



Agricultural and Veterinary Chemicals (Queensland) Act 1994

Reprinted as in force on 1 December 2006

Reprint No. 2

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the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 1 December 2006. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

Agricultural and Veterinary Chemicals (Queensland) Act 1994

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
3	Definitions	6
4	Jervis Bay Territory	6
Part 2	The Agvet Code, and Agvet Regulations, of this jurisdiction	
5	Application of Agvet Code in this jurisdiction	7
6	Application of Agvet Regulations in this jurisdiction	7
7	Interpretation of Agvet Code and Agvet Regulations of this jurisdiction	7
8	Ancillary offences (aiding, abetting, accessories, attempts, incitement or conspiracy)	8
Part 3	Citing the Agvet Codes, and Agvet Regulations, of other jurisdictions	
9	References to Agvet Codes and Agvet Regulations of other jurisdictions	9
10	References to Agvet Codes and Agvet Regulations	9
Part 4	Application of Agvet Codes to the Commonwealth, States and Territories	
11	Agvet Code of this jurisdiction	10
12	Agvet Code of other jurisdictions	10
13	No liability to prosecution	10
14	Overriding the prerogative	10
Part 5	Application of Commonwealth administrative laws to Agvet Code and Agvet Regulations of this jurisdiction	
15	Object of pt 5	11
16	Application of Commonwealth administrative laws in relation to applicable provisions	11

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

17	Functions and powers conferred on Commonwealth officers and authorities	12
18	Reference in Commonwealth administrative law to a provision of another law	12
19	Construction of references to Part IVA of Commonwealth AAT Act	12
Part 7	Australian Pesticides and Veterinary Medicines Authority	
21	Conferral of functions and powers on APVMA	13
22	Agreements and arrangements	13
23	Conferral of other functions and powers for purposes of law in this jurisdiction	13
23A	Consultation with gene technology regulator	14
24	Commonwealth Minister may give directions in exceptional circumstances	15
Part 8	Miscellaneous	
25	Orders	15
26	Manufacturing principles	15
27	Delegation	15
28	Conferral of powers on State officers	16
28A	Inspectors and analysts	16
28B	Validation of actions of inspectors and analysts	16
29	Application of fees and taxes	17
30	Documents or substances held by previous registering authority may be given to APVMA	17
31	Section 30 has effect despite any other law	18
32	Regulation-making power	18
33	Eligible laws	18
Part 9	Imposition of fees and taxes	
34	Fees (including taxes)	18
Part 10	Conferral of functions on Commonwealth Director of Public Prosecutions	
35	Conferral of functions on Commonwealth Director of Public Prosecutions	18
Part 11	Transitional provisions	
36	Transitional provision for Agricultural and Veterinary Chemicals (Queensland) Amendment Act 2001	19
Schedule	Dictionary	21

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

Endnotes

1	Index to endnotes	24
2	Date to which amendments incorporated	24
3	Key	24
4	Table of reprints	25
5	List of legislation	25
6	List of annotations	26

Agricultural and Veterinary Chemicals (Queensland) Act 1994

[as amended by all amendments that commenced on or before 1 December 2006]

An Act to apply certain Commonwealth laws about agricultural and veterinary chemical products as Queensland laws, and for other purposes

Parliament's reasons for enacting this Act are that it recognises that—

- 1 The protection of the health and safety of human beings, animals and the environment is essential to the wellbeing of society and can be enhanced by putting in place a system to regulate agricultural chemical products and veterinary chemical products (*chemical products*).
- 2 The principle of ecologically sustainable development requires a regulatory system designed to ensure the use of chemical products today will not impair the prospects of future generations.
- 3 The furthering of trade and commerce between Australia and places outside Australia, and the present and future economic viability and competitiveness of primary industry and a domestic industry for manufacturing and formulating chemical products—
 - (a) are essential for the wellbeing of the economy; and
 - (b) require a system for regulating chemical products that is cost effective, efficient, predictable, adaptive and responsive.
- 4 It is desirable to establish a regulatory system that is open and accountable and gives opportunity for public input about the regulation of chemical products.

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

- 5 The system should, as far as practicable, be uniform throughout Australia.
- 6 Uniformity could best be achieved by the enactment of legislation by the Commonwealth Parliament as a law for the government of the Australian Capital Territory and the adoption of the legislation by the Parliaments and legislatures of the States and the Northern Territory.

Part 1 Preliminary

1 Short title

This Act may be cited as the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Definitions

The dictionary in the schedule defines particular words used in this Act.

4 Jervis Bay Territory

For the purposes of this Act, and Agvet Code and Agvet Regulations of this jurisdiction, the Jervis Bay Territory is taken to be part of the Australian Capital Territory.

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

- (3) For the purposes of subsection (2), the Commonwealth Interpretation Act applies as if—
- (a) the Agvet Code of this jurisdiction were a Commonwealth Act; and
 - (b) the Agvet Regulations of this jurisdiction or instruments mentioned in the subsection were regulations or instruments made under a Commonwealth Act.
- (4) The *Acts Interpretation Act 1954* does not apply to—
- (a) the Agvet Code, or Agvet Regulations, of Queensland; or
 - (b) any instrument made, granted or issued under the Code or Regulations.

8 Ancillary offences (aiding, abetting, accessories, attempts, incitement or conspiracy)

- (1) In this section—
- Commonwealth ancillary criminal laws* means—
- (a) the *Crimes Act 1914* (Cwlth), section 5, 6, 7 or 7A; or
 - (b) the *Crimes Act 1914* (Cwlth), section 86(1).
- (2) The Commonwealth ancillary criminal laws apply as laws of this jurisdiction to an offence against the Agvet Code, or Agvet Regulations, of this jurisdiction—
- (a) as if a reference in the laws to a law of the Commonwealth were a reference to the Code or Regulations; and
 - (b) to the exclusion of laws of this jurisdiction to the same or a similar effect.
- (3) In the Agvet Code, or Agvet Regulations, of this jurisdiction, a reference to an offence against the Code or Regulations includes a reference to a related offence against the Commonwealth ancillary criminal laws.

- (5) Subsection (4) has effect except as prescribed by a regulation under section 32.

17 Functions and powers conferred on Commonwealth officers and authorities

- (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 under 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.

18 Reference in Commonwealth administrative law to a provision of another law

For 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 the provision as applying because of section 16.

19 Construction of references to Part IVA of Commonwealth AAT Act

For section 16, a reference in a provision of the *Administrative Appeals Tribunal Act 1975* (Cwlth) (as the provision applies as a law of this jurisdiction) to the whole or any part of Part IVA¹ 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.

¹ *Administrative Appeals Tribunal Act 1975* (Cwlth), part IVA (Appeals and references of questions of law to the Federal Court of Australia)

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

- (a) expressed to be conferred on it by a law of a jurisdiction (other than this jurisdiction) that corresponds to this Act or the Agvet Code of this jurisdiction; or
- (b) mentioned in an agreement or arrangement made under a provision of an Act of a jurisdiction other than this jurisdiction corresponding to section 22.

23A Consultation with gene technology regulator

- (1) A function or power conferred on the APVMA under section 8A of the Agricultural and Veterinary Chemicals (Administration) Act about any matter arising in relation to the Code set out in the schedule to the Agricultural and Veterinary Chemicals Code Act extends to any corresponding matter arising in relation to the applicable provisions of this jurisdiction, and the section applies accordingly.
- (2) If the APVMA gives the regulator within the meaning of the *Gene Technology Act 2001* a notice under section 8A(3) of the Agricultural and Veterinary Chemicals (Administration) Act (as that section applies by force of subsection (1) of this section), the regulator may give written advice to the APVMA about the application, reconsideration or issue.
- (3) The advice must be given within the period stated in the notice.
- (4) A reference in the Agvet Code of this jurisdiction to a provision of section 8A of the Agricultural and Veterinary Chemicals (Administration) Act has effect as if it were a reference to that provision as applying by force of subsection (1) of this section.

Note—

This section does not appear in the Commonwealth Act but is consistent with amendments to Commonwealth Acts made by the *Gene Technology (Consequential Amendments) Act 2000 (Cwlth)*, schedule 1, items 1 to 7.

24 Commonwealth Minister may give directions in exceptional circumstances

The power of the Commonwealth Minister to give directions to the APVMA under the Agricultural and Veterinary Chemicals (Administration) Act, section 10 extends to giving directions about functions and powers of the APVMA conferred under the applicable provisions of this jurisdiction, and the section applies accordingly.

Part 8 Miscellaneous

25 Orders

Orders in force for the time being under the Agricultural and Veterinary Chemicals Code Act, section 7 have the same effect for the purposes of the Agvet Code of this jurisdiction as they would have if they were provisions of the Agvet Regulations of this jurisdiction.

26 Manufacturing principles

Subject to the Agvet Code, and Agvet Regulations, of this jurisdiction, the manufacturing principles in force for the time being under the Agricultural and Veterinary Chemicals Act, section 23 also have effect for the purposes of part 8 of the Code.

27 Delegation

The power of delegation of the Commonwealth Minister under the Agricultural and Veterinary Chemicals (Administration) Act, section 71 extends to the powers expressed to be conferred on the Commonwealth Minister under this Act or the Agvet Code of this jurisdiction, and the section applies accordingly.

28 Conferral of powers on State officers

- (1) This section applies if an officer of a department, administrative unit or authority is authorised, under the Agricultural and Veterinary Chemicals (Administration) Act, section 69F, by the chief executive officer of the APVMA to exercise the powers or perform the functions of an inspector for the purposes of a particular relevant law.
- (2) The powers and functions are conferred on the officer.
- (3) The powers and functions are to be exercised or performed under the authorisation but are taken to have been validly exercised or performed despite any failure to comply with a condition or restriction of the authorisation.
- (4) Words and expressions used in this section have the same meanings as they have in the Agricultural and Veterinary Chemicals (Administration) Act, section 69F.

28A Inspectors and analysts

- (1) This section applies for each person as follows (an *officer*)—
 - (a) an inspector appointed under the Agricultural and Veterinary Chemicals (Administration) Act, section 69F(1);
 - (b) an analyst approved under the Agricultural and Veterinary Chemicals (Administration) Act, section 69G.
- (2) An officer has, for 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.

28B Validation of actions of inspectors and analysts

- (1) In this section—

officer means an officer as defined under section 28A.

relevant section means the *Agricultural and Veterinary Chemicals (Queensland) Amendment Act 2001*, section 5.²

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 section that would have been validly done or omitted had the relevant section come into operation 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 section had come into operation before the relevant time.³

29 Application of fees and taxes

All fees, taxes and other amounts (other than penalties and fines) that, under the applicable provisions of this jurisdiction, are authorised or directed to be payable by or imposed on a person must be paid to the Commonwealth.

30 Documents or substances held by previous registering authority may be given to APVMA

An authority of this jurisdiction that, immediately before the commencement of this section, performed functions under a provision of the law of this jurisdiction that corresponded to a provision of the Agvet Code of this jurisdiction may give to the APVMA documents or substances in its possession or custody that were received by it in the performance of the functions or otherwise relate to the performance of the functions.

2 *Agricultural and Veterinary Chemicals (Queensland) Amendment Act 2001*, section 5 (Replacement of part 5 (Application of Commonwealth administrative laws to Agvet code and Agvet regulations of this jurisdiction))

3 See also the *Co-operative Schemes (Administrative Actions) Act 2001*, part 2 (Validation of invalid administrative actions).

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

31 Section 30 has effect despite any other law

Section 30 has effect despite any other law of this jurisdiction, including, for example, the *Public Records Act 2002*.

32 Regulation-making power

The Governor in Council may make regulations under this Act.

33 Eligible laws

A regulation may declare any law, or provision of a law, to be an eligible law for the purposes of the definition *permit* in section 109 of the Agvet Code of this jurisdiction.

Part 9 Imposition of fees and taxes

34 Fees (including taxes)

This section imposes the fees (including fees that are taxes) that the Agvet Regulations of this jurisdiction prescribe.

Part 10 Conferral of functions on Commonwealth Director of Public Prosecutions

35 Conferral of functions on Commonwealth Director of Public Prosecutions

The Commonwealth Director of Public Prosecutions (the *Commonwealth Director*) may—

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

- (a) start prosecutions on indictment for indictable offences against the Agvet Code, or Agvet Regulations, of this jurisdiction; and
- (b) carry on prosecutions of the kind mentioned in paragraph (a) (other than prosecutions started by the Attorney-General or the Director of Prosecutions), whether or not started by the Commonwealth Director; and
- (c) if the Attorney-General or Director of Prosecutions asks the Commonwealth Director in writing to carry on a prosecution of the kind mentioned in paragraph (a) that was started by the Attorney-General or Director of Prosecutions—carry on the prosecution; and
- (d) start proceedings for the commitment of persons for trial for indictable offences against the Agvet Code, or Agvet Regulations, of this jurisdiction; and
- (e) start proceedings for the summary conviction of persons for offences against the Agvet Code, or Agvet Regulations, of this jurisdiction; and
- (f) carry on proceedings of a kind mentioned in paragraph (d) or (e) (whether or not started by the Commonwealth Director); and
- (g) do anything incidental or conducive to the performance of any of the functions mentioned in paragraphs (a) to (f).

Part 11 Transitional provisions

36 Transitional provision for Agricultural and Veterinary Chemicals (Queensland) Amendment Act 2001

- (1) Replacement part 5 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

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

under the Commonwealth administrative laws relating to the matters, before, on or after the commencement of that part.

(2) In this section—

replacement part 5 means part 5, as inserted by the *Agricultural and Veterinary Chemicals (Queensland) Amendment Act 2001*.

Schedule Dictionary

section 3

Agricultural and Veterinary Chemicals Act means the *Agricultural and Veterinary Chemicals Act 1994* (Cwlth).

Agricultural and Veterinary Chemicals (Administration) Act means the *Agricultural and Veterinary Chemicals (Administration) Act 1992* (Cwlth).

Agricultural and Veterinary Chemicals Code Act means the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

Agvet Code of Queensland means the provisions applying because of section 5.

Agvet Regulations of Queensland means the provisions applying because of section 6.

applicable provision of a jurisdiction means a provision of—

- (a) the Agvet Code of the jurisdiction; or
- (b) the Agvet Regulations of the jurisdiction; or
- (c) a Commonwealth law that applies in the jurisdiction to a provision of, or offence against, the Agvet Code or Agvet Regulations of the jurisdiction.

APVMA means the Australian Pesticides and Veterinary Medicines Authority under the *Agricultural and Veterinary Chemicals (Administration) Act*.

authority of the Commonwealth has the meaning given by the *Agricultural and Veterinary Chemicals Act*.

Commonwealth administrative laws means—

- (a) the following Commonwealth Acts—
 - (i) the *Administrative Appeals Tribunal Act 1975*, excluding part IVA;
 - (ii) the *Freedom of Information Act 1982*;

Schedule (continued)

- (iii) the *Ombudsman Act 1976*;
- (iv) the *Privacy Act 1988*; and
- (b) the regulations in force under the Acts.

Commonwealth Minister means ‘the Minister’ within the meaning of the Agvet Code of the participating Territories.

confer includes impose.

corresponding Act means an Act of another jurisdiction that corresponds to this Act.

corresponding law means—

- (a) a corresponding Act; or
- (b) regulations made under a corresponding Act; or
- (c) the Agvet Code, Agvet Regulations, or another applicable provision, of another jurisdiction; or
- (d) rules of court made under a corresponding Act.

instrument means a document, including, for example—

- (a) an Act or instrument made under an Act; or
- (b) a law of this jurisdiction or an instrument made under a law of this jurisdiction; or
- (c) an award or other industrial determination or order, or an industrial agreement; or
- (d) any other order (whether executive, judicial or otherwise); or
- (e) a notice, certificate or licence; or
- (f) an agreement; or
- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose; or
- (h) an indictment, presentment, summons or writ; or
- (i) any other pleading in, or process issued about, a legal or other proceeding.

jurisdiction means a State or the participating Territories.

Schedule (continued)

law of a participating Territory means a law of, or in force in, the Territory.

officer of the Commonwealth has the meaning given by the Agricultural and Veterinary Chemicals Act.

participating Territory means—

- (a) the Australian Capital Territory; or
- (b) another Territory declared by regulations in force under the Agricultural and Veterinary Chemicals Act, section 25 to be a participating Territory.

State includes the Northern Territory.

Territory does not include the Northern Territory of Australia, Norfolk Island, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands.

this jurisdiction means Queensland.

Endnotes

1 Index to endnotes

		Page
2	Date to which amendments incorporated.	24
3	Key	24
4	Table of reprints	25
5	List of legislation	25
6	List of annotations	26

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 December 2006. Future amendments of the Agricultural and Veterinary Chemicals (Queensland) Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

*Agricultural and Veterinary Chemicals (Queensland)
Act 1994*

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	15 March 1995	24 March 1995
1A	2001 Act No. 27	25 May 2001	1 June 2001
1B	2001 Act No. 68	1 November 2001	23 November 2001
1C	2001 Act No. 97	19 December 2001	2 January 2002

Reprint No.	Amendments included	Effective	Notes
1D	2002 Act No. 11	1 July 2002	
1E	2006 Act No. 48	1 December 2006	R1E withdrawn, see R2
2	—	1 December 2006	

5 List of legislation

Agricultural and Veterinary Chemicals (Queensland) Act 1994 No. 78

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 1995 (1995 SL No. 51)

amending legislation—

Federal Courts (Consequential Amendments) Act 2001 No. 27 pts 1–2

date of assent 25 May 2001

commenced on date of assent

Gene Technology Act 2001 No. 68 ss 1–2, 195 sch 2

date of assent 25 October 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 2001 (2001 SL No. 198)

Agricultural and Veterinary Chemicals (Queensland) Amendment Act 2001 No. 97

date of assent 19 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 2001 (see s 2)

Public Records Act 2002 No. 11 ss 1, 2(2), 62 sch 1

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2002 (2002 SL No. 115)

Primary Industries Legislation Amendment Act 2006 No. 48 pt 1, s 48 sch

date of assent 10 November 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2006 (2006 SL No. 292)

6 List of annotations

Definitions

s 3 amd 2001 No. 97 s 3 sch

Ancillary offences (aiding, abetting, accessories, attempts, incitement or conspiracy)

s 8 amd 2001 No. 27 s 4

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

pt hdg sub 2001 No. 97 s 5

Object of pt 5

s 15 sub 2001 No. 97 s 5

Application of Commonwealth administrative laws in relation to applicable provisions

s 16 amd 2001 No. 27 s 5

sub 2001 No. 97 s 5

amd 2006 No. 48 s 48 sch

Functions and powers conferred on Commonwealth officers and authorities

s 17 sub 2001 No. 97 s 5

Reference in Commonwealth administrative law to a provision of another law

s 18 sub 2001 No. 97 s 5

PART 6—JURISDICTION OF COURTS

pt hdg om 2001 No. 27 s 7

Construction of references to pt IVA of Commonwealth AAT Act

s 19 prev s 19 om 2001 No. 27 s 7

pres s 19 ins 2001 No. 27 s 6

sub 2001 No. 97 s 5

Exercise of jurisdiction under cross-vesting provisions

s 20 om 2001 No. 27 s 7

PART 7—AUSTRALIAN PESTICIDES AND VETERINARY MEDICINES AUTHORITY

pt hdg sub 2006 No. 48 s 48 sch

Conferral of functions and powers on APVMA

prov hdg amd 2006 No. 48 s 48 sch

s 21 amd 2006 No. 48 s 48 sch

Agreements and arrangements

s 22 amd 2006 No. 48 s 48 sch

Conferral of other functions and powers for purposes of law in this jurisdiction

s 23 amd 2006 No. 48 s 48 sch

Consultation with gene technology regulator

s 23A ins 2001 No. 68 s 195 sch 2
 amd 2006 No. 48 s 48 sch

Commonwealth Minister may give directions in exceptional circumstances

s 24 amd 2006 No. 48 s 48 sch

Conferral of powers on State officers

s 28 amd 2006 No. 48 s 48 sch

Inspectors and analysts

s 28A ins 2001 No. 97 s 6

Validation of actions of inspectors and analysts

s 28B ins 2001 No. 97 s 6

Documents or substances held by previous registering authority may be given to APVMA

prov hdg amd 2006 No. 48 s 48 sch

s 30 amd 2006 No. 48 s 48 sch

Section 30 has effect despite any other law

s 31 amd 2002 No. 11 s 62 sch 1

Regulation-making power

s 32

prov hdg sub 2001 No. 97 sch

PART 11—TRANSITIONAL PROVISIONS

pt 11 (s 36) prev pt 11 exp 15 March 1996 (see s 36(3))

 pres pt 11 ins 2001 No. 97 s 7

PART 12—AMENDMENTS

 pt 12 (s 37) om R1 (see RA s 40)

SCHEDULE—AMENDMENTS

 om R1 (see RA s 40)

SCHEDULE—DICTIONARY

sch ins 2001 No. 97 s 3 sch

 def “APVMA” ins 2006 No. 48 s 48 sch

 def “Commonwealth administrative laws” amd 2001 No. 27 s 3

 relloc 2001 No. 97 s 3 sch

 def “confer” ins 2001 No. 97 s 4

 relloc 2001 No. 97 s 3 sch

 def “NRA” om 2006 No. 48 s 48 sch