



New South Wales

Pesticides Amendment Regulation 2000

under the

Pesticides Act 1999

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pesticides Act 1999*.

BOB DEBUS, M.P.,

Minister for the Environment

Explanatory note

The objects of this Regulation are:

- (a) to amend the *Pesticides Regulation 1995* to update references to provisions of the *Pesticides Act 1978* (which has been repealed and replaced by the *Pesticides Act 1999*) and to certain terms, and to omit provisions that are no longer relevant under the new Act, and
- (b) to provide for the issuing of penalty notices in respect of certain offences against the new Act.

This Regulation is made under the *Pesticides Act 1999*, including sections 46, 48, 56, 63, 75, 78 and 119 (the general regulation-making power).

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Clause 1 Pesticides Amendment Regulation 2000

Pesticides Amendment Regulation 2000

1 Name of Regulation

This Regulation is the *Pesticides Amendment Regulation 2000*.

2 Commencement

This Regulation commences on 1 July 2000.

3 Amendment of Pesticides Regulation 1995

The *Pesticides Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3

Omit the clause. Insert instead:

3 Definitions

(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 1999*.

(2) The explanatory note and table of contents do not form part of this Regulation.

[2] Clause 4 Application for licence: section 46

Omit clause 4 (1).

[3] Clause 4 (2)

Omit “section 22A (2) (b)”. Insert instead “section 46 (2) (b)”.

[4] Clause 5 Particulars to accompany application for licence: section 46

Omit “section 22B” from clause 5 (1). Insert instead “section 46 (3) (c)”.

[5] Clauses 5 (1) and 6 (1)

Omit “(pesticide) applicator” wherever occurring.

Insert instead “(pesticide applicator)”.

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Schedule 1 Amendments

[6] Clause 5 (1) (b)

Omit “approved insurance policy referred to in paragraph (b) of that section”.

Insert instead “insurance policy referred to in section 46 (3) (b)”.

[7] Clause 5 (2)

Omit “section 22C”. Insert instead “section 46 (4) (b)”.

[8] Clause 6 Prescribed qualifications for issue of licence: section 48

Omit “section 22G (a)” from clause 6 (1).

Insert instead “section 48 (2) (b)”.

[9] Clause 6 (2)

Omit “section 22H (a)”. Insert instead “section 48 (3) (b)”.

[10] Part 3 Permits

Omit the Part.

[11] Clause 9 Restricted pesticides: sec 5

Omit the clause.

[12] Clause 10

Omit the clause. Insert instead:

10 Prohibited residues: section 63

(1) For the purposes of paragraph (b) of the definition of *agricultural produce* in section 63 of the Act, the following are prescribed produce:

- (a) any produce of a kind referred to in Column 3 of Schedule 1 to General Standard A14 of the *Food Standards Code*, and
- (b) any vegetation from which produce of a kind so referred to is obtained.

(2) For the purposes of section 63 (2) (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 any agricultural produce is prescribed as the maximum permissible concentration of that substance in respect of that produce.

[13] Clause 11 Certificates authorising preparation and use of restricted pesticides: section 56

Omit clause 11 (1).

[14] Clause 11 (2)

Omit “section 46 (2) (b)”. Insert instead “section 56 (2) (b)”.

[15] Clause 11 (2)

Omit “preparation for use and use”. Insert instead “use or possession”.

[16] Clause 11 (3)

Omit the subclause.

[17] Clauses 12–15

Omit the clauses. Insert instead:

12 Definitions

In this Part:

Infringement Processing Bureau means the Infringement Processing Bureau within the Police Service.

IPB Code, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

13 Penalty notice offences: section 75

Each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence for the purposes of Division 2 of Part 10 of the Act.

14 Amounts of penalty payable: section 78

The prescribed penalty payable under a penalty notice in relation to a penalty notice offence is:

- (a) the amount specified in Column 5 of Schedule 1, or
- (b) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified in Column 6 of Schedule 1, the amount specified in Column 6 of Schedule 1.

15 Short descriptions of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 consists of:
 - (a) if one or more IPB codes are set out in relation to the offence in Column 2 or 3 of Schedule 1, any of those IPB codes together with:
 - (i) the text set out in relation to the offence in Column 4 of Schedule 1, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence, or
 - (b) if no IPB code is set out in relation to the offence in Column 2 or 3 of Schedule 1:
 - (i) the text set out in relation to the offence in Column 4 of Schedule 1, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.

- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

[18] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Penalty notice offences and short descriptions

(Clauses 13–15)

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Provision of the Act	IPB Code (indivs)	IPB Code (corpns)	Short description code	Penalty \$ (indivs)	Penalty \$ (corpns)
Section 10 (1) (a)	4040	4050	pesticide injure/likely to injure person	400	800
Section 10 (1) (b)	4041	4051	pesticide damage/likely to damage property	400	800
Section 11 (1) (a)	8199	8080	pesticide harm non-target animal/plant	400	800

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Schedule 1 Amendments

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Provision of the Act	IPB Code (indivs)	IPB Code (corpns)	Short description code	Penalty \$ (indivs)	Penalty \$ (corpns)
Section 11 (1) (b)	7563	8081	unapproved pesticide harm animal/plant	400	800
Section 12	7564	8082	possess unregistered pesticide without/ contrary to permit	400	800
Section 13	7572	8083	use unregistered pesticide without/ contrary to permit	400	800
Section 14 (1)	7574	8084	not read label	200	400
Section 14 (2)	4042	4052	not read permit	200	400
Section 15	7589	8085	use pesticide contrary to label	400	800
Section 16	4043	4053	no approved label on container	200	400
Section 17	7630	8086	possess/use restricted pesticide	400	800
Section 19 (4)	7631	8181	not comply with clean-up notice	400	800

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Provision of the Act	IPB Code (indivs)	IPB Code (corpns)	Short description code	Penalty \$ (indivs)	Penalty \$ (corpns)
Section 25	7632	8221	not comply with prevention notice	400	800
Section 39 (4)	7633	8223	contravene pesticide control order	400	800
Section 41 (2)	7634	8227	not comply with direction	400	800
Section 42 (4)	4044	4054	contravene notice to cease using equipment	400	800
Section 42 (6)	4045	4063	remove/obliterate/interfere with defect notice	400	800
Section 43	7635	8228	attach spray equipment to non-approved aircraft	400	800
Section 45 (1) (a)	7707	8229	pilot without (rating) licence	400	800
Section 45 (1) (b)	4059	4061	pilot without own or employer/principal (applicator) licence	400	800

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Schedule 1 Amendments

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Provision of the Act	IPB Code (indivs)	IPB Code (corpns)	Short description code	Penalty \$ (indivs)	Penalty \$ (corpns)
Section 45 (2) (a)	7723	8230	unlicensed person employ/ engage pilot	400	800
Section 45 (2) (b)	4060	4062	person employ/ engage unlicensed pilot	400	800
Section 52	7724	8231	not notify change in particulars in licence	200	400
Section 53 (1)	7725	8232	not notify change in particulars in licence application	200	400
Section 53 (2)	4046	4055	not notify cease to be qualified	200	400
Section 53 (3)	4047	4056	not notify expire/vary/ suspend/ cancel insurance policy	200	400
Section 54 (1)	7726	8183	not record aerial application	400	800
Section 54 (3)	7727	8184	not keep record for 3 years	400	800

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Provision of the Act	IPB Code (indivs)	IPB Code (corpns)	Short description code	Penalty \$ (indivs)	Penalty \$ (corpns)
Section 59	7728	8185	contravene conditions of licence/ certificate	400	800
Section 61 (1)	8079	8186	unauthorised possession of licence/ certificate	400	800
Section 61 (2)	4048	4057	forge/alter licence/ certificate	400	800
Section 61 (3)	4049	4058	lend/allow use of licence/ certificate	400	800

[19] Schedule 2 Qualifying examination

Omit "Registrar" wherever occurring.

Insert instead "Environment Protection Authority".

BY AUTHORITY