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RURAL CHEMICALS OPERATIONS

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BIOSECURITY SA
PIRSA

Agricultural & Veterinary Products (Control of Use) Act 2002

The **Agricultural and Veterinary Products (Control of Use) Act 2002** aims to encourage responsible chemical use in the community by providing a clear framework for chemical users based on knowledge, skill and responsibility. It sets out what constitutes responsible use and gives powers to control persons who choose not to exercise that responsibility.

The Act aims to maximise the economic benefits of using agricultural and veterinary chemicals and fertilisers, while managing the risks of such use in terms of harm to plants, animals, trade, human health and the environment.

The Act and Regulations came into operation on the 29th August 2004.

The Act operates within the context of the Commonwealth Agvet Code, adopted in this State under the *Agricultural and Veterinary Chemicals (South Australia) Act 1994*. The resultant National Registration Scheme administered by the Australian Pesticides and Veterinary Medicines Authority (APVMA) regulates the manufacture and supply of agricultural and veterinary chemical products.

General Duty

Part 2 of the Act imposes a general duty of care on a person who uses or disposes of agricultural and certain veterinary chemical products and fertilisers. A person is required to take all reasonable care to prevent or minimise harm to the health and safety of human beings and the environment.

In the case of agricultural chemical products, the duty extends to preventing or minimising chemical residue contamination of land, animals and plants, outside the area intended to be treated.

In using or disposing of these products a person is required to take appropriate measures such as observing label instructions, giving consideration to prevailing weather conditions and maintaining equipment used for applying them.

The object of the general duty is to manage the risk of harm by modifying user behaviour and encouraging responsible product use and disposal. Failing to comply with the duty of care does not of itself constitute an offence. Compliance with the duty is enforced by issuing a compliance order under Part 5 of the Act, which may, for example, require a person to cease a particular activity, or to take specified action. If a compliance order is not observed, a penalty will apply.

If the use or disposal of a product results in damage to the environment, or adversely affects the safety of food or the health or welfare of members of the community, recourse can be made to other relevant legislation such as the *Environment Protection Act 1993*, the *Public and Environmental Health Act 1987*, the *Food Act 1985* (and prospectively the *Food Act 2001*) and the *Occupational Health, Safety and Welfare Act 1986*.

Offences

To support the operation of the National Registration Scheme, Part 3 of the Act provides for various offences to regulate the use and possession of agricultural and veterinary chemical products.

Registration under the Agvet Code, involves a thorough evaluation by the APVMA of the possible harmful effects that using or handling the product may have on humans, plants, animals, trade and commerce and the environment. Once a product is registered, a corresponding label including instructions for its safe use must also be registered.

The National Registration Scheme also involves a permit system which will operate in conjunction with the new legislation. A permit issued by the APVMA may provide for the availability of a particular product, in specified circumstances or conditions. Such permits will be recognised under the Act.

Agricultural Chemical Products

Division 1 of Part 3 sets out offences relating to the use of agricultural chemical products.

A person is prohibited from using or possessing a product that has not been registered by the APVMA unless authorised under a permit. If a product is registered, a person must also comply with any mandatory instructions on the label for the product (as prescribed by the regulations).

The Act also imposes responsibilities on a person carrying on an agricultural business to comply with instructions regarding withholding periods. Emphasis is given to trade products that are supplied before a withholding period has expired, following application of a product. In this case, the manager must supply the recipient of the trade products with a written notice of the withholding period that applies, the particular product used and when it was last used.

Veterinary Products

Division 3 of Part 3 of the Act controls the use of veterinary products. The Agvet Code, through the registration scheme, regulates the supply and manufacture of veterinary chemical products. The Code does not, however, cover those products that are prepared by a veterinary surgeon in the course of their practice. The Act provides scope for greater control on the supply and use of substances prepared by veterinary surgeons, and imposes greater responsibilities on veterinary surgeons in terms of the instructions that must be given to non-veterinarians treating trade species animals, particularly in relation to withholding periods.

The Act also places controls on the manner in which a non-veterinarian may treat a trade species animal with a veterinary chemical product. Where the product is not registered, or is used in a manner that contravenes the label (in the case of registered chemical products), the person must comply with the written instructions of the veterinary surgeon responsible for treating the animal.

The Act also imposes obligations on the person responsible for the management of a trade species animal if the animal or its products are supplied before a relevant withholding period has expired.

Fertilisers

Fertilisers are not included within the scope of the National Registration Scheme. However the Act provides for the prescribing of standards limiting the levels of unacceptable impurities such as heavy metals and also labelling requirements to enable informed choice by users.

Regulations

Further scope for controlling the use of agricultural and veterinary chemical products is provided through the regulations. Under Part 6 of the Act, the regulations may prescribe conditions to enable the use of particular chemical products to be tailored to take account of particular circumstances and local conditions. For example, restricting the use of a particular product in a specified location—a measure which may be necessary to protect the unique characteristics of that particular area. Or, restricting the time of year or season in which a product is used. The regulations may also recognise qualifications and skills to ensure that people using chemical products have the necessary competence.

Minimising risk to trade

Part 4 of the Act provides a further mechanism, in the form of trade protection orders, by which the risk of serious harm to trade arising from the use or disposal of agricultural and veterinary chemical products, may be prevented or reduced. An example of a trade protection order may be to prohibit the harvesting or sale of a particular type of trade product, or to direct the recall or destruction of a particular trade product.

Enforcement

Part 5 of the Act deals with issues of enforcement, and includes provisions relating to the appointment of authorised officers and their powers. It also provides for the issuing of compliance orders by the Minister for the purpose of securing compliance with a requirement of the Act, and provides a right to appeal these orders.

Further Information

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