Western Australia

Health (Miscellaneous Provisions) Act 1911

Health (Pesticides) Regulations 2011

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Western Australia

Health (Pesticides) Regulations 2011

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Defined terms

Health (Miscellaneous Provisions) Act 1911

Health (Pesticides) Regulations 2011

Part 1 — Preliminary matters

1. Citation

These regulations are the *Health (Pesticides) Regulations 2011* [1].

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on the day after that day.

3. Terms used

In these regulations, unless the contrary intention appears —

business registration means registration under Part 3;

Chief Health Officer permit means a permit granted under regulation 102;

fumigant means a registered pesticide that contains one or more of the following active constituents —

(aa) chloropicrin;

(a) 1, 3 – dichloropropene;

(ba) ethanedinitrile;

(b) ethyl formate;

(c) ethylene dibromide;

(d) ethylene oxide;

(e) methyl bromide;

(f) phosphine;

(g) sulfuryl fluoride;

fumigation means a pest management treatment that involves the use of a fumigant in a gaseous form;

impose, in relation to a condition on a business registration or licence, means —

(a) to add a new condition; or

(b) to replace an existing condition with another condition;

licence means a technician's licence or provisional licence;

licensed technician means the holder of a technician's licence;

licensee means a licensed technician or provisional technician;

pest means an animal, plant or other biological entity that injuriously affects —

(a) the physical condition, worth or utility of a thing; or

(b) the use or enjoyment of a place;

pest management business has the meaning given in regulation 4;

pest management sales means the negotiation or arrangement of the supply by a pest management business of the services of a pest management technician to another person;

pest management salesperson means an individual who for remuneration undertakes pest management sales;

pest management technician has the meaning given in regulation 5;

pest management treatment has the meaning given in regulation 6;

pesticide means an agricultural chemical product as defined in the Agvet Code of Western Australia section 4;

provisional licence means a licence granted under regulation 39;

provisional technician means the holder of a provisional licence;

registered pesticide means a pesticide that is registered under the Agvet Code of Western Australia Part 2;

registered proprietor means a person who is registered under Part 3;

restricted-use pesticide means a registered pesticide that contains one or more of the following —

(a) a Schedule 7 poison as defined in the *Medicines and Poisons Act 2014* section 3;

(b) alphacloralose;

(c) dichlorvos if it is a Schedule 6 poison as defined in the *Medicines and Poisons Act 2014* section 3;

(d) pindone;

scheduled fee, for a matter, means the fee (if any) prescribed under regulation 111 for the matter;

technician's licence means a licence granted under regulation 38 or upgraded under regulation 46;

under direction, in relation to undertaking a pest management treatment, means on the instructions of, and under the regular and frequent supervision of, a licensed technician who is authorised to undertake the treatment;

under personal supervision, in relation to undertaking a pest management treatment, means in the presence of, and under the close and continuous supervision of, a licensed technician who is authorised to undertake the treatment;

undertake, in relation to a pest management treatment, includes do anything that is part of the process of undertaking the treatment.

[Regulation 3 amended: Gazette 19 Nov 2013 p. 5295; 29 Jan 2016 p. 269; 10 Jan 2017 p. 271; 17 Jan 2017 p. 410.]

4. Pest management businesses

(1) A pest management business is a business that supplies the services of pest management technicians, but does not include a business that is excluded by subregulation (2).

(2) A business is not a pest management business if —

(a) supplying the services of pest management technicians is not a principal activity of the business; and

(b) the services of pest management technicians are supplied free of charge.

5. Pest management technicians

(1) A pest management technician is —

(a) an individual who, for remuneration, undertakes pest management treatments that are not fumigations, other than a person excluded by subregulation (2) or (3); or

(b) an individual who undertakes fumigations (whether for remuneration or not), other than a person excluded by subregulation (4).

(2) A person is not a pest management technician if —

(a) the person is employed by one employer only; and

(b) the only pest management treatments the person is employed to undertake are treatments of places or things owned, occupied or used by that employer; and

(c) the pest management treatments the person is employed to undertake do not include fumigations.

(3) A person is not a pest management technician if —

(a) the person is employed by one employer only; and

(b) that employer is —

(i) a local government; or

(ii) the employing authority of a department or organisation under the *Public Sector Management Act 1994*;

and

(c) the pest management treatments the person is employed to undertake do not include fumigations.

(4) A person who undertakes fumigations is not a pest management technician if —

(a) the only fumigations the person undertakes are soil fumigations on land owned or occupied by the person using a fumigant that is registered for use for that purpose; and

(b) the person is approved by the Chief Health Officer as competent to undertake soil fumigations.

[Regulation 5 amended: Gazette 10 Jan 2017 p. 272.]

6. Pest management treatments

(1) A pest management treatment is the treatment of a place or thing with a pesticide for the purpose of —

(a) destroying, stupefying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, a pest; or

(b) destroying a plant; or

(c) modifying the physiology of a pest so as to alter its natural development, productivity, quality or reproductive capacity; or

(d) attracting a pest for the purpose of destroying it,

other than a treatment of a kind described in subregulation (2).

(2) The treatment of a place or thing is not a pest management treatment if it is one of the following —

(a) the treatment of a place with a pesticide by spraying, spreading or dispersing the pesticide from an aircraft in flight;

(b) the treatment of organic material with formaldehyde for the purpose of preserving the material;

(c) the sterilisation of surgical materials and other medical or veterinary products.

Part 2 — Control of pest management activities

Division 1 — Pest management businesses

7. Business to be registered

A person must not carry on a pest management business unless the person does so in accordance with a business registration.

Penalty: a fine of $2 500.

8. Employment of fumigators

A person (an ***employer***) must not employ an individual (an ***employee***) to undertake a fumigation unless —

(a) the employer is a registered proprietor; and

(b) the employee is a licensed technician.

Penalty: a fine of $2 500.

9. Advertising: pest management businesses

A person must not advertise, or otherwise hold out in any way, that the person carries on a pest management business unless the person is a registered proprietor.

Penalty: a fine of $2 500.

Division 2 — Pest management technicians and salespersons

10. Pest management technicians to be licensed

(1) A person must not act as a pest management technician unless —

(a) the person does so in accordance with a licence; or

(b) the person is exempt under subregulation (2) or (3).

Penalty: a fine of $2 500.

(2) A person is exempt under this subregulation if —

(a) the pest management treatment being undertaken by the person consists of seasonal spraying in the ordinary course of broad hectare cropping or pasture production; and

(b) the person is employed by a registered proprietor on a casual basis to undertake that treatment; and

(c) the person undertakes the treatment under direction; and

(d) the person has completed a basic training course, approved by the Chief Health Officer, in the safe handling and use of registered pesticides.

(3) A person is exempt under this subregulation if —

(a) the pest management treatment being undertaken by the person is a fumigation; and

(b) the person —

(i) is assisting a licensed technician who is authorised to undertake the fumigation; and

(ii) undertakes the fumigation under personal supervision;

and

(c) the person is adequately trained in first aid as defined in regulation 57.

[Regulation 10 amended: Gazette 10 Jan 2017 p. 272.]

11. Salespersons to be licensed

A person must not act as a pest management salesperson unless the person does so in accordance with a licence.

Penalty: a fine of $2 500.

12. Licensees to be employed by or be registered proprietor

A person who is licensed as —

(a) a licensed technician; or

(b) a provisional technician,

must not act as a pest management technician or pest management salesperson unless —

(c) the person does so as an employee of a registered proprietor; or

(d) the person is a registered proprietor.

Penalty: a fine of $2 500.

13. Restriction on employment of unlicensed persons

(1) A person must not employ a person as a pest management technician unless —

(a) the employee is a licensed technician or provisional technician who is authorised to undertake pest management treatments of the kind the person is employed to undertake; or

(b) the employee is exempt under regulation 10(2) or (3).

Penalty: a fine of $2 500.

(2) A person must not employ a person as a pest management salesperson unless the employee is a licensed technician or provisional technician who is authorised to undertake pest management sales.

Penalty for an offence under subregulation (2): a fine of $2 500.

14. Supervision of provisional technicians and unlicensed persons

(1) In this regulation —

adequate supervision, in relation to an employee, means the minimum level of direction or supervision under which the employee is permitted by regulation 10(2) or (3) or 35 to undertake pest management treatments.

(2) A person who employs —

(a) a provisional technician; or

(b) a person who is exempt under regulation 10(2) or (3),

as a pest management technician must ensure that adequate supervision is provided for the employee.

Penalty: a fine of $2 500.

(3) A licensed technician under whose direction or supervision —

(a) a provisional technician; or

(b) a person who is exempt under regulation 10(2) or (3),

is employed to work must provide adequate supervision for the employee.

Penalty for an offence under subregulation (3): a fine of $2 500.

15. Advertising: pest management technicians and salespersons

A person must not advertise, or otherwise hold out in any way, that the person is any of the following —

(a) a pest management technician;

(b) a pest management technician authorised to undertake a particular kind of pest management treatment;

(c) a pest management salesperson,

unless the person is permitted under regulation 10 or 11 to act as such.

Penalty: a fine of $2 500.

Part 3 — Registration of businesses

Division 1 — Effect of registration

16. Business registration

(1) Business registration authorises the person registered to carry on a pest management business at the premises specified in the registration.

(2) The authorisation conferred by a business registration is subject to any conditions imposed on the registration.

Division 2 — Registration procedure

17. Application for business registration

An individual or body corporate may apply to the Chief Health Officer for business registration.

[Regulation 17 amended: Gazette 10 Jan 2017 p. 272.]

18. Grant of business registration

(1) If a person applies for business registration, the Chief Health Officer must —

(a) if satisfied as mentioned in subregulation (2) — register the person; or

(b) if not so satisfied — refuse to register the person.

(2) The Chief Health Officer must be satisfied —

(a) that the applicant —

(i) has sufficient equipment and material; and

(ii) has, or will employ before commencing to carry on business, sufficient staff,

to enable the applicant to carry on a pest management business —

(iii) in accordance with these regulations; and

(iv) without posing a threat to the health or safety of any individual or of the public;

and

(b) that the premises at which the applicant proposes to carry on the business is suitable for that purpose.

[Regulation 18 amended: Gazette 10 Jan 2017 p. 272.]

19. Business premises

(1) When granting business registration, the Chief Health Officer must specify in the registration the premises at which the registered proprietor may carry on the business.

(2) The Chief Health Officer may, on the application of a registered proprietor, amend a business registration to change or add to the premises specified in it.

(3) The Chief Health Officer must not specify premises in a business registration unless satisfied that the premises are suitable for the purpose of carrying on a business of the kind to be carried on by the registered proprietor at the premises.

[Regulation 19 amended: Gazette 10 Jan 2017 p. 272.]

20. Conditions on business registration

(1) The Chief Health Officer may impose on a business registration any conditions the Chief Health Officer thinks fit.

(2) The Chief Health Officer may impose a condition —

(a) when the business registration is granted or renewed; or

(b) at any time by giving written notice to the registered proprietor.

(3) The Chief Health Officer may amend or remove a condition on a business registration at any time by giving written notice to the registered proprietor.

(4) The Chief Health Officer may exercise a power under subregulation (3) on —

(a) the Chief Health Officer's own initiative; or

(b) the application of the registered proprietor.

(5) A notice under subregulation (2)(b) or (3) takes effect on the day specified in it.

(6) If a condition is imposed or amended, the day specified in the notice cannot be before the registered proprietor has had a reasonable opportunity to —

(a) make submissions to the Chief Health Officer in relation to the new or amended condition; and

(b) comply with the new or amended condition.

[Regulation 20 amended: Gazette 10 Jan 2017 p. 272.]

21. Duration of business registration

(1) A business registration —

(a) comes into effect on the day on which it is granted; and

(b) has effect for 12 months.

(2) A business registration may be renewed for consecutive periods of 12 months.

22. Renewal of business registration

(1) A registered proprietor may apply to the Chief Health Officer to renew the proprietor's business registration.

(2) Regulation 18 applies in relation to an application under subregulation (1) as if it were an application for business registration.

(3) If —

(a) an application has been made to renew a business registration; and

(b) the Chief Health Officer has not, before the day on which the registration is due to expire, either renewed or refused to renew the registration,

the Chief Health Officer is taken to have refused to renew the registration.

[Regulation 22 amended: Gazette 10 Jan 2017 p. 272.]

23. Registration certificate

(1) On granting business registration to a person, the Chief Health Officer must issue to the person a registration certificate.

(2) The certificate must set out the following information —

(a) the registered proprietor's name;

(b) the address of the premises specified under regulation 19;

(c) any conditions imposed on the business registration or, if they cannot reasonably be set out on the certificate —

(i) a statement to the effect that the registration is subject to conditions; and

(ii) information as to how details of the conditions may be obtained;

(d) the business registration number;

(e) the date on which the business registration expires.

(3) If any change occurs in the information set out in the registration certificate —

(a) the registered proprietor must return the certificate to the Chief Health Officer; and

(b) the Chief Health Officer must issue an updated certificate to the registered proprietor.

(4) A registered proprietor who contravenes subregulation (3)(a) commits an offence.

Penalty: a fine of $2 500.

(5) If the Chief Health Officer is satisfied that a registration certificate has been lost or destroyed, the Chief Health Officer may issue a replacement on payment of the scheduled fee.

(6) In the absence of evidence to the contrary, a registration certificate is proof of the information stated in it.

[Regulation 23 amended: Gazette 10 Jan 2017 p. 271 and 272.]

24. Notification of ceasing to carry on business

(1) If a registered proprietor —

(a) transfers the proprietor's business to another person; or

(b) otherwise ceases to carry on the business,

the proprietor must give written notice of the transfer or cessation to the Chief Health Officer within 28 days after it occurs.

Penalty: a fine of $2 500.

(2) If the business has been transferred, the notice must include the name and address of the transferee.

[Regulation 24 amended: Gazette 10 Jan 2017 p. 272.]

25. Register of business registrations

(1) The Chief Health Officer must keep an accurate and up-to-date register of registered proprietors.

(2) The register may be kept in any manner the Chief Health Officer thinks fit.

(3) The register must contain the following information for each registration —

(a) the business registration number;

(b) the proprietor's name and business address;

(c) the address of the premises at which the proprietor is authorised to carry on business;

(d) any business name under which the registered proprietor carries on the business;

(e) the commencement and expiry dates of the business registration;

(f) any conditions imposed on the business registration.

(4) The Chief Health Officer —

(a) is not required to make the register available for public inspection; but

(b) may make the information recorded in the register available to any person on request.

[Regulation 25 amended: Gazette 10 Jan 2017 p. 272.]

Division 3 — Amendment, suspension or cancellation of registration

26. Grounds for taking action against registered proprietor

(1) For the purposes of regulation 27, there are ***grounds for taking action*** against a registered proprietor if —

(a) the proprietor or an employee or agent of the proprietor has contravened the Act; or

(b) the proprietor or an employee or agent of the proprietor has, in connection with the carrying on of the business, done or omitted to do something, or engaged in conduct, that poses a threat to the health or safety of any individual or of the public; or

(c) the business registration was granted or renewed in error because information given to the Chief Health Officer in relation to the application for the grant or renewal was false or misleading in a material particular or deceptive in a material way; or

(d) the Chief Health Officer can no longer be satisfied as to a matter described in regulation 18 that was relevant to the decision to grant or renew the business registration.

(2) However, if grounds for taking action against a registered proprietor arise under subregulation (1)(a) or (b) because of the conduct of an employee or agent, the Chief Health Officer cannot take action against the proprietor under regulation unless satisfied that —

(a) the employee or agent engaged in the conduct with the consent or connivance of the proprietor; or

(b) the proprietor failed to take all reasonable measures to prevent the employee or agent engaging in the conduct.

[Regulation 26 amended: Gazette 10 Jan 2017 p. 272.]

27. Chief Health Officer may amend, suspend or cancel business registration

(1) If the Chief Health Officer considers that there are grounds for taking action against a registered proprietor, the Chief Health Officer may, by giving written notice to the proprietor —

(a) amend the business registration to change the premises specified in it; or

(b) suspend the business registration for a specified period; or

(c) cancel the business registration.

(2) A notice given for the purposes of subregulation (1) must set out the grounds on which the action is taken.

(3) Before taking action under subregulation (1), the Chief Health Officer must —

(a) give to the proprietor written notice of the action that the Chief Health Officer proposes to take and the grounds on which it is proposed to take that action; and

(b) give the proprietor a reasonable opportunity to be heard on the matter.

(4) If a business registration is suspended, it is of no effect during the period of suspension.

(5) The Chief Health Officer may revoke the suspension of a business registration at any time on the Chief Health Officer's own initiative or on the application of the registered proprietor.

[Regulation 27 amended: Gazette 10 Jan 2017 p. 272 and 275.]

Division 4 — Review of registration decisions

28. Review by State Administrative Tribunal

(1) In this regulation —

person affected means —

(a) in relation to a reviewable decision about an application — the applicant; or

(b) in relation to any other reviewable decision — the registered proprietor whose business registration is affected by the decision;

reviewable decision means a decision of the Chief Health Officer —

(a) under regulation 18 to refuse to register a person; or

(b) under regulation 19 to refuse to specify premises in a business registration; or

(c) under regulation 20 to impose, amend or remove a condition on a business registration; or

(d) under regulation 22 to refuse to renew a business registration; or

(e) under regulation 27 to amend, suspend or cancel a business registration.

(2) A person affected by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

[Regulation 28 amended: Gazette 10 Jan 2017 p. 272.]

Division 5 — General matters

29. Application requirements

(1) An application for the purposes of this Part must be —

(a) made in the form approved by the Chief Health Officer or, if no form is approved, in writing; and

(b) accompanied by the scheduled fee.

(2) An applicant must provide the Chief Health Officer with any document or other information relating to the application that the Chief Health Officer asks for.

(3) If an applicant does not comply with the requirements of this Part for the making of the application, the Chief Health Officer may decline to deal with it and, if so, must advise the applicant accordingly.

[Regulation 29 amended: Gazette 10 Jan 2017 p. 272.]

30. Amendment to correct error

(1) The Chief Health Officer may amend a business registration to correct —

(a) a clerical mistake, error or unintentional omission; or

(b) the misdescription of a person, activity or thing.

(2) The Chief Health Officer must give the registered proprietor notice of the amendment.

[Regulation 30 amended: Gazette 10 Jan 2017 p. 272.]

31. Display of registration certificate

(1) A registered proprietor must display the proprietor's registration certificate at the premises specified under regulation 19 so that it is clearly visible to a person entering the premises.

Penalty: a fine of $2 500.

(2) A person must not alter or deface a registration certificate.

Penalty for an offence under subregulation (2): a fine of $2 500.

32. Identification on vehicles

(1) A registered proprietor must display —

(a) the business name under which the proprietor carries on business; and

(b) the business registration number,

on all vehicles used in the business for undertaking pest management treatments.

Penalty: a fine of $2 500.

(2) The information required to be displayed under subregulation (1) must be —

(a) in characters not less than 50 mm in height; and

(b) clearly visible and legible at all times while the vehicle is being used.

(3) A registered proprietor is not required to comply with subregulation (1) if —

(a) the vehicle is of a kind on which it is not reasonably practicable to display the information in the manner required by subregulation (1); and

(b) the information is displayed in a manner approved by the Chief Health Officer in respect of vehicles of that kind.

(4) An Chief Health Officer permit may be granted for subregulation (1).

[Regulation 32 amended: Gazette 10 Jan 2017 p. 272.]

33. False or misleading information in relation to applications

A person must not, in relation to an application made under this Division, give to the Chief Health Officer information that the person knows to be —

(a) false or misleading in a material particular; or

(b) likely to deceive in a material way.

Penalty: a fine of $2 500.

[Regulation 33 amended: Gazette 10 Jan 2017 p. 272.]

Part 4 — Licensing of pest management technicians

Division 1 — Effect of licences

34. Technician's licence

(1) A technician's licence authorises the licensee to undertake pest management treatments —

(a) of a kind endorsed on the licence; and

(b) using —

(i) any registered pesticide that is not a restricted-use pesticide; or

(ii) any restricted-use pesticide that is specified in the licence.

(2) A technician's licence endorsed to allow the licensee to undertake pest management sales authorises the licensee to act as a pest management salesperson.

(3) The authorisation conferred by a technician's licence is subject to any conditions imposed on the licence.

35. Provisional licence

(1) A provisional licence authorises the licensee to undertake pest management treatments —

(a) of a kind endorsed on the licence; and

(b) using —

(i) any registered pesticide that is not a restricted-use pesticide; or

(ii) a restricted-use pesticide that is specified in the licence,

but only if the licensee does so under direction or personal supervision as required by subregulation (2).

(2) A provisional technician is not authorised to undertake pest management treatments unless the person does so —

(a) if the person is under 18 years of age — under personal supervision; or

(b) if the person has reached 18 years of age —

(i) if the person has been employed as a provisional technician for less than 30 working days — under personal supervision; or

(ii) otherwise — under direction.

(3) A provisional licence endorsed to allow the licensee to undertake pest management sales authorises the licensee to act as a pest management salesperson.

(4) The authorisation conferred by a provisional licence is subject to any conditions imposed on the licence.

Division 2 — Licensing procedure

36. Persons who are adequately qualified

For the purposes of regulations 38(2)(c) and (3)(b), 39(2)(c), 40(3) and 41(3), a person is ***adequately qualified*** if the person —

(a) has successfully completed such courses or training as the Chief Health Officer considers sufficient to provide the applicant with; or

(b) has otherwise acquired,

sufficient knowledge of registered pesticides and their use to enable the person to undertake the activity mentioned in regulation 38(2)(c) or (3)(b), 39(2)(c), 40(3) or 41(3) (as the case requires) —

(c) in accordance with these regulations; and

(d) without posing a threat to the health or safety of any individual or of the public.

[Regulation 36 amended: Gazette 10 Jan 2017 p. 272.]

37. Application for licence

An individual may apply to the Chief Health Officer for a technician's licence or provisional licence.

[Regulation 37 amended: Gazette 10 Jan 2017 p. 272-3.]

38. Grant of technician's licence

(1) If a person applies for a technician's licence, the Chief Health Officer must —

(a) if satisfied as mentioned in subregulation (2) or (3) — grant the licence; or

(b) if not so satisfied — refuse to grant the licence.

(2) If the application is for a technician's licence that is to be endorsed to allow the licensee to undertake pest management treatments, the Chief Health Officer must be satisfied that the applicant —

(a) has reached 18 years of age; and

(b) is medically fit to handle —

(i) pesticides that are not restricted-use pesticides; and

(ii) any restricted-use pesticides that are to be specified in the licence;

and

(c) is adequately qualified to undertake pest management treatments of the kinds to be endorsed on the licence; and

(d) is a fit and proper person to hold a licence.

(3) If the application is for a licence that is to be endorsed only so as to allow the licensee to undertake pest management sales, the Chief Health Officer must be satisfied that the applicant —

(a) has reached 17 years of age; and

(b) is adequately qualified to act as a pest management salesperson; and

(c) is a fit and proper person to hold a licence.

[Regulation 38 amended: Gazette 10 Jan 2017 p. 272-3.]

39. Grant of provisional licence

(1) If a person applies for a provisional licence, the Chief Health Officer must —

(a) if satisfied as mentioned in subregulation (2) — grant the licence; or

(b) if not so satisfied — refuse to grant the licence.

(2) The Chief Health Officer must be satisfied that the applicant —

(a) has reached 17 years of age; and

(b) is medically fit to handle —

(i) pesticides that are not restricted-use pesticides; and

(ii) any restricted-use pesticides that are to be specified in the licence;

and

(c) is adequately qualified to undertake, under the direction of a licensed technician, pest management treatments of the kinds to be endorsed on the licence; and

(d) intends to acquire, during the period of the licence, sufficient knowledge and skills to enable the applicant to become a licensed technician; and

(e) is a fit and proper person to hold a licence.

[Regulation 39 amended: Gazette 10 Jan 2017 p. 272-3.]

40. Endorsements on licence

(1) When granting a licence, the Chief Health Officer must endorse on it —

(a) the kinds of pest management treatments that the licensee is authorised to undertake; and

(b) if the licensee is to be authorised to undertake pest management sales, an endorsement to that effect.

(2) The Chief Health Officer may, on the application of the licensee, amend a licence to —

(a) change or add to the kinds of pest management treatments endorsed on it; or

(b) add an endorsement authorising the licensee to undertake pest management sales.

(3) The Chief Health Officer must not endorse a kind of pest management treatment on a licence unless satisfied that the licensee is adequately qualified to undertake pest management treatments of that kind.

[Regulation 40 amended: Gazette 10 Jan 2017 p. 272-3.]

41. Restricted-use pesticides

(1) When granting a licence, the Chief Health Officer must specify in it the restricted-use pesticides (if any) that the licensee is authorised to use.

(2) The Chief Health Officer may, on the application of a licensee, amend a licence to change or add to the restricted-use pesticides specified in it.

(3) The Chief Health Officer must not specify a restricted-use pesticide in a licence unless satisfied that the licensee is adequately qualified to undertake pest management treatments using that pesticide.

(4) The Chief Health Officer may, at any time on the Chief Health Officer's own initiative, amend a licence to remove a restricted-use pesticide specified in the licence by giving written notice to the licensee.

(5) A notice under subregulation (4) takes effect on the day specified in it, which cannot be before the licensee has had a reasonable opportunity to —

(a) make submissions to the Chief Health Officer in relation to the removal; and

(b) comply with the amended licence.

[Regulation 41 amended: Gazette 10 Jan 2017 p. 272-3.]

42. Conditions on licence

(1) The Chief Health Officer may impose on a licence any conditions the Chief Health Officer thinks fit.

(2) The Chief Health Officer may impose a condition —

(a) when the licence is granted or renewed; or

(b) at any time by giving written notice to the licensee.

(3) The Chief Health Officer may amend or remove a condition on a licence at any time by giving written notice to the licensee.

(4) The Chief Health Officer may exercise a power under subregulation (3) on —

(a) the Chief Health Officer's own initiative; or

(b) the application of the licensee.

(5) A notice under subregulation (2)(b) or (3) takes effect on the day specified in it.

(6) If a condition is imposed or amended, the day specified in the notice cannot be before the licensee has had a reasonable opportunity to —

(a) make submissions to the Chief Health Officer in relation to the new or amended condition; and

(b) comply with the new or amended condition.

[Regulation 42 amended: Gazette 10 Jan 2017 p. 272-3.]

43. Duration of licence

(1) A licence —

(a) comes into effect on the day on which it is granted; and

(b) has effect for 12 months.

(2) A technician's licence may be renewed for consecutive periods of 12 months.

(3) A provisional licence cannot be renewed but its duration may be extended under regulation 45.

[Regulation 43 amended: Gazette 21 Jun 2011 p. 2219.]

44. Renewal of licence

(1) A licensed technician may apply to the Chief Health Officer to renew his or her technician's licence.

(2) Regulation 38 applies in relation to an application to renew a technician's licence as if it were an application for a licence.

(3) If —

(a) an application has been made to renew a technician's licence; and

(b) the Chief Health Officer has not, before the day on which the licence is due to expire, either renewed or refused to renew the licence,

the Chief Health Officer is taken to have refused to renew the licence.

[Regulation 44 amended: Gazette 10 Jan 2017 p. 272-3.]

45. Extension of provisional licence

(1) The Chief Health Officer may, on the application of a provisional technician, extend the duration of a provisional licence if satisfied that the person —

(a) has made reasonable progress towards acquiring sufficient knowledge and skills to enable the person to become a licensed technician; and

(b) can reasonably be expected to acquire sufficient knowledge and skills during the extended period.

(2) The Chief Health Officer may extend the duration as many times as the Chief Health Officer thinks fit, but the total duration of the licence cannot exceed 3 years.

[Regulation 45 amended: Gazette 10 Jan 2017 p. 272-3.]

46. Upgrading provisional licence to technician's licence

(1) A provisional technician may apply to the Chief Health Officer to upgrade his or her provisional licence to a technician's licence.

(2) Regulation 38 applies in relation to an application to upgrade a provisional licence as if it were an application for a technician's licence.

(3) If —

(a) an application has been made to upgrade a provisional licence; and

(b) the Chief Health Officer has not, before the day on which the licence is due to expire, either upgraded or refused to upgrade the licence,

the Chief Health Officer is taken to have refused to upgrade the licence.

[Regulation 46 amended: Gazette 10 Jan 2017 p. 272-3.]

47. Licence not transferable

A licence is not transferable.

48. Licence card

(1) On granting a licence to a person, the Chief Health Officer must issue to the person a licence card.

(2) The licence card must set out the following information —

(a) whether the licence is a technician's licence or provisional licence;

(b) the licensee's name;

(c) the endorsements made under regulation 40;

(d) the restricted-use pesticides (if any) that the licensee is authorised to use;

(e) any conditions imposed on the licence, or if they cannot reasonably be set out on the card —

(i) a statement to the effect that the licence is subject to conditions; and

(ii) information as to how details of the conditions may be obtained;

(f) the licence number;

(g) the expiry date of the licence.

(3) If any change occurs in the information set out in the licence card —

(a) the licensee must return the licence card to the Chief Health Officer; and

(b) the Chief Health Officer must issue an updated card to the licensee.

(4) A licensee who contravenes subregulation (3)(a) commits an offence.

Penalty: a fine of $2 500.

(5) If the Chief Health Officer is satisfied that a licence card has been lost or destroyed, the Chief Health Officer may issue a replacement on payment of the scheduled fee.

(6) In the absence of evidence to the contrary, a licence card is proof of the information stated in it.

[Regulation 48 amended: Gazette 10 Jan 2017 p. 271 and 272-3.]

49. Register of licences

(1) The Chief Health Officer must keep an accurate and up-to-date register of licences.

(2) The register may be kept in any manner the Chief Health Officer thinks fit.

(3) The register must contain the following information for each licence —

(a) the licensee's name;

(b) the licence number;

(c) whether the licence is a technician's licence or provisional licence;

(d) the date on which the licence was granted or renewed and the date on which it expires;

(e) details of the endorsements made on the licence under regulation 40;

(f) the restricted-use pesticides (if any) specified in the licence;

(g) any conditions imposed on the licence.

(4) The Chief Health Officer —

(a) is not required to make the register available for public inspection; but

(b) may make the information recorded in the register available to any person on request.

[Regulation 49 amended: Gazette 10 Jan 2017 p. 272-3.]

Division 3 — Amendment, suspension and cancellation of licences

50. Grounds for taking action against licensee

For the purposes of regulation 51, there are ***grounds for taking action*** against a licensee if —

(a) the licensee has contravened the Act; or

(b) the licensee has, in connection with a pest management treatment, done or omitted to do something, or engaged in conduct, that poses a threat to the health or safety of any individual or of the public; or

(c) the licence was granted or renewed in error because information given to the Chief Health Officer in relation to the application for the grant or renewal was false or misleading in a material particular or deceptive in a material way; or

(d) the Chief Health Officer can no longer be satisfied as to a matter described in regulation 38 or 39 that was relevant to the decision to grant or renew the licence.

[Regulation 50 amended: Gazette 10 Jan 2017 p. 272-3.]

51. Chief Health Officer may amend, suspend or cancel licence

(1) If the Chief Health Officer considers that there are grounds for taking action against a licensee, the Chief Health Officer may, by giving written notice to the licensee —

(a) amend the licence to change either or both of the following —

(i) the endorsements made on the licence;

(ii) the restricted-use pesticides specified in the licence;

or

(b) suspend the licence for a specified period; or

(c) cancel the licence.

(2) A notice given for the purposes of subregulation (1) must set out the grounds on which the action is taken.

(3) Before taking action under subregulation (1), the Chief Health Officer must —

(a) give to the licensee written notice of the action that the Chief Health Officer proposes to take and the grounds on which it is proposed to take that action; and

(b) give the licensee a reasonable opportunity to be heard on the matter.

(4) If a licence is suspended, it is of no effect during the period of suspension.

(5) The Chief Health Officer may revoke the suspension of a licence at any time on the Chief Health Officer's own initiative or on the application of the licensee.

[Regulation 51 amended: Gazette 10 Jan 2017 p. 272-3 and 275.]

Division 4 — Review of licensing decisions

52. Review by State Administrative Tribunal

(1) In this regulation —

person affected means —

(a) in relation to a reviewable decision about an application — the applicant; or

(b) in relation to any other reviewable decision — the licensee whose licence is affected by the decision;

reviewable decision means a decision of the Chief Health Officer —

(a) under regulation 38 or 39 to refuse to grant a licence; or

(b) under regulation 40 to refuse to change or add an endorsement on a licence; or

(c) under regulation 41 to refuse to specify a restricted-use pesticide in a licence; or

(d) under regulation 42 to impose a condition on a licence; or

(e) under regulation 44 to refuse to renew a technician's licence; or

(f) under regulation 46 to refuse to upgrade a provisional licence; or

(g) under regulation 51 to amend, suspend or cancel a licence or to refuse to revoke a suspension.

(2) A person affected by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

[Regulation 52 amended: Gazette 10 Jan 2017 p. 272-3.]

Division 5 — General matters

53. Application requirements

(1) An application for the purposes of this Part must be —

(a) made in the form approved by the Chief Health Officer or, if no form is approved, in writing; and

(b) accompanied by the scheduled fee.

(2) An applicant must provide the Chief Health Officer with any document or other information relating to the application that the Chief Health Officer asks for.

(3) If an applicant does not comply with the requirements of this Part for the making of the application, the Chief Health Officer

may decline to deal with it and must advise the applicant accordingly.

[Regulation 53 amended: Gazette 10 Jan 2017 p. 272-3.]

54. Amendment to correct error

(1) The Chief Health Officer may amend a licence to correct —

(a) a clerical mistake, error or unintentional omission; or

(b) the misdescription of a person, activity or thing.

(2) The Chief Health Officer must give the licensee notice of the amendment.

[Regulation 54 amended: Gazette 10 Jan 2017 p. 272-3.]

55. Production of licence for inspection

A licensee must, if requested by an authorised officer to do so, produce the licence for inspection as soon as is practicable and in any event within 24 hours of the request being made.

Penalty: a fine of $2 500.

[Regulation 55 amended: Gazette 10 Jan 2017 p. 274.]

56. False or misleading information in relation to application

A person must not, in relation to an application made under this Division, give to the Chief Health Officer information that the person knows to be —

(a) false or misleading in a material particular; or

(b) likely to deceive in a material way.

Penalty: a fine of $2 500.

[Regulation 56 amended: Gazette 10 Jan 2017 p. 272-3.]

Part 5 — Requirements for registered proprietors and licensees

Division 1 — Preliminary matters

57. Terms used

In this Part —

adequately trained in first aid, in relation to a person undertaking a fumigation, means that the person —

(a) knows the first aid and emergency procedures set out in the material safety data sheet for the fumigant being used; and

(b) is trained in the use of the required respiratory equipment;

AS 2476 means Australian Standard 2476-2008 *General fumigation procedures* published by Standards Australia on 28 April 2008 as amended from time to time;

AS/NZS 1715 means Australian Standard/New Zealand Standard 1715:2009 *Selection, use and maintenance of respiratory protective equipment* published by Standards Australia on 6 February 2009 as amended from time to time;

AS/NZS 1716 means Australian Standard/New Zealand Standard 1716:2003 *Respiratory protective devices* published by Standards Australia on 1 December 2003 as amended from time to time;

AS/NZS 2865 means Australian Standard 2865-2009 *Confined spaces* published by Standards Australia on 4 September 2009 as amended from time to time;

chamber fumigation means a fumigation undertaken inside a chamber adapted or constructed specifically for that purpose;

fumigation area, in relation to a fumigation, means —

(a) for a chamber fumigation — the fumigation chamber;

(b) for a fumigation of a vessel — the vessel;

(c) for any other fumigation — the area that might reasonably be expected to be exposed to the fumigant;

material safety data sheet, for a registered pesticide, has the meaning given in the Agvet Code of Western Australia section 3(1);

NOHSC:1003 means the *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003 (1995)] published by the National Occupational Health and Safety Commission in May 1995 as amended from time to time;

proprietor's technicians, in relation to a registered proprietor, means —

(a) the licensed technicians and provisional technicians employed by the proprietor; and

(b) if the proprietor is a licensed technician, the proprietor;

qualified person, in relation to a fumigation, means —

(a) a licensed technician who is authorised to undertake the fumigation; or

(b) a person who is adequately trained in first aid;

required respiratory equipment, in relation to a fumigation, means respiratory protective equipment that —

(a) satisfies the requirements of AS/NZS 1716; and

(b) is selected in accordance with AS/NZS 1715 as suitable for that fumigation;

sheet fumigation means a fumigation undertaken in a gas tight enclosure created using a gas proof sheet fixed to an impermeable floor.

Division 2 — General equipment and safety requirements

58. Proprietor to provide suitable and efficient equipment

A registered proprietor must ensure that the equipment used by the proprietor's technicians to undertake pest management treatments —

(a) is suitable for undertaking those treatments by those technicians; and

(b) enables those technicians to undertake those treatments in accordance with these regulations; and

(c) operates safely and efficiently; and

(d) is maintained in good working order.

Penalty: a fine of $2 500.

59. Safety, first aid and emergency equipment

A registered proprietor must ensure that, when undertaking pest management treatments, the proprietor's technicians are equipped with safety, first aid and emergency equipment that —

(a) is suitable having regard to the kind of treatments being undertaken by those technicians; and

(b) enables those technicians to undertake those treatments in accordance with these regulations; and

(c) operates safely and efficiently; and

(d) is maintained in good working order.

Penalty: a fine of $2 500.

60. Safety precautions by licensee

(1) A licensee must not undertake a pest management treatment unless the licensee has taken all reasonable steps to ensure that all persons in the area that is likely to be affected by the pesticide are wearing adequate protective clothing and equipment.

Penalty: a fine of $2 500.

(2) A licensee must not undertake a pest management treatment unless there is readily accessible at the place where the treatment is to be undertaken safety, first aid and emergency equipment that is suitable having regard to the kind of treatment to be undertaken.

Penalty for an offence under subregulation (2): a fine of $2 500.

61. Pest management treatments in confined spaces

A licensed technician undertaking a pest management treatment in a confined space (as defined in AS/NZS 2865) must ensure that it is undertaken in accordance with AS/NZS 2865.

Penalty: a fine of $2 500.

62. Storage and handling of registered pesticides

(1) In this regulation —

AS 2507 means Australian Standard 2507-1998 *The storage and handling of agricultural and veterinary chemicals* published by Standards Australia on 5 December 1998 as amended from time to time.

(2) A registered proprietor or licensee must ensure that all registered pesticides in the person's possession or control are, when not in immediate use —

(a) stored in a vehicle in accordance with subregulation (3); or

(b) stored in accordance with AS 2507.

Penalty: a fine of $2 500.

(3) A registered pesticide may be stored in a vehicle if the pesticide is stored —

(a) in a secure and locked compartment of the vehicle; or

(b) in a secure and locked container that is securely fixed to the vehicle.

(4) An Chief Health Officer permit may be granted for subregulation (2).

[Regulation 62 amended: Gazette 10 Jan 2017 p. 272-3.]

Division 3 — Fumigations

63. Chief Health Officer to approve site of fumigation

(1) A registered proprietor must not cause or permit a fumigation to be undertaken at a place unless —

(a) the Chief Health Officer has approved the place as one at which the registered proprietor may undertake the fumigation; and

(b) any conditions imposed on the approval are complied with; and

(c) the registered proprietor has ensured that a fumigation plan has been completed in accordance with AS 2476 clause 2.2.

Penalty: a fine of $2 500.

(2) A licensed technician must not undertake a fumigation at a place unless —

(a) the Chief Health Officer has approved the undertaking of the fumigation at that place; and

(b) the technician is, or is an employee of, the registered proprietor to whom the approval was granted; and

(c) any conditions imposed on the approval are complied with.

Penalty: a fine of $2 500.

(3) The Chief Health Officer may approve or refuse to approve a place as the Chief Health Officer thinks fit.

(4) An approval of a place may be granted so as to apply —

(a) for a single fumigation; or

(b) for a specified period of time; or

(c) until the approval is revoked.

(5) The Chief Health Officer may impose on an approval any conditions the Chief Health Officer thinks fit.

(6) The Chief Health Officer may revoke an approval at any time by giving written notice to the registered proprietor.

[Regulation 63 amended: Gazette 10 Jan 2017 p. 272-3 and 275.]

64. Fumigation chambers

(1) A licensed technician must not undertake a chamber fumigation unless the chamber is fitted with —

(a) a mechanical exhaust ventilation system that is capable of —

(i) completely removing all fumigant from the chamber; and

(ii) providing not less than 20 complete changes of air in the chamber per hour;

or

(b) a recapture system of a kind approved by the Chief Health Officer that is capable of removing all fumigant from the chamber.

Penalty: a fine of $2 500.

(2) A licensed technician must not undertake a chamber fumigation using ethylene dibromide unless the chamber is of a kind approved by the Chief Health Officer for use with that fumigant.

Penalty: a fine of $2 500.

(3) An Chief Health Officer permit may be granted for subregulation (2).

[Regulation 64 amended: Gazette 10 Jan 2017 p. 272-3.]

65. Sheet fumigation

A licensed technician must not undertake a sheet fumigation unless the sheet under which it is undertaken —

(a) is made of gas-proof material; and

(b) is at least 0.1 mm thick; and

(c) is free from holes and tears.

Penalty: a fine of $2 500.

66. Fumigators to be assisted

A licensed technician must not undertake a fumigation unless the technician is assisted by at least one qualified person.

Penalty: a fine of $2 500.

67. Other persons not to be present at fumigation

A licensed technician must not undertake a fumigation if there is any person in the fumigation area who is not a qualified person.

Penalty: a fine of $2 500.

68. Respiratory equipment

(1) A licensed technician must not undertake a fumigation unless —

(a) all persons within the fumigation area are equipped with the required respiratory equipment; and

(b) the technician is satisfied that the equipment is in good working order.

Penalty: a fine of $2 500.

(2) A person must not be present at a fumigation unless the person —

(a) is equipped with the required respiratory equipment; and

(b) knows how to use that equipment in accordance with AS/NZS 1715.

Penalty: a fine of $2 500.

(3) A registered proprietor must check and maintain the respiratory equipment used by the proprietor's technicians in accordance with AS/NZS 1715.

Penalty for an offence under subregulation (3): a fine of $2 500.

69. Technician to ensure fumigation area is secure

(1) A licensed technician must not commence a sheet fumigation until the technician has ascertained by personal inspection that —

(a) the sheet is effectively sealed to prevent the escape of any fumigant; and

(b) the area covered by the sheet, plus at least 3 metres on every side of that area, is cordoned off.

Penalty: a fine of $2 500.

(2) A licensed technician must not commence any other sort of fumigation unless the technician has ascertained by personal inspection that —

(a) the area to be fumigated has been effectively sealed to prevent the escape of any fumigant; and

(b) all electric appliances, fires and naked lights within the fumigation area have been switched off or extinguished.

Penalty for an offence under subregulation (2): a fine of $2 500.

70. Technician to carry out risk assessment

A licensed technician must not commence a fumigation unless the technician has —

(a) carried out a risk assessment in accordance with AS 2476 clause 2.3; and

(b) taken all reasonable steps to minimise any risks identified.

Penalty: a fine of $2 500.

71. Gas detection equipment

A licensed technician must not commence a fumigation unless there is present at the place where the fumigation is being undertaken gas detection equipment capable of measuring the concentration of the fumigant for the purposes of regulation 75(c).

Penalty: a fine of $2 500.

72. Warning signs and other measures to secure area

(1) A licensed technician who undertakes a fumigation of a building or vessel must, before or on completing the application of the fumigant —

(a) close and securely fasten all doors, windows and other means of access to the fumigation area; and

(b) attach to each door, window and access point a warning sign that complies with subregulation (3).

Penalty: a fine of $2 500.

(2) A licensed technician who undertakes a sheet fumigation must, immediately after completing the application of the fumigant —

(a) ensure that the fumigation sheet is —

(i) free from obvious holes and tears; and

(ii) effectively sealed to prevent the escape of any fumigant;

and

(b) ensure that the area described in regulation 69(1)(b) remains cordoned off; and

(c) erect warning signs that comply with subregulation (3) around the cordoned off area so that they are clearly visible to anyone approaching the area.

Penalty: a fine of $2 500.

(3) Each warning sign must —

(a) have a white background; and

(b) display the words "DANGER KEEP OUT" in red capital letters not less than 150 mm in height; and

(c) display the words —

(i) for a sheet fumigation — "FUMIGATION UNDER SHEET IN PROGRESS"; or

(ii) for any other fumigation — "*[PREMISES/VESSEL/ SILO/etc.]* BEING FUMIGATED",

in black capital letters not less than 50 mm in height.

73. Entry restricted while warning signs in place

(1) While signs attached or erected under regulation 72 are on display, a person must not enter a fumigation area unless subregulation (2) or (3) applies in relation to the person.

Penalty: a fine of $2 500.

(2) A licensed technician who undertakes a fumigation may enter the fumigation area if —

(a) the technician is accompanied by a qualified person; and

(b) both the technician and accompanying person are wearing the required respiratory equipment.

(3) A qualified person who is not a licensed technician may enter the fumigation area if —

(a) the person is accompanying a licensed technician who undertook the fumigation; and

(b) both the person and the technician are wearing the required respiratory equipment.

(4) A licensed technician who undertakes a fumigation must take all reasonable steps to ensure that no person contravenes subregulation (1).

Penalty for an offence under subregulation (4): a fine of $2 500.

74. Cleaning up after fumigation

(1) On completing a fumigation, other than a chamber fumigation, a licensed technician must —

(a) remove from the fumigation area all unused fumigant and all equipment and other things used in the fumigation (including things used for sealing the fumigation area); and

(b) ensure that the fumigation area and things in it are free from any residual fumigant; and

(c) ensure that the fumigation area is thoroughly ventilated with fresh air in a manner that prevents any person in the vicinity from being exposed to the fumigant.

Penalty: a fine of $2 500.

(2) A licensed technician must ensure that any waste removed from a fumigation area is disposed of safely.

Penalty for an offence under subregulation (2): a fine of $2 500.

75. Removal of warning signs

A person must not remove a sign attached or erected under regulation 72 unless the person —

(a) is the licensed technician who undertook the fumigation; and

(b) has complied with regulation 74; and

(c) has tested the concentration of fumigant in the fumigation area and is satisfied that the concentration in all parts of the fumigation area is less than that specified for that fumigant in NOHSC:1003.

Penalty: a fine of $2 500.

Division 4 — Record keeping and information

76. Employment records

(1) A registered proprietor must keep accurate and up-to-date records of all of the proprietor's technicians.

Penalty: a fine of $2 500.

(2) The records must contain the following information for each technician —

(a) full name;

(b) residential address;

(c) date of birth;

(d) licence number;

(e) the date on which the person became a technician for the proprietor;

(f) if the person ceases to be a technician for the proprietor, the date of that cessation.

(3) The proprietor must keep the records for a technician for 3 years after the person ceases to be a technician for the proprietor.

Penalty for an offence under subregulation (3): a fine of $2 500.

77. Records of pest management treatments

(1) A registered proprietor must keep accurate and up-to-date records of all pest management treatments undertaken by the proprietor's technicians.

Penalty: a fine of $2 500.

(2) The records must contain the following information for each pest management treatment —

(a) the address of the place at which the pest management treatment was undertaken;

(b) a description of the thing, or place or part or parts of the place, that was or were treated;

(c) the date and time that the pest management treatment was undertaken;

(d) the name of the licensed technician who undertook the pest management treatment;

(e) for a fumigation — the name of every other person present while the fumigation was undertaken;

(f) details of the registered pesticide used to undertake the pest management treatment including —

(i) the brand name; and

(ii) the active constituent; and

(iii) the rate of application;

(g) the kind of equipment used in carrying out the pest management treatment.

(3) The record for a pest management treatment must be made within 2 business days of the treatment being undertaken.

(4) The proprietor must keep the records for a pest management treatment for 3 years after it was undertaken.

Penalty for an offence under subregulation (4): a fine of $2 500.

78. Records to be made available

A registered proprietor must, if requested by an authorised officer to do so, make available for inspection the records required by this Division to be kept by the proprietor.

Penalty: a fine of $2 500.

[Regulation 78 amended: Gazette 10 Jan 2017 p. 274.]

79. False or misleading records

A person must not make an entry in a record required by this Division to be kept that the person knows is false or misleading in a material particular.

Penalty: a fine of $2 500.

80. Notification of accidents

(1) If a person is injured or dies while a licensee is undertaking a pest management treatment or as a result of such a treatment —

(a) the licensed technician undertaking, or supervising the undertaking of, the treatment; or

(b) if that technician is unable to do so, a person assisting the technician; or

(c) if neither that technician nor a person assisting that technician is able to do so, the registered proprietor by whom the technician is employed,

must immediately notify the Chief Health Officer of the injury or death.

Penalty: a fine of $2 500.

(2) A person must not, under subregulation (1), give a notification that the person knows is false or misleading in a material particular.

Penalty for an offence under subregulation (2): a fine of $2 500.

[Regulation 80 amended: Gazette 21 Jun 2011 p. 2220; 10 Jan 2017 p. 272-3.]

Part 6 — Possession, use and disposal of pesticides

Division 1 — Preliminary matters

81. Terms used

In this Part —

Agvet permit means a permit granted under the Agvet Code of Western Australia section 114;

approved container, in relation to a registered pesticide, means —

(a) if the registration of the pesticide is subject to a condition that it must be supplied in a particular kind of container — a container of that kind; or

(b) if the registration of the pesticide is subject to a condition that it must not be supplied in a particular kind of container — a container of any other kind;

approved label, in relation to a registered pesticide, means a label approved under the Agvet Code of Western Australia Part 2 for containers for that pesticide;

container has the meaning given in the Agvet Code of Western Australia section 3(1);

domestic dispensing device means a device that is intended —

(a) to dispense a registered pesticide; and

(b) for use in premises that are used for domestic purposes;

park means a park, reserve or similar public place;

properly labelled, in relation to a container holding a registered pesticide, means a container that has attached to it the approved label for that pesticide;

used pesticide container means a container that has been used to hold a registered pesticide, other than a container —

(a) that held a pesticide that was intended for domestic or home garden use; and

(b) that is designed to contain less than 2 L of liquid or 2 kg of solid material;

verge means an area adjacent to a road and includes a median strip.

[Regulation 81 amended: Gazette 29 Jan 2016 p. 269.]

82. Application of this Part to manufacturers, wholesalers and retailers

Unless expressly provided otherwise, this Part does not apply to a person in relation to a pesticide if the person is authorised under the Agvet Code of Western Australia, or under the *Medicines and Poisons Act 2014*, to manufacture, sell or supply the pesticide.

[Regulation 82 amended: Gazette 17 Jan 2017 p. 410.]

Division 2 — Possession and use

83. Possession or use of controlled pesticides

(1) In this regulation —

controlled pesticide means a registered pesticide that contains one or more of the following active constituents —

(a) alphachloralose;

(b) pindone concentrate;

(c) trifluralin at a concentration exceeding 1 mg/kg of N-nitrosodipropylamine (NDPA) calculated on the trifluralin content.

(2) A person must not have possession of or use a controlled pesticide unless —

(a) the person —

(i) is a licensee who is authorised to undertake pest management treatments using that pesticide; and

(ii) has possession of or uses the pesticide for that purpose;

or

(b) the person —

(i) is a registered proprietor who employs a licensee who is authorised to undertake pest management treatments using that pesticide; and

(ii) has possession of the pesticide for the purpose of the licensee undertaking those pest management treatments.

Penalty: a fine of $2 500.

(3) An Chief Health Officer permit may be granted for subregulation (2).

[Regulation 83 amended: Gazette 10 Jan 2017 p. 272-3.]

84. Pesticides to be kept and used safely

A person must not keep, handle, transport or use a registered pesticide in a manner that might reasonably be expected to be dangerous or to pose a threat to the health or safety of any individual or of the public.

Penalty: a fine of $2 500.

85. Registered pesticides to be in approved and properly labelled containers

(1) A person must not have possession of or use a registered pesticide unless —

(a) the pesticide is in an approved container; and

(b) the container is properly labelled.

Penalty: a fine of $2 500.

(2) A person does not commit an offence under subregulation (1) if the pesticide —

(a) was in a properly labelled approved container; and

(b) has been removed from that container for the purpose of being used within a reasonable period.

(3) An Chief Health Officer permit may be granted for subregulation (1).

[Regulation 85 amended: Gazette 10 Jan 2017 p. 272-3.]

86. Transportation of registered pesticides

(1) A person must not transport a registered pesticide in a public place unless the pesticide —

(a) is in a properly labelled approved container; or

(b) is in a container that is clearly labelled with the name and concentration of the pesticide in letters not less than 25 mm in height.

Penalty: a fine of $2 500.

(2) A person transporting a registered pesticide must take all reasonable precautions to ensure that the pesticide is not spilt and does not leak from its container.

Penalty for an offence under subregulation (2): a fine of $2 500.

87. Use in accordance with label

(1) In this regulation —

agricultural land means land used primarily for agricultural, horticultural, pastoral, aquacultural, silvicultural, arboricultural or similar purposes, including land used for research or educational purposes;

agricultural user, in relation to a registered pesticide, means a person who uses the pesticide on agricultural land for an agricultural use.

(2) A person must not use a registered pesticide other than in accordance with the requirements set out on the approved label.

Penalty: a fine of $2 500.

(3) An agricultural user who contravenes subregulation (2) does not commit an offence if the contravention is permitted by subregulation (4), (5) or (6).

(4) If a pesticide is registered for use in Western Australia on a crop for the control of a pest, an agricultural user may use the pesticide on that crop for the control of any pest.

(5) If a pesticide —

(a) is registered for use in Western Australia on a crop; and

(b) is registered for use in another State or a Territory on a different crop for the control of a pest (the ***interstate label use***),

an agricultural user may use the pesticide for the interstate label use unless the approved label prohibits that use in Western Australia.

(6) If the use of a pesticide on a crop for the control of a pest is permitted by the approved label or under subregulation (4) or (5), an agricultural user who uses the pesticide on that crop for the control of that pest may do all or any of the following —

(a) apply the pesticide at a concentration less than that stated on the label;

(b) apply the pesticide at a rate less than that stated on the label;

(c) apply the pesticide at a frequency less than that stated on the label.

(7) A person who contravenes subregulation (2) does not commit an offence under that subregulation if the contravention is authorised by an Agvet permit.

(8) An Chief Health Officer permit may be granted for subregulation (2).

[Regulation 87 amended: Gazette 10 Jan 2017 p. 272-3.]

88. Use of registered pesticides in public places

(1) A person must not undertake the spraying of a registered pesticide in a public place except in accordance with regulation 89, 89A, 89B or 89C.

Penalty for this subregulation: a fine of $2 500.

(2) An Chief Health Officer permit may be granted for subregulation (1).

[Regulation 88 inserted: Gazette 29 Jan 2016 p. 270; amended: Gazette 10 Jan 2017 p. 272-3.]

89. Verge spraying using moving vehicle

(1) This regulation applies to the spraying of a registered pesticide on a verge —

(a) from a moving vehicle; or

(b) by one or more persons accompanied by a moving vehicle.

(2) The vehicle must display at all times while the spraying operation is in progress —

(a) a warning sign with the words "CAUTION: *[NAME OF CHEMICAL]* BEING APPLIED." in capital letters not less than 50 mm in height in a prominent position on the vehicle; and

(b) a flashing yellow warning light.

[Regulation 89 inserted: Gazette 29 Jan 2016 p. 270.]

89A. Park spraying using moving vehicle

(1) This regulation applies to the spraying of a registered pesticide in a park or an area of a park —

(a) from a moving vehicle; or

(b) by one or more persons accompanied by a moving vehicle.

(2) The vehicle must display at all times while the spraying operation is in progress —

(a) a warning sign with the words "CAUTION: *[NAME OF CHEMICAL]* BEING APPLIED." in capital letters not less than 50 mm in height in a prominent position on the vehicle; and

(b) a flashing yellow warning light.

(3) In addition, warning signs with the words "CAUTION: *[NAME OF CHEMICAL]* BEING APPLIED. AVOID CONTACT WITH AREA WHEN SIGN IS DISPLAYED." in capital letters not less than 50 mm in height must be displayed —

(a) so that the signs —

(i) are clearly visible to persons approaching the spraying operation; and

(ii) are at a distance from the spraying operation that provides adequate warning of the application of the pesticide;

and

(b) for the following periods —

(i) while the pesticide is being applied;

(ii) after the pesticide has been applied until any surface to which it was applied has dried.

[Regulation 89A inserted: Gazette 29 Jan 2016 p. 270-1.]

89B. Verge or park spraying using stationary vehicle

(1) This regulation applies to the spraying of a registered pesticide on a verge, or in a park or an area of a park, by one or more persons accompanied by a stationary vehicle.

(2) The vehicle must display at all times while the spraying operation is in progress —

(a) a warning sign with the words "CAUTION: *[NAME OF CHEMICAL]* BEING APPLIED." in capital letters not less than 50 mm in height in a prominent position on the vehicle; and

(b) a flashing yellow warning light.

(3) In addition, warning signs with the words "CAUTION: *[NAME OF CHEMICAL]* BEING APPLIED. AVOID CONTACT WITH AREA WHEN SIGN IS DISPLAYED." in capital letters not less than 50 mm in height must be displayed —

(a) so that the signs —

(i) are clearly visible to persons approaching the spraying operation; and

(ii) are at a distance from the spraying operation that provides adequate warning of the application of the pesticide;

and

(b) for the following periods —

(i) while the pesticide is being applied;

(ii) after the pesticide has been applied until any surface to which it was applied has dried.

[Regulation 89B inserted: Gazette 29 Jan 2016 p. 271-2.]

89C. Spraying in public place other than verge or park spraying

(1) This regulation applies to the spraying of a registered pesticide in a public place other than on a verge or in a park or an area of a park.

(2) Warning signs with the words "CAUTION: *[NAME OF CHEMICAL]* BEING APPLIED. AVOID CONTACT WITH AREA WHEN SIGN IS DISPLAYED." in capital letters not less than 50 mm in height must be displayed in the area where the pesticide is being applied —

(a) at intervals sufficient to provide adequate warning of the application of the pesticide; and

(b) for the following periods —

(i) while the pesticide is being applied;

(ii) after the pesticide has been applied until any surface to which it was applied has dried.

[Regulation 89C inserted: Gazette 29 Jan 2016 p. 272.]

90. Chief Health Officer may restrict use of registered pesticides

(1) The Chief Health Officer may, by notice published in the *Gazette*, do all or any of the following —

(a) prohibit the use of a registered pesticide for a specified purpose in the whole or any part of the State;

(b) prohibit the use of a registered pesticide for a specified purpose during all or any part of the year;

(c) prohibit the use of a registered pesticide for a specified purpose absolutely or subject to any conditions specified in the notice.

(2) A notice may relate to —

(a) one or more specified registered pesticides; or

(b) registered pesticides of a specified kind; or

(c) all registered pesticides other than —

(i) one or more specified pesticides; or

(ii) pesticides of a specified kind.

(3) A person must not use a registered pesticide in contravention of a notice under subregulation (1).

Penalty for an offence under subregulation (3): a fine of $2 500.

[Regulation 90 amended: Gazette 10 Jan 2017 p. 272-3 and 275.]

91. Use of registered pesticides as cereal seed dressings

(1) A person must not use a registered pesticide as a cereal seed dressing unless the pesticide, or a dye added to the seed, gives the seed a distinctive colour so as to make it easily distinguishable by sight from seed that has not been treated with the pesticide.

Penalty: a fine of $2 500.

(2) A person must not sell or supply cereal seed that has been dressed with a registered pesticide unless it is coloured as required by subregulation (1).

Penalty for an offence under subregulation (2): a fine of $2 500.

92. Termite treatments

(1) A person must not treat a cavity wall of a building with a registered pesticide that is registered for use for the control of termites unless the treatment of cavity walls is permitted by the approved label.

Penalty: a fine of $2 500.

(2) An Chief Health Officer permit may be granted for subregulation (1).

(3) Despite regulation 101(1)(b), no application fee is payable for an Chief Health Officer permit for the purposes of this regulation.

[Regulation 92 amended: Gazette 10 Jan 2017 p. 272-3.]

93. Decontamination procedures

(1) In this regulation —

relevant person, in relation to a contamination, means —

(a) a person who —

(i) caused the contamination; or

(ii) had possession or control of the pesticide at the time the contamination occurred;

and

(b) if the person referred to in paragraph (a) is an employee or agent, that person's employer or principal.

(2) If a place or thing becomes contaminated with a registered pesticide, each relevant person must deal with the contamination, or ensure that it is dealt with —

(a) in accordance with the decontamination procedures set out in the material data safety sheet for the pesticide; or

(b) in the manner directed by the Chief Health Officer.

Penalty: a fine of $2 500.

(3) Any person dealing with a contamination must comply with any directions given to the person by the Chief Health Officer.

Penalty for an offence under subregulation (3): a fine of $2 500.

[Regulation 93 amended: Gazette 10 Jan 2017 p. 272-3.]

Division 3 — Disposal of pesticides and containers

94. Disposal of registered pesticides

(1) If the approved label for a registered pesticide contains requirements relating to the disposal of the pesticide, a person must not dispose of the pesticide other than in accordance with those requirements.

Penalty: a fine of $2 500.

(2) A person must not dispose of a registered pesticide in a manner that might reasonably be expected to be dangerous or to pose a threat to the health or safety of any individual or of the public.

Penalty: a fine of $2 500.

(3) A person who contravenes subregulation (1) does not commit an offence under that subregulation if the contravention is authorised by an Agvet permit.

(4) An Chief Health Officer permit may be granted for subregulation (1).

[Regulation 94 amended: Gazette 10 Jan 2017 p. 272-3.]

95. Disposal of used pesticide containers

(1) A person must not dispose of a used pesticide container unless —

(a) the container is empty; and

(b) the person disposes of the container in accordance with subregulation (2).

Penalty: a fine of $2 500.

(2) A container may be disposed of —

(a) if it has been —

(i) washed in accordance with any requirements specified on the approved label for the pesticide; and

(ii) punctured, flattened or otherwise damaged so as to render it unusable,

by delivering it to an appropriate landfill site the occupier of which holds a licence under the *Environmental Protection Act 1986* Part V in respect of that site; or

(b) by delivering it to a person who is authorised under regulation 96 to collect used pesticide containers.

(3) An Chief Health Officer permit may be granted for subregulation (1).

[Regulation 95 amended: Gazette 10 Jan 2017 p. 272-3.]

96. Collection of used pesticide containers

A person must not carry on an undertaking (whether for profit or not) involving the collection and disposal or recycling of used pesticide containers unless the person —

(a) holds a licence of the kind referred to in regulation 95(2)(a); or

(b) does so in accordance with the written authorisation of the Chief Health Officer.

Penalty: a fine of $2 500.

[Regulation 96 amended: Gazette 10 Jan 2017 p. 272-3.]

97. Reuse of pesticide containers

(1) A person must not use a used pesticide container to hold food or other substances intended for human or animal consumption.

Penalty: a fine of $2 500.

(2) A person must not use a used pesticide container to hold a registered pesticide unless the container —

(a) is an approved container for that pesticide; and

(b) has not been used previously for any other kind of pesticide.

Penalty: a fine of $2 500.

(3) A person must not use a used pesticide container for any other purpose unless the container —

(a) has been cleaned in a manner approved by the Chief Health Officer; and

(b) is clearly labelled “used pesticide container”.

Penalty: a fine of $2 500.

(4) A person does not commit an offence under subregulation (3)(b) if the person —

(a) was the person who used the pesticide previously held in the container; and

(b) reuses the container on premises owned or occupied by the person.

(5) An Chief Health Officer permit may be granted for subregulation (2).

[Regulation 97 amended: Gazette 10 Jan 2017 p. 272-3.]

98. Domestic dispensing device to be labelled

(1) In this regulation —

approved instructions, in relation to a domestic dispensing device, means instructions for the use of the device that have been approved by the Chief Health Officer.

(2) A person must not sell or supply a domestic dispensing device unless —

(a) a label setting out the approved instructions for the device is securely attached to the device; or

(b) both of the following apply —

(i) a document setting out the approved instructions for the device is supplied with the device;

(ii) a label directing the reader to those instructions is securely attached to the device.

Penalty: a fine of $2 500.

[Regulation 98 amended: Gazette 10 Jan 2017 p. 272-3.]

Division 4 — Unregistered pesticides

99. Possession, use and disposal of unregistered pesticides

(1) A person must not have possession of, use or dispose of a pesticide that is not a registered pesticide.

Penalty: a fine of $2 500.

(2) An Chief Health Officer permit may be granted for subregulation (1).

[Regulation 99 amended: Gazette 10 Jan 2017 p. 272-3.]

Part 7 — General matters

Division 1 — Chief Health Officer permits

[Heading amended: Gazette 10 Jan 2017 p. 272-4.]

100. Authorisation under Chief Health Officer permit

(1) In this regulation —

relevant provision means a provision of these regulations that is expressed to be a provision for which an Chief Health Officer permit may be granted.

(2) A person who contravenes a relevant provision does not commit an offence under that provision if the contravention is authorised by a permit granted by the Chief Health Officer.

[Regulation 100 amended: Gazette 10 Jan 2017 p. 272-5.]

101. Application for Chief Health Officer permit

(1) An application for an Chief Health Officer permit must be —

(a) made in writing to the Chief Health Officer; and

(b) accompanied by the scheduled fee.

(2) An applicant must provide the Chief Health Officer with any document or other information relating to the application that the Chief Health Officer asks for.

[Regulation 101 amended: Gazette 10 Jan 2017 p. 272-5.]

102. Grant of Chief Health Officer permit

(1) The Chief Health Officer —

(a) may grant or refuse to grant an Chief Health Officer permit as the Chief Health Officer thinks fit; and

(b) may grant an Chief Health Officer permit subject to any conditions the Chief Health Officer thinks fit.

(2) An Chief Health Officer permit may be granted —

(a) for a particular occasion specified in the permit; or

(b) for a period specified in the permit.

(3) If the Chief Health Officer refuses to grant an Chief Health Officer permit, the Chief Health Officer must give the applicant written notice of the refusal and the reasons for it.

[Regulation 102 amended: Gazette 10 Jan 2017 p. 272-5.]

103. Cancellation of Chief Health Officer permit

(1) The Chief Health Officer may cancel an Chief Health Officer permit for any reason the Chief Health Officer thinks fit.

(2) If the Chief Health Officer cancels an Chief Health Officer permit, the Chief Health Officer must give the permit holder written notice of the cancellation and the reasons for it.

[Regulation 103 amended: Gazette 10 Jan 2017 p. 272-5.]

Division 2 — Health and safety powers

104. When powers may be exercised

(1) An authorised officer may exercise a power under this Division if the official reasonably believes that exercising the power is necessary for the purposes of protecting the health and safety of any individual or of the public.

(2) An authorised officer may continue exercising a power under this Division only for so long as the official reasonably believes that it is necessary for that purpose to do so.

[Regulation 104 amended: Gazette 10 Jan 2017 p. 274.]

105. Authorised officer may stop pest management treatment

(1) An authorised officer may direct a registered proprietor or licensee —

(a) not to undertake a pest management treatment; or

(b) to discontinue a pest management treatment being undertaken by the person or by an employee of the person.

(2) A direction under subregulation (1) —

(a) must be given in writing unless the authorised officer considers that it is a matter of extreme urgency, in which case the direction may be given orally; and

(b) must inform the person to whom it is given that a contravention of the direction is an offence.

(3) A person given a direction under subregulation (1) must comply with it.

Penalty for an offence under subregulation (3): a fine of $2 500.

[Regulation 105 amended: Gazette 10 Jan 2017 p. 274-5.]

106. Authorised officer may prohibit entry to pesticide affected area

(1) An authorised officer may —

(a) direct a person not to enter; or

(b) close to all persons,

any place at which the authorised officer reasonably believes that a pesticide is present.

(2) A direction under subregulation (1)(a) —

(a) must be given in writing unless the authorised officer considers that it is a matter of extreme urgency in which case the direction may be given orally; and

(b) must inform the person to whom it is given that a contravention of the direction is an offence.

(3) A person given a direction under subregulation (1)(a) must comply with it.

Penalty: a fine of $2 500.

(4) An authorised officer who exercises a power under subregulation (1)(b) must take all reasonable steps to —

(a) secure the area to prevent access by unauthorised persons; and

(b) inform persons in the vicinity (whether by signs, warning markers or otherwise) that —

(i) the area is closed to entry; and

(ii) entering the area is an offence.

(5) A person must not enter an area that is closed under subregulation (1)(b) unless authorised by an authorised officer to do so.

Penalty for an offence under subregulation (5): a fine of $2 500.

[Regulation 106 amended: Gazette 10 Jan 2017 p. 274-5.]

Division 3 — Evidentiary and liability matters

107. Evidence about registration and licensing

For the purpose of proceedings for an offence under these regulations, an allegation in a prosecution notice of any of the following matters is taken to be proved in the absence of evidence to the contrary —

(a) that at a specified time a specified person was or was not —

(i) a registered proprietor; or

(ii) a licensed technician; or

(iii) a provisional technician;

(b) that at a specified time a licence did or did not authorise the licensee —

(i) to undertake pest management treatments of a specified kind; or

(ii) to use a specified pesticide.

108. Liability of corporate officers for acts of body corporate

(1) In this regulation —

corporate officer, of a body corporate, means an officer (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the body corporate.

(2) If a body corporate is alleged to have committed an offence under these regulations, every person who was a corporate officer of the body corporate at the time of the alleged offence may be charged with the offence whether or not the body corporate is charged with the offence.

(3) If —

(a) a corporate officer is charged with an offence as permitted by subregulation (2); and

(b) it is proved that the body corporate committed the offence,

then, subject to subregulation (4), the corporate officer is taken to have also committed the offence.

(4) If a corporate officer is charged with an offence as permitted by subregulation (2), it is a defence to prove that —

(a) the offence was committed without the officer's consent or connivance; and

(b) the officer took all the measures to prevent the commission of the offence that the officer could reasonably be expected to have taken having regard to the officer's functions and to all the circumstances.

109. Liability of employer for acts of employee

(1) If an employee is alleged to have committed an offence under these regulations, the person's employer may be charged with the offence.

(2) Subregulation (1) applies —

(a) whether or not the employee is charged with the offence; and

(b) even if the employee acted without the employer's authority or contrary to the employer's orders or instructions.

(3) If —

(a) an employer is charged with an offence as permitted by subregulation (1); and

(b) it is proved that the employee committed the offence,

then, subject to subregulation (4), the employer is taken to have committed the offence.

(4) If an employer is charged with an offence as permitted by subregulation (1), it is a defence to prove that —

(a) the offence was committed without the employer's consent or connivance; and

(b) the employer took all the measures to prevent the commission of the offence that the employer could reasonably be expected to have taken in the circumstances.

Division 4 — Administrative matters

110. Pesticides Advisory Committee attendance fees (s. 246B(8))

(1) In this regulation —

Committee means the Pesticides Advisory Committee referred to in section 246B of the Act.

(2) An attendance fee is not payable to a regular member of the Committee or the deputy for such a member.

(3) The attendance fee payable to a co-opted member of the Committee is —

(a) $220 for a full day's attendance (4 hours or longer); or

(b) $150 for a half-day's attendance (less than 4 hours).

(4) However, an attendance fee is not payable to a co-opted member who is —

(a) an employee as defined in the *Public Sector Management Act 1994*; or

(b) an employee of a department or other agency of the Commonwealth; or

(c) a local government employee; or

(d) an employee of a university or other tertiary institution established or continued under a written law.

111. Fees

For a matter under a provision of these regulations specified in Schedule 1, the fee is the amount specified opposite the provision in respect of the matter.

Part 8 — Repeal and transitional matters

Division 1 — Repeal

112. *Health (Pesticides) Regulations 1956* repealed

The *Health (Pesticides) Regulations 1956* are repealed.

Division 2 — Transitional matters for *Health (Pesticides) Regulations 2011*

[Heading inserted: Gazette 29 Jan 2016 p. 272.]

113. Terms used

In this Division —

commencement day means the day on which these regulations (other than regulations 1 and 2) come into operation;

1956 Regulations means the *Health (Pesticides) Regulations 1956* as in force immediately before the commencement day.

114. Registered firms and commercial pesticide firms

(1) A body corporate, partnership or person who, immediately before the commencement day, was registered under the 1956 Regulations regulation 33 is taken to be registered under regulation 18.

(2) A person who, immediately before the commencement day, was registered under the 1956 Regulations regulation 63 is taken to be registered under regulation 18.

115. Fumigators and pesticide operators

(1) A person who, immediately before the commencement day, was licensed as a fumigator under the 1956 Regulations regulation 36 is taken to hold a technician's licence granted under regulation 38.

(2) A person who, immediately before the commencement day, held a full pesticides licence issued under the 1956 Regulations regulation 70 is taken to hold a technician's licence granted under regulation 38.

(3) A person who, immediately before the commencement day, held a provisional pesticides licence issued under the 1956 Regulations regulation 69 is taken to hold a provisional licence granted under regulation 39.

116. Conditions of fumigations

A fumigation that, immediately before the commencement day, was the subject of conditions imposed under the 1956 Regulations regulation 35(1a) is taken to be the subject of an approval given under regulation 63 on which the same conditions have been imposed.

117. Exemptions for fumigations

A fumigation that, immediately before the commencement day, was the subject of an exemption granted under the 1956 Regulations regulation 35(2) is taken to be the subject of an approval given under regulation 63 the conditions of which are the same as those imposed on the exemption.

118. Fumigation registers

An entry in respect of a fumigation that was made in a register kept under the 1956 Regulations regulation 35(3) is taken to be a record of the fumigation made under regulation 77.

119. Records of employees

A record of an employee that was made under the 1956 Regulations regulation 67 is taken to be a record of the employee made under regulation 76.

120. Other approvals, authorities, directions, notices and permits

An approval, authority, direction, notice or permit given or granted under a provision of the 1956 Regulations specified in the Table that was in force immediately before the commencement day is taken to be an approval, authority, direction, notice or permit given or granted (as the case requires) under the provision of these regulations specified opposite.

Table

Provisions of 1956 Regulations	Provisions of these regulations
r. 10(2)	r. 83(3)
r. 11A	r. 98(2)
r. 19(2)	r. 85(3)
r. 19A	r. 88(2)
r. 20C	r. 87(8)
r. 20E	r. 92(2)
r. 21D(1)(a)	r. 97(3)(a)
r. 21E	r. 96(b)
r. 21F(1)(aa)	r. 94(4)
r. 21F(1)(g)	r. 94(4)
r. 32(2)(c)	r. 5(4)(b)
r. 34(2)(a) or (b)	r. 64(2)
r. 53(1)	r. 27(1)

Provisions of 1956 Regulations	Provisions of these regulations
r. 77A(1)(a) or (b)	r. 93(2)(b)
r. 77A(2)	r. 93(3)

[Regulation 120 amended: Gazette 29 Jan 2016 p. 272.]

Division 3 — Transitional matters for *Health (Pesticides) Amendment Regulations 2016*

[Heading inserted: Gazette 29 Jan 2016 p. 273.]

121. Terms used

In this Division —

commencement day means the day on which the *Health (Pesticides) Amendment Regulations 2016* regulation 6 comes into operation;

existing Chief Health Officer permit means an Chief Health Officer permit granted for the former Regulations regulation 88(1) or 89(2) that was in force immediately before commencement day;

former Regulations means the *Health (Pesticides) Regulations 2011* as in force immediately before commencement day.

[Regulation 121 inserted: Gazette 29 Jan 2016 p. 273; amended: Gazette 10 Jan 2017 p. 272-4.]

122. Existing Chief Health Officer permit

An existing Chief Health Officer permit is to be taken to be an Chief Health Officer permit granted for regulation 88(1).

[Regulation 122 inserted: Gazette 29 Jan 2016 p. 273; amended: Gazette 10 Jan 2017 p. 272-5.]

Schedule 1 — Fees

[r. 111]

[Heading inserted: SL 2024/91 r. 6.]

Regulation	Description	Fee ($)
Matters relating to business registrations		
r. 17	Application for grant of registration	400
r. 19(2)	Application for change or addition to business premises	30
r. 20(4)(b)	Application for amendment or removal of conditions	30
r. 22(1)	Application for renewal of registration	400
r. 23(5)	Replacement of registration certificate	16
Matters relating to licences		
r. 37	Application for grant of licence	235
r. 40(2)	Application for change or addition to endorsements	30
r. 41(2)	Application for change or addition to restricted-use pesticides	30
r. 42(4)(b)	Application for amendment or removal of conditions	30
r. 44(1)	Application for renewal of technician's licence	235
r. 45(1)	Application for extension of provisional licence (fee per month, or part of a month, of extension sought)	30

Regulation	**Description**	**Fee ($)**
r. 46(1)	Application to upgrade provisional licence to technician's licence	30
r. 48(5)	Replacement of licence card	16
Other matters		
r. 101(1)(b)	Application for Chief Health Officer permit	150

[Schedule 1 inserted: SL 2024/91 r. 6.]

Notes

This is a compilation of the *Health (Pesticides) Regulations 2011* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Health (Pesticides) Regulations 2011	1 Feb 2011 p. 291-372	r. 1 and 2: 1 Feb 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Feb 2011 (see r. 2(b))
Health (Pesticides) Amendment Regulations 2011	21 Jun 2011 p. 2219-20	r. 1 and 2: 21 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Jun 2011 (see r. 2(b))
Health (Pesticides) Amendment Regulations 2013	19 Nov 2013 p. 5294-5	r. 1 and 2: 19 Nov 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Nov 2013 (see r. 2(b))
Health (Pesticides) Amendment Regulations (No. 2) 2014	28 Nov 2014 p. 4412-13	r. 1 and 2: 28 Nov 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2014 (see r. 2(b))
Health (Pesticides) Amendment Regulations (No. 2) 2015	19 May 2015 p. 1758-9	r. 1 and 2: 19 May 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b))
Health (Pesticides) Amendment Regulations 2016	29 Jan 2016 p. 269-73	r. 1 and 2: 29 Jan 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jan 2016 (see r. 2(b))
Reprint 1: The *Health (Pesticides) Regulations 2011* as at 13 May 2016 (includes amendments listed above)		
Health Regulations Amendment (Fees and Charges) Regulations 2016 Pt. 3	17 Jun 2016 p. 2101-5	1 Jul 2016 (see r. 2(b))
Health Regulations Amendment (Public Health) Regulations 2016 Pt. 18	10 Jan 2017 p. 237-308	24 Jan 2017 (see r. 2(b) and *Gazette* 10 Jan 2017 p. 165)
Health Regulations Amendment (Poisons) Regulations 2016 Pt. 3	17 Jan 2017 p. 409-11	30 Jan 2017 (see r. 2(b) and *Gazette* 17 Jan 2017 p. 403)

Citation	Published	Commencement
Health Regulations Amendment (Fees and Charges) Regulations 2017 Pt. 3	30 Jun 2017 p. 3568-74	1 Jul 2017 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 3	25 May 2018 p. 1632-9	1 Jul 2018 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2019 Pt. 3	14 Jun 2019 p. 1883-94	1 Jul 2019 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2020 Pt. 3	SL 2020/97 26 Jun 2020	1 Jul 2020 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2021 Pt. 3	SL 2021/108 29 Jun 2021	1 Jul 2021 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2022 Pt. 3	SL 2022/136 15 Jul 2022	16 Jul 2022 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2023 Pt. 3	SL 2023/96 30 Jun 2023	1 Jul 2023 (see r. 2(b))
Health Regulations Amendment (Fees and Charges) Regulations 2024 Pt. 3	SL 2024/91 12 Jun 2024	1 Jul 2024 (see r. 2(b))

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
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