



New South Wales

Pesticides Amendment Regulation 2015

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*.

MARK SPEAKMAN, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to make amendments to the *Pesticides Regulation 2009*:

- (a) to include a new licensing scheme with respect to prescribed pesticide work and to make other amendments that are consequential on the amendments made to the *Pesticides Act 1999* by the *Pesticides Amendment Act 2015*, and
- (b) to provide for an exemption from the requirement under the *Pesticides Act 1999* for a registered pesticide to be used in accordance with the instructions on an approved label for such a pesticide, and
- (c) to prescribe fees for the giving of clean-up and prevention notices.

This Regulation is made under the *Pesticides Act 1999*, including sections 5A, 22 (2), 27 (2), 46 (1) and (2), 47 (2) and (3) (d), 49 (2) (d), 50 (1) (a), 51 (1) and (6), 117 and 119 (the general regulation-making power) and clauses 1 and 18 of Schedule 2.

Pesticides Amendment Regulation 2015

under the

Pesticides Act 1999

1 Name of Regulation

This Regulation is the *Pesticides Amendment Regulation 2015*.

2 Commencement

This Regulation commences on 1 September 2015 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Pesticides Regulation 2009

[1] Clause 3 Definitions

Omit the definition of *fumigant* from clause 3 (1). Insert instead:

fumigant means any of the following chemicals:

- (a) methyl bromide,
- (b) phosphine,
- (c) ethylene oxide (except single dose canisters),
- (d) ethylene dichloride,
- (e) carbon disulphide,
- (f) chloropicrin,
- (g) hydrogen cyanide.

[2] Part 2

Omit the Part. Insert instead:

Part 2 Licences

Note. This Part commenced on 1 September 2015, being the day on which amendments to the Act made by Schedule 1.1 to the *Pesticides Amendment Act 2015* commenced. Those amendments enabled the regulations to establish a new licensing scheme for pesticides.

Division 1 Interpretation

4 Definitions

In this Part:

aerial applicator business—see clause 5.

aerial applicator pilot work—see clause 5.

approved means approved by the Environment Protection Authority from time to time.

continued OHS Regulation means the *Occupational Health and Safety Regulation 2001* (as continued in force immediately before 1 September 2015 by clause 65 of Schedule 18B to the *Work Health and Safety Regulation 2011* with respect to the application of pesticides and use of fumigants).

course of training, in relation to prescribed pesticide work, means a course of training the completion of which is required in order for a person to obtain the prescribed licence qualification for a licence to carry out the work.

fumigation work—see clause 5.

National Standard for Licensing Pest Management Technicians means the document entitled *National Standard for Licensing Pest Management Technicians* published in 1999 by the National Environmental Health Forum (National Environmental Health Monographs General Series No 4).

person responsible for a trainee carrying out fumigation work or pest management technician work means:

- (a) in the case of a trainee who is carrying out the work as an employee—the person's employer, or
- (b) in the case of a trainee who is carrying out the work under contract as an independent contractor—the person for whom he or she is carrying out the work under that contract, or

- (c) in the case of a trainee who is carrying out the work while engaged in a course of training for that work—the person by whom that course is being conducted, or
- (d) in the case of a trainee who is carrying out the work under an arrangement with some other person (whether or not for reward) otherwise than as referred to in paragraph (a), (b) or (c)—that other person.

pest management technician work—see clause 5.

prescribed licence qualification, in relation to a kind of licence, means the qualification prescribed by, or determined in accordance with, clause 8F for that licence.

supervisor, in relation to a trainee, means a person who is designated as the trainee's supervisor under clause 8B (2).

trainee, in relation to fumigation work or pest management technician work, means an unqualified person who is:

- (a) engaged in a course of training for the work, and
- (b) of or above the age of 17 years.

UAV applicator business—see clause 5.

UAV applicator controller work—see clause 5.

unqualified person, in relation to prescribed pesticide work, means a person who does not hold the prescribed licence qualification for a licence to carry out such work.

Division 2 Licensing requirements

5 Kinds of prescribed pesticide work

- (1) Each of the following is prescribed for the purposes of section 5A of the Act as **prescribed pesticide work**:
 - (a) aerial applicator pilot work,
 - (b) aerial applicator business,
 - (c) UAV applicator controller work,
 - (d) UAV applicator business,
 - (e) fumigation work,
 - (f) pest management technician work.
- (2) **Aerial applicator pilot work** is the piloting by an individual of an aircraft that is being used to apply a pesticide to property.
- (3) An **aerial applicator business** is:
 - (a) a business carried on by a person (other than a public authority) where:
 - (i) the person employs or engages an individual to carry out aerial applicator pilot work for the business, or
 - (ii) the person carries out aerial applicator pilot work as a self-employed individual, or
 - (b) a public authority employing or engaging individuals to carry out aerial applicator pilot work for it.
- (4) **UAV applicator controller work** is the remote piloting by an individual of an unmanned aircraft that is being used to apply a pesticide to property.

- (5) A **UAV applicator business** is:
- (a) a business carried on by a person (other than a public authority) where:
 - (i) the person employs or engages an individual to carry out UAV applicator controller work for the business, or
 - (ii) the person carries out UAV applicator controller work as a self-employed individual, or
 - (b) a public authority employing or engaging individuals to carry out UAV applicator controller work for it.
- (6) **Fumigation work** is the use of fumigants for the prevention, control or eradication of pests by an individual:
- (a) for a fee or reward, or
 - (b) for a public authority (whether or not for a fee or reward).
- (7) **Pest management technician work** is the use of pesticides (other than fumigants) for the prevention, control or eradication of pests by an individual:
- (a) for a fee or reward, or
 - (b) for a public authority (whether or not for a fee or reward).
- (8) However, pest management technician work does not include any of the following:
- (a) the use of pesticides by an individual in connection with agricultural activities of the person,
 - (b) the use of pesticides by an individual for amenity horticulture purposes,
 - (c) the application of pesticides by means of aircraft (whether manned or unmanned),
 - (d) the use of pesticides by an individual for the purposes of water treatment (including the treatment of water in pools and spas),
 - (e) the application of paint by an individual that contains anti-fouling pesticides,
 - (f) the use of pesticides by an individual to treat or prevent an ectoparasitic infestation,
 - (g) the use of pesticides by an individual to treat or preserve timber at a treatment plant.
- (9) In this clause:
- agricultural activity** of an individual includes:
- (a) horticulture activities carried on by the individual, and
 - (b) the use by the individual of premises for any purpose of husbandry (such as the keeping or breeding of livestock, poultry or bees), and
 - (c) the growing of fruit, vegetables or other crops by the individual, and
 - (d) the processing or storing of agricultural products by the individual, but only when undertaken in connection with another agricultural purpose carried out by the individual.
- amenity horticulture purposes** includes for the purposes of:
- (a) ground or garden maintenance, or
 - (b) landscaping, or
 - (c) bush care, or
 - (d) floriculture, or

- (e) arboriculture, or
- (f) the operations of a nursery.

business and **fee or reward** have the same meanings as in section 5A of the Act.

6 Kinds of licences

For the purposes of section 46 of the Act, each of the licences referred to in Column 1 of the following Table is prescribed as a kind of licence that authorises its holder to carry out the kind of prescribed pesticide work specified in Column 2 next to the licence concerned.

Table

	Column 1	Column 2
	Licence name	Work authorised
1	Aerial applicator pilot licence	Aerial applicator pilot work
2	Aerial applicator business licence	Aerial applicator business
3	UAV applicator controller licence	UAV applicator controller work
4	UAV applicator business licence	UAV applicator business
5	Fumigator licence	Fumigation work
6	Pest management technician licence	Pest management technician work

Division 3 Exemptions

7 Environment Protection Authority may grant exemptions from licensing requirements

- (1) The Environment Protection Authority may, by order in writing, exempt a specified person or class of persons from any of the licensing requirements.
- (2) An order that exempts a class of persons from any of the licensing requirements must be published in the Gazette.
- (3) An exemption from licensing requirements granted under this clause is subject to such conditions (if any) as may be specified in the order.
- (4) An exemption from any provisions of Part 9.1 of the continued OHS Regulation granted to a person under clause 684 of the *Work Health and Safety Regulation 2011* that was in force immediately before 1 September 2015 has effect, on and from that day, as if it were an exemption granted under this clause with respect to the licensing requirements, if any, that correspond (or substantially correspond) to the provisions of Part 9.1.
- (5) An exemption continued in force by subclause (4) has effect until it expires or is sooner revoked.
- (6) In this clause:
licensing requirements means:
 - (a) the provisions of Division 1 of Part 6 of the Act, and
 - (b) the provisions of this Part.

8 Exemptions with respect to fumigation work and pest management technician work

- (1) A person who has obtained the prescribed licence qualification for a fumigator licence referred to in clause 6 is exempted from the requirement under section 45 (1) of the Act to hold a fumigator licence to carry out fumigation work until the expiration of 60 days after the qualification is obtained.
- (2) A person who has obtained the prescribed licence qualification for a pest management technician licence referred to in clause 6 is exempted from the requirement under section 45 (1) of the Act to hold a pest management technician licence to carry out pest management technician work until the expiration of 60 days after the qualification is obtained.
- (3) If a person referred to in subclause (1) or (2) applies to the Environment Protection Authority for a fumigator licence or pest management technician licence within the 60-day period, the person may continue to do work authorised by such a licence:
 - (a) until the person is issued with a licence, or
 - (b) until 14 days after the person receives notice that the application has been refused.
- (4) An unqualified person is exempt from the requirement under section 45 (1) of the Act to hold a fumigator licence or pest management technician licence to carry out fumigation work or pest management technician work if the work carried out by the person is carried out solely for the purpose of:
 - (a) selling plant, or
 - (b) the testing, trialing, maintaining, servicing, repairing, or disposing of plant.
- (5) Subclauses (1)–(3) extend to a person who obtained a prescribed licence qualification before 1 September 2015 and, for the purpose of applying those subclauses, the person is taken to have obtained the qualification on that day.
- (6) In this clause:
plant includes any machinery, equipment or appliance.

8A Exemption for certain trainees

- (1) A person is exempt from the requirement under section 45 (1) of the Act to hold a licence to carry out fumigation work or pest management technician work if the person:
 - (a) carries out the work as a trainee for the purposes of a course of training, and
 - (b) carries out the work under the supervision of a supervisor, and
 - (c) keeps and maintains a record of training in accordance with the requirements of this clause.
- (2) A trainee must keep a record of training.
Maximum penalty: 20 penalty units.
- (3) The record must contain the following information in relation to the fumigation work or pest management technician work to which the training relates:
 - (a) the name and address of the trainee,
 - (b) the name and address of each employer for whom the trainee does that work,

- (c) the name of each person who supervises the trainee while the trainee is doing that work,
- (d) a description of that work as it is actually carried out by the trainee in the course of training,
- (e) a record of the dates on which that work was done.

8B Obligations of person responsible for trainee

- (1) The person responsible for a trainee carrying out fumigation work or pest management technician work must ensure that the following requirements are complied with:
 - (a) the trainee must at all times be directly supervised by a supervisor designated by the person in accordance with subclause (2), unless the supervisor or the person responsible for the trainee has established:
 - (i) that the trainee's competency makes direct supervision unnecessary, and
 - (ii) that a lesser degree of supervision would not endanger the health or safety of the trainee or any other person,
 - (b) the trainee must receive directions, demonstrations, training and monitoring appropriate to the work and commensurate with the competence of the trainee,
 - (c) immediate remedial action must be taken in the event of an emergency that arises from the trainee carrying out the work.

Maximum penalty: 100 penalty units.

- (2) The person responsible for a trainee may designate a supervisor for the trainee only if the supervisor is a person who holds a licence authorising the person to carry out work of the kind being done by the trainee.
- (3) The person responsible for a trainee must ensure that the trainee keeps and maintains a record of training in accordance with clause 8A.
Maximum penalty (subclause (3)): 20 penalty units.

8C Obligations of supervisor of trainee

- (1) The supervisor of a trainee who is carrying out fumigation work or pest management technician work must directly supervise the trainee while the trainee is carrying out the work, unless the supervisor or person responsible for the trainee has established:
 - (a) that the trainee's competency makes direct supervision unnecessary, and
 - (b) that a lesser degree of supervision would not endanger the health or safety of the trainee or any other person.

Maximum penalty: 100 penalty units.

- (2) A supervisor designated to supervise a trainee by the person responsible for the trainee:
 - (a) must ensure that the trainee keeps and maintains a record of training in accordance with clause 8A, and
 - (b) must check the record on each date on which the work is carried out by the trainee, and:
 - (i) if satisfied that the record is correct in respect of that date, must sign the record on that date, or

- (ii) if not so satisfied, must make and sign on that date a note to that effect on the record.

Maximum penalty (subclause (2)): 20 penalty units.

Division 4 Applications for licences

8D Licence application fees

The following fees are prescribed for the purposes of section 47 (2) (b) of the Act:

- (a) for an application made on or after 1 September 2015 but before 1 July 2016—\$189,
- (b) for an application made on or after 1 July 2016 but before 1 July 2017—\$191,
- (c) for an application made on or after 1 July 2017—\$196.

8E Additional information and particulars to accompany application

The following information and particulars are prescribed for the purposes of section 47 (3) (d) of the Act:

- (a) evidence of an approved kind of the applicant's identity and age,
- (b) evidence of an approved kind that the applicant has the prescribed licence qualification for the licence being sought,
- (c) any other information or particulars specified by the approved application form.

Division 5 Granting of licences

8F Prescribed qualifications for licences

(1) When a person has qualification to hold a licence

The object of this clause is to provide for the qualifications for kinds of licences for the purposes of section 49 (2) (b) of the Act.

- (2) A person is qualified to hold a kind of licence if the person has the qualification or qualifications specified by, or determined by the Environment Protection Authority in accordance with, this clause for the licence.

(3) Aerial applicator pilot licence

A person is qualified to hold an aerial applicator pilot licence if:

- (a) the person holds a current commercial pilot (aeroplane) licence or commercial pilot (helicopter) licence issued under the *Civil Aviation Act 1988* of the Commonwealth endorsed with an agricultural rating or aerial application rating, and
- (b) the person:
 - (i) is the holder of a certificate of approval issued under the Spraysafe Accreditation Program conducted by the Aerial Agricultural Association of Australia, or
 - (ii) has passed an examination conducted in accordance with the requirements of another State or Territory for the purpose of obtaining a licence equivalent to an aerial applicator pilot licence.

(4) **Aerial applicator business licence**

A person is qualified to hold an aerial applicator business licence if the person holds an Air Operator's Certificate endorsed for aerial application operations and issued under Division 2 of Part III of the *Civil Aviation Act 1988* of the Commonwealth.

(5) **UAV applicator controller licence**

A person is qualified to hold a UAV applicator controller licence if the person holds a certification as a UAV controller under the *Civil Aviation Safety Regulations 1998* of the Commonwealth.

(6) **UAV applicator business licence**

A person is qualified to hold a UAV applicator business licence if the person holds a UAV operator's certificate issued under the *Civil Aviation Safety Regulations 1998* of the Commonwealth.

(7) **Fumigator licences or pest management technician licences**

A person is qualified to hold a fumigator licence or pest management technician licence if the person's competency to do the work authorised by the licence is of a standard equal to or better than the appropriate competency standard for the work.

(8) The appropriate competency standard for fumigation work or pest management technician work is:

- (a) the standard of competency set out in relation to that work in the National Standard for Licensing Pest Management Technicians, or
- (b) any other standard of competency that the Environment Protection Authority considers to be equivalent to that Standard.

(9) **Additional or alternative qualifications**

The Environment Protection Authority may, by notice published in the Gazette (a **qualification determination notice**), determine that:

- (a) a qualification specified in the notice is an alternative qualification for a kind of licence to a qualification specified by, or previously determined in accordance with, this clause for the licence, or
- (b) a qualification specified in the notice is a qualification required for a kind of licence in addition to a qualification specified by, or previously determined in accordance with, this clause for the licence.

(10) The Authority may revoke or amend a qualification determination notice by a further notice published in the Gazette.

(11) The determination of a qualification specified by a qualification determination notice takes effect on the day on which the notice is published or on such later day as may be specified in the notice.

(12) If an alternative qualification for a kind of licence is specified by a qualification determination notice, a person who has that qualification is taken to hold an appropriate qualification for the licence concerned.

(13) If an additional qualification for a kind of licence is specified by a qualification determination notice, a person must hold both the qualification specified by (or previously determined in accordance with) this clause for the licence and the additional qualification in order to be appropriately qualified to hold the licence.

8G Additional ground for licence refusal

That the applicant is under 18 years of age is prescribed as a circumstance for the purposes of section 49 (2) (d) of the Act.

Division 6 Conditions of licences

8H Object of Division

- (1) The object of this Division is to prescribe conditions for certain kinds of licences for the purposes of section 50 (1) (a) of the Act.
- (2) The conditions prescribed by this Division do not limit any conditions that are imposed on such licences by the Environment Protection Authority under the Act.

8I Special condition for all applicator licences concerning cessation of prescribed licence qualification

- (1) This clause applies to the following kinds of licences:
 - (a) an aerial applicator pilot licence,
 - (b) an aerial applicator business licence,
 - (c) a UAV applicator controller licence,
 - (d) a UAV applicator business licence.
- (2) It is a condition of a licence to which this clause applies that the holder of the licence must notify the Environment Protection Authority if the person ceases to have the prescribed licence qualification for the licence concerned.
- (3) Any such notice must be given as soon as practicable after the holder of the licence becomes aware that the holder has ceased to hold the qualification.
- (4) If there is an approved form for the notice, the notice must be in that form.

8J Special condition for applicator business licences concerning pesticide leakages or spills

- (1) This clause applies to the following kinds of licences:
 - (a) an aerial applicator business licence,
 - (b) a UAV applicator business licence.
- (2) It is a condition of a licence to which this clause applies that the holder of the licence must notify the Environment Protection Authority of any incident where a pesticide leakage or spill has occurred as the result of a crash or forced landing of an aircraft that is operated under the authority of the licence.
- (3) Any such notice must be given as soon as practicable after the incident occurs.
- (4) If there is an approved form for the notice, the notice must be in that form.

Division 7 Renewal of licences

8K Renewal of licences

- (1) The Environment Protection Authority may, on the application of the holder of a licence, renew the licence.
- (2) An application for the renewal of a licence may be made before expiry of the current licence, but no later than 3 months after its expiry.

- (3) An application for the renewal of a licence must be:
 - (a) in the approved form, and
 - (b) accompanied by such material or information to support the application (such as qualifications and proof of age and identity) as the Authority may require, and
 - (c) accompanied by the applicable renewal fee.
- (4) The Authority may require the holder of a licence to surrender the holder's existing licence before renewing the licence.
- (5) The *applicable renewal fee* for the renewal of a licence is:
 - (a) for an application made on or after 1 September 2015 but before 1 July 2016—\$146, and
 - (b) for an application made on or after 1 July 2016 but before 1 July 2017—\$149, and
 - (c) for an application made on or after 1 July 2017—\$153.

Division 8 Provision of information and record keeping

8L Licensees to provide certain information

- (1) The holder of a licence must supply the Environment Protection Authority with the particulars of any information received by the holder that contradicts or modifies any information provided by the holder in connection with the application for the licence.
Maximum penalty: 90 penalty units.
- (2) If the holder of a licence ceases to hold the prescribed licence qualification for the kind of licence concerned, the holder must supply the Environment Protection Authority with particulars of that fact as soon as practicable.
Maximum penalty: 90 penalty units.

8M Records of aerial application of pesticides

- (1) This clause applies in relation to:
 - (a) an aerial applicator business licence, and
 - (b) a UAV applicator business licence.
- (2) The holder of a licence to which this clause applies must cause a record to be made in accordance with subclause (3) in respect of each occasion on which the holder of the licence has caused an aircraft to be used in the application of a pesticide.
Maximum penalty:
 - (a) in the case of a corporation—400 penalty units, or
 - (b) in the case of an individual—200 penalty units.
- (3) The record must be made immediately after the application of the pesticide and must contain:
 - (a) the name and address of the person who piloted the aircraft, and
 - (b) a description of the pesticide that was applied (including product name and active constituents), and
 - (c) the date and time of the application of the pesticide (including the start and finish time), and

- (d) if the aircraft has a registration mark, the registration mark of the aircraft, and
 - (e) if the aircraft does not have a registration mark, the serial number of the aircraft, and
 - (f) a description of the manner in which, the climatic conditions under which and the equipment by means of which the pesticide was applied, and
 - (g) a description of the land over which the pesticide was applied (including the address of the land or the particular paddock or part of a paddock), and
 - (h) a description of the crop in respect of which the pesticide was applied or other situation in which it was used, and
 - (i) the rate of application of the pesticide and the quantity applied, and
 - (j) the name, address and contact details of the owner or occupier of the land on which the pesticide was applied.
- (4) A record required to be made under this clause must be kept by the holder (or former holder) of the licence for a period of not less than 3 years after the date of the occasion to which the record relates.
- Maximum penalty:
- (a) in the case of a corporation—400 penalty units, or
 - (b) in the case of an individual—200 penalty units.

8N Provision of record to land owner or occupier

The holder of an aerial applicator business licence or UAV applicator business licence must provide a copy of a record required to be made under clause 8M to the owner or occupier of the land on which the pesticide was applied as soon as practicable after the application of the pesticide.

Maximum penalty:

- (a) in the case of a corporation—100 penalty units, or
- (b) in the case of an individual—50 penalty units.

Division 9 General

8O Form of licence

A licence must be in the approved form and must:

- (a) specify the following:
 - (i) the name (and, in the case of a licence granted to an individual, the date of birth) of the person to whom it is granted,
 - (ii) the date of its issue,
 - (iii) a description of the kind of prescribed pesticide work that the licence authorises its holder to do,
 - (iv) a unique identifying number,
 - (v) the expiry date of the licence,
 - (vi) any conditions attached to the licence (other than conditions prescribed by this Regulation), and
- (b) in the case of a licence granted to an individual, contain a photograph of the person to whom it is granted.

8P Duration of licence

For the purposes of section 51 (1) of the Act, the maximum period for which a licence may be granted or renewed is 5 years.

8Q Surrender of licence

The holder of a licence may, by notice in the approved form given to the Environment Protection Authority and accompanied by the licence, voluntarily surrender the licence.

8R Replacement of lost, stolen, damaged or destroyed licences

- (1) The holder of a licence that is lost, stolen, damaged or destroyed may apply to the Environment Protection Authority for a replacement licence.
- (2) The application:
 - (a) must be in the approved form, and
 - (b) must be accompanied by a statutory declaration by the applicant that explains how, or the circumstances in which, the licence was lost, stolen, damaged or destroyed, and
 - (c) must be accompanied by a fee of \$23.
- (3) The Authority may issue a replacement licence if satisfied that the applicant's licence has been lost, stolen, damaged or destroyed.
- (4) A licence that is replaced under this clause must provide for the same expiry date as the licence it replaces.
- (5) If an application is refused, the Authority must give a written notice of the refusal, and of the reasons for the refusal, to the applicant.
- (6) The holder of a licence that is replaced under this clause:
 - (a) must surrender the original licence if it is recovered, or
 - (b) in the case of a damaged licence that is replaced, must surrender the damaged licence.Maximum penalty (subclause (6)): 20 penalty units.
- (7) Nothing in this clause prevents the Authority from issuing a replacement licence in such other circumstances as it considers appropriate.

8S Conversion of existing licences and OHS certificates of competency

- (1) Subject to this clause, a person who holds a licence or certificate of competency (the *former licence or certificate*) specified in Column 1 of the following Table that was in force, or suspended (but not revoked or cancelled), immediately before 1 September 2015 is taken, on and from that day, to hold the kind of licence under the Act referred to in clause 6 (the *replacement licence*) specified in Column 2 next to the former licence or certificate.

Table

Column 1	Column 2
Former licence or certificate	Replacement licence
Pilot (pesticide rating) licence that is not subject to a UAV controller condition	Aerial applicator pilot licence
Pilot (pesticide rating) licence that is subject to a UAV controller condition	UAV applicator controller licence

Column 1	Column 2
Former licence or certificate	Replacement licence
Aircraft (pesticide applicator) licence that is not subject to a UAV business condition	Aerial applicator business licence
Aircraft (pesticide applicator) licence that is subject to a UAV business condition	UAV applicator business licence
A certificate of competency issued under Part 9.1 of the continued OHS Regulation with respect to scheduled work listed in item 11 (Application of pesticides) of the Schedule to clause 266 of that Regulation	Pest management technician licence
A certificate of competency issued under Part 9.1 of the continued OHS Regulation with respect to scheduled work listed in item 12 (Use of fumigants) of the Schedule to clause 266 of that Regulation	Fumigator licence

- (2) A replacement licence may be renewed, surrendered, suspended or revoked (and conditions on the licence may be imposed, revoked or varied) in the same way as a licence granted by the Environment Protection Authority under the Act.
- (3) Any period of suspension of a former licence or certificate that is converted into a replacement licence by operation of this clause in force immediately before 1 September 2015 continues in force with respect to the replacement licence until the day it would have expired if the amending Act had not been enacted, unless sooner varied or revoked.
- (4) Unless sooner surrendered, revoked or renewed, a replacement licence expires on:
 - (a) in the case where the former licence or certificate expired on a specified day—on that day, or
 - (b) in any other case—on the fifth anniversary of 1 September 2015.
- (5) Any conditions specified in a former licence or certificate continue in force as conditions of the replacement licence, unless sooner altered or revoked under the Act.
- (6) An application for a former licence or certificate made (but not determined) before the conversion day may be determined by the Environment Protection Authority on or after the conversion day as if it were an application for a replacement licence.
- (7) Any application under section 62 of the Act for an administrative review under the *Administrative Decisions Review Act 1997* of a decision concerning a former licence may be dealt with under the Act on or after 1 September 2015 as if it were an application for the administrative review of a decision concerning a replacement licence.
- (8) Clause 8O does not apply to a replacement licence until it is renewed or replaced under the Act and this Part.
- (9) In this clause:

aircraft (pesticide applicator) licence means an aircraft (pesticide applicator) licence within the meaning of the Act as in force immediately before 1 September 2015.

pilot (pesticide rating) licence means a pilot (pesticide rating) licence within the meaning of the Act as in force immediately before 1 September 2015.

UAV business condition, in relation to an aircraft (pesticide applicator) licence, means a condition of the licence the effect of which is to limit the authority conferred by the licence to the use of unmanned aerial vehicles (UAV) to apply pesticides.

UAV controller condition, in relation to a pilot (pesticide rating) licence, means a condition of the licence the effect of which is to limit the authority conferred by the licence to being the controller of unmanned aerial vehicles (UAV) that apply pesticides.

8T Cessation of transitional work health and safety regulations concerning application of pesticides and use of fumigants

It is declared that clause 65 of Schedule 18B to the *Work Health and Safety Regulation 2011* ceases to apply on 1 September 2015 in relation to the application of pesticides and use of fumigants.

[3] Clause 9 Persons qualified to use pesticides

Omit clause 9 (1) (b), (c), (e) and (f).

[4] Clause 10 Person must not use pesticide unless qualified

Omit clause 10 (2) (b). Insert instead:

- (b) if the person is a trainee carrying out prescribed pesticide work who is exempted under clause 8A from the requirement to hold a licence to carry out that work,
- (b1) if the person is carrying out fumigation work or pest management technician work and the person is exempted under clause 8 (1) or (2) from the requirement under section 45 (1) of the Act to hold a licence to carry out the work,
- (b2) if the pesticide is anti-fouling pesticide that is contained in a paint that is being applied by the person,

[5] Clause 13 Pesticides used for commercial, agricultural or occupational purposes

Omit clause 13 (2) (b) (including the note). Insert instead:

- (b) if a record of the use of the pesticide is required to be kept under clause 8M,

[6] Clause 28 Provision of safety data sheet

Omit “material” from clause 28 (1).

[7] Clause 28 (2)

Omit the subclause. Insert instead:

- (2) In this clause:

safety data sheet has the same meaning as in the *Work Health and Safety Regulation 2011*.

[8] Clauses 31A and 31B

Insert after clause 31:

31A Exemption for using pesticide contrary to approved label: section 15 (1) of Act

A person is exempt from the requirement under section 15 (1) of the Act not to use a registered pesticide in contravention of an instruction on an approved label for the pesticide if:

- (a) the pesticide is used to control a pest other than a pest of a kind specified by the label, and
- (b) the pest being controlled is neither a weed nor a vertebrate animal, and
- (c) the pesticide is used to control the pest in or on a plant or crop of a kind specified by the label, and
- (d) the pesticide is used in compliance with any other instructions on the label.

31B Prescribed fees for clean up and prevention notices

- (1) The purpose of this clause is to prescribe fees for the purposes of sections 22 (2) and 27 (2) of the Act.
- (2) The prescribed fees are as follows:
 - (a) for notices given on or after 1 September 2015 but before 1 July 2016—\$506,
 - (b) for notices given on or after 1 July 2016 but before 1 July 2017—\$520,
 - (c) for notices given on or after 1 July 2017 but before 1 July 2018—\$535,
 - (d) for notices given on or after 1 July 2018—\$550.

[9] Schedule 2 Penalty notice offences

Omit the matter relating to sections 52, 53 (1), (2) and (3) and 54 (1) and (3) of the *Pesticides Act 1999*.

[10] Schedule 2

Omit the matter relating to clause 8 of the *Pesticides Regulation 2009*. Insert instead:

Clause 8A (2)	200	—
Clause 8B (1)	400	800
Clause 8B (3)	200	400
Clause 8C (1)	400	—
Clause 8C (2)	200	—
Clause 8L (1)	200	400
Clause 8L (2)	200	400
Clause 8M (2)	400	800
Clause 8M (4)	400	800
Clause 8N	100	200
Clause 8R (6)	200	400