



Agricultural and Veterinary Chemicals Act 1994

No. 36 of 1994

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About this compilation

This compilation

This is a compilation of the *Agricultural and Veterinary Chemicals Act 1994* that shows the text of the law as amended and in force on 1 July 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement.....	1
3 Object.....	1
4 Definitions.....	2
5 Jervis Bay Territory.....	4
6 Extension to external Territories	4
Part 2—The Agvet Code, and the Agvet Regulations, of the participating Territories	5
7 Application of Agvet Code in the participating Territories	5
8 Application of Agvet Regulations in the participating Territories.....	5
8A Application of legislative instruments in the participating Territories.....	5
9 Agvet Code of the participating Territories taken to be an Act.....	6
10 Relationship between the Agvet Code and Agvet Regulations of the participating Territories and the laws of a participating Territory	6
Part 3—Citing the Agvet Code and the Agvet Regulations	7
11 References to Agvet Code and Agvet Regulations of other jurisdictions	7
12 References to Agvet Codes and Agvet Regulations	7
Part 4—Application of Agvet Codes to the Crown	9
13 Agvet Code of the participating Territories.....	9
14 Agvet Code of other jurisdictions.....	9
15 Crown not liable to prosecution.....	9
16 This Part overrides the prerogative.....	9
Part 5—Performance of functions that corresponding laws of States confer on Commonwealth authorities and officers	10
17 Ministers.....	10
18 Commonwealth authorities and officers.....	10
18A Conferral of duties, functions and powers	11
19 <i>Gazette</i> notices under corresponding laws.....	11

Part 6—Jurisdiction of courts	12
20 Jurisdiction of Federal Court and courts of Territories	12
21 Exercise of jurisdiction under cross-vesting provisions.....	12
Part 7—Miscellaneous	13
22 Orders	13
23 Manufacturing principles.....	13
24 Repeal and transitional provisions.....	14
25 Regulations.....	14
Part 8—Imposition of fees and taxes	15
26 Fees (including taxes).....	15
Endnotes	16
Endnote 1—About the endnotes	16
Endnote 2—Abbreviation key	18
Endnote 3—Legislation history	19
Endnote 4—Amendment history	21

An Act to make a law for the government of certain Territories in relation to the evaluation, registration and control of agricultural and veterinary chemical products, and for related purposes

Recognising:

- (a) that the protection of the health and safety of human beings, animals and the environment is essential to the well-being of society and can be enhanced by putting in place a system to regulate agricultural chemical products and veterinary chemical products; and
- (b) that the principle of ecologically sustainable development requires a regulatory system that is designed to ensure that the use of such products today will not impair the prospects of future generations; and
- (c) that the furthering of trade and commerce between Australia and places outside Australia, and the present and future economic viability and competitiveness of primary industry and of a domestic industry for manufacturing and formulating such products, are essential for the well-being of the economy and require a system for regulating such products that is cost-effective, efficient, predictable, adaptive and responsive; and
- (d) that it is desirable to establish a regulatory system that is open and accountable and gives opportunity for public input with respect to the regulation of such products; and
- (e) that the system should, so far as practicable, be uniform throughout Australia; and

- (f) that uniformity could best be achieved by the enactment of legislation by the Parliament of the Commonwealth as a law for the government of the Australian Capital Territory and the adoption of that legislation by the Parliaments and legislatures of the States and the Northern Territory:

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Agricultural and Veterinary Chemicals Act 1994*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 12 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

3 Object

- (1) The object of this Act is to make a law for the government of certain Territories in relation to the evaluation, registration and control of agricultural chemical products and veterinary chemical products, and for related purposes.
- (2) This Act has effect, and is to be interpreted, accordingly.
- (3) Despite subsection (1) and section 9, this Act, the *Agricultural and Veterinary Chemicals Code Act 1994* and the Agvet Code of the participating Territories are not, for the purposes of section 2H of

the *Acts Interpretation Act 1901*, Acts providing for the administration or government of a Territory.

4 Definitions

In this Act, unless the contrary intention appears:

Agvet Code of the participating Territories has the meaning given by subsection 5(1) of the *Agricultural and Veterinary Chemicals Code Act 1994*.

Agvet Codes has the meaning given by section 12.

Agvet Regulations has the meaning given by section 12.

Agvet Regulations of the participating Territories has the meaning given by subsection 5(2) of the *Agricultural and Veterinary Chemicals Code Act 1994*.

applicable provision, in relation to a jurisdiction, means a provision of:

- (a) the Agvet Code of that jurisdiction; or
- (b) the Agvet Regulations of that jurisdiction; or
- (c) a law of the Commonwealth that applies in that jurisdiction in relation to a provision of the Agvet Code or Agvet Regulations of that jurisdiction.

APVMA means the Australian Pesticides and Veterinary Medicines Authority continued in existence by section 6 of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

Australia includes the external Territories to which this Act extends.

authority, in relation to the Commonwealth, includes:

- (a) a body corporate, or an unincorporated body, established for a public purpose by or under an Act; and
- (b) a tribunal or authority established by or in accordance with an Act.

chemical product has the same meaning as in the Agvet Code of the participating Territories.

confer, in relation to a duty, includes impose.

corresponding Act means an Act of a State that corresponds to this Act.

corresponding law means:

- (a) a corresponding Act; or
- (b) regulations made under a corresponding Act; or
- (c) the Agvet Code, Agvet Regulations, or another applicable provision, of a State; or
- (d) rules of court made under a corresponding Act.

instrument means any document whatever, including:

- (a) an Act or an instrument made under an Act; or
- (b) a law of a participating Territory or an instrument made under such a law; or
- (c) an award or other industrial determination or order, or an industrial agreement; or
- (d) any other order (whether executive, judicial or otherwise); or
- (e) a notice, certificate or licence; or
- (f) an agreement; or
- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose; or
- (h) an indictment, presentment, summons or writ; or
- (i) any other pleading in, or process issued in connection with, a legal or other proceeding.

jurisdiction means:

- (a) a State; or
- (b) the participating Territories.

modifications includes additions, omissions and substitutions.

officer, in relation to the Commonwealth, includes:

- (a) a Minister; and
-

Section 5

- (b) a person holding:
 - (i) an office established by or under an Act; or
 - (ii) an appointment made under an Act; or
 - (iii) an appointment made by the Governor-General or a Minister but not under an Act; and
- (c) a person who is a member or officer of an authority of the Commonwealth; and
- (d) a person who is in the service or employment of the Commonwealth, or of an authority of the Commonwealth, or is employed or engaged under an Act.

participating Territory means:

- (a) the Australian Capital Territory; or
- (aa) Norfolk Island; or
- (b) another Territory that is declared by regulations in force under section 25 to be a participating Territory.

repealed Act means the *Agricultural and Veterinary Chemicals Act 1988*.

State includes the Northern Territory.

Territory does not include the Northern Territory, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands.

5 Jervis Bay Territory

For the purposes of this Act, the Jervis Bay Territory is taken to be part of the Australian Capital Territory.

6 Extension to external Territories

This Act extends to every external Territory that is a participating Territory.

Part 2—The Agvet Code, and the Agvet Regulations, of the participating Territories

7 Application of Agvet Code in the participating Territories

- (1) The Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* as in force for the time being applies as a law for the government of the participating Territories.
- (2) The provisions of that Code as so applying are in addition to, and do not affect, the *Industrial Chemicals (Notification and Assessment) Act 1989*, the *Food Standards Australia New Zealand Act 1991* and the *Therapeutic Goods Act 1989*.
- (3) The powers to require the recall of chemical products that are conferred on the APVMA under that Code as so applying are in addition to, and do not affect, the powers conferred by section 122 of Schedule 2 to the *Competition and Consumer Act 2010*, as that section applies as a law of the Commonwealth.
- (5) The provisions of that Code as so applying that relate to the disclosure of confidential commercial information do not affect the operation of the *Freedom of Information Act 1982*.

8 Application of Agvet Regulations in the participating Territories

The regulations in force for the time being under section 6 of the *Agricultural and Veterinary Chemicals Code Act 1994* apply as regulations in force for the purposes of the Agvet Code of the participating Territories.

8A Application of legislative instruments in the participating Territories

Legislative instruments in force for the time being under the *Agricultural and Veterinary Chemicals Code Act 1994* apply as

Section 9

legislative instruments in force for the purposes of the Agvet Code of the participating Territories.

9 Agvet Code of the participating Territories taken to be an Act

The Agvet Code of the participating Territories is taken for all purposes to be an Act.

10 Relationship between the Agvet Code and Agvet Regulations of the participating Territories and the laws of a participating Territory

(1) In this section:

the Code means the Agvet Code, and the Agvet Regulations, of the participating Territories.

(2) The object of this section is to avoid or resolve inconsistencies between the Code and the laws of a participating Territory.

(3) Regulations under section 25:

(a) may provide that specified laws of a participating Territory have effect despite the Code or specified provisions of the Code; and

(b) may provide that the Code, or specified provisions of the Code, has or have effect with such modifications as the regulations prescribe.

(4) Regulations under section 25 that take effect within 12 months after an external Territory becomes a participating Territory may amend or repeal laws of that Territory.

Part 3—Citing the Agvet Code and the Agvet Regulations

11 References to Agvet Code and Agvet Regulations of other jurisdictions

- (1) This section has effect for the purposes of an Act, a law of a participating Territory, or an instrument made under an Act or such a law.
- (2) If a law of a State provides that the Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* as in force for the time being applies as a law of that State, the Agvet Code of that State is the Code so set out, applying as a law of that State.
- (3) If a law of a State provides that the regulations in force for the time being under section 6 of the *Agricultural and Veterinary Chemicals Code Act 1994* apply as regulations in force for the purposes of the Agvet Code of that State, the Agvet Regulations of that State are those regulations as so applying.

12 References to Agvet Codes and Agvet Regulations

- (1) The object of this section is to help ensure that the Agvet Code of the participating Territories can operate, in appropriate circumstances, as if that Code, together with the Agvet Code of each State, constituted a single national Agvet Code applying throughout Australia.
- (2) Subject to this section, a reference in an instrument to the Agvet Codes, or to the Agvet Regulations, is taken, for the purposes of the laws of the Commonwealth and of the laws of the participating Territories:

Part 3 Citing the Agvet Code and the Agvet Regulations

Section 12

- (a) to be a reference to the Agvet Code, or to the Agvet Regulations, as the case may be, of the participating Territories; and
 - (b) to include a separate reference to the Agvet Code, or to the Agvet Regulations, as the case may be, of each State.
- (3) Subsection (2) has effect except so far as the contrary intention appears in the instrument or the context of the reference otherwise requires.

Part 4—Application of Agvet Codes to the Crown

13 Agvet Code of the participating Territories

The Agvet Code of the participating Territories binds the Crown in all its capacities.

14 Agvet Code of other jurisdictions

The Agvet Code of each State binds the Crown in right of the Commonwealth and of the Australian Capital Territory.

15 Crown not liable to prosecution

Nothing in this Part, or in the Agvet Code of any jurisdiction, renders the Crown liable to be prosecuted for an offence.

16 This Part overrides the prerogative

If, because of this Part, a provision of a law of the Commonwealth or of a State binds the Crown in right of the Commonwealth or of the Australian Capital Territory, the Crown in that capacity is subject to that provision despite any prerogative right or privilege.

Part 5—Performance of functions that corresponding laws of States confer on Commonwealth authorities and officers

17 Ministers

A corresponding law may confer prescribed functions and powers on a Minister.

18 Commonwealth authorities and officers

- (1) A corresponding law of a jurisdiction may confer duties, functions and powers in respect of any matter arising in relation to the applicable provisions of the jurisdiction:
 - (a) upon the Administrative Appeals Tribunal; or
 - (b) upon an inspector appointed under subsection 69F(1) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*; or
 - (c) upon an analyst approved under section 69G of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

Note: Subsection 7(2) of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* deals with functions and powers conferred on the APVMA by State laws.

- (2) A corresponding law may confer such other duties, functions and powers as are prescribed upon authorities and officers of the Commonwealth.
- (3) In enacting subsections (1) and (2), it is the intention of the Parliament to rely on all powers available to it under the Constitution.

18A Conferral of duties, functions and powers

- (1) To the extent that an authority or officer of the Commonwealth (including a Minister) has a duty, function or power that is conferred, or taken to be conferred, by a corresponding law:
 - (a) that duty, function or power is not taken to be conferred by Commonwealth law; and
 - (b) section 18 is not taken to authorise the conferral of the duty, function or power;if the conferral or authorisation would contravene a constitutional doctrine restricting the duties that may be conferred on authorities or officers of the Commonwealth, or would otherwise exceed the legislative power of the Commonwealth.
- (2) If, to ensure the validity of the conferral of a duty, function or power purportedly conferred on an authority or officer of the Commonwealth (including a Minister) by a corresponding law, it is necessary that the duty, function or power be conferred by a law of the Commonwealth, rather than by a law of a State, the duty, function or power is taken to be conferred by this Act to the extent necessary to ensure that validity.
- (3) If, because of subsection (2), this Act is taken to confer a duty, function or power upon an authority or officer of the Commonwealth (including a Minister), it is the intention of the Parliament to rely on all powers available to it under the Constitution to support the conferral of the duty, function or power.
- (4) Subsections (2) and (3) do not limit section 18.

19 *Gazette* notices under corresponding laws

A corresponding law may require or permit a document, or a copy of a document, to be published in the *Gazette*.

Part 6—Jurisdiction of courts

20 Jurisdiction of Federal Court and courts of Territories

- (1) Jurisdiction is conferred on the Federal Court of Australia with respect to all civil matters arising under the Agvet Code of the participating Territories or the Agvet Regulations of the participating Territories.
- (2) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977*, jurisdiction is conferred on the courts of the participating Territories with respect to all civil matters arising under the Agvet Code of the participating Territories or the Agvet Regulations of the participating Territories.
- (3) Jurisdiction is conferred on the courts of the participating Territories with respect to all criminal matters arising under the Agvet Code of the participating Territories or the Agvet Regulations of the participating Territories.
- (4) The Federal Court of Australia may exercise jurisdiction (whether original or appellate) conferred on that Court by a law of the Northern Territory corresponding to this Part with respect to matters arising under the Agvet Code or the Agvet Regulations of the Northern Territory.

21 Exercise of jurisdiction under cross-vesting provisions

This Act does not affect the operation of a provision of any other law of the Commonwealth, or any law of a State or of a participating Territory, relating to cross-vesting of jurisdiction.

Part 7—Miscellaneous

22 Orders

Orders in force for the time being under section 7 of the *Agricultural and Veterinary Chemicals Code Act 1994* have the same effect for the purposes of the Agvet Code of the participating Territories as they would have if they were provisions of the Agvet Regulations of those Territories.

23 Manufacturing principles

- (1) The APVMA may, by legislative instrument, determine for the purposes of Part 8 of the Agvet Code of the participating Territories principles to be observed in the manufacture of chemical products that are consistent with the Agvet Codes, the Agvet Regulations and the laws of any jurisdiction that relate to occupational health or safety.
- (2) The manufacturing principles may relate to:
 - (a) the standards to be maintained, and the equipment to be used, at premises used for the manufacture of chemical products; or
 - (b) procedures for quality assurance and quality control to be employed in the manufacture of chemical products; or
 - (c) the qualifications and experience required of persons employed in the manufacture of chemical products; or
 - (d) the manufacturing practices to be employed in the manufacture of chemical products; or
 - (e) other matters relevant to the quality, safety and efficacy of chemical products that are manufactured in this jurisdiction; and may include codes of good manufacturing practice.
- (3) Despite subsection 44(1) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a legislative instrument made under subsection (1) of this section.

24 Repeal and transitional provisions

- (1) The *Agricultural and Veterinary Chemicals Act 1988* is repealed.
- (2) Despite subsection (1), section 47 of the repealed Act:
 - (a) continues in force for the purposes of its application in relation to the period beginning on 1 July 1993 and ending immediately before the commencement of this Act; and
 - (b) if that period is shorter or longer than one year—applies as if that period were a year.

25 Regulations

The Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed.

Part 8—Imposition of fees and taxes

26 Fees (including taxes)

This section imposes the fees (including fees that are taxes) that the Agvet Regulations of the participating Territories prescribe.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Agricultural and Veterinary Chemicals Act 1994	36, 1994	15 Mar 1994	15 Mar 1995 (s 2(2))	
National Food Authority Amendment Act 1995	152, 1995	16 Dec 1995	Sch 2 (item 1): 1 July 1996 (s 2(2) and gaz 1996, No S230)	—
Jurisdiction of Courts Legislation Amendment Act 2000	57, 2000	30 May 2000	Sch 1 (items 28–30): 1 July 2000 (s 2(2) and gaz 2000, No GN25)	—
Australia New Zealand Food Authority Amendment Act 2001	81, 2001	10 July 2001	s 2(6): 10 July 2001 s 2(1)(a) Sch 3 (item 1): 1 July 2002 (s 2(2), (5) and gaz 2002, No GN30)	s 2(6)
Agricultural and Veterinary Chemicals Legislation Amendment Act 2001	83, 2001	11 July 2001	Sch 2: never commenced (s 2(2)) Remainder: 11 July 2001 (s 2(1))	Sch 1 (item 4)
Agricultural and Veterinary Chemicals Legislation Amendment (Name Change) Act 2004	79, 2004	23 June 2004	Sch 1 (items 1–6): 30 July 2004 (s 2(1) item 2 and gaz 2004, No GN30)	—
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Sch 6 (item 151): 1 Jan 2011 (s 2(1) item 7)	—

Agricultural and Veterinary Chemicals Act 1994

19

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Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (item 45) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
Agricultural and Veterinary Chemicals Legislation Amendment Act 2013	125, 2013	29 June 2013	Sch 6 (items 13–17): 1 July 2014	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 46, 47): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 7): 5 Mar 2016 (s 2(1) item 2)	—
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (items 9, 10): 1 July 2016 (s 2(1) item 7)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s. 3.....	am. No. 46, 2011
s. 4.....	am. No. 57, 2000; No. 83, 2001; No. 79, 2004; No 33, 2016
Part 2	
s. 7.....	am. No. 152, 1995; No. 81, 2001; No. 79, 2004; No. 103, 2010; No 125, 2013
s 8A.....	ad No 125, 2013
Part 4	
s 14.....	am No 59, 2015
s 16.....	am No 59, 2015
Part 5	
s. 18.....	rs. No. 83, 2001
Note to s. 18(1)	am. No. 79, 2004
s. 18A.....	ad. No. 83, 2001
Part 6	
s. 20.....	am. No. 57, 2000
Part 7	
s. 23.....	am. No. 79, 2004; No 125, 2013; No 126, 2015