

South Australia



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ELIZABETHAE II REGINAE
A.D. 2002

**AGRICULTURAL AND VETERINARY CHEMICALS
(SOUTH AUSTRALIA) (ADMINISTRATIVE ACTIONS)
AMENDMENT ACT 2002**

No. 3 of 2002

[Assented to 25 July 2002]

An Act to amend the Agricultural and Veterinary Chemicals (South Australia) Act 1994.

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PART 5

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The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Agricultural and Veterinary Chemicals (South Australia) (Administrative Actions) Amendment Act 2002*.

(2) The *Agricultural and Veterinary Chemicals (South Australia) Act 1994* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Definitions

3. Section 3 of the principal Act is amended—

(a) by inserting in subsection (1) after the definition of "Commonwealth Minister" the following definition:

"confer" includes impose;;

(b) by inserting in subsection (1) after the definition of "corresponding law" the following definition:

"function" includes a duty;.

Substitution of Part 5

4. Part 5 of the principal Act is repealed the following Part is substituted:

**PART 5
APPLICATION OF COMMONWEALTH ADMINISTRATIVE LAWS
TO AGVET CODE AND AGVET REGULATIONS OF
THIS JURISDICTION**

Object

15. The object of this Part is to help ensure that the Agvet Code of this jurisdiction and the Agvet Code of each other jurisdiction are administered on a uniform basis.

Application of Commonwealth administrative laws in relation to applicable provisions

16. (1) The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the applicable provisions of this jurisdiction as if those provisions were laws of the Commonwealth and were not laws of this jurisdiction.

(2) The provisions of the Agvet Code of this jurisdiction that require the NRA to give brief particulars of reasons for decisions do not affect the obligations of the NRA under section 28 of the *Administrative Appeals Tribunal Act 1975* of the Commonwealth as that section applies as a law of this jurisdiction under subsection (1) of this section.

(3) The provisions of the Agvet Code of this jurisdiction that relate to the disclosure of confidential commercial information do not affect the operation of the *Freedom of Information Act 1982* of the Commonwealth as that Act applies as a law of this jurisdiction under subsection (1) of this section.

(4) For the purposes of a law of this jurisdiction, a matter arising in relation to the applicable provisions of this jurisdiction—

- (a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if those provisions were laws of the Commonwealth; and
- (b) is taken not to be a matter arising in relation to laws of this jurisdiction.

(5) Subsection (4) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under section 32.

Functions and powers conferred on Commonwealth officers and authorities

17. (1) A Commonwealth administrative law applying because of section 16 that confers on a Commonwealth officer or authority a function or power also confers on the officer or authority the same function or power in relation to a matter arising in relation to an applicable provision of this jurisdiction.

(2) In performing a function or exercising a power conferred by subsection (1), the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power under the Commonwealth administrative law.

Reference in Commonwealth administrative law to a provision of another law

18. For the purposes of section 16, a reference in a Commonwealth administrative law to a provision of that or another Commonwealth administrative law is taken to be a reference to that provision as applying because of that section.

Construction of references to Part IVA of Administrative Appeals Tribunal Act (Cwth.)

18A. For the purposes of section 16, a reference in a provision of the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (as that provision applies as a law of this jurisdiction) to the whole or any part of Part IVA of that Act is taken to be a reference to the whole or any part of that Part as it has effect as a law of the Commonwealth.

Insertion of ss. 28A and 28B

5. The following sections are inserted after section 28 of the principal Act:

Inspectors and analysts

28A. (1) In this section—

"officer" means—

- (a) an inspector appointed under section 69F (1) of the *Agricultural and Veterinary Chemicals (Administration) Act*; or

(b) an analyst approved under section 69G of the *Agricultural and Veterinary Chemicals (Administration) Act*.

(2) An officer has, in respect of a matter arising in relation to an applicable provision of this jurisdiction, the functions and powers conferred or expressed to be conferred on him or her under the applicable provisions of this jurisdiction.

Validation of actions of inspectors and analysts

28B. (1) In this section—

"officer" has the same meaning as in section 28A;

"relevant provision" means section 5 of the *Agricultural and Veterinary Chemicals (South Australia) (Administrative Actions) Amendment Act 2002*;

"relevant time", in relation to a thing, means the time at which the thing was done or omitted to be done or purported to have been done or omitted to be done.

(2) Anything done or omitted to be done by an officer before the commencement of the relevant provision that would have been validly done or omitted had the relevant provision commenced before the relevant time has, and is taken always to have had, the same force and effect as it would have had if the relevant provision had commenced before the relevant time.

(3) Part 2 of the *Co-operative Schemes (Administrative Actions) Act 2001* applies to administrative actions taken by an officer as affected by this section.

Insertion of s. 33A

6. The following section is inserted after section 33 of the principal Act:

**Transitional provision—Agricultural and Veterinary Chemicals (South Australia)
(Administrative Actions) Amendment Act 2002**

33A. (1) In this section—

"substitution provision" means section 4 of the *Agricultural and Veterinary Chemicals (South Australia) (Administrative Actions) Amendment Act 2002*.

(2) Part 5 of this Act, as substituted by the substitution provision, applies in relation to matters arising in relation to the applicable provisions of this jurisdiction, and decisions made or other things done or omitted to be done under the Commonwealth administrative laws in respect of such matters, before, on or after the commencement of the substitution provision.