

EXPLANATORY STATEMENT

AGRICULTURAL AND VETERINARY CHEMICALS CODE INGREDIENT DETERMINATION 2015

The *Agricultural and Veterinary Chemicals Code Act 1994* (Act) provides, within a Code set out in the Schedule to the Act (Agvet Code), a low regulatory scheme for agricultural and veterinary chemicals. Subsection 6(1) of the Act provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Agvet Code to be prescribed by regulations or necessary or convenient to be prescribed by such regulations for carrying out or giving effect to the Agvet Code. The regulations made by the Governor-General are the *Agricultural and Veterinary Chemicals Code Regulations 1995* (Regulations).

The recent amendments to the Regulations have simplified existing regulations relating to whether animal feed products are declared to be, or not to be, veterinary chemical products. These amendments provided that animal feeds that meet certain requirements for ingredients, labelling, claims and manufacture are not veterinary chemical products. Australian Pesticides and Veterinary Medicines Authority (APVMA) must make an ingredient determination to support the amendments to the Regulations. This Ingredient Determination authorises the constituent to be used, for the purpose or purposes set out in the heading of a Part of the *Veterinary Chemicals Products (Excluded Stockfood Non-active Constituents) Order 1995* (SNAC Order) under which the constituent is specified, in all substances or mixtures of substances.

Subclause 9(1) of Schedule 3AA to the Code Regulations provides that the APVMA may, by legislative instrument, determine that one or more ingredients, or classes of ingredients, are authorised to be used in one or more classes or substances or mixtures of substances. Subclause 9(3) of Schedule 3AA to the Code Regulations provides that this power may be exercised on the APVMA's own initiative.

Regulation 88(2) of the Regulations provides that ingredients currently listed in the *Chemicals Products (Excluded Stockfood Non-active Constituents) Order 1995* (SNAC Order) are taken to be ingredients permitted in excluded nutritional or digestive products until ingredient determinations for those ingredients are made. Regulation 88 of the Regulations requires the APVMA to make an ingredient determination for all ingredients in the SNAC Order by 5 June 2015. It requires that the ingredient determination authorises all existing uses of an ingredient permitted under the SNAC Order.

The *Agricultural and Veterinary Chemicals Code Ingredient Determination 2015* (Determination) fulfils the regulation 88(3) requirement. The Determination authorises the use of the ingredients that were listed on the former SNAC Order.

Sections 1 to 4 of the Determination set out preliminary details of the instrument, including the name of the determination and commencement. Section 5 provides that the constituents listed in the Schedule are authorised to be used for the purpose or purposes set out in the

heading of a Part of the Schedule under which the constituent is specified, in all substances or mixtures of substances.

Regulatory impacts were considered as part of the recent amendments to the Agvet Code, in particular, the *Agricultural and Veterinary Chemicals Legislation Amendment (Animal Feed Reform and Other Measures) Regulation 2015*. The Regularity Impact Statement prepared by the Department of Agriculture, Fisheries and Forestry, assessed by OBPR (OBPR reference 16908) and published on 29 October 2014 applies for the purpose of the making of this Determination. The purpose of this Determination is to support the legislative amendments. The Office of Best Practice Regulations was consulted about this Determination and has advised that no further analysis is required.

The Determination commences on the day after it is registered.

This Determination is a disallowable legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LI Act).

Public Consultation

This Determination implements the legislative reforms to the Regulations that resulted in the *Agricultural and Veterinary Chemicals Legislation Amendment (Animal Feed Reform and Other Measures) Regulation 2015*. As part of those amendments, extensive stakeholder consultation was undertaken by the Department of Agriculture, Fisheries and Forestry. All the reform options were open for comment. Specific consultation was not undertaken as this Determination directly reflects only that which was previously provided by the SNAC Order.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Agricultural and Veterinary Chemicals Code Ingredient Determination 2015

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Determination authorises the constituent to be used, for the purpose or purposes set out in the heading of a Part of the SNAC Order under which the constituent is specified, in all substances or mixtures of substances. The Schedule to the Determination specifies the authorised constituent. These substances or mixtures of substances are regarded by relevant experts as posing no danger to animals, humans, non-target animals or the environment.

Human rights implications

This Determination engages the the right to health and a healthy environment (Article 12) in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The United

Nations Committee on Economic, Social and Cultural Rights has interpreted Article 12 to extend to the underlying determinants of health, including a healthy environment.

This Determination engages and promotes the right to health in Article 12 of the ICESCR by limiting the use of ingredients in one or more classes of excluded nutritional or digestive products to ones recognized as appropriate for animal feeds having regard to the likelihood of residues that may impact human health.

This Determination does not otherwise engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it promotes the right to health and a healthy environment through controlling ingredients of feed fed to food producing animal species and does not otherwise raise any human rights issues.