



Western Australia

**Agricultural and Veterinary Chemicals  
(Western Australia) Act 1995**

Compare between:

[09 Jun 2006, 01-c0-02] and [28 Jul 2007, 01-d0-04]



## **Agricultural and Veterinary Chemicals (Western Australia) Act 1995**

**An Act to apply certain laws of the Commonwealth relating to agricultural and veterinary chemical products as laws of Western Australia and for related purposes.**

### **Reasons for enacting this Act**

1. The protection of the health and safety of human beings, animals and the environment is essential to the well-being of society and can be enhanced by putting in place a system to regulate agricultural chemical products and veterinary chemical products.
2. The principle of ecologically sustainable development requires a regulatory system that is designed to ensure that the use of such products today will not impair the prospects of future generations.
3. The furthering of trade and commerce between Australia and places outside Australia, and the present and future economic viability and competitiveness of primary industry and of a domestic industry for manufacturing and formulating such products, are essential for the well-being of the economy and require a system for regulating such products that is cost effective, efficient, predictable, adaptive and responsive.
4. It is desirable to establish a regulatory system that is open and accountable and gives opportunity for public input with respect to the regulation of such products.
5. The system should, so far as practicable, be uniform throughout Australia.

**s. 1**

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6. Uniformity could best be achieved by the enactment of legislation by the Parliament of the Commonwealth as a law for the government of the Australian Capital Territory and the adoption of that legislation by the Parliaments and legislatures of the States and the Northern Territory.

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## Part 1 — Preliminary

### 1. Short title

This Act may be cited as the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*<sup>1</sup>.

### 2. Commencement

This Act comes into operation on such day as is fixed by proclamation<sup>1</sup>.

### 3. Definitions

In this Act, unless the contrary intention appears —

**“Agricultural and Veterinary Chemicals Act”** means the *Agricultural and Veterinary Chemicals Act 1994* of the Commonwealth;

**“Agricultural and Veterinary Chemicals (Administration) Act”** means the *Agricultural and Veterinary Chemicals (Administration) Act 1992* of the Commonwealth;

**“Agricultural and Veterinary Chemicals Code Act”** means the *Agricultural and Veterinary Chemicals Code Act 1994* of the Commonwealth;

**“Agvet Code of Western Australia”** means the provisions applying because of section 5;

**“Agvet Regulations of Western Australia”** means the provisions applying because of section 6;

**“applicable provision”**, in relation to a jurisdiction, means a provision of —

- (a) the Agvet Code of that jurisdiction;
- (b) the Agvet Regulations of that jurisdiction; or
- (c) a law of the Commonwealth that applies in that jurisdiction in relation to a provision of or offence against the Agvet Code or Agvet Regulations of that jurisdiction;

**s. 3**

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**“authority”** in relation to the Commonwealth, has the meaning given in the Agricultural and Veterinary Chemicals Act;

**“Commonwealth administrative laws”** means —

- (a) the following Acts —
  - (i) the *Administrative Appeals Tribunal Act 1975* of the Commonwealth;
  - [(ii) *deleted*]
  - (iii) the *Freedom of Information Act 1982* of the Commonwealth;
  - (iv) the *Ombudsman Act 1976* of the Commonwealth;
  - (v) the *Privacy Act 1988* of the Commonwealth;
- and
- (b) the regulations in force under those Acts;

**“Commonwealth Minister”** means “the Minister” within the meaning of the Agvet Code of the participating Territories;

**“confer”** includes impose;

**“corresponding Act”** means an Act of another jurisdiction that corresponds to this Act;

**“corresponding law”** means —

- (a) a corresponding Act;
- (b) regulations made under a corresponding Act;
- (c) the Agvet Code, Agvet Regulations, or another applicable provision, of another jurisdiction; or
- (d) rules of court made under a corresponding Act;

**“function”** includes a duty;

**“instrument”** means any document whatever, including —

- (a) an Act or an instrument made under an Act;
- (b) a law of this jurisdiction or an instrument made under such a law;

- (c) an award or other industrial determination or order, or an industrial agreement;
- (d) any other order (whether executive, judicial or otherwise);
- (e) a notice, certificate or licence;
- (f) an agreement;
- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose;
- (h) an indictment, prosecution notice, presentment, summons or writ; or
- (i) any other pleading in, or process issued in connection with, a legal or other proceeding;

**“jurisdiction”** means a State or the participating Territories;

**“law”**, in relation to a participating Territory, means a law of, or in force in, that Territory;

**“NRA”** means the National Registration Authority for Agricultural and Veterinary Chemicals established by the Agricultural and Veterinary Chemicals (Administration) Act;

**“officer”**, in relation to the Commonwealth, has the meaning given in the Agricultural and Veterinary Chemicals Act;

**“participating Territory”** means —

- (a) the Australian Capital Territory; or
- (b) another Territory that is declared by regulations in force under section 25 of the Agricultural and Veterinary Chemicals Act to be a participating Territory;

**“State”** includes the Northern Territory of Australia;

**“Territory”** means a Territory referred to in section 122 of the Constitution of the Commonwealth, other than the Northern Territory of Australia, Norfolk Island, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands;

**“this jurisdiction”** means Western Australia.

**s. 4**

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*[Section 3 amended by No. 21 of 2001 s. 4; No. 84 of 2004 s. 80.]*

**4. Jervis Bay Territory**

For the purposes of this Act, and the Agvet Code and the Agvet Regulations of this jurisdiction, the Jervis Bay Territory is taken to be part of the Australian Capital Territory.



## **Part 2 — The Agvet Code, and the Agvet Regulations, of this jurisdiction**

### **5. Application of Agvet Code in this jurisdiction**

The Code set out in the Schedule to the Agricultural and Veterinary Chemicals Code Act as in force for the time being —

- (a) applies as a law of Western Australia; and
- (b) as so applying, may be cited as the Agvet Code of Western Australia.

### **6. Application of Agvet Regulations in this jurisdiction**

The regulations in force for the time being under section 6 of the Agricultural and Veterinary Chemicals Code Act —

- (a) apply as regulations in force for the purposes of the Agvet Code of Western Australia; and
- (b) as so applying, may be referred to as the Agvet Regulations of Western Australia.

### **7. Interpretation of Agvet Code and Agvet Regulations of this jurisdiction**

- (1) In the Agvet Code, and the Agvet Regulations, of this jurisdiction —

**“the Minister for this jurisdiction”** means the Minister;

**“this jurisdiction”** means Western Australia.

- (2) Subject to Part 1 of the Agvet Code of this jurisdiction, the *Acts Interpretation Act 1901* of the Commonwealth as in force for the time being applies as a law of this jurisdiction to —

- (a) the Agvet Code, and the Agvet Regulations, of this jurisdiction; and
- (b) any instrument made, granted or issued under that Code or those regulations.

**s. 8**

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- (3) For the purposes of subsection (2), the Commonwealth Act mentioned in that subsection applies as if —
  - (a) the Agvet Code of this jurisdiction were a Commonwealth Act; and
  - (b) the Agvet Regulations of this jurisdiction or instruments mentioned in that subsection were regulations or instruments made under a Commonwealth Act.
- (4) The *Interpretation Act 1984* does not apply to —
  - (a) the Agvet Code, or the Agvet Regulations, of Western Australia; or
  - (b) any instrument made, granted or issued under that Code or those Regulations.

**8. Ancillary offences (parties to offences, attempts, incitement or conspiracy)**

- (1) In this section, “**ancillary criminal laws**” means section 4, Chapters II, LVII and LVIII and section 562 of *The Criminal Code*.
- (2) Without limiting sections 5(a) and 6(a), the ancillary criminal laws apply in relation to an offence against the Agvet Code, or the Agvet Regulations, of this jurisdiction, and —
  - (a) section 555A of *The Criminal Code* so applies as if the words “under this Code” in subsections (1) and (2) were deleted; and
  - (b) section 562 of *The Criminal Code* so applies as if the following subsection were inserted after subsection (2) —
    - “
    - (3) Any person who becomes an accessory after the fact to a simple offence is guilty of a simple offence and is liable to the penalty to which a person

convicted of the first-mentioned offence  
is liable.

”.

- (3) In the Agvet Code, or the Agvet Regulations, of this jurisdiction, a reference to an offence against that Code or those regulations includes a reference to a related offence under the ancillary criminal laws.

### **Part 3 — Citing the Agvet Codes, and the Agvet Regulations, of other jurisdictions**

**9. References to Agvet Codes and Agvet Regulations of other jurisdictions**

- (1) This section has effect for the purposes of an Act, a law of this jurisdiction or an instrument made under an Act or such a law.
- (2) If a law of a jurisdiction other than this jurisdiction provides that the Code set out in the Schedule to the Agricultural and Veterinary Chemicals Code Act as in force for the time being applies as a law of that jurisdiction, the Agvet Code of that jurisdiction is the Agvet Code so set out, applying as a law of that jurisdiction.
- (3) If a law of a jurisdiction other than this jurisdiction provides that the regulations in force for the time being under section 6 of the Agricultural and Veterinary Chemicals Code Act apply as regulations in force for the purposes of the Agvet Code of that jurisdiction, the Agvet Regulations of that jurisdiction are those regulations as so applying.

**10. References to Agvet Codes and Agvet Regulations**

- (1) The object of this section is to help ensure that the Agvet Code of this jurisdiction can operate, in appropriate circumstances, as if that Code, together with the Agvet Code of each other jurisdiction, constituted a single national Agvet Code applying throughout Australia.
- (2) Subject to this section, a reference in an instrument to the Agvet Codes, or to the Agvet Regulations, is taken, for the purposes of the laws of this jurisdiction —
  - (a) to be a reference to the Agvet Code, or to the Agvet Regulations, of this jurisdiction; and
  - (b) to include a separate reference to the Agvet Code, or to the Agvet Regulations, of each other jurisdiction.

- (3) Subsection (2) has effect except so far as the contrary intention appears in the instrument or the context of the reference otherwise requires.

## **Part 4 — Application of Agvet Codes to the Crown**

**11. Agvet Code of this jurisdiction binds the Crown**

The Agvet Code of this jurisdiction binds the Crown.

**12. Agvet Code of other jurisdictions**

The Agvet Code of each jurisdiction other than this jurisdiction binds the Crown in right of this jurisdiction.

**13. Crown not liable to prosecution**

Nothing in this Part, or in the Agvet Code of this jurisdiction, renders the Crown in any capacity liable to be prosecuted for an offence.

**14. This Part overrides the prerogative**

If, because of this Part, a provision of the law of another jurisdiction binds the Crown in right of this jurisdiction, the Crown in that right is subject to that provision despite any prerogative right or privilege.

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

*[Heading inserted by No. 21 of 2001 s. 5.]*

**15. Object**

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

*[Section 15 inserted by No. 21 of 2001 s. 5.]*

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

- (1) The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the applicable provisions of this jurisdiction as if those provisions were laws of the Commonwealth and were not laws of this jurisdiction.
- (2) The provisions of the Agvet Code of this jurisdiction that require the NRA to give brief particulars of reasons for decisions do not affect the obligations of the NRA under section 28 of the *Administrative Appeals Tribunal Act 1975* of the Commonwealth as that section applies as a law of this jurisdiction under subsection (1).
- (3) The provisions of the Agvet Code of this jurisdiction that relate to the disclosure of confidential commercial information do not affect the operation of the *Freedom of Information Act 1982* of the Commonwealth as that Act applies as a law of this jurisdiction under subsection (1).
- (4) For the purposes of a law of this jurisdiction, a matter arising in relation to the applicable provisions of this jurisdiction —
  - (a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if those provisions were laws of the Commonwealth; and

**s. 17**

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(b) is taken not to be a matter arising in relation to laws of this jurisdiction.

- (5) Subsection (4) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under section 32.

*[Section 16 inserted by No. 21 of 2001 s. 5.]*

**17. Duties, functions and powers conferred on Commonwealth officers and authorities**

- (1) A Commonwealth administrative law applying because of section 16 that confers on a Commonwealth officer or authority a function or power also confers on the officer or authority the same function or power in relation to a matter arising in relation to an applicable provision of this jurisdiction.
- (2) In performing a function or exercising a power conferred by subsection (1), the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power under the Commonwealth administrative law.

*[Section 17 inserted by No. 21 of 2001 s. 5.]*

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

For the purposes of section 16, a reference in a Commonwealth administrative law to a provision of that or another Commonwealth administrative law is taken to be a reference to that provision as applying because of that section.

*[Section 18 inserted by No. 21 of 2001 s. 5.]*

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

For the purposes of section 16, a reference in a provision of the *Administrative Appeals Tribunal Act 1975* of the



Commonwealth (as that provision applies as a law of this jurisdiction) to the whole or any part of Part IVA of that Act is taken to be a reference to the whole or any part of that Part as it has effect as a law of the Commonwealth.

*[Section 18A inserted by No. 21 of 2001 s. 5.]*

*[Part 6 repealed by No. 21 of 2001 s. 6.]*

## **Part 7 — The National Registration Authority for Agricultural and Veterinary Chemicals**

### **21. Conferral of functions and powers on NRA**

- (1) The NRA has the functions and powers conferred or expressed to be conferred on it under this Act or the Agvet Code of this jurisdiction.
- (2) In addition to the powers mentioned in subsection (1), the NRA has power to do all things necessary or convenient to be done in connection with the performance of the functions referred to in subsection (1) and, in particular may —
  - (a) enter into contracts;
  - (b) acquire, hold and dispose of real and personal property;
  - (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;
  - (d) appoint agents and attorneys, and Act as agent for other persons; and
  - (e) do anything incidental to any of its powers.

### **22. Agreements and arrangements**

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

**23. Conferral of other functions and powers for purposes of law in this jurisdiction**

The NRA has power to do acts in this jurisdiction in the performance or exercise of any function or power —

- (a) expressed to be conferred on it by a law of a jurisdiction (other than this jurisdiction) that corresponds to this Act or the Agvet Code of this jurisdiction; or
- (b) referred to in an agreement or arrangement made under a provision of an Act of a jurisdiction other than this jurisdiction corresponding to section 22.

**23A. Consultation with Gene Technology Regulator**

- (1) A duty imposed or a function or power conferred on the APVMA under section 8A of the Agricultural and Veterinary Chemicals (Administration) Act in respect of any matter arising in relation to the Code set out in the Schedule to the Agricultural and Veterinary Chemicals Code Act extends to any corresponding matter arising in relation to the applicable provisions of this jurisdiction, and this section applies accordingly.
- (2) If the APVMA gives the Regulator within the meaning of the Gene Technology Act 2006 a notice under section 8A(3) of the Agricultural and Veterinary Chemicals (Administration) Act (as that section applies by force of subsection (1) of this section), the Regulator may give written advice to the APVMA about the application, reconsideration or issue.
- (3) The advice is to be given within the period specified in the notice.
- (4) A reference in the Agvet Code of this jurisdiction to a provision of section 8A of the Agricultural and Veterinary Chemicals (Administration) Act has effect as if it were a reference in that provision as applying by force of subsection (1) of this section.  
[Section 23A inserted by No. 20 of 2006 s. 195.]

**s. 24**

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**24.        Commonwealth Minister may give directions in exceptional  
circumstances**

The power of the Commonwealth Minister to give directions to the NRA under section 10 of the Agricultural and Veterinary Chemicals (Administration) Act extends to giving directions in relation to functions and powers of the NRA conferred under the applicable provisions of this jurisdiction, and the section applies accordingly.

## **Part 8 — Miscellaneous**

### **25. Orders**

Orders in force for the time being under section 7 of the Agricultural and Veterinary Chemicals Code Act have the same effect for the purposes of the Agvet Code of this jurisdiction as they would have if they were provisions of the Agvet Regulations of this jurisdiction.

### **26. Manufacturing principles**

Subject to the Agvet Code, and the Agvet Regulations, of this jurisdiction, the manufacturing principles in force for the time being under section 23 of the Agricultural and Veterinary Chemicals Act also have effect for the purposes of Part 8 of that Code.

### **27. Delegation**

The power of delegation of the Commonwealth Minister under section 71 of the Agricultural and Veterinary Chemicals (Administration) Act extends to the powers that are expressed to be conferred on the Commonwealth Minister under this Act or the Agvet Code of this jurisdiction, and the section applies accordingly.

### **28. Conferral of powers on State officers**

- (1) If an officer of a Department, administrative unit or authority is authorised, under section 69F of the Agricultural and Veterinary Chemicals (Administration) Act, by the Chief Executive Officer of the NRA to exercise the powers or perform the functions of an inspector for the purposes of a particular relevant law, those powers and functions are conferred on that officer.
- (2) Powers and functions conferred as referred to in subsection (1) are to be exercised or performed in accordance with the authorisation but are taken to have been validly exercised or

**s. 28A**

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performed despite any failure to comply with a condition or restriction of the authorisation.

- (3) Words and expressions used in this section have the same meanings as they have in section 69F of the Agricultural and Veterinary Chemicals (Administration) Act.

**28A. Inspectors and analysts**

- (1) In this section —

**“officer”** means —

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

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

*[Section 28A inserted by No. 21 of 2001 s. 7.]*

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

- (1) In this section —

**“officer”** has the same meaning as in section 28A;

**“relevant section”** means section 7 of the *Agricultural and Veterinary Chemicals (Western Australia) Amendment Act 2001*;

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

- (2) Anything done or omitted to be done by an officer before the commencement of the relevant section that would have been

validly done or omitted had the relevant section come into operation before the relevant time has, and is deemed always to have had, the same force and effect as it would have had if the relevant section had come into operation before the relevant time.

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

*[Section 28B inserted by No. 21 of 2001 s. 7.]*

**29. Application of fees, etc.**

All fees and other moneys (other than penalties and fines) that, under the applicable provisions of this jurisdiction, are authorised or directed to be payable by or imposed on any person must be paid to the Commonwealth.

**30. Documents or substances held by previous registering authority may be given to NRA**

Despite anything in any other law of this jurisdiction, any authority of this jurisdiction that, immediately before the commencement of this Act, performed functions under a provision of the law of this jurisdiction that corresponded to a provision of the Agvet Code of this jurisdiction may give to the NRA any documents or substances in its possession or custody that were received by it in the performance of those functions or that otherwise relate to the performance of those functions.

**31. Exemptions from liability for damages**

- (1) No action, suit or other proceeding for damages lies against the State or a person who is or has been a co-ordinator of this jurisdiction for any loss or injury directly or indirectly suffered as a result of —
  - (a) the handling of an approved active constituent for a proposed or existing chemical product;
  - (b) the handling of a registered chemical product;

**s. 31**

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- (c) the handling of an active constituent for a proposed or existing chemical product, or of a chemical product, in respect of which a permit or exemption has been issued or given by the NRA;
- (d) an inability to use, or to use in a particular manner, an active constituent for a proposed or existing chemical product —
  - (i) because an approval, permit or exemption permitting its use, or permitting its use in that manner, has been refused by the NRA or such an approval, permit or exemption that was previously granted by the NRA has been suspended or cancelled; or
  - (ii) because its use, or its use in that manner, is precluded by the conditions of an approval, permit or exemption;
- (e) an inability to use, or to use in a particular manner, a chemical product —
  - (i) because a registration, permit or exemption permitting its use, or permitting its use in that manner, has been refused by the NRA or such a registration, permit or exemption that was previously granted by the NRA has been suspended or cancelled; or
  - (ii) because its use, or its use in that manner, is precluded by the conditions of a registration, permit or exemption;
- (f) the carrying out of a step in the manufacture of a chemical product in respect of which a licence has been issued by the NRA; or



- (g) an inability to carry out, or to carry out in a particular manner or at particular premises, a step in the manufacture of a chemical product —
  - (i) because a licence to carry out that step, or to carry out that step in that manner or at those premises, has been refused by the NRA or such a licence that was previously granted by the NRA has been suspended or cancelled; or
  - (ii) because the carrying out of that step, or the carrying out of that step in that manner or at those premises, is precluded by the conditions of a licence.
- (2) If an action, suit or other proceeding is brought against a person responsible for the importation, manufacture, supply or handling of —
  - (a) an approved active constituent for a proposed or existing chemical product;
  - (b) a registered chemical product;
  - (c) an active constituent for a proposed or existing chemical product, or a chemical product, in respect of which the NRA has issued a permit or given an exemption; or
  - (d) a chemical product in respect of a step in the manufacture of which the NRA has issued a licence,

in relation to any loss or injury directly or indirectly suffered because of the importation, manufacture, supply or handling of the constituent or product, it is not a defence to that action, suit or other proceeding that the NRA has approved the constituent, registered the product, issued a permit or given an exemption in relation to the constituent or the product, or issued a licence in relation to a step in the manufacture of the product.
- (3) Expressions used in this section have the same meanings as they have in the Agvet Code of this jurisdiction.

**s. 32**

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**32.        Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

**33.        Eligible laws**

An enactment may be declared by regulations made under section 32 to be an eligible law of this jurisdiction for the purposes of the definition of “permit” in section 109 of the Agvet Code of this jurisdiction.

**33A.      Transitional provision — *Agricultural and Veterinary Chemicals (Western Australia) Amendment Act 2001***

Part 5 of this Act, as inserted by section 5 of the *Agricultural and Veterinary Chemicals (Western Australia) Amendment Act 2001*, applies in relation to matters arising in relation to the applicable provisions of this jurisdiction, and decisions made or other things done or omitted to be done under the Commonwealth administrative laws in respect of such matters, before, on or after the commencement of that section.

*[Section 33A inserted by No. 21 of 2001 s. 8.]*

**34.        Review of Act**

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from its commencement.
- (2) The Minister is to prepare a report based on the review made under subsection (1) and cause the report to be laid before each House of Parliament as soon as is practicable after it is prepared.

## **Part 9 — Imposition of Fees**

### **35. Fees**

This section imposes the fees that the Agvet Regulations of this jurisdiction prescribe, except to the extent that they are taxes.

**s. 35A**

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**Part 9A — Conferral of functions on Commonwealth Director of Public Prosecutions**

*[Heading inserted by No. 21 of 2001 s. 9.]*

**35A. Conferral of functions on Commonwealth Director of Public Prosecutions**

The Director of Public Prosecutions for the Commonwealth

(~~“the Commonwealth Director”~~) may —

- (a) institute prosecutions on indictment for indictable offences against the Agvet Code, or the Agvet Regulations, of this jurisdiction;
- (b) carry on prosecutions of the kind referred to in paragraph (a) (except prosecutions instituted by the Attorney General or the Director of Public Prosecutions of the State), whether or not instituted by the Commonwealth Director;
- (c) if the Attorney General or the Director of Public Prosecutions of the State requests the Commonwealth Director in writing to carry on a prosecution of the kind referred to in paragraph (a) that was instituted by the Attorney General or the Director of Public Prosecutions of the State — carry on the prosecution;
- (d) institute proceedings for the commitment of persons for trial in respect of indictable offences against the Agvet Code, or the Agvet Regulations, of this jurisdiction;
- (e) institute proceedings for the summary conviction of persons in respect of offences against the Agvet Code, or the Agvet Regulations, of this jurisdiction;
- (f) carry on proceedings of a kind referred to in paragraph (d) or (e) (whether or not instituted by the Commonwealth Director); and

- (g) do anything incidental or conducive to the performance of any of the functions referred to in paragraphs (a) to (f).

*[Section 35A inserted by No. 21 of 2001 s. 9.]*

## **Part 10 — Relationship with other State laws**

### **36. Relationship with other State laws**

- (1) In this section, “**Agvet Code**” means the Agvet Code of this jurisdiction and includes the Agvet Regulations of this jurisdiction.
- [(2) repealed]*
- (3) Despite any other provision of this Act or the Agvet Code, regulations made under section 32 may provide —
  - (a) that a specified enactment has effect despite the Agvet Code, or a specified provision of the Agvet Code;
  - (b) that the Agvet Code, or a specified provision of the Agvet Code, applies as a law of Western Australia with modifications prescribed by the regulations; or
  - (c) that a specified provision of the Agvet Code that would otherwise apply by virtue of Part 2 does not apply as a law of Western Australia.
- (4) Subject to subsection (5), regulations under subsection (3)(b) or (c) may, if the regulations so provide, have retrospective effect from the day on which the relevant provision of the Agvet Code applied (or would otherwise have applied) as a law of Western Australia.
- (5) To the extent that regulations take effect under subsection (4) from a date that is earlier than the date of their publication in the *Gazette*, the regulations do not operate so as —
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of publication; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

*[Section 36 amended by No. 4 of 2000 s. 3.]*

*[Part 11 omitted under the Reprints Act 1984 s. 7(4)(e).]*

### Notes

<sup>1</sup> This is a compilation of the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* and includes the amendments made by the other written laws referred to in the following table-<sup>1a</sup>. The table also contains information about any reprint <sup>2</sup>.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Agricultural and Veterinary Chemicals (Western Australia) Act 1995</i>	3 of 1995	17 May 1995	24 Jun 1995 (see s. 2 and <i>Gazette</i> 23 Jun 1995 p. 2419)
<i>Agricultural and Veterinary Chemicals (Western Australia) Amendment Act 2000</i>	4 of 2000	10 Apr 2000	10 Apr 2000 (see s. 2)
<i>Agricultural and Veterinary Chemicals (Western Australia) Amendment Act 2001</i>	21 of 2001	26 Nov 2001	Act other than s. 4(b), 5, 7 & 8: 26 Nov 2001 (see s. 2(1)); balance: 30 Jan 2002 (see s. 2(2) and <i>Gazette</i> 29 Jan 2002 p. 475)
<b>Reprint of the <i>Agricultural and Veterinary Chemicals (Western Australia) Act 1995</i> as at 1 Mar 2002</b> (includes amendments listed above)			
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

<sup>1a</sup> ~~On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~



**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Gene Technology Act 2006</i> Pt. 13 <sup>3</sup>	20 of 2006	9 Jun 2006	<del>To be proclaimed</del> <a href="#">28 Jul 2007</a> (see s. 2 and <i>Gazette</i> <a href="#">27 Jul 2007 p. 3735</a> )

<sup>2</sup> The *Acts Amendment (Federal Courts and Tribunals) Act 2001* s. 37 will not come into operation on commencement of Pt. 4-10 of the *Administrative Review Tribunal Act 2001* of the Commonwealth as expressed in s. 2(3) because that Act has not been passed.

~~<sup>3</sup> On the date as at which this compilation was prepared, the *Gene Technology Act 2006* Pt. 13 had not come into operation. It reads as follows:~~

“

**Part 13 — Consequential amendments**

~~**195. — *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* amended**~~

- ~~— (1) The amendment in this section is to the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*.~~
- ~~— (2) After section 23 the following section is inserted —~~

“

~~**23A. — Consultation with Gene Technology Regulator**~~

- ~~— (1) A duty imposed or a function or power conferred on the APVMA under section 8A of the *Agricultural and Veterinary Chemicals (Administration) Act* in respect of any matter arising in relation to the Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act* extends to any corresponding matter arising in relation to the applicable provisions of this jurisdiction, and this section applies accordingly.~~
- ~~— (2) If the APVMA gives the Regulator within the meaning of the *Gene Technology Act 2006* a notice under section 8A(3) of the *Agricultural and Veterinary Chemicals (Administration) Act* (as that section applies by force of subsection (1) of this section), the Regulator may give written advice to the APVMA about the application, reconsideration or issue.~~
- ~~— (3) The advice is to be given within the period specified in the notice.~~

~~(4) A reference in the Agvet Code of this jurisdiction to a provision of section 8A of the Agricultural and Veterinary Chemicals (Administration) Act has effect as if it were a reference in that provision as applying by force of subsection (1) of this section.~~

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