

Pesticides Regulation 1995

[1995-510]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Note**

The [Pesticides Regulation 1995](#) made under the [Pesticides Act 1978](#) is on and from 1.7.2000 taken to be a regulation under the [Pesticides Act 1999 No 80](#). See clause 11 of Schedule 2 to the [Pesticides Act 1999](#).

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Pesticides Regulation 1995



New South Wales

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Pesticides Regulation 1995



New South Wales

Part 1 Preliminary

1 Name of Regulation

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

2 Commencement

This Regulation commences on 1 September 1995.

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.

Part 2 Licences and approvals for the application of pesticides from aircraft

4 Application for licence: section 46

(1) (Repealed)

(2) For the purposes of section 46 (2) (b) of the Act:

(a) \$50 is the prescribed fee to accompany an application for an aircraft (pesticide applicator) licence, and

(b) \$50 is the prescribed fee to accompany an application for a pilot (pesticide rating) licence.

(3) The fee to accompany an application for a pilot (pesticide rating) licence may be waived if the applicant is the holder of a current equivalent licence issued in another State or Territory.

5 Particulars to accompany application for licence: section 46

- (1) For the purposes of section 46 (3) (c) of the Act, the following particulars are required to accompany an application for an aircraft (pesticide applicator) licence:
 - (a) evidence that the applicant is the holder of an air operator's certificate endorsed for agricultural operations and issued under the Air Navigation Regulations of the Commonwealth,
 - (b) the date of expiry of the insurance policy referred to in section 46 (3) (b).
- (2) For the purposes of section 46 (4) (b) of the Act, the following particulars are required to accompany an application for a pilot (pesticide rating) licence:
 - (a) evidence that the applicant is the holder of a current commercial or senior commercial pilot licence issued under the Air Navigation Regulations of the Commonwealth and endorsed with an agricultural rating,
 - (b) evidence that the applicant:
 - (i) is the holder of a certificate of approval issued under the Spray Safe Accreditation Program conducted by the Aerial Agricultural Association of Australia, or
 - (ii) has passed an examination conducted in accordance with the requirements of Schedule 2 or has passed an equivalent examination in another State or Territory,
 - (c) details of any pesticide to which the licence should be restricted,
 - (d) particulars of any licence or certificate issued to the applicant in New South Wales or any other State or Territory in relation to the aerial application of pesticides or of any refusal to issue any such licence or certificate or the cancellation or suspension of any such licence or certificate.

6 Prescribed qualifications for issue of licence: section 48

- (1) For the purposes of section 48 (2) (b) of the Act, an applicant for an aircraft (pesticide applicator) licence has the prescribed qualifications if the applicant holds an air operator's certificate endorsed for agricultural operations and issued under the Air Navigation Regulations of the Commonwealth.
- (2) For the purposes of section 48 (3) (b) of the Act, an applicant for a pilot (pesticide rating) licence has the prescribed qualifications if:
 - (a) the applicant holds a current commercial or senior commercial pilot licence issued under the Air Navigation Regulations of the Commonwealth and endorsed with an agricultural rating, and

(b) the applicant:

- (i) is the holder of a certificate of approval issued under the Spray Safe Accreditation Program conducted by the Aerial Agricultural Association of Australia, or
- (ii) has passed an examination conducted in accordance with the requirements of Schedule 2 or has passed an equivalent examination in another State or Territory.

6A Records of aerial application of pesticides

For the purposes of section 54 (2) (g) of the Act, the following additional particulars are required to be contained in a record made under that section:

- (a) a description of the crop in respect of which the pesticide was applied or other situation in which it was used,
- (b) the rate of application of the pesticide and the quantity applied.

Part 3

7, 8 (Repealed)

Part 4 Prohibited residues and restricted pesticides

9 (Repealed)

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.

11 Certificates authorising preparation and use of restricted pesticides: section 56

- (1) (Repealed)

(2) For the purposes of section 56 (2) (b) of the Act, \$10 is the prescribed fee for an application for a certificate to authorise the use or possession of a restricted pesticide.

(3) (Repealed)

Part 4A Records relating to use of pesticides

11A Application of Part

This Part does not apply to or in respect of aerial pesticide operations for which a licence is required under the Act.

11B Requirement to make records relating to use of pesticides for commercial and occupational purposes

- (1) A person must make (or cause to be made) a record, in accordance with clause 11D, that relates to each occasion on which the person uses a pesticide:
- (a) in the course of carrying on a business involving the use of pesticides (regardless of whether that use is the primary purpose of the business concerned), or
 - (b) while acting in the capacity as, or while carrying out pest control operations for, the landlord of the premises on which the pesticide is used, or
 - (c) while carrying out pest control operations for or on behalf of a public authority, or
 - (d) while carrying out pest control operations on a golf course or bowling green.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (2) Subclause (1) does not apply in relation to the use of a pesticide that:
- (a) is ordinarily used for domestic purposes (including home gardening), and
 - (b) is widely available to the general public at retail outlets (for example, at supermarkets), and
 - (c) is being applied by hand or hand-held applicator, and
 - (d) is being used in a quantity that:
 - (i) in the case of outdoor use—is appropriate for outdoor domestic purposes (so long as it does not exceed 20 litres or 20 kilograms of “ready-to-use” product or 5 litres or 5 kilograms of concentrated product), or
 - (ii) in the case of indoor use—is appropriate for indoor domestic purposes (so long as it does not exceed 5 litres or 5 kilograms of “ready-to-use” product or 1 litre or 1 kilogram of concentrated product).

(3) Subclause (1) does not apply in relation to the use of a pesticide in public baths or in any swimming pool or spa.

(4) Subclause (1) does not apply to persons to whom clause 11C applies.

(5) If:

(a) a pesticide is used by a person individually (or as part of a team) while carrying out pest control operations for or on behalf of a public authority, and

(b) the pest control operations:

(i) involve the use of hand-held equipment only, and

(ii) are carried out under the supervision or direction of a person who has on-site responsibility for the operations (***the responsible person***),

the requirement to make a record in relation to the use of the pesticide applies to the responsible person and not to the individual person or to each member of the team.

(6) In subclause (5):

team means a group of workers (including a group of workers who are members of a volunteer organisation) who are assigned to carry out a specific operation and who are working separately from any other group of workers.

11C Requirement to make records relating to use of pesticides in connection with agricultural, farming or forestry operations

(1) This clause applies to persons who use pesticides in connection with any agricultural, farming or forestry operations.

(2) A person to whom this clause applies must make (or cause to be made) a record, in accordance with clause 11D, that relates to each occasion on which the person uses a pesticide in any of the circumstances described in subclause (3).

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

(3) The circumstances in which a record is required to be made are as follows:

(a) whenever livestock are treated for ectoparasites by means of a dip bath or by the use of powered spray equipment that is not hand held,

(b) whenever harvested horticultural crops are treated by means of a dip bath,

(c) whenever any spray equipment is used to apply a pesticide for horticultural purposes (including the spraying of fallow crop land),

(d) whenever any powered spray equipment is used to spray crops, fallow crop land

or trees in a plantation (including in or around such trees),

(e) whenever ground driven powered spray equipment that is not hand held is used,

(f) whenever baits are applied to control vertebrate pests (other than baits that are used to control rodents in or around buildings).

(4) A record is not required to be made in the circumstances referred to in subclause (3) (c) if:

(a) the application consists of spot spraying that is confined to a small and restricted area on or within a tree crop, and

(b) the pesticide is applied by hand held and hand powered equipment only, and

(c) the pesticide is applied no closer than 20 metres to a property boundary.

(5) In this clause:

ground driven powered spray equipment means powered spray equipment that is mounted on or attached to a vehicle.

horticultural crops means fruit, vegetables, flowers, nuts and herbs.

powered spray equipment means spray equipment that is powered otherwise than by human energy.

spray equipment means any device or apparatus that distributes pesticide through the air, and includes ground driven powered spray equipment and powered spray equipment.

11D Information to be contained in record

(1) A record required to be made under clause 11B or 11C must contain the following information:

(a) the full product name of the pesticide applied,

(b) a description of the crop in respect of which the pesticide was applied or other situation in which it was used,

(c) the rate of application of the pesticide and the quantity applied,

(d) a description of the equipment used to apply the pesticide,

(e) the address of the property and the delineation of the area in which the pesticide was released and, in the case of a record under clause 11C, the order in which areas (such as paddocks or sheds) were treated,

(f) the date and times of the application of the pesticide (including the start and finish

time),

- (g) the name, address and contact details of the person who applied the pesticide or, in the case where the pesticide was applied by a person employed to apply the pesticide, the name of the employee and the name, address and contact details of the employer,
- (h) the name, address and contact details of the owner or occupier of the land in respect of which the pesticide was applied (if the information is not the same as the information required by paragraph (g)),
- (i) in the case where the record is required to be made by a responsible person (as referred to in clause 11B (5))—the name of each worker who used the pesticide under the on-site supervision or direction of the responsible person,
- (j) if the pesticide is applied outdoors by means of any spray equipment within the meaning of clause 11C:
 - (i) the estimated wind speed and direction at the start of the application and whenever there is any significant change during the application, and
 - (ii) if other weather conditions (such as temperature, humidity or rainfall conditions) are specified on the pesticide label as being relevant for the proper use of the pesticide—a description of those conditions at the start of the application and whenever there is any significant change during the application.

(2) The record must:

- (a) be made as soon as practicable after the use of the pesticide concerned and, in any event, no later than 24 hours after the pesticide is used, and
- (b) be in writing and in the English language, and
- (c) be legible.

11E Keeping and provision of records

- (1) A person who is required to make a record under clause 11B (1) (a) or (b) must keep the record for a period of not less than 3 years after the date on which the record was made.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (2) A person who is required to make a record under clause 11B (1) (c) or (d) or 11C must:

- (a) if the person is the owner or occupier of the land on which the pesticide was

applied—keep the record for a period of not less than 3 years after the date on which the record was made, or

(b) if the person is an employee—provide the record to the person's employer, or

(c) if the person is a contractor:

(i) keep the record for a period of not less than 3 years after the date on which the record was made, and

(ii) provide a copy of the record to the owner or occupier of the land on which the pesticide was applied.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

(3) A person who is provided with a record or a copy of a record under this clause must keep it for a period of at least 3 years after the date on which the person is provided with the record or copy.

Maximum penalty: 300 penalty units in the case of a corporation, or 150 penalty units in the case of an individual.

(4) In this clause:

contractor means a person who is engaged (other than under a contract of employment) for fee or reward to carry out operations involving the use of pesticides.

employee means a person employed under a contract of employment and who carries out operations involving the use of pesticides in the course of that employment.

11F False or misleading information in record

A person must not, in any record required to be made under clause 11B or 11C, make any statement, or include any information, that is false or misleading in a material particular.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

11G Exemption from record keeping requirements

(1) The Environment Protection Authority may, by notice published in the Gazette, exempt a specified person or specified class of persons from any requirement under this Part.

(2) Without limiting subclause (1), an exemption may relate to particular kinds of information referred to in clause 11D.

(3) Before making an exemption under this clause, the Environment Protection Authority

is required to consult with such persons or bodies as the Authority considers appropriate (including the representatives of any relevant environmental or industry group).

11H Integration with other record keeping requirements

The Environment Protection Authority may approve, either in a particular case or generally, of the integration of records that are required to be made and kept under this Part with other records that are required to be made and kept under any other law.

Part 5 Miscellaneous provisions

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.

16 Repeal

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

Schedule 1 Penalty notice offences and short descriptions

(Clauses 13-15)

Column 1 Provision of the Act	Column 2 IPB Code (indivs)	Column 3 IPB Code (corpns)	Column 4 Short description code	Column 5 Penalty \$ (indivs)	Column 6 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
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
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
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
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
Column 1 Provision of this Regn	Column 2 IPB Code (indivs)	Column 3 IPB Code (corpns)	Column 4 Short description code	Column 5 Penalty (indivs)	Column 6 Penalty (corpns)
Clause 11B (1)	5503	5509	not make record of pesticide use	\$400	\$800
Clause 11C (2)	5527	5537	not make record of pesticide use	\$400	\$800
Clause 11E (1)	6743	6745	not keep record	\$200	\$400
Clause 11E (2) (a)	6746	6747	owner or occupier not keep record	\$200	\$400
Clause 11E (2) (b)	7093	—	employee not provide record	\$200	—
Clause 11E (2) (c) (i)	7095	8090	contractor not keep record	\$200	\$400
Clause 11E (2) (c) (ii)	8094	8103	contractor not provide record	\$200	\$400
Clause 11E (3)	6731	6733	not keep record as provided	\$150	\$300
Clause 11F	6734	6736	make/include false/ misleading statement/ information	\$200	\$400

Schedule 2 Qualifying examination

(CII 5, 6)

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