Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012

(Government)

(1) Schedule 1, page 6 (after line 23), after item 17, insert:

17A Subsection 3(1) of the Code set out in the Schedule

Insert:

lodged, in relation to an application under this Code, has the meaning prescribed by the regulations.

[definition of lodged]

(2) Schedule 1, item 26, page 8 (line 18), omit “(iv)”, substitute “(iva)”.

[particulars for labels]

(3) Schedule 1, item 27, page 9 (line 7), after “residues”, insert “, including metabolites and degradation products,”.

[definition of meets the safety criteria]

(4) Schedule 1, item 27, page 9 (after line 20), after subparagraph 5A(2)(a)(vi), insert:

(via) whether the constituent conforms, or would conform, to any standard made for the constituent under section 6E to the extent that the standard relates to matters covered by subsection (1);

[standards for constituents, products and labels]

(5) Schedule 1, item 27, page 9 (line 26), after “residues”, insert “, including metabolites and degradation products,”.

[definition of meets the safety criteria]

(6) Schedule 1, item 27, page 9 (after line 37), after subparagraph 5A(3)(a)(vi), insert:
whether the product conforms, or would conform, to any standard made for the
product under section 6E to the extent that the standard relates to matters
covered by subsection (1);

[standards for constituents, products and labels]

(7) Schedule 1, item 27, page 10 (lines 21 to 25), omit subsection 5B(1), substitute:

(1) A chemical product meets the efficacy criteria if use of the product, in accordance with
instructions approved, or to be approved, by the APVMA for the product or contained in
an established standard, is, or would be, effective according to criteria determined by the
APVMA by legislative instrument.

[definition of meets the efficacy criteria]

(8) Schedule 1, item 27, page 10 (after line 35), after paragraph 5B(2)(c), insert:

(ca) whether the product conforms, or would conform, to any standard made for the
product under section 6E to the extent that the standard relates to matters covered
by subsection (1);

[standards for constituents, products and labels]

(9) Schedule 1, item 27, page 11 (after line 19), after paragraph 5C(2)(b), insert:

(ba) whether the product conforms, or would conform, to any standard made for the
product under section 6E to the extent that the standard relates to matters covered
by subsection (1);

[standards for constituents, products and labels]

(10) Schedule 1, item 27, page 12 (line 12), at the end of subsection 5D(2), add:

; (c) whether the label conforms, or would conform, to any standard made for the label
under section 6E to the extent that the standard relates to matters covered by
subsection (1).

[standards for constituents, products and labels]

(11) Schedule 1, item 28, page 12 (line 29), at the end of paragraph 6A(3)(b), add:

; and (vi) the reconsideration of approvals and registrations.

[APVMA guidelines]

(12) Schedule 1, item 28, page 13 (after line 13), after section 6D, insert:

6E APVMA may make standards

(1) The APVMA may, by legislative instrument, make standards for the following:

(a) constituents for chemical products;
(b) chemical products;
(c) labels for containers for chemical products.

(2) A standard made under subsection (1) may apply, adopt or incorporate, with or without
modification, any matter contained in any instrument or other writing as in force at a
particular time or as in force from time to time.

[standards for constituents, products and labels]

(13) Schedule 1, item 29, page 18 (lines 9 to 12), omit section 8K, substitute:
8K Confidential commercial information must not be disclosed under certain provisions

(1) Engaging in conduct in the performance of functions or duties, or the exercise of powers, under any of the following provisions does not authorise the disclosure of confidential commercial information whose disclosure would otherwise be prohibited by section 162:
   (a) subsection 8F(2);
   (b) subsection 8S(2);
   (c) subsection 17(4) or (5);
   (d) subsection 18(4) or (5);
   (e) subsection 34AB(2);
   (f) subsection 34AC(2);
   (g) subsection 47B(4).

(2) Subsection (1) has effect despite subsection 162(1A).

[disclosure of confidential commercial information]

(14) Schedule 1, item 32, page 29 (after line 30), at the end of section 14A, add:

(3) If the APVMA approves an active constituent under this section without an application having been made for the approval, the APVMA must, under paragraph 19(1)(a), be entered in the Record as the holder of the approval.

[APVMA to be the holder for approvals without application]

(15) Schedule 1, page 31 (after line 8), after item 41, insert:

41A Subsection 15(2) of the Code set out in the Schedule

Omit all the words after “in relation”, substitute:

to:
   (a) an active constituent that is exempted by the APVMA from the operation of that subparagraph; or
   (b) an active constituent for a listed chemical product if the product complies with the established standard for the product.

[restriction on power of APVMA to grant applications]

(16) Schedule 1, page 31 (after line 10), after item 42, insert:

42A Subsection 17(4) of the Code set out in the Schedule

Omit “that does not contain confidential commercial information”.

42B At the end of subsection 17(4) of the Code set out in the Schedule

Add:

Note: This subsection does not authorise the disclosure of confidential commercial information whose disclosure would otherwise be prohibited by section 162: see section 8K.

42C Subsection 17(5) of the Code set out in the Schedule

Omit “that does not contain confidential commercial information”.

42D At the end of subsection 17(5) of the Code set out in the Schedule

Add:
Noted: This subsection does not authorise the disclosure of confidential commercial information whose disclosure would otherwise be prohibited by section 162: see section 8K.

[Disclosure of confidential commercial information]

(17) Schedule 1, page 31, after proposed item 42D, insert:

42E Subsection 18(4) of the Code set out in the Schedule

Omit “that does not contain confidential commercial information”.

42F At the end of subsection 18(4) of the Code set out in the Schedule

Add:

Note: This subsection does not authorise the disclosure of confidential commercial information whose disclosure would otherwise be prohibited by section 162: see section 8K.

42G Subsection 18(5) of the Code set out in the Schedule

Omit “that does not contain confidential commercial information”.

42H At the end of subsection 18(5) of the Code set out in the Schedule

Add:

Note: This subsection does not authorise the disclosure of confidential commercial information whose disclosure would otherwise be prohibited by section 162: see section 8K.

[Disclosure of confidential commercial information]

(18) Schedule 1, item 43, page 33 (after line 22), after subparagraph 21(c)(iv), insert:

(iva) any other particulars prescribed by the regulations;

[Particulars for labels]

(19) Schedule 1, item 44, page 40 (line 34), at the end of subsection 29A(2), add:

; and (d) that the constituent, product or label complies, or will comply, with any requirement prescribed by the regulations.

[Varying relevant particulars or conditions]

(20) Schedule 1, page 78 (after line 10), after item 201, insert:

201A After subparagraph 162(3)(c)(i) of the Code set out in the Schedule

Insert:

(ia) the authorising party for the information; or

[Disclosure of confidential commercial information]

(21) Schedule 1, item 202, page 78 (line 14), omit “applicant or holder concerned”, substitute “authorising party for the information”.

[Disclosure of confidential commercial information]

(22) Schedule 1, item 203, page 78 (line 17), omit “applicant or holder concerned”, substitute “authorising party for the information”.

[Disclosure of confidential commercial information]

(23) Schedule 1, item 204, page 78 (lines 19 and 20), omit “applicant or holder concerned”, substitute “authorising party for the information”.

[Disclosure of confidential commercial information]
(24) Schedule 1, item 205, page 78 (line 22), omit “applicant or holder”, substitute “authorising party”.

[Disclosure of confidential commercial information]

(25) Schedule 1, item 221, page 81 (lines 19 to 32), omit the item, substitute:

221 After subsection 166(1) of the Code set out in the Schedule

Insert:

(1A) This section also applies if:

(a) a decision (the original decision) on a particular matter (the relevant matter) has been made under this Code on behalf of the APVMA by a member of the staff of the APVMA; and

(b) the original decision is:

(i) a decision under subsection 14(2), 26C(2), 29(2), 29E(3) or 115(3B) to refuse an application based only on requirements set out in paragraph 8A(a) or (b); or

(ii) a decision under subsection 112(3) to refuse an application based only on requirements set out in paragraph 8A(a) or (b) or a requirement made by the APVMA under subparagraph 111(1)(b)(iii); or

(iii) a decision under subsection 123(1A) to refuse an application based only on requirements set out in subsection 122(1); and

(c) if the original decision were reviewable by the Administrative Appeals Tribunal, a person would be entitled to apply to the Administrative Appeals Tribunal for review of the original decision.

221A Subsection 166(2) of the Code set out in the Schedule

After “by writing”, insert “within 42 days after the original decision is made”.

[Internal review of decisions]

(26) Schedule 1, item 223, page 82 (lines 3 and 4), omit the item, substitute:

223 Subsection 166(6) of the Code set out in the Schedule

Repeal the subsection, substitute:

(6) If the APVMA has not given notice under subsection (4) of its decision on the reconsideration within 90 days after the request is made, the person who made the request may, by writing, notify the APVMA that the person considers that the APVMA has confirmed the original decision.

(7) If the person so notifies the APVMA, the decision on the reconsideration is taken to be a decision to confirm the original decision.

[Internal review of decisions]

(27) Schedule 1, page 83 (after line 17), after item 232, insert:

232A At the end of paragraph 167(1)(n) of the Code set out in the Schedule

Add “other than a decision based only on requirements set out in paragraph 8A(a) or (b)”.

[Review of decisions by Administrative Appeals Tribunal]

(28) Schedule 1, page 83 (after line 22), after item 233, insert:
233A At the end of paragraph 167(1)(q) of the Code set out in the Schedule
Add “other than a decision based only on requirements set out in subsection 122(1)”.
[review of decisions by Administrative Appeals Tribunal]

(29) Schedule 1, page 83 (after line 26), after item 235, insert:

235A At the end of subsection 167(1) of the Code set out in the Schedule
Add:
; (y) a decision under this Code prescribed by the regulations.
[review of decisions by Administrative Appeals Tribunal]

(30) Schedule 3, page 110 (after line 8), after item 58, insert:

58A Subsection 69E(2)
Omit all the words after “does not”, substitute:
apply:
(a) in relation to an active constituent or chemical product prescribed by the regulations; or
(b) to a person in respect of a particular year ending on 30 June if the total quantity of the active constituents that were, or were included in chemical products that were, imported, manufactured or exported by the person during that year was not greater than a quantity prescribed by the regulations for the purposes of this section.
[annual returns]

(31) Schedule 3, item 59, page 110 (line 15), omit “matter”, substitute “matters”.
[annual returns]

(32) Schedule 3, item 142, page 176 (line 1), omit “(4)”, substitute “(3)”.
[supply of approved active constituents in contravention of conditions of approval]

(33) Schedule 3, item 263, page 197 (lines 15 and 16), omit the item, substitute:

263 Subsections 121(1) and (2)
Repeal the subsections.
[offences relating to manufacture and licences]

(34) Schedule 6, page 287 (before line 33), before item 35, insert:

34A Paragraph 6(2)(a)
Omit all the words after “approval of standards”, substitute:
for:
(i) constituents for chemical products; and
(ii) chemical products; and
(iii) labels for containers for chemical products; or
[regulations]