

**PESTICIDES AND ALLIED CHEMICALS (AMENDMENT) BILL  
1989**

**NEW SOUTH WALES**



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Stock Medicines Bill 1989.

The object of this Bill is to give effect to a national scheme for clearance of pesticides (and other agricultural or veterinary chemical products) for use in participating States and Territories, including New South Wales.

Principal objectives of the national scheme include improving Australia's international trade in primary products, protecting the environment and safeguarding the health of the public. The Agricultural and Veterinary Chemicals Act 1988 of the Commonwealth ("the Commonwealth Act") establishes the Australian Agricultural and Veterinary Chemicals Council, which has the function of clearing agricultural and veterinary chemical products for registration in States and Territories participating in the scheme. It is proposed that chemical products will not be registered for use in those States and Territories unless the products have first been cleared by the national Council.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Pesticides and Allied Chemicals Act 1978.

**Clause 4** saves the registration of any pesticide and label and any approval of a specification for a class of containers that is in force immediately before changes are made by the proposed Act to the registration and approval scheme of the Principal Act.

**SCHEDULE 1 - AMENDMENTS**

**Amendments relating to national scheme for assessment of chemicals**

Schedule 1 (3) inserts a new section 5B. The proposed section empowers the Minister, by order published in the Government Gazette, to declare a person or body of a national character to be the "clearance authority" for the purposes of the proposed Act. It is intended to declare the Australian Agricultural and Veterinary Chemicals Council the clearance authority.

Schedule 1 (10) inserts a new Division 3 into Part 3. The proposed Division contains new sections 16A-16F.

Proposed section 16A provides that Division 3 applies to registration of a pesticide only when there is a clearance authority and application may be made to that authority for clearance of the pesticide.

Proposed section 16B restricts the discretion of the Registrar of Pesticides ("the Registrar") in determining applications for registration of pesticides when there is a clearance authority declared under proposed section 5B. Generally, the Registrar may only register a pesticide that has first been cleared for registration. This does not apply, however, if the Minister considers registration is in the interests of New South Wales after having regard to:

- \* whether the control or eradication of the pest or vegetation is of economic significance to New South Wales;
- \* whether the pesticide will reduce the population of organisms resistant to similar pesticides or stock medicines;
- \* whether use of the pesticide is desirable because of soil or climatic conditions or farming practices in New South Wales.

The Registrar must also, in such a case, be satisfied that section 14 (registration of certain pesticides prohibited) does not prohibit registration of the pesticide concerned.

Proposed section 16C requires the Registrar to register a pesticide that has been cleared for registration by the clearance authority. Again, if the Minister considers refusal of registration to be in the interests of New South Wales because of considerations similar to those mentioned above or because of human health or environmental considerations notified to the Minister, the Registrar may refuse to register the pesticide.

Proposed section 16D requires the registration of a pesticide to be effected subject to the same conditions as those imposed by the clearance authority on clearance (such as the uses to which the pesticide may be put).

Proposed section 16E allows the Registrar to register a label that will allow, as well as uses of a pesticide permitted by the clearance authority, the following additional uses:

*Pesticides and Allied Chemicals (Amendment) 1989*

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- \* use for the purpose of facilitating the production of specialised crops;
- \* experimental use;
- \* small scale industrial or agricultural use.

Proposed section 16F provides that if a pesticide has been cleared for a limited period, the Registrar must cancel the registration of the pesticide at the end of that period. Generally, registration of a pesticide under the Act is for an indefinite period.

Schedule 1 (12) repeals section 20 and replaces it with proposed sections 20, 20A, 20B and 20C. The new sections are equivalent to the present section 20 (cancellation of registration or approval). The new section 20C will not only allow cancellation of registration of a pesticide because of new information coming to light about the pesticide after its registration (currently, the only ground for cancellation), but also allow cancellation of registration under proposed section 16F and proposed section 20B explained below. On cancellation of the registration of a pesticide:

- (a) registration of each label for containers for the pesticide and each approval of a specification for containers for the pesticide must also be cancelled; and
- (b) notice must be given to the person who applied for registration of the pesticide and any other person with an interest in its registration.

Proposed section 20A prohibits the Registrar from cancelling the registration of a pesticide for which there is a current certificate of clearance except where the Minister determines that it is in the interests of New South Wales to do so.

Proposed section 20B requires the Registrar to cancel the registration of a pesticide following withdrawal of clearance for the pesticide by the clearance authority. Again, an exception is provided where the Minister determines it is in the interests of New South Wales that the pesticide remain registered.

The amendments made by Schedule 1 (2), (5), (6), (7), (8), (9), (11), (13), (14) and (15) are consequential on the amendments made by Schedule 1 (10) and (12).

#### **Other amendments**

Schedule 1 (1) substitutes section 1 so as to amend the short title. As the Act deals only with pesticides, and not with allied chemicals (as was anticipated at one stage), the opportunity has been taken to change the short title to the Pesticides Act 1978.

Schedule 1 (3) also inserts a new section 5C. The proposed section makes it clear that, if a substance is registered under the proposed Stock Medicines Act 1989, registration under the Act of the substance as a pesticide is unnecessary.

Schedule 1 (4) amends section 7 so as:

- (a) to enable an analysis for the purposes of the Act to be carried out by a person acting under the supervision of an analyst appointed under the Act; and
- (b) to allow the Minister both to appoint inspectors of pesticides and to limit the functions that may be exercised or performed by an inspector appointed by the Minister.

*Pesticides and Allied Chemicals (Amendment) 1989*

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**Schedule 1 (16)** amends section 72 of the Act so as to allow an inspector to obtain a search warrant authorising entry of places other than dwelling-houses.

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