

TASMANIA

AGRICULTURAL AND VETERINARY CHEMICALS (CONTROL OF USE) AMENDMENT BILL 2011

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**AGRICULTURAL AND VETERINARY
CHEMICALS (CONTROL OF USE) AMENDMENT
BILL 2011**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
29 September 2011

*(Brought in by the Minister for Primary Industries and Water,
the Honourable Bryan Alexander Green)*

A BILL FOR

**An Act to amend the *Agricultural and Veterinary Chemicals
(Control of Use) Act 1995***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

*This Act may be cited as the Agricultural and
Veterinary Chemicals (Control of Use)
Amendment Act 2011.*

2. Commencement

This Act commences on a day to be proclaimed.

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3. Principal Act

In this Act, the *Agricultural and Veterinary Chemicals (Control of Use) Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of “Registrar” the following definition:

“regulations” means regulations made under this Act;

5. Section 20 amended (Orders prohibiting or regulating handling, &c.)

Section 20 of the Principal Act is amended by inserting after subsection (3) the following subsections:

- (4) Nothing in this section prevents regulations being made in respect of prohibiting or regulating the handling, using or otherwise dealing with a chemical product or a class of chemical products.
- (5) If a provision of the regulations is inconsistent with an order made under

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this section, the order prevails to the extent of the inconsistency.

6. Section 26 amended (Regulations with respect to use, &c., of certain chemical products)

Section 26(2) of the Principal Act is amended by omitting paragraph (e) and substituting the following paragraphs:

(e) providing for the grant of certificates of competency in relation to a prescribed manner of handling, or use, of the chemical product or class of chemical product; and

(ea) prohibiting a prescribed manner of handling or use referred to in paragraph (e), or any work or operation in connection with that handling or use, except by or under the supervision of a person holding a certificate referred to in that paragraph; and

7. Section 27 amended (Orders controlling or prohibiting agricultural spraying or use of chemical products)

Section 27 of the Principal Act is amended by inserting after subsection (2) the following subsections:

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- (3) Nothing in this section prevents regulations being made in respect of the controlling or prohibiting of agricultural spraying for the purpose of protecting susceptible plants and stock, public health, the environment and trade.
- (4) If a provision of the regulations is inconsistent with an order made under this section, the order prevails to the extent of the inconsistency.

8. Sections 30 and 31 repealed

Sections 30 and 31 of the Principal Act are repealed.

9. Section 37 repealed

Section 37 of the Principal Act is repealed.

10. Section 39 repealed

Section 39 of the Principal Act is repealed.

11. Part 5A repealed

Part 5A of the Principal Act is repealed.

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12. Section 56A inserted

After section 56 of the Principal Act, the following section is inserted in Part 6:

56A. Infringement notices

(1) In this section –

“infringement offence” means an offence against this Act or the regulations, or orders, made under this Act to be an infringement offence.

(2) The Registrar, or an inspector, may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.

(3) An infringement notice may not be served on an individual who has not attained the age of 16 years.

(4) An infringement notice –

(a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and

(b) is not to relate to more than 3 offences.

(5) The regulations –

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- (a) may prescribe, for infringement offences, the penalties payable under infringement notices; and
 - (b) may prescribe different penalties for bodies corporate and individuals.
- (6) In the application of the *Monetary Penalties Enforcement Act 2005* to an infringement notice issued and served under this section, the issuer and server of the infringement notice is taken to be a public sector body within the meaning of that Act.

13. Section 62 amended (Offences by employers and contractors)

Section 62 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Nothing in this section prevents an employee, or a person providing services under a contract, from being found guilty of an offence, whether or not the employer, or the person who contracted with the person providing services, has proceedings brought against them by virtue of this section for the same offence.

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14. Section 67 amended (Regulations)

Section 67 of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (1):

(1A) Without limiting the generality of subsection (1), regulations may be made in relation to one or more of the following:

(a) the prescribing of residue levels for one or more of the following:

(i) a chemical, or class of chemicals;

(ii) the distribution method for a chemical or class of chemicals;

(iii) the item which is being tested for residue;

(b) the procedures for testing residue levels in specified circumstances, or generally;

(c) the prohibiting or regulating of the handling,

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storing, using or otherwise dealing with a chemical product or a class of chemical products;

(d) the controlling or prohibiting of agricultural spraying for the purpose of protecting susceptible plants and stock, public health, the environment and trade;

(e) the regulation of the equipment used, or to be used, for the purpose of agricultural spraying including, but not limited to, the specifications, testing and maintenance of such equipment.

(b) by omitting from subsection (5) “applied” and substituting “applied, approved”.

15. Schedule 5 amended (Permits, certificates and licences)

Schedule 5 to the Principal Act is amended by omitting “due date” from clause 7 of Part 1 and substituting “prescribed due date”.

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16. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.