

Agricultural and Veterinary Chemicals Act 1992

No. 46 of 1992

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Victoria

No. 46 of 1992

Agricultural and Veterinary Chemicals Act 1992

[Assented to 23 June 1992]

The Parliament of Victoria enacts as follows:

PART I—PRELIMINARY

1. *Purposes*

The purposes of this Act are—

- (a) to impose controls in relation to the manufacture, sale, use and application of agricultural chemical preparations, veterinary chemical preparations, fertilisers and stock foods, for the purpose of—

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- (i) protecting the health of the general public and the users of those products; and
 - (ii) protecting the environment; and
 - (iii) protecting the health and welfare of animals; and
 - (iv) protecting domestic and export trade in agricultural produce and livestock; and
 - (v) ensuring that a product is effective for the purposes described on its label; and
 - (vi) promoting uniformity of regulation throughout Australia; and
- (b) to impose controls in relation to agricultural spraying and to provide protection against financial loss caused by damage to plants and stock from agricultural spraying; and
- (c) to impose controls in relation to the production of agricultural produce to avoid the contamination of food for human consumption.

2. Commencement

This Act comes into operation on a day or days to be proclaimed.

3. Act to bind Crown

This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of Parliament permits, in all its other capacities.

4. Definitions

(1) In this Act—

“Advice note” means any document (other than a label) that contains any information about a preparation or advice on its use, and that is supplied by the seller to the buyer in connection with the sale of the preparation.

“Aerial spraying” means the spraying, spreading or dispersing of an agricultural chemical preparation (whether in a solid or liquid form) from an aircraft in flight.

“Agricultural chemical preparation” means a substance that is—

- (a) manufactured, represented, sold or used (whether for agricultural or non-agricultural purposes) as a means of directly or indirectly—
 - (i) destroying, stupefying, inhibiting, attracting or repelling a pest in relation to any plant, place or thing; or
 - (ii) destroying a plant; or
 - (iii) modifying the physiology of a plant so as to alter its natural development, productivity or reproductive capacity; or
- (b) manufactured, represented, sold or used as a means of directly or indirectly modifying the effect of another agricultural chemical preparation; or
- (c) declared under sub-section (4) to be an agricultural chemical preparation—

but does not include—

- (d) a veterinary chemical preparation; or
- (e) a substance that is declared under sub-section (4) not to be an agricultural chemical preparation; or
- (f) a fertiliser

“Agricultural produce” means—

- (a) any plant or part of a plant, whether harvested or not; or
- (b) any carcass or commodity obtained from a plant or an animal—

which is ordinarily used as, or manufactured into, food for humans or animals and—

- (c) includes any other commodity that is obtained from a plant or an animal and that is declared

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under sub-section (4) to be agricultural produce; and

(d) does not include any plant, animal or commodity that is declared under sub-section (4) not to be agricultural produce.

“Agricultural spraying” means the spraying, spreading or dispersing of an agricultural chemical preparation from any machine or piece of equipment, and includes aerial spraying.

“Aircraft” includes a helicopter.

“Animal” does not include human.

“Approved fee” means a fee that is fixed by the Minister by notice published in the Government Gazette.

“Approved insurance policy” means a policy that is approved or belongs to a class that is approved by the chief administrator under section 44.

“Authorised officer” means an officer appointed under section 53.

“Board” means the Animal Preparations Board established under section 32.

“Certificate of clearance” means a certificate issued by the clearance authority.

“Chief administrator” means the chief administrator (however described) of the Department under the Public Service Act 1974.

“Clearance authority” means the Australian Agricultural and Veterinary Chemicals Council established by section 8 of the Commonwealth Act.

“Committee” means the Victorian Agricultural Chemicals Advisory Committee established under section 65.

“Commonwealth Act” means the Agricultural and Veterinary Chemicals Act 1988 of the

Commonwealth, as amended and in force from time to time.

“Contaminant” includes a radioactive substance.

“Constituent” includes additive and contaminant.

“Contaminated”, in relation to an animal or to agricultural produce, means an animal or produce in which a contaminant is present—

- (a) in excess of the maximum residue limit; or
- (b) at such a level that the produce does not, or that the food produced from the animal or produce is not likely to, comply with the Food Act 1984.

“Contaminated produce notice” means a notice issued under section 52.

“Department” means the administrative unit referred to as the Department of Agriculture in Column One of Schedule Two to the Public Service Act 1974.

“Destruction notice” means a notice issued under section 58.

“Fertiliser” means—

- (a) a substance that is manufactured, represented, sold or used as a means of directly or indirectly—
 - (i) fertilising the soil; or
 - (ii) supplying nutrients to plants; or
 - (iii) conditioning soil by altering the chemical, physical or biological composition of the soil; or
- (b) a substance that is declared under sub-section (4) to be a fertiliser—

but does not include—

- (c) an agricultural chemical preparation; or

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(d) a substance that is declared under sub-section (4) not to be a fertiliser.

“Formulate”, in relation to a preparation, means manufacture or prepare the preparation.

“Label” includes any tag, brand, mark or statement in writing that is marked on or attached to the package of a preparation at the time of its sale or delivery to the buyer.

“Land use restriction notice” means a notice issued under section 50.

“Maximum residue limit”, in relation to a substance present in an animal or in agricultural produce, means the level that is declared under sub-section (4) to be the maximum residue limit for that substance in relation to animals or agricultural produce of that type.

“Operator”, in relation to an aircraft, means—

- (a) if the aircraft is subject to a hire-purchase agreement or a lease, the person in possession of the aircraft; and
- (b) if the aircraft is borrowed for use (whether or not under a financial arrangement), the person borrowing the aircraft; and
- (c) in any other case, the owner of the aircraft.

“Package”, in relation to a preparation, means anything in or by which the preparation is wholly or partly covered or contained.

“Pest”—

- (a) in relation to any animal, plant or thing, means any animal, plant or other biological entity that injuriously affects the physical condition, worth or utility of that animal, plant or thing; and
- (b) in relation to any place, means any animal, plant or other biological entity that injuriously affects the use or enjoyment of that place.

“Plant” includes a seed or cutting of a plant, and any other part or product of a plant that is directly relevant to the production of another plant.

“Preparation” means an agricultural chemical preparation, a veterinary chemical preparation, a fertiliser or a stock food.

“Preparation to which the Commonwealth Act applies” means an agricultural chemical product or a veterinary chemical product within the meaning of the Commonwealth Act.

“Relevant Act” means—

- (a) this Act, the **Environment Protection Act 1970**, the **Drugs, Poisons and Controlled Substances Act 1981**, the **Dangerous Goods Act 1985** and the **Occupational Health and Safety Act 1985**; and
- (b) any other Act that is declared under sub-section (4) to be a relevant Act.

“Sell” includes—

- (a) barter; and
- (b) exchange; and
- (c) agree to sell; and
- (d) offer to sell; and
- (e) receive for sale; and
- (f) have in possession for sale; and
- (g) expose for sale; and
- (h) send, forward or deliver for sale; and
- (i) sell for resale; and
- (j) give away for the purpose of advertisement or in furtherance of trade or business; and
- (k) cause or permit someone to sell.

“Stock” means any animal of which any part is used as, or which produces any product that is ordinarily used as, or manufactured into, food for humans, and includes bees, fish and birds.

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“Stock food” means any substance that is ~~is used or~~ intended to be used for consumption by stock, but does not include—

- (a) a veterinary chemical preparation; or
- (b) a substance that is declared under sub-section (4) not to be a stock food.

“Substance” includes—

- (a) an organism, including a genetically manipulated organism; and
- (b) material that is produced from an organism; and
- (c) matter the preparation of which involves the use of an organism; and
- (d) a mixture or compound.

“Target area”, in relation to agricultural spraying, means the area within which pests are intended to be controlled by the spraying.

“Veterinary chemical preparation” means a substance that is—

- (a) manufactured, represented, sold or used as a means of directly or indirectly—
 - (i) preventing, diagnosing, curing or alleviating a disease or condition in an animal or an infestation of an animal by a pest; or
 - (ii) curing or alleviating an injury suffered by an animal; or
 - (iii) modifying the physiology of an animal—
 - (A) so as to alter its natural development, productivity or reproductive capacity; or
 - (B) so as to make it more manageable; or
 - (iv) improving the health or welfare of an animal; or
 - (v) improving the appearance of an animal; or

- (vi) destroying, stupefying, inhibiting, attracting or repelling insects or other arthropods that affect or attack, or that may affect or attack, animals; or
- (vii) preventing, destroying, repelling or controlling any fungi or bacteria that affect or attack, or that may affect or attack, the wool or hair on an animal; or
- (viii) humanely killing animals; or
- (b) manufactured, represented, sold or used as—
 - (i) a means of making an identifying or distinguishing mark on sheep or the wool of sheep; or
 - (ii) a dehorning preparation; or
- (c) declared under sub-section (4) to be a veterinary chemical preparation—

but does not include a substance that is declared under sub-section (4) not to be a veterinary chemical preparation.

“Wholesale dealer”, in relation to a preparation, means the person in whose name an application has been made for registration of the preparation under this Act.

- (2) If the clearance authority defined in sub-section (1) goes out of existence—
 - (a) the Minister may declare a body to be the clearance authority for the purposes of this Act; and
 - (b) a reference to the clearance authority must be read as a reference to the body so declared.
- (3) If the Commonwealth Act defined in sub-section (1) ceases to operate—
 - (a) the Minister may declare any Act of the Commonwealth (as amended and in force from time to time) to be the Commonwealth Act for the purposes of this Act; and
 - (b) a reference to the Commonwealth Act must be read as a reference to the Act so declared.

- (4) The Governor in Council may, by Order, declare—
- (a) a substance to be an agricultural chemical preparation; or
 - (b) a substance not to be an agricultural chemical preparation; or
 - (c) a commodity that is obtained from a plant or an animal to be agricultural produce; or
 - (d) any plant, animal or commodity not to be agricultural produce; or
 - (e) a substance to be a fertiliser; or
 - (f) a substance not to be a fertiliser; or
 - (g) the maximum residue limit (which may be zero) for a substance in relation to any animal or agricultural produce; or
 - (h) an Act to be a relevant Act; or
 - (i) a substance not to be a stock food; or
 - (j) a substance to be a veterinary chemical preparation; or
 - (k) a substance not to be a veterinary chemical preparation.
- (5) An Order made under sub-section (4) must be published in the Government Gazette.
- (6) If under the **Public Service Act 1974** the name of the Department is changed, the reference in the definition of “**Department**” in sub-section (1) to the “**Department of Agriculture**” must, from the date when the name is changed, be taken to be a reference to the Department by its new name.

5. Exemptions

The Governor in Council may, by Order published in the Government Gazette, exempt any preparation or class of preparation, or any class of person, from any of the provisions of this Act, either unconditionally or on specified conditions or in specified circumstances.

PART 2—REGISTRATION OF PREPARATIONS

6. *Offences involving unregistered preparations*

- (1) A person must not sell or use an unregistered preparation unless—
 - (a) the sale or use is in accordance with a permit issued under Schedule 1; or
 - (b) the sale or use takes place not later than 2 years after the preparation ceases to be registered and—
 - (i) the preparation formed part of a stock of that preparation that was in the possession of that person immediately before the preparation ceased to be registered; and
 - (ii) an Order under section 26 has not been published in respect of the preparation; and
 - (iii) the person is not the wholesale dealer in the preparation.
- (2) A person must not manufacture, sell or use a preparation if—
 - (a) a change requiring approval under section 17 has been made to the preparation; and
 - (b) the change has not been approved.
- (3) A person who applies for registration of a preparation must comply with any conditions to which registration of the preparation is subject.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

7. *Registrar*

There may be appointed, subject to the **Public Service Act 1974**, a registrar and a deputy registrar.

8. *Application for registration*

- (1) A person may apply to the registrar for registration of a preparation.

- (2) An application must—
 - (a) be in a form approved by the registrar; and
 - (b) contain the details requested by the registrar; and
 - (c) be accompanied by the relevant approved fee.
- (3) If national registration arrangements for preparations come into existence under the Commonwealth Act—
 - (a) the Minister may, by notice published in the Government Gazette, declare that those arrangements apply for the purposes of this Act; and
 - (b) while the registration of a preparation is in force under those arrangements the preparation must be taken to be registered under this Act.

9. Referral of some applications

- (1) The registrar must refer to the Board an application for registration of a veterinary chemical preparation or a stock food, other than a preparation to which the Commonwealth Act applies.
- (2) The Board must report on an application referred to it, and must recommend to the registrar whether the preparation should be registered, and if so whether the registration should be subject to any conditions.
- (3) Before recommending that a preparation should not be registered, or should be registered subject to conditions other than those specified in the application, the Board must give the applicant an opportunity to make a submission in support of the application.
- (4) If the Board recommends that a preparation should not be registered, or should be registered subject to conditions other than those specified in the application, the registrar must give written notice to the applicant of the reasons for the recommendation.

10. Other applications

- (1) Before refusing to register a preparation other than a veterinary chemical preparation or a stock food, or

registering it subject to conditions other than those specified in the application, the registrar must give the applicant an opportunity to make a submission in support of the application.

- (2) If the registrar refuses to register a preparation or registers it subject to conditions other than those specified in the application, the registrar must give to the applicant written notice of the reasons for the decision.

11. *Registration*

- (1) The registrar may grant or refuse an application for registration, and may make registration subject to any conditions that he or she thinks appropriate.
- (2) In granting or refusing an application for registration of a preparation, or imposing conditions on registration, the registrar must consider any submission made under section 10, and must give effect to—
 - (a) the decision of the clearance authority, if the preparation is a preparation to which the Commonwealth Act applies and no direction has been given to the contrary by the Minister under section 15 (1); and
 - (b) the report and recommendation of the Board, if the application has been referred to the Board; and
 - (c) any direction given by the Minister under section 15 (1).
- (3) The wholesale dealer in a registered preparation must pay the approved fee to the registrar—
 - (a) before the end of the prescribed period commencing on the prescribed day; and
 - (b) again before the end of each succeeding prescribed period during which the preparation remains registered.

12. *Temporary registration*

- (1) The registrar may register a preparation temporarily, for any period not exceeding 6 months and on any conditions.

- (2) While a temporary registration is in force the preparation must be taken to be registered under this Act.

13. *Conditions on registration*

- (1) Without limiting the registrar's power to impose conditions on registration of a preparation, those conditions may include a condition that the preparation be tested at specified intervals, at an approved laboratory, and that the results of those tests be submitted to the registrar.
- (2) The registrar may omit or vary any conditions imposed on the registration of a preparation, and may impose new conditions.
- (3) The registrar must give notice to the person who applied for registration of any omission or variation of, or addition to, the conditions.

14. *Cancellation of registration*

- (1) The registrar must cancel the registration of any preparation—
- (a) at the direction of the Minister under section 15 (1); or
 - (b) on the recommendation of the Board; or
 - (c) on withdrawal by the clearance authority of the certificate of clearance for that preparation, if no direction has been given to the contrary by the Minister under section 15 (1).
- (2) The registrar may cancel the registration of any preparation—
- (a) if an approved fee under section 11 (3) has not been paid within 2 months after it becomes due; or
 - (b) on any prescribed ground.
- (3) Before cancelling the registration of a preparation the registrar must give the wholesale dealer in that preparation the opportunity to make a written submission, unless the cancellation is at the wholesale dealer's request.

- (4) The registrar must give notice of the cancellation, by certified mail or otherwise, to the wholesale dealer in the preparation.
- (5) The cancellation takes effect—
- (a) on the 28th day after—
 - (i) the day on which the decision to cancel was made; or
 - (ii) if a statement under section 29 (1) or (2) of the **Administrative Appeals Tribunal Act 1984** is furnished to an applicant in respect of the decision, the day on which the statement was furnished—

whichever is the later; or
 - (b) if an application is made to the Administrative Appeals Tribunal for review of a decision, when—
 - (i) the Tribunal decides not to vary the registrar's decision or substitute its decision for that of the registrar; or
 - (ii) the application is dismissed.
- (6) A wholesale dealer who is given a cancellation notice must, without unreasonable delay—
- (a) notify all the retail dealers in the preparation whose names are known to the wholesale dealer of the date on which the preparation ceases to be registered; and
 - (b) send to the registrar a copy of the notice and a list of the retail dealers to whom it was sent.

Penalty : 50 penalty units.

15. Directions about registration, refusal and cancellation

- (1) The Minister may give a direction to the registrar in relation to a preparation to which the Commonwealth Act applies.
- (2) The direction may require the registrar to—
- (a) register the preparation; or
 - (b) refuse to register the preparation; or

(c) cancel the registration of the preparation.

16. Register

- (1) The registrar must establish and maintain a register of—
 - (a) the names of all registered preparations; and
 - (b) the names of the wholesale dealers in registered preparations.
- (2) The registrar must—
 - (a) provide information from the register; and
 - (b) provide an extract from the register—to any person who pays the relevant approved fee.

17. Approval of certain changes

- (1) The wholesale dealer in a preparation may apply to the registrar—
 - (a) to alter the manner of formulation of the registered preparation; or
 - (b) to alter the formulation of the registered preparation; or
 - (c) to alter the standards of the ingredients used in the formulation of the registered preparation; or
 - (d) to make any other change of a prescribed nature with respect to the registered preparation.
- (2) An application must—
 - (a) be in a form approved by the registrar; and
 - (b) contain the details requested by the registrar; and
 - (c) be accompanied by the relevant approved fee.
- (3) The registrar may refer to the Board an application for approval of a change in relation to a registered veterinary chemical preparation or a stock food, other than a preparation to which the Commonwealth Act applies.
- (4) The Board must report on an application referred to it, and must recommend to the registrar whether the approval should be given.
- (5) Before recommending that approval should not be given,

the Board must give the applicant an opportunity to make a submission in support of the application.

- (6) Before refusing an application in relation to a preparation other than a veterinary chemical preparation or a stock food, the registrar must give the applicant an opportunity to make a submission in support of the application.
- (7) The registrar may grant approval or refuse the application, having regard to any recommendation of the Board or submission by the applicant.

PART 3—LABELLING OF PREPARATIONS

18. *Offences involving labelling requirements*

- (1) A person must not sell a preparation unless at the time of sale or delivery the preparation is accompanied by a label or advice note which—
 - (a) complies with the regulations and has been approved by the registrar; or
 - (b) if the preparation is a prescribed preparation or is included in a prescribed class of preparations, complies with any requirement that is prescribed.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

- (2) A person is not guilty of an offence under sub-section (1) if—
 - (a) the sale is in accordance with a permit issued under Schedule 1; or
 - (b) the sale takes place not later than 2 years after the registrar has approved a change, or directed a wholesale dealer to make a change, to a label or advice note and—
 - (i) the preparation formed part of a stock of that preparation that was in the possession of that person immediately before the approval or direction was given; and
 - (ii) the person is not a wholesale dealer in the preparation.

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- (3) The registrar may direct, by notice to the wholesale dealer, that a preparation in respect of which the registrar has approved a change, or directed the wholesale dealer to make a change, to a label or advice note must not be sold after the date specified in the notice without the altered label or advice note.
- (4) A person who receives a notice under sub-section (3) or under section 22 (a) must not sell a preparation after the date specified in the notice without the altered label or advice note.

Penalty: In the case of a corporation, 100 penalty units
In any other case, 50 penalty units.

19. *Off-label use of preparations*

- (1) A person must not, otherwise than in accordance with a permit issued under Schedule 1, use a preparation—
- (a) at a rate that is higher than the maximum application rate for that use, as stated on the label; or
- (b) at intervals more frequent than the intervals for that use, as stated on the label.

Penalty: In the case of a corporation, 200 penalty units.
In any other case, 100 penalty units.

- (2) For the purposes of sub-section (1) (a), “rate”, in relation to an agricultural chemical preparation, means the quantity per unit area, or per item.
- (3) A person must not, otherwise than in accordance with a permit issued under Schedule 1, use a preparation in a particular manner or for a particular purpose if the label specifically states that the preparation must not be used in that particular manner or for that particular purpose.

Penalty: In the case of a corporation, 200 penalty units.
In any other case, 100 penalty units.

- (4) A person must not use a prescribed preparation otherwise than in accordance with—

- (a) the instructions on the label; or
- (b) a permit issued under Schedule 1.

Penalty: In the case of a corporation, 200 penalty units.

In any other case, 100 penalty units.

- (5) For the purposes of sub-sections (3) and (4) and despite anything to the contrary in Schedule 1, the chief administrator must not grant a permit unless he or she is satisfied that the proposed use is experimental.
- (6) A person must not sell, within the relevant withholding period stated on the label of a preparation, any agricultural produce or stock to which the preparation has been applied unless the seller has notified the buyer that the period has not expired.

Penalty: In the case of corporation, 200 penalty units.

In any other case, 100 penalty units.

20. *Approval of labels, advice notes and changes to them*

- (1) A person may apply to the registrar for approval of—
 - (a) a label or an advice note for a registered preparation;
 - or
 - (b) a change to an approved label or advice note.
- (2) An application must—
 - (a) be in a form approved by the registrar; and
 - (b) contain the details requested by the registrar; and
 - (c) be accompanied by the relevant approved fee.
- (3) The registrar may refer to the Board an application for approval of a label or an advice note, or a change to the approved label or advice note, for a veterinary chemical preparation or a stock food, other than a preparation to which the Commonwealth Act applies.
- (4) The Board must report on an application referred to it, and must recommend to the registrar whether the approval should be given.
- (5) Before recommending that approval should not be given,

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the Board must give the applicant an opportunity to make a submission in support of the application.

- (6) Before refusing an application in relation to a preparation other than—
- (a) a veterinary chemical preparation or a stock food; or
 - (b) a preparation to which the Commonwealth Act applies—

the registrar must give the applicant an opportunity to make a submission in support of the application.

- (7) The registrar may grant approval or refuse the application, having regard to any recommendation of the Board or submission by the applicant.
- (8) The registrar must not refuse to approve a label or advice note, or a change to a label or advice note, if the label or advice note, or the label or advice note as proposed to be changed, complies with the regulations.
- (9) The Governor in Council may make regulations in accordance with section 76 for or with respect to labels and advice notes for registered preparations.

21. *Direction to make changes to label or advice note*

- (1) The registrar may direct a wholesale dealer in a registered preparation to make any change with respect to the approved label or advice note for that preparation.
- (2) The registrar must not make a direction in relation to the label or advice note for a veterinary chemical preparation or a stock food (other than a preparation to which the Commonwealth Act applies) without having first obtained the recommendation of the Board to make the direction.

22. *Notification of changes*

The wholesale dealer in a preparation must, without unreasonable delay—

- (a) notify all the retail dealers in the preparation whose names are known to the wholesale dealer of any direction given under section 18 (3), and the date specified in the notice of that direction; and
- (b) send to the registrar a copy of the notice and a list of the retail dealers to whom it was sent.

Penalty: 50 penalty units

23. Warranties

Despite any agreement or notice to the contrary, a statement appearing on a label or in an advice note has effect as a warranty by the wholesale dealer of the accuracy of that statement.

PART 4—RESTRICTIONS AND PROHIBITIONS ON MANUFACTURE, SALE AND USE OF PREPARATIONS

24. Standards for preparations

- (1) A person must not manufacture or sell any preparation that—
 - (a) does not comply with a relevant standard in the regulations or in the British Pharmacopoeia (Veterinary); or
 - (b) contains a constituent which does not comply with a relevant standard in the regulations or in the British Pharmacopoeia (Veterinary).

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

- (2) The Governor in Council may make regulations in accordance with section 76 for or with respect to standards relating to composition, quality, purity and method of manufacture for any preparation or class of preparations, or any constituent contained in a preparation or class of preparations.
- (3) The regulations may provide for a standard in the British Pharmacopoeia (Veterinary) not to apply or to apply as modified by the regulations.

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- (4) In the case of an inconsistency between the regulations and the British Pharmacopoeia (Veterinary), the regulations prevail.
- (5) A copy of the British Pharmacopoeia (Veterinary) must be kept available at the head office of the Department for inspection during normal office hours by members of the public without charge.
- (6) If the British Pharmacopoeia (Veterinary) is amended or re-published, the Minister must cause notice of the amendment or re-publication to be published in the Government Gazette as soon as is practicable after the amendment or re-publication occurs, and for the purposes of this section the amendment or re-publication must be taken not to have occurred until the notice is published.
- (7) A reference in this Act to the British Pharmacopoeia (Veterinary) is, subject to sub-section (6), a reference to that document as amended or published from time to time.

25. Orders prohibiting or regulating sale or use

- (1) A person must not sell or use any preparation in contravention of an Order made by the Governor in Council that prohibits or regulates the sale or use of a preparation or class of preparations that—
 - (a) is specified in the Order; or
 - (b) contains a constituent that is, or is part of a class that is, specified in the Order; or
 - (c) contains a constituent other than in the proportion specified in the Order in relation to that constituent, or in relation to a class of constituents of which that constituent is a part.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

- (2) The Governor in Council may, by Order—

- (a) prohibit or regulate that sale or use by reference to any conditions or circumstances specified in the Order; or
 - (b) prohibit that sale or use except as permitted by a permit issued in accordance with Schedule 1; or
 - (c) prohibit that use—
 - (i) for all purposes; or
 - (ii) for any purpose specified in the Order; or
 - (iii) for any purpose other than one specified in the Order.
- (3) The Order must be published in the Government Gazette after it is made, and it takes effect on the day of publication or any later day specified in the Order.

26. Recall

- (1) The Governor in Council may, by Order, direct a wholesale dealer—
- (a) to withdraw a preparation or a particular batch of a preparation from sale, either immediately or within the time specified in the Order; and
 - (b) to take any action specified in the Order to recover all stocks of the preparation or of that batch from any person to whom it was supplied; and
 - (c) to destroy those stocks or to deal with them as specified in the Order; and
 - (d) to report to the chief administrator on the action taken.
- (2) An Order may only be made if the Minister advises that it is in the public interest to do so, having regard to the harm that may be caused—
- (a) to any person or animal; or
 - (b) to the environment; or
 - (c) to trade with any other country.
- (3) The Order must be published in the Government Gazette after it is made, and it takes effect on the day of publication or any later day specified in the Order.

(4) A wholesale dealer must comply with the Order.

Penalty: In the case of a corporation, 500 penalty units.

In any other case, 250 penalty units.

27. *Regulations about manufacture, sale and use*

The Governor in Council may make regulations in accordance with section 76 for or with respect to—

- (a) prohibiting the possession of a preparation;
- (b) regulating the manufacture of a preparation;
- (c) regulating the packaging of a preparation;
- (d) prohibiting the sale of a preparation if the seller does not hold a permit under this Act or a prescribed qualification;
- (e) prohibiting the sale of a preparation if the buyer does not hold a permit under this Act or a prescribed qualification;
- (f) regulating the mixing together of preparations;
- (g) requiring a seller to keep records of the sale of a preparation;
- (h) requiring a user to keep records of the use of a preparation;
- (i) prescribing—
 - (i) particulars that must be written on labels or advice notes and the manner in which, and method by which, they must be written;
 - (ii) matters or things that must not be written on labels or advice notes;
 - (iii) the manner in which advice notes must be supplied to buyers of preparations;
 - (iv) the manner in which labels must accompany preparations.

28. *Offence of use without certificate*

A person must not—

- (a) use a prescribed preparation, or a preparation of a class that is prescribed; or

(b) use in a prescribed manner a prescribed preparation, or a preparation of a class that is prescribed—

unless—

(c) that person—

(i) holds an applicator (chemical rating) certificate; and

(ii) complies with any conditions of that certificate;
or

(d) that person acts under the direct supervision of a person who complies with paragraph (c).

Penalty: 100 penalty units.

29. *Applicator (chemical rating) certificates*

An applicator (chemical rating) certificate may be applied for, granted or refused only in accordance with Schedule 1.

30. *Offence of commercial use without licence*

A person must not carry on a business, or offer a service for fee or reward, which involves—

(a) the use of a prescribed preparation; or

(b) the use of a preparation of a class that is prescribed;
or

(c) the use of a preparation in a prescribed manner—

unless that person—

(d) holds a commercial operator licence; and

(e) complies with any conditions of that licence.

Penalty: 200 penalty units.

31. *Commercial operator licences*

A commercial operator licence may be applied for, granted or refused only in accordance with Schedule 1.

PART 5—ANIMAL PREPARATIONS BOARD

32. *Animal Preparations Board*

- (1) There is established the Animal Preparations Board.
- (2) The Board consists of 8 members appointed by the Minister of whom—
 - (a) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of veterinary surgeons; and
 - (b) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of pharmaceutical chemists; and
 - (c) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of manufacturers of veterinary chemical preparations and stock foods; and
 - (d) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of users of veterinary chemical preparations and stock foods; and
 - (e) one is nominated by the Minister administering Part II of the Health Act 1958; and
 - (f) 3 are selected by the Minister.
- (3) The Minister must appoint one of the members referred to in sub-section (2) (f) to be Chairperson of the Board.
- (4) If there is, or is about to be, a vacancy in the office of a member referred to in sub-section (2) (a), (b), (c) or (d) the Minister must request the body chosen by the Minister for the purposes of that paragraph to submit to the Minister in writing, on or before the date specified by the Minister when making the request, a panel of names of people eligible to be appointed as members of the Board.

- (5) If the body fails to submit a panel of names on or before the specified date, the Minister may appoint an otherwise eligible person to fill the vacancy.

33. Members

- (1) Each member of the Board—
- (a) holds office for the period (not exceeding 3 years) specified in the instrument of his or her appointment; and
 - (b) is eligible for re-appointment at the end of his or her term of office; and
 - (c) unless he or she holds a full-time government office (within the meaning of the **Public Service Act 1974**) or a full-time office in the public service or with a statutory authority, is entitled to be paid—
 - (i) any remuneration that is from time to time fixed by the Governor in Council; and
 - (ii) allowances for travelling and personal expenses at the rates and on the conditions applicable to officers of the public service.
- (2) The Minister may at any time remove a member from office.
- (3) The Minister may, in the instrument of appointment of a member, specify terms and conditions of appointment.
- (4) A member may resign from office by delivering to the Minister a signed letter of resignation.
- (5) A person who has attained the age of 72 years is not capable of being appointed or re-appointed as a member.

34. Chairperson

- (1) The member appointed to be the Chairperson of the Board—
- (a) holds office as Chairperson for the period (not exceeding 3 years) specified in the instrument of his or her appointment as Chairperson unless before the end of that period he or she ceases to be a member of the Board; and

- (b) is eligible for re-appointment as Chairperson at the end of his or her term of office.
- (2) The Minister may at any time remove the Chairperson from the office of Chairperson.
- (3) The Minister may, in the instrument of appointment of the Chairperson, specify terms and conditions of appointment.
- (4) The Chairperson may resign from the office of Chairperson by delivering to the Minister a signed letter of resignation.

35. Meetings of Board

- (1) At a meeting of the Board the Chairperson (or, in the absence of the Chairperson, any member that the members present appoint) must preside.
- (2) The quorum for a meeting of the Board is 5.
- (3) A question arising at a meeting of the Board must be determined by a majority of votes of the members present and voting on that question and, if the votes are equal, the person presiding at the meeting has a second or casting vote.
- (4) A proceeding or decision of the Board is not invalid only because of—
 - (a) a defect or irregularity in or in connection with the appointment of a member; or
 - (b) a vacancy in the membership of the Board.
- (5) Subject to this Act and the regulations, the Board may regulate its own proceedings.

36. Functions of Board

The functions of the Board are to—

- (a) make recommendations to the registrar regarding—
 - (i) the registration, composition, labelling, sale or use of any veterinary chemical preparation or stock food; or

- (ii) the standard for any veterinary chemical preparation or stock food; and
- (b) investigate and make recommendations to the Minister or the registrar (as the case requires) regarding any matter referred to the Board by the Minister or the registrar.

37. *Annual report*

- (1) As soon as possible after 30 June in each year (but in any case before 30 September) the Board must submit to the Minister an annual report of its operations during the period of 12 months ending on 30 June in that year.
- (2) The report must be prepared in the form, and contain the information, that is determined by the Minister.
- (3) The report must be included in the report of operations and financial statements prepared in respect of the Department for that year under the **Annual Reporting Act 1983**.

PART 6—CONTROLS OVER SPRAYING OF AGRICULTURAL CHEMICAL PREPARATIONS

38. *Orders regulating or prohibiting agricultural spraying*

- (1) The Governor in Council may by Order control or prohibit agricultural spraying for the purpose of protecting susceptible plants and stock, public health and the environment.
- (2) Before recommending to the Governor in Council that an Order be made, the Minister must publish notice of the proposal to make the Order, in the Government Gazette and, twice in not less than 14 days, in a newspaper circulating generally in the area that would be affected by the Order.
- (3) The notice must—
 - (a) specify the general purpose of the proposed Order; and
 - (b) state where a copy of the proposed Order can be purchased, and where it can be inspected; and

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- (c) state that public comment is invited.
- (4) The Minister must allow at least 28 days after the later publication of the notice in the newspaper for public comment.
- (5) If after complying with sub-sections (2) and (3) and considering any comments made under sub-section (3) (c) the Minister decides to recommend the making of the Order, he or she must publish notice of that decision in the Government Gazette and in the same newspaper.
- (6) The Order must be published in the Government Gazette after it is made, and it takes effect on the day of publication or any later day specified in the Order.

39. *Effect of order*

- (1) An Order under section 38 applies as specified in the Order—
 - (a) to all agricultural chemical preparations, a specified agricultural chemical preparation or a specified class of agricultural chemical preparations; and
 - (b) to all agricultural spraying or any specified method or methods of application; and
 - (c) in specified climatic or seasonal conditions; and
 - (d) in any other specified circumstance or on any other specified condition.
- (2) An Order applies to the area specified in it to be the agricultural chemical control area, whether that area is the whole of Victoria or a particular area.
- (3) An Order may prohibit an activity except in accordance with a permit issued under Schedule 1.
- (4) A person must comply with an Order, unless the person acts in accordance with a permit.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

40. *Damage by spray drift*

- (1) A person must not carry out agricultural spraying which injuriously affects—
- (a) any plants or stock outside the target area; or
 - (b) any land outside the target area so that growing plants or keeping stock on that land can be reasonably expected to result in the contamination of the stock or of agricultural produce derived from the plants or stock.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

- (2) It is a defence to a prosecution under sub-section (1) (a) to prove that the plants or stock have no economic value.

41. *Statement as to damage*

- (1) A person may request the chief administrator to provide a statement as to whether, in the opinion of the chief administrator, plants or stock on any land have been injuriously affected by agricultural spraying of other land.
- (2) A request must be in writing accompanied by the relevant approved fee.
- (3) The chief administrator must comply with the request within the prescribed period.
- (4) If the chief administrator considers that the plants or stock have no economic value, he or she is not required to comply with the request but must, within the prescribed period, provide a statement to that effect.

42. *Requirements for pilots*

- (1) A person must not pilot an aircraft to carry out aerial spraying unless he or she—
- (a) holds a pilot (chemical rating) licence; and
 - (b) complies with any conditions of that licence.

Penalty: 200 penalty units.

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- (2) A person must not pilot an aircraft to carry out aerial spraying unless—
- (a) that person—
 - (i) holds an agricultural aircraft operator licence; and
 - (ii) complies with any conditions of that licence; or
 - (b) that person is employed by or contracted to a person who complies with paragraph (a).

Penalty: 200 penalty units.

- (3) A pilot (chemical rating) licence may be applied for, granted or refused only in accordance with Schedule 1.
- (4) An agricultural aircraft operator licence may be applied for, granted or refused only in accordance with Schedule 1.

43. *Requirements for aircraft operators*

- (1) The operator of an aircraft must not allow aerial spraying to be carried out from that aircraft unless the operator holds an approved insurance policy.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

- (2) The operator of an aircraft must not allow aerial spraying to be carried out from that aircraft unless the operator—
- (a) holds an agricultural aircraft operator licence; and
 - (b) complies with the conditions attached to that licence.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

- (3) The operator of an aircraft must not allow aerial spraying to be carried out from that aircraft unless the pilot of the aircraft holds a pilot (chemical rating) licence.

Penalty: In the case of a corporation, 400 penalty units.

In any other case, 200 penalty units.

44. *Approved insurance policies*

- (1) The chief administrator may approve a policy of indemnity insurance or a class of policies of indemnity insurance for the purposes of this Act and the regulations, and may require an approved policy or class of policies to provide cover for a minimum insured amount.
- (2) The chief administrator may—
 - (a) grant approval subject to specified conditions; or
 - (b) revoke an approval or vary its conditions.
- (3) The chief administrator must cause notice to be published in the Government Gazette of—
 - (a) the granting of an approval; and
 - (b) any conditions to which it is subject; and
 - (c) any revocation of an approval or variation of its conditions.

45. *Information and notice*

- (1) The Minister may issue codes of practice dealing with information to be provided about agricultural spraying and notice to be given of proposed agricultural spraying.
- (2) A person is not guilty of an offence only because of a contravention of a code of practice issued under subsection (1).
- (3) The Governor in Council may, not earlier than 2 years after the commencement of this sub-section, make regulations in accordance with section 76 for or with respect to—
 - (a) requiring the occupier of land to provide the prescribed information to any person who is employed or contracted to carry out agricultural spraying on that land—
 - (i) of a prescribed agricultural chemical preparation; or
 - (ii) in a prescribed manner; and
 - (b) requiring the person who is employed or contracted to carry out agricultural spraying on land—

- (i) of a prescribed agricultural chemical preparation; or
- (ii) in a prescribed manner—
to provide the prescribed information to the occupier of that land; and
- (c) prohibiting the person who is employed or contracted to carry out agricultural spraying on land—
 - (i) of a prescribed agricultural chemical preparation; or
 - (ii) in a prescribed manner—
from starting the spraying without first having received the prescribed information; and
- (d) requiring the occupier of land who intends to have agricultural spraying carried out on that land—
 - (i) of a prescribed agricultural chemical preparation; or
 - (ii) in a prescribed manner—
to make every reasonable effort to inform the prescribed persons, or persons of the prescribed class, of the proposed time of spraying and any other prescribed information.
- (4) The regulations may impose a penalty not exceeding 200 penalty units for a contravention.

46. Defective spraying equipment

- (1) An authorised officer may, by notice in writing, direct the owner of any equipment that is used or to be used for the purpose of agricultural spraying—
 - (a) not to use the equipment until the repairs specified in the notice have been made; or
 - (b) to make the repairs specified in the notice before the date specified in the notice.
- (2) The owner of the equipment must comply with the notice.

Penalty: 200 penalty units.

47. *Regulations for spraying equipment*

The Governor in Council may make regulations in accordance with section 76 for or with respect to regulating equipment used or to be used for the purpose of agricultural spraying, including but not limited to regulations prescribing—

- (a) specifications for the equipment; and
- (b) testing of the equipment; and
- (c) maintenance of the equipment.

**PART 7—CONTROLS OVER CONTAMINATED LAND, STOCK
AND AGRICULTURAL PRODUCE**

48. *Contaminated stock order*

- (1) The Governor in Council may, by Order, regulate the identification, treatment, transport, sale or handling of contaminated stock.
- (2) A person to whom an Order applies must comply with the Order.
Penalty: 100 penalty units.
- (3) The Order must be published in the Government Gazette after it is made, and it takes effect on the day of publication or any later day specified in the Order.

49. *Contaminated stock notice*

- (1) An authorised officer may, by notice in writing, regulate the identification, transport, sale, management and handling of any stock on any premises or in any vehicle, if he or she believes on reasonable grounds that stock on those premises or in that vehicle is contaminated.
- (2) Without limiting sub-section (1), the notice may—
 - (a) prohibit the movement or sale of the stock, except—
 - (i) in accordance with the notice; or
 - (ii) with the approval of an authorised officer; and

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- (b) impose requirements relating to the treatment of the stock.
- (3) The authorised officer may give the notice to—
- (a) the owner or occupier of the land on which the stock is; or
 - (b) the person in possession of the stock; or
 - (c) the owner of the stock; or
 - (d) if the stock is in transit, the person into whose possession the stock is to be delivered; or
 - (e) one or more of the persons specified in paragraphs (a) to (d).
- (4) A person who is given a notice under sub-section (3) must comply with it.

Penalty: 100 penalty units.

50. *Land use restriction notice*

- (1) The chief administrator may, by notice in writing, regulate the use of any land for the growing of plants or the keeping of stock, if he or she believes on reasonable grounds, after considering a report by an authorised officer, that the growing of plants or the keeping of stock on that land would be likely to result in the production of contaminated agricultural produce or the contamination of the stock.
- (2) Without limiting sub-section (1), the notice may—
- (a) prohibit the growing on the land of specified plants, or plants of a specified class—
 - (i) before the date, if any, specified in the notice; or
 - (ii) except in accordance with the conditions of the notice; or
 - (iii) except with the approval of an authorised officer; or
 - (b) prohibit the keeping on the land of specified stock, or stock of a specified class—
 - (i) before the date, if any, specified in the notice; or

- (ii) except in accordance with the conditions of the notice; or
 - (iii) except with the approval of an authorised officer; or
 - (c) impose requirements relating to—
 - (i) the treatment of agricultural produce or stock;
 - (ii) the fencing of the land; or
 - (iii) notification to be given of the planting of crops on the land or the restocking of it.
 - (3) The authorised officer may give the notice to the owner or the occupier of the land or to both.
 - (4) A person who receives a notice under sub-section (3) must comply with it.
- Penalty: 200 penalty units.

51. *Information about notices*

- (1) The chief administrator must provide details of any current land use restriction notice issued in respect of any land to any person who applies in an approved form for information about that land and who pays the relevant approved fee.
- (2) The chief administrator must not provide details under sub-section (1) unless the owner of the land has given consent in writing.
- (3) The chief administrator does not incur any liability in respect of any errors or omissions in relation to information that is provided in good faith under sub-section (1).

52. *Contaminated produce notice*

- (1) An authorised officer may, by notice in writing, regulate the use or disposal of, or other dealing with, any agricultural produce, if he or she believes on reasonable grounds that the agricultural produce is contaminated.
- (2) Without limiting sub-section (1), the notice may—

- (a) prohibit the use or disposal of, or other dealing with, any agricultural produce except—
 - (i) in accordance with the notice; or
 - (ii) with the approval of an authorised officer; or
 - (b) require that the agricultural produce be treated as specified in the notice; or
 - (c) require that the agricultural produce be labelled, marked or otherwise identified—
 - (i) in the manner specified in the notice; and
 - (ii) before the date, if any, specified in the notice.
- (3) The authorised officer may give the notice to—
- (a) the owner or occupier of the land on which the stock or plants from which agricultural produce is produced is kept or are grown; or
 - (b) the owner of the agricultural produce; or
 - (c) the person in possession of the agricultural produce; or
 - (d) the driver of any vehicle in which the agricultural produce is being transported; or
 - (e) if the agricultural produce is in transit, the person into whose possession it is to be delivered; or
 - (f) one or more of the persons specified in paragraphs (a) to (e).
- (4) A person who receives a notice under sub-section (3) must comply with it.

Penalty: 100 penalty units.

PART 8—GENERAL

53. Authorised officers

- (1) The chief administrator may appoint any person holding an office in the Public Service to be an authorised officer for the purposes of all or any provisions of this Act.
- (2) The chief administrator must issue an identification certificate to each authorised officer.
- (3) An authorised officer must, in the course of performing

his or her functions under this Act, produce his or her identification certificate to any person who requests its production.

54. Powers of authorised officers

- (1) An authorised officer has the power—
- (a) to enter at any reasonable time any land or premises (other than premises that are used mainly as residential premises) on or at which the authorised officer reasonably suspects that—
 - (i) any preparation is manufactured, prepared for use, sold, kept or stored; or
 - (ii) any preparation has been, is being or will be used; or
 - (iii) there is any equipment that is used or intended to be used in connection with the use of a preparation; or
 - (iv) there is an aircraft that is used or intended to be used for aerial spraying; or
 - (v) agricultural spraying has been or is being carried on; or
 - (vi) there is or are any contaminated stock, any contaminated agricultural produce or any plants from which contaminated produce is likely to be derived; or
 - (vii) there is or are any stock or plants which has or have been injuriously affected by the spraying of an agricultural chemical preparation; and
 - (b) to enter at any reasonable time any land or premises (other than residential premises) occupied by a person who holds a licence, certificate or permit under this Act, or who the authorised officer reasonably suspects is required to hold a licence or certificate under this Act; and
 - (c) to enter at any reasonable time any land or premises, if the authorised officer reasonably suspects that entry may assist in ascertaining possible sources of agricultural spraying or the cause

- of stock or agricultural produce being contaminated; and
- (d) to stop and search any vehicle which is used, or which the authorised officer reasonably suspects is used, to transport—
 - (i) preparations; or
 - (ii) contaminated stock or agricultural produce; or
 - (iii) stock or plants from which contaminated agricultural produce is likely to be derived; and
 - (e) to search any aircraft which is used, or which the authorised officer reasonably suspects is used, for aerial spraying; and
 - (f) to search for, inspect and examine any substance, material, plant, animal or equipment if it is reasonably necessary to do so for the purpose of ascertaining whether this Act is being complied with; and
 - (g) to require a person to produce any document that the authorised officer reasonably requires for ascertaining whether this Act is being complied with, and—
 - (i) to examine that document; and
 - (ii) to make copies of it or take extracts from it; and
 - (iii) to remove the document for as long as is reasonably necessary to make copies or take extracts; and
 - (h) to open any package, container or receptacle which the authorised officer reasonably suspects contains a preparation; and
 - (i) to take and remove for analysis or examination—
 - (i) samples of any substance that the authorised officer reasonably suspects is a preparation; and
 - (ii) samples of any agricultural produce, or specimens from any animal, that the authorised officer reasonably suspects is contaminated; and

- (iii) samples of soil or pasture from any land that the authorised officer reasonably suspects is the cause of stock or agricultural produce being contaminated; and
 - (j) to conduct any analysis or examination of a sample or specimen to determine its composition; and
 - (k) to remove any label or advice note, or any document purporting to be a label or an advice note; and
 - (l) to require an owner to provide adequate facilities and assistance to allow the safe and efficient handling of animals during inspection and during the taking of specimens; and
 - (m) to require the owner or occupier of premises entered by the authorised officer to provide the authorised officer with all reasonable assistance necessary to enable the authorised officer to perform his or her functions.
- (2) An authorised officer may, in performing any function under this Act, make use of any assistants whose help is reasonably required to perform that function.
- (3) A person must not—
- (a) fail or refuse to comply with a request of an authorised officer; or
 - (b) assault or obstruct an authorised officer or a person assisting an authorised officer under sub-section (2)—

if the authorised officer is in the course of performing his or her functions under this Act.

Penalty: 50 penalty units

- (4) An authorised officer who takes a sample or specimen under sub-section (1) (i) must, if requested to do so by the owner or the person in possession of the preparation, agricultural produce or animal, or the owner or occupier of the land, give that person a portion of the sample or specimen.

55. Testing of sub-standard preparations

- (1) The registrar may, by notice in writing, require a wholesale dealer to have any preparation tested if the registrar, on the advice of an authorised officer, reasonably suspects that the preparation—
 - (a) does not comply with standards set under this Act; or
 - (b) has been changed in a way that is required under this Act to be approved, and the approval has not been obtained.
- (2) Without limiting sub-section (1), the notice may require—
 - (a) that samples of the preparation are taken—
 - (i) under the supervision of an authorised officer; or
 - (ii) in the manner specified in the notice; and
 - (b) that the testing is carried out—
 - (i) under the supervision of an authorised officer; or
 - (ii) in the manner specified in the notice; and
 - (c) that the testing is carried out at a laboratory that is approved by the chief administrator; and
 - (d) that the testing is carried out within the time specified in the notice; and
 - (e) that the testing is carried out at the expense of the wholesale dealer if—
 - (i) it is being carried out for a prescribed reason; or
 - (ii) the result of the testing shows that the preparation does not comply with standards set under this Act; or
 - (iii) the result of the testing shows that the preparation has been changed in a way that is required under this Act to be approved and approval has not been obtained.
- (3) A wholesale dealer who is given a notice must comply with it.

Penalty: 50 penalty units.

56. Testing of contaminated stock or agricultural produce

- (1) An authorised officer may, by notice in writing, require the owner of any stock, land or agricultural produce to have that stock, land or agricultural produce tested if the authorised officer reasonably suspects that—
 - (a) the stock is contaminated; or
 - (b) the growing of plants or the grazing of stock on the land would be likely to result in the production of contaminated agricultural produce or the contamination of the stock; or
 - (c) the agricultural produce is contaminated.

- (2) Without limiting sub-section (1), the notice may require—
 - (a) that samples or specimens from the stock, land or agricultural produce are taken—
 - (i) under the supervision of an authorised officer; or
 - (ii) in the manner specified in the notice; and
 - (b) that the testing is carried out—
 - (i) under the supervision of an authorised officer; or
 - (ii) in the manner specified in the notice; and
 - (c) that the samples or specimens are tested at a laboratory that is approved by the chief administrator; and
 - (d) that the testing is carried out within the time specified in the notice; and
 - (e) that the testing is carried out at the expense of the owner if—
 - (i) it is being carried out for a prescribed reason; or
 - (ii) the result of the testing shows that the stock or agricultural produce (as the case requires) is contaminated or that, in the case of land, the growing of plants or the grazing of stock on it

would be likely to result in the production of contaminated agricultural produce or the contamination of the stock.

- (3) An owner of any stock, land or agricultural produce who is given a notice must comply with it.

Penalty: 50 penalty units.

57. *Seizure of preparations and agricultural produce*

- (1) An authorised officer may seize—
- (a) any preparation, if he or she is satisfied that the sale or use of the preparation is prohibited; and
 - (b) any agricultural produce, if he or she is satisfied that a requirement of a contaminated produce notice has not been complied with in respect of that agricultural produce; and
 - (c) any stock, if he or she is satisfied—
 - (i) that a requirement of a contaminated stock notice has not been complied with in respect of that stock; or
 - (ii) that the stock has been abandoned and is likely to be contaminated.
- (2) An authorised officer who has seized any preparation, agricultural produce or stock under sub-section (1) may destroy or otherwise deal with it.
- (3) An authorised officer may recover from the owner of the preparation or agricultural produce the reasonable costs incurred in acting under sub-section (1) or (2).

58. *Destruction notice*

- (1) The chief administrator may, by notice in writing, require the destruction of any preparation, agricultural produce, plants or stock if the chief administrator, on the advice of an authorised officer, is satisfied that—
- (a) the sale or use of the preparation is prohibited; or
 - (b) the agricultural produce is contaminated; or

- (c) agricultural produce to be derived from the plants is likely to be contaminated; or
 - (d) the stock is contaminated.
- (2) Without limiting sub-section (1), the notice may require that the preparation, agricultural produce, plants or stock be destroyed in the manner and within the time specified in the notice.
 - (3) The chief administrator must give the notice to the person in possession of the preparation, agricultural produce, plants or stock.
 - (4) A person in possession of any preparation, agricultural produce, plants or stock who is given a notice must comply with it.
Penalty: 100 penalty units.
 - (5) If the person does not comply with the notice within the time specified in it, the chief administrator may destroy the preparation, agricultural produce, plants or stock.
 - (6) The chief administrator may recover from the owner of the preparation, agricultural produce, plants or stock the reasonable costs incurred in acting under sub-section (5).

59. *False or misleading statements*

- (1) A person must not make in, or in relation to, any application under this Act any statement that is false or misleading, because of inclusion in the statement of anything that is false or misleading or because of omission from the statement of anything that is material.

Penalty: In the case of a corporation, 100 penalty units

In any other case, 50 penalty units.

- (2) A person must not make any statement about a preparation or its use that is false or misleading and likely to cause a person who relies on the statement to commit an offence under this Act.

Penalty: In the case of a corporation, 100 penalty units.

In any other case, 50 penalty units.

60. *Extra information about application may be required*

- (1) The registrar or the chief administrator may, by notice in writing, require an applicant to supply extra information if that extra information is reasonably required to enable the registrar or chief administrator to deal properly with the application.
- (2) The registrar or chief administrator may refuse to consider the application further until the extra information is supplied.
- (3) An applicant who becomes aware of any material change to the information supplied in, or in relation to, the application must notify the registrar (or the chief administrator, if the application was made to the chief administrator).

Penalty: In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

61. *Information about preparation, licence etc may be required*

- (1) The registrar or the chief administrator may, by notice in writing given to a wholesale dealer in a preparation, or the holder of a licence, permit or certificate, require that person to supply any information that is reasonably required to enable the registrar or chief administrator to decide whether the registration of the preparation, or the licence, permit or certificate, should be cancelled.
- (2) A person who is given a notice must comply with it.

Penalty: In the case of a corporation, 50 penalty units.

In any other case, 20 penalty units.

62. *Information about sale of preparation*

- (1) An authorised officer may require the seller or person in possession of a preparation, or of any substance that the authorised officer reasonably suspects is a preparation—
 - (a) to state the name and address of the person to whom the seller sold the preparation or substance;and

- (b) to state the name and address of the person from whom the seller or the person in possession of the preparation or substance bought it; and
 - (c) to provide any other information about the sale or purchase that the authorised officer reasonably requests.
- (2) A person must comply with a requirement unless the person has a reasonable excuse.

Penalty: In the case of a corporation, 50 penalty units.

In any other case, 20 penalty units.

63. Confidentiality of commercial information

(1) In this section, “**information**” means—

- (a) information that relates to a preparation and that is included in an application for registration, for renewal of registration, for approval of a change that is required under section 17 to be approved, or for approval of a label or advice note; and
- (b) any information that is supplied as required under section 60 or 61 or Schedule 1; and
- (c) any information that relates to a preparation and that is provided to the registrar, the chief administrator, the Board or any officer of the Department by—
 - (i) the clearance authority; or
 - (ii) the National Health and Medical Research Council—

but does not include information that is included on a label or in an advice note which accompanies the preparation at the time of its sale or delivery to the buyer.

- (2) Information must be treated as confidential and, subject to sub-section (4), the registrar, the chief administrator, a member of the Board or any officer of the Department must not disclose that information to any person unless—
- (a) the wholesale dealer in the preparation concerned authorises in writing that disclosure; or

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- (b) the disclosure—
 - (i) is made in pursuance of this Act; or
 - (ii) is necessary in respect of any proceedings for an offence that are instituted or proposed to be instituted under this Act.
- Penalty: 250 penalty units.
- (3) A court to which information is disclosed under sub-section (2) or (5) (b) (ii) must do everything necessary to prevent disclosure of that information to any person otherwise than for the purpose of the proceedings before the court.
 - (4) The registrar may disclose information—
 - (a) to the person for the time being in charge of the Poisons Information Centre, if asked by that person in a poisoning emergency; or
 - (b) to the chief administrator (by whatever title) of the Department of Health (or a person nominated by that chief administrator for the purposes of this paragraph) in prescribed circumstances.
 - (5) A person to whom information is disclosed in pursuance of this Act must not disclose that information to any person unless—
 - (a) the wholesale dealer in the preparation concerned authorises in writing that disclosure; or
 - (b) the disclosure—
 - (i) is made in pursuance of this Act; or
 - (ii) is necessary in respect of any proceedings for an offence that are instituted or proposed to be instituted under this Act.

Penalty: 250 penalty units.

64. Review of decisions

- (1) Subject to sub-section (2), a person may apply to the Administrative Appeals Tribunal for review of a decision of the registrar, the chief administrator or an authorised officer—
 - (a) to refuse to register a preparation; or
 - (b) to refuse to grant a licence or certificate; or

- (c) to cancel the registration of a preparation, other than at the request of the wholesale dealer; or
 - (d) to cancel a licence or certificate other than at the request of the holder; or
 - (e) to attach a condition of registration or of a licence or certificate; or
 - (f) to vary a condition of registration or of a licence or certificate; or
 - (g) to refuse to approve a change under section 17; or
 - (h) to require testing to be carried out; or
 - (i) to issue or amend a land use restriction notice.
- (2) Sub-section (1) does not apply to a decision of the registrar—
- (a) to refuse to register a preparation; or
 - (b) to cancel the registration of a preparation; or
 - (c) to attach a condition of registration; or
 - (d) to vary a condition of registration—
- if—
- (e) that decision merely implements a decision of the clearance authority; and
 - (f) the registrar notifies the applicant or wholesale dealer of that fact.
- (3) A person from whom any preparation, agricultural produce or stock is seized under section 57, or the owner of that preparation, agricultural produce or stock, may appeal to the Magistrates' Court against the seizure.
- (4) On an appeal under sub-section (3) the Magistrates' Court may order—
- (a) that the appeal be dismissed; or
 - (b) that the seized preparation, agricultural produce or stock be returned to the person from whom it was seized, or to the owner; or
 - (c) that compensation be paid to the person from whom the preparation, agricultural produce or stock was seized, or to the owner; or

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- (d) both the return of the preparation, agricultural produce, or stock and the payment of compensation.
- (5) A person who is given a destruction notice under section 58 may appeal to the Magistrates' Court against the notice.
- (6) On an appeal under sub-section (5) the Magistrates' Court may order—
 - (a) that the appeal be dismissed; or
 - (b) that the destruction notice be withdrawn; or
 - (c) that compensation be paid to the owner of the preparation, agricultural produce or stock; or
 - (d) both the withdrawal of the notice and the payment of compensation.

65. *Agricultural Chemicals Advisory Committee*

- (1) There is established an advisory committee to be known as the Victorian Agricultural Chemicals Advisory Committee.
- (2) The function of the Committee is to advise the chief administrator on regulation and control of the application of agricultural chemical preparations.
- (3) The Committee consists of 9 members appointed by the Minister of whom—
 - (a) one is an officer of the Department; and
 - (b) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of primary producers; and
 - (c) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of people who work with agricultural chemical preparations; and
 - (d) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be

- representative of manufacturers of agricultural chemical preparations; and
- (e) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of the aerial spraying industry; and
 - (f) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of the ground spraying industry; and
 - (g) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of conservation interests; and
 - (h) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of the interests of consumers; and
 - (i) one is a person whose name is included in a panel of not less than 3 names submitted to the Minister by a body that the Minister considers to be representative of local government.
- (4) The member appointed under sub-section (3) (a) is the chairperson of the Committee.
- (5) If there is, or is about to be, a vacancy in the office of a member referred to in sub-section (3) (b), (c), (d), (e), (f), (g), (h) or (i) the Minister must request the body chosen by the Minister for the purposes of that paragraph to submit to the Minister in writing, on or before the date specified by the Minister when making the request, a panel of names of people eligible to be appointed as members of the Committee.
- (6) If the body fails to submit a panel of names on or before the specified date, the Minister may appoint an otherwise eligible person to fill the vacancy.

66. Members

- (1) Each member of the Committee—
- (a) holds office for the period (not exceeding 3 years)

- specified in the instrument of his or her appointment; and
- (b) is eligible for re-appointment at the end of his or her term of office; and
 - (c) unless he or she holds a full-time government office (within the meaning of the **Public Service Act 1974**) or a full-time office in the public service or with a statutory authority, is entitled to be paid allowances for travelling and personal expenses at the rates and on the conditions applicable to officers of the public service.
- (2) The Minister may at any time remove a member from office.
 - (3) The Minister may, in the instrument of appointment of a member, specify terms and conditions of appointment.
 - (4) A member may resign from office by delivering to the Minister a signed letter of resignation.
 - (5) A person who has attained the age of 72 years is not capable of being appointed or re-appointed as a member.

67. Meetings of Committee

- (1) At a meeting of the Committee the chairperson (or, in the absence of the chairperson, any officer of the Department nominated by the chairperson to be the deputy chairperson) must preside.
- (2) The quorum for a meeting of the Committee is half the number of members for the time being.
- (3) A question arising at a meeting of the Committee must be determined by a majority of votes of the members present and voting on that question and, if the votes are equal, the person presiding at the meeting has a second or casting vote.
- (4) A proceeding or decision of the Committee is not invalid only because of—
 - (a) a defect or irregularity in or in connection with the appointment of a member; or
 - (b) a vacancy in the membership of the Committee.

- (5) Subject to this Act and the regulations, the Committee may regulate its own proceedings.

PART 9—ENFORCEMENT

68. *Costs*

A court which finds a person guilty of an offence against this Act or the regulations may order that the reasonable costs of any analyses carried out for the purposes of bringing the proceedings must be paid by that person.

69. *Infringement notices*

- (1) An authorised officer may serve an infringement notice on a person whom the authorised officer believes has committed a prescribed offence, requiring that person to pay the penalty prescribed for that offence.
- (2) An infringement notice must be in the prescribed form and contain the prescribed particulars.
- (3) The penalty prescribed for an offence must not exceed 2 penalty units.
- (4) If the person pays the prescribed penalty within the time specified in the notice or, if the authorised officer allows, before a summons is served on the person in respect of the offence—
 - (a) no further proceedings may be taken against the person in respect of that offence; and
 - (b) no conviction may be recorded against the person for that offence.
- (5) A penalty paid under this section must be applied as if the person who paid it was convicted of the offence in the Magistrates' Court on a charge filed by the authorised officer.
- (6) Proceedings may be taken or continued in respect of an offence if—
 - (a) the person served with an infringement notice in respect of the offence has not paid the penalty within the time specified in the notice; or

- (b) the infringement notice is withdrawn.
- (7) An authorised officer may withdraw an infringement notice, by notice in the prescribed form to the person on whom the infringement notice was served.
- (8) If the infringement notice is withdrawn after the person has paid the prescribed penalty, the amount of the penalty must be refunded to that person.

70. *Time limit for commencing prosecutions*

Proceedings for an offence must be commenced not later than 2 years after the date on which the offence is alleged to have been committed.

71. *Evidentiary provisions*

- (1) In proceedings for an offence against this Act or the regulations, a certificate purporting to be signed by the chief administrator and to certify—
- (a) that a preparation was, or was not, a registered preparation on a specified date, or during a specified period; or
 - (b) that a label or an advice note described in the certificate was, or was not, an approved label or advice note on a specified date, or during a specified period; or
 - (c) that a licence, certificate or permit was in force on a specified date or during a specified period; or
 - (d) that the matter appearing on an approved label or advice note, or in a licence, certificate or permit, is identical to the matter set out in or appended to the certificate; or
 - (e) that a licence, certificate or permit was suspended during a specified period or was cancelled on a specified date; or
 - (f) that a specified person was an authorised officer on a specified date during a specified period—

is evidence of the facts so certified and, in the absence of evidence to the contrary, is proof.

- (2) In any proceedings for an offence against this Act or the regulations, proof is not required as to—
- (a) the authority of an officer to prosecute; or
 - (b) the appointment of the chief administrator, the registrar, an authorised officer or any other officer of the Department—

until evidence is given to the contrary.

- (3) A certificate issued by an analyst setting out the result of an analysis made by the analyst of a preparation on behalf of an informant in respect of a prosecution is admissible in evidence in the proceedings.
- (4) The analyst's certificate is proof of the facts and matters contained in it, unless the accused person gives notice in writing to the informant, at least 7 days before the hearing, that the analyst is required to be called as a witness.

72. Offences by corporations and partnerships etc.

- (1) If a corporation commits an offence against this Act or the regulations, each person who is a director or is concerned in the management of the corporation is also guilty of the offence and liable to the penalty for it.
- (2) It is a defence to a charge brought under sub-section (1) against a person who is a director or is concerned in the management of a corporation if that person proves that—
- (a) the commission of the offence by the corporation occurred without the knowledge of the person; or
 - (b) the person was not in a position to influence the conduct of the corporation in relation to the commission of the offence; or
 - (c) the person, being in such a position, used all reasonable diligence to prevent the commission of the offence by the corporation; or
 - (d) the corporation would not have been found guilty of the offence because of a defence available under this Act or the regulations.
- (3) A person who is a director of a corporation or who is

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concerned in the management of a corporation may, by virtue of sub-section (1), be proceeded against and be convicted of an offence whether or not the corporation has been proceeded against or convicted in respect of the offence.

- (4) When in any proceedings under this Act it is necessary to establish the intention of a corporation, it is sufficient to show that a servant or agent of the corporation had that intention.
- (5) In respect of any proceedings for an offence by a corporation against this Act any statement made by an officer of the corporation is admissible as evidence against the corporation.
- (6) If a person who is a partner in a partnership commits an offence against this Act or the regulations in the course of the activities of the partnership, each other person who is a partner in the partnership is also guilty of the offence and liable to the penalty for it.
- (7) If a person who is concerned in the management of an unincorporated association commits an offence against this Act or the regulations in the course of the activities of the unincorporated association, each other person who is at the time of the commission of the offence concerned in the management of the unincorporated association is also guilty of the offence and liable to the penalty for it.
- (8) It is a defence to a charge brought under sub-section (6) or (7) if the person charged proves that—
 - (a) the commission of the offence occurred without the knowledge of the person; or
 - (b) the person was not in a position to influence the conduct of the person who committed the offence; or
 - (c) the person, being in a position to influence that conduct, used all reasonable diligence to prevent the commission of the offence; or
 - (d) the person who committed the offence would not have been found guilty of it because of a defence available under this Act or the regulations.

- (9) In this section, “officer”—
- (a) in relation to a corporation within the meaning of the **Corporations Law of Victoria**, has the same meaning as in section 9 (1) of that Law; and
 - (b) in relation to a corporation which is not a corporation within the meaning of the **Corporations Law of Victoria**, means any person, by whatever name called, who is concerned or takes part in the management of the corporation; and
 - (c) includes any employee of the corporation who gives to an authorised officer any information relating to any part of the operations of the corporation over which that employee exercises any superintendence or control.

73. Offences by employers and contractors

- (1) An employer commits an offence against this Act or the regulations, and is liable to the penalty for that offence, if a person commits the offence in the course of that person’s employment by the employer, unless it is proved that—
- (a) the employer—
 - (i) did not authorise or permit the acts or omissions of the employee; and
 - (ii) used all reasonable diligence to prevent them; or
 - (b) the employee would not have been convicted of the offence because of a defence available under this Act or the regulations.
- (2) A person who has contracted with another person for the provision of services by that other person commits an offence against this Act or the regulations, and is liable to the penalty for that offence, if that other person commits the offence in the course of providing those services for the person, unless it is proved that—
- (a) the person—
 - (i) did not authorise or permit the acts or omissions of that other person; and

- (ii) used all reasonable diligence to prevent them;
or
- (b) that other person would not have been convicted of the offence because of a defence available under this Act or the regulations.

74. Delegation

- (1) The chief administrator may, by instrument, delegate to the registrar, the deputy registrar or any officer of the Department or authorised officer any power of the chief administrator under this Act or the regulations, other than this power of delegation.
- (2) The registrar may, by instrument, delegate to the deputy registrar or any officer of the Department any power of the registrar under this Act or the regulations, other than this power of delegation.

75. Fees

- (1) The Minister may, by notice published in the Government Gazette, fix fees to be paid under this Act and the rate of interest to be paid on overdue fees.
- (2) The power to fix fees under this section may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, with respect to the cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, of different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.
- (3) Any fee due under this Act bears interest at the rate fixed

under sub-section (1), from the date that the fee becomes due to the date that it is paid.

76. Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed, or necessary to be prescribed to give effect to this Act.
- (2) Without in any way limiting sub-section (1), regulations may be made under this Act for or with respect to the things specified in sections 20 (9), 24 (2), 27, 45, and 47.
- (3) A power conferred by this Act to make regulations may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, as respects the cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.
- (4) Regulations made under this Act may be made—
 - (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State; or
 - (iii) as specified in both sub-paragraphs (i) and (ii); and
 - (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or

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- (ii) approved by or to the satisfaction of a specified person or a specified class of persons; or
 - (iii) as specified in both sub-paragraphs (i) and (ii); and
- (c) so as to apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person whether—
- (i) wholly or partially or as amended by the regulations; or
 - (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time; and
- (d) so as to confer a discretionary authority or impose a duty on a specified person or a specified class of persons; and
- (e) so as to provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and
- (f) so as to impose a penalty not exceeding 50 penalty units for a contravention of the regulations.
- (5) If under sub-section (4) (c) (iii) a regulation has applied, adopted or incorporated any matter contained in any document, code, standard, rule, specification or method as formulated, issued, prescribed or published from time to time and that document, code, standard, rule, specification or method is at any time amended, the document, code, standard, rule, specification or method is for the purpose of the regulation to be taken to have not been so amended until notice of the amendment is published in the Government Gazette.
- (6) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of

Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

- (7) Disallowance under sub-section (6) must be taken to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962.

77. Orders may incorporate material

- (1) An Order made under section 25 (2), 38 (1) or 48 (1) may be made so as to apply, adopt or incorporate any material contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person, whether—
- (a) wholly or partially or as amended by the Order; or
 - (b) as formulated, issued, prescribed or published at the time the Order is made or at any time before then; or
 - (c) as formulated, issued, prescribed or published from time to time.
- (2) If an Order applies, adopts or incorporates any material under sub-section (1), there must be published in the Government Gazette with the Order a notice stating that the material may be inspected at the office of the Department specified in the notice.
- (3) If under sub-section (1) (c) an Order has applied, adopted or incorporated any matter contained in any document, code, standard, rule, specification or method as formulated, issued, prescribed or published from time to time and that document, code, standard, rule, specification or method is at any time amended, the document, code, standard, rule, specification or method is for the purpose of the Order to be taken to have not been so amended until notice of the amendment is published in the Government Gazette.
- (4) A person is not guilty of an offence for contravening an Order under section 25 (1), 39 (4) or 48 (2) if the relevant Order applied, adopted or incorporated material under sub-section (1) of this section and—

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- (a) a notice required by sub-section (2) was not published with the Order; or
 - (b) at the time of the alleged contravention, the material was not available for inspection at the office of the Department specified in the notice.
- (5) Sub-section (4) does not apply if, at the time of the alleged contravention, reasonable steps had been taken to bring the general purport of the applied, adopted or incorporated material to the notice of people likely to be affected by the Order.

PART 10—MISCELLANEOUS

78. Consequential amendments

- (1) In section 7 of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) omit “the **Animal Preparations Act 1987**,”; and
 - (b) for “**Agricultural Chemicals Act 1958**” substitute “**Agricultural and Veterinary Chemicals Act 1992**”.
- (2) In section 15 (2) of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) in paragraph (i), for “the **Chief Chemist**” substitute “nominated by the chief administrator”; and
 - (b) in paragraph (k), for “**Agricultural Chemicals Act 1958**” substitute “**Agricultural and Veterinary Chemicals Act 1992**”.
- (3) In section 32 (2) of the **Sale of Land Act 1962**, for paragraph (i) substitute—
- “(i) Particulars of any current land use restriction notice given in relation to the land under the **Agricultural and Veterinary Chemicals Act 1992** due to contamination.”.
- (4) In the **Stock Diseases Act 1968**—
- (a) in section 3, for the definition of “**Disease**” substitute—
- “**“Disease”** means any contagious or infectious disease to which any stock is subject and which

the Governor in Council from time to time by order declares to be a disease for the purposes of this Act.'; and

(b) in section 4 (3), for paragraph (a) substitute—

“(a) may declare any contagious or infectious disease to which any stock is subject to be a disease for the purposes of this Act;” and

(c) after section 4 (4) insert—

“(5) Without limiting sub-sections (1) and (2) the Governor in Council may, by Order published in the Government Gazette, impose general requirements relating to the identification of stock (whether diseased or not).”; and

(d) in section 15 (3), for paragraph (b) substitute—

“(b) veterinary chemical preparations registered under the **Agricultural and Veterinary Chemicals Act 1992**;”.

(5) In section 15 (3) of the **Veterinary Surgeons Act 1958**, for “an animal preparation registered under the **Animal Preparations Act 1987**” substitute “a veterinary chemical preparation registered under the **Agricultural and Veterinary Chemicals Act 1992**”.

79. Repeals

The following Acts are repealed:

- **Aerial Spraying Control Act 1966**
- **Agricultural Chemicals Act 1958**
- **Animal Preparations Act 1987**
- **Fertilizers Act 1974.**

80. Transitional provisions

- (1) The **Animal Preparations Board** (constituted under the **Animal Preparations Act 1987**) is abolished, and its members go out of office, on the commencement of this sub-section.
- (2) Any preparation that, immediately before the

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commencement of this sub-section, was registered under the **Agricultural Chemicals Act 1958**, the **Animal Preparations Act 1987** or the **Fertilizers Act 1974** must be taken to be registered under this Act.

- (3) Any application which before the commencement of this sub-section was made under the **Aerial Spraying Control Act 1966**, the **Agricultural Chemicals Act 1958**, the **Animal Preparations Act 1987** or the **Fertilizers Act 1974** but which had not been determined before that commencement must be determined, so far as possible, in accordance with this Act as if it had been made under this Act.

81. *Temporary saving of sunsetted statutory rules*

Despite section 3A (1) of the **Subordinate Legislation Act 1962**, statutory rules made under an Act specified in section 79 that were in operation immediately before the commencement of this section continue in operation after that commencement until the commencement of section 79.

SCHEDULE

SCHEDULE 1

Sections 6, 18, 19, 25, 29, 31, 39 and 42

PERMITS, CERTIFICATES AND LICENCES

PART I—PROVISIONS APPLYING TO ALL AUTHORITIES

1. *Definition*

In this Schedule, "authority" means—

- (a) a permit under section 6 (1);
- (b) a permit under section 18 (2);
- (c) a permit under section 19;
- (d) a permit under section 25 (2) (b);
- (e) an applicator (chemical rating) certificate under section 29;
- (f) a commercial operator licence under section 31;
- (g) a permit under section 39 (3);
- (h) a pilot (chemical rating) licence under section 42 (3);
- (i) an agricultural aircraft operator licence under section 42 (4).

2. *Applications*

- (1) A person may apply to the chief administrator for the grant of an authority.
- (2) An application must—
 - (a) be in a form approved by the chief administrator; and
 - (b) include any information that the chief administrator requires; and
 - (c) be accompanied by the relevant approved fee.

3. *Grant or refusal*

- (1) The chief administrator may grant or refuse to grant an authority.
- (2) An authority is subject to any conditions imposed by the chief administrator and specified in the authority.
- (3) The chief administrator may, by notice in writing to the holder of an authority, vary or omit any conditions of the authority and impose new conditions.
- (4) The chief administrator may refuse to grant an authority—
 - (a) if the applicant has been convicted of an offence against a relevant Act; or
 - (b) on any prescribed ground.

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SCHEDULE 1—*continued*

4. Cancellation or suspension

- (1) The chief administrator may, by notice in writing to the holder of an authority, cancel or suspend the authority if—
- (a) the holder has not complied with a condition of the authority; or
 - (b) the holder has been convicted of an offence against a relevant Act; or
 - (c) a relevant fee has not been paid on or before the due date; or
 - (d) the chief administrator becomes aware of any information which, if it had been known at the time the authority was granted, would have prevented the grant of the authority; or
 - (e) any prescribed ground exists.
- (2) A notice must specify—
- (a) the date on which the cancellation or suspension takes effect; and
 - (b) in the case of suspension—
 - (i) the period of suspension; or
 - (ii) any conditions that must be satisfied before the suspension will be lifted.

5. Notice of reasons and opportunity to comment

Before suspending or cancelling an authority or refusing to grant an application, the chief administrator must give the applicant for, or the holder of the authority—

- (a) notice of the reasons for the proposed action; and
- (b) the opportunity to submit written comments on the proposed action.

6. Term of authority

An authority continues in operation for the term (not exceeding 10 years) specified in it, unless it is cancelled before then.

7. Fees

The holder of an authority must pay the relevant approved fee on or before the due date each year.

PART 2—PROVISIONS APPLYING TO SPECIFIED AUTHORITIES

8. Applicator (chemical rating) certificates

- (1) The chief administrator may, without limiting his or her power under clause 3 (2), impose conditions on an applicator (chemical rating) certificate—
- (a) requiring the holder to undergo regular medical checkups; and
 - (b) specifying the equipment authorised by the certificate to be used; and
 - (c) specifying the preparations authorised by the certificate to be used.

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SCHEDULE 1—*continued*

- (2) The chief administrator may, without limiting his or her power under clause 3 (4), refuse to grant an applicator (chemical rating) certificate if the applicant has not attended a course, or passed an examination, approved by the chief administrator.

9. Commercial operator licences

- (1) The chief administrator may, without limiting his or her power under clause 3 (2), impose a condition on a commercial operator licence requiring the holder to hold an approved insurance policy.
- (2) The chief administrator may, without limiting his or her power under clause 3 (4) or clause 4 (1)—
- (a) refuse to grant a commercial operator licence if the applicant does not hold an approved insurance policy or a cover note for such a policy; or
 - (b) cancel or suspend a commercial operator licence if the holder does not hold an approved insurance policy.

10. Pilot (chemical rating) licences

The chief administrator may, without limiting his or her power under clause 3 (4), refuse to grant a pilot (chemical rating) licence if the applicant has not attended a course, or passed an examination, approved by the chief administrator.

11. Agricultural aircraft operator licences

The chief administrator may, without limiting his or her power under clause 3 (4) or clause 4 (1)—

- (a) refuse to grant an agricultural aircraft operator licence if the applicant does not hold an approved insurance policy or a cover note for such a policy; or
- (b) cancel or suspend an agricultural aircraft operator licence if the holder does not hold an approved insurance policy.

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 9 May 1991

Legislative Council: 9 October 1991

2. The long title for the Bill for this Act was "A Bill to re-enact with amendments provisions relating to the manufacture, sale, use and application of agricultural and veterinary chemicals; to repeal the Agricultural Chemicals Act 1958, the Animal Preparations Act 1987, the Fertilizers Act 1974 and the Aerial Spraying Control Act 1966; to amend the Sale of Land Act 1962 and the Stock Diseases Act 1968 and for other purposes."

3. Section headings appear in bold italics and are not part of the Act. (See Interpretation of Legislation Act 1984.)