

1995—No. 510

PESTICIDES ACT 1978—REGULATION

(Pesticides Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Pesticides Act 1978, has been pleased to make the Regulation set forth hereunder.

PAM ALLAN, M.P.,
Minister for the Environment.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Pesticides Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. (1) In this Regulation:

“**Food Standards Code**” means the code of that name that is adopted, as a law of New South Wales, under the Food Act 1989;

“**the Act**” means the Pesticides Act 1978.

- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

**PART 2—LICENCES AND APPROVALS FOR THE
APPLICATION OF PESTICIDES FROM AIRCRAFT**

Applications for licences: sec. 22A

- 4. (1)** For the purposes of section 22A (2) (a) of the Act:
- (a) Form 1 is the prescribed form for an application for an aircraft (pesticide applicator) licence; and
 - (b) Form 2 is the prescribed form for an application for a pilot (pesticide rating) licence.
- (2)** For the purposes of section 22A (2) (b) of the Act:
- (a) \$50 is the prescribed fee to accompany an application for an aircraft (pesticide applicator) licence; and
 - (b) \$50 is the prescribed fee to accompany an application for a pilot (pesticide rating) licence.
- (3)** The fee to accompany an application for a pilot (pesticide rating) licence may be waived if the applicant is the holder of a current equivalent licence issued in another State or Territory.

Particulars to accompany application for licence: secs. 22B, 22G

- 5. (1)** For the purposes of section 22B of the Act, the following particulars are required to accompany an application for an aircraft (pesticide) applicator licence:
- (a) evidence that the applicant is the holder of an air operator's certificate endorsed for agricultural operations and issued under the Air Navigation Regulations of the Commonwealth;
 - (b) the date of expiry of the approved insurance policy referred to in paragraph (b) of that section.
- (2)** For the purposes of section 22C of the Act, the following particulars are required to accompany an application for a pilot (pesticide rating) licence:
- (a) evidence that the applicant is the holder of a current commercial or senior commercial pilot licence issued under the Air Navigation Regulations of the Commonwealth and endorsed with an agricultural rating;
 - (b) evidence that the applicant:
 - (i) is the holder of a certificate of approval issued under the Spray Safe Accreditation Program conducted by the Aerial Agricultural Association of Australia; or

- (ii) has passed an examination conducted in accordance with the requirements of Schedule 2 or has passed an equivalent examination in another State or Territory;
- (c) details of any pesticide to which the licence should be restricted;
- (d) particulars of any licence or certificate issued to the applicant in New South Wales or any other State or Territory in relation to the aerial application of pesticides or of any refusal to issue any such licence or certificate or the cancellation or suspension of any such licence or certificate.

Prescribed qualifications for the issue of a pilot (pesticide rating) licence: secs. 226, 22H

6. (1) For the purposes of section 22G (a) of the Act, an applicant for an aircraft (pesticide) applicator licence has the prescribed qualifications if the applicant holds an air operator's certificate endorsed for agricultural operations and issued under the Air Navigation Regulations of the Commonwealth.

(2) For the purposes of section 22H (a) of the Act, an applicant for a pilot (pesticide rating) licence has the prescribed qualifications if:

- (a) the applicant holds a current commercial or senior commercial pilot licence issued under the Air Navigation Regulations of the Commonwealth and endorsed with an agricultural rating; and
- (b) the applicant:
 - (i) is the holder of a certificate of approval issued under the Spray Safe Accreditation Program conducted by the Aerial Agricultural Association of Australia; or
 - (ii) has passed an examination conducted in accordance with the requirements of Schedule 2 or has passed an equivalent examination in another State or Territory.

PART 3—PERMITS

Application for issue of permit: sec. 23

- 7. (1)** An application for a permit:
- (a) must be in the approved form; and
 - (b) must specify the pesticide or class of pesticides in respect of which the permit is sought; and
 - (c) must be accompanied by a description of the purpose for which the permit is sought.

(2) For the purposes of section 23 (2) (b) of the Act, \$10 is the prescribed fee for the issue of a permit.

(3) The fee for a permit that allows something that would otherwise constitute an offence under section 30 (3), 31 or 33 of the Act may be waived by the Registrar if

- (a) the permit does not allow anything else; and
- (b) the person applying for the permit is, in the opinion of the Registrar, primarily engaged in the growing of an agricultural or horticultural product; and
- (c) the permit only operates in relation to property owned, leased or occupied by the person applying for the permit,

or if the application for the permit is made by a person in his or her capacity as an officer or employee of the Crown or an employee of a local council.

Application for renewal or transfer of permit: sec. 24

8. (1) An application for the renewal or transfer of a permit:

- (a) must be in the approved form; and
- (b) must specify the pesticide or class of pesticides in respect of which the renewal or transfer is sought; and
- (c) must be accompanied by the identifying number of the permit to be renewed or transferred.

(2) For the purposes of section 24 (1) of the Act, \$10 is the prescribed fee for the renewal or transfer of a permit.

(3) The fee for the renewal or transfer of a permit that allows something that would otherwise constitute an offence under section 30 (3), 31 or 33 of the Act may be waived by the Registrar if:

- (a) the permit does not allow anything else; and
- (b) the person applying for the permit is, in the opinion of the Registrar, primarily engaged in the growing of an agricultural or horticultural product; and
- (c) the permit only operates in relation to property owned, leased or occupied by the person applying for the permit,

or if the application for the renewal or transfer is made by a person in his or her capacity as an officer or employee of the Crown or an employee of a local council.

PART 4—PROHIBITED RESIDUES AND RESTRICTED PESTICIDES**Restricted pesticides: sec. 5**

9. The following substances are prescribed as restricted pesticides for the purposes of the Act, as referred to in the definition of “restricted pesticide” in section 5 (1) of the Act:

EDB

1, 3-dichloropropene

Acrolein

Prohibited residues: sec. 5

10. (1) For the purposes of paragraph (a) of the definition of “prescribed foodstuff” in section 5 (1) of the Act:

- (a) any vegetation from which produce of a kind referred to in Column 3 of Schedule 1 to General Standard A14 of the Food Standards Code is obtained is a prescribed class of vegetation; and
- (b) any produce of a kind so referred to (other than produce that is the result of a manufacturing process) is prescribed produce.

(2) For the purposes of section 5 (3) (a) of the Act:

- (a) a substance referred to in Column 1 of Schedule 1 to General Standard A14 of the Food Standards Code is a prescribed substance; and
- (b) the concentration of the substance specified in Column 2 of that Schedule in respect of a prescribed foodstuff is prescribed as the maximum permissible concentration of that substance in respect of that foodstuff.

Certificates authorising the preparation and use of restricted pesticides: sec. 46

11. (1) For the purposes of section 46 (2) (a) of the Act, the prescribed manner for making an application for a certificate to authorise the preparation for use and use of a restricted pesticide is by lodging or sending the application in writing and addressed to the Registrar at or to an office of the Environment Protection Authority, together with such particulars, if any, as are required by the approved form of application referred to in that paragraph.

(2) For the purposes of section 46 (2) (b) of the Act, \$18 is the prescribed fee for an application for a certificate to authorise the preparation for use and use of a restricted pesticide.

(3) The fee for a certificate that allows something that would otherwise constitute an offence under section 30 (3), 31 or 33 of the Act may be waived if

- (a) the certificate does not allow anything else; and
- (b) the person applying for the certificate is, in the opinion of the Registrar, primarily engaged in the growing of an agricultural or horticultural product; and
- (c) the certificate only operates in relation to property owned, leased or occupied by the person applying for the certificate,

or if the application for the certificate is made by a person in his or her capacity as an officer or employee of the Crown or an employee of a local council.

PART 5—MISCELLANEOUS PROVISIONS

Prescribed officers for the purposes of signing evidentiary certificates: sec. 60

12. The Registrar and Deputy Registrars of Pesticides are prescribed officers for the purposes of section 60 (a) of the Act.

Manner of application to Local Court for forfeiture order: sec. 61

13. For the purposes of section 61 (2) of the Act, the prescribed manner of making an application to a Local Court for an order for forfeiture of any substance, article or container that has been seized by an inspector is by lodging the application with the Clerk of the Court.

Retention and disposal of seized property: sec. 67

84. (1) For the purposes of section 67 (1) of the Act, the prescribed manner of making an application to a Local Court to vary the period for which any substance, article or container may be retained is by lodging the application with the Clerk of the Court.

(2) For the purposes of section 67 (3) (b) of the Act, the prescribed manner of advertising a notice that application will be made for forfeiture of a substance, article or container is by causing the notice to be inserted in the Gazette and in at least one newspaper circulating generally in New South Wales.

Fee for certificate of analysis: sec. 69

15. For the purposes of section 69 (3) of the Act, \$5 is the prescribed fee for a copy of a certificate setting out the results of an analysis of a sample of any substance or article.

Repeal

16. (1) The Pesticides Regulation 1979 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Pesticides Regulation 1979, had effect under that Regulation continues to have effect under this Regulation.

SCHEDULE—FORMS

Form 1

(Cl. 4)

**APPLICATION FOR AN AIRCRAFT (PESTICIDE APPLICATOR)
LICENCE**

(Pesticides Act 1978)

The Registrar of Pesticides

1. Name of applicant:
(Given name(s) and Surname or Company name)
2. Complete address of applicant:
.....
3. Address for service of notices:
.....
4. I,
(Given name(s)) (Surname)
*the applicant/the of the applicant company
(state position held)
being authorised by the company to make this application on its behalf,
(Delete one alternative)*
apply for an aircraft (pesticide applicator) licence.

I declare that the information contained in this application is complete and true to the best of my knowledge.

Signature

Date

Form 2

(Cl. 4)

APPLICATION FOR A PILOT (PESTICIDE RATING) LICENCE

(Pesticides Act 1978)

The Registrar of Pesticides

1. Name of applicant
(Given name(s) and Surname)
2. Complete address of applicant:
.....
..... Post Code
3. Address for service of notices:
.....
4. I,
(Given name(s)) (Surname)
apply for a pilot (pesticide rating) licence.

I declare that the information contained in this application is complete and true to the best of my knowledge.

Signature

Date

SCHEDULE 2—QUALIFYING EXAMINATION

(Cl. 5, 6)

1. The Registrar is responsible for conducting examinations.
2. A person may apply to sit for an examination by making a request in writing to the Registrar.
3. A candidate for examination must be notified by the Registrar of the time and place and conditions of the examination.
4. A candidate for examination must be the holder of a current commercial or senior commercial pilot licence issued under the Air Navigation Regulations of the Commonwealth and endorsed with an agricultural rating.
5. The Registrar must determine from time to time the percentage of marks required to be obtained by a candidate to pass the examination.
6. In the case of a failure to pass an examination, a person must not sit for a further examination within 7 days of failing.



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SCHEDULE 1—FORMS

SCHEDULE 2—QUALIFYING EXAMINATION

EXPLANATORY NOTE

The object of this Regulation is to repeal and replace the Pesticides Regulation 1979. The Regulation deals with the following matters:

- (a) matters relating to the issuing of aircraft (pesticide applicator) licences and pilot (pesticide rating) licences (Part 2);
- (b) matters relating to permits authorising activities that would otherwise be offences under the Pesticides Act 1978 (Part 3);
- (c) prescribing substances as restricted substances for the purposes of the Act and prescribing the manner in which an application may be made for a certificate authorising the preparation and use of such substances (Part 4);

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- (d) prescribing officers who may sign certificates to be used as evidence in proceedings under the Act (clause 12);
- (e) prescribing the manner in which certain other applications under the Act are to be made (clauses 13 and 14);
- (f) prescribing certain fees (clause 15);
- (g) formal provisions (Part 1 and clause 16).

This Regulation is made under the Pesticides Act 1978, including section 73 (the general regulation making power) and various other sections referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
