

**PESTICIDES AND ALLIED CHEMICALS (AMENDMENT) ACT
1989 No. 183**

NEW SOUTH WALES



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**PESTICIDES AND ALLIED CHEMICALS (AMENDMENT) ACT
1989 No. 183**

NEW SOUTH WALES



Act No. 183, 1989

An Act to give effect to a national scheme for clearance of chemicals for registration in participating States and Territories; and for other purposes. [Assented to 14 December 1989]

Pesticides and Allied Chemicals (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Pesticides and Allied Chemicals (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Pesticides and Allied Chemicals Act 1978 No. 57

3. The Pesticides and Allied Chemicals Act 1978 is amended as set out in Schedule 1.

Savings

4. This Act does not affect:

- (a) the registration of any pesticide or any label for containers for a pesticide; or
- (b) any approval of a specification for a class of containers for a pesticide,

in force immediately before the commencement of Schedule 1 (8) (whether or not there is a clearance authority on that commencement).

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 1:

Omit the section, insert instead:

Short title

1. This Act may be cited as the Pesticides Act 1978.

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(2) Section 5 (Definitions):

In alphabetical order, insert:

"clearance authority" means any body or person declared for the time being to be the clearance authority under section 5B;

(3) Sections 5B, 5C:

After section 5A, insert:

Clearance authority for registration of pesticides

5B. (1) The Minister may, by order published in the Gazette, declare that a person or body considered by the Minister to be of a national character is the clearance authority for the purposes of this Act.

(2) The Minister may, in the same manner, revoke any such order.

(3) A person or body may be declared (by the same order or different orders) to be the clearance authority for the purposes both of this Act and the Stock Medicines Act 1989.

(4) In this Act:

(a) a reference to a clearance for a pesticide is a reference to a clearance of the pesticide for registration given by the clearance authority, and

(b) a reference to a certificate of clearance for a pesticide is a reference to a certificate issued by the clearance authority and evidencing the clearance of the pesticide for registration.

Registration under the Stock Medicines Act 1989

5C. If a substance or organism is registered under the Stock Medicines Act 1989:

(a) neither the substance or organism, nor a label for a class of containers for it, is required to be registered under this Act; and

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- (b) a specification for a class of containers for the substance or organism is not required to be approved under this Act.
- (4) Section 7 (**Appointments**):
Section 7 (3)-(5):
After section 7 (2), insert:
(3) An analysis for the purposes of this Act may be carried out by a person acting under the supervision of an analyst and, in any such case, the analysis is to be taken to have been carried out by the analyst.
(4) The Minister may appoint inspectors of pesticides.
(5) If the instrument of appointment so provides, an inspector appointed by the Minister may exercise and must perform only such of the powers, authorities, duties and functions of an inspector as are specified in the instrument.
- (5) Part 3, Division 1, heading:
Omit the heading, insert instead:
**Division 1 - Applications for registration
of pesticides and labels and for
approval of containers**
- (6) Section 9 (**Application for registration of a pesticide**):
At the end of section 9, insert:
(2) The regulations may provide that any such requirement for making an application for registration of a pesticide is not to apply if, at the time the application is made, there is a current certificate of clearance for the pesticide.
- (7) Part 3, Division 2, heading:
After section 12, insert:
Division 2 - Registration and approvals

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(8) Sections 13, 13A, 13B, 13C:

Omit section 13, insert instead:

Registration of pesticides

13. (1) The Registrar, after receipt of an application for registration of a pesticide, may register the pesticide.

(2) The Registrar registers a pesticide by:

(a) filing particulars of the formulation or a description of the pesticide; and

(b) allocating the pesticide a registered number.

(3) The Registrar may register a pesticide subject to conditions.

(4) If an application is lodged for registration of a pesticide that is already a registered pesticide, the Registrar may allocate the registered pesticide a further registered number.

Registration of a label for a class of containers

13A. (1) The Registrar, after receipt of an application for registration of a label for a class of containers, may register the label.

(2) The Registrar registers a label by allocating the label a registered number.

Approval of a specification for class of containers

13B. (1) The Registrar, after receipt of an application for approval of a specification for a class of containers for a pesticide, may approve the specification.

(2) The Registrar approves a specification by:

(a) filing a description of the specification and the pesticide concerned; and

(b) allocating the approval a distinguishing number.

Registration of pesticide without approval of container etc.

13C. The Registrar may not:

(a) register a pesticide unless a specification for a class of containers for the pesticide is also approved; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (b) approve a specification for a class of containers for a pesticide unless a label for the containers is also registered; or
- (c) register a label for a class of containers for a pesticide unless the pesticide is also registered.

(9) Section 14 (**Registration of certain pesticides prohibited**):

At the end of section 14, insert:

(2) This section does not apply to the registration of a pesticide if there is a current certificate of clearance for the pesticide at the time of registration.

(10) Part 3, Division 3:

After section 16, insert:

Division 3 - Additional requirements for registration of pesticides when there is a clearance authority

Application of Division 3

16A. This Division applies to a pesticide in respect of which an application for registration is made only if:

- (a) there is a clearance authority when the application is being considered by the Registrar; and
- (b) an application may be made to the clearance authority for clearance of that pesticide.

Registration of pesticides cleared by clearance authority

16B. (1) The Registrar may register a pesticide only if there is a current certificate of clearance for the pesticide at the time of registration.

(2) Despite subsection (1), the Registrar may register a pesticide which is not cleared for registration if:

- (a) the Minister determines that it is in the interests of New South Wales to do so; and
- (b) registration of the pesticide is not prohibited by section 14.

(3) The Minister may make such a determination only if the control or eradication of the pest, vegetation, fungus,

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SCHEDULE 1 - AMENDMENTS - *continued*

bacteria or virus concerned is of economic significance to New South Wales and:

- (a) the likely use of the pesticide would reduce, or would reduce the rate of increase in, a population of organisms that are resistant to other pesticides or to stock medicines used for the same purpose as or a similar purpose to the pesticide; or
- (b) the likely use of the pesticide would be desirable because of climatic or soil conditions or farming methods practised in New South Wales.

(4) The Registrar, as soon as practicable, is to notify the clearance authority of any registration of a pesticide under subsection (2).

Refusal to register

16C. (1) The Registrar may not refuse an application for registration of a pesticide for which there is a current certificate of clearance unless the Minister determines that it is in the interests of New South Wales to refuse it.

(2) The Minister may make such a determination only if:

- (a) the pesticide has been cleared for use in the control or eradication of a pest, vegetation, fungus, bacteria or a virus:
 - (i) that does not occur in or, if it occurs, is not of economic significance to New South Wales; or
 - (ii) in respect of which a control or eradication program is being undertaken in New South Wales, use of the pesticide is likely to obscure evidence of the presence of the pest, vegetation, fungus, bacteria or virus; or
- (b) in the opinion of the Minister, the likely use of the pesticide:
 - (i) would not be desirable because of a farming method that is practised in New South Wales; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (ii) would encourage the increase in New South Wales in a population of organisms that are resistant to other pesticides or stock medicines used for the same purpose as or a similar purpose to the pesticide; or
- (iii) would not be desirable in relation to climatic or soil conditions in New South Wales; or
- (c) in the opinion of the Minister, the likely use of the pesticide would not be desirable because of:
 - (i) a risk to human health notified to the Minister by the Director-General of the Department of Health or the General Manager of the Workers Compensation and Rehabilitation Authority; or
 - (ii) a likely deleterious effect on the environment notified to the Minister by the Director of the State Pollution Control Commission or the Director of National Parks and Wildlife.

Registration of label where clearance authority

16D. The Registrar may not register a label for a pesticide for which there is a current certificate of clearance unless the label has on it the following particulars:

- (a) any limitations on the use of the pesticide;
- (b) any instructions for use or disposal of the pesticide, or other directions or warnings relating to safety or protection of people or animals or first aid,

specified in the certificate.

Additional uses of pesticide

16E. (1) When registering a pesticide to which a current certificate of clearance relates, the Registrar may register a label which includes instructions for a use of the pesticide for which no claim is specified in the certificate, if that use relates to any one or more of the following:

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- (a) use for the purpose of facilitating the production of specialised crops;
- (b) use for experimental purposes;
- (c) small scale industrial or agricultural use.

(2) The Registrar may register a label specifying an additional use of a pesticide only if the use will not be likely to result in residues of the pesticide that exceed any relevant maximum residue limits recommended by the National Health and Medical Research Council.

(3) The Registrar, as soon as practicable, is to notify in writing the clearance authority of any such additional use specified on a label which the Registrar has registered.

Registration may be for limited period

16F. (1) If a clearance for a pesticide has been granted on the condition that it remain current only for a limited period, the Registrar is to cancel the registration of the pesticide at the end of that period, unless the clearance authority removes the condition before the end of the period.

(2) This section:

- (a) does not prevent a further application being made for the registration of a pesticide that has become unregistered because of the operation of this section; and
- (b) does not affect the period of registration of a pesticide which was registered when there was no clearance authority.

(11) Part 3, Division 4, heading:

Before section 17, insert:

**Division 4 - Other requirements
relating to registration**

SCHEDULE 1 - AMENDMENTS - *continued*

(12) Sections 20-20C:

Omit section 20, insert instead:

Cancellation of registration or approval

20. The Registrar may, having regard to information that has come to the Registrar's knowledge, cancel the registration of a pesticide or a label or approval of a specification for a class of containers if, in the Registrar's opinion, he or she would not have registered the pesticide or label or approved the specification had he or she had that information at the time of registration or approval.

Cancellation of registration of pesticide prohibited where current clearance

20A. (1) If there is a current certificate of clearance for a pesticide, the Registrar may cancel the registration of the pesticide under section 20 only if the Minister determines that it is in the interests of New South Wales to do so.

(2) The Minister may not make such a determination unless:

- (a) the pesticide has been cleared for use in the control or eradication of a pest, vegetation, fungus, bacteria or a virus:
 - (i) that does not occur in or, if it occurs, is not of economic significance to New South Wales; or
 - (ii) in respect of which a control or eradication program is being undertaken in New South Wales, if use of the pesticide could obscure evidence of the presence of the pest, vegetation, fungus, bacteria or virus; or
- (b) in the opinion of the Minister, the use of the pesticide:
 - (i) is not desirable because of a farming method that is practised in New South Wales; or
 - (ii) has encouraged the increase in New South Wales in a population of organisms that are resistant to other pesticides or stock

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- medicines used for the same purpose as or a similar purpose to the pesticide; or
- (iii) is not desirable because of climatic or soil conditions in New South Wales; or
- (c) in the opinion of the Minister, the use of the pesticide would not be desirable because of:
 - (i) a risk to human health notified to the Minister by the Director-General of the Department of Health or the General Manager of the Workers Compensation and Rehabilitation Authority; or
 - (ii) a likely deleterious effect on the environment notified to the Minister by the Director of the State Pollution Control Commission or the Director of National Parks and Wildlife.

(3) This section applies whether or not there was a clearance authority at the time of registration of the pesticide concerned.

Registration of pesticide if clearance withdrawn

20B. (1) If the Registrar is notified that the clearance authority has withdrawn the clearance for a pesticide, the Registrar is to cancel the registration of the pesticide unless the Minister determines that it is in the interests of New South Wales that the pesticide remain registered.

(2) The Minister may not make such a determination unless:

- (a) the control or eradication of the pest, vegetation, fungus, bacteria or virus concerned is of economic significance to New South Wales; or
- (b) the use of the pesticide has reduced, or has reduced the rate of increase in, a population of organisms that are resistant to other pesticides or stock medicines used for the same purpose as or a similar purpose to the pesticide; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) the use of the pesticide is desirable because of climatic or soil conditions or farming methods practised in New South Wales.

(3) This section applies whether or not there was a clearance authority at the time of registration of the pesticide concerned.

Procedure for cancellation of registration or approval

20C. (1) The Registrar cancels:

- (a) registration of a pesticide or a label; or
- (b) approval of a specification for a class of containers,

under this Part by making a note to the effect that the registration of the pesticide or label or approval of the specification is cancelled in the records relating to the pesticide, label or specification required to be kept under section 18.

(2) When the Registrar cancels the registration of a pesticide, the Registrar is to cancel also any other registration or approval relating to the pesticide.

(3) When the Registrar cancels:

- (a) the registration of the only registered label (or of all the registered labels) for approved containers for a pesticide, the Registrar is also to cancel approval of each specification for a class of containers for the pesticide; or

- (b) approval of the only specification (or of all specifications) approved for containers for a pesticide, the Registrar is to cancel the registration of the pesticide.

(4) On cancellation of:

- (a) registration of a pesticide - the pesticide ceases to be a registered pesticide; and
- (b) registration of a label for containers for a pesticide - the label ceases to be a registered label for the containers; and

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- (c) approval of a specification for a class of containers for a pesticide - the containers cease to be approved containers.
 - (5) When the Registrar cancels the registration of a pesticide or a label or approval for a specification for a class of containers, the Registrar is to immediately serve notice of the cancellation on:
 - (a) any person who applied for registration of the pesticide or the label or for approval of the specification; and
 - (b) any other person who, in the Registrar's opinion, should be given notice of the cancellation.
- (13) **Section 21 (Notices of cancellation):**
 - Section 21 (1):
 - Omit "section 20", insert instead "this Division".
- (14) **Part 3:**
 - Omit "Division 2" from the heading appearing before section 22A, insert instead "Division 5".
- (15) **Section 58 (Appeals to District Court):**
 - After section 58 (1), insert:
 - (1A) A person may not appeal against the refusal of the Registrar to grant an application for registration of a pesticide if, at the time of the refusal:
 - (a) Division 3 of Part 3 applied to the application; and
 - (b) there was no current clearance for the pesticide.
- (16) **Section 72 (Search warrant):**
 - After "dwelling-house" wherever occurring in section 72 (2) and (3), insert "or other place".

[*Minister's second reading speech made in -
Legislative Assembly on 14 November 1989
Legislative Council on 22 November 1989*]