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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL
2012

SUPPLEMENTARY EXPLANATORY MEMORANDUM (BT247)

Amendments and new clauses to be moved on behalf of the government

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry,
Senator the Hon. Joe Ludwig)
AMENDMENTS TO THE AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL 2012

OUTLINE

The proposed government amendments to the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 (the Bill) make amendments in response to views of industry stakeholders and members of the parliament and to make some technical amendments and minor corrections to the Bill that have been identified while preparing for implementation of reforms.

The amendments to the Bill amend commencement and review provisions to:

- change the date of commencement for the amending schedules in the Bill to 1 July 2014
- require the Minister for Agriculture, Fisheries and Forestry to cause a review to be conducted of any matter about chemicals regulation that relates to the functions and powers of the Australian Pesticides and Veterinary Medicines Authority (APVMA) that is prescribed in regulation.

Other amendments to the Bill amend the Agricultural and Veterinary Chemicals Code Act 1994 to:

- make sure the APVMA considers instructions and conditions for using a chemical under a permit when considering the safety, efficacy or trade criteria
- make technical amendments and corrections to existing Bill provisions.

FINANCIAL IMPACT STATEMENT

These amendments have no financial impact.

REGULATION IMPACT STATEMENT

No regulation impact statement is required for these amendments.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS


Amendments to the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012

These amendments do not engage any human rights beyond those already engaged by the Bill. As they do not raise any additional human rights issues, the amendments remain compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.
NOTES ON INDIVIDUAL AMENDMENTS

Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012

Changing the Bill’s commencement and transitional provisions

Amendments (1) and (2)—clauses 2 and 4

Amendment (1) changes the Bill’s commencement date from 1 July 2013 to 1 July 2014. This measure responds to some matters raised in debate on the Bill in the House of Representatives and addresses concerns raised by some industry stakeholders since the Bill was introduced. The measure will enable smoother implementation of the reforms by the regulator, the Australian Pesticides and Veterinary Medicines Authority (APVMA), once the Bill receives the Royal Assent, and allow the APVMA to communicate appropriately with industry about implementation of the reforms.

As a consequence of this change, amendment (2) to subclause 4(4) is also required to substitute 1 July 2018 with 1 July 2019.

Review of prescribed matters

Amendment (3)—new clauses 5 and 6

Amendment (3) inserts new clauses that require the Minister for Agriculture, Fisheries and Forestry to cause a review to be conducted and a report provided on matters which relate to the functions and powers of the APVMA that are prescribed by the regulations.

It is anticipated this measure would provide for a review, for example, of mechanisms to encourage participation by industry (including provision of relevant data) in the APVMA’s reconsideration of a chemical approval or registration and addresses an industry concern.

The Governor-General may make regulations that set out review terms of reference and about the conduct of the review. The clauses and regulations will cease to have effect five years after the Royal Assent.

Technical amendments and corrections

Schedule 1—Approvals, registrations, permits and licences

Amendment (4)—item 4

This amendment omits mention of efficacy criteria from the definition of adequate in Section 3 of the Agvet Code, the Schedule to the Agricultural and Veterinary Chemicals Code Act 1994, to correct an inadvertent error made during drafting. The amendment preserves existing arrangements for consideration of label instructions and removes a potential increase to regulatory burden.

Amendment (5)—new item 10A

This amendment inserts a new definition of ‘instructions approved by the APVMA’ into the Agvet Code to make clear that these instructions include authorisations and requirements (however described) set out in a permit (under Part 7 of the Agvet Code). This measure preserves consistency with existing requirements to ensure the APVMA considers the provisions of a permit (including any instructions, conditions, requirements or authorisations) when determining whether use of an active constituent or chemical product under a permit meets the safety criteria, efficacy criteria or trade criteria (new sections 5A to 5C of the Agvet Code).
Amendment (6)—new item 78A
This amendment removes a reference to ‘or listed registration’ in relation to supplied chemical products which is no longer necessary following repeal of Part 2A of the Agvet Code.

Amendment (7)—items 172 and 173
This amendment repeals a subsection and a note which no longer required as other provisions in the Agvet Code deal with the refusal of applications where a requirement under section 159 is not complied with.

Schedule 4—Data protection

Amendment (8)—new item 45A
This amendment corrects an error in relation to the APVMA issuing notices to holders about the use of protected information. The amendment omits ‘paragraph 59(2)(c)’ and substitutes ‘subsection 59(2)’ at paragraph 60(1)(b) of the Agvet Code so that section 60 applies if any of the situations in subsection 59(2) do not permit the APVMA from using protected information.