

**VETERINARY PREPARATIONS AND ANIMAL FEEDING STUFFS AMENDMENT
BILL 2003**

EXPLANATORY MEMORANDUM

Clause 1- Short title

Short title of the Bill

Clause 2 – the Act amended

States that the Act amended is the *Veterinary Products and Animal Feeding Stuffs Act 1976* (the Act).

Clause 3 – Long title replaced

The long title of the Act will be amended so that it reflects the objects of the amendments being made, namely to provide for the control of use of veterinary chemical products and the regulation of the sale of stock, stock products and carcasses that have been treated with those products.

Clause 4 – section 1 amended and consequential amendment to *Consumer Affairs Act 1971*

Amends the short title of the Act to use the contemporary term “veterinary chemical” used under the National Registration System for agricultural and veterinary chemical products (NRS) instead of the term “veterinary preparations”. Also indicates that these chemicals will be controlled under the Act.

Subclause (2) makes the appropriate name change in the reference to the Act in another Act – the *Consumer Affairs Act 1971*.

Clause 5 – Section 5 amended

Makes some necessary changes and additions to the interpretation provision.

Adds a definition of “approved label” which is a label approved under the national registration scheme.

Defines some terms by reference to the Agvet code of Western Australia which is the national scheme as adopted by Western Australia.

The term “veterinary chemical product” is defined by reference to the Agvet code except that it includes substances prepared by a vet or on a vets instructions, which are not within the definition under the Agvet code.

Essentially, a veterinary chemical product is a substance or mixture of substances that is represented as being suitable for, or is manufactured, supplied or used for, administration or application to an animal by any means, or consumption by an animal, as a way of directly or indirectly:

- (a) preventing, diagnosing, curing or alleviating a disease or condition in the animal or an infestation of the animal by a pest; or
- (b) curing or alleviating an injury suffered by the animal; or
- (c) modifying the physiology of the animal:
 - (i) so as to alter its natural development, productivity, quality or reproductive capacity; or
 - (ii) so as to make it more manageable; or
- (d) modifying the effect of another veterinary chemical product.

Clause 6 – Section 6 amended

A provision relating to the application of the Act that is no longer required will be removed. A provision stating that the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* will prevail in the event of inconsistency between the two Acts will be included. The Act referred to is the Western Australian component of the NRS, under which the Agvet Code of Western Australia applies.

Clause 7 – Section 7 amended

Includes a reference to “stock products” in section 7, which provides for exemptions from the operation of the Act for veterinary chemical products used solely for research purposes.

Clause 8 – Parts IV and V inserted

Inserts the new provisions, Part IV - section 15 and Part V - section 16.

Section 15 provides generally in subsection (1) that regulations may be made for the purpose of controlling the use of veterinary chemical products. Subsection (2) goes on to provide more specifically what the regulations may do, namely:

- (a) Prohibit, restrict or otherwise regulate the use of veterinary chemical products.
- (b) Have effect by reference to approved labels or to registration under the Agvet Code of Western Australia. (The Agvet Code contains the provisions of the national system the regulation of the evaluation, registration and control of the active constituents of veterinary chemical products and the manufacture and supply of veterinary chemical products.)
- (c) Provide for the duties and obligations of vets and others in relation to the use of veterinary chemical products.
- (d) Provide for the keeping of records and the verification of information.
- (e) Provide for penalties for offences against the regulations of up to \$5 000.

Section 16 provides for regulations prohibiting, restricting or otherwise regulating the sale of stock, stock products and carcasses treated with veterinary chemical products. These regulations are necessary to ensure that treated stock or products are not sold or consumed until they are free from any detrimental residue of a veterinary chemical product.

Subsection (2) provides that the regulations may have effect by reference to:

- (a) A permit issued under the Agvet code.
- (b) The instructions of a vet.
- (c) In the case of a registered veterinary chemical product (under the NRS) the direction etc on the label.

Clause 9 – Section 36AA inserted

Inserts a definition of “treated” for Part VA, which regulates the use of prescribed substances (hormonal growth promotants). “Treated” in relation to an animal means that the animal has been treated with a prescribed substance. This is necessary because “treated” is now used elsewhere in the Act to mean treated with a veterinary chemical product.

Clause 10 – Section 38 amended

Amends section 38 so that the powers of inspectors also apply in relation to the new provisions.

Clause 11 – Section 39 amended

Rewrites section 39 so that the power to require information also applies in relation to the new provisions.

Clause 12 – Section 40 amended

Amends section 40 so that the power to seize and detain also applies in relation to the new provisions.

Clause 13 – Section 40A amended

Amends section 40A so that other powers of inspectors (to require people to muster or confine stock, produce stock for inspection, allow samples to be taken) also apply in relation to the new provisions.

Clause 14 – Section 40B amended

Includes reference to the new parts in the provision for recovery of inspection costs.

Clause 15 – section 41 amended

A new subsection in section 41 to allow samples to be taken for testing in relation to the new provisions.

Clause 16 – Section 42A amended

A similar amendment to section 42A, which requires a person who sells or intends to sell stock, stock products or carcasses to provide a sample if required.

Clause 17 – Section 43 amended

A similar amendment to section 43, which prohibits tampering with samples.

Clause 18 – Section 44 amended

Includes a reference to a stock product in section 44, dealing with the use of samples for prosecutions.

Clause 19 – Section 48 amended

Includes reference to stock product in section 48, which allows publication of the results of analysis of samples taken.

Clause 20 – Section 60 amended

Includes reference to stock product in section 60(2), which makes refusal to allow a sample to be taken wilful obstruction.

Clause 21 – Section 61 amended

Amends section 61, provision for liability of some one on whose behalf a sale of any stock, stock product or carcass takes place.

Clause 22 – Section 62 amended

Amends section 62, provision for forfeiture of anything to which a conviction relates, to include reference to the new provisions.

Clause 23 – Section 64 amended

Allows 3 years for prosecution of an offence against the Act.

Clause 24 – Section 65 amended

Deletes reference to “registered” veterinary surgeon. The term veterinary surgeon has been defined to mean registered veterinary surgeon.

Clause 25 – Section 66 amended

Amends section 66, which puts the onus of proof of certain things on the defendant, to apply to the new provisions.

Clause 26 – Section 68 amended

Amends the regulation-making power in section 68 to include a reference back to the matters contained in the new sections 15 and 16.

Clause 27 – Amendment of various provisions referring to veterinary preparations

Changes “veterinary preparations” to “veterinary chemical products” in various sections of the Act not otherwise amended.