



New South Wales

Hemp Industry Regulation 2016

under the

Hemp Industry Act 2008

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Hemp Industry Act 2008*.

NIALL BLAIR, MLC
Minister for Primary Industries

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Hemp Industry Regulation 2008*, which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The *Hemp Industry Act 2008* (**the Act**) provides for a licensing scheme that enables a licensee to cultivate or supply hemp that has a concentration of tetrahydrocannabinol in the leaves and flowering heads not exceeding 1% (**low-THC hemp**) for commercial production or other legitimate purposes.

This Regulation makes provisions with respect to the following:

- (a) further particulars that are to be included in an application for a licence to cultivate or supply low-THC hemp,
- (b) applications for the renewal or transfer of a licence,
- (c) further grounds on which the Secretary of the Department of Industry, Skills and Regional Development may refuse to grant, or revoke, a licence,
- (d) further licence conditions (including conditions requiring licensees to pay an annual licence fee, to keep a register and to report to the Secretary on an annual basis),
- (e) prescribing the maximum amount of the fees that may be approved by the Secretary in relation to licence applications,
- (f) prescribing the offence under section 6 of the Act of not complying with a licence (including the conditions of the licence) as an offence that may be dealt with by way of a penalty notice,
- (g) repealing certain provisions consequent on the commencement of the *Biosecurity Act 2015*.

This Regulation is made under the Act, including sections 3 (1) (definitions of **corresponding authority** and **drug related offence**), 7 (2) (c), 9 (6), 12 (1) (a), 16 (1) (b), 37, 39 (1), 45 (6) and 46 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
Part 2 Licensing scheme	
4 Information and particulars to be included in licence applications	4
5 Application for renewal of licence	6
6 Additional grounds for refusing to grant licence	7
7 Application for transfer of licence	7
8 Additional grounds for revocation of licence	8
Part 3 Licence conditions	
9 Purpose	9
10 Licence conditions	9
11 Register	10
12 Annual reports	11
13 Annual licence fee	11
Part 4 Miscellaneous	
14 Corresponding laws	12
15 Agency for supply of information arrangements	12
16 Approved application fees	12
17 Penalty notices	12
18 Repeals consequent on commencement of Biosecurity Act 2015	12
19 Savings	13

Hemp Industry Regulation 2016

under the

Hemp Industry Act 2008

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Hemp Industry Regulation 2016*.

2 Commencement

This Regulation commences on 1 September 2016 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Hemp Industry Regulation 2008*, which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

hemp means any plant of the genus *Cannabis*.

plant includes a seedling.

seeds means any seeds that are capable of producing low-THC hemp.

the Act means the *Hemp Industry Act 2008*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

Part 2 Licensing scheme

4 Information and particulars to be included in licence applications

(1) **Purpose**

This clause prescribes information and particulars for the purposes of section 7 (2) (c) of the Act.

(2) **Generally**

An application for a licence must include the following:

- (a) the name, address, date of birth and contact details of the applicant,
- (b) the name, address, date of birth and contact details of any close associate of the applicant who is likely to be concerned in, or associated with, the cultivation or supply of low-THC hemp under the licence,
- (c) a description of the purpose for which the licence is required and the nature of the activities proposed to be carried out under the licence,
- (d) a description of the intended use and relevant destination of the low-THC hemp that is to be cultivated or supplied under the proposed licence,
- (e) details of any drug related offence for which the applicant, or any close associate of the applicant, has been convicted,
- (f) details of any refusal to grant a corresponding authority to the applicant or any close associate of the applicant,
- (g) details of any suspension or cancellation of a corresponding authority held by the applicant or any close associate of the applicant,
- (h) two recent passport-sized photographs of the applicant's face,
- (i) two recent passport-sized photographs of the face of any close associate of the applicant who is likely to be concerned in, or associated with, the cultivation or supply of low-THC hemp under the proposed licence,
- (j) the signature of the applicant and the date of the application.

(3) **Licence to cultivate low-THC hemp for commercial production**

An application for a licence authorising a person to cultivate low-THC hemp for commercial production (whether or not for any other purpose) must also include the following:

- (a) a description of the location of the property on which the low-THC hemp is to be cultivated (including Lot and DP numbers and the address of the property),
- (b) a plan of the property that shows the areas where the low-THC hemp is to be cultivated or stored (including an estimate of the total area to be used to grow the hemp),
- (c) any property identification code (within the meaning of the *Stock Diseases Regulation 2009*) for the property,
- (d) if the applicant does not own the property—the name and address of the owner of the property and evidence of the owner's consent to the use of the property to cultivate low-THC hemp for commercial production.

(4) **Licence to supply low-THC hemp for commercial production**

An application for a licence authorising a person to supply low-THC hemp for commercial production (whether or not for any other purpose) must also include the following:

- (a) if known—a description of the location of the property that is to be used for the proposed commercial production (including the address and contact details),
- (b) the estimated quantity of low-THC hemp to be supplied annually.

(5) **Licence to cultivate low-THC hemp for use in manufacturing process**

An application for a licence authorising a person to cultivate low-THC hemp for use in any manufacturing process (whether or not for any other purpose) must also include the following:

- (a) a description of the location of the property on which the low-THC hemp is to be cultivated (including Lot and DP numbers and the address of the property),
- (b) a plan of the property that shows the areas where the low-THC hemp is to be cultivated or stored (including an estimate of the total area to be used to grow the hemp),
- (c) any property identification code (within the meaning of the *Stock Diseases Regulation 2009*) for the property,
- (d) if the applicant does not own the property—the name and address of the owner of the property and evidence of the owner's consent to the use of the property to cultivate low-THC hemp for use in a manufacturing process,
- (e) if known—a description of the processes to which the low-THC hemp will be subject.

(6) **Licence to supply low-THC hemp for use in manufacturing process**

An application for a licence authorising a person to supply low-THC hemp for use in any manufacturing process (whether or not for any other purpose) must also include the following:

- (a) if known—a description of the location of the manufacturing facilities (including the address and contact details),
- (b) if known—a description of the processes to which the low-THC hemp will be subject,
- (c) the estimated quantity of low-THC hemp to be supplied annually.

(7) **Licence to cultivate low-THC hemp for scientific purposes**

An application for a licence authorising a person to cultivate low-THC hemp for scientific research, instruction, analysis or study (whether or not for any other purpose) must also include the following:

- (a) a description of the location of the property on which the low-THC hemp is to be cultivated (including Lot and DP numbers and the address of the property),
- (b) a plan of the property that shows the areas where the low-THC hemp is to be cultivated or stored (including an estimate of the total area to be used to grow the hemp),
- (c) any property identification code (within the meaning of the *Stock Diseases Regulation 2009*) for the property,
- (d) if the applicant does not own the property—the name and address of the owner of the property and evidence of the owner's consent to the use of the property

- to cultivate low-THC hemp for scientific research, instruction, analysis or study,
- (e) details of the educational qualifications and other relevant qualifications and experience of:
 - (i) the applicant, and
 - (ii) any close associate of the applicant who will be concerned in, or associated with, the cultivation of low-THC hemp under the licence,
- (f) details of the proposed research, instruction, analysis or study (including the objectives, trial design, the estimated quantity of low-THC hemp to be cultivated and the proposed use, disposal and destruction of that hemp).

(8) **Licence to supply low-THC hemp for scientific purposes**

An application for a licence authorising a person to supply low-THC hemp for scientific research, instruction, analysis or study (whether or not for any other purpose) must also include the following:

- (a) if known—a description of the location of the property that is to be used for the proposed research, instruction, analysis or study (including the address and contact details),
- (b) if known—a description of the proposed research, instruction, analysis or study,
- (c) the estimated quantity of low-THC hemp to be supplied annually.

5 Application for renewal of licence

- (1) If:
 - (a) the holder of a licence (*the current licence*) applies for the renewal of the licence before the end of its term, and
 - (b) the most recent information held by the Secretary in relation to the current licence (*the current licence information*) remains unchanged when the application for renewal is made,

the application is not required to include the information and particulars referred to in clause 4 but is required to include the information and particulars referred to in subclause (2) of this clause.

Note. Section 13 (3) of the Act provides that an application for the renewal of a licence is to be dealt with as if it were an initial application for a licence. This requirement is subject to the regulations.

- (2) The required information and particulars are as follows:
 - (a) the name, address and contact details of the applicant,
 - (b) the number of the applicant's current licence,
 - (c) a declaration by the applicant that the current licence information remains unchanged,
 - (d) the signature of the applicant and the date of the application.
- (3) Despite subclause (1), the Secretary may refuse to grant the application if, in the opinion of the Secretary, the current licence information has changed and the information and particulars required by clause 4 have not been included in the application.

6 Additional grounds for refusing to grant licence

For the purposes of section 9 (6) of the Act, the Secretary may refuse to grant a licence to an applicant for a licence if:

- (a) the applicant is unable to demonstrate, to the satisfaction of the Secretary, a lawful and genuine purpose for the cultivation or supply of low-THC hemp, or
- (b) the applicant, or a close associate of the applicant, has previously been refused a licence or a corresponding authority, or
- (c) the applicant, or a close associate of the applicant, has previously held a licence or corresponding authority that was cancelled or suspended, or
- (d) the applicant, or a close associate of the applicant who will be concerned in, or associated with, the cultivation or supply of low-THC hemp under the licence, has not attained the age of 18 years, or
- (e) in the case of an application for a licence authorising a person to cultivate low-THC hemp for scientific research, instruction, analysis or study—the applicant is unable to demonstrate, to the satisfaction of the Secretary, that the applicant, or any close associate of the applicant who will be concerned in, or associated with, the cultivation or supply of low-THC hemp under the licence, has the educational qualifications and other relevant qualifications and experience required to carry out the proposed scientific research, instruction, analysis or study.

7 Application for transfer of licence

- (1) An application for the transfer of a licence is not required to include the information and particulars referred to in clause 4, but is required to include the information and particulars referred to in subclause (2) of this clause, if the most recent information held by the Secretary in relation to the licence (*the current licence information*) remains unchanged when the application for the transfer is made.

Note. Section 14 (2) of the Act provides that an application for the transfer of a licence is to be dealt with as if it were an initial application for a licence. This requirement is subject to the regulations.

- (2) The required information and particulars are as follows:
 - (a) the name, address and contact details of the current licence holder,
 - (b) the number of the licence,
 - (c) the name, address, date of birth and contact details of the transferee,
 - (d) the name, address, date of birth and contact details of any close associate of the transferee who is likely to be concerned in, or associated with, the cultivation or supply of low-THC hemp under the licence,
 - (e) details of any drug related offence for which the transferee, or any close associate of the transferee, has been convicted,
 - (f) details of any refusal to grant a corresponding authority to the transferee or any close associate of the transferee,
 - (g) details of any suspension or cancellation of a corresponding authority held by the transferee or any close associate of the transferee,
 - (h) two recent passport-sized photographs of the transferee's face,
 - (i) two recent passport-sized photographs of the face of any close associate of the transferee,
 - (j) a declaration by the current licence holder that the current licence information remains unchanged,

- (k) the signature of the current licence holder and of the transferee and the date of the application.
- (3) Despite subclause (1), the Secretary may refuse to grant the application if, in the opinion of the Secretary, the current licence information has changed and the information and particulars required by clause 4 have not been included in the application.

8 Additional grounds for revocation of licence

For the purposes of section 16 (1) (b) of the Act, a licence may be revoked by the Secretary on the ground that it has been requested in writing by the licensee.

Part 3 Licence conditions

9 Purpose

This Part prescribes conditions of a licence for the purposes of section 12 (1) (a) of the Act.

10 Licence conditions

- (1) The following conditions are prescribed:
 - (a) a licensee must ensure that the activities authorised by the licence remain under the licensee's control at all times,
 - (b) if a licence specifies an area in which an activity authorised by the licence is to be carried out, the licensee must ensure that such activities are carried out only in the specified area,
 - (c) a licensee may only use seed that is supplied on the basis that it will not produce hemp that has a concentration of THC (in its leaves and flowering heads) of more than 0.5%,
 - (d) a licensee must take all necessary steps to ensure that any hemp cultivated by the licensee has a concentration of THC (in its leaves and flowering heads) that does not exceed 1%,
 - (e) a licensee must provide the Secretary with the results of any test, carried out by or on behalf of the licensee, indicating that the concentration of THC (in the leaves and flowering heads of hemp cultivated by the licensee) exceeds 1% within 24 hours of receiving those results,
 - (f) if a licensee becomes aware of the unauthorised use or supply (or proposed unauthorised use or supply) of any low-THC hemp that has been, or is intended to be, cultivated or supplied under the licence, the licensee must immediately notify an inspector of the unauthorised use or supply (or proposed unauthorised use or supply),
 - (g) a licensee must take all necessary steps to ensure that any low-THC hemp that has been, or is intended to be, cultivated or supplied under the licence is not at risk of being used for an unlawful purpose,
 - (h) a licensee must ensure that all low-THC hemp cultivated under the licence is, before leaving the property on which it was cultivated, substantially stripped of its leaves,
 - (i) a licensee must advise the Secretary of any material change to the information provided in relation to the licence in accordance with this Regulation,
 - (j) a licensee must produce the licence for inspection by an inspector at the request of the inspector,
 - (k) a licensee must co-operate with an inspector at all times when the inspector is exercising his or her powers under the Act in relation to the licensee,
 - (l) a licensee must notify the Secretary immediately if the applicant, or any close associate of the applicant, is convicted of any drug related offence.
- (2) A licensee is exempt from the requirement in subclause (1) (h):
 - (a) in respect of any low-THC hemp taken from the property on which it was cultivated for scientific purposes or analysis, and
 - (b) in such other circumstances that the Secretary considers appropriate.

11 Register

- (1) It is a condition of a licence that the licensee keep, in accordance with this clause, a register containing the following information:
- (a) the name and address of any person employed or otherwise involved in assisting the licensee in carrying out any activities in relation to the cultivation or supply of low-THC hemp and details of a proof of identity document for that person (for example, details of the person's driver licence or passport),
 - (b) in relation to any seeds that are supplied or obtained under the licence:
 - (i) the date that the seeds are supplied or obtained, and
 - (ii) the weight of the seeds, and
 - (iii) the variety of the seeds, and
 - (iv) the name of the person to whom the seeds are supplied or from whom the seeds are obtained,
 - (c) in relation to any plants that are supplied or obtained under the licence:
 - (i) the date that the plants are supplied or obtained, and
 - (ii) the number of the plants, and
 - (iii) the variety of the plants, and
 - (iv) the name of the person to whom the plants are supplied or from whom the plants are obtained,
 - (d) in relation to the sowing of any seeds under the licence:
 - (i) the date that the seeds are sown, and
 - (ii) the weight and variety of the seeds sown, and
 - (iii) the location where the seeds are sown,
 - (e) in relation to the planting of any plants under the licence:
 - (i) the date that the plants are planted, and
 - (ii) the number of plants, and
 - (iii) the variety of the plants, and
 - (iv) the location where the plants are planted,
 - (f) in relation to the disposal or destruction of any seeds or plants under the licence:
 - (i) the date of the disposal or destruction of the seeds or plants, and
 - (ii) the weight of the seeds or number of plants, and
 - (iii) the variety of the seeds or plants, and
 - (iv) the location where the seeds or plants are disposed or destroyed, and
 - (v) the manner in which the seeds or plants are disposed or destroyed, and
 - (vi) the reason for the disposal or destruction of the seeds or plants,
 - (g) in relation to the harvesting of low-THC hemp under the licence:
 - (i) the date of the harvesting, and
 - (ii) the quantity of plants harvested, and
 - (iii) the variety of the plants harvested, and
 - (iv) the weight of any seeds obtained from harvested plants and the variety of those plants, and
 - (v) the location of the harvesting,
 - (h) in relation to the supply of harvested low-THC hemp under the licence:
 - (i) the date of the supply, and

- (ii) the name of the person to whom the hemp was supplied, and
 - (iii) the condition of the hemp (including whether any plants are fresh or dried and whether any seeds are viable or have been treated to make the seeds non-viable).
- (2) Information is to be recorded in the register within 48 hours of the relevant event to which the information relates.
- (3) The register must identify the person who recorded the information and the date that the information was recorded in the register.
- (4) The person responsible for keeping a register under a licence must, if the licence to which the register relates expires or is revoked, retain the register for a period of 5 years after the expiry or revocation.
- (5) The register must be:
 - (a) in legible form in the English language, or
 - (b) in computerised or other form that is readily accessible and is convertible into a legible form in the English language.
- (6) The register is to be kept in a secure manner so as to prevent any tampering with the register.
- (7) If a licence is transferred, the licensee is to provide the transferee with a copy of the register.

12 Annual reports

- (1) It is a condition of a licence that the licensee provide a report to the Secretary in relation to the activities carried out under the licence during each annual period.
- (2) The report is to be provided to the Secretary within the time, and in the manner, specified by the Secretary by notice in writing to the licensee.
- (3) Without limiting subclause (2), the Secretary may direct a licensee, or any class of licensees, to include specified information relating to licences or the cultivation or supply of low-THC hemp in a report. The licensee must comply with any such direction.
- (4) In this clause, *annual period*, in relation to a licence, means each period of 12 months beginning on the date the licence was granted and on each anniversary of that date.

13 Annual licence fee

- (1) It is a condition of a licence that the licensee pay an annual fee of \$200 in accordance with this clause.
- (2) The annual fee is payable to the Secretary annually in accordance with the written directions of the Secretary.
- (3) The annual fee is payable even if the licence is suspended.

Part 4 Miscellaneous

14 Corresponding laws

- (1) The following Acts, and any instruments made under those Acts, are declared to be corresponding laws for the purposes of the definition of *corresponding authority* in section 3 (1) of the Act:
 - (a) the *Hemp Fibre Industry Facilitation Act 2004* of the Australian Capital Territory,
 - (b) the *Drugs Misuse Act 1986* of Queensland,
 - (c) the *Poisons Act 1971* of Tasmania,
 - (d) the *Drugs, Poisons and Controlled Substances Act 1981* of Victoria,
 - (e) the *Industrial Hemp Act 2004* of Western Australia.
- (2) The following Acts, and any instruments made under those Acts, are declared to be corresponding laws for the purposes of the definition of *drug related offence* in section 3 (1) of the Act:
 - (a) the *Criminal Code 2002* of the Australian Capital Territory,
 - (b) the *Criminal Code Act 1995* of the Commonwealth,
 - (c) the *Misuse of Drugs Act* of the Northern Territory,
 - (d) the *Drugs Misuse Act 1986* of Queensland,
 - (e) the *Controlled Substances Act 1984* of South Australia,
 - (f) the *Misuse of Drugs Act 2001* of Tasmania,
 - (g) the *Drugs, Poisons and Controlled Substances Act 1981* of Victoria,
 - (h) the *Misuse of Drugs Act 1981* of Western Australia.

15 Agency for supply of information arrangements

For the purposes of section 37 of the Act, the Ministry of Health is prescribed as a relevant agency.

16 Approved application fees

Note. The fee to accompany a licence application (including licence renewals and transfers) is approved by the Secretary (see section 7 (2) (b) of the Act). This clause prescribes the maximum amount of any such approved fee.

For the purposes of section 39 (1) of the Act:

- (a) the amount of \$1,000 is prescribed in relation to any fee approved by the Secretary for an application for a licence (other than an application for the renewal or transfer of a licence), and
- (b) the amount of \$500 is prescribed in relation to any fee approved by the Secretary for an application for the renewal or transfer of a licence.

17 Penalty notices

For the purposes of section 45 (6) of the Act, the offence created by section 6 of the Act is prescribed as an offence for which a penalty notice may be issued and the prescribed penalty for that offence is \$550.

18 Repeals consequent on commencement of Biosecurity Act 2015

Clause 4 (3) (c), (5) (c) and (7) (c) is repealed:

- (a) if Schedule 8.22 to the *Biosecurity Act 2015* commences on or before 1 September 2016—on 1 September 2016, or

- (b) if Schedule 8.22 commences after 1 September 2016—on the day that Schedule commences.

19 Savings

Any act, matter or thing that, immediately before the repeal of the *Hemp Industry Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.