



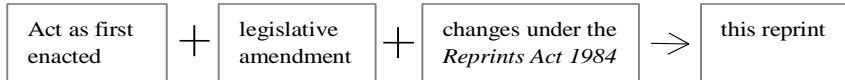
Western Australia

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

**Reprinted as at 1 March 2002**

## Guide for using this reprint

### *What the reprint includes*



### ***Endnotes, Compilation table, and Table of provisions that have not come into operation***

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### ***Notes amongst text (italicised and within square brackets)***

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).  
Notes of this kind may also be at the foot of Schedules or headings.
2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

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

---

### CONTENTS

---

#### **Part 1 — Preliminary**

1.	Short title	3
2.	Commencement	3
3.	Definitions	3
4.	Jervis Bay Territory	6

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

5.	Application of Agvet Code in this jurisdiction	7
6.	Application of Agvet Regulations in this jurisdiction	7
7.	Interpretation of Agvet Code and Agvet Regulations of this jurisdiction	7
8.	Ancillary offences (parties to offences, attempts, incitement or conspiracy)	8

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

9.	References to Agvet Codes and Agvet Regulations of other jurisdictions	10
10.	References to Agvet Codes and Agvet Regulations	10

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

11.	Agvet Code of this jurisdiction binds the Crown	12
12.	Agvet Code of other jurisdictions	12
13.	Crown not liable to prosecution	12
14.	This Part overrides the prerogative	12

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

15.	Object	13
16.	Application of Commonwealth administrative laws in relation to applicable provisions	13
17.	Duties, functions and powers conferred on Commonwealth officers and authorities	14
18.	Reference in Commonwealth administrative law to a provision of another law	14
18A.	Construction of references to Part IVA of Commonwealth AAT Act	14

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

21.	Conferral of functions and powers on NRA	16
22.	Agreements and arrangements	16
23.	Conferral of other functions and powers for purposes of law in this jurisdiction	16
24.	Commonwealth Minister may give directions in exceptional circumstances	17

**Part 8 — Miscellaneous**

25.	Orders	18
26.	Manufacturing principles	18
27.	Delegation	18
28.	Conferral of powers on State officers	18
28A.	Inspectors and analysts	19

28B.	Validation of actions of inspectors and analysts	19
29.	Application of fees, etc.	20
30.	Documents or substances held by previous registering authority may be given to NRA	20
31.	Exemptions from liability for damages	20
32.	Regulations	22
33.	Eligible laws	23
33A.	Transitional provision — <i>Agricultural and Veterinary Chemicals (Western Australia) Amendment Act 2001</i>	23
34.	Review of Act	23
<b>Part 9 — Imposition of Fees</b>		
35.	Fees	24
<b>Part 9A — Conferral of functions on Commonwealth Director of Public Prosecutions</b>		
35A.	Conferral of functions on Commonwealth Director of Public Prosecutions	25
<b>Part 10 — Relationship with other State laws</b>		
36.	Relationship with other State laws	27
<b>Notes</b>		
	Compilation table	29
	Provisions that have not come into operation	29
<b>Defined Terms</b>		





Western Australia

Reprinted under the  
*Reprints Act 1984* as  
at 1 March 2002

## **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.
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.



## 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**

---

**“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, 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.

*[Section 3 amended by No. 21 of 2001 s. 4.]*

**s. 4**

---

**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**

---

- (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**

---

(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.

**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



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

**s. 29**

---

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;

- (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

**s. 32**

---

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.

**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.

---

## **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).

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

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

**s. 35A**

---

*[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.]*

**s. 36**

---

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

=====

**Notes**

<sup>1</sup> This reprint is a compilation as at 1 March 2002 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>.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<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)

<sup>1a</sup> On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling this reprint. 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>Federal Courts (State Jurisdiction) Act 1999</i> s. 17 <sup>2</sup>	32 of 1999	13 Jul 1999	To be proclaimed (see s. 2(2))
<i>Acts Amendment (Federal Courts and Tribunals) Act 2001</i> s. 37 <sup>3</sup>	32 of 2001	21 Dec 2001	Operative on commencement of Pt. 4-10 of the <i>Administrative Review Tribunal Act 2001</i> of the Cwth (see s. 2(3))

<sup>2</sup> On the date as at which this reprint was prepared, the *Federal Courts (State Jurisdiction) Act 1999* s. 17 had not come into operation. It reads as follows:

“

**17. *Agricultural and Veterinary Chemicals (Western Australia) Act 1995 amended***

Section 19 of the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* is repealed.

”

The section that it seeks to repeal has been repealed.

<sup>3</sup>

On the date as at which this reprint was prepared, the *Acts Amendment (Federal Courts and Tribunals) Act 2001* s. 37 had not come into operation. It reads as follows:

“

**37. *Agricultural and Veterinary Chemicals (Western Australia) Act 1995 amended***

- (1) Section 3 of the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* is amended in the definition of “Commonwealth administrative laws” by deleting subparagraph (a)(i) and inserting instead —

“

- (i) the *Administrative Review Tribunal Act 2001* of the Commonwealth and Parts 1, 3 and 5 to 8 of Schedule 2 of the *Administrative Review Tribunal (Consequential and Transitional Provisions) Act 2001* of the Commonwealth (to the extent to which those Parts are relevant);

”

- (2) Section 16(2) is amended by deleting “the obligations of the NRA under section 28 of the *Administrative Appeals Tribunal Act 1975*” and inserting instead —

“

the obligation of the NRA to provide statements of reasons under the *Administrative Review Tribunal Act 2001*

”

- (3) Section 18A is repealed.

”

**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
Agricultural and Veterinary Chemicals Act.....	3
Agricultural and Veterinary Chemicals (Administration) Act .....	3
Agricultural and Veterinary Chemicals Code Act .....	3
Agvet Code .....	36(1)
Agvet Code of Western Australia .....	3
Agvet Regulations of Western Australia.....	3
ancillary criminal laws.....	8(1)
applicable provision .....	3
authority .....	3
Commonwealth administrative laws .....	3
Commonwealth Minister .....	3
confer .....	3
corresponding Act.....	3
corresponding law .....	3
function .....	3
instrument .....	3
jurisdiction .....	3
law.....	3
NRA.....	3
officer.....	3, 28A(1), 28B(1)
participating Territory .....	3
relevant section .....	28B(1)
relevant time .....	28B(1)
State .....	3
Territory .....	3
the Commonwealth Director.....	35A
the Minister for this jurisdiction.....	7(1)
this jurisdiction .....	3, 7(1)