notice requesting it to vary a corporate plan in the manner set out in the notice.

(2) The Minister is to set out in the notice the reasons for the request.

(3) The NRA must consider the request and reasons, prepare written proposals for such variations of the plan as it considers appropriate and submit those proposals to the Minister.

(4) The Minister is to give the NRA written notice approving or rejecting the proposals.

Date of effect of variations

54. If:

(a) a corporate plan has come into force; and

(b) a variation of the plan is approved by the Minister under section 52 or 53 or the NRA makes a variation of a minor nature;

the variation takes effect on the day on which the NRA receives notice of the Minister's approval or makes the variation of a minor nature, as the case may be.

30 Development of annual operational plan

55.(1) The NRA must, before 1 June 1993 and before 1 June in each later calendar year or such later date as the Minister in a particular case allows, give to the Minister an annual operational plan relating to the period of 12 months beginning on the following 1 July.

(2) An annual operational plan must:

(a) set out particulars of the action that the NRA intends to take in order to give effect to, or further, during the period to which the plan relates, the goals set out in the corporate plan applicable to the period; and

(b) include such performance indicators as the NRA considers

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appropriate against which its performance can be assessed during the period to which the plan relates; and

- (c) propose action to implement the human resources development program developed under section 48.

Approval of annual operational plan 5

56.(1) The Minister may, by written notice given to the NRA:

- (a) approve an annual operational plan; or
(b) if the Minister thinks that the plan is inconsistent with the provisions of the relevant corporate plan—request the NRA to revise the annual operational plan appropriately. 10

(2) If the Minister makes a request under paragraph (1)(b), the Minister is to set out the reasons for the request in the notice.

(3) The NRA must consider a request under paragraph (1)(b) and the statement of reasons, make such revision of the annual operational plan as it considers appropriate and submit the revised plan to the Minister for approval. 15

(4) An annual operational plan comes into force:

- (a) at the beginning of the period to which the plan relates; or
(b) on the day on which the NRA receives written notice of the Minister's approval; 20

whichever is the later.

Variation of annual operational plan

57.(1) Sections 52, 53 and 54 apply to annual operational plans in the same way as they apply to corporate plans.

(2) When submitting to the Minister proposals for variation of a corporate plan, the NRA must also submit to the Minister proposals for any consequential variations of a relevant annual operational plan. 25

PART 7—FINANCE

Appropriation of money

58.(1) There is payable to the NRA such money as is appropriated by the Parliament for the purposes of the NRA. 30

(2) There are payable to the NRA amounts equal to:

- (a) fees received by the Commonwealth under the *Agricultural and Veterinary Chemicals Act 1988*; and
(b) any amounts paid by a State to the Commonwealth for the purposes of the NRA. 35

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(3) Amounts payable to the NRA under subsection (2) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

When payments to be made to NRA

- 5 59. The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in section 58 is to be paid to the NRA.

Money of NRA

- 10 60. The money of the NRA consists of:
 (a) money paid to the NRA pursuant to directions given by the Minister for Finance under section 59; and
 (b) any other money, other than trust money, paid to the NRA.

Estimates

- 15 61.(1) The NRA is to prepare estimates, in such form as the Minister directs, of the NRA's receipts and expenditure for each financial year and, if the Minister so directs, for any other period specified by the Minister.

(2) The NRA must submit estimates so prepared to the Minister not later than such date as the Minister directs.

- 20 (3) Except with the consent of the Minister, the money of the NRA must not be spent otherwise than in accordance with estimates of expenditure approved by the Minister.

(4) A direction, consent or approval for the purposes of this section is to be given in writing.

25 **Expenditure of money of the NRA**

62. Money of the NRA may only be expended:
 (a) in payment or discharge of debts and liabilities incurred by the NRA in the performance of its functions; and
30 (b) in payment of remuneration, allowances, benefits and expenses payable under this Act; and
 (c) in making any other payments that the NRA is authorised or required to make by or under this Act or any other law of the Commonwealth or any law of a State or Territory that is expressed to confer functions or powers on the NRA.

35 **Borrowing of money**

 63.(1) Subject to subsection (2), the NRA may borrow money for the performance of its functions.

- 40 (2) Except with the written approval of the Treasurer, the NRA must not borrow money if, as a result of the borrowing, the total amount borrowed by the NRA at any time would exceed \$500,000.

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(3) An approval may be given in relation to a particular transaction or a class of transactions.

(4) A borrowing of money under an approval must be on such terms and conditions as are specified in, or are consistent with, the approval.

5

(5) Money may be borrowed wholly or partly in foreign currency.

Guarantee of borrowings

64.(1) The Treasurer may, on behalf of the Commonwealth, enter into a contract guaranteeing the performance by the NRA of obligations incurred by it under section 63.

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(2) If the Treasurer determines in writing that obligations incurred by the NRA under that section are guaranteed by the Commonwealth, the obligations are so guaranteed by force of this subsection.

(3) A contract under subsection (1) may include:

(a) a provision agreeing that proceedings under the contract may be taken in courts of a foreign country; or

15

(b) a provision waiving the immunity of the Commonwealth from suit in courts of a foreign country.

Borrowing not otherwise permitted

65. The NRA must not borrow money except under this Part.

20

NRA may give security

66. The NRA may give security over the whole or part of its assets for:

(a) the performance by it of any obligation incurred under section 63; or

25

(b) the payment to the Commonwealth of amounts equal to amounts paid by the Commonwealth under a guarantee under section 64.

Exemption from tax

67. The NRA is not liable to pay tax under any law of the Commonwealth (other than a law relating to sales tax) or any law of a State or Territory.

30

Annual report of NRA

68. Without limiting the generality of subsection 63H(1) of the *Audit Act 1901* in its application in relation to the NRA, the NRA must include in each report referred to in that subsection:

35

(a) an assessment of the extent to which its operations during the year to which the report relates have contributed:

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- (i) to the goals set out in the corporate plan applicable to the period; and
- (ii) to the objectives set out in the annual operational plan that relates to a period corresponding to that year; and
- 5 (b) particulars of:
 - (i) variations (if any) of the corporate plan and the annual operational plan taking effect during that year; and
 - (ii) significant purchases and disposals of real property by the NRA during that year; and
 - 10 (iii) borrowings made by the NRA during that year; and
 - (iv) any directions given to the NRA by the Minister during that year to which subsection 10(3) applies and the impact of the directions on the operations of the NRA; and
 - 15 (v) the action taken by the NRA during that year to develop and implement its human resources development program; and
- (c) an evaluation of its overall performance during that year against the performance indicators set out in the corporate plan applicable to the period and the annual operational plan that
- 20 came into force at the beginning of that year.

Trust money

69.(1) The NRA:

- 25 (a) may receive money from a body or person on trust for application towards a particular purpose consistent with the functions of the NRA; and
- (b) must pay trust money into an account or accounts referred to in subsection 63D(1) of the *Audit Act 1901* containing no money other than trust money; and
- 30 (c) must apply or deal with trust money only in accordance with the powers and duties of the NRA as trustee; and
- (d) may only invest trust money:
 - (i) in any manner in which the NRA is authorised to invest the money by the terms of the trust; or
 - 35 (ii) in any manner in which trust money may be lawfully invested.

(2) Sections 63F and 63G of the *Audit Act 1901* have effect in relation to the NRA as if:

- (a) a reference in those sections to money~ included a reference to trust money; and
- 40 (b) a reference in those sections to transactions, or to transactions and affairs, included a reference to transactions, or to transactions and affairs, relating to trust money.

PART 8—MISCELLANEOUS

Acts done by NRA

70.(1) A certificate that:

(a) purports to be signed by:

(i) a director; or

(ii) the Chief Executive Officer; or

(iii) another person authorised by the NRA to sign certificates for the purposes of this subsection; and

(b) states that the NRA has done any act or thing or formed any opinion;

is, upon mere production, receivable as *prima facie* evidence that the NRA has done the act or thing or formed the opinion.

(2) A certificate that:

(a) purports to be signed by a director or the Chief Executive Officer; and

(b) states that a named person is authorised by the NRA to sign certificates for the purposes of subsection (1);

is, upon mere production, receivable as *prima facie* evidence that the person is so authorised.

Delegation by Minister

71.(1) The Minister may, by signed writing, delegate to an officer of, or person employed in, the Department all or any of:

(a) the powers conferred on the Minister under this Act or the *Agricultural and Veterinary Chemicals Act 1988*; or

(b) the powers expressed to be conferred on the Minister under a law of a State relating to agricultural or veterinary chemicals.

(2) A delegate of the Minister is, in the exercise of the delegate's delegated powers, subject to the Minister's directions.

Delegation by Treasurer

72. The Treasurer may, by signed writing, delegate to a person holding or performing the duties of an office in the Department of the Treasury all or any of the powers of the Treasurer under this Act.

Regulations

73. The Governor-General may make regulations prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

PART 9—TRANSITIONAL PROVISIONS

Staff

74.(1) A person who:

- 5 (a) immediately before the commencement of this Act was an officer or temporary employee under the *Public Service Act 1922*; and
- (b) from and including that commencement is employed by the NRA;

10 is taken, until the NRA determines otherwise, to be engaged on the same terms and conditions, and to be subject to the same industrial award, as in force from time to time, as applied to the person immediately before that commencement.

15 **(2)** Before making a determination under subsection 45(2) affecting persons mentioned in subsection (1) of this section, the NRA must consult fully with organisations representing such persons for industrial relations purposes.

Transfers of certain assets to NRA

20 **75.(1)** The Minister may cause to be transferred to the NRA any assets held by the Commonwealth that the Minister considers appropriate to be transferred to the NRA for the performance of its functions and the exercise of its powers.

(2) Subsection (1) does not prevent the Commonwealth from transferring any asset to the NRA otherwise than under that subsection.

(3) If, immediately before the transfer:

- 25 (a) a right of the Commonwealth arising out of a debt, liability or obligation of any other person in favour of the Commonwealth existed in respect of the assets; or
- (b) a debt, liability or obligation of the Commonwealth existed in respect of the assets;

30 the right, debt, liability or obligation, as the case may be, of the Commonwealth is, by force of this section, transferred to the NRA.

(4) If, immediately before the transfer:

- (a) proceedings by the Commonwealth were pending in a court; and
- 35 (b) the proceedings related to such a debt, liability or obligation; then, to the extent that the proceedings so relate, they may be continued by the NRA and the NRA is to be substituted for the Commonwealth.

Agreements etc.—Minister may make arrangements

40 **76.** The Minister may, by signed writing, declare that a specified agreement or a specified instrument:

- (a) to which the Commonwealth or the Commonwealth Government is a party; and

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- (b) that immediately before the commencement of this Act related to agricultural or veterinary chemical products;
has effect, after that commencement, as if:
- (c) the NRA were substituted for the Commonwealth or the Commonwealth Government, as the case may be, as a party to the agreement or instrument; and 5
 - (d) any reference in the agreement or instrument to the Commonwealth or the Commonwealth Government were (except in relation to matters that occurred before that commencement) a reference to the NRA; 10
- and, if the Minister makes such a declaration, it has effect accordingly.

Estimates

77. Unless the Minister otherwise directs, the first period for which estimates are to be prepared under subsection 61(1) is to be the period beginning on the day on which this Act commences and ending on the following 30 June. 15

Money paid in advance to Commonwealth

78. If:

- (a) a function of the NRA was formerly performed by the Department; and 20
 - (b) an amount received by the Commonwealth is or includes an amount paid in advance on account of anything to be done by the Commonwealth under that function; and
 - (c) that thing was not done by the Commonwealth before the commencement of this Act; 25
- there is payable to the NRA by the Commonwealth an amount that the Minister, having regard to all matters that he or she considers relevant, determines in writing as being payable because of the receipt of the first-mentioned amount.

Rights in respect of services and facilities formerly provided by Department 30

79.(1) If, immediately before the commencement of this Act:

- (a) a function of the NRA was being performed by the Department; and
 - (b) a right of the Commonwealth existed, arising out of a debt, liability or obligation of any other person in favour of the Commonwealth in respect of a service or facility provided by the Department in the performance of that function; 35
- the right of the Commonwealth is transferred to the NRA, by force of this section, to the extent determined in writing by the Minister and the Minister for Finance. 40

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(2) If, immediately before the commencement of this Act:

(a) proceedings by the Commonwealth were pending in a court;
and

(b) the proceedings related to such a debt, liability or obligation;

5 then, to the extent to which the proceedings so relate, they may be continued by the NRA and the NRA is to be substituted for the Commonwealth.

(3) In subsection (1):

10 “liability” includes liability to pay a fee under the *Agricultural and Veterinary Chemicals Act 1988*, whether or not an invoice was issued, or a demand made, in respect of the fee before the commencement of this Act.

Delegations

15 80. A delegation made by the Australian Agricultural and Veterinary Chemicals Council to a person of all or any of its powers or functions under the *Agricultural and Veterinary Chemicals Act 1988* that was in force immediately before the commencement of this Act is taken to be a delegation duly made by the NRA to that person under section 11 of this Act of the corresponding powers or functions of the NRA.

20 **Annual report and financial statements**

25 81. In the application of section 63H of the *Audit Act 1901* in relation to the NRA, the period beginning on the day on which this Act commences and ending on the following 30 June is to be treated, for the purposes of preparing and submitting the first report and financial statements referred to in that section, as if it were a period of one year ending on that 30 June.

[Minister's second reading speech made in—
House of Representatives on 3 November 1992
Senate on 10 November 1992]