

The Senate

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Community Affairs  
Legislation Committee

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Food Standards Australia New Zealand Amendment  
Bill 2010 [Provisions]

June 2010

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ISBN 978-1-74229-307-3

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This document was produced by the Senate Community Affairs Committee Secretariat and printed by the Senate Printing Unit, Parliament House, Canberra.

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## 42<sup>nd</sup> Parliament

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# FOOD STANDARDS AUSTRALIA NEW ZEALAND AMENDMENT BILL 2010

## Reference

1.1 On 13 May 2010, the Hon Mark Butler MP, Parliamentary Secretary for Health, introduced the Food Standards Australia New Zealand Amendment Bill 2010 (the bill) into the House of Representatives.<sup>1</sup> On 13 May 2010, the Senate, on the recommendation of the Selection of Bills Committee, referred the provisions of the bill to the Senate Community Affairs Legislation Committee for inquiry and report by 15 June 2010.<sup>2</sup>

## Conduct of the Inquiry

1.2 Notice of the inquiry was posted on the committee's website, calling for submissions by 1 June 2010. The committee also directly contacted a number of interested parties to notify them of the inquiry and to invite submissions. 5 submissions were received as listed in Appendix 1.

1.3 The committee did not conduct a hearing as part of the inquiry, but wrote to relevant organisations seeking further information about the possible effects of the proposed legislation. Answers to these questions are provided at Appendix 2.

1.4 The committee thanks those who assisted with the inquiry.

## Purpose of the bill

1.5 The stated purpose of the bill is to implement a reform designed to streamline current regulatory processes which create circumstances whereby a primary producer may legally use a particular chemical product on their crops and livestock but may not legally be able to sell the treated produce in the domestic market.<sup>3</sup>

## Background

1.6 Under the existing legislation, both the Australian Pesticides and Veterinary Medicines Authority (APVMA) and Food Standards Australia New Zealand (FSANZ) are responsible for establishing safe limits for agricultural and veterinary chemical residues for agricultural and food purposes.<sup>4</sup>

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1 *House of Representatives Hansard*, 13 May 2010, p. 3474.

2 *Senate Hansard*, 13 May 2010, p. 3506.

3 *Food Standards Australia New Zealand Amendment Bill 2010*, Explanatory Memorandum, p. 1.

4 The Hon Mark Butler, MP, Parliamentary Secretary for Health, *House of Representatives Hansard*, 13 May 2010, p. 3474.

1.7 The Australian Pesticides and Veterinary Medicines Authority (APVMA) is responsible for determining maximum residue limits (MRL) for chemical products that are used on food producing crops or animals as part of the agricultural chemical approval process.<sup>5</sup> However, FSANZ is currently responsible for the inclusion of new or revised chemical MRLs in the Australia New Zealand Food Standards Code (the food code).<sup>6</sup>

1.8 Approval of chemical usage in the agricultural sector by APVMA includes an assessment of human health impacts resulting from chemical residue in food. However, a decision by APVMA to allow a certain amount of chemical residue in agricultural produce does not mean that the produce can be legally sold as food. FSANZ must amend the food code to permit a certain MRL for a chemical.<sup>7</sup>

1.9 In practice, when APVMA prescribes an MRL for a newly approved chemical, it submits an application to FSANZ to include that MRL in the food code. However, it can take up to a year or more before the food code is amended. During this time, while it is legal to use the chemical approved by APVMA, it is not legal to sell or hold the treated food product.<sup>8</sup>

1.10 In 2008, the Council of Australian Governments (COAG) adopted a recommendation by the Productivity Commission to reduce duplication on processes through FSANZ recognising MRLs set by APVMA and promulgating them in the food code for domestically grown produce.<sup>9</sup> This bill seeks to enact that agreement.

### **Provisions of the bill**

1.11 The bill will improve the efficiency of the regulatory process by allowing the APVMA to vary the MRL standard in the food code directly, rather than applying to FSANZ to amend the food code as part of APVMA's approval process. However, FSANZ will be required to conduct a dietary risk assessment (or review and prepare comments on a third-party assessment) and APVMA must consider this in their decision-making.<sup>10</sup>

1.12 FSANZ will retain the power to vary the MRL standard in the food code and the Australian and New Zealand Food Regulation Ministerial Council (the ministerial council) will retain oversight of the food code as a whole. The ministerial council will

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5 APVMA, Response to questions on notice, 4 June 2010 (answered 8 June 2010).

6 FSANZ, Response to questions on notice, 4 June 2010 (answered 9 June 2010).

7 Productivity Commission, *Chemicals and Plastics Regulation*, July 2008, pp 132–133.

8 Productivity Commission, *Chemicals and Plastics Regulation*, July 2008, p.132.

9 Council of Australian Governments, Meeting, 3 July 2008, *COAG Ministerial Taskforce on Chemicals and Plastics Regulatory Reform – Early Harvest Reforms*, p. 1.

10 *Food Standards Australia New Zealand Amendment Bill 2010*, Explanatory Memorandum, p. 1.

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also continue to have the capacity to request a review of any food standard established in the food code, including the MRL standard.<sup>11</sup>

1.13 The bill will amend the *Food Standards Australia New Zealand Act 1991*, with consequential amendments to the *Agricultural and Veterinary Chemicals (Administration) Act 1992* and the *Agricultural and Veterinary Chemicals Code Act 1994*.

## **Effects of the proposed legislation**

### ***Efficiency***

1.14 The proposed legislation is expected to improve the efficiency with which the approval of chemical products can occur. Submissions noted that the delay between APVMA applying to FSANZ to include a MRL in the food code averaged approximately twelve months.<sup>12</sup> CropLife and the Animal Health Alliance informed the committee that their members had experienced waits of up to 18 months.<sup>13</sup> As noted above, during this time, it would be legal for a farmer to use the particular chemical product, but not to sell the treated produce.

1.15 CropLife and the Animal Health Alliance noted that the delay was a significant issue for their sector.

This delay causes significant problems for users of agvet chemical products. A farmer may legally purchase a chemical product that has been assessed as safe for use by the APVMA and use that product in accordance with the label directions but ultimately find that he or she is not able to sell their produce because the APVMA-determined MRL is yet to be adopted within the Food Standards Code.<sup>14</sup>

1.16 The APVMA informed the committee that under the proposed legislation, it was expected that the approval time frame would be reduced to approximately four months.<sup>15</sup>

1.17 For this reason, the bill was supported by the majority of submitters to the inquiry, including Growcom and the Queensland Department of Employment, Economic Development and Innovation (DEEDI). One submission, from the Hon Dr Bob Such, MP, while not opposing the legislation, called for the use of chemicals and

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11 *Food Standards Australia New Zealand Amendment Bill 2010*, Explanatory Memorandum, p. 1.

12 APVMA, Response to questions on notice, 4 June 2010 (answered 8 June 2010).

13 CropLife and Animal Health Alliance, *Submission 1*, p. 2.

14 CropLife and Animal Health Alliance, *Submission 1*, p. 2.

15 APVMA, Response to questions on notice, 4 June 2010 (answered 8 June 2010).

pesticides to be kept to an absolute minimum and recommended increased provision of information about the use of chemicals on food products.<sup>16</sup>

### ***Potential health and safety risks***

1.18 The APVMA, FSANZ and the Department of Health and Ageing (DoHA) were of the opinion that the bill would not result in an increased risk to human health and safety.

1.19 APVMA informed the committee that all current dietary exposure measures would remain the same under the proposed legislation. The dietary assessment would be undertaken by APVMA and checked by FSANZ as is currently the case, with FSANZ undertaking its own dietary assessment if needed.<sup>17</sup>

1.20 FSANZ made a similar point, stating:

The Bill removes duplication of administrative processes, but the scientific assessment required to ensure the safety to human health and the environment remains unchanged. The Code will retain its current structure whereby no chemical residue in food is legal, unless there is a relevant prescribed MRL standard in the Code. MRLs are specific to the chemical product and to the produce on which the product may be used.

The Ministerial Council will still have the power to request a review of any food standard, including MRLs, and FSANZ will still be responsible for preparing or overseeing the dietary modelling used to determine the appropriateness of an MRL.<sup>18</sup>

1.21 A joint submission by CropLife and the Animal Health Alliance noted that the MRLs set by APVMA were generally set far beneath the level at which a chemical product could cause health concerns and instead were in fact set at a level that would ensure responsible use.

MRLs identify the highest concentration of a chemical residue legally permitted in food or animal feed following use of an agvet chemical product. If no MRL for a particular agvet chemical exists, no detectable residues are permitted. Consequently, MRLs are used to monitor the correct use of agvet chemical products. MRLs are not used in Australia as a measure of risk to public health from agvet chemical residues as they are set well below the level that would harm human health. If an MRL is exceeded, it usually indicates that an agvet chemical has been used incorrectly - it does not normally indicate a risk to public health or consumer safety.<sup>19</sup>

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16 The Hon Dr Bob Such, Member for Fisher, *Submission 4*, p. 1.

17 APVMA, Response to questions on notice, 4 June 2010 (answered 8 June 2010).

18 FSANZ, Response to questions on notice, 4 June 2010 (answered 9 June 2010).

19 CropLife and Animal Health Alliance, *Submission 1*, p. 2.

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1.22 DoHA informed the committee that the approval process for agricultural chemical products currently includes, along with other considerations, the establishment of acceptable daily intakes and acute reference doses by the Office of Chemical Safety and Environmental Health in DoHA and a dietary risk assessment prepared or reviewed by FSANZ. DoHA noted that the proposed legislation would not change this scientific assessment process upon which a decision to set an MRL is based and would therefore not result in a risk to human health and safety.<sup>20</sup>

1.23 Furthermore, DoHA noted that:

- the food code would retain its current structure, under which no chemical residue in food would be legal without a relevant approved MRL;
- FSANZ retained the power to make urgent variations to the food code for the purpose of protecting public health and safety;
- the ministerial council was also able to request a review of any food standard including a MRL standard; and
- in more than ten years of operation, FSANZ and the ministerial council have never disagreed with an MRL proposed by the APVMA on the basis of public health and safety.<sup>21</sup>

### *Committee view*

1.24 Based on the evidence provided during the course of this inquiry, the committee is satisfied that the proposed legislation will not increase risks to human health and safety. Given the efficiency gains arising from the streamlining of the approval process, and the absence of opposition to the proposed changes, the committee supports the proposed legislation.

## **Recommendation 1**

**1.25 The committee recommends that the Senate pass the bill.**

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20 Department of Health and Ageing, response to question on notice, 4 June 2010 (received 9 June 2010).

21 Department of Health and Ageing, response to question on notice, 4 June 2010 (received 9 June 2010).



## **APPENDIX 1**

### **Submissions received by the Committee**

- 1** Joint Submission by CropLife Australia Ltd and Animal Health Alliance (Australia) Ltd
- 2** Growcom
- 3** Biosecurity Queensland, The Department of Employment, Economic Development & Innovation (DEEDI)
- 4** The Hon Dr Bob Such MP
- 5** Department of Health and Ageing

### **Answers to Questions on Notice**

- 1** The Australian Pesticides and Veterinary Medicines Authority, received 8 June 2010
- 2** Food Standards Australia New Zealand, received 9 June 2010
- 3** Department of Health and Ageing, received 10 June 2010

