



# **Agricultural and Veterinary Chemicals Legislation Amendment Act 2001**

**No. 83, 2001**

**An Act to amend legislation relating to agricultural  
and veterinary chemicals, and for related purposes**



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# **An Act to amend legislation relating to agricultural and veterinary chemicals, and for related purposes**

[Assented to 11 July 2001]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2001*.

## **2 Commencement**

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Schedule 2 commences at the later of:
  - (a) the time that is immediately after the commencement of item 2 of Schedule 1 to this Act; and
  - (b) the time when Parts 4 to 10 of the *Administrative Review Tribunal Act 2001* commence.

## **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments relating to constitutional matters**

### ***Agricultural and Veterinary Chemicals Act 1994***

#### **1 Section 4**

Insert:

*confer*, in relation to a duty, includes impose.

#### **2 Section 18**

Repeal the section, substitute:

#### **18 Commonwealth authorities and officers**

- (1) A corresponding law of a jurisdiction may confer duties, functions and powers in respect of any matter arising in relation to the applicable provisions of the jurisdiction:
  - (a) upon the Administrative Appeals Tribunal; or
  - (b) upon an inspector appointed under subsection 69F(1) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*; or
  - (c) upon an analyst approved under section 69G of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

Note: Subsection 7(2) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* deals with functions and powers conferred on the NRA by State laws.

- (2) A corresponding law may confer such other duties, functions and powers as are prescribed upon authorities and officers of the Commonwealth.
- (3) In enacting subsections (1) and (2), it is the intention of the Parliament to rely on all powers available to it under the Constitution.

#### **3 After section 18**

Insert:

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## 18A Conferral of duties, functions and powers

- (1) To the extent that an authority or officer of the Commonwealth (including a Minister) has a duty, function or power that is conferred, or taken to be conferred, by a corresponding law:
  - (a) that duty, function or power is not taken to be conferred by Commonwealth law; and
  - (b) section 18 is not taken to authorise the conferral of the duty, function or power;if the conferral or authorisation would contravene a constitutional doctrine restricting the duties that may be conferred on authorities or officers of the Commonwealth, or would otherwise exceed the legislative power of the Commonwealth.
- (2) If, to ensure the validity of the conferral of a duty, function or power purportedly conferred on an authority or officer of the Commonwealth (including a Minister) by a corresponding law, it is necessary that the duty, function or power be conferred by a law of the Commonwealth, rather than by a law of a State, the duty, function or power is taken to be conferred by this Act to the extent necessary to ensure that validity.
- (3) If, because of subsection (2), this Act is taken to confer a duty, function or power upon an authority or officer of the Commonwealth (including a Minister), it is the intention of the Parliament to rely on all powers available to it under the Constitution to support the conferral of the duty, function or power.
- (4) Subsections (2) and (3) do not limit section 18.

## 4 Application of amendment

The amendment made by item 2 of this Schedule applies in relation to matters arising before, on or after the commencement of that item.



## **Schedule 2—Amendment consequential on changed administrative law arrangements**

### ***Agricultural and Veterinary Chemicals Act 1994***

#### **1 Paragraph 18(1)(a)**

Omit “Appeals”, substitute “Review”.

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*[Minister’s second reading speech made in—  
Senate on 3 April 2001  
House of Representatives on 28 June 2001]*

(32/01)

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