

# EXPOSURE DRAFT

2016-2017

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT
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## **Agricultural and Veterinary Chemicals Legislation Amendment (Operational Efficiency) Bill 2017**

**No.     , 2017**

*(Agriculture and Water Resources)*

**A Bill for an Act to amend the law relating to  
agricultural and veterinary chemicals, and for  
related purposes**

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1  
2 **A Bill for an Act to amend the law relating to**  
3 **agricultural and veterinary chemicals, and for**  
4 **related purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act is the *Agricultural and Veterinary Chemicals Legislation*  
8 *Amendment (Operational Efficiency) Act 2017*.

9 **2 Commencement**

10 (1) Each provision of this Act specified in column 1 of the table  
11 commences, or is taken to have commenced, in accordance with  
12 column 2 of the table. Any other statement in column 2 has effect  
13 according to its terms.  
14

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.	
3. Schedule 1, Part 2	1 July 2018.	1 July 2018
4. Schedule 1, Part 3	The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent.	
5. Schedule 1,	The day after the end of the period of 3	

No. , 2017 *Agricultural and Veterinary Chemicals Legislation Amendment* 1  
*(Operational Efficiency) Bill 2017*

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
Part 4	months beginning on the day this Act receives the Royal Assent.	
6. Schedule 1, Part 5	The day after this Act receives the Royal Assent.	
7. Schedule 1, Part 6	The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent.	
8. Schedule 1, Part 7	The day after this Act receives the Royal Assent.	
9. Schedule 1, Part 8	The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	
10. Schedule 1, Part 9	The day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.	
11. Schedule 1, Part 10	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.  
5 Information may be inserted in this column, or information in it  
6 may be edited, in any published version of this Act.

### 3 Schedules

8 Legislation that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.

# EXPOSURE DRAFT

Amendments **Schedule 1**  
Confidential commercial information **Part 1**

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1 **Schedule 1—Amendments**

2 **Part 1—Confidential commercial information**

3 *Agricultural and Veterinary Chemicals Code Act 1994*

4 **1 Subsection 8F(2) of the Code set out in the Schedule (note)**

5 Repeal the note.

6 **2 Subsection 8S(2) of the Code set out in the Schedule (note)**

7 Repeal the note.

8 **3 Paragraphs 8X(1)(a) and (b) of the Code set out in the**  
9 **Schedule**

10 Repeal the paragraphs.

11 **4 Paragraph 8X(1)(e) of the Code set out in the Schedule**

12 Omit “(5);”, substitute “(5).”.

13 **5 Paragraphs 8X(1)(f) and (g) of the Code set out in the**  
14 **Schedule**

15 Repeal the paragraphs.

16 **6 Subsection 34AB(2) of the Code set out in the Schedule**  
17 **(note)**

18 Repeal the note.

19 **7 Subsection 34AC(2) of the Code set out in the Schedule**  
20 **(note)**

21 Repeal the note.

22 **8 Application provision**

23 The amendments made by this Part apply in relation to a notice given  
24 under subsection 8F(1), 8S(1), 34AB(1) or 34AC(1) of the Code set out  
25 in the Schedule to the *Agricultural and Veterinary Chemicals Code Act*  
26 *1994* on or after the commencement of this item.

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Schedule 1 Amendments

Part 2 Annual returns and record-keeping

---

1 **Part 2—Annual returns and record-keeping**

2 *Agricultural and Veterinary Chemical Products (Collection*  
3 *of Levy) Act 1994*

4 **9 Subsection 3(1)**

5 Insert:

6 *active constituent* has the same meaning as in the Agricultural and  
7 Veterinary Chemicals Code set out in the Schedule to the  
8 *Agricultural and Veterinary Chemicals Code Act 1994*.

9 **10 After section 34**

10 Insert:

11 **35 Annual returns by interested persons**

12 (1) The interested person in relation to a chemical product who is  
13 liable to pay levy in respect of leviable disposals of the product that  
14 took place anywhere in Australia at any time during a financial  
15 year must give to the APVMA, before 30 November in the next  
16 financial year, a return setting out the total quantity of the chemical  
17 product covered by those leviable disposals.

18 *Strict liability offence*

19 (2) A person commits an offence of strict liability if the person  
20 contravenes subsection (1).

21 Penalty: 50 penalty units.

22 *Civil penalty*

23 (3) Subsection (1) is a civil penalty provision.

24 Note 1: For monitoring and investigation powers of inspectors in relation to  
25 this Act, see Part 7AA of the *Agricultural and Veterinary Chemicals*  
26 *(Administration) Act 1992*.



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Amendments **Schedule 1**  
Annual returns and record-keeping **Part 2**

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1 Note 2: Division 1 of Part 7AB of the *Agricultural and Veterinary Chemicals*  
2 *(Administration) Act 1992* provides for pecuniary penalties for  
3 contraventions of civil penalty provisions.

4 Note 3: For infringement notices, enforceable undertakings and formal  
5 warnings in relation to contraventions of subsection (1), see  
6 Divisions 2, 3 and 6 of Part 7AB of the *Agricultural and Veterinary*  
7 *Chemicals (Administration) Act 1992*.

## 8 *Statement to Department*

9 (4) From the returns given to the APVMA in relation to a financial  
10 year, the APVMA must give the Secretary of the Department a  
11 statement or statements setting out the total quantities of each  
12 active constituent for each chemical product covered by those  
13 returns.

## 14 *Alternative constitutional bases*

15 (5) Without limiting its effect apart from this subsection, this section  
16 also has the effect it would have if its operation were expressly  
17 confined to:

- 18 (a) matters relating to census and statistics; or  
19 (b) acts or omissions of corporations to which paragraph 51(xx)  
20 of the Constitution applies; or  
21 (c) acts or omissions taking place in the course of, or in relation  
22 to, trade or commerce:  
23 (i) between Australia and places outside Australia; or  
24 (ii) among the States; or  
25 (iii) within a Territory, between a State and a Territory or  
26 between 2 Territories; or  
27 (d) acts or omissions taking place in a Territory.

28 (6) A term used in subsection (5) and the Constitution has the same  
29 meaning in that subsection as it has in the Constitution.

## 30 **11 After section 36**

31 Insert:

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## Schedule 1 Amendments

### Part 2 Annual returns and record-keeping

---

1     **37 Records to be kept by interested persons**

- 2             (1) The interested person in relation to a chemical product who is  
3             liable to pay levy in respect of leviable disposals of the product that  
4             took place anywhere in Australia at any time during a financial  
5             year must:  
6                 (a) keep any records relating to those disposals that are  
7                 reasonably necessary to enable the APVMA to find out  
8                 whether section 35 has been complied with; and  
9                 (b) retain those records for 6 years.

10             *Strict liability offence*

- 11             (2) A person commits an offence of strict liability if the person  
12             contravenes subsection (1).

13             Penalty: 50 penalty units.

14             *Civil penalty*

- 15             (3) Subsection (1) is a civil penalty provision.

16             Note 1: For monitoring and investigation powers of inspectors in relation to  
17             this Act, see Part 7AA of the *Agricultural and Veterinary Chemicals*  
18             *(Administration) Act 1992*.

19             Note 2: Division 1 of Part 7AB of the *Agricultural and Veterinary Chemicals*  
20             *(Administration) Act 1992* provides for pecuniary penalties for  
21             contraventions of civil penalty provisions.

22             Note 3: For infringement notices, enforceable undertakings and formal  
23             warnings in relation to contraventions of subsection (1), see  
24             Divisions 2, 3 and 6 of Part 7AB of the *Agricultural and Veterinary*  
25             *Chemicals (Administration) Act 1992*.

26             *Alternative constitutional bases*

- 27             (4) Without limiting its effect apart from this subsection, this section  
28             also has the effect it would have if its operation were expressly  
29             confined to:  
30                 (a) matters relating to census and statistics; or  
31                 (b) acts or omissions of corporations to which paragraph 51(xx)  
32                 of the Constitution applies; or

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Amendments **Schedule 1**  
Annual returns and record-keeping **Part 2**

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- 1 (c) acts or omissions taking place in the course of, or in relation  
2 to, trade or commerce:  
3 (i) between Australia and places outside Australia; or  
4 (ii) among the States; or  
5 (iii) within a Territory, between a State and a Territory or  
6 between 2 Territories; or  
7 (d) acts or omissions taking place in a Territory.
- 8 (5) A term used in subsection (4) and the Constitution has the same  
9 meaning in that subsection as it has in the Constitution.

## 10 **12 Application provision**

11 Sections 35 and 37 of the *Agricultural and Veterinary Chemical*  
12 *Products (Collection of Levy) Act 1994*, as inserted by this Part, apply in  
13 relation to leviable disposals that take place in the 2018-19 financial  
14 year or in a later financial year.

## 15 ***Agricultural and Veterinary Chemicals (Administration) Act*** 16 ***1992***

### 17 **13 Section 69E**

18 Repeal the section.

### 19 **14 Subsection 69EA(1) (heading)**

20 Repeal the heading, substitute:

21 *Records relating to compliance with sections 69B and 69C*

### 22 **15 Paragraph 69EA(1)(a)**

23 Omit “69B, 69C and 69E”, substitute “69B and 69C”.

## 24 **16 Saving provisions**

- 25 (1) Despite the repeal of section 69E of the *Agricultural and Veterinary*  
26 *Chemicals (Administration) Act 1992* made by this Part, that section, as  
27 in force immediately before the commencement of this item, continues  
28 to apply on and after that commencement in respect of the following:

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## Schedule 1 Amendments

### Part 2 Annual returns and record-keeping

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- 1 (a) the import, manufacture or export of active constituents  
2 referred to in paragraph 69E(1)(a) of that Act that occurred in  
3 the 2017-18 financial year or in an earlier financial year;  
4 (b) the import, manufacture or export of chemical products  
5 referred to in paragraph 69E(1)(b) of that Act that occurred in  
6 the 2017-18 financial year or in an earlier financial year.
- 7 (2) Despite the amendments of section 69EA of the *Agricultural and*  
8 *Veterinary Chemicals (Administration) Act 1992* made by this Part, that  
9 section, as in force immediately before the commencement of this item,  
10 continues to apply on and after that commencement in relation to the  
11 keeping and retaining of records in respect of the matters covered by  
12 paragraphs (1)(a) and (b) of this item.

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Amendments **Schedule 1**  
Preliminary assessments **Part 3**

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1 **Part 3—Preliminary assessments**

2 *Agricultural and Veterinary Chemicals Code Act 1994*

3 **17 Subsection 11(3) of the Code set out in the Schedule**

4 Repeal the subsection, substitute:

5 (3) If it appears from the preliminary assessment that the application  
6 does not meet the application requirements but that the defects in  
7 the application can reasonably be rectified, the APVMA must,  
8 within 14 days, give written notice to the applicant:

9 (a) stating that the application does not meet the application  
10 requirements; and

11 (b) giving particulars of the defects in the application; and

12 (c) requiring the defects to be rectified within 1 month.

13 (3A) The APVMA must refuse the application if:

14 (a) the APVMA is not satisfied that defects in the application  
15 can reasonably be rectified; or

16 (b) the defects are not rectified to the satisfaction of the APVMA  
17 within the period mentioned in paragraph (3)(c).

18 Note: For notice of refusal, see section 8G.

19 **18 Subsection 28(3) of the Code set out in the Schedule**

20 Repeal the subsection, substitute:

21 (3) If it appears from the preliminary assessment that the application  
22 does not meet the application requirements but that the defects in  
23 the application can reasonably be rectified, the APVMA must,  
24 within 14 days, give written notice to the applicant:

25 (a) stating that the application does not meet the application  
26 requirements; and

27 (b) giving particulars of the defects in the application; and

28 (c) requiring the defects to be rectified within 1 month.

29 (3A) The APVMA must refuse the application if:

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## Schedule 1 Amendments

### Part 3 Preliminary assessments

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- 1 (a) the APVMA is not satisfied that defects in the application  
2 can reasonably be rectified; or  
3 (b) the defects are not rectified to the satisfaction of the APVMA  
4 within the period mentioned in paragraph (3)(c).

5 Note: For notice of refusal, see section 8G.

### 6 **19 Application provision**

7 The amendments made by this Part apply in relation to applications  
8 lodged under section 10 or 27 of the Code set out in the Schedule to the  
9 *Agricultural and Veterinary Chemicals Code Act 1994* on or after the  
10 commencement of this item.

# EXPOSURE DRAFT

Amendments **Schedule 1**  
Variation of relevant particulars and conditions **Part 4**

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1 **Part 4—Variation of relevant particulars and**  
2 **conditions**

3 *Agricultural and Veterinary Chemicals Code Act 1994*

4 **20 At the end of subsection 8S(1) of the Code set out in the**  
5 **Schedule (before the note)**

6 Add:  
7 ; or (c) varies, under section 29, relevant particulars or conditions in  
8 a way other than set out in the application.

9 **21 After paragraph 8S(2)(a) of the Code set out in the**  
10 **Schedule**

11 Insert:  
12 (b) for notice under paragraph (1)(c)—set out the proposed  
13 variation; and

14 **22 Paragraphs 29(1)(b), (c) and (d) of the Code set out in the**  
15 **Schedule**

16 Omit “in accordance with the application”, substitute “in a particular  
17 way (which may not be the same way as set out in the application)”.

18 **23 After paragraph 167(1)(c) of the Code set out in the**  
19 **Schedule**

20 Insert:  
21 (ca) a decision under subsection 29(1) to vary relevant particulars  
22 or conditions in a way other than set out in the application for  
23 variation;

24 **24 Application provision**

25 The amendments made by this Part apply in relation to an application  
26 lodged under section 27 of the Code set out in the Schedule to the  
27 *Agricultural and Veterinary Chemicals Code Act 1994* on or after the  
28 commencement of this item.

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Schedule 1 Amendments

Part 5 Notification about variation to Maximum Residue Limits Standard

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1 **Part 5—Notification about variation to Maximum**  
2 **Residue Limits Standard**

3 *Agricultural and Veterinary Chemicals Code Act 1994*

4 **25 Paragraph 8E(2)(c) of the Code set out in the Schedule**

5 Repeal the paragraph, substitute:

6 (c) be given to Food Standards Australia New Zealand before the  
7 approval, registration, variation or permit is given, made or  
8 issued.

9 **26 Application provision**

10 The amendment made by this Part applies in relation to notifications on  
11 or after the commencement of this item.

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12

*Agricultural and Veterinary Chemicals Legislation Amendment  
(Operational Efficiency) Bill 2017*

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Amendments **Schedule 1**  
Variation of label approval while approval suspended **Part 6**

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1 **Part 6—Variation of label approval while approval**  
2 **suspended**

3 *Agricultural and Veterinary Chemicals Code Act 1994*

4 **27 Subsection 43(2) of the Code set out in the Schedule**

5 Omit “An”, substitute “Subject to this section, an”.

6 **28 At the end of section 43 of the Code set out in the**  
7 **Schedule**

8 Add:

9 (4) A suspension under section 36 or subsection 41(2) of the approval  
10 of a label for containers for a chemical product does not prevent:

- 11 (a) the lodging of a notice under section 26AB of one or more  
12 notifiable variations of the relevant particulars of the  
13 approval or the dealing with the notice; or  
14 (b) an application being made under section 26B for one or more  
15 prescribed variations of the relevant particulars of the  
16 approval or the dealing with the application; or  
17 (c) an application being made under subsection 27(1) for  
18 variation of the relevant particulars of the approval or the  
19 dealing with the application; or  
20 (d) a variation under section 29A of the relevant particulars of  
21 the approval.

22 (5) A notice referred to in paragraph (4)(a), an application referred to  
23 in paragraph (4)(b) or (c) or a variation referred to in  
24 paragraph (4)(d) must be in relation to the reasons for the  
25 suspension of the approval.

26 **29 Subsection 45A(2) of the Code set out in the Schedule**

27 Omit “subsection (1)”, substitute “paragraph (1)(a)”.

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Schedule 1 Amendments

Part 6 Variation of label approval while approval suspended

---

1 **30 Paragraph 45A(2)(b) of the Code set out in the Schedule**

2 Omit “in respect of a suspension or cancellation of the approval of an  
3 active constituent for a proposed or existing chemical product or the  
4 registration of a chemical product—”.

5 **31 Application provision**

6 The amendments made by this Part apply in relation to a suspension or  
7 cancellation made on or after the commencement of this item.

# EXPOSURE DRAFT

Amendments **Schedule 1**

Expiry date **Part 7**

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1 **Part 7—Expiry date**

2 *Agricultural and Veterinary Chemicals Code Act 1994*

3 **32 Section 3 of the Code set out in the Schedule (definition of**  
4 ***expiry date*)**

5 Omit “month and year after which the contents should”, substitute “date  
6 after which the contents must”.

7 **33 Application provision**

8 The amendment made by this Part applies in relation to a supply  
9 referred to in subsection 85(1) or 91(1) or (2) of the Code set out in the  
10 Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994*  
11 that occurs on or after the commencement of this item.

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Schedule 1 Amendments

Part 8 Antimicrobial resistance

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1 **Part 8—Antimicrobial resistance**

2 *Agricultural and Veterinary Chemicals Code Act 1994*

3 **34 After subparagraph 5A(2)(a)(i) of the Code set out in the**  
4 **Schedule**

5 Insert:

- 6 (ia) the potential for human exposure to antimicrobial  
7 resistant microorganisms resulting from the use of the  
8 constituent;

9 **35 After subparagraph 5A(3)(a)(i) of the Code set out in the**  
10 **Schedule**

11 Insert:

- 12 (ia) the potential for human exposure to antimicrobial  
13 resistant microorganisms resulting from the use of the  
14 product;

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Amendments **Schedule 1**  
False and misleading information **Part 9**

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1 **Part 9—False and misleading information**

2 *Agricultural and Veterinary Chemicals (Administration) Act*  
3 *1992*

4 **36 At the end of section 69ER**

5 Add:

6 (3) A person must not, in compliance or purported compliance with a  
7 requirement made by an inspector under Part 7A, Part 7AA or this  
8 Part or for the purposes of, or in connection with, any provision of  
9 Part 7A, Part 7AA or this Part:

- 10 (a) give information (whether orally or in writing) that the  
11 person knows to be false or misleading in a material  
12 particular; or  
13 (b) produce a document that the person knows to be false or  
14 misleading in a material particular without:  
15 (i) indicating to the person to whom the document is  
16 produced that it is false or misleading and the respect in  
17 which it is false or misleading; and  
18 (ii) providing correct information to that person if the  
19 person producing the document is in possession of, or  
20 can reasonably acquire, the correct information.

21 (4) Subsection (3) is a civil penalty provision.

22 Note: Division 1 provides for pecuniary penalties for contraventions of civil  
23 penalty provisions.

24 *Agricultural and Veterinary Chemicals Code Act 1994*

25 **37 Before subsection 146(1) of the Code set out in the**  
26 **Schedule**

27 Insert:

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## Schedule 1 Amendments

### Part 9 False and misleading information

---

1

#### *Offences*

2

### **38 At the end of section 146 of the Code set out in the Schedule**

3

4

Add:

5

#### *Civil penalty*

6

(3) A person must not, for the purposes of, or in connection with, the consideration by the APVMA, in the course of the performance of any of its functions or the exercise of any of its powers under this Code:

7

8

9

10

(a) give information (whether orally or in writing) that the person knows to be false or misleading in a material particular; or

11

12

13

(b) produce a document that the person knows to be false or misleading in a material particular without:

14

15

(i) indicating to the person to whom the document is produced that it is false or misleading and the respect in which it is false or misleading; and

16

17

18

(ii) providing correct information to that person if the person producing the document is in possession of, or can reasonably acquire, the correct information.

19

20

21

(4) Subsection (3) is a civil penalty provision.

22

Note: Division 2 provides for pecuniary penalties for contraventions of civil penalty provisions.

23

24

### **39 Application provision**

25

The amendments made by this Part apply in relation to information given, or a document produced, on or after the commencement of this item.

26

27

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18

*Agricultural and Veterinary Chemicals Legislation Amendment  
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# EXPOSURE DRAFT

Amendments **Schedule 1**  
Other amendments **Part 10**

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1 **Part 10—Other amendments**

2 *Agricultural and Veterinary Chemicals (Administration) Act*  
3 *1992*

4 **40 Part 7B**

5 Repeal the Part.

6 **41 Saving provision**

7 Despite the repeal of Part 7B of the *Agricultural and Veterinary*  
8 *Chemicals (Administration) Act 1992* made by this Part, section 69EZ  
9 of that Act, as in force immediately before the commencement of this  
10 item, continues to apply on and after that commencement in relation to  
11 an approval referred to in that section that was given before that  
12 commencement.

13 *Agricultural and Veterinary Chemicals Code Act 1994*

14 **42 Subparagraph 8A(a)(v) of the Code set out in the Schedule**

15 Omit “subparagraph.”, substitute “subparagraph; and”.

16 **43 Subsection 46(1) of the Code set out in the Schedule**

17 Omit “relevant file”, substitute “relevant APVMA file”.

18 **44 Paragraph 51(c) of the Code set out in the Schedule**

19 Omit “relevant file”, substitute “relevant APVMA file”.