New Zealand Law Society
Te Kāhui Ture o Aotearoa

# Agricultural Compounds and Veterinary Medicines Amendment Bill

Submission of the New Zealand Law Society Te Kāhui Ture o Aotearoa

5 June 2026

## 1 Introduction

1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Agricultural Compounds and Veterinary Medicines Amendment Bill (**Bill**), which seeks to amend the Agricultural Compounds and Veterinary Medicines Act 1997 (**ACVM Act**) and implement policy changes recommended by the Agricultural and Horticultural Products Regulatory Review undertaken by the Ministry for Regulation.

1.2 This submission, prepared with input from the Law Society's Public Law Committee,[1] makes recommendations to improve the clarity and workability of the Bill.

1.3 The Law Society does not wish to be heard, but would be happy to provide written responses to any questions the Select Committee may have.

## 2 Risks associated with the use of agricultural compounds

2.1 Section 4(a) of the ACVM Act provides that the purpose of that Act is to prevent or manage risks associated with the use of agricultural compounds, being risks to public health, trade in primary produce, animal welfare, and agricultural security.

2.2 The Bill contains a number of provisions which reference each of these risks:

(a) New section 15(4)(a) in clause 18;

(b) New section 30A(1)(b) in clause 33;

(c) New section 30B(2)(a) in clause 34;

(d) New section 35AAI(1)(b) in clause 40; and

(e) New section 35AAJ(2) in clause 40.

2.3 Given section 4(a) of the ACVM Act already defines the term 'risks' as risks to public health, trade in primary produce, animal welfare, and agricultural security, the above provisions of the Bill could be simplified by referring to 'risks' identified in section 4(a).

## 3 Validity of exemptions granted under section 8AA (clause 10)

3.1 New section 8AA in clause 10 empowers the Director-General of the Ministry for Primary Industries (**Director-General**) to exempt an agricultural compound or a class of agricultural compounds from registration requirements. Subsection (7) provides that a failure to comply with the consultation requirements in subsection (5) does not affect the validity of any exemption that is ultimately granted.

3.2 Such provisions are known as validating provisions.'[2] Validating provisions are generally used where it is appropriate to ensure that minor or technical consultation failures do not affect the validity of any resulting decisions (for example, because an individual

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1 Information about this Committee is available on the Law Society's website: www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees/public-law-committee/.

2 See Legislation Guidelines *Legislation Design and Advisory Committee* (**Legislation Guidelines**) (2021 ed, September 2021) at [19.4] for more information about validating provisions.

missed out on being consulted, or some minor information was not communicated during consultation).[3]

3.3 We assume that is the intention of subsection (7). However, the drafting of this provision appears to have broader effect, and could potentially be used to validate exemptions despite a failure to consult more generally (i.e., contrary to the requirements of subsection (5)). If used in this way, subsection (7) could undermine the consultation requirements in subsection (5).

3.4 The *Legislation Guidelines* state that validating provisions should not protect against a deliberate decision not to consult in the face of a statutory obligation.[4] The Law Society therefore invites the Select Committee to carefully consider whether the drafting of subsection (7) could have this effect – if this appears to be the case, we recommend deleting this subsection.

3.5 We also note that, while validating provisions are not uncommon in legislation, subsection (7) is likely unnecessary here: the consultation requirements in subsection (5) are not unreasonably onerous, and give the Director-General flexibility to determine how the consultation requirements could be satisfied (for example, by enabling them to identify those who may be affected by an exemption).[5] In our view, this drafting already gives the Director-General adequate leeway to proceed despite any minor or technical failures during the consultation process.

3.6 If the Select Committee decides to delete subsection (7), we also suggest replacing the phrase 'done everything reasonably practicable' in subsection (5)(a) with 'taken reasonable steps'. This amendment would give the Director-General more flexibility to fulfil the consultation requirements in subsection (5) without the need for a validating provision.

## 4 Reasonable opportunities to be heard (clauses 34 and 40)

4.1 New sections 30B (clause 34) and 35AAJ (clause 40) provide that, before executing a notice of suspension or extension of suspension, the Director-General must give the affected registrant or consent holder a 'reasonable opportunity to be heard'. As these provisions help to uphold registrants' and consent-holders' rights to natural justice,[6] it could be helpful to specify in more detail (either in the ACVM Act or in regulations made under the Act) what constitutes a reasonable opportunity to be heard, and whether this requires, for example, an opportunity to make written and/or oral submissions.

4.2 The Law Society acknowledges that it is not uncommon for this term to be undefined in legislation,[7] and that the drafting of section 30B carries over the current requirement in section 30A to give registrants a reasonable opportunity to be heard. However, the Select

3 Legislation Guidelines at [19.4].
4 Legislation Guidelines at [19.4].
5 New section 8AA(5)(a).
6 As affirmed by section 27 of the New Zealand Bill of Rights Act 1990.
7 See, for example, the Patents Act 2013, Plant Variety Rights Act 2022, Building Act 2004, Smokefree Environments and Regulated Products Act 1990, and Education and Training Act 2020.

Committee has the opportunity to consider whether more specific requirements could be helpful here.

4.3 We also recommend amending sections 30B(3) and 35AAJ(3) to improve their drafting: these subsections relate only to subsection (2) of each respective section, and this could be more clearly conveyed if the term 'However' in sections 30B(3) and 35AAJ(3) is replaced with the phrase 'If subsection (2) applies'.

## 5 Suspension of consents (clause 40)

5.1 New section 35AAI(6) in clause 40 provides that if a consent to import, manufacture or sell an agricultural compound is suspended under that section, the Director-General may direct the consent holder to take action appropriate to 'deal with' any affected agricultural compound (subsection (6)(a)), and exercise any other powers conferred upon them under the ACVM Act (subsection (6)(b)). New section 55(1)(ddc) in clause 53(4) also states it is an offence to knowingly fail to comply with a direction given under section 35AAI(6).

5.2 Subsection (6)(a), which empowers the Director-General to direct a consent holder to 'deal with' an agricultural compound is widely drafted, and does not offer any guidance as to what steps a consent holder might be expected to take to comply with such a direction. This is undesirable, as a failure to comply with a direction could, in some circumstances, attract criminal liability under new section 55(1)(ddc).

5.3 The Law Society therefore recommends redrafting subsection (6)(a) in a way that clarifies what actions might need to be taken to comply with directions issued under this new section – if, for example, the purpose of this provision is to ensure affected agricultural compounds are destroyed or contained, this provision could refer to directions to 'dispose of, treat, destroy, contain, recall, or otherwise deal with' the affected compound.

5.4 We also presume the offence in new section 55(1)(ddc) would be committed only where a consent holder knowingly fails to comply with directions given under subsection (6)(a), and not any other directions that may be issued by the Director-General when exercising other powers (as permitted under subsection (6)(b)). If so, we recommend changing the reference to '35AAI(6)' in new section 55(1)(ddc) to '35AAI(6)(a)' to more clearly identify the scope of this offence.

## 6 Certificates of compliance with manufacturing practice standards (clause 42)

6.1 New section 35FE in clause 42 allows the Director-General to withdraw a certificate of compliance where it was incorrectly or inappropriately given. The term 'inappropriately' is undefined, and the Bill and the ACVM Act do not offer any guidance as to what might be considered inappropriate in these circumstances.

6.2 We recommend replacing the references to 'inappropriately' issued certificates with wording that identifies the specific circumstances where withdrawal might be appropriate (and this could include, for example, circumstances where the certificate-holder was ineligible for a certificate or provided misleading information at the time of application). The Select Committee could also consider whether section 35D of the ACVM

Act, which contains a similar reference to 'inappropriately' issued certificates of compliance, could be redrafted to provide more clarity as to when a certificate might be withdrawn.

6.3 We also invite the Select Committee to consider whether decisions made under section 35FE to withdraw certificates of compliance should be subject to the internal review procedure that is currently available under section 77A of the ACVM Act.[8] This would enable those who are dissatisfied with a decision which has resulted in the withdrawal of their certificate of compliance to seek a review of that decision.

Mark Sherry
**Vice-President**

8 We note clause 71 of the Bill will renumber section 77A as section 85.