Reprint
as at 1 July 2011

Agricultural Compounds and Veterinary Medicines Act 1997

Public Act	1997 No 87
Date of assent	21 November 1997
Commencement	see section 1(2)

Contents

Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the New Zealand Food Safety Authority.

Schedule 5 102
Regulations and orders continued in force
[Repealed]

An Act to reform and restate the law relating to agricultural compounds, and to repeal—
(a) the Stock Foods Act 1946; and
(b) the Fertilisers Act 1960; and
(c) the Animal Remedies Act 1967; and
(d) the Fertilisers Act 1982

1 Short Title and commencement

(1) This Act may be cited as the Agricultural Compounds and Veterinary Medicines Act 1997.

(2) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

Section 1(2): Agricultural Compounds and Veterinary Medicines Act 1997 brought into force, on 2 July 2001, by the Agricultural Compounds and Veterinary Medicines Act Commencement Order 2001 (SR 2001/100).

Part 1
Preliminary

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

ACVM officer means a person for the time being appointed as an ACVM officer under section 60

advertisement means any publication to the community or to any section of the community of any words, whether written, printed, spoken, or in any electronic form, or of any pictorial representation or design or device, used to promote the sale of any agricultural compound; and **to advertise** has a corresponding meaning

agricultural compound means—

(a) any substance, mixture of substances, or biological compound, used or intended for use in the direct management of plants and animals, or to be applied to the

land, place, or water on or in which the plants and animals are managed, for the purposes of—

(i) managing or eradicating pests, including vertebrate pests; or

(ii) maintaining, promoting, or regulating plant or animal productivity and performance or reproduction; or

(iii) fulfilling nutritional requirements; or

(iv) the manipulation, capture, or immobilisation of animals; or

(v) diagnosing the condition of animals; or

(vi) preventing or treating conditions of animals; or

(vii) enhancing the effectiveness of an agricultural compound used for the treatment of plants and animals; or

(viii) marking animals; and

(b) includes—

(i) any veterinary medicine, substance, mixture of substances, or biological compound used for post-harvest treatment of raw primary produce; and

(ii) anything used or intended to be used as feed for animals; and

(iii) any substance, mixture of substances, or biological compound declared to be an agricultural compound for the purposes of this Act by Order in Council made under subsection (2)

agricultural security means the exclusion, eradication, and effective management of—

(a) pests:

(b) unwanted organisms under the Biosecurity Act 1993

animal means any living stage of any member of the animal kingdom except human beings

authorised place means any place where an ACVM officer has authorised an imported agricultural compound to be held; and includes any transitional facility under the Biosecurity Act 1993

biological compound means any agricultural compound that is—

(a) a preparation of animal origin; or

(b) a bacterial or viral vaccine, whether living or not; or

(c) a virus, mycoplasma, or other micro-organism, whether living or not; or

(d) a product of a virus, mycoplasma, or other micro-organism, or any substance manufactured for the purpose of having the same action as a product of a virus, mycoplasma, or other micro-organism

container includes anything in or by which an agricultural compound may be cased, covered, enclosed, contained, or packed; and, in the case of any agricultural compound sold or carried or intended for sale in more than 1 container, includes every such container

craft means any form of aircraft, ship, or other vehicle or vessel capable of being used to transport any agricultural compound to or from New Zealand or from or to any country outside New Zealand

Director-General means the chief executive of the Ministry

hazardous substance has the same meaning as in the Hazardous Substances and New Organisms Act 1996

import means bring or cause to be brought into New Zealand territory from outside that territory; and **imported** has a corresponding meaning

label, in relation to any agricultural compound or any container used to contain an agricultural compound, means any written, pictorial, or other descriptive matter under which the compound is sold or to be sold and which purports to give some information about the compound

manufacture, in relation to any agricultural compound, means to make up, prepare, produce, or process the agricultural compound; and includes the packing of an agricultural compound in a container for the purposes of sale

marae includes the area of land on which all buildings such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated

Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means the Ministry that, with the authority of the Prime Minister, has for the time being assumed responsibility for the administration of this Act

new organism has the same meaning as in the Hazardous Substances and New Organisms Act 1996

operating plan means a plan approved under section 28(2), and includes a code of practice deemed by section 21(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 to be an operating plan approved under section 28(2)

person includes the Crown, a corporation, and a body of persons (whether corporate or unincorporated)

pest—

(a) includes any unwanted living organism including micro-organisms, pest agents, and any genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity) that may affect plants, animals, or raw primary produce; and

(b) includes any entity declared to be a pest for the purposes of this Act by Order in Council made under subsection (2):

(c) does not include—

(i) any human being or living organism which affects only human beings; and

(ii) any living organism declared not to be a pest for the purposes of this Act by Order in Council made under subsection (2)

pest agent has the same meaning as in section 2(1) of the Biosecurity Act 1993

place includes any building, conveyance, craft, land, or structure

prescribed means prescribed by regulations made under this Act

primary produce includes any plant or animal, or any derivative of any plant or animal, intended for sale

public health means the health of all of—

(a) the people of New Zealand; or

(b) a community or section of such people

recognised person means a person for the time being appointed as a recognised person under section 62

registered means registered under section 21 or section 27

registrant means, in relation to a registered trade name product, the person who applied to register that product or the person to whom a registration is transferred

regulations means regulations in force under this Act

risk includes any costs or potential costs

sale includes barter, and also includes offering, exposing, or attempting to sell, or having in possession for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale; and also includes—

(a) delivering or disposing of by way of gift, loan, or otherwise; and

(b) giving or distributing, in the course of business, as a sample or otherwise, without charge

trade name product means an agricultural compound identified and packaged under a trade name for a specified use or uses

use, in relation to any agricultural compound, includes its use in such a way that animals, plants, or raw primary produce are exposed to it

veterinarian means a person for the time being registered as a veterinarian or a specialist within the meaning of section 4 of the Veterinarians Act 2005

veterinary medicine means any substance, mixture of substances, or biological compound used or intended for use in the direct management of an animal

working day means any day except—

(a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) a day in the period commencing on 20 December in any year and ending with 15 January in the following year.

(2) The Governor-General may from time to time, by Order in Council, declare—

(a) any substance to be an agricultural compound; or

(b) any entity to be a pest; or

(c) any entity not to be a pest—

for the purposes of this Act.

(3) Every Order in Council made under subsection (2) is deemed to be a regulation for the purpose of the Regulations (Disallowance) Act 1989.

Section 2(1) **accredited person**: repealed, on 18 October 2007, by section 4(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **ACVM officer**: inserted, on 18 October 2007, by section 4(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **agricultural compound**: substituted, on 18 October 2007, by section 4(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **authorised person**: repealed, on 18 October 2007, by section 4(4)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **authorised place**: amended, on 18 October 2007, by section 4(4)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **code of practice**: repealed, on 18 October 2007, by section 4(4)(c) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **Director-General**: amended, on 18 October 2007, by section 4(4)(d) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **inspector**: repealed, on 18 October 2007, by section 4(4)(e) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **Ministry**: inserted, on 18 October 2007, by section 4(5) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **operating plan**: inserted, on 18 October 2007, by section 4(6) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **public health**: inserted, on 18 October 2007, by section 4(7) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **recognised person**: inserted, on 18 October 2007, by section 4(7) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 2(1) **veterinarian**: amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

3 Act to bind the Crown

This Act binds the Crown.

4 Purpose of Act

The purpose of this Act is to—

(a) prevent or manage risks associated with the use of agricultural compounds, being—
  (ai) risks to public health; and
  (i) risks to trade in primary produce; and
  (ii) risks to animal welfare; and
  (iii) risks to agricultural security:

(b) ensure that the use of agricultural compounds does not result in breaches of domestic food residue standards:

(c) ensure the provision of sufficient consumer information about agricultural compounds.

Section 4(a)(ai): inserted, on 18 October 2007, by section 5 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

4A Scheme of Act

(1) This Act aims to achieve its purpose by providing that no agricultural compound may be used (including imported, manufactured, or sold) in New Zealand unless that use is authorised by or under this Act.

(2) The 2 main mechanisms for authorising use of an agricultural compound are—
  (a) an assessment of the compound, and its registration for use subject to specifically imposed conditions:
  (b) an exemption from the requirement to register the compound, so long as any specified conditions for exemption are met.

(3) A range of conditions may be imposed to manage the risks associated with agricultural compounds. These conditions may

relate to substances, products, systems, or people's behaviour, and may be imposed—

(a) directly by the Director-General when an agricultural compound is registered or exempted from the requirement to be registered; or

(b) generally, by regulations.

(4) The Director-General may also issue notices that set out the technical detail of how compliance with conditions imposed by regulations can be achieved.

(5) This Act, by its subject matter, has a relationship with other Acts such as the Animal Products Act 1999, the Food Act 1981, the Wine Act 2003, the Animal Welfare Act 1999, the Biosecurity Act 1993, the Medicines Act 1981, and the Hazardous Substances and New Organisms Act 1986. Generally, the outcomes for which this Act regulates are those set under the other related Acts. For example:

(a) maximum residue limits for food products are set under the Food Act 1981; while

(b) this Act assesses and controls agricultural compounds to ensure the Food Act residue limit is not breached.

Section 4A: inserted, on 18 October 2007, by section 6 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Part 2
Importation, manufacture, and sale of agricultural compounds

Importation

5 Imported agricultural compounds to be cleared for entry into New Zealand

No person may cause or permit any agricultural compound which is imported into New Zealand or any substance, mixture of substances, or biological compound which is used or intended to be used as an agricultural compound and which is imported into New Zealand to leave any craft or authorised place except—

(a) to proceed, with the authority of an ACVM officer, to another craft or authorised place; or

(b) with the authority of an ACVM officer, to be exported from New Zealand; or

(c) to enter into New Zealand after being cleared for entry by an ACVM officer in accordance with section 6.

Section 5(a): amended, on 18 October 2007, by section 7 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 5(b): amended, on 18 October 2007, by section 7 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 5(c): amended, on 18 October 2007, by section 7 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

6 Agricultural compound clearance

(1) In this section and sections 7 and 7A, **goods** means any of the following that is capable of being used as an agricultural compound:

(a) an agricultural compound:

(b) a substance:

(c) a mixture of substances:

(d) a biological compound.

(2) An ACVM officer may give a clearance for entry into New Zealand for any goods if the circumstances described in subsection (3) exist.

(3) The circumstances are—

(a) that—

(i) the goods are goods that the importer has declared, under section 7, that the importer will not sell or use as an agricultural compound; or

(ii) the goods are a registered trade name product, and the product complies with the conditions imposed on its registration under section 23 or its provisional registration under section 27; or

(iii) the goods are an agricultural compound and are exempt from registration as a trade name product under section 8A; and

(iv) *[Repealed]*

(b) that there are no discrepancies that suggest that it may be unwise to rely on the documentation accompanying the goods, either—

(i) in the documentation itself; or

(ii) between the documentation and the goods.

(4) A clearance for entry into New Zealand given under this section does not affect the provisions of any other Act.

Section 6: substituted, on 15 November 2000, by section 3 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50).

Section 6(1): amended, on 18 October 2007, by section 8(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 6(2): amended, on 18 October 2007, by section 8(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 6(3)(iii): substituted, on 18 October 2007, by section 8(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 6(3)(iv): repealed, on 18 October 2007, by section 8(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

7 Declaration

The importer of any goods may, for the purposes of section 6(3)(a)(i), make a declaration in a manner determined by the Director-General to the effect that the importer will not sell or use the goods as an agricultural compound.

Section 7: substituted, on 15 November 2000, by section 3 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50).

Section 7: amended, on 18 October 2007, by section 9 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

7A Uncleared or unauthorised goods

(1) The powers provided for in this section apply in respect of goods that are in a transitional facility or biosecurity control area (within the meaning of the Biosecurity Act 1993) that have not been cleared in accordance with sections 5 and 6 of this Act.

(2) An ACVM officer may seize any such goods that he or she has reasonable grounds to suspect—

(a) do not comply with the requirements of this Act; or

(b) constitute a risk to public health, agricultural security, trade in or market access for primary produce, the welfare of animals, or may breach domestic food residue standards.

(3) The Director-General may, either generally or in any particular case, give any reasonable directions as to the disposal or treatment or destruction of, or any other dealing with, any goods

seized under this section; and any person may dispose of, treat, destroy, or otherwise deal with the goods accordingly.

(4) The Director-General may offer the importer or owner of any goods imported into New Zealand and seized under this section the option of exporting or returning the goods to their place of origin provided that the importer or owner undertakes the payment of any costs associated with the export or return of the goods.

(5) The Director-General may hold goods seized under this section in his or her custody for such period as is necessary for the importer to obtain a clearance for entry into New Zealand in accordance with sections 5 and 6. In such a case the estimated costs and expenses of the custody and maintenance of the goods must be paid in advance to the Director-General.

(6) In exercising his or her powers under this section, the Director-General must, so far as is practicable while achieving the purposes of this Act, act in a manner that is consistent with avoiding or minimising loss to the importer or owner of the goods seized.

(7) All costs and expenses attendant upon the custody and disposal of goods seized under this section must be borne by the owner or other person in possession of the goods immediately before their seizure, and are recoverable from that person as a debt due to the Crown.

(8) If however satisfied that the person in possession of the seized goods was not aware that they did not comply with the requirements of this Act, the Director-General may, at his or her absolute discretion, waive or reduce the amount otherwise recoverable under subsection (7).

Section 7A: inserted, on 18 October 2007, by section 10 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

8 Prohibition on sale, use, manufacture, or import of agricultural compound

(1) No person may sell within New Zealand, or use, any agricultural compound unless that agricultural compound—

(a) is a registered trade name product; or

(b) is exempt from registration under section 8A; or

(2) No person may manufacture in New Zealand any agricultural compound unless that agricultural compound—
- (a) is a registered trade name product; or
- (b) is exempt from registration under section 8A; or
- (c) is manufactured for export only.

(3) No person may import any agricultural compound into New Zealand unless that agricultural compound—
- (a) is a registered trade name product; or
- (b) is exempt from registration under section 8A; or
- (c) is only to be exported, with or without further processing.

Section 8: substituted, on 18 October 2007, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

8A Exemptions from requirement to register

(1) An agricultural compound is exempt from the requirement to be registered under this Part if—
- (a) it is exempt from registration by regulations made under section 75; or
- (b) it is listed by the Director-General under section 8B as a substance generally recognised as safe for use as or in an agricultural compound; or
- (c) it is approved by the Director-General under section 8C on the basis of special circumstances.

(2) An exemption under this section is valid only if the compound or substance complies with any relevant conditions or requirements set by the regulations, or by the Director-General under section 8B or 8C.

Section 8A: inserted, on 18 October 2007, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

8B Director-General may list as exempt substances generally recognised as safe

(1) The Director-General may from time to time determine that a substance is generally recognised as safe for use as or in an agricultural compound, and therefore need not be registered under this Part.

(2) The determination may be that the substance is safe for use either—

(a) without restriction; or
(b) subject to conditions.

(3) The Director-General must maintain a list of such substances. The list must contain any applicable conditions for their sale or use.

(4) The Director-General must ensure that—
(a) the list is available to the public for inspection free of charge; and
(b) copies can be taken on payment of a reasonable charge (if any).

(5) The Director-General must by notice in the *Gazette* notify the making of any addition or amendment to, or deletion from, the list, but the substances concerned need not be specified in the notice.

Section 8B: inserted, on 18 October 2007, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

8C Director-General may approve agricultural compound as exempt in special circumstances

(1) The Director-General may approve the importation, manufacture, sale, or use of an agricultural compound without registration if the Director-General considers that special circumstances make it appropriate to grant the approval.

(2) Sections 9 to 12, with any necessary or appropriate modifications, apply to applications for approval under this section.

(3) Sections 19 to 23 and section 25, with any necessary or appropriate modifications, apply to the Director-General's consideration of an application for approval under this section, and the terms and conditions of any approval.

(4) In addition,—
(a) in considering an application for approval, the Director-General must have regard to whether the agricultural compound concerned fulfils a need that cannot be met by any compound currently available in New Zealand:
(b) in granting an approval, the Director-General may impose—
(i) a condition that the agricultural compound must not be used on or in products intended for human consumption, or in circumstances that may result

in the compound being consumed directly or indirectly by humans:

(ii) a condition that the product cannot be imported, manufactured, sold, or used in circumstances other than those specified at the time of the approval.

(5) The Director-General may at any time, on giving such notice as is reasonable in the circumstances, revoke an approval given under this section, or amend the terms or conditions of an approval.

(6) A person who holds an approval may surrender the approval by notifying the Director-General in the form and manner specified by the Director-General.

(7) The provisions of this Act do not give the holder of an approval the sole right to import, manufacture, sell, or use the agricultural compound that is the subject of the approval.

(8) If a person acting under the delegated authority of the Director-General refuses to grant or revokes an approval under this section, or amends the terms or conditions of an approval, the applicant for or holder of the approval may seek a review of that refusal, revocation, or amendment under section 77A.

Section 8C: inserted, on 18 October 2007, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Registration of agricultural compounds

9 Application for registration

(1) Any person may apply to the Director-General to register a trade name product unless that product contains an agricultural compound that is—

(a) a substance, mixture of substances, or biological compound prohibited from use as an agricultural compound or prohibited from use as an ingredient in an agricultural compound in accordance with regulations made under section 75; or

(b) a substance, mixture of substances, or biological compound which is exempt from registration as an agricultural compound under section 8A.

(2) The registrant may apply to the Director-General to vary 1 or more of the conditions on a registered trade name product.

Section 9(1)(b): amended, on 18 October 2007, by section 12 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

10 Form of application

(1) Every application must be in the form specified from time to time by the Director-General.

(2) Every application must contain the information specified from time to time by the Director-General for any agricultural compound or group of agricultural compounds or trade name product or products.

11 Additional information

(1) If, in the opinion of the Director-General, information additional to that provided under section 10 is required to assess the application, the Director-General may—

(a) request the applicant to provide such additional information as the Director-General may specify in writing; and

(b) with the permission of the applicant, request any other person to supply such additional information as the Director-General may specify in writing.

(2) The Director-General may request any person to provide additional information other than information protected by sections 73, 109, and 121 for the purpose of verifying any information supplied to the Director-General, by any person for the purpose of assessing the application.

12 Director-General to withhold information

(1) If, in the Director-General's opinion, any information which has been supplied to the Director-General in respect of any application may be able to be withheld under section 9(2)(b) of the Official Information Act 1982, that information must not be released to any person when an application is publicly notified.

(2) Where—

(a) the Director-General receives a request to release any information received in respect of an application, other

than information to which Part 6 applies held by the Director-General under the Official Information Act 1982; and

(b) the information to which the request relates,—

(i) in the Director-General's opinion, may be able to be withheld under section 9(2)(b) of that Act; or

(ii) has been classified as commercially sensitive by the person who gave the information to the Director-General,—

the Director-General must make all reasonable efforts to contact and notify immediately the person who gave the information to the Director-General that a request to release the information has been received.

(3) Where a person receives notice from the Director-General under subsection (2), that person must, within 10 working days of receipt of the notice, respond to the Director-General stating whether that person believes that the information should be withheld under section 9(2)(b) of the Official Information Act 1982 and give reasons for that person's belief.

(4) The Director-General may release the information or withhold the information in accordance with the Official Information Act 1982 if—

(a) the Director-General has complied with subsection (2); and

(b) the time limit specified in subsection (3) has expired.

Section 12(2): amended, on 30 October 2003, by section 3(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2003 (2003 No 55).

Section 12(4): substituted, on 30 October 2003, by section 3(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2003 (2003 No 55).

13 Notification of application to Minister and departments

(1) The Director-General must, upon receipt of an application, notify the nature and proposed use of the trade name product or the proposed variation of conditions to—

(a) the Minister; and

(b) the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011; and

(c) those departments listed in Schedule 1 of the State Sector Act 1988 that have notified the Director-General that they have an interest in applications made under this Act.

(2) The Director-General must supply further information to any person notified under this section, if requested to do so by that person, unless that information is protected in accordance with sections 73, 109, or 121.

Section 13(1)(b): amended, on 1 July 2011, by section 53(1) of the Environmental Protection Authority Act 2011 (2011 No 14).

14 Notification of application

(1) The Director-General must, upon receipt of an application, publish a notice in the *Gazette* and give such further notice of the application as the Director-General thinks fit having regard to the nature of the application and the persons likely to have an interest in the application.

(2) The notice must include—

(a) a statement that an application has been made to register a trade name product or to vary a condition on a registered trade name product; and

(b) a brief summary of the relevant information on the trade name product; and

(c) information on the proposed use of the trade name product or the variation proposed to a condition on a registered trade name product; and

(d) a statement that any person may make a written submission; and

(e) a closing date for receipt of the submissions by the Director-General, being no later than 30 working days after the date of public notification; and

(f) the place where the application and the accompanying information, other than information protected in accordance with sections 73, 109, or 121, may be viewed and the address for service of the Director-General and the applicant.

15 Waiver of notification

(1) The Director-General may waive the requirement to notify an application under sections 13 and 14 if—

(a) the application is made under section 9(1) and there is a registered trade name product with the same active ingredients and an equivalent formulation as the trade name product that is the subject of the application; or

(b) the application is made under section 9(2) and the proposed variation of conditions does not affect the evaluation of the risks relevant to the trade name product under section 21, when compared to the original evaluation under that section.

(2) The Director-General may waive the requirement to notify an application in accordance with section 14 if, in the Director-General's opinion, a trade name product is likely to be required for use in—

(a) a biosecurity emergency declared under section 144 of the Biosecurity Act 1993; or

(b) a special emergency declared under section 49B of the Hazardous Substances and New Organisms Act 1996.

(3) The Director-General may waive the requirement to notify an application in accordance with section 14 if—

(a) the trade name product is not, and does not contain, a hazardous substance or new organism (within the meaning of the Hazardous Substances and New Organisms Act 1996); and

(b) the Minister has advised the Director-General in writing that—

(i) an emergency has arisen under that Act; and

(ii) the Minister agrees to the Director-General considering whether to grant a waiver; and

(c) the Director-General is of the opinion that the trade name product is likely to be required for use in the emergency.

Section 15(1)(b): substituted, on 18 October 2007, by section 13 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 15(2): substituted, on 30 October 2003, by section 4 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2003 (2003 No 55).

Section 15(3): added, on 30 October 2003, by section 4 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2003 (2003 No 55).

Section 15(3)(b)(i): amended, on 7 July 2010, by section 4 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2010 (2010 No 46).

16 Time limits and waivers

(1) The Director-General must,—

(a) where section 14 applies to an application, allow 30 working days from the date of public notification for the receipt of submissions:

(b) fix a date for consideration of the application being,—

(i) where sections 15 and 26(2) apply to the application, not more than 25 working days after the receipt of the application; or

(ii) where the application is publicly notified, not more than 25 working days after the closing date for submissions.

(2) The Director-General must, unless the agricultural compound is also a hazardous substance or new organism, publicly notify his or her decision not later than 15 working days after the consideration of the application.

(3) If the trade name product contains an agricultural compound that is also a hazardous substance or new organism and the time limits under subsections (1) and (2) have expired, the Director-General must publicly notify his or her decision not later than 5 working days after the decision under the Hazardous Substances and New Organisms Act 1996.

(4) A person may apply to the Director-General to—

(a) waive a requirement of this Act concerning—

(i) the time within which any action must be carried out; or

(ii) the information that must be supplied; or

(b) give a direction concerning—

(i) the time within which any action must be carried out; or

(ii) the terms on which any information must be supplied.

(5) The Director-General must not extend any time period or grant an application under this section to waive a requirement as to

the time within which any action must be carried out unless he or she is satisfied that—

(a) the applicant and the persons making submissions consent to that waiver; or

(b) any of those parties who have not so consented will not be unduly prejudiced.

(6) The Minister may at any time extend any time limit under this Act, whether or not an application has been made under this section or that time limit has expired, if he or she is satisfied that—

(a) the applicant and the persons making submissions consent to the extension; or

(b) any of those parties who have not so consented will not be unduly prejudiced,—

but in all cases must ensure the matter is carried out as promptly as is reasonable in the circumstances.

17 Submissions on applications

(1) Any person may make a written submission to the Director-General on any application notified in accordance with sections 13 and 14.

(2) The submission—

(a) must state in full the reasons for making the submission; and

(b) may state any decision sought.

18 Submissions to be forwarded to applicant

The Director-General must forward a copy of every submission to the applicant as soon as reasonably practicable after receipt of the submission by the Director-General.

19 Relevant risks and benefits

The only risks and benefits relevant to a decision under section 21 are—

(a) risks to public health:

(ab) risks to trade and market access for primary produce arising from the use of the trade name product:

(b) risks to agricultural security:

(c) risks to the welfare of animals which result from treatment with or exposure to any substance, mixture of substances, or biological compound that forms a part of the trade name product:

(d) risks to domestic food residue standards:

(e) the benefits of the trade name product and the likely consequences of the public not having access, or having restricted access, to the trade name product.

Section 19(a): substituted, on 18 October 2007, by section 14(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 19(ab): inserted, on 18 October 2007, by section 14(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 19(e): amended, on 18 October 2007, by section 14(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

20 Evaluation of risks and benefits

The Director-General must, when evaluating the risks and benefits under section 21, have regard to—

(a) all relevant scientific and technical information held by the Director-General other than information protected in accordance with section 73, section 109, or section 121; and

(b) New Zealand's international obligations, assurances, and reputation; and

(c) any submissions received under section 17.

21 Decision on application

(1) The Director-General must consider any application made under section 9 and must—

(a) identify the risks and benefits likely to result from the manufacture and use of the trade name product, and any known practicable alternative methods of managing those risks; and

(b) evaluate the likely risks and benefits of each alternative method identified in accordance with paragraph (a); and

(c) decline the application if, in the opinion of the Director-General,—

(i) the risks likely to result from the use of that product cannot be sufficiently reduced by imposing conditions on the registration of the trade name product; or

(ii) insufficient information is available to assess the risks likely to result from the use of the trade name product; or

(d) in every other case, register the trade name product without conditions, or with the conditions imposed in accordance with section 23 that the Director-General, after taking into account the costs of those conditions, considers will—

(i) manage the risks from the use of the product; and

(ii) impose the least cost on the public.

(2) The decision to register a trade name product may provide—

(a) that the registration expires upon a fixed date; or

(b) that the registration expires when the purpose of the registration has been achieved.

(3) Subject to the provisions of Part 6, the Director-General must give the decision in writing, with reasons, to the applicant and to every person who made a submission.

(4) The Director-General must not register a trade name product under this section without the consent of the Director-General of Health if that product is a prescription medicine within the meaning of section 3 of the Medicines Act 1981.

(5) Where a trade name product contains an agricultural compound that is also a hazardous substance or new organism, the Director-General must not register that product under this section, unless an approval for that substance or organism has been issued under the Hazardous Substances and New Organisms Act 1996.

22 Term of registration

(1) The registration of a trade name product remains in force until—

(a) the registration expires in accordance with section 21(2) or section 27(3); or

(b) the registration is cancelled in accordance with section 27(6); or

(c) the trade name product is reassessed in accordance with section 29 or section 30, and declined; or

(d) the registration is surrendered by the registrant in accordance with section 34(1); or

(e) the registration is revoked in accordance with section 57.

(2) Where registration of a trade name product has ceased in accordance with a provision listed in subsection (1), no person may—

(a) import that trade name product; or

(b) sell or manufacture within New Zealand or use that trade name product except in accordance with a notice under subsection (3).

(3) Where registration of a trade name product, other than a provisional registration under section 27, has ceased in accordance with a provision in subsection (1) of this section, the Director-General—

(a) must remove the trade name product from the register under section 24; and

(b) must, by notice in the *Gazette*, give notice of the removal of the trade name product from the register; and

(c) may allow the sale and use of the trade name product (but not its manufacture) to continue for a period specified in the *Gazette* notice; and

(d) may require any person holding the trade name product—

(i) to surrender that product to the Director-General; or

(ii) to dispose of that product in the manner determined by the Director-General at the expense of the person holding the product.

(4) Where a trade name product was registered in accordance with section 27, the trade name product must be disposed of in accordance with the conditions on the registration of the product.

Section 22(2)(b): amended, on 18 October 2007, by section 15(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 22(3): substituted, on 18 October 2007, by section 15(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

23 Conditions on trade name products

(1) The Director-General may register a trade name product in accordance with section 21, subject to all or any of the following conditions:

(a) a condition on the use of the trade name product:

(b) a condition requiring the trade name product to originate from specified sources:

(c) a condition restricting the importation to certain classes of persons:

(d) a condition specifying the labelling, advertising, or other information requirements for the trade name product:

(e) a condition specifying standards of competence for manufacturers, sellers, purchasers, or users of the trade name product:

(f) a condition requiring an operating plan approved by the Director-General under section 28 to be followed when importing, manufacturing, selling, distributing, storing, transporting, or using the trade name product:

(g) a condition on the packaging or storage of the trade name product:

(h) a condition specifying standards of quality, purity, and potency for the trade name product:

(i) a condition specifying procedures for testing the trade name product for quality, purity, or potency:

(j) a condition requiring systems to be approved to ensure that the trade name product meets specified standards of quality, purity, and potency, and procedures for auditing those systems:

(ja) a condition requiring that persons who import, manufacture, sell, or use a trade name product must do so under the authority of, and in compliance with any requirements of, a recognised person or any class or description of recognised persons:

(jb) a condition requiring that persons who authorise the use of a trade name product must do so in compliance with any requirements specified by the Director-General:

(k) a condition requiring information and records to be kept and to be reported, or made available on request, to the Director-General, or an ACVM officer:

(l) a condition requiring samples of the trade name product to be taken and tested and the test results to be made available on request to the Director-General, or an ACVM officer:

(m) such other conditions as the Director-General considers necessary to achieve the purposes of this Act.

(2) A condition imposed in accordance with this section may apply to any specified class of person or to every person who imports, manufactures, sells, or uses a trade name product; and every person to whom a condition applies must comply with that condition.

(3) The Director-General must, when imposing conditions in accordance with this section, take into account conditions imposed in any prescribed countries on the trade name product.

(4) The Director-General must not impose conditions under this section if he or she is satisfied that the relevant risks that the conditions would address are already adequately managed by conditions or controls imposed by or under any other Act.

(5) The specificity of the conditions listed in paragraphs (a) to (l) of subsection (1) does not limit the conditions that may be imposed under paragraph (m) of that subsection.

Section 23(1)(f): substituted, on 18 October 2007, by section 16(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 23(1)(ja): inserted, on 18 October 2007, by section 16(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 23(1)(jb): inserted, on 18 October 2007, by section 16(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 23(1)(k): amended, on 18 October 2007, by section 16(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 23(1)(l): amended, on 18 October 2007, by section 16(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 23(4): added, on 18 October 2007, by section 16(4) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 23(5): added, on 18 October 2007, by section 16(4) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

24 Register of agricultural compounds

(1) The Director-General must keep a register of all registered trade name products registered under section 21.

(1A) The register may be kept in such manner as the Director-General thinks fit.

(2) The register must specify—

- (a) 1 trade name for the trade name product; and
- (b) the name and principal business address of each registrant and his or her New Zealand agent; and
- (c) those particulars of the registered trade name product that are consistent with section 73; and
- (d) the application number and the date on which the application was granted; and
- (e) *[Repealed]*
- (f) the conditions placed on the registration under section 23; and
- (fa) the date and period of any suspension of registration under section 30A, and a brief indication of the reason for the suspension; and
- (g) the termination of any registration by any of the provisions listed in section 22; and
- (h) a summary of the reasons for the decision; and
- (i) the expiry date, if any, of a registration; and
- (j) the name and contact details of the persons who are or will be manufacturing the trade name product; and
- (k) such other matters as the Director-General thinks fit.

(3) *[Repealed]*

(4) The register must also specify any agricultural compounds or any class or description of agricultural compounds exempted from registration by regulations made under section 75.

(5) Every person has the right to inspect the register during the ordinary office hours of the office where the register is held.

(6) The registrant must notify the Director-General of any change to the matters in subsections (2)(b) and (j) within 20 working days of the change taking place.

Section 24(1): amended, on 18 October 2007, by section 17(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(1A): inserted, on 18 October 2007, by section 17(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(2)(c): amended, on 18 October 2007, by section 17(3)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(2)(e): repealed, on 18 October 2007, by section 17(3)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(2)(f): amended, on 18 October 2007, by section 17(3)(c) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(2)(fa): inserted, on 18 October 2007, by section 17(4) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(2)(j): substituted, on 18 October 2007, by section 17(5) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(3): repealed, on 18 October 2007, by section 17(6) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(4): amended, on 18 October 2007, by section 17(7) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 24(6): amended, on 7 May 1999, by section 2 of the Agricultural Compounds and Veterinary Medicines Amendment Act 1999 (1999 No 26).

25 Certificate of registration

(1) The Director-General, when registering any trade name product in accordance with section 21 or section 27, must issue to the applicant a certificate of registration which must specify the matters in section 24(2)(a), (b), (d), (f), and (i), and may specify the matters in section 24(2)(k).

(2) Where the Director-General is satisfied that a certificate of registration has been lost, destroyed, or cannot be produced, the Director-General may at any time, on application made to him or her by the registrant on a form approved by the Director-General for the purpose, issue a further certificate of registration to the registrant.

(3) The Director-General must keep a copy of—

(a) each certificate of registration; and

(b) each application for registration.

Section 25(1): amended, on 18 October 2007, by section 18(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 25(3): added, on 18 October 2007, by section 18(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

26 Application for provisional registration

(1) Any person may apply to the Director-General to provisionally register a trade name product of an agricultural compound.

(2) An application made under subsection (1) must be notified in accordance with section 13 but is not notified in accordance with section 14.

(3) Sections 10, 11, 12, 15, and 19(a), (ab), (b), (c), and (d), with the necessary modifications, apply to any application for provisional registration under subsection (1).

Section 26(3): amended, on 18 October 2007, by section 19 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

27 Decision on application for provisional registration

(1) The Director-General must consider any application made under section 26 and must identify, in accordance with section 19(a), (ab), (b), (c), and (d), the risks likely to be caused by provisionally registering the trade name product.

(2) The Director-General must provisionally register the trade name product if—

(a) the provisional registration will enable the product's use—

(i) for the purpose of obtaining further information on it in order to determine whether it should be registered under section 21; or

(ii) in research that does not have as a purpose the registration of the product in New Zealand; and

(b) in the Director-General's opinion, the risks of using the product can be adequately managed by imposing conditions on the provisional registration that—

(i) ensure that neither the product nor any animals, plants, or primary produce to which it has been

applied or exposed are sold, released, or used in any way for purposes other than those for which the provisional registration is granted; and

(ii) ensure that the product and any animals, plants, or primary produce to which it has been applied or exposed are disposed of in a way that minimises the risks from it.

(3) Every trade name product provisionally registered under this section must be registered for a fixed time sufficient only to achieve the purpose of the registration.

(4) The Director-General may extend the time of provisional registration if, in his or her opinion, an extension is necessary to achieve the purpose of the registration.

(5) Every trade name product provisionally registered under this section must be registered with the conditions necessary to achieve the purposes of the provisional registration.

(6) The Director-General may cancel the provisional registration if, in the Director-General's opinion, the risks are not being adequately managed by the conditions imposed.

(7) Where a trade name product contains an agricultural compound that is also a hazardous substance or new organism, the Director-General must not provisionally register that trade name product under this section unless an approval for that substance or organism has been issued under the Hazardous Substances and New Organisms Act 1996.

Section 27(1): amended, on 18 October 2007, by section 20 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 27(2): substituted, on 15 November 2000, by section 4(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50).

Section 27(5): amended, on 15 November 2000, by section 4(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50).

28 Director-General may approve operating plans

(1) This section applies where—

(a) an approved operating plan is required as a condition of—

(i) registration of a trade name product; or

(ii) exemption under section 8A from the requirement to be registered under section 21 or 27; or

(iii) recognition of a person under section 62 in relation to the performance of certain functions:

(b) an operating plan is submitted to the Director-General for approval.

(2) The Director-General may approve an operating plan submitted to him or her.

(3) The Director-General may, by notice in writing, amend or revoke any approval of an operating plan under subsection (2), following consultation with the person whose operating plan it is.

Section 28: substituted, on 18 October 2007, by section 21(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

29 Reassessment of trade name products

(1) The Director-General may, after consultation with the registrant, decide to reassess a trade name product registered under section 21 or a group of trade name products registered under section 21 with the same active ingredient and similar formulations if, in the opinion of the Director-General,—

(a) significant new information on a matter related to the use of the registered trade name product or group of trade name products has become available; or

(b) there has been a significant change in the use of any or all of the registered trade name products.

(2) A decision under subsection (1) must be notified to the registrant or registrants and notified in accordance with sections 13 and 14, and those sections apply with any necessary modifications.

(3) A decision under subsection (1) is deemed to be a new application for the trade name product and the provisions of sections 11, 12, and 17 to 25 apply to the application with any necessary modifications.

Section 29(1)(a): amended, on 7 July 2010, by section 5(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2010 (2010 No 46).

Section 29(2): amended, on 7 July 2010, by section 5(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2010 (2010 No 46).

30 Reassessment of provisional registration

(1) The Director-General may, after consultation with the registrant, decide to reassess a trade name product registered under section 27 or a group of trade name products registered under section 27 with the same active ingredient and similar formulations if, in the opinion of the Director-General, significant new information on the provisionally registered trade name product has become available.

(2) A decision under subsection (1) must be notified to the registrant.

(3) A decision under subsection (1) is deemed to be a new application for provisional registration for the trade name product and the provisions of sections 26 and 27 apply to the application with any necessary modifications.

30A Suspension of registration

(1) The Director-General may at any time suspend registration of a trade name product registered under section 21 or section 27 for a period of up to 3 months if the Director-General has reasonable grounds to believe that any condition imposed upon registration is not being complied with.

(2) The Director-General may impose conditions and requirements in respect of the implementation and operation of a suspension under this section.

(3) Where the Director-General proposes to suspend registration under this section, he or she must give written notice of that fact to the registrant, specifying—

- (a) the reason for the suspension; and
- (b) the period of the suspension; and
- (c) the date on which or time at which it commences (which may not be earlier than the date or time of notification); and
- (d) any conditions or requirements in relation to the suspension.

(4) If the Director-General considers it necessary in the circumstances, and after having notified the registrant of the proposed extension and the reasons for it, and having given the registrant a reasonable opportunity to be heard, the period of suspension

may be extended once for such further period not exceeding 3 months as the Director-General notifies to the registrant in writing before the expiry of the original suspension.

(5) The Director-General must notify any suspension of registration of a trade name product registered under section 21 in the *Gazette*.

(6) A suspension under this section does not affect any other actions that the Director-General or an ACVM officer may take under this Act.

(7) Where registration is suspended under this section, the Director-General may direct the registrant to take action appropriate to deal with any affected trade name product, and may exercise any of his or her other powers.

(8) If a person acting under the delegated authority of the Director-General suspends any registration under this section, the registrant may seek a review of the suspension under section 77A.

(9) The effect of a suspension of registration under this section is that no person may import, manufacture, sell, or use the relevant trade name product during the period of suspension, unless allowed to do so by a condition or requirement imposed under subsection (2).

Section 30A: inserted, on 18 October 2007, by section 22 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

31 Director-General may prohibit or restrict product or group of products

Where a decision has been made in accordance with section 29 or section 30 to reassess a registered trade name product or group of trade name products, the Director-General may, if he or she thinks fit, prohibit or restrict the importation, manufacture, sale, or use of that trade name product or group of trade name products until a decision is made under section 21 or section 27.

Section 31 heading: amended, on 7 July 2010, by section 6(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2010 (2010 No 46).

Section 31: amended, on 7 July 2010, by section 6(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2010 (2010 No 46).

32 Meaning of new information

For the purposes of sections 29 and 30, **new information** includes, but is not limited to, information not previously considered by the Director-General during an assessment of the registered trade name product and information indicating that conditions placed on the registered trade name product in accordance with section 23 or section 27 do not adequately manage the risks associated with that trade name product.

33 No compensation or damages following reassessment of trade name product or revocation or amendment of approval

(1) Where a registered trade name product is reassessed in accordance with section 29 or 30, no compensation or damages are payable to any person for any loss whatsoever arising out of the reassessment.

(2) Where an approval is revoked or amended in accordance with section 8C(5), no compensation or damages are payable to any person for any loss whatsoever arising out of the revocation or amendment.

Section 33: substituted, on 18 October 2007, by section 23 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

34 Transfer and surrender of registration

(1) The registration of a trade name product—

(a) may, if the registration is granted under section 21, be transferred by the registrant to any other person; or

(b) may, if the registration is granted under section 21 or section 27, be surrendered by a registrant.

(1A) A registrant who intends to transfer the registration to another person or to surrender the registration must notify the Director-General of that intention in the form and manner specified by the Director-General.

(2) Where the registration is transferred under subsection (1)(a), the transfer is not valid until the Director-General has entered the name of the transferee on the register as the registrant.

Section 34(1)(b): amended, on 18 October 2007, by section 24(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 34(1A): inserted, on 18 October 2007, by section 24(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35 Rights of registrant

(1) The provisions of this Act do not give the registrant of a trade name product registered under section 21 the sole right to import, manufacture, sell, or use that trade name product.

(2) The provisions of this Act do give the registrant of a trade name product registered under section 27 the sole right to import, manufacture, sell, or use that trade name product.

Certificates of compliance for agricultural compounds

Heading: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35A Director-General may issue certificates of compliance

(1) The Director-General, or a person authorised by the Director-General under section 35E, may issue a certificate of compliance in respect of any agricultural compound.

(2) Without limiting the matters to which a certificate of compliance may apply, a certificate of compliance is a general statement attesting, in respect of an agricultural compound,—

(a) that the agricultural compound complies with the requirements of this Act specified in the certificate of compliance:

(b) if appropriate, that the situation in New Zealand in relation to any matter concerning agricultural compounds is as stated in the certificate of compliance.

(3) A certificate of compliance is not a guarantee that the contents of all or any particular consignments of agricultural compounds to which it relates—

(a) necessarily meet the requirements of any person relying on the certificate of compliance; or

(b) are fit for use no matter what the status or description of the user or what has happened to the consignment or what has been its treatment since it left New Zealand; or

(c) are fit for use for a purpose other than that for which they were intended.

Section 35A: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35B Form and content of certificate of compliance

(1) A certificate of compliance may be in the form of a certificate or declaration or in such other form as the Director-General determines.

(2) A certificate of compliance may relate to—

(a) 1 or more consignments of agricultural compound; or

(b) 1 or more export destinations; or

(c) any combination of the above.

(3) A certificate of compliance may be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.

Section 35B: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35C Obtaining of certificate of compliance

(1) A person who wishes to obtain a certificate of compliance in respect of any agricultural compound may apply in a manner approved by the Director-General, and must supply any information required by the Director-General and pay any relevant fee.

(2) The Director-General or person authorised under section 35E need not issue a certificate of compliance unless satisfied that the information obtained from the applicant justifies the giving of the certificate of compliance.

Section 35C: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35D Certificate of compliance may be withdrawn, and reissued

(1) A certificate of compliance may be withdrawn by the Director-General or other person authorised by the Director-General if the Director-General or person is satisfied that—

(a) the certificate was incorrectly or inappropriately given; or

(b) events or circumstances occurring since the certificate was issued mean that it no longer holds true, or is misleading.

(2) The Director-General or other person authorised may, on application in a manner approved by the Director-General and on payment of the prescribed fee (if any), reissue a withdrawn certificate of compliance (with modifications, if appropriate) as a new certificate of compliance.

Section 35D: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35E Persons authorised to issue certificates of compliance

The Director-General may designate 1 or more persons employed within the Ministry as persons authorised to issue certificates of compliance for the purposes of this Act.

Section 35E: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35F No Crown liability

The Crown, the Director-General, and employees of the Ministry are not liable, by reason of the issue, refusal or failure to issue, or withdrawal of a certificate of compliance in respect of any agricultural compound, for any loss arising through the refusal or failure of the relevant authority of an overseas market to admit an agricultural compound intended to be exported to that market.

Section 35F: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Recall of agricultural compound

Heading: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

35G Recall of agricultural compound

(1) The Director-General may, by notice in writing, direct the recall of any agricultural compound for the purpose of rectification, disposal, or destruction if, in the opinion of the Director-General,—

(a) the compound does not comply with any requirements of this Act or of regulations made under this Act; and

(b) the non-compliance could result in serious or significant risk to the matters referred to in section 4.

(2) A notice under this section (a **recall notice**) may require any person holding the agricultural compound to rectify the non-compliance under subsection (1), or dispose of or destroy the compound in the manner determined by the Director-General at the expense of the person holding the compound.

(3) A recall notice may be directed to any 1 or more persons who own or have control over the agricultural compound in question.

(4) On receipt of a recall notice, the person on whom it is served must as soon as practicable—

(a) advise the Director-General of the details of the manner in which the notice is to be complied with; and

(b) give written notice to the Director-General when the recall, and any specified requirement associated with the recall, has been completed.

(5) If a person who owns or has control of the agricultural compound fails or refuses to comply with a recall notice, the Director-General may—

(a) take any reasonable steps necessary to give effect to the recall notice (including entry by ACVM officers into premises under a warrant); and

(b) recover the costs and expenses reasonably incurred under paragraph (a) as a debt due from that person.

Section 35G: inserted, on 18 October 2007, by section 25 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Part 3
Powers of Director-General and Minister

36 Powers and functions of Director-General

In addition to any powers and functions given to the Director-General under this Act, the Director-General may—

(a) encourage and facilitate the reporting by any person of any adverse effects from the use of agricultural compounds:

(b) disseminate information and advice on agricultural compounds.

37 Delegation by Director-General

[Repealed]

Section 37: repealed, on 18 October 2007, by section 26(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

38 Policy directions

(1) In the exercise and performance of his or her functions, powers, and duties under this Act, the Director-General must have regard to those policies of government that are applicable to agricultural compounds, and must comply with any general directions relating to that policy given to the Director-General from time to time by notice in writing signed by the Minister.

(2) Where a notice is given to the Director-General under subsection (1), the Minister must, as soon as practicable after the giving of the notice, publish in the *Gazette* and present to the House of Representatives a copy of the notice.

39 Minister's power to call in applications with significant effects

(1) Where the Minister considers that the decision on any application under this Act (other than an application for an approval under section 8C or for a certificate of compliance under section 35C) is likely to have—

(a) significant economic effects; or

(b) significant effects on New Zealand's international interests or obligations; or

(c) significant effects in areas where the Director-General lacks expertise,—

the Minister may direct that the Minister will decide the application.

(2) The direction must include the Minister's reasons for giving it.

Section 39(1): amended, on 18 October 2007, by section 27 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

40 Notification of Minister's direction

(1) A direction by the Minister under section 39 is not effective in respect of any application unless the Minister's direction is presented to the House of Representatives not more than 24 working days after receipt of the application.

(2) The Minister must forward a copy of his or her direction to the Board of Inquiry and the applicant.

41 Board of inquiry

(1) Where the Minister directs that the Minister will decide any application, the Minister must appoint a board of inquiry to consider that application.

(2) A board of inquiry must—

(a) comprise no fewer than 3, and no more than 5, members who, in the Minister's opinion, include a balanced mix of knowledge and experience in matters likely to arise out of the application concerned; and

(b) have a chairperson appointed either by the Minister or, if the Minister declines to do so, by the members.

(3) Every board of inquiry is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of a board of inquiry, out of money appropriated by Parliament for the purpose,—

(a) remuneration by way of fees, salary, or allowances in accordance with that Act; and

(b) travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of such board—

and the provisions of that Act apply accordingly.

42 Investigation by Board of Inquiry

(1) On receipt of a direction under section 40 in relation to an application, the Board of Inquiry—

(a) must notify the application in accordance with sections 13 and 14, unless the application has been notified in accordance with those sections; and

(b) may require additional information under section 11 in relation to the application; and

(c) must investigate an application made under section 9 having regard to all relevant matters, including matters under sections 19 to 21 and the Minister's reasons for giving the direction under section 39;

(d) must investigate an application made under section 26 having regard to all relevant matters, including matters under section 27 and the Minister's reasons for giving the direction under section 39.

(2) The provisions of sections 17 to 23 apply with all necessary modifications to an inquiry into an application made under section 9 as if the conduct of the inquiry were the consideration of that application.

(3) The provisions of sections 17, 18, 19(a), (ab), (b), and (c), and 27 apply with all necessary modifications to an inquiry into an application made under section 26 as if the conduct of the inquiry were the consideration of that application.

Section 42(3): amended, on 18 October 2007, by section 28 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

43 Board of Inquiry to report to Minister

(1) On completion of an investigation under section 41, the Board of Inquiry must, as soon as practicable, submit to the Minister a written report (including recommendations and reasons) on the application referred to it by the Minister.

(2) After receiving a report from the Board of Inquiry, the Minister must ensure that—

(a) a copy of the report is sent to the applicant; and

(b) a copy of the report is sent to every person who made a submission.

44 Minister to decide application and notify decision

(1) When considering his or her decision on the application, the Minister must have regard to—

(a) the report and recommendations of the Board of Inquiry; and

(b) the reasons for calling in the application.

(2) The Minister must give his or her decision in writing, including reasons for the decision, and give written notice of the decision

to the applicant and every person who made a submission, and give notice of the decision in the *Gazette*.

(3) Every decision made by the Minister under this section may include conditions recommended by the Board of Inquiry under section 23 or section 27, as the case may be, and may include any additional conditions as the Minister thinks fit, and is deemed to be a decision by the Director-General.

Part 4
Appeals

45 Appeals

(1) In any case where the Director-General imposes any charge on any person to recover costs where that charge is calculated by the Director-General in the prescribed manner, any person directly affected may appeal against that decision to the District Court.

(2) Subject to subsection (3), the decision of the court on any appeal under this section is final.

(3) Any party to an appeal under this section may further appeal to the High Court on a question of law.

46 Appeal on question of law

(1) Any—

(a) party to an application for registration under sections 9 and 26; or

(ab) party to an application for an approval under section 8C; or

(b) person who made a submission to the Director-General on any application for registration under section 16—

may appeal against the decision of the Director-General to the High Court on a question of law.

(2) Any report and recommendation of the Director-General is deemed to be a decision for the purposes of Part 10 of the High Court Rules, except to the extent that those rules are inconsistent with sections 47 to 53.

Section 46(1)(ab): inserted, on 18 October 2007, by section 29 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

47 Notice of appeal

Before or immediately after the filing and service of a notice of appeal, the appellant must serve a copy of the notice on—

(a) the Director-General; and

(b) every other party to the proceedings; and

(c) every other person who made a submission to the Director-General.

48 Right to appear and be heard on appeal

(1) A party to any proceedings, or any person who made submissions to the Director-General, and who wishes to appear and be heard on an appeal to the High Court, must give notice of his or her intention to appear to—

(a) the appellant; and

(b) the Registrar of the High Court; and

(c) the Director-General.

(2) The notice to appear under subsection (1) must be served within 10 working days after the party or person who made submissions was served with the notice of appeal.

49 Parties to appeal

(1) The parties to an appeal before the High Court are the appellant, and any person who gives notice of intention to appear under section 48.

(2) The Registrar of the High Court must ensure that the parties to an appeal before the High Court and the Director-General are served with—

(a) a copy of every document which is filed or lodged with the Registrar of the High Court relating to the appeal; and

(b) notice of the time and date set down for hearing the appeal.

50 Orders of High Court

(1) The High Court may, on application to it or on its own motion, make an order directing the Director-General to lodge with the Registrar of the High Court all or any of the following things:

(a) anything in the possession of the Director-General relating to the appeal; and

(b) a report recording, in respect of any matter or issue the court may specify, any of the findings of fact of the Director-General which are not set out in his or her decision or report and recommendation; and

(c) a report setting out, so far as is reasonably practicable and in respect of any issue or matter the order may specify, any reasons or considerations to which the Director-General had regard but which are not set out in his or her decision or report and recommendation.

(2) An application under subsection (1) must be made,—

(a) in the case of the appellant, within 20 working days after the date on which the notice of appeal is lodged; or

(b) in the case of any other party to the appeal, within 20 working days after the date of the service on him or her of a copy of the notice of appeal.

(3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of a point of law so requires; and the order may be made subject to such conditions as the High Court thinks fit.

51 Additional appeals on points of law

(1) When a party to an appeal, other than the appellant, wishes to contend that the decision or report and recommendation of the Director-General is in error on other points of law, that party may lodge a notice to that effect with the Registrar of the High Court.

(2) The notice under subsection (1) must be lodged within 20 working days after the date on which that respondent is served with a copy of the notice of appeal.

(3) Sections 47 to 49 apply to a notice lodged under subsection (1), with all necessary modifications.

52 Extension of time

On the application of a party to an appeal, the High Court may extend any periods of time stated in sections 48 and 51.

53 Date of hearing

When a party to an appeal notifies the Registrar of the High Court—

(a) that the notice of appeal has been served on the Director-General and all parties to the proceedings; and

(b) either—

(i) that no application has been lodged under section 50; or

(ii) that any application lodged under section 50 has been complied with,—

the appeal is ready for hearing and the Registrar must arrange a hearing date as soon as practicable.

54 Appeals to Court of Appeal

Section 144 of the Summary Proceedings Act 1957 applies in respect of a decision of the High Court under section 46 of this Act as if the decision had been made under section 107 of the Summary Proceedings Act 1957.

Part 5
Offences

55 Offences

(1) Every person commits an offence against this Act who—

(a) knowingly uses any agricultural compound in contravention of this Act; or

(b) knowingly sells any agricultural compound in contravention of this Act; or

(ba) knowingly manufactures any agricultural compound in contravention of this Act; or

(bb) knowingly imports any agricultural compound in contravention of this Act; or

(c) knowingly contravenes any conditions which apply to any trade name product registered under section 21 or section 27; or

(d) knowingly contravenes any conditions which apply to any agricultural compound exempt from registration by regulations made under section 75; or

(da) knowingly contravenes any conditions of an approval given under section 8B or 8C; or

(db) knowingly imports, manufactures, sells, or uses a product while that product's registration is suspended under section 30A, unless allowed to do so by a condition or requirement imposed under section 30A(2); or

(dc) knowingly contravenes or fails to comply with a condition or requirement imposed under section 30A(2); or

(dd) knowingly fails to comply with a direction given under section 30A(7); or

(de) knowingly contravenes the requirements of any recall notice issued under section 35G; or

(e) knowingly sells any animal, plant, or primary produce that has been treated with, or exposed to, any agricultural compound that is not imported, manufactured, sold, or used in accordance with the provisions of this Act; or

(f) knowingly makes a false representation that any agricultural compound is registered as a trade name product in accordance with section 21 or section 27 or is an agricultural compound and is exempt from registration in accordance with regulations made under section 75; or

(g) knowingly possesses any agricultural compound which has not been cleared for entry into New Zealand in accordance with section 6; or

(h) knowingly contravenes or knowingly permits a contravention of a prohibition notice issued in accordance with section 65; or

(i) knowingly contravenes an order given in accordance with section 64(2)(d); or

(j) knowingly supplies false or misleading information to the Director-General or an ACVM officer under this Act; or

(k) knowingly supplies false or misleading information in support of an application under this Act; or

(l) knowingly withholds relevant information from an ACVM officer or person assisting an ACVM officer.

(1A) Every person commits an offence against this Act who, in contravention of an order made under section 57A(2), or in contravention of such an order as varied under section 57A(4), imports, manufactures, sells, or uses any trade name product or agricultural compound.

(2) Every person commits an offence against this Act who—

(a) *[Repealed]*

(b) *[Repealed]*

(c) personates or falsely represents himself or herself to be an ACVM officer or recognised person; or

(d) without reasonable excuse obstructs or hinders an ACVM officer or recognised person in the execution of any powers conferred on that person by or under this Act; or

(e) interferes with any samples taken or tests carried out for the purposes of this Act.

(3) Every veterinarian commits an offence who knowingly fails to provide any client with information to prevent the occurrence, in any primary produce from any animal treated with an agricultural compound, of residues of that compound which contravene any requirements of the Dairy Industry Act 1952, the Meat Act 1981, the Animal Products Act 1999, or the Food Act 1981 or any regulations or notices in force under those Acts.

(4) Every person commits an offence against this Act who—

(a) contravenes any provision of any regulations made under this Act:

(b) contravenes any provision of sections 98, 99, 100, 102, 114, 116, and 117.

(5) Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against this section may be laid by any person at any time within 4 years after the time when the matter of the information arose.

Section 55(1)(ba): inserted, on 18 October 2007, by section 30(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(bb): inserted, on 18 October 2007, by section 30(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(da): inserted, on 18 October 2007, by section 30(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(db): inserted, on 18 October 2007, by section 30(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(dc): inserted, on 18 October 2007, by section 30(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(dd): inserted, on 18 October 2007, by section 30(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(de): inserted, on 18 October 2007, by section 30(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(i): amended, on 18 October 2007, by section 30(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(j): added, on 18 October 2007, by section 30(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(k): added, on 18 October 2007, by section 30(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1)(l): added, on 18 October 2007, by section 30(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(1A): inserted, on 18 October 2007, by section 30(4) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(2)(a): repealed, on 18 October 2007, by section 30(5)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(2)(b): repealed, on 18 October 2007, by section 30(5)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(2)(c): amended, on 18 October 2007, by section 30(5)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(2)(d): amended, on 18 October 2007, by section 30(5)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 55(3): amended, on 1 November 1999, by section 8(1) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

Section 55(5): amended, on 18 October 2007, by section 30(6) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

56 Penalties

(1) Every person who commits an offence against subsection (1) of section 55 is liable on summary conviction,—

(a) in the case of a natural person, to a term of imprisonment not exceeding 2 years or a fine not exceeding $30,000, or both:

(b) in the case of a corporation, to a fine not exceeding $150,000.

(1A) Every person who commits an offence against section 55(1A) is liable on summary conviction to a term of imprisonment not exceeding 2 years or a fine not exceeding $60,000, or both.

(2) Every person who commits an offence against any provision of subsections (2) and (3) of section 55 is liable on summary conviction,—

(a) in the case of a natural person, to a fine not exceeding $15,000:

(b) in the case of a corporation, to a fine not exceeding $75,000.

(3) Subject to subsection (4), every person who commits an offence against subsection (4) of section 55 is liable on summary conviction to a fine not exceeding $5,000.

(4) Where a fine is prescribed by any regulations continued in force by section 110 or section 122 as the penalty that may be imposed for any offence, the fine so prescribed and not the fine prescribed by subsection (3) is the penalty that may be imposed for the offence.

(5) Where any person is convicted of an offence against this Act, the court may, instead of or in addition to any fine, order the forfeiture of any trade name product, any agricultural compound, or any substance, mixture of substances, or biological compound used or intended for use as an agricultural compound, in the possession of that person.

Section 56(1)(a): substituted, on 18 October 2007, by section 31(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 56(1A): inserted, on 18 October 2007, by section 31(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

57 Revocation of registration or approval

(1) When a registrant or an agent of a registrant is convicted of an offence against this Act, the court may, instead of or in addition to a fine or imprisonment, revoke any registration held by that registrant of any trade name product.

(2) When a holder of an approval under section 8C, or any agent of such a holder, is convicted of an offence against this Act, the court may, instead of or in addition to a fine or imprisonment, revoke the approval.

Section 57: substituted, on 18 October 2007, by section 32 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

57A Power to prohibit person from importing, manufacturing, selling, or using trade name product or agricultural compound

(1) This section applies where—

(a) a person is convicted of an offence under section 55(1) and either—

(i) the person has been convicted of a previous offence against section 55(1); or

(ii) the court is of the opinion that by reason of the serious nature of the offence the person's activities relating to agricultural compounds should be restricted; or

(b) a person is convicted of breaching a restriction order issued under this section.

(2) The court may, in addition to or substitution for any other penalty imposed on a person convicted of an offence to which this section applies, issue an order prohibiting the person from importing, manufacturing, selling, or using any trade name product or agricultural compound.

(3) A person who is the subject of an order under subsection (2) may, at any time after the expiration of 12 months from the date of the order, apply to the court for the cancellation of the order.

(4) At the hearing of the application the court may, if it thinks fit, having regard to—

(a) the character of the applicant; and

(b) the applicant's conduct since the order was made; and

(c) the nature of the offence of which the applicant was convicted; and

(d) any other circumstances of the case,—

order that, as from a date to be specified in the order, the prohibition be removed or the order be varied, or refuse the application.

(5) If the court has, under subsection (4), ordered that the order be varied or has refused the application, the person may not make a further application under subsection (3) within 12 months after the date of the order of variation or the refusal.

Section 57A: inserted, on 18 October 2007, by section 33 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

58 Liability of employers and principals

(1) Subject to subsection (3), where any offence is committed against this Act by a person as the employee of another person, that offence must, for the purposes of this Act, be treated as committed by that other person as well as by the first-mentioned person, whether or not it was done with that other person's knowledge or approval.

(2) Where an offence is committed against this Act by a person acting as the agent of another person, that offence must, for the purposes of this Act, be treated as committed by the principal unless it is done without the principal's express or implied authority.

(3) In any proceedings for an offence against this Act against any person in respect of any offence alleged to have been committed against this Act by an employee of that person, it is a defence for that person to prove,—

(a) in the case of a natural person, that—

(i) he or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) he or she took such steps as were reasonably practicable to prevent the commission of the offence—

and that he or she took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred:

(b) in the case of a body corporate, that—

(i) neither the directors nor any person involved in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be or was being committed; and

(ii) the body corporate took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.

59 Liability of directors and officers of bodies corporate

Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is guilty of the like offence if it is proved—

(a) that the act that constituted the offence took place with his or her authority, permission, or consent; and

(b) that he or she could reasonably have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

60 Appointment of ACVM officers

(1) The Director-General may from time to time appoint persons as agricultural compounds and veterinary medicines officers (**ACVM officers**) for the purposes of administering and enforcing the provisions of this Act.

(2) An ACVM officer may be authorised, on his or her appointment, to exercise all of the powers and functions conferred on ACVM officers under this Act, or only those powers and functions specified in his or her instrument of appointment, or subsequently by written notice to the ACVM officer.

(3) ACVM officers must be persons employed under the State Sector Act 1988.

(4) The Director-General may from time to time establish performance standards and technical standards for ACVM officers; and every ACVM officer, when performing his or her functions, powers, or duties under this Act, must use his or

her best endeavours to comply with and give effect to the relevant performance standards or technical standards.

(5) The Director-General may suspend or revoke any appointment made under this section at any time.

Section 60 heading: amended, on 18 October 2007, by section 34(1)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 60(1): amended, on 18 October 2007, by section 34(1)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 60(2): amended, on 18 October 2007, by section 34(1)(c) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 60(2): amended, on 15 November 2000, by section 6 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50).

Section 60(3): amended, on 18 October 2007, by section 34(1)(d) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 60(4): amended, on 18 October 2007, by section 34(1)(e) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

61 Appointment of authorised persons

[Repealed]

Section 61: repealed, on 18 October 2007, by section 35 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

62 Appointment of recognised persons

(1) The Director-General may recognise persons to carry out specified functions for the purposes of this Act.

(2) The recognition of a person under this section can be made only if that person has, in the opinion of the Director-General, the experience, technical competence, and qualifications to undertake the functions specified in the instrument of recognition.

(3) Every person recognised under this section must comply with any lawful direction or instruction given by the Director-General in relation to the exercise and performance of the functions, powers, and duties conferred or imposed on recognised persons by the Director-General under subsection (1).

(4) Persons recognised under this section may, but need not, be persons who are employed under the State Sector Act 1988.

(5) The Director-General may from time to time establish performance standards and technical standards for recognised persons; and every recognised person, when performing his or her functions, powers, or duties under this Act, must use his or her best endeavours to comply with and give effect to the relevant performance standards or technical standards.

(6) The Director-General may suspend or revoke any recognition given under this section at any time.

Section 62 heading: amended, on 18 October 2007, by section 36(1)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 62(1): amended, on 18 October 2007, by section 36(1)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 62(2): amended, on 18 October 2007, by section 36(1)(c) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 62(2): amended, on 15 November 2000, by section 8 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50).

Section 62(3): amended, on 18 October 2007, by section 36(1)(d) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 62(4): amended, on 18 October 2007, by section 36(1)(d) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 62(5): amended, on 18 October 2007, by section 36(1)(d) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 62(6): amended, on 18 October 2007, by section 36(1)(e) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

63 Protection of ACVM officers and recognised persons

No action or proceedings may be brought against any ACVM officer or recognised person in respect of any actions taken by any such officer or person under this Act unless he or she has acted in bad faith or without reasonable cause.

Section 63: substituted, on 18 October 2007, by section 37 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

64 Powers of entry for inspection

(1) Any ACVM officer may enter or go on, into, under, or over any place (including, to avoid doubt, any transitional facility or biosecurity control area within the meaning of the Biosecurity Act 1993) for the purpose of inspection to determine whether or not any person is complying with this Act.

(1A) Subsection (1) does not apply to a place that is a dwellinghouse or a marae.

(2) For the purposes of subsection (1), an ACVM officer may—

(a) open containers and packages and inspect the contents:

(b) request, gather, or secure evidence, take samples of agricultural compounds, water, air, soil, or any substance, take samples from any animals, plants, and primary produce, and test or analyse or arrange for the testing and analysis of such samples:

(c) inspect, inquire about, or copy any documents or other records including records in an electronic form relating to the obligations imposed under this Act, and remove any documents or other records including records in an electronic form from the place for the purposes of copying such documents or records:

(d) order the person in charge of the place to identify and hold any agricultural compound for up to 5 working days.

(3) Every ACVM officer exercising any of the powers conferred by this section must, at the time of exercising that power and thereafter on request, produce—

(a) evidence of that person's appointment as an ACVM officer; and

(b) evidence of that person's identity.

(4) An ACVM officer may take any person on to the place to assist him or her with the inspection.

(5) Nothing in this section limits or affects the privilege against self-incrimination.

Section 64(1): substituted, on 18 October 2007, by section 38(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 64(1A): inserted, on 18 October 2007, by section 38(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 64(2): amended, on 18 October 2007, by section 38(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 64(3): amended, on 18 October 2007, by section 38(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 64(3)(a): amended, on 18 October 2007, by section 38(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 64(4): amended, on 18 October 2007, by section 38(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

65 ACVM officers may issue prohibition notices

(1) Any ACVM officer who has reasonable grounds to believe that any person manufacturing, selling, importing or using any agricultural compound is acting in contravention of any provision of this Act, or any conditions on the registration of a trade name product or on an approval given under section 8C or any conditions determined under section 8B(2), may give written notice to that person prohibiting the manufacture, sale, import, or use of that product or that agricultural compound by that person until such time as the contravention of the Act is rectified to the satisfaction of the ACVM officer.

(2) A prohibition notice issued under subsection (1) must specify the contravention to which it relates, the action required to remedy the contravention, and the prohibition placed upon the manufacture, sale, import, or use of a trade name product or an agricultural compound.

(3) A prohibition notice issued under subsection (1) may be issued subject to such conditions as the persons issuing it considers appropriate.

Section 65: substituted, on 18 October 2007, by section 39 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

66 Compliance with prohibition notices

Every person to whom a prohibition notice is given must ensure that no action is taken in contravention of it.

67 Matters may be completed by different ACVM officers

If an ACVM officer has issued a prohibition notice under section 65, any ACVM officer may—

(a) take further steps on or in relation to it; or

(b) revoke or withdraw it; or

(c) from time to time vary it; or

(d) revoke, or from time to time vary, any condition to which it is subject.

Section 67 heading: amended, on 18 October 2007, by section 40(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 67: amended, on 18 October 2007, by section 40(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

68 Appeals against prohibition notices

(1) Any person affected by a prohibition notice issued under section 65, or any variation of that notice, may, within 14 days after the notice being issued or the variation being given, appeal against it to a District Court on the grounds that it is unreasonable.

(2) The court must inquire into the circumstances of the prohibition notice or variation, and may vary, rescind, or confirm it.

(3) An appeal against a prohibition notice, or variation of that notice, does not operate as a stay of the notice or variation.

69 Issue of search warrants

(1) Any District Court Judge or Justice of the Peace or any Registrar who is satisfied, on application in writing made on oath, that there are reasonable grounds for believing that there is in, on, under, or over any place (including any dwellinghouse or marae)—

(a) any agricultural compound, substance, mixture of substances, or biological compound that is evidence of an offence committed against section 55(1) or section 55(1A):

(b) any agricultural compound, substance, mixture of substances, or biological compound used or intended to be used as an agricultural compound that has been abandoned:

(c) any documents or other records or things which there are reasonable grounds to believe may be evidence of the commission of any offence under this Act to which paragraph (a) or paragraph (b) applies,—

may issue a search warrant in the form set out in Schedule 1.

(2) Every search warrant must be directed either to a constable by name or to every constable or to any ACVM officer by name, but in any of those cases, the warrant may be executed by any constable.

(3) On issuing a warrant, the Judge, Justice of the Peace, or Registrar may impose such reasonable conditions on its execution as he or she thinks fit.

(4) Any constable or any ACVM officer may call any person to assist him or her in the execution of a search warrant.

Section 69(1)(a): amended, on 18 October 2007, by section 41(1) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 69(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 69(2): amended, on 18 October 2007, by section 41(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 69(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 69(4): amended, on 18 October 2007, by section 41(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

70 Powers of entry with warrant

(1) Every warrant, subject to any conditions imposed under subsection (3), authorises the constable or the ACVM officer who is executing it and any person called on by that constable or ACVM officer to assist—

(a) to enter the place, dwellinghouse, or marae on 1 occasion within 14 days after the date of the issue of the warrant at any time that is reasonable in the circumstances; and

(b) to use such force, both for making entry (either by breaking open doors or otherwise) and for breaking open anything on the place, dwellinghouse, or marae, as is reasonable in the circumstances; and

(c) to search for and seize—

(i) any agricultural compound, any trade name product, or substance, mixture of substances, or biological compound used or intended to be used as an agricultural compound found on the place, dwellinghouse, or marae where it is suspected on reasonable grounds to be evidence of an offence committed against section 55(1) or section 55(1A):

(ii) any documents or other records or things which there are reasonable grounds to believe may be evidence of the commission of any offence against this Act; and

(d) to take any photographs, and make any drawings, of any structure, container, packaging, or label, or any other thing where there are reasonable grounds to believe that the structure, container, packaging, or label or other thing is in breach of the provisions of this Act or regulations; and

(e) to seize and detain any trade name product or any agricultural compound manufactured or imported in breach of the provisions of this Act; and

(f) to seize and detain any trade name product or any agricultural compound that—

(i) is a risk to public health, agricultural security, trade in or market access for primary produce, the welfare of animals, or may breach domestic food residue standards; and

(ii) appears to an ACVM officer, who has made such inquiries as appear reasonable in the circumstances, to have been abandoned or have no apparent or readily identifiable owner.

(2) Any constable or ACVM officer who executes a search warrant must carry the warrant with him or her, and produce it for inspection—

(a) on first entering the place, dwellinghouse, or marae, to the person appearing to be in charge of the place, dwellinghouse, or marae; and

(b) whenever subsequently required to do so, on the place, dwellinghouse, or marae, by any other person appearing to be in charge of the place, dwellinghouse, or marae or any part of the place, dwellinghouse, or marae.

(3) Where the occupier of the place, dwellinghouse, or marae is not present at the time the search warrant is executed, the constable or ACVM officer must leave in a prominent place on the place, dwellinghouse, or marae a written statement of the time and date of the search, and the name of the constable or ACVM officer, and the address of the Police station or other office to which enquiries should be made.

(4) Where any trade name product, any agricultural compound, trade name products, substance, mixture of substances, or biological compound, or books, documents, or other records or things is, or are, seized in execution of a search warrant, the constable or ACVM officer executing the warrant must leave in a prominent place on the place, dwellinghouse, or marae or send to the occupier, within 10 working days after the search, a written inventory of all things so seized.

(5) Where any action is taken under a warrant in, on, under or over a dwellinghouse, or marae, that action must be taken in the presence of a constable.

Section 70(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 70(1): amended, on 18 October 2007, by section 42(1)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(1)(c)(i): amended, on 18 October 2007, by section 42(1)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(1)(e): amended, on 18 October 2007, by section 42(1)(c) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(1)(f)(i): substituted, on 18 October 2007, by section 42(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(1)(f)(ii): amended, on 18 October 2007, by section 42(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 70(2): amended, on 18 October 2007, by section 42(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 70(3): amended, on 18 October 2007, by section 42(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 70(4): amended, on 18 October 2007, by section 42(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 70(5): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

71 Disposal of property seized

(1) Except as provided in subsection (2) of this section, section 199 of the Summary Proceedings Act 1957 applies to any property seized by any constable under a search warrant issued under section 69 and, with the necessary modifications, to any property seized by any ACVM officer under such a warrant.

(2) If proceedings for an offence relating to the property seized are not brought within a period of 6 months after the date of seizure, any person claiming to be entitled to the thing may, after the expiration of that period, apply to a District Court Judge for an order that it be delivered to him or her; and on any such application the District Court Judge may adjourn the application, on such terms as he or she thinks fit, for the proceedings to be brought, or may make any order that a court may make under section 199(3)(a) of the Summary Proceedings Act 1957.

(3) Where any agricultural compound or trade name product is seized under section 70(1)(f)(ii), and no person is charged with an offence under this Act or applies to have the agricultural compound or trade name product returned, the agricultural compound or trade name product must be disposed of as directed by the Director-General.

Section 71(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 71(1): amended, on 18 October 2007, by section 43(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 71(1): amended, on 18 October 2007, by section 43(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Part 6
Protection of certain confidential information about innovative agricultural compounds

72 Interpretation

In this Part, unless the context otherwise requires,—

application means an application for registration of an agricultural compound under section 9 or for provisional registration of an agricultural compound under section 26

confidential information includes—

(a) trade secrets; and

(b) information that has commercial value that would be, or would be likely to be, diminished by disclosure

confidential supporting information means confidential information given—

(a) in, or in relation to, an innovative agricultural compound application; and

(b) about the agricultural compound that is or was, as the case may be, the subject of that application

ingredient includes a chemical or biological entity

innovative agricultural compound application means an application that refers to an active ingredient—

(a) that is an active ingredient of the trade name product to which the application relates; and

(b) that has not, before that application is received by the Director-General, been referred to in any other application (except an application by the applicant for provisional registration under section 26 or an application by the applicant for an experimental use permit under the Pesticides Act 1979) as an active ingredient of—

(i) a trade name product; or

(ii) a pesticide under the Pesticides Act 1979; or

(iii) an animal remedy under the Animal Remedies Act 1967

protected period means, in relation to confidential supporting information relating to an innovative agricultural compound application, a period commencing on the date that information is received by the Director-General and ending,—

(a) where—

(i) the Director-General has either registered the agricultural compound under section 21, or refused to grant such registration, in relation to the agricultural compound that is the subject of the innovative agricultural compound application; and

(ii) the date of that issue or refusal is not more than 5 years after the Director-General received an application in relation to that agricultural compound,—

on the date 5 years after the date of that registration or refusal; or

(b) in any other case, on the date 5 years after the innovative agricultural compound application to which that information relates is or was, as the case may be, received by the Director-General

WTO country means a country that is a party to the Agreement establishing the World Trade Organisation adopted at Marrakesh on the 15th day of April 1994.

73 Protection of confidential supporting information about innovative agricultural compounds

Where the Director-General receives an innovative agricultural compound application and confidential supporting information, the Director-General, during the protected period in relation to that confidential supporting information,—

(a) must take reasonable steps to ensure that that confidential supporting information is kept confidential to the Director-General; and

(b) must not use that confidential supporting information for the purposes of determining whether to grant any other application.

74 Circumstances where protection under section 73 does not apply

(1) Notwithstanding section 73, the Director-General may, during the protected period in relation to confidential supporting information,—

(a) disclose that confidential supporting information, or use that confidential supporting information for the purposes of determining whether to grant any application other than the application to which it relates or related, as the case may be,—

(i) with the consent of the applicant who made the application to which the confidential supporting information relates or related; or

(ii) if that disclosure or use is, in the opinion of the Director-General, necessary to protect the health or safety of members of the public; or

(b) disclose that confidential supporting information to—

(i) a government department or statutory body for the purposes of that government department or statutory body; or

(ii) an advisor for the purposes of obtaining advice about the agricultural compound to which the information relates,—

if, in the opinion of the Director-General, the government department, statutory body, or advisor, as the case may be, will take reasonable steps to ensure that information is kept confidential; or

(c) disclose that confidential supporting information to—

(i) the World Health Organisation:

(ii) the Office International des Epizooties:

(iii) the Food and Agriculture Organisation:

(iv) a regulatory agency of a WTO country:

(v) a person or organisation, or a person or organisation within a class or classes of persons or organisations specified in regulations,—

if in the opinion of the Director-General, those persons, agencies, or organisations, as the case may be, will take reasonable steps to ensure that information is kept confidential.

(2) The power to grant consent under subparagraph (i) of subsection (1)(a) may be exercised by a person other than the applicant referred to in that subparagraph if—

(a) that applicant—

(i) has notified the Director-General in writing that that other person may grant that consent; and

(ii) has not notified the Director-General in writing that that person's authority to grant that consent has been withdrawn; or

(b) that applicant's rights in respect of the relevant confidential supporting information have been transferred to that person and the applicant or that person has notified the Director-General in writing of the transfer.

Part 7
Miscellaneous provisions

75 Regulations

(1) Subject to section 78, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing substances, mixtures of substances, biological compounds, or any class or group of substances, mixtures of substances, or biological compounds which may, subject to any prescribed conditions (including, but not limited to, conditions that an importer, manufacturer, seller, or user must comply with an operating plan approved in accordance with section 28) be imported, manufactured, sold, or used as an agricultural compound without registration under section 21 or section 27:

(b) prescribing substances or classes or group of substances which must be notified to the Director-General before importation, manufacture, sale, or use as an agricultural compound:

(c) prescribing records, returns, or information which any person or class of persons may be required to keep or to report to the Director-General on agricultural compounds exempt from registration under section 21 or section 27 by regulations made under this section:

(ca) prescribing procedures, processes, and requirements relating to conditions imposed at the time of registration of trade name products under section 21 or 27:

(cb) prescribing procedures, processes, and requirements relating to conditions on those substances exempt from registration as an agricultural compound under section 8B:

(cc) prescribing procedures, processes, and requirements for applying for registration of a trade name product:

(cd) prescribing standards relevant to consideration of applications for registration of trade name products and the conditions imposed on registration, including, without limitation, standards in relation to—

(i) manufacturing processes and facilities:

(ii) packing, storage, transport, and handling:

(iii) authorising the use of, selling, or supplying agricultural compounds:

(iv) the activities or behaviour of persons recognised to carry out certain functions in relation to agricultural compounds:

(v) identification and labelling:

(vi) separating off portions of products into smaller quantities:

(vii) any other matter relevant to the management of products, activities, or behaviour to minimise the risks specified in section 4:

(d) prescribing consumer information requirements for agricultural compounds and procedures for the Director-General to certify any consumer information requirements provided by suppliers of the compounds, as providing adequate information:

(e) prescribing requirements for testing of products and auditing of quality assurance systems:

(f) prescribing substances which are prohibited from use as agricultural compounds or as ingredients in agricultural compounds:

(g) prescribing standards of quality, purity, and potency for any agricultural compound, systems to ensure the quality, purity, and potency of agricultural compounds, and

requirements for testing agricultural compounds to ensure that they comply with prescribed standards and requirements:

(h) prescribing countries for the purposes of section 23 and subsection (3):

(i) prescribing persons, organisations, or classes of persons or organisations for the purposes of section 74(1)(c):

(j) providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(1A) Regulations made under this section—

(a) may apply to all agricultural compounds or substances, any class or description of agricultural compounds or substances, or any particular agricultural compound or substance:

(b) may authorise the Director-General to issue or impose any specifications or other detailed requirements that are necessary or desirable to amplify the manner in which the requirements of the regulations may or must be achieved.

(2) Where the importer, manufacturer, seller, or user of any agricultural compound being imported into, manufactured in, sold, or used in New Zealand is required to notify the Director-General of that compound by regulations made under subsection (1), the importer, manufacturer, seller, or user must supply the prescribed information within 20 working days after the date on which the regulations come into force.

(3) The Minister must, when recommending conditions in accordance with this section, take into account conditions imposed in any prescribed countries on the same substances, mixtures of substances, biological compounds, or class or group of substances.

(3A) When recommending the making of regulations under this section, the Minister must have regard to the desirability of maintaining consistency between those regulations and any relevant international standards, requirements, or recommended practices.

(4) Before recommending the making of an Order in Council under subsection (1)(d), the Minister must be satisfied that

there is likely to be an adverse economic result and the agricultural compound is being sold—

(a) without an adequate description of the contents; or

(b) consistently and significantly below the contents described in consumer information.

Section 75(1)(a): amended, on 18 October 2007, by section 44(1)(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(1)(a): amended, on 18 October 2007, by section 44(1)(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(1)(ca): inserted, on 18 October 2007, by section 44(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(1)(cb): inserted, on 18 October 2007, by section 44(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(1)(cc): inserted, on 18 October 2007, by section 44(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(1)(cd): inserted, on 18 October 2007, by section 44(2) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(1A): inserted, on 18 October 2007, by section 44(3) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 75(3A): inserted, on 18 October 2007, by section 44(4) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

76A Director-General may set specifications and other detailed requirements

(1) The Director-General may from time to time issue notices setting specifications and other detailed requirements that—

(a) are specified or contemplated by or necessary to give effect to any regulation made under section 75; or

(b) are necessary or desirable to amplify the manner in which the requirements of any such regulation may or must be achieved.

(2) Before issuing a notice under this section, the Director-General must do everything reasonably practicable to consult with the organisations for the time being recognised by the Director-General as representing the interests of persons who will

or may be affected by the specifications or other detailed requirements contained in the notice.

(3) Subsection (2) does not apply where the Director-General considers it desirable in the public interest that the notice be issued urgently.

(4) A failure to comply with subsection (2) does not affect the validity of a notice issued under this section.

(5) Where a notice under this section affects only 1 person or a small number of persons, and the identity of those persons is known, the Director-General must—

(a) notify the persons individually in writing, whether personally by post or facsimile addressed to the person, or by electronic means acceptable to the person; and

(b) either—

(i) supply them with a copy of the specifications or other requirements; or

(ii) notify them where they may inspect a copy free of charge (which may include inspection by electronic means) or obtain a copy on payment of a reasonable charge.

(6) Where it is not possible or practicable to notify a matter in accordance with subsection (5), the Director-General must—

(a) either publish the specifications or other requirements in the *Gazette*, or notify their making or existence in the *Gazette*; and

(b) where the Director-General considers it practicable, cause them to be brought to the attention of persons likely to be affected by them by notice or publication in any newspaper or trade journal, or by any other practicable means (including electronic means).

(7) If the specifications or other requirements are notified only, and not published, in the *Gazette*—

(a) the Director-General must make copies available for inspection free of charge, and for purchase at a reasonable cost, at the head office of the Ministry and at such other places as the Director-General determines; and

(b) the *Gazette* notice must specify where a copy may be inspected or obtained.

Section 76A: inserted, on 18 October 2007, by section 45 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

76 Recommendation of Order in Council

The Minister must recommend the making of an Order in Council under section 75(1)(a) if the Minister considers—

(a) that the likely cost of assessing and registering an agricultural compound as a trade name product is greater than the likely risks from the use of that agricultural compound without registration; or

(b) the likely risks of that substance, mixture of substances, or biological compound if used as an agricultural compound are already adequately managed by restrictions placed on that substance, mixture of substances, or biological compound under any other Act.

77 Warranties

The registration of any trade name product under section 21 or section 27, or the exemption of any agricultural compound from registration under section 8A, does not imply a warranty by the Crown or the Director-General that the trade name product or agricultural compound is reasonably fit for the purpose for which it is sold, or that the agricultural compound complies with any labelling or other consumer information relating to that compound.

Section 77: amended, on 18 October 2007, by section 46 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

77A Right of review of registration decisions made under delegated authority

(1) This section applies to any decision made under any of sections 8C, 21, 27, and 30A by a person acting under the delegated authority of the Director-General.

(2) A person dissatisfied with any such decision may seek a review of the decision by the Director-General or by a person designated by the Director-General who was not involved in making the original decision.

(3) An application for a review must—

(a) be in writing; and

(b) state the grounds on which it is believed that the original decision was inappropriate; and

(c) be provided to the Director-General within 20 working days after the original decision was notified to the applicant.

(4) The Director-General, or a person designated by the Director-General who was not involved in the original decision, must review the matter within 40 working days, or within such extended period not exceeding a further 20 working days as the Director-General or designated person may specify by notice in writing to the applicant.

(5) For the purposes of a review, the Director-General or designated person may require the applicant to supply information additional to that contained in the application for review within a specified time. The time taken to supply any such information (or allowed for its supply, if the information is not in fact supplied) is not to be counted for the purposes of the time limits specified in subsection (4).

(6) The decision sought to be reviewed remains valid unless and until altered by the Director-General or designated person.

(7) The Director-General or designated person must, as soon as practicable, notify the applicant for review of his or her decision on the review in writing, giving reasons for the decision.

(8) A decision by the Director-General under this section is final, unless determined otherwise by a court of law of competent jurisdiction.

Section 77A: inserted, on 18 October 2007, by section 47 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

78 Consultation before making of Orders in Council

(1) Before making any recommendation for the purpose of making any Order in Council under section 75 section 81D, or section 81E, the Director-General must—

(a) do everything reasonably practicable on his or her part to consult with the organisations for the time being recognised by the Director-General as representing the interests of persons involved in the importation, manufacture, sale, or use of the agricultural compound or compounds who will or may be affected by any Order

in Council made in accordance with the recommendation, of the proposed terms of the Order in Council; and

(b) advise the Minister of the results of any such consultation,—

and the Minister must take into account the results of that consultation.

(2) Subsection (1) does not apply in respect of any Order in Council if the Minister considers it desirable in the public interest that the Order in Council be made urgently.

(3) A failure to comply with subsection (1) does not affect the validity of any Order in Council made under this Act.

Section 78(1): amended, on 18 October 2007, by section 48 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

79 Relationship to other Acts

Nothing in this Act affects the requirements of the Animal Welfare Act 1999, the Misuse of Drugs Act 1975, the Wild Animal Control Act 1977, the Food Act 1981, the Wine Act 2003, the Health Act 1956 (despite section 138 of that Act), the Medicines Act 1981, the Biosecurity Act 1993, the Hazardous Substances and New Organisms Act 1996, or the Animal Products Act 1999 in relation to any substance, mixture of substances, or biological compound.

Section 79: amended, on 18 October 2007, by section 49(a) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 79: amended, on 18 October 2007, by section 49(b) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 79: amended, on 18 October 2007, by section 49(c) of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Section 79: amended, on 1 January 2000, by section 194 of the Animal Welfare Act 1999 (1999 No 142).

Section 79: amended, on 1 November 1999, by section 8(1) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

80 Correction of errors

Where any mistake exists in the register or in any other document made or issued under this Act, the Director-General may correct the mistake; and, for that purpose, may require the registrant or any holder of an approval to produce the certificate

of registration or any other document held by the registrant or holder of the approval.

Section 80: amended, on 18 October 2007, by section 50 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Cost recovery

Heading: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81 Principles of cost recovery

(1) The Minister and the Director-General must take all reasonable steps to ensure that the direct and indirect costs of administering this Act that are not provided for by money appropriated by Parliament for the purpose are recovered under this section and sections 81A to 83 (referred to in this section and those sections as the **cost recovery sections**), whether by way of fees, levies, or otherwise.

(2) In determining the most appropriate method of cost recovery under section 81A, and its level, in any particular case or class of cases of agricultural compound, business, person, or other matter, the Minister and Director-General must have regard, as far as is reasonably practicable, to the following criteria:

(a) equity, in that funding for a particular function, power, or service, or a particular class of function, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service:

(b) efficiency, in that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost:

(c) justifiability, in that costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service:

(d) transparency, in that costs should be identified and allocated as closely as practicable in relation to tangible

service provision for the recovery period in which the service is provided.

(3) Costs should not be recovered under the cost recovery sections unless there has been appropriate consultation with affected parties and relevant industry organisations in accordance with section 78, and the parties involved have been given sufficient time and information to make an informed contribution.

(4) Nothing in subsection (3) or section 78 or 81C requires consultation in relation to specific fees or charges, or the specific levels of fees or charges, so long as the fees or charges set are reasonably within the purview of any general consultation or any consultation carried out for the purposes of section 78, and a failure to comply with subsection (3) does not affect the validity of any regulations made for the purposes of these cost recovery sections.

(5) Nothing in this section requires a strict apportionment of the costs to be recovered for a particular function or service based on usage; and, without limiting the way in which fees or charges may be set, a fee or charge may be set at a level or in a way that—

(a) is determined by calculations that involve an averaging of costs or potential costs:

(b) takes into account costs or potential costs of services that are not directly to be provided to the person who pays the fee or charge but which are an indirect or potential cost arising from the delivery of the service in question to a class of persons or all persons who use the service.

Section 81: substituted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81A Methods of cost recovery

The methods by which costs may be recovered under the cost recovery sections are as follows:

(a) fixed fees or charges:

(b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:

(c) use of a formula or other method of calculation for fixing fees and charges:

(d) the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function:

(e) estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appropriate further payment or refund after provision of the service or function:

(f) refundable or non-refundable deposits paid before provision of the service or performance of the function:

(g) fees or charges imposed on users of services or third parties:

(h) levies:

(i) any combination of the above.

Section 81A: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81B Cost recovery to relate generally to financial year

(1) Except as provided in subsection (2), any regulations under the cost recovery sections that set a fee, charge, or levy that applies in any financial year—

(a) must have been made before the start of that financial year; but

(b) except as the regulations may otherwise provide, apply in that year and all subsequent years until revoked or replaced.

(2) Subsection (1) does not prevent the alteration or setting during any financial year of a fee, charge, or levy payable in that year if either—

(a) the fee, charge, or levy is reduced, removed, or restated without substantive alteration; or

(b) in the case of an increase or a new fee, charge, or levy,—

(i) appropriate consultation in accordance with section 78 has been carried out with persons or representatives of persons substantially affected by the alteration or setting; and

(ii) the Minister is satisfied that those persons, or their representatives, agree or do not substantially disagree with the alteration or setting.

(3) Subsection (1) does not prevent the amendment of any regulation setting a fee, charge, or levy if any substantive alteration effected by the amendment is for the purpose of correcting an error.

(4) Recovery may be made in any financial year of any shortfall in cost recovery for any of the preceding 4 financial years, and allowance may be made for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

Section 81B: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81C Three-yearly review of cost recovery

(1) The Minister must cause to be reviewed, at least once in every 3-year period occurring since the original setting of, or latest change to, the levels and methods of cost recovery in relation to any class of agricultural compound, business, person, or other matter, the levels and methods of cost recovery in the relevant area that are likely to be appropriate for the following financial year or years.

(2) The Minister must ensure that appropriate consultation in accordance with section 78 takes place in relation to any such review.

(3) A review may make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years, or make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

(4) Subsection (1) does not require all areas of cost recovery to be reviewed at the same time, nor does it impose any time limit on the making of regulations to implement the results of a review.

Section 81C: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81D Fees and charges to be prescribed by regulations

(1) Regulations may be made under this Act, on the recommendation of the Minister, prescribing fees and charges for the purposes of this Act.

(2) The fees and charges may be prescribed using any 1 or more of the methods specified in section 81A, or any combination of those methods.

(3) Different fees and charges, or different rates or types of fee or charge, may be prescribed in respect of different classes or descriptions of agricultural compound, persons or businesses, operations, or other matters, or any combination of them.

(4) Without limiting subsection (3), the fees and charges prescribed may—

(a) differ depending on whether or not a special or urgent service is provided:

(b) include more than 1 level of fee or charge for the same service provided in different ways, or provided in or in respect of different places:

(c) differ for otherwise similar services provided in different ways:

(d) differ for otherwise similar services provided to different categories of person:

(e) differ depending on the amount of service required or the components of the service required for the particular person or class of person.

(5) Where regulations prescribe a formula for determining a fee or charge, the formula may specify the value of 1 or more of its components as being an amount or amounts notified for these components by the Director-General by notice in the *Gazette*.

(6) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 81 and 81B have been met.

Section 81D: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81E Regulations may impose levies

(1) Regulations may be made under this Act, on the recommendation of the Minister, prescribing levies for the purposes of this Act.

(2) Different levies or rates of levy or bases on which an amount of levy is to be calculated or ascertained may be prescribed for different purposes, and different levies or rates of levy or bases

for calculation may be set for different classes or descriptions of agricultural compound, persons or businesses, operations, or other matters, or any combination of them.

(3) Without limiting the generality of subsection (1), regulations imposing levies may—

(a) specify when and how any levy is to be paid:

(b) require that any levy, or estimated amount of levy, be paid in advance of performance of the services or functions to which it relates:

(c) specify persons, other than persons primarily responsible for paying the levy, who are to be responsible for collecting a levy, and provide for retention of any part of the levy money collected as a fee for that service:

(d) require, or empower the Director-General to require, the provision of information and returns in relation to levies:

(e) require the keeping of separate trust accounts for levy money received or deducted by persons responsible for collecting levies, and prescribe matters in relation to those trust accounts:

(f) prescribe a method of arbitration or mediation in the case of disputes as to—

(i) whether or not any person is required to pay, or collect, the levy concerned; or

(ii) the amount of levy any person is required to pay or collect:

(g) provide for related matters, including procedures and remuneration for arbitrators or mediators.

(4) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 81 and 81B have been met.

Section 81E: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81F Trust accounts required to be kept by persons collecting levies

(1) If regulations made under section 81E require the operation of a trust account for any levy money by the person responsible for collecting the levy,—

(a) any amount held in such an account that is due to be paid to the Director-General by the levy collector is to be treated as levy money held on trust for the Director-General; and

(b) any amount so held on trust is not available for the payment of any creditor (other than the Director-General) of the levy collector, and is not liable to be attached or taken in execution at the instance of any such creditor; and

(c) a person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account until all the levy money payable to the Director-General in respect of the period during which the person was responsible for collecting the levy has been paid.

(2) Nothing in subsection (1)(c) affects any obligation or liability under this Act of any other person who has become responsible for collecting the levy concerned.

Section 81F: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81G Other charges not requiring to be prescribed

(1) Nothing in the cost recovery sections or in any other provision of this Act prevents the Director-General from requiring a reasonable charge to be paid for any of the services the Ministry provides in relation to the administration of this Act, or any actual and reasonable expenses incurred in providing the services, other than services in respect of which a fee or charge or levy is prescribed under these cost recovery sections.

(2) Without limiting subsection (1), and for the avoidance of doubt, the Director-General may—

(a) operate a telephone information service for which each caller pays according to their usage or on some averaged basis:

(b) charge persons for the cost of mailing, faxing, emailing, or couriering information to them:

(c) charge for the cost of written material, unless that material is required by an Act or by regulations made under this Act to be provided free of charge:

(d) charge for access to any website, or for information or services provided by any website, operated by the Ministry:

(e) charge for access to any library or research services provided in relation to matters pertaining to agricultural compounds, or associated things:

(f) charge any person for services provided in relation to a business importing, manufacturing, selling, or using agricultural compounds or otherwise under this Act.

(3) All money received as a result of such charges received by the Ministry must be paid into the Departmental Bank Account.

Section 81G: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81H Exemptions, waivers, and refunds

(1) Regulations made under this Act may provide for exemptions from, or waivers or refunds of, any fee, levy, or charge payable under this Act, in whole or in part, in any particular case or class of case.

(2) Any such regulations may authorise the Director-General to grant an exemption, waiver, or refund in any particular case or class of case.

Section 81H: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81I Fees, levies, and charges to constitute debt due to Director-General

Any fee, levy, or charge that has become payable is a debt due to the Director-General, and is recoverable as a debt by the Director-General in any court of competent jurisdiction. Until paid in full, it remains a debt due to the Crown.

Section 81I: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81J Penalties for failure to pay fee, levy, or charge

(1) If a person has failed to pay to the Director-General by the due date any fee, levy, or charge payable under this Act,—

(a) section 14 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 applies to increase the amount payable; and

(b) section 15 of that Act applies to allow the Director-General, in appropriate cases, to waive the payment of all or any of the amount of any such increase; and

(c) section 16 of that Act applies to allow the Director-General to withdraw, or refuse to provide the person in default with, any service of the kind to which the debt relates.

(2) For the purposes of subsection (1)(c) of this section and section 16 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997, and without limiting the generality of that section 16, the references in those provisions to the withdrawal or refusal to provide any service are to be treated as also authorising the Director-General, in an appropriate case, to—

(a) withhold or suspend any registration or approval under this Act, or refuse to perform any function under this Act in relation to the person in default:

(b) withhold any certificate of compliance.

(3) Where any registration or approval is suspended under subsection (2)(a), no person may import, manufacture, or sell a trade name product or agricultural compound under the authority of that registration or approval.

(4) Where the withholding, withdrawal, or suspension of any approval or registration under this section requires the Director-General to provide any further service, or perform any further function involved in the withholding, withdrawal, or suspension, the Director-General may recover any reasonable amount for the additional service, function, or costs as a debt due from the person in default.

Section 81J: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81K Obligation to pay fee, levy, or charge not suspended by dispute

The obligation of a person to pay any fee, levy, or charge under this Act (including any penalty referred to in section 81J), and the right of the Director-General to receive and recover the fee, levy, charge, or penalty, are not suspended by any dispute between the person and the Director-General regarding the person's liability to pay the fee, levy, or charge, or the amount of the fee, levy, or charge.

Section 81K: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

81L Levy regulations to be confirmed

(1) Where regulations imposing a levy have been made under the cost recovery sections on or after 1 January in any year and before 1 July in that year, and—

(a) have not been revoked with effect on or before 1 July in the next year; and

(b) have not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,—

they are to be treated as having been revoked with the close of 30 June in that next year unless confirmed by an Act of Parliament passed on or before that day.

(2) Where any regulations imposing a levy have been made under the cost recovery sections after 30 June in any year and on or before 31 December in that year, and—

(a) have not been revoked with effect on or before 1 January in the year after the next year; and

(b) have not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—

they are to be treated as having been revoked with the close of 31 December in the year after the year in which they were made, unless confirmed by an Act of Parliament passed on or before that day.

Section 81L: inserted, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

82 Prohibition of importation or manufacture by registrant for non-payment of fees

[Repealed]

Section 82: repealed, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

83 Debt due to the Crown

[Repealed]

Section 83: repealed, on 18 October 2007, by section 51 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Amendments, repeals, and revocations

Heading: inserted, on 18 October 2007, by section 52 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

84 Amendment of Schedule 1

The Governor-General may from time to time, by Order in Council, amend the form set out in Schedule 1 or revoke that form and substitute a new form.

85 Amendments to other Acts

The enactments specified in Schedule 2 are amended in the manner indicated in that schedule.

86 Repeals and revocations

(1) The enactments specified in Schedule 3 are repealed.

(2) The regulations and orders specified in Schedule 4 are revoked.

Part 8
Transitional provisions

[Repealed]

Part 8: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

General
[Repealed]

Heading: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

87 Interpretation

[Repealed]

Section 87: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

88 Regulations relating to transitional provisions

[Repealed]

Section 88: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

89 Transitional provisions for certain agricultural compounds in use at commencement of Act

[Repealed]

Section 89: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

90 Transitional provisions for inspectors

[Repealed]

Section 90: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

91 Application for registration made before commencement of Act

[Repealed]

Section 91: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

92 Continuation of registration

[Repealed]

Section 92: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Animal remedies

[Repealed]

Heading: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

93 Applications for licences made before commencement of Act

[Repealed]

Section 93: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

94 Continuation of licences

[Repealed]

Section 94: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

95 Exemption from Act

[Repealed]

Section 95: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

96 Continuation of Animal Remedies Board

[Repealed]

Section 96: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

97 Registrar of Animal Remedies

[Repealed]

Section 97: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

98 Prescription animal remedies

[Repealed]

Section 98: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

99 Labelling

[Repealed]

Section 99: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

100 Containers for animal remedies

[Repealed]

Section 100: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

101 Warranties

[Repealed]

Section 101: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

102 Advertisements

[Repealed]

Section 102: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

103 Register of licences

[Repealed]

Section 103: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

104 Correction of errors

[Repealed]

Section 104: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

105 Loss or destruction of licence

[Repealed]

Section 105: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

106 Reissue of licence

[Repealed]

Section 106: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

107 Revocation or suspension of licences

[Repealed]

Section 107: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

108 Variation of particulars

[Repealed]

Section 108: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

109 Information protected under Part 2A of Animal Remedies Act 1967

[Repealed]

Section 109: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

110 Regulations to continue to apply

[Repealed]

Section 110: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

111 Transfer of assets of Animal Remedies Board

[Repealed]

Section 111: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Pesticides

[Repealed]

Heading: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

112 Application of sections 113 to 122

[Repealed]

Section 112: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

113 Continuation of sale and use of pesticide

[Repealed]

Section 113: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

114 Registration subject to restricted use

[Repealed]

Section 114: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

115 Experimental use permits

[Repealed]

Section 115: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

116 Labelling

[Repealed]

Section 116: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

117 Advertisements

[Repealed]

Section 117: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

118 Review of registration

[Repealed]

Section 118: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

119 Warranties

[Repealed]

Section 119: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

120 Pesticides register

[Repealed]

Section 120: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

121 Information protected under Part 2A of Pesticides Act 1979

[Repealed]

Section 121: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

122 Regulations to continue to apply

[Repealed]

Section 122: repealed, on 18 October 2007, by section 53 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Schedule 1

s 69

Search warrant

Section 69 Agricultural Compounds and Veterinary Medicines Act 1997

To every constable

or [*full name*], an ACVM officer or [*full name*] constable

I am satisfied on an application in writing made on oath by [*full name*], an ACVM officer under the Agricultural Compounds and Veterinary Medicines Act 1997 that there is reasonable ground for believing that there is (or are) on, in, under or over

[*description of place, dwellinghouse, or marae*]

the following thing (or things) which or each of which is a thing

- in respect of which an offence against the Agricultural Compounds and Veterinary Medicines Act 1997 has been or may have been committed; or
- that is or may be evidence of the commission of an offence against the Agricultural Compounds and Veterinary Medicines Act 1997; or
- that is intended to be used for the commission of an offence against the Agricultural Compounds and Veterinary Medicines Act 1997.

[*Description of thing or things and, in respect of each, reference to offence concerned*]

I authorise you to enter and search that place on 1 occasion at any reasonable time within 14 days of the date of this warrant.

This warrant is issued subject to the conditions specified below

If issued to a named ACVM officer in respect of a dwellinghouse or marae, this warrant may not be executed unless the ACVM officer executing it is accompanied by a constable.

[*Other conditions (if any)*]

Issued at: [*place, date*]

District Court Judge
(*or* Justice of the Peace)
(*or* Registrar (not being a constable)).

Schedule 1: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Schedule 1: amended, on 18 October 2007, by section 54 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Schedule 2
s 85

Enactments amended

Co-operative Companies Act 1956 (1956 No 18) (RS Vol 1, p 545)

Amendment(s) incorporated in the Act(s).

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

Amendment(s) incorporated in the Act(s).

Income Tax Act 1994 (1994 No 164)

Amendment(s) incorporated in the Act(s).

Medicines Act 1981 (1981 No 118)

Amendment(s) incorporated in the Act(s).

Schedule 3

s 86(1)

Enactments repealed

Animal Remedies Act 1967 (1967 No 51) (RS Vol 21, p 11)

Animal Remedies Amendment Act 1968 (1968 No 67) (RS Vol 21, p 68)

Animal Remedies Amendment Act 1969 (1969 No 51) (RS Vol 21, p 69)

Animal Remedies Amendment Act 1971 (1971 No 81) (RS Vol 21, p 70)

Animal Remedies Amendment Act 1972 (1972 No 47) (RS Vol 21, p 70)

Animal Remedies Amendment Act 1976 (1976 No 73) (RS Vol 21, p 70)

Animal Remedies Amendment Act 1981 (1981 No 59) (RS Vol 21, p 71)

Animal Remedies Amendment Act 1982 (1982 No 59) (RS Vol 21, p 72)

Animal Remedies Amendment Act 1988 (1988 No 121)

Animal Remedies Amendment Act 1994 (1994 No 126)

Biosecurity Act 1993 (1993 No 95)
Amendment(s) incorporated in the Act(s).

Building Act 1991 (1991 No 150)
Amendment(s) incorporated in the Act(s).

Crown Research Institute Act 1992 (1992 No 47)
Amendment(s) incorporated in the Act(s).

Fair Trading Act 1986 (1986 No 121)
Amendment(s) incorporated in the Act(s).

Fertilisers Act 1960 (1960 No 33) (RS Vol 19, p 335)

Fertilisers Amendment Act 1962 (1962 No 66) (RS Vol 19, p 355)

Fertilisers Amendment Act 1972 (1972 No 58) (RS Vol 19, p 355)

Fertilisers Act 1982 (1982 No 134)

Judicature Amendment Act 1991 (1991 No 60)
Amendment(s) incorporated in the Act(s).

Medicines Act 1981 (1981 No 118)
Amendment(s) incorporated in the Act(s).

Ministry of Agriculture and Fisheries Amendment Act 1990 (1990 No 53)
Amendment(s) incorporated in the Act(s).

Official Information Amendment Act 1987 (1987 No 8)
Amendment(s) incorporated in the Act(s).

Regulations (Disallowance) Act 1989 (1989 No 143)
Amendment(s) incorporated in the Act(s).

Stock Foods Act 1946 (1946 No 6) (RS Vol 11, p 413)

Stock Foods Amendment Act 1966 (1966 No 48) (RS Vol 11, p 429)

Stock Foods Amendment Act 1980 (1980 No 144) (RS Vol 11, p 430)

Stock Foods Amendment Act 1981 (1981 No 95) (RS Vol 21, p 72)

Schedule 4

s 86(2)

Regulations and orders revoked

Animal Remedies Amendment Act Commencement Order 1994 (SR 1994/307)

Animal Remedies (Fees) Regulations 1993 (SR 1993/171)

Animal Remedies (Fees) Regulations 1993, Amendment No 1 (SR 1995/103)

Animal Remedies Regulations 1980, Amendment No 3 (SR 1988/233)

Fertilizer Control Regulations 1948 (SR 1948/198)

Fertilisers (Fees) Regulations 1961 (SR 1961/62)

Fertilisers Regulations 1969 (SR 1969/88)

Fertilisers Regulations 1969, Amendment No 1 (SR 1975/96)

Fertilisers Regulations 1969, Amendment No 2 (SR 1981/155)

Fertilisers Regulations 1969, Amendment No 3 (SR 1981/298)

Pesticides (Antifouling Paints) Order 1989 (SR 1989/166)

Pesticides (Fees) Regulations 1993 (SR 1993/172)

Pesticides (Fees) Regulations 1993, Amendment No 1 (SR 1995/102)

Pesticides (Organochlorine) Notice 1984 (*Gazette* 1984, Vol III, p 3104)

Pesticides (Organotin Antifouling Paints) Regulations 1993 (SR 1993/326)

Pesticides Regulations 1983 (SR 1983/14)

Amendment(s) incorporated in the regulations.

Pesticides Regulations 1983, Amendment No 2 (SR 1985/196)

Stock Food Regulations 1948 (SR 1948/145)

Schedule 5

s 110

Regulations and orders continued in force

[Repealed]

Schedule 5: repealed, on 18 October 2007, by section 55 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93).

Agricultural Compounds and Veterinary Medicines Amendment Act 2007

Public Act	2007 No 93
Date of assent	17 October 2007
Commencement	see section 2

1 Title

This Act is the Agricultural Compounds and Veterinary Medicines Amendment Act 2007.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendments to Parts 1 to 3 of principal Act

16 Conditions on trade name products

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Where any condition of registration imposed under section 23 of the principal Act before the commencement of this Act requires compliance with a code of practice, the condition is to be treated as requiring compliance with an applicable operating plan.

21 New section 28 substituted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Any code of practice approved under section 28 of the principal Act before its repeal and replacement by subsection (1) of this section, being a code requiring compliance by virtue of a condition imposed under section 23(1)(f) or any requirement of regulations made under section 75, is deemed to be an operating plan approved under section 28(2) of the principal Act until the earlier of—

(a) the expiry of 3 years from the commencement of this Act; or

(b) the code's replacement by an operating plan or other relevant requirement imposed by or under regulations made under the principal Act.

26 Section 37 repealed

(1) *Amendment(s) incorporated in the Act(s)*.

(2) Despite subsection (1), any delegations by the Director-General that were in existence immediately before the commencement of this Act are valid and continue in force until their expiry in their own terms, or until revoked by the Director-General.

Part 2
Amendments to Parts 4 to 8 and schedules of principal Act

34 Appointment of inspectors

(1) *Amendment(s) incorporated in the Act(s)*.

(2) A person appointed under section 60 of the principal Act who, immediately before the commencement of this Act, held office as an inspector is deemed to have been appointed as an ACVM officer under that section, and any such appointment or any authority evidencing such an appointment is valid as an appointment or authorisation to act as an ACVM officer until it expires or is suspended or revoked.

36 Appointment of accredited persons

(1) *Amendment(s) incorporated in the Act(s)*.

(2) A person accredited to carry out any specified functions under section 62 of the principal Act before the commencement of this Act is deemed to have been recognised to carry out those specified functions under that section, and any such accreditation or any authority evidencing such an accreditation is valid as a recognition under section 62 of the principal Act until it expires or is suspended or revoked.

Contents

Notes

1 General

This is a reprint of the Agricultural Compounds and Veterinary Medicines Act 1997. The reprint incorporates all the amendments to the Act as at 1 July 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Environmental Protection Authority Act 2011 (2011 No 14): section 53(1)

Agricultural Compounds and Veterinary Medicines Amendment Act 2010 (2010 No 46)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Agricultural Compounds and Veterinary Medicines Amendment Act 2007 (2007 No 93)

Veterinarians Act 2005 (2005 No 126): section 105

Agricultural Compounds and Veterinary Medicines Amendment Act 2003 (2003 No 55)

Agricultural Compounds and Veterinary Medicines Act Commencement Order 2001 (SR 2001/100)

Agricultural Compounds and Veterinary Medicines Amendment Act 2000 (2000 No 50)

Animal Welfare Act 1999 (1999 No 142): section 194

Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94): section 8(1)

Agricultural Compounds and Veterinary Medicines Amendment Act 1999 (1999 No 26)

Wellington, New Zealand:
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