

Pesticides Regulation 1995

[1995-510]



New South Wales

Status Information

Currency of version

Historical version for 16 December 2005 to 31 January 2006 (accessed 12 May 2024 at 9:10)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Does not include amendments by**
[Vocational Education and Training Act 2005 No 100](#) (not commenced)
[Pesticides Amendment \(Notification and Miscellaneous Matters\) Regulation 2005 \(840\)](#) (GG No 157 of 16.12.2005, p 10934), Sch 1 [2] [3] and [13]–[15] (not commenced — Sch 1 [2] [3] [13] and [14] to commence on 1.2.2006; Sch 1 [15] to commence on 1.2.2007)
- **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](#).

File last modified 16 December 2005

Pesticides Regulation 1995



New South Wales

Contents

Part 1 Preliminary 5

1 Name of Regulation 5

2 Commencement 5

3 Definitions 5

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

..... 5

4 Application for licence: section 46 5

5 Particulars to accompany application for licence: section 46 6

6 Prescribed qualifications for issue of licence: section 48 6

6A Records of aerial application of pesticides 7

Part 3 Compulsory training for certain pesticide users..... 7

Division 1 Preliminary 7

7 Definitions 7

Division 2 Requirement for pesticide users to hold prescribed qualification

..... 8

7A Only qualified persons to use pesticides in certain circumstances..... 8

7B Exceptions to clause 7A (1) offence 9

7C Defence to clause 7A offences 10

7D Additional defence and other provisions relating to clause 7A (1) (d) offence 10

Division 3 Other requirements relating to qualifications	11
7E Evidence of qualification must be produced on request	11
7F False representations and fraudulent misuse of evidence of prescribed qualification	12
Division 4 Miscellaneous provisions relating to prescribed qualifications	
	12
8 Approval of units of competency, or parts of units of competency, for prescribed qualifications	12
8A Transitional provision concerning certificates of competency and statements of attainment	13
Part 4 Prohibited residues and restricted pesticides	14
9 (Repealed)	14
10 Prohibited residues: section 63	14
11 Certificates authorising preparation and use of restricted pesticides: section 56	14
Part 4A Records relating to use of pesticides	14
11A Application of Part	15
11B Requirement to make records relating to use of pesticides for commercial and occupational purposes	15
11C Requirement to make records relating to use of pesticides in connection with agricultural, farming or forestry operations	16
11D Information to be contained in record	17
11E Keeping and provision of records	18
11F False or misleading information in record	19
11G Exemption from record keeping requirements	19
11H Integration with other record keeping requirements	20
Part 5 Miscellaneous provisions	20
12 (Repealed)	20
13 Penalty notice offences: section 75	20
14 Amounts of penalty payable: section 78	20
15 (Repealed)	20
16 Repeal	20
Schedule 1 Penalty notice offences	20

Schedule 2 Qualifying examination.....22

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 has the same meaning as in the *Food Act 2003*.

the Act means the *Pesticides Act 1999*.

(2) The explanatory note, notes in the text of this Regulation, 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 Compulsory training for certain pesticide users

Division 1 Preliminary

7 Definitions

(1) In this Part:

Australian Qualifications Framework means the Australian Qualifications Framework developed under instructions from the Ministerial Council on Education, Employment, Training and Youth Affairs.

former authority (fumigation permit) means a fumigation permit in force under the *Occupational Health and Safety (Pest Control) Regulation 1988* immediately before its repeal.

former authority (pest control operator's licence) means a pest control operator's licence in force under the *Occupational Health and Safety (Pest Control) Regulation 1988* immediately before its repeal.

fumigant has the same meaning as in clause 265 of the *Occupational Health and Safety Regulation 2001*.

prescribed qualification means a qualification with respect to the use of pesticides that is granted to a person by a registered training provider:

- (a) in accordance with the Australian Qualifications Framework, and
- (b) in recognition of the person's satisfactory achievement of specified units of

competency or parts of units of competency (being units of competency, or parts of units of competency, that, at the time the prescribed qualification is issued, are approved by the Environment Protection Authority under clause 8).

registered training provider means:

- (a) a training provider registered under the [Vocational Education and Training Accreditation Act 1990](#), or
- (b) a training provider listed as a registered training organisation on the National Training Information Service maintained by the Commonwealth Department of Education, Science and Training.

(2) In this Part, a reference to evidence of a qualification is a reference to:

- (a) in the case of a permit or licence, the permit or licence concerned, and
- (b) in the case of any other qualification:
 - (i) a document that is issued to a person as the qualification concerned achieved by that person, or
 - (ii) a document (including a card) that is issued to the holder of the qualification concerned by a registered training provider, or other person or body approved by the Authority, as a record or evidence (or both) of the person's achievement of that qualification.

(3) For the purposes of this Part, a prescribed qualification ceases to have effect in relation to a person at the end of 5 years after the person last obtained the qualification (unless sooner cancelled or revoked).

Note—

In order to remain qualified, a person will therefore need to requalify every 5 years.

Division 2 Requirement for pesticide users to hold prescribed qualification

7A Only qualified persons to use pesticides in certain circumstances

- (1) A person must not use a pesticide in any of the following circumstances unless he or she holds a prescribed qualification:
 - (a) in the course of acting as, or for or on behalf of, the landlord of any premises,
 - (b) in the course of acting for or on behalf of a public authority,
 - (c) in the course of carrying out pest control operations on a golf course, sporting field or bowling green,

- (d) in connection with any agricultural operations (including farming, horticultural or aquacultural operations) or forestry operations,
- (e) in the course of carrying on, or working in, a business, educational institution or hospital (whether as principal, contractor or employee, and regardless of whether, in the case of a business, the use of pesticides is a purpose of the business concerned).

Maximum penalty: 200 penalty units.

- (2) A person must not employ or engage a person to use a pesticide in any circumstance referred to in subclause (1) unless the second-mentioned person holds a prescribed qualification and evidence of the prescribed qualification.

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

- (3) This clause does not apply to the storage of pesticides.
- (4) This clause commences on 1 September 2005.

7B Exceptions to clause 7A (1) offence

- (1) Clause 7A (1) does not apply to any person who:
 - (a) holds a licence under the Act, or
 - (b) holds a certificate of competency or recognised qualification (within the meaning of Part 9.1 of Chapter 9 of the *Occupational Health and Safety Regulation 2001*) in relation to the kind of work referred to in clause 11 (Application of pesticides) or 12 (Use of fumigants) of the Schedule to clause 266 of that Regulation, or
 - (c) is a trainee doing work of the type referred to in paragraph (b) and who is excepted under clause 271 of that Regulation from the requirement of that Regulation to hold a certificate of competency or recognised qualification in relation to that work, or
 - (d) holds a former authority (pest control operator's licence) that is taken to be a certificate of competency under clause 268 of that Regulation.
- (2) Clause 7A (1), to the extent only to which it prohibits a person from using a fumigant unless he or she holds a prescribed qualification, does not apply to any person who holds a former authority (fumigation permit) that is taken to be a certificate of competency under clause 268 of the *Occupational Health and Safety Regulation 2001*.
- (3) Clause 7A (1) does not apply in relation to the use of a pesticide in public baths or in any swimming pool or spa.

7C Defence to clause 7A offences

- (1) It is a defence in any proceedings against a person for an offence under clause 7A (1) or (2) if the person establishes that the pesticide concerned:
 - (a) was being applied by hand or by a hand-held applicator, and
 - (b) was 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).
- (2) Subclause (1) does not apply unless the pesticide concerned:
 - (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).

7D Additional defence and other provisions relating to clause 7A (1) (d) offence

- (1) It is a defence in any proceedings against a person for an offence under clause 7A (1) (d) if the person establishes, in connection with the agricultural operations or forestry operations concerned:
 - (a) that the person used the pesticide under the direct supervision of the holder of a relevant qualification, and
 - (b) that the holder of the relevant qualification:
 - (i) selected the pesticide as the pesticide to be used, and
 - (ii) prepared the pesticide for use, and
 - (iii) tested and calibrated the equipment used to apply the pesticide before it was so used, and
 - (iv) instructed the person in how to apply the pesticide, and
 - (c) that the person applied the pesticide by hand-held and hand-powered equipment, and
 - (d) that the person applied pesticide in connection with the agricultural operations or forestry operations concerned on no more than 12 days in the previous 12 months and on no more than 4 days in the previous month.

- (2) A person must not supervise a person, who does not hold a prescribed qualification, in the use of a pesticide in connection with any agricultural operations or forestry operations unless:
- (a) if the pesticide is a fumigant, the first-mentioned person holds a relevant qualification, or
 - (b) in any other case, the first-mentioned person holds a relevant qualification referred to in paragraph (a), (b), (c) or (e) of the definition of that term in subclause (3).

Maximum penalty: 200 penalty units.

- (3) For the purposes of this clause:

relevant qualification means:

- (a) a prescribed qualification, or
- (b) a licence, certificate of competency or recognised qualification referred to in clause 7B (1) (a) or (b), or
- (c) a former authority (pest control operator's licence) that is taken to be a certificate of competency as referred to in clause 7B (1) (d), or
- (d) in connection only with the supervision of the use of a fumigant, a former authority (fumigation permit) that is taken to be a certificate of competency as referred to in clause 7B (2), or
- (e) a certificate of completion or a statement of attainment referred to in clause 8A.

- (4) Subclause (2) commences on 1 September 2005.

Division 3 Other requirements relating to qualifications

7E Evidence of qualification must be produced on request

- (1) A person who:
- (a) under clause 7A (1), is required to hold a prescribed qualification in respect of the use of a pesticide, or
 - (b) under clause 7D (2), is required to hold a relevant qualification in respect of the supervision of the use of a pesticide,

must, if requested to do so by an authorised officer, produce evidence of the qualification concerned for inspection by the authorised officer.

Maximum penalty: 200 penalty units.

- (2) This clause commences on 1 September 2005.

7F False representations and fraudulent misuse of evidence of prescribed qualification

- (1) A person must not forge or alter evidence of a prescribed qualification.

Maximum penalty: 100 penalty units.

- (2) A person must not falsely represent, whether in writing, by word or by conduct, that he or she is the holder of a prescribed qualification.

Maximum penalty: 100 penalty units.

- (3) This clause commences on 1 September 2005.

Division 4 Miscellaneous provisions relating to prescribed qualifications

8 Approval of units of competency, or parts of units of competency, for prescribed qualifications

- (1) The Environment Protection Authority may from time to time approve of units of competency, or parts of units of competency, for the purposes of the definition of ***prescribed qualification*** in clause 7.
- (2) The Authority may only approve of units of competency, or parts of units of competency, if the units of competency are specified in a current Training Package endorsed by the National Training Framework Committee of the Australian National Training Authority (being an Authority established under the [Australian National Training Authority Act 1992](#) of the Commonwealth).
- (3) Before approving units of competency, or parts of units of competency, under this clause, the Authority:
- (a) must consult relevant groups, including registered training providers and environmental and industry representatives, and
 - (b) must be satisfied that the proposed units of competency, or parts of units of competency, are relevant to the objects of the Act.
- (4) An approval under this clause:
- (a) must clearly identify all units of competency, or parts of units of competency, required to be achieved for the issue of a prescribed qualification, and
 - (b) may specify that particular units of competency, or particular parts of units of competency, must be achieved by particular pesticide users or classes of pesticide users (including, for example, the users of a particular type of pesticide).

- (5) An approval under this clause is to be published in the Gazette and takes effect on the day that it is so published or on such later date as may be specified in the approval.
- (6) The Authority must ensure that copies of any approval in force under this clause are available for public inspection, without charge and during ordinary business hours, at each of its offices.

8A Transitional provision concerning certificates of competency and statements of attainment

- (1) A person who holds:

- (a) a certificate of completion under the ChemCert (NSW) Ltd Farm Chemical User Training Program (also known as the Farmcare Australia Farm Chemical User Training Program), or
- (b) a statement of attainment on completion of the SMARTtrain Chemical Application Course, the SMARTtrain Managing Chemical Use Course or the SMARTtrain Chemical Risk Management Course,

that is current immediately before 1 September 2003 is taken to hold a prescribed qualification for the purposes of this Part until the expiration of 5 years from the date of issue of the certificate or statement of attainment, as the case may be (unless sooner cancelled or revoked).

- (2) A person who holds:

- (a) a certificate of completion or statement of attainment on completion in any of the following competency units, or combinations of competency units, issued by NewTRAIN Incorporated:
 - (i) RTC2706A,
 - (ii) RTC3704A and RTC3705A together,
 - (iii) all of the following together: RUAAG2005CHA, RUAAG2006CHA, RUAAG2007CHA, RUAAG2008CHA, RUAAG2009CHA, RUAAG2010CHA, RUAAG2011CHA and RUAAG2012CHA,
 - (iv) all of the following together: RUAAG2007CHA, RUAAG2008CHA, RUAAG2009CHA, RUAAG2010CHA, RUAAG2011CHA and RUAAG2012CHA, or
- (b) a certificate of completion or statement of attainment on completion issued by a specified university, industry association or organisation of any kind, being a certificate or statement, and a university, association or organisation, that the Environment Protection Authority has, by notice in the Gazette, declared to be sufficient for the purposes of this paragraph,

is taken to hold a prescribed qualification for the purposes of this Part until the expiration of 5 years from the date of issue of the certificate or statement, as the case may be (unless the certificate or statement is sooner cancelled or revoked).

- (3) The Environment Protection Authority may, by further notice in the Gazette, amend or revoke a declaration made for the purposes of subclause (2) (b).
- (4) An amendment or revocation referred to in subclause (3) does not affect a person who, before the amendment or revocation, was, by operation of subclause (2), taken to hold a prescribed qualification for the purposes of this Part.

Note—

Accordingly, before the date that such a certificate or statement ceases to be a prescribed qualification for the purposes of this Part, the person who holds the certificate or statement must ensure that he or she undertakes the training and assessment necessary for the award of a prescribed qualification.

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 Schedule 1 or 2 to General Food Standard 1.4.2 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 the shaded boxes in Schedule 1 or 2 to General Food Standard 1.4.2 of the Food Standards Code is a prescribed substance, and
 - (b) the concentration of the substance specified in Schedule 1 or 2 to General Food Standard 1.4.2 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 (Repealed)

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 2 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 3 of Schedule 1, the amount specified in Column 3 of Schedule 1.

15 (Repealed)

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

(Clauses 13 and 14)

Column 1	Column 2	Column 3
Provision of the Act	Penalty \$ (indivs)	Penalty \$ (corpns)
Section 10 (1) (a)	400	800
Section 10 (1) (b)	400	800
Section 11 (1) (a)	400	800
Section 11 (1) (b)	400	800
Section 12	400	800

Section 13	400	800
Section 14 (1)	200	400
Section 14 (2)	200	400
Section 15	400	800
Section 16	200	400
Section 17	400	800
Section 19 (4)	400	800
Section 25	400	800
Section 39 (4)	400	800
Section 41 (2)	400	800
Section 42 (4)	400	800
Section 42 (6)	400	800
Section 43	400	800
Section 45 (1) (a)	400	800
Section 45 (1) (b)	400	800
Section 45 (2) (a)	400	800
Section 45 (2) (b)	400	800
Section 52	200	400
Section 53 (1)	200	400
Section 53 (2)	200	400
Section 53 (3)	200	400
Section 54 (1)	400	800
Section 54 (3)	400	800
Section 59	400	800
Section 61 (1)	400	800
Section 61 (2)	400	800
Section 61 (3)	400	800

Column 1	Column 2	Column 3
Provision of this Regn	Penalty (indivs)	Penalty (corpns)
Clause 7A (1) (a)	400	—

Clause 7A (1) (b)	400	—
Clause 7A (1) (c)	400	—
Clause 7A (1) (d)	400	—
Clause 7A (1) (e)	400	—
Clause 7A (2)	400	800
Clause 7D (2)	400	—
Clause 7E (1) (a)	400	—
Clause 7E (1) (b)	400	—
Clause 7F (1)	400	—
Clause 11B (1)	\$400	\$800
Clause 11C (2)	\$400	\$800
Clause 11E (1)	\$200	\$400
Clause 11E (2) (a)	\$200	\$400
Clause 11E (2) (b)	\$200	—
Clause 11E (2) (c) (i)	\$200	\$400
Clause 11E (2) (c) (ii)	\$200	\$400
Clause 11E (3)	\$150	\$300
Clause 11F	\$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.