

**AGRICULTURAL AND VETERINARY CHEMICALS CODE AMENDMENT
(DURATION OF APPROVALS AND REGISTRATIONS) REGULATION 2014**

Agricultural and Veterinary Chemicals Code Act 1994
Agricultural and Veterinary Chemicals Legislation Amendment Act 2013

EXPLANATORY STATEMENT

Select Legislative Instrument No. 91, 2014

Issued by the authority of the Minister for Agriculture

Legislative authority for regulation

The Agricultural and Veterinary Chemicals Code Amendment (Duration of Approvals and Registrations) Regulation 2014 (Amendment Regulation) amends the Agricultural and Veterinary Chemicals Code Regulations 1995 (Principal Code Regulations).

Subsection 6(1) of the *Agricultural and Veterinary Chemicals Code Act 1994* (Code Act) provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Agvet Code (a Schedule to the Code Act) to be prescribed by regulations within the meaning of the Agvet Code; or necessary or convenient to be prescribed by such regulations for carrying out or giving effect to the Agvet Code.

Paragraphs 19(2)(a), 20(2)(a), 29J(2)(a), 29K(2)(a) and 34AE(2)(a) of the Agvet Code provide authority for the regulations to prescribe a method for working out when approvals end and the last renewal dates of registrations. Paragraph 47A(1)(a) of the Agvet Code provides the authority to prescribe regulators in foreign countries for the purposes of determining the end dates of approvals and last renewal dates of registrations.

Paragraph 51(3)(a) of Schedule 6 of the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* provides authority for the regulations to prescribe a method for working out when approvals end and the last renewal dates of registrations for existing approvals and registrations.

Section 4 of the *Acts Interpretation Act 1901* provides for regulations to be made before commencement of the Act conferring power to make the regulation after the Act has been enacted. However, exercising the power to make regulations does not confer a power or right or impose an obligation on a person before the commencement date, except so far as is necessary or convenient to bring the regulation into effect. The provisions in the Amendment Regulation do not commence until after the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* commences on 1 July 2014.

Purpose of amendments

The Amendment Regulation amends the Principal Code Regulations to, in effect, delay the operation of the scheme for re-approval of active constituents for agricultural chemicals and veterinary medicines (agvet chemicals) and re-registration of agvet chemical products in the Agvet Code for 15 years by:

- making all agvet chemical active constituent approvals end in 2029 or 15 years after approval
 - setting all the last renewal dates for agvet chemical product registrations as 2029 or 15 years after registration
 - removing all prescribed regulators so that section 47A of the Agvet Code does not operate
- Section 47A varied end dates and last renewal dates as a result of decisions by prescribed regulators in foreign countries to prohibit uses of an active constituent or products containing the active constituent.

The delay to the operation of the re-approval and re-registration scheme until 2029 is consistent with the Australian Government's policy to remove the scheme. A Bill to remove the scheme, the *Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Bill 2014*, is currently before the Commonwealth Parliament.

Legislative Instruments Act 2003

The Amendment Regulation is a disallowable legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LI Act). Section 54 of the LI Act means that the Amendment Regulation is not subject to sunseting as the amendments to regulations set out in the Amendment Regulation are enabled by legislation that facilitates the establishment and operation of a scheme involving the Commonwealth and one or more states.

Public Consultation

The details of the regulations were released for public consultation from December 2013 to 7 March 2014. Comments from submitters have been taken into account in preparing these regulations.

The APVMA was consulted closely over the requirements for and content of the Amendment Regulation. Relevant state and territory agencies were also consulted on the regulations as part of the public consultation and comments provided were taken into account in preparing these regulations.

Regulatory Impact Analysis

These amendments are related to the measures in the Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Bill 2014. The Office of Best Practice Regulation was consulted about these measures and has advised that the regulatory changes are machinery in nature and a Regulation Impact Statement is not required (ID number 16147).

DETAILS OF THE AMENDMENT REGULATIONS

The details of the Amendment Regulation, including the impact and effect of the amending regulations, are at [Attachment A](#).

HUMAN RIGHTS COMPATIBILITY ASSESSMENT

This legislative instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

AGRICULTURAL AND VETERINARY CHEMICALS CODE AMENDMENT (DURATION OF APPROVALS AND REGISTRATIONS) REGULATION 2014

DETAILS OF THE AMENDMENT REGULATION

Section 1 – Name of Regulation

This section provides that the name of the Amendment Regulation is the Agricultural and Veterinary Chemicals Code Amendment (Duration of Approvals and Registrations) Regulation 2014 (Amendment Regulation).

Section 2 – Commencement

This section provides that Sections 1 to 4 commence the day after this regulation is registered. The measures in Schedule 1 commence immediately after the Agricultural and Veterinary Chemicals Legislation Amendment Regulation 2014 (Legislation Amendment Regulation 2014), which commences on 1 July 2014. However, the measures in the Amendment Regulation would not commence at all if Schedules 1 and 2 of the *Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Act 2014* commence at or before the time the Legislation Amendment Regulation 2014 commences. A Bill for this Act, the Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Bill 2014, is currently before the Commonwealth Parliament.

Section 3 – Amendment of regulations for agricultural and veterinary chemicals legislation

This section specifies the legislation that authorises the amendments to the Agricultural and Veterinary Chemicals Code Regulations 1995 (Principal Code Regulations).

Section 4 – Schedules

This section specifies that the amendments in Schedule 1 apply to the items in the Schedule according to the items.

Schedule 1 – Agricultural and Veterinary Chemicals Code Regulations 1995

Item 1 – New regulations 17A, 17B, 17BA, 17BB, 17BC and 17BD

For the authorities in paragraphs 19(2)(a), 20(2)(a), 29J(2)(a), 29K(2)(a) and 34AE(2)(a) of the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* (Agvet Code), item 1 removes regulations 17A and 17B and insert new regulations 17A to 17BD to prescribe the method for working out end dates for approvals of active constituents and last renewal dates for registrations of chemical products. The new regulations prescribe that the end date for an approval must be the last day of a calendar month, that is 15 years after approval, re-approval or affirmation of approval following reconsideration (chemical review). The new regulations also prescribe that the last renewal date for a registration must be the last day of a calendar month that is 15 years after registration, re-registration or affirmation of registration following reconsideration (chemical review).

Item 2 – Division 2.5

For the authority in paragraph 47A(1)(a) of the Agvet Code, this item omits the division that prescribes regulators in foreign countries that are relevant to variations of the duration of an active constituent approval or chemical product registration. The purpose of this amendment is to prevent

section 47A of the Agvet Code from operating. As there are no regulators prescribed, there are no decisions that can require the end dates of approvals or last renewal dates of registrations to be varied to be before 2029.

Items 3 and 4 – Regulations 80 and 81

For the authority in paragraph 51(3)(a) of Schedule 6 to the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013*, item 4 replaces regulation 81 to prescribe the method for working out end dates for existing active constituent approvals and last renewal dates for existing chemical product registrations. The new regulation prescribes that the end date for an approval must be the last day of a calendar month that is 15 years after commencement of the regulation (that is, in 2029). The new regulation also prescribes that the last renewal date for a registration must be the last day of a calendar month that is 15 years after commencement of the regulation (that is, also in 2029). Item 3 inserts a definition of ‘commencement time’ to assist in the interpretation of regulation 81.

HUMAN RIGHTS COMPATIBILITY ASSESSMENT

Agricultural and Veterinary Chemicals Code Amendment (Duration of Approvals and Registrations) Regulation 2014

The Agricultural and Veterinary Chemicals Code Amendment (Duration of Approvals and Registrations) Regulation 2014 (Amendment Regulation) is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Amendment Regulation amends the Agricultural and Veterinary Chemicals Code Regulations 1995 (Principal Code Regulations). The Amendment Regulation amends the Principal Code Regulations to, in effect, delay the operation of the scheme for re-approval of active constituents for agricultural chemicals and veterinary medicines (agvet chemicals) and re-registration of agvet chemical products in the Agvet Code for 15 years.

The delay to the operation of the re-approval and re-registration scheme until 2029 is consistent with the Australian Government's policy to remove the scheme. A Bill to remove the scheme, the Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Bill 2014, is currently before the Parliament.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.