

TASMANIA

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**AGRICULTURAL AND VETERINARY  
CHEMICALS (CONTROL OF USE) AMENDMENT  
BILL 2006**

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**AGRICULTURAL AND VETERINARY  
CHEMICALS (CONTROL OF USE) AMENDMENT  
BILL 2006**

*(Brought in by the Minister for Primary Industries and Water,  
the Honourable David Edward Llewellyn)*

**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 2006*.

**2. Commencement**

This Act commences on the day on which this  
Act receives the Royal Assent.

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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. Part 5A inserted**

After section 46 of the Principal Act, the following Part is inserted:

**PART 5A – INFRINGEMENT NOTICES**

**46A. Service of infringement notice**

The Registrar or an inspector may serve an infringement notice on a person, other than a person who has not attained the age of 16 years, if the Registrar or inspector is of the opinion that the person has committed a prescribed offence.

**46B. Form of infringement notice**

- (1) An infringement notice –
- (a) is not to relate to more than 3 offences; and
  - (b) is to be in a form approved by the Registrar; and

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- (c) is to specify –
- (i) the offence to which it relates; and
  - (ii) the person alleged to have committed the offence; and
  - (iii) the prescribed penalty for that offence; and
  - (iv) the total amount payable under the notice; and
  - (v) the place at which the penalty is to be paid; and
  - (vi) any other prescribed details.
- (2) An infringement notice is to state that the person on whom it is served may disregard the notice but that, on doing so, he or she may be prosecuted for the offence to which the notice relates.

**46C. Acceptance of infringement notice**

A person may accept an infringement notice by doing either of the following within 21 days after being served with the notice:

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- (a) paying the total amount payable at the place specified in the notice;
- (b) lodging, at that place, a written undertaking to pay that amount.

**46D. Extension of acceptance period**

If an infringement notice is not accepted before the period referred to in section 46C expires, a clerk of petty sessions may allow one further period of 14 days, commencing on that expiry, for the acceptance of the notice.

**46E. Payment**

- (1) A person who undertakes under section 46C(b) to pay any amount payable under an infringement notice may make representations to a clerk of petty sessions in relation to the person's ability to pay the amount.
- (2) The clerk of petty sessions is to take the person's representations into account before determining the period within which the amount is to be paid.
- (3) The clerk of petty sessions may determine the period, not exceeding 60 days from the day on which the notice

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was served, within which the amount is to be paid.

- (4) If a person fails to pay any amount in accordance with an undertaking, the same proceedings may be taken against the person in respect of the amount remaining outstanding as if it were a penalty imposed on the person on summary conviction.

**46F. Effect of acceptance**

- (1) The acceptance of an infringement notice is not an admission of liability in any civil proceedings.
- (2) Proceedings against a person for an offence to which an infringement notice that has not been withdrawn relates are not to be brought –
  - (a) if the person accepts the infringement notice; or
  - (b) within –
    - (i) 28 days after the notice was served if the person has not been allowed a further period under section 46D; or
    - (ii) 42 days after the notice was served if the person

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has been allowed a further  
period under section 46D.

**46G. Withdrawal of infringement notice**

- (1) The Registrar may withdraw an infringement notice served on a person if the Registrar is of the opinion that –
  - (a) the infringement notice should not have been served; or
  - (b) the person should be proceeded against for the offence to which the notice relates.
- (2) An infringement notice may be withdrawn whether or not it has been accepted.
- (3) An infringement notice served on a person is to be withdrawn by serving on the person a notice of withdrawal within 108 days after the service of the infringement notice.
- (4) As soon as practicable after a notice of withdrawal is served, any sum that the person has paid by way of penalty under the infringement notice must be repaid to the person.



**46H. Certain evidence not admissible**

Evidence of the service, acceptance or withdrawal of an infringement notice is not admissible in any proceedings for the offence to which the notice relates unless it is alleged that the proceedings have been taken in contravention of section 46F(2).

**46I. Payment to Consolidated Fund**

Any payments made in respect of an infringement notice are payable into the Consolidated Fund.

**46J. Delegation**

The clerk of petty sessions may delegate any of his or her functions or powers under this Part, other than this power of delegation.