



Apiaries Regulation 2013

under the

Apiaries Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Apiaries Act 1985*.

KATRINA HODGKINSON, MP
Minister for Primary Industries

Explanatory note

The object of this Regulation is to remake, with certain omissions and additions, the provisions of the *Apiaries Regulation 2005*, which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The additional matter is primarily consequential on the amendments made to the *Apiaries Act 1985* (*the Act*) by the *Primary Industries Legislation Amendment Act 2012*.

This Regulation includes new provisions that:

- (a) prescribe different classes of registration and renewal of registration as a beekeeper and prescribe different fees in respect of such classes, replacing the existing fee structure, and
- (b) prescribe grounds for the refusal of an application for registration as a beekeeper, and
- (c) prescribe grounds for the refusal of an application for renewal of registration as a beekeeper, and
- (d) prescribe conditions to which the registration of a beekeeper is subject, and
- (e) authorise the Director-General to suspend the registration of a beekeeper in certain circumstances, and
- (f) authorise the Director-General to cancel the registration of a beekeeper in certain circumstances, and
- (g) require certain information to be contained in the register of beekeepers, and
- (h) prescribe that a purpose for which the register of beekeepers is to be used is to facilitate and assist the operation of the *Stock Diseases Act 1923*, and

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- (i) prescribe an additional manner of disposing of bees, hives, apiary products or appliances, and
- (j) prescribe certain offences as penalty notice offences under the Act and prescribe the penalty for such offences, and
- (k) provide for other miscellaneous matters of a minor nature.

This Regulation also removes provisions that prescribe proportions relating to compensation claims as there are no longer any compensatable diseases for the purposes of the Act.

This Regulation is made under the *Apiaries Act 1985*, including sections 6, 7, 8 (1), 10 (2), 11 (2), 12, 13 (2) (a) and (3) (j), 17 (1), 42A and 50 (the general regulation-making power).

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Clause 1 Apiaries Regulation 2013

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under the

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1 Name of Regulation

This Regulation is the *Apiaries Regulation 2013*.

2 Commencement

This Regulation commences on 1 September 2013 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Apiaries Regulation 2005* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

GST registered entity means a registered entity within the meaning of *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

nucleus hive means a colony of bees consisting of not more than 6 standard full depth Langstroth frames.

Pensioner Concession Card means a card of that name issued by the Commonwealth Government, being a card that is in force.

relevant law of another State or Territory means:

- (a) the *Animal Diseases Act 2005* of the Australian Capital Territory,
- (b) the *Livestock Act* of the Northern Territory,
- (c) the *Apiaries Act 1982* of Queensland,
- (d) the *Livestock Act 1997* of South Australia,
- (e) the *Animal Health Act 1995* of Tasmania,
- (f) the *Livestock Disease Control Act 1994* of Victoria,
- (g) the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* of Western Australia.

Seniors Card means a card of that name issued by the New South Wales Government, being a card that is in force.

the Act means the *Apiaries Act 1985*.

- (2) Notes included in this Regulation do not form part of this Regulation.

4 Application for registration, or renewal of registration, as beekeeper

The prescribed registration fee to accompany an application under section 7 of the Act for registration as a beekeeper, or an application under section 12 of the Act for the renewal of such registration, is the amount specified in Schedule 1.

5 Grounds for refusing application for registration as beekeeper

- (1) For the purposes of section 7 (3) of the Act, the following are prescribed as grounds on which the Director-General may refuse an application for registration as a beekeeper:
- (a) it appears to the Director-General that:
 - (i) the application contains information that is materially false or misleading, or
 - (ii) information has been omitted from the application and the omission has rendered the application materially misleading,
 - (b) the applicant has previously been registered as a beekeeper and that registration has been cancelled by the Director-General during the period of 2 years immediately preceding the date on which the application was made,
 - (c) the applicant has, during the period of 2 years immediately preceding the date on which the application was made, committed an offence under the Act, the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991* or the *Stock Diseases Act 1923* or a relevant law of another State or Territory.
- (2) For the purposes of subclause (1) (c), an applicant is taken to have committed an offence:
- (a) at the time that the applicant is found guilty of the offence by a court, or
 - (b) at the time that the applicant pays the penalty required by a penalty notice served on the applicant under section 42A of the Act in respect of the alleged offence (or if the applicant does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the applicant under Division 3 or 4 of Part 4 of the *Fines Act 1996*), or

- (c) at the time that the applicant pays the penalty required by an infringement notice or expiation notice or the like issued under the law of the Commonwealth or of another State or Territory in respect of the offence.

6 Conditions of registration as beekeeper

For the purposes of section 8 (1) of the Act, the following conditions are prescribed as conditions to which the registration of a beekeeper is subject:

- (a) the registered beekeeper must keep the following records:
 - (i) each date when the hives were moved,
 - (ii) the number of hives moved,
 - (iii) the site from which the hives were moved,
 - (iv) the site to which the hives were moved,
 - (v) the name of the person who moved the hives,
 - (vi) if any hives have been lost or stolen—the date of the loss or theft and the number of hives lost or stolen (to the extent that this information is known to the beekeeper),
 - (vii) if any hives have been destroyed—the date of destruction and the number of hives destroyed,
- (b) the registered beekeeper must keep each such record in written or electronic form for a period of not less than 5 years after it was made,
- (c) the registered beekeeper must, at the request of an inspector, provide to the inspector all records required to be kept under this clause,
- (d) within 60 days after a registration number is allocated to a registered beekeeper, the registered beekeeper must:
 - (i) cause that number to be clearly and permanently displayed on any outside wall of the broodbox of each hive that is kept by the beekeeper, and
 - (ii) cause any previous registration number displayed on that broodbox to be struck out but so that the previous number remains legible,
- (e) whenever a registered beekeeper disposes of a hive to another person, whether by sale or otherwise, the beekeeper must, not later than 28 days after the disposal, notify an inspector of the disposal and provide the following particulars:
 - (i) the name of the person receiving the hives,
 - (ii) the postal address of the person receiving the hives.

7 Grounds for suspension of registration as beekeeper

For the purposes of section 10 (2) of the Act, the Director-General may suspend the registration of a beekeeper if:

- (a) the beekeeper has failed to comply with a condition of registration that is applicable to the beekeeper, or
- (b) the beekeeper has failed to comply with an order made or a direction given by the Director-General, or a direction given by an inspector, in accordance with the Act.

8 Grounds for cancellation of registration as beekeeper

(1) For the purposes of section 11 (2) of the Act, the Director-General may cancel the registration of a beekeeper if:

- (a) the beekeeper has failed to comply with a condition of registration that is applicable to that person, or
- (b) the beekeeper has failed to comply with an order made or a direction given by the Director-General, or a direction given by an inspector, in accordance with the Act, or
- (c) the Director-General becomes aware that the beekeeper has died, or in the case of a beekeeper that is a corporation, that the corporation has been dissolved, or
- (d) the registration of the beekeeper has been suspended for more than 12 months, or
- (e) the beekeeper has, during the immediately preceding period of 2 years, committed an offence under the Act, the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991* or the *Stock Diseases Act 1923* or a relevant law of another State or Territory.

(2) For the purposes of subclause (1) (e), a beekeeper is taken to have committed an offence:

- (a) at the time that the beekeeper is found guilty of the offence by a court, or
- (b) at the time that the beekeeper pays the penalty required by a penalty notice served on the beekeeper under section 42A of the Act in respect of the alleged offence (or if the beekeeper does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the beekeeper under Division 3 or 4 of Part 4 of the *Fines Act 1996*), or
- (c) at the time that the beekeeper pays the penalty required by an infringement notice or expiation notice or the like issued under

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the law of the Commonwealth or of another State or Territory in respect of the offence.

9 Grounds for refusing application for renewal of registration as beekeeper

- (1) For the purposes of section 12 (4) of the Act, the following are prescribed as grounds on which the Director-General may refuse an application for renewal of registration as a beekeeper:
 - (a) it appears to the Director-General that:
 - (i) the application for renewal contains information that is materially false or misleading, or
 - (ii) information has been omitted from the application for renewal and the omission has rendered the application materially misleading,
 - (b) the applicant has, during the period of 2 years immediately preceding the date on which the application for renewal was made, committed an offence under the Act, the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991* or the *Stock Diseases Act 1923* or a relevant law of another State or Territory.
- (2) For the purposes of subclause (1) (b), an applicant is taken to have committed an offence:
 - (a) at the time that the applicant is found guilty of the offence by a court, or
 - (b) at the time that the applicant pays the penalty required by a penalty notice served on the applicant under section 42A of the Act in respect of the alleged offence (or if the applicant does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the applicant under Division 3 or 4 of Part 4 of the *Fines Act 1996*), or
 - (c) at the time that the applicant pays the penalty required by an infringement notice or expiation notice or the like issued under the law of the Commonwealth or of another State or Territory in respect of the offence.

10 Register of beekeepers

For the purposes of section 13 (2) (a) of the Act, the following information is required to be included in the register of beekeepers:

- (a) the name and trading name (if any) of each person registered as a beekeeper,
- (b) the registration number allocated to each person registered as a beekeeper,

- (c) where the registered person does not carry on a business of beekeeping, the address of the place at which the person ordinarily resides,
- (d) where the person does carry on a business of beekeeping, the address of the place or places at which the business is carried on and, if the person is a corporation, the address of the registered office, or, if that office is located outside New South Wales, the principal place of business of the corporation in New South Wales,
- (e) the postal address of the registered person,
- (f) the telephone number of the registered person,
- (g) the date on which the person first became registered and the expiry date of the person's current registration,
- (h) the number of hives to which the registration relates,
- (i) the number of nucleus hives to which the registration relates.

11 Purposes for which register is to be used

For the purposes of section 13 (3) (j) of the Act, the purpose of facilitating and assisting the operation of the *Stock Diseases Act 1923* is prescribed.

12 Disposal of bees or other things by an inspector

- (1) For the purposes of section 17 (1) (a) of the Act, the prescribed time is the period of 20 days commencing when an inspector first examines the apiary for the purpose of ascertaining by whom the apiary is kept.
- (2) For the purposes of section 17 (1) (a) (ii) and (b) of the Act, the prescribed manner of disposal is:
 - (a) by sale at the best offer made to the inspector after the intended sale has been advertised in a newspaper circulating generally within the district where the bees, hives, apiary products or appliances were located when seized, or
 - (b) if the inspector is of the view that the bees, hives, apiary products or appliances have no commercial value or that it would be unlikely that the cost of taking any action under paragraph (a) would be covered by the proceeds of sale, by burning or burial by the inspector.
- (3) Any proceeds of sale must be paid into the Consolidated Fund.

13 Exemption from requirement to be registered for interstate beekeepers

- (1) A person registered as a beekeeper under a corresponding law of another State or Territory is exempt from the requirement under

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section 6 of the Act to be registered as a beekeeper if the person complies with the following conditions:

- (a) the person keeps bees in New South Wales for not more than a total of 3 months in any 12-month period,
 - (b) the person notifies an inspector within 7 days of the arrival in New South Wales of any bees kept by the person and provides the inspector with the person's name, address and contact details,
 - (c) the person's registration number as a beekeeper under a corresponding law is displayed on any hive brought into New South Wales by the person.
- (2) In this clause, *corresponding law of another State or Territory* means the following:
- (a) the *Livestock Act* of the Northern Territory,
 - (b) the *Apiaries Act 1982* of Queensland,
 - (c) the *Livestock Act 1997* of South Australia,
 - (d) the *Livestock Disease Control Act 1994* of Victoria,
 - (e) the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* of Western Australia.

14 Use of infected queen candy

A person must not use queen candy for the purpose of providing food for bees in transit if the queen candy is infected with any notifiable disease.

Maximum penalty: 5 penalty units.

15 Night parking of vehicle containing bees

When a vehicle contains a hive with an open entrance, a person must not park the vehicle between the hours of sunset and sunrise:

- (a) within 200 metres of a street light, or
- (b) within a residential area.

Maximum penalty: 5 penalty units.

16 Penalty notices

For the purposes of section 42A of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 2 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 2.

17 Saving

Any act, matter or thing that immediately before the repeal of the *Apiaries Regulation 2005* had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Fees

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(Clause 4)

Column 1	Column 2
Matter for which fee is payable	Amount
Application for registration, or renewal of registration:	
(a) manual registration of beekeepers who carry on the business of beekeeping for which they have an ABN and are a GST registered entity	\$100
(b) online registration of beekeepers who carry on the business of beekeeping for which they have an ABN and are a GST registered entity	\$90
(c) manual registration of beekeepers who keep bees primarily for recreational purposes, and do not have an ABN and are not a GST registered entity	\$60
(d) online registration of beekeepers who keep bees primarily for recreational purposes, and do not have an ABN and are not a GST registered entity	\$54
(e) manual registration of beekeepers who hold a Pensioner Concession Card or Seniors Card, do not carry on the business of beekeeping, do not have an ABN and are not a GST registered entity	\$40
(f) online registration of beekeepers who hold a Pensioner Concession Card or Seniors Card, do not carry on the business of beekeeping, do not have an ABN and are not a GST registered entity	\$36

Schedule 2 Penalty notice offences

(Clause 16)

Column 1	Column 2
Offence	Penalty
Apiaries Act 1985	
Section 6 (1)	If the number of hives kept is 50 or smaller—\$150 If the number of hives kept is greater than 50 but smaller than 401—\$275 If the number of hives kept is greater than 400—\$550
Section 8 (4)	\$275
Section 10 (3)	\$275
Section 14 (1)	\$275
Section 14 (5)	\$150
Section 15	\$275
Section 16 (4)	\$150
Section 17 (2)	\$275
Section 18 (6)	\$550
Section 18 (6B)	\$275
Section 18 (9)	\$275
Section 19 (4)	\$275
Section 20 (2)	\$275
Section 21 (a)	\$550
Section 21 (b)	\$550
Section 22 (3)	\$550
Section 23 (6)	\$550
Section 23 (10)	\$550
Section 24 (7)	\$550
Section 24A (3)	\$550
Section 26 (5)	\$550

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Schedule 2 Penalty notice offences

Column 1	Column 2
Offence	Penalty
Section 26 (6)	\$275
Section 27 (4)	\$275
Section 27 (5)	\$275
Section 27A (8)	\$275
Section 38 (5)	\$275
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Clause 14	\$150
Clause 15	\$150
