



Tasmania

DEPARTMENT of HEALTH
and HUMAN SERVICES

OFFICE OF THE SECRETARY

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The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Subject: Agsafe revocation and substitution – consultation

I refer to your letter dated 5 January 2007 seeking comments in respect to an application for revocation and substitution lodged by Agsafe Limited (Agsafe) under the *Trade Practices Act 1974*.

Your questions and our comments follow.

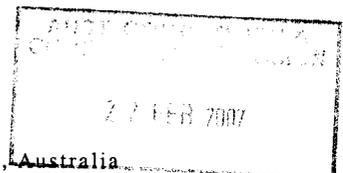
- 1. Could you please identify the relevant legislation and provisions that your agency may administer which regulate the storage handling, transport and sale of agricultural and veterinary chemicals? What type of businesses does this legislation apply to? For example, manufacturers, distributors, retailers or consumers of agricultural and veterinary chemicals.**

The *Poisons Act 1971* (the Act) and the *Poisons Regulations 2002* (the Regulations) regulate the manufacture, distribution, sale and supply of a number of agricultural chemicals and veterinary chemicals where they are included in the *Poisons List*.

The Act and Regulations specifies packaging and labelling requirements for Schedule 5 and 6 poisons, however there are no restrictions operating in respect of possession or supply through the distribution and supply chain. Restrictions, however, do apply to the supply of Schedule 7 poisons and for a subset of Schedule 7 poisons (Appendix J poisons) supply must only be to authorised persons.

- 2. How does the agency ensure that businesses comply with this legislation? For example, are there audits or inspections conducted by the agency?**

Licences for high risk poisons are renewable on an annual basis and inspections are conducted on a risk management basis.



- 3. Is there a requirement in the legislation, regulations or practice of the agency that businesses must obtain accreditation through the Agsafe Guardian Program as a means of demonstrating compliance with the legislation?**

Agsafe accreditation is required for suppliers of Schedule 7 Appendix J agricultural poisons as a part of licence conditions.

- 4. Does the legislation provide for sanctions to be imposed on businesses who fail to meet the legislative requirements? If yes, could you please explain what sanctions are available?**

Yes, a maximum penalty of 10 penalty units (\$1,000) applies for the breach of conditions of a licence issued under Regulation 73.

- 5. Does the agency issue compliance certificates, or any other mechanism, to certify that a business has complied with the relevant legislative requirements?**

No.

- 6. Does the agency receive complaints about businesses who may not be complying with the legislative requirements? If yes, what happens to these complaints and who lodges these complaints?**

No complaints have been received. Complaints would be investigated.

- 7. Does the agency receive complaints about Agsafe's Guardian Program? If yes, please outline the nature of the complaints.**

No complaints have been received.

- 8. Does the agency support the ability for Agsafe and its members to boycott (through the imposition of trading sanctions) any business involved in the storage, handling, transport and distribution of agricultural and veterinary chemicals that has not been accredited under the Guardian Program? Please explain why or why not.**

The Agency supports the Agsafe scheme as it complements the requirements of the Act and the Regulations. The Agsafe auditing of conformity with standards ensures a good level of compliance with the various State and Commonwealth legislative requirements.

- 9. The accreditation scheme administered by Agsafe has been in operation for a number of years. What has been the agency's experience with the Agsafe accreditation scheme? Does the agency have any comments about the benefits of the Agsafe accreditation scheme?**

The experience of the agency with Agsafe accreditation scheme has been positive. This system specifies requirements for the safe transport handling and storage of packaged agricultural and veterinary chemicals and compliments and supports the requirements of Tasmanian poisons legislation. The scheme is also likely to offer further public benefit given that a number of the restricted dangerous poisons are also security sensitive chemicals.

If you have any questions in respect to this matter, please telephone Rowanne Brown on (03) 6222 7728.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Forrest', with a long horizontal stroke extending to the right.

Dr Martyn Forrest
Secretary

17 February 2007