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HEALTH ACT 1911

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HEALTH (PESTICIDES)  
REGULATIONS 1956

Reprinted under the *Reprints Act 1984* as at 3 April 1989.

WESTERN AUSTRALIA

HEALTH ACT 1911

HEALTH (PESTICIDES) REGULATIONS 1956

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WESTERN AUSTRALIA

HEALTH ACT 1911

HEALTH (PESTICIDES) REGULATIONS 1956

PART I—GENERAL

**Citation**

1. These regulations may be cited as the *Health (Pesticides) Regulations 1956*<sup>1</sup>.

[*Regulation 1 amended in Gazette 3 January 1986 p. 15.*]

**Interpretation**

2. In these regulations, unless the context requires otherwise—

“advertisement” means any method, including written, spoken, pictorial, broadcast transmission or television, of notifying any claim or statement as to the value or merits of a pesticide;

“Australian Standard” means standard published by the Standards Association of Australia;

“package” includes anything in or by which a pesticide is immediately cased, covered, enclosed, contained or packed;

“pesticide” means a substance or compound used or intended for use for agricultural, pastoral, horticultural, domestic, or industrial purposes for controlling, destroying, or preventing the growth and development of, any fungus, virus, insect, mite, mollusc, nematode, plant or animal and includes all preparations and admixtures containing any proportion of any one or more of them;

“pickled” in relation to cereal, means a cereal to which a pesticide has been added as a cereal seed dressing;

“registered”, in relation to a pesticide or its label, means for the time being registered under this Part;

“the Advisory Committee” means the Pesticides Advisory Committee referred to in section 246B of the Act;

“to sell” means to sell by wholesale or retail and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send forward or deliver for sale, cause or suffer or allow to be sold, and inflections and derivatives of the verb “to sell,” have correlative meanings;

“wholesale dealer” means the manufacturer, importer, distributor, agent, or other person responsible for placing a pesticide on the market in Western Australia.

[Regulation 2 amended in Gazettes 28 October 1971 p. 4187; 16 July 1982 p. 2725; 29 June 1984 p. 1783; 3 January 1986 p. 16.]

### **Sitting fees**

3. Each member of the Advisory Committee not employed in the State Public Service shall be paid a fee of \$6.30 for each meeting of the Committee attended by him.

### **Application to register pesticide**

4. (1) An application to register a pesticide and the label relating to it under this Part shall be in the form of a form approved by the Executive Director, Public Health and shall contain a statement setting forth—

- (a) a description of the chemical and physical nature of the pesticide together with a percentage analysis of its composition;
- (b) specific and complete claims as to the purpose of the pesticide;
- (c) directions for the use of the pesticide;
- (d) a description of the nature of the package used, including the net mass or net liquid measure of every size package proposed to be sold;
- (e) such further information as the Executive Director, Public Health may require.

(2) An application referred to in subregulation (1) shall be accompanied by—

- (a) 4 copies of the text of the label referred to in that subregulation and of any descriptive literature used;
- (b) an application fee of \$72, except in the case of an application for the registration of a pesticide that is currently registered under the *Veterinary Preparations and Animal Feeding Stuffs Act 1976*, which may be registered without fee.

(3) The applicant shall, at the request of the Executive Director, Public Health, submit a sample of the pesticide to which his application relates in its package and labelled with the label relating to that pesticide.

[Regulation 4 inserted in Gazette 28 October 1971 pp. 4187-88; amended in Gazettes 25 January 1972 p. 147; 1 June 1979 p. 1436; 18 July 1980 p. 2389; 22 January 1982 p. 187; 29 June 1984 p. 1783; 21 June 1985 p. 2205; 3 January 1986 p. 16; 26 June 1987 p. 2460.]

### **Registration**

5. An application for registration when approved by the Executive Director, Public Health shall be recorded in a register to be kept for the purpose and shall be assigned a registration number.

[Regulation 5 amended in Gazette 29 June 1984 p. 1783.]

### **Expiry of and renewal of registration**

6. (1) The registration of a pesticide and the label relating to it shall expire on 30 June in each year but may be renewed from year to year on application and shall be assigned the same registration number.

(1a) An application for the renewal of the registration of a pesticide and the label relating to it, other than in respect of a pesticide that is currently registered under the *Veterinary Preparations and Animal Feeding Stuffs Act 1976* shall be accompanied by a renewal fee of \$36.

(2) Notwithstanding the provisions of subregulation (1) any pesticide registered after the coming into operation of these regulations and before 1 July 1956, shall be deemed to have been registered for the year commencing 1 July 1956.

*[Regulation 6 amended in Gazettes 25 January 1972 p. 147; 1 June 1979 p. 1436; 22 January 1982 p. 187; 21 June 1985 p. 2205; 3 January 1986 p. 16; 26 June 1987 p. 2460.]*

### **Amendment of register**

6A. (1) An application to—

- (a) include in the register the net mass or net liquid measure of an additional package size of any registered pesticide; or
- (b) alter the net mass or net liquid measure of any package containing a registered pesticide,

shall be made in writing to the Executive Director, Public Health and shall be accompanied by a fee of \$15.

(2) An application to alter a registered label shall be made in writing to the Executive Director, Public Health, and shall be accompanied by a fee of \$36.

(3) The Executive Director, Public Health, may approve or refuse an application made under subregulation (1) or (2).

(4) The Executive Director, Public Health, may review a registered label and may if it appears necessary or convenient for the protection of health require the person in whose name the registered label is registered to alter the registered label so that it complies with his directions and that person shall comply with that direction.

(5) When a registered label has been altered in accordance with a requirement made under subregulation (4), a person shall not affix a label to the relevant registered pesticide unless the label is identical to the registered label as so altered.

*[Regulation 6A inserted in Gazette 22 January 1982 p. 187; amended in Gazettes 29 June 1984 p. 1783; 21 June 1985 p. 2205; 3 January 1986 p. 16; 26 June 1987 p. 2460.]*

### **Review of registered pesticide and label every 6 years**

**6B.** (1) Notwithstanding regulation 6A (4), the Executive Director, Public Health shall review a registered pesticide and the label relating to it within—

- (a) 6 years from the day on which the application for registration was recorded in the register under regulation 5; and
- (b) every following 6 year period.

(2) After carrying out a review referred to in subregulation (1) the Executive Director, Public Health may—

- (a) cancel the registration of a pesticide or the label relating to it, or both; or
- (b) subject to subregulation (3) direct the person in whose name the pesticide and the label relating to it is registered to provide a new label within a period of 3 months.

(3) The Executive Director, Public Health may vary the period referred to in subregulation (2) (b).

*[Regulation 6B inserted in Gazette 9 December 1988 p. 4823.]*

### **Obligation to register**

**7.** A commercial pesticide firm, or a pesticide operator, as defined by regulation 62 or a wholesale dealer, which or who proposes to sell or use a pesticide which has not been registered or the registration of which has been cancelled under regulation 8 (a) (iv) shall before commencing to sell or use such pesticide apply for and obtain its registration or re-registration, as the case requires.

*[Regulation 7 amended in Gazette 3 January 1986 p. 16.]*

### **Cancellation or refusal of registration**

**8.** The Executive Director, Public Health, may at any time cancel the registration of, or refuse to register or re-register—

- (a) a pesticide which, in the opinion of the Advisory Committee—
  - (i) because of its toxicity, physical properties or formulation or for any other reason whatsoever is dangerous to health;
  - (ii) is not suitable for the purpose for which it is sold;
  - (iii) is not suitably packed;
  - (iv) has been blended, mixed, diluted or altered in any of its constituents; or
  - (v) does not for any reason other than a reason referred to in subparagraph (i), (ii), (iii) or (iv) conform to these regulations;

or

- (b) a label which, in the opinion of the Advisory Committee—
  - (i) because of its indications or recommendations in respect of the pesticide to which it relates or for any other reason is dangerous to health;
  - (ii) prescribes a faulty formula for blending, mixing, diluting or altering the pesticide to which it relates; or
  - (iii) does not for any reason other than a reason referred to in subparagraph (i) or (ii) conform to these regulations,

or may cancel the registration of a pesticide or label on the application of the person in whose name the pesticide or label is registered.

*[Regulation 8 inserted in Gazette 3 January 1986 pp. 16-17.]*



**Labels**

**9.** (1) Every package containing a pesticide shall have durably affixed to such package the label registered in respect of the pesticide, which label shall contain the following particulars—

- (a) the distinctive name, if any, of such pesticide;
- (b) the name and business address of the wholesale dealer;
- (c) the name of every active ingredient and its percentage proportion to the whole;
- (d) the net weight or volume as the case may require;
- (e) directions and precautions for the use of the pesticide;
- (f) a batch number clearly identifying the particular batch of pesticide.

(2) The registered label referred to in subregulation (1) shall not contain any statement, claim, design, device, name or abbreviation which is false or misleading in any particular concerning the pesticide in respect of which it is registered or its constituents.

(2a) A person shall not sell a pesticide the label relating to which contains a statement or claim that it is non-poisonous or harmless to humans.

(2b) Subject to regulation 19 (2), a person shall not sell or supply a pesticide in a package which does not bear a label that is identical to the label registered in respect of the pesticide.

(3) Where any pamphlet or instruction is provided with any package containing a pesticide it shall set out all such matters as are prescribed under these regulations for a label.

*[Regulation 9 amended in Gazettes 3 January 1986 p. 17; 10 January 1986 p. 87.]*

*[9AA. Regulation 9AA repealed in Gazette 3 January 1986 p. 17.]*

**Container**

**9A.** The immediate container in which any pesticide is stored, sold, supplied or transported—

- (a) shall be impervious to its contents;
- (b) shall not be capable of reacting with its contents;
- (c) shall be of sufficient strength and capacity to withstand the ordinary risks of breakage and expansion during storage, handling or transport without leakage; and
- (d) shall be securely closed and, except where it contains a preparation packed for use on one occasion only, shall be capable of being securely reclosed.

*[Regulation 9A inserted in Gazette 25 January 1972 p. 147.]*

**Permission required for certain pesticides**

**10.** No person shall sell, have in his possession or use any substance listed in Schedule B except with the written permission of the Executive Director, Public Health.

*[Regulation 10 amended in Gazette 29 June 1984 p. 1783.]*

### Special packaging and labelling requirements

11. (1) (a) Where a pesticide contains any substance specified in the First, Second, Sixth or Seventh Schedule to the *Poisons Act 1964*—

- (i) the package containing the pesticide shall conform with the requirements of regulation 19 of the *Poisons Regulations 1965*, in force under that Act; and
- (ii) the label of the package shall bear the expressions “POISON” and “Keep out of reach of children”.

(b) Where a pesticide does not contain any substance specified in the First, Second, Sixth or Seventh Schedules to the *Poisons Act 1964*, but contains any substance specified in the Fifth Schedule to that Act, the label of the package shall bear the expressions “CAUTION” and “Keep out of reach of children”.

(2) Where the word “POISON” or “CAUTION” is required to be shown on a label pursuant to this regulation—

- (a) the word shall appear in red on a white background and be surrounded by a red frame;
- (b) the word shall form the first line of the principal label and no other word or words shall appear on the same line;
- (c) the word “POISON” or “CAUTION”, as the case requires, shall be in bold face sans serif capital letters of a size not less than half the size of the largest lettering on the label and in any event not less than 6 points full measurement.

(3) Where the words “Keep out of reach of children” are required by this regulation to be shown on a label, those words shall be shown—

- (a) in bold face sans serif letters of not less than 6 points full measurement; and
- (b) in such colour or colours as to afford a distinct colour contrast to the background colour.

(4) Where a pesticide, which contains any substance specified in the First, Second, Sixth or Seventh Schedule to the *Poisons Act 1964*, is contained in a bottle a label shall not be attached or affixed to the bottle in such a manner that the ribs, grooves, points or other distinctive designs or the embossed or branded words required to be blown, embossed or indelibly branded on the bottle are covered or obliterated; provided that a label may cover the front panel of the bottle and extend around the adjacent sides, if the words or the ribs, grooves, points or distinctive designs are on the back panel of the bottle and not covered or obliterated.

(5) The provisions of this regulation are in addition to, and not in derogation of, the provisions of regulation 9.

[Regulation 11 inserted in Gazette 3 October 1967 pp. 2577-78.]

### Pesticide device to be labelled

11A. A person shall not sell or supply a device which manufactures, or is claimed to manufacture, a pesticide at place of use for domestic purposes, unless it bears a label—

- (a) containing instructions for use approved by the Executive Director Public Health; or
- (b) directing the user to literature which is supplied with the device and which contains instructions for use approved by the Executive Director Public Health,

and that label is durably affixed to the device.

[Regulation 11A inserted in Gazette 29 November 1985 p. 4451.]

### **Prohibited advertising**

12. No person, in an advertisement shall make any claim or statement that a pesticide is non-poisonous or harmless to humans or which is false or misleading in any particular concerning the pesticide or its constituents.

### **Restriction on premises for manufacture of pesticides**

13. No person shall manufacture a pesticide on premises which are used for the manufacture, preparation, packing or storage of food.

### **Restriction on premises for preparing and packing of pesticides**

14. No person shall prepare or pack a pesticide on premises used for the manufacture, preparation, packing or storage of food unless such pesticide is prepared and packed in a separate room so constructed and ventilated as to prevent the contamination of any food and provided in addition that in the case of a pesticide which contains any substance specified in any of the Schedules to the *Poisons Act 1964*, such room shall not communicate directly with that portion of the premises which is used for the manufacture, preparation, packing or storage of food.

[*Regulation 14 amended in Gazette 3 October 1967 p. 2578.*]

### **Storage of pesticide**

15. No person shall store a pesticide—

- (a) on premises used for the manufacture, preparation, packing or storage of food unless such pesticide is contained in sealed packages and is so stored that in the event of spillage or breakage no contamination of food can occur;
- (b) in any manner which may be dangerous, or harmful or deleterious to health.

### **Equipment**

16. No person shall use for or in connection with the manufacture, preparation or packing of a pesticide any equipment which is used at any time for the manufacture, preparation or packing of food.

### **Transport**

17. No person shall transport a pesticide on any vehicle used for the transport of food without taking adequate precautions to prevent any contamination of such food.

### **Duties of occupier of certain premises**

18. The occupier of premises used for the manufacture, preparation, packing or storage of a pesticide shall—

- (a) ensure that the premises are ventilated in such a manner as to remove the gases, vapours or dust generated therein, and if it appears to the Executive Director, Public Health that gases, vapours, or dust are being generated to an extent which is likely to be harmful or injurious to health then the Executive Director, Public

Health may require that a properly constructed system of mechanical ventilation be installed and may prohibit continuance of the manufacture, preparation or packing of the pesticide until such installation is effected;

- (b) ensure that the premises are lighted by either natural or artificial lighting or both to a standard not less than that prescribed by the Australian Standard Code for interior illumination as from time to time published by The Standards Association of Australia;
- (c) inform all persons employed in connection therewith of suitable measures and procedures for their protection and safety;
- (d) supply and maintain on the premises first aid equipment for the emergency treatment of employees harmed by exposure to, or contact with, a pesticide;
- (e) where a pesticide or any constituent of a pesticide is corrosive, or consists of gases, mists or smokes which are poisonous or likely to be harmful or injurious to health or is capable of generating such gases, mists or smokes display prominently on the premises a notice setting forth the method of treating the harmful effects or injuries resulting from exposure to, or contact with, such pesticide or constituent;
- (f) provide and maintain in good order and condition such protective clothing and equipment for the protection of employees as may be required by the Executive Director, Public Health.

[*Regulation 18 amended in Gazette 29 June 1984 p. 1783.*]

#### **Certain pesticides prohibited**

**19.** (1) A person shall not sell, have in his possession or transport a pesticide unless that pesticide—

- (a) is registered;
- (b) conforms to the specifications and descriptions provided in relation to the pesticide in the form for application for registration of the pesticide, approved under these regulations;
- (c) is labelled with a label which is identical to the label registered in respect of the pesticide; and
- (d) is packaged as required under these regulations,

or the pesticide is sold, possessed or transported—

- (e) with the permission in writing of the Executive Director, Public Health; and
- (f) subject to any conditions on the sale, possession or transport of that pesticide imposed in writing by the Executive Director, Public Health.

(2) Notwithstanding anything in these regulations but subject to subregulation (3), if—

- (a) a registered label is altered under regulation 6A; or
- (b) the registration of a registered label is cancelled under regulation 8 on the application of the person in whose name it is registered,

and there are in the State at the time of that alteration or cancellation stocks of the registered pesticide in respect of which the registered label is or was registered, as the case requires, a person may during the period of 4 years commencing on the day of that alteration or cancellation sell, have in his possession or transport pesticides—

- (c) drawn from those stocks; and
- (d) labelled with labels identical to the registered label in the form in which it was immediately prior to that alteration or cancellation.

(3) The Executive Director, Public Health, may by notice published in the *Government Gazette* declare that subregulation (2) does not apply to or in relation to a registered pesticide or registered label to the extent specified in that declaration, and that declaration has effect according to its tenor.

[*Regulation 19 amended in Gazettes 3 January 1986 p. 17; 5 December 1986 p. 4464.*]

#### **Application of pesticides in public places**

**19A.** Unless otherwise authorized by the Executive Director, Public Health, a person applying or causing to be applied a pesticide containing a substance listed in Schedule C in or on a public place shall ensure that, during the time the pesticide is being applied and until it has dried on the surface to which it is applied, signs on which the words "CAUTION. SPECIFIED CHEMICAL BEING APPLIED. AVOID CONTACT WITH AREA WHILST SIGN IS DISPLAYED" are printed in bold capital letters of not less than 25 millimetres in height are displayed on the borders of, and within, the area to which the pesticide is applied at intervals of not less than once per block in an urban area divided into blocks and once every 100 metres in any other case.

[*Regulation 19A inserted in Gazette 10 January 1986 p. 87.*]

#### **Transportation of diluted pesticides**

**19AA.** A person shall not transport a pesticide in a public place in a diluted form or to which any other substance has been added unless the name and concentration of the chemical is clearly marked on the container in letters with a minimum height of 100 mm.

[*Regulation 19AA inserted in Gazette 9 December 1988 p. 4823.*]

#### **Use of, and sampling of, pesticide**

**20.** (1) No person shall use a pesticide in any manner, place or circumstance which is dangerous, harmful or injurious to health.

(2) Where any of a pesticide has been applied in a particular form and concentration, a health surveyor or other person authorized in that behalf by the Executive Director, Public Health may take for the purposes of these regulations a sample of the pesticide as so applied.

[*Regulation 20 inserted in Gazette 1 August 1980 p. 2565; amended in Gazette 29 June 1984 p. 1783.*]

#### **Specified pesticides on specified crops may be permitted**

**20A.** (1) The Executive Director, Public Health may by notice published in the *Government Gazette*, specify which pesticides may be used on specified crops in prescribed areas of the State.

(2) Where a notice is published in accordance with subregulation (1), a person who uses a pesticide other than a pesticide specified in that notice on the crops or in the area described in the notice commits an offence.

[*Regulation 20A inserted in Gazette 28 October 1971 p. 4188; amended in Gazette 29 June 1984 p. 1783.*]

**Specified pesticides on specified crops may be prohibited**

**20B.** (1) The Executive Director, Public Health may by notice published in the *Government Gazette*, prohibit the use of specified pesticides on specified crops in areas of the State described in the notice, at specified times of the year.

(2) A person who contravenes a notice published in accordance with subregulation (1) commits an offence.

[*Regulation 20B inserted in Gazette 28 October 1971 p. 4188; amended in Gazettes 26 August 1977 p. 2978; 29 June 1984 p. 1783.*]

**Application of pesticides to be in accordance with labels**

**20C.** A person shall not apply, or cause or permit to be applied, a pesticide—

- (a) at a frequency or rate of active ingredient in excess of the recommended frequency or rate of application;
- (b) otherwise than in accordance with any direction or precaution; or
- (c) for a use other than a use,

shown on the label registered in respect of the pesticide, unless the pesticide is applied—

- (d) with the permission in writing of the Executive Director, Public Health; and
- (e) subject to any conditions on the application of that pesticide imposed in writing by the Executive Director, Public Health.

[*Regulation 20C inserted in Gazette 3 January 1986 p. 17; amended in Gazette 5 December 1986 p. 4465.*]

**Cereal pickles**

**20D.** (1) A person shall not use, or permit or suffer to be used, a pesticide as a cereal seed dressing unless—

- (a) the pesticide imparts a distinctive colour to the cereal seed; or
- (b) a distinctive colour is added by a dye to the cereal seed,

so as to make the pickled cereal easily distinguishable by sight from cereal grains which have not been pickled.

(2) A person shall not sell any cereal seed which has been treated with a pesticide unless a distinctive colour has been added, either by the pesticide or by a dye added to the pesticide, so as to make the pickled cereal easily distinguishable by sight from cereal grains which have not been pickled.

[*Regulation 2D inserted in Gazette 16 July 1982 p. 2725.*]

**Maximum level of ingredients**

**21.** No person shall use or permit or suffer to be used any pesticide which contains a greater quantity of any ingredient than is permitted by these regulations.

**Definition of “used pesticide container”**

**21A.** (1) Subject to subregulation (2) for the purposes of regulations 21B, 21C, 21D and 21E—

“used pesticide container” means a container—

- (a) which has contained pesticide; or
- (b) in which pesticide is contained.

(2) Subregulation (1) does not apply to a container designed to contain less than—

- (a) 2 L of liquid pesticide; or
- (b) 2 kg of solid pesticide,

when used for domestic or home garden purposes.

*[Regulation 21A inserted in Gazette 9 December 1988 p. 4823.]*

**Disposal of used pesticide containers**

**21B.** Unless the Executive Director, Public Health in any particular case otherwise directs, a person shall, after disposing of the contents (if any) in accordance with regulation 21F and washing out the used pesticide container; dispose of a used pesticide container by one of the following methods—

- (a) by arrangement with a local rubbish collection agency;
- (b) at a local shire rubbish tip after the owner of the container, by puncturing, breaking or flattening it, has rendered the container unusable; or
- (c) subject to regulation 21C by burying on the property of the owner of the used pesticide container.

*[Regulation 21B inserted in Gazette 9 December 1988 p. 4823.]*

**Disposal of private property**

**21C.** Where a used pesticide container is disposed of by the method referred to in regulation 21B (c) the owner shall ensure that the used pesticide container—

- (a) is rendered unusable by puncturing, breaking or flattening it; and
- (b) is buried at least 0.5 m below natural ground level in a place which is situated at least 30 m from any water course and a minimum of 3 m above the water table.

*[Regulation 21C inserted in Gazette 9 December 1988 p. 4823.]*

**Cleansing, reuse and labelling of a used pesticide container**

**21D.** (1) Subject to subregulation (2), a used pesticide container may be reused after it has been—

- (a) cleansed in a manner approved by the Executive Director, Public Health; and
- (b) subject to subregulation (3) clearly labelled “USED PESTICIDE CONTAINER”.

(2) A container referred to in subregulation (1) shall be—

- (a) use to contain substances or foodstuffs for human or animal consumption; or
- (b) reused as a pesticide container.

(3) A person who reuses a used pesticide container on the property of the owner of the used pesticide container is not required to comply with subregulation (1) (b).

[Regulation 21D inserted in Gazette 9 December 1988 p. 4824.]

**Authority required for disposal etc.,  
of used pesticide containers**

**21E.** (1) A person shall not undertake to collect and dispose of used pesticide containers for reward unless the person holds a written authority from the Executive Director, Public Health approving the person's methods of collection and disposal.

(2) The Executive Director, Public Health may—

- (a) impose any conditions on an authority referred to in subregulation (1); or
- (b) at any time cancel or revoke any such authority.

[Regulation 21E inserted in Gazette 9 December 1988 p. 4824.]

**Disposal of pesticides**

**21F.** (1) Pesticides may be disposed of—

- (a) by using in accordance with the label registered in respect of the pesticide;
- (b) by destroying by chemical means approved by the Executive Director, Public Health;
- (c) by incinerating at high temperature in an incinerator approved by the Executive Director, Public Health;
- (d) in a manner approved by the Executive Director, Public Health in a gazetted land-fill site;
- (e) where the pesticide contains less than 500 mL or 500 g of active constituent and the material does not contain a prescribed organochlorine or a substance specified in the Seventh Schedule in Appendix A to the *Poisons Act 1964*, by burying at least 0.5 m below natural ground level in a pit lined with an equal volume or weight of lime situated at least 30 m from any water course and a minimum of 3 m above the water table;
- (f) where the pesticide contains a prescribed organochlorine or a substance specified in the Seventh Schedule in Appendix A to the *Poisons Act 1964*, by burying the pesticide in accordance with paragraph (e) after obtaining the permission of and subject to any conditions imposed by the Executive Director, Public Health; or
- (g) by any other method approved in writing by the Executive Director, Public Health.

(2) For the purposes of subregulation (1) "prescribed organochlorine" shall have the same meaning as in regulation 54.

[Regulation 21F inserted in Gazette 9 December 1988 p. 4824.]



## PART II—SPECIAL PROVISIONS

*Division 1—Lindane***Certain lindane prohibited**

22. No person shall use or possess the substance known as lindane which contains less than 99.0 per cent. of gamma isomer of benzene hexachloride.

**Pesticide for use in vaporizers**

23. No person shall sell a pesticide, for use in a vaporizer, other than lindane.

**Label required with certain vaporizers sold**

24. No person shall sell any apparatus for the non-continuous or occasional vaporization of lindane unless there is attached to the apparatus or the package containing such apparatus a label containing the following statement:—

- (a) This apparatus must be used for the vaporization only of the type of material supplied with it or sold for use with it. The room to be treated must be closed and unoccupied during treatment. All foodstuffs (including liquids) must be removed from the room. The treatment must be completed in not more than 3 hours, and should not be carried out more often than once in 2 weeks; more frequent use may be dangerous and is unnecessary. The room must be opened up and ventilated after treatment and not reoccupied within 2 hours after opening up. The apparatus should not be used in premises where food is prepared, handled or stored.
- (b) Use not more than (here state the weight or measure of the pesticide required to provide not more than one and one half (1½) grams of the lindane per 28 cubic metres of room space) per 28 cubic metres of room space.

[Regulation 24 amended in Gazettes 28 October 1971 p. 4189; 3 May 1974 pp. 1433-34.]

**Requirements for certain other vaporizers sold**

25. No person shall sell any apparatus for the continuous vaporization of lindane unless such apparatus complies with the following requirements:—

- (a) It shall not release the pesticide at a greater rate than one (1) gram per 24 hours.
- (b) It shall be provided with fuses to protect against over-loading and high temperatures and shall be so constructed that output in excess of one (1) gram of lindane per 24 hours is impossible.
- (c) There shall be provided with the apparatus a label or card suitable for fixing near the apparatus, and containing—

(i) the following statements:—

Not to be used as a continuous type in homes.

(The above to be in capital letters.)

When installed in a public building, factory, workroom, shop or office this apparatus is to be used only where the occupants are exposed to it for periods not exceeding 8 hours.

The vaporizer should be mounted not less than 1.8 metres from the floor, and not less than 915 millimetres from the ceiling.

The rate of emission of lindane from this apparatus does not exceed one (1) gram per 24 hours; and

- (ii) concise directions for use so that lindane shall not be dispersed to give a concentration in the air of a normally ventilated room in excess of that obtained by the emission of one (1) gram per 425 cubic metres in 24 hours.

[Regulation 25 inserted in Gazette 25 January 1972 pp. 147-48; amended in Gazette 3 May 1974 pp. 1433-34.]

#### **Use of vaporizer in certain premises prohibited**

**26.** No person shall use or permit to be used any heating apparatus for vaporization of lindane in any premises where food is manufactured, prepared, packed or stored.

[Regulation 26 inserted in Gazette 28 October 1971 p. 4189.]

#### **Use of vaporizer in certain premises controlled**

**27.** No person shall use or permit to be used any heating apparatus for the continuous vaporization of lindane in any public building, factory workroom, shop, office, unless such apparatus complies with the following requirements:—

- (a) It shall be so installed and protected against overloading and high temperatures that output in excess of one (1) gram in 24 hours is impossible.
- (b) A pilot light shall be provided to indicate the apparatus is in use.
- (c) It must be mounted above 1.8 metres from floor level and not less than 915 millimetres from the ceiling and shall be so situated that any volatilized material which may condense on walls, ceilings or other surfaces cannot be dislodged and fall into or otherwise contaminate food.

[(d) deleted]

- (e) It shall not be used so as to expose any occupant therein to the vaporized lindane for a greater period than 8 hours in any one day.
- (f) There shall be affixed near the apparatus directions for its use as prescribed in regulation 25 (c).

[Regulation 27 amended in Gazettes 28 October 1971 p. 4189; 3 May 1974 pp. 1433-34.]

#### **Estimation of rate of emission of vaporizers**

**28.** For the purpose of estimating the rate of emission of the pesticide the following method shall be used:—

- (a) Testing of production units shall be carried out with pesticide which is supplied for use with the particular vaporizer.
- (b) Tests shall be carried out in spaces where physical characteristics such as rate of air replacement fall within normal ventilation conditions.
- (c) For each separate test the vaporizer shall be operated for a 72 hour period and 3 weight-loss determinations representing 3 consecutive 24 hour operating periods shall be made. There shall be similar testing when more than 75 per centum of the pesticide in the vaporizer has been dispersed.
- (d) Determination of Weight Loss.— Weighings shall be made after the units have been allowed to cool for a period of 45 minutes or more in a room of normal temperature and humidity. The units shall be weighed to a tolerance not greater than  $\pm .002$  gram. In the case of heavy vaporizers with non-removable cups, the

periods of testing may be extended and the weighings made at multiples of the 24 hour period provided that the same number of individual tests is made, as required in paragraph (c).

*Division 2—Sodium Fluoroacetate*

**Dealing in, and supply of sodium fluoroacetate (1080) controlled**

29. (1) A person shall not import or sell sodium fluoroacetate or a preparation containing sodium fluoroacetate unless he is the holder of a licence in the form of Form 1 in Appendix A to the *Poisons Regulations 1965* which authorizes dealing in sodium fluoroacetate and is either a party to a wholesale dealing within the meaning of that expression in the *Poisons Act 1964* or is an officer of the Agriculture Protection Board.

(2) No person other than an officer of the Agriculture Protection Board authorized in writing by that Board shall manufacture any preparation containing sodium fluoroacetate.

(3) A person shall not have in his possession any sodium fluoroacetate or preparation containing sodium fluoroacetate except in circumstances permitted by and in accordance with these regulations.

(4) The Agriculture Protection Board may authorize officers of that Board in writing to manufacture or distribute sodium fluoroacetate or preparations containing sodium fluoroacetate on behalf of the Board where the Board is satisfied that the officer has been trained—

- (a) in the correct use of that substance against specified target pests;
- (b) in the precautions necessary for safe handling of the substance; and
- (c) in first aid treatment in respect to harm caused by sodium fluoroacetate.

(5) Any preparation containing sodium fluoroacetate manufactured or distributed on behalf of the Agriculture Protection Board shall require to be registered as a pesticide under these regulations.

(6) Authorized officers of the Agriculture Protection Board may, with written permission from the Executive Director, Public Health, use preparations containing sodium fluoroacetate, not registered as a pesticide, for experimental purposes.

(7) Sodium fluoroacetate and preparations containing sodium fluoroacetate may be supplied by officers of the Agriculture Protection Board to officers of the Department of Fisheries<sup>2</sup> and the Department of Conservation and Land Management<sup>2</sup> who have been trained to the satisfaction of the Board in accordance with the provisions of subregulation (4).

(8) An officer of the Agriculture Protection Board may supply a preparation containing sodium fluoroacetate to—

- (a) a farmer or his employee;
- (b) a pastoralist or his employee; or
- (c) a person engaged by a farmer or pastoralist to carry out baiting with that preparation for a purpose referred to in regulation 29A (1),

if, and only if, the farmer, pastoralist or employee or the person so engaged, as the case requires, has been trained to the satisfaction of the Agriculture Protection Board in the matters referred to in subregulation (4) (a), (b) and (c).

(9) Subject to regulation 29A, a farmer or pastoralist or his employee or a person engaged within the meaning of subregulation (8) (c) shall not use a preparation containing sodium fluoroacetate supplied to him under subregulation (8) otherwise than—

- (a) for baiting for the destruction of the animal or bird specified in the label on or attached to the package containing that preparation; or
- (b) in accordance with an instruction in writing given to him by an officer of the Agriculture Protection Board.

[Regulation 29 inserted in Gazette 16 July 1982 p. 2725; amended in Gazettes 29 June 1984 p. 1783; 3 January 1986 p. 18.]

#### **Purposes for which sodium fluoroacetate (1080) may be used**

**29A.** (1) Registered pesticides containing sodium fluoroacetate shall not be used except in accordance with these regulations and shall be limited in use to baiting for the destruction of rabbits, wild dogs and dingoes, feral pigs, foxes, feral cats, rats, agile wallabies and sulphur crested cockatoos but the Executive Director, Public Health may grant written permission for any preparation containing sodium fluoroacetate to be used for experimental control of any other pest by officers of the Agriculture Protection Board.

(2) Subject to subregulation (3) a person shall not bait for rats with preparations containing sodium fluoroacetate unless—

- (a) that person is an officer of the Agricultural Protection Board; and
- (b) written permission has been granted by the Executive Director, Public Health relating to specific infestations described in time and locality.

(3) Officers of the Metropolitan Water Authority or officers of local government within the meaning of the *Local Government Act 1960* or health surveyors, each trained to the satisfaction of the Board in accordance with the provisions of regulation 29 (4), may assist officers of the Agriculture Protection Board to bait for rats.

[Regulation 29A inserted in Gazette 16 July 1982 p. 2726; amended in Gazette 29 June 1984 p. 1783.]

#### **Records to be kept**

**30.** The Agriculture Protection Board shall maintain and keep for a period of not less than 2 years, a record of the name and address of each person to whom is distributed on its behalf or supplied by its officers any preparation containing sodium fluoroacetate, and the record shall be available for inspection by health surveyors or other officers appointed under the *Health Act 1911* or persons authorized by section 54 of the *Poisons Act 1964* who may make copies of the whole or part of the record.

[Regulation 30 inserted in Gazette 16 July 1982 p. 2726; amended in Gazette 3 January 1986 p. 18.]

#### **Baits containing sodium fluoroacetate (1080)**

**31.** (1) Baits containing sodium fluoroacetate mixed and prepared immediately prior to laying shall not be prepared by any person other than an officer of the Agriculture Protection Board or an authorized person trained to the satisfaction of the Board in accordance with the provisions of regulation 29 (4).

(2) A person who is supplied with baits, by the Agriculture Protection Board shall not give possession of those baits to any other person unless the other person is authorized to receive them by these regulations.

(3) A person who receives baits shall retain them in the original container received from the Agriculture Protection Board and the container shall be kept in a locked compartment or locked room except when required for immediate use.

(4) A person shall not lay baits containing sodium fluoroacetate on land other than land approved for that purpose by the Agriculture Protection Board.

(5) Baiting shall be carried out in strict conformity with the procedure outlined on the label of the container or in accordance with a written instruction given to the user by an officer of the Agriculture Protection Board.

(6) A person who obtains baits containing sodium fluoroacetate shall notify the occupier of every adjacent property of his intention to lay baits and of the period and location of baiting prior to laying the baits.

(7) During the period of baiting and within 14 days after the burial of uneaten bait containing sodium fluoroacetate, rabbits and other wild animals captured or found dead on the baited property, or any adjacent property, shall be disposed of by burial or burning on the property and the skin shall not be removed.

(8) Any prepared bait containing sodium fluoroacetate which is not used shall forthwith—

- (a) be destroyed by being buried or burnt in such manner as to prevent access to the remains by animals; or
- (b) be returned to the Agriculture Protection Board, when an officer of the Board directs that baits be so returned.

[*Regulation 31 inserted in Gazette 16 July 1982 p. 2726; amended in Gazette 3 January 1986 p. 18.*]

*Division 3—Use of Certain Fumigants as Pesticides*  
[*Heading inserted in Gazette 31 May 1966 pp. 1409-15.*]

**Interpretation**

**32.** (1) In this Division unless the contrary intention appears—

“building” includes vessel, enclosed space, and any part of a building, vessel or enclosed space;

“fumigant” means methyl bromide, hydrogen cyanide, ethylene dibromide and, subject to subregulation (2), ethylene oxide and formaldehyde;

“fumigator” means a person licensed pursuant to regulation 36;

“fumigation” means the treatment of a building, foodstuffs, produce or goods with a fumigant;

“hydrogen cyanide” includes any substance capable of producing or releasing hydrogen cyanide;

“registered firm” means a body corporate, partnership or person, other than an employee of a registered firm engaged in the business of undertaking the fumigation of buildings for reward, and registered pursuant to regulation 33.

(2) This Division does not apply to—

- (a) the gaseous sterilization of surgical materials and other medical products with ethylene oxide by members of the staffs of hospitals;
- or
- (b) the use of formaldehyde—
  - (i) for preserving organic materials; or
  - (ii) within sealed systems in the poultry industry if persons are not thereby exposed to formaldehyde.

[Regulation 32: inserted in Gazette 31 May 1966 p. 1409; amended in Gazette 3 January 1986 p. 18.]

### **Fumigation for reward prohibited unless registered**

**33.** (1) A body corporate, partnership or person, other than an employee of, or person engaged for the purpose by, a registered firm shall not undertake or carry out any fumigation for reward unless it or he is registered pursuant to subregulation (3).

(2) An application for registration as a registered firm shall be in the form of a form approved by the Executive Director, Public Health, and be accompanied by a fee of \$72.

(3) Where the Executive Director, Public Health is satisfied that an applicant for registration under this regulation—

- (a) is properly equipped to undertake fumigations;
- (b) has equipped any fumigation chamber it or he controls with a mechanical system of exhaust ventilation capable of completely and harmlessly removing any fumigant from the chamber, and of providing not less than 60 complete changes of air within the chamber in one hour; and
- (c) will employ for the purposes of carrying out each fumigation for which the applicant will be engaged, persons licensed under these regulations as fumigators, or persons working under the personal supervision of a fumigator,

he shall register the applicant as a registered firm for the purposes of this Division.

(4) Subject to regulation 53, every registration granted under this regulation is valid for a period of one year from the date on which it is first granted, and may, upon payment of a fee of \$36, be renewed annually so long as the Executive Director, Public Health remains satisfied that the registered firm meets with the requirements of subregulation (3).

(5) Upon the granting, and upon the renewal of registration under this regulation the Executive Director, Public Health shall issue to the registered firm a certificate of registration in the form of Form 2 in Schedule D.

[Regulation 33 inserted in Gazette 31 May 1966 p. 1410; amended in Gazettes 1 June 1979 p. 1436; 18 July 1980 p. 2390; 22 January 1982 p. 187; 29 June 1984 p. 1783; 21 June 1985 p. 2205; 26 June 1987 p. 2460.]

### **Equipment**

**34.** (1) Every registered firm shall provide efficient equipment for use by its fumigators and other employees in the carrying out of fumigations, and shall maintain all equipment used for that purpose in efficient working order.

(2) A fumigator shall not use, or permit any person who is working under his personal supervision to use, ethylene dibromide for fumigation except—

- (a) in a fumigation chamber approved by;
- or
- (b) with the permission in writing of,  
the Executive Director, Public Health.

*[Regulation 34 inserted in Gazette 31 May 1966 p. 1410; amended by 3 January 1986 p. 18.]*

#### **Notice of, and record of, fumigations**

**35.** (1) Subject to subregulation (2), a registered firm shall not undertake any fumigation unless it has given prior notice to that effect to the Executive Director, Public Health.

(2) The Executive Director, Public Health may, either generally or in relation to any class or type of fumigations, exempt a registered firm from the requirements of subregulation (1), and may at any time revoke any exemption so granted.

(3) Each registered firm shall, within 2 days of the carrying out of any fumigation by the firm, cause an entry to be made in a register to be kept for the purpose setting out—

- (a) the place at which and date on which the fumigation was carried out;
- (b) the fumigant used; and
- (c) the name of every fumigator and other person employed or engaged by the registered firm or any other person for the fumigation.

(4) Each entry made in a register kept pursuant to subregulation (3) shall be retained by the registered firm for not less than 3 years, and any register kept pursuant to that subregulation may be inspected by a person authorized for the purpose by the Executive Director, Public Health.

*[Regulation 35 inserted in Gazette 31 May 1966 p. 1410; amended in Gazette 29 June 1984 p. 1783.]*

#### **Fumigator's licences**

**36.** (1) An application by a person to be licensed as a fumigator shall be in the form of a form approved by the Executive Director, Public Health, and be accompanied by a fee of \$36.

(2) Where the Executive Director, Public Health is satisfied that an applicant for a fumigator's licence—

- (a) is competent to undertake fumigations using the fumigant specified in his application;
- (b) has a thorough knowledge of the provisions of this Division;
- (c) is medically fit to do so; and
- (d) is not under the age of 18 years,

he shall license the applicant as a fumigator.

(3) Subject to regulations 50 and 53, every licence issued under this regulation—

- (a) is valid for a period of one year from the date of issue, but may be renewed annually thereafter on payment of a fee of \$15; and
- (b) authorizes the licensee to carry out fumigations with the fumigant specified in the licence.

(4) Upon the issue, and upon the renewal, of any licence pursuant to this regulation, the Executive Director, Public Health shall issue to the fumigator a licence in the form of Form 4 in Schedule D.

*[Regulation 36 inserted in Gazette 31 May 1966 p. 1411; amended in Gazettes 1 June 1979 p. 1437; 18 July 1980 p. 2390; 22 January 1982 p. 187; 29 June 1984 p. 1783; 21 June 1985 p. 2205; 26 June 1986 p. 2460.]*

#### **User of fumigant to be licensed**

**37.** (1) A person, other than a fumigator or a person working under the personal supervision of a fumigator, shall not use any fumigant for the purposes of fumigation.

(2) A fumigator shall not use, or permit any person not licensed as a fumigator working under his personal supervision to use, any fumigant for fumigation which is not designated in his licence.

(3) Unless the Executive Director, Public Health otherwise approves, a fumigation shall not be carried out by less than 2 persons, one of whom at least shall be a fumigator in whose licence the fumigant intended to be used is designated.

*[Regulation 37 inserted in Gazette 31 May 1966 p. 1411; amended in Gazette 29 June 1984 p. 1783.]*

#### **Precautions prior to fumigation**

**38.** A fumigator shall not begin to fumigate any building until—

- (a) in the case of the fumigation of a vessel—
  - (i) he has by personal inspection, ascertained that no person is within any part of the vessel to be treated with fumigant;
  - (ii) he has been notified by the master or agent of the vessel that there are no persons on board;
  - (iii) he has notified the Port Authority of the proposed fumigation; and
- (b) in the case of the fumigation of any other building, he has by personal inspection ascertained that—
  - (i) no person is within the building or where a portion of a building can be completely sealed off then in that portion of the building;
  - (ii) all electric radiators, fires and naked lights within the building or portion of the building have been switched off or extinguished;
  - (iii) all windows in the building or portion of the building have been securely fastened;
  - (iv) the portion of the building to be fumigated has been effectively sealed to prevent the escape of any fumigant,

and unless the Executive Director, Public Health has otherwise directed, the police station and the fire station nearest to the place at which the fumigation is to be carried out have been notified of the proposed fumigation.

*[Regulation 38 inserted in Gazette 31 May 1966 pp. 1411-12; amended in Gazette 29 June 1984 p. 1783.]*



**Warning notices**

39. The fumigator in charge of the fumigation of any building shall, at or before the conclusion of the application of the fumigant—

- (a) close and securely fasten every door and other means of access to the fumigated area; and
- (b) affix to each door and other means of access to the fumigated area a notice with a white background on which there shall be printed—
  - (i) the words “DANGER KEEP OUT” in red capital letters not less than 150 millimetres in height; and
  - (ii) the words “PREMISES BEING FUMIGATED” or “VESSEL BEING FUMIGATED” as the case may require in black capital letters at least 50 millimetres high,

and any notice so affixed shall not be removed until the provisions of regulations 42 and 43 have been complied with.

*[Regulation 39 inserted in Gazette 31 May 1966 p. 1412; amended in Gazette 3 May 1974 pp. 1433-34.]*

**Absorption to be prevented**

40. A fumigator or person under the personal supervision of a fumigator shall not cause hydrogen cyanide to be applied so that its solution may be absorbed by any floor, wall, ceiling, furnishing or goods.

*[Regulation 40 inserted in Gazette 31 May 1966 p. 1412.]*

**Entry of fumigated building**

41. A fumigator or any other person engaged with a fumigator in the fumigation of a building shall not enter the building before it has been established that the concentration of fumigant present in any part of the building is less than the appropriate concentration referred to in regulation 43 (a), (b), (c), (d) or (e) unless—

- (a) he wears—
  - (i) an efficient mask of a type approved by the Executive Director, Public Health as being appropriate for the type of fumigant being used; or
  - (ii) a self-contained or air line respirator capable of providing an independent supply of air; and
- (b) he is, unless the Executive Director, Public Health has otherwise approved, accompanied by at least one person of at least 18 years of age.

*[Regulation 41 inserted in Gazette 31 May 1966 p. 1412; amended in Gazettes 29 June 1984 p. 1783; 3 January 1986 p. 18.]*

**Precautions after fumigation**

42. As soon as the fumigation of a building is completed, the fumigator who carried out the fumigation shall—

- (a) remove and safely dispose of every substance and material used for the fumigation of the building and the sealing of the openings to the fumigated area;

- (b) ensure that all fabrics, furnishings and goods within the building are free from fumigant;
- (c) cause the building to be thoroughly ventilated with fresh air; and
- (d) when hydrogen cyanide has been used, flush every water closet that may have been exposed to the fumigant, and empty every receptacle containing water or any other liquid capable of absorbing the fumigant.

[Regulation 42 inserted in Gazette 31 May 1966 p. 1412.]

#### **Fumigant concentration to be tested**

43. The fumigator by whom the fumigation of a building is carried out shall take all reasonable precautions to prevent any person, other than a person authorized by the Executive Director, Public Health or a person assisting him under his supervision with the fumigation, from entering, occupying or using any building until he has ascertained, by carrying out a test in the manner approved by the Executive Director, Public Health in respect of the fumigant used, that the concentration of fumigant present in any part of the building is less than—

- (a) if the fumigant used was methyl bromide, 20 milligrams per cubic metre;
- (b) if the fumigant used was hydrogen cyanide, 10 milligrams per cubic metre;
- (c) if the fumigant used was ethylene dibromide, 1 milligram per cubic metre;
- (d) if the fumigant used was ethylene oxide, 2 milligrams per cubic metre;

or

- (e) if the fumigant used was formaldehyde, 1.5 milligrams per cubic metre.

[Regulation 43 inserted in Gazette 31 May 1966 p. 1413; amended in Gazettes 30 September 1966 p. 2653; 3 May 1974 pp. 1433-34; 14 February 1975 p. 542; 29 June 1984 p. 1783; 3 January 1986 p. 18.]

#### **Masks to be tested**

44. (1) The fumigator in charge of the carrying out of any fumigation shall not cause or permit the release of any fumigant until it has been ascertained, by the carrying out of tests in the manner referred to in subregulation (2), immediately before it is intended to release the fumigant, that every mask to be used by him and every other person taking part in the fumigation is airtight.

(2) A mask shall be tested to ascertain whether it is airtight by the person by whom it is to be used—

- (a) holding the mask to his face;
- (b) closing the inlet to the mask; and
- (c) inhaling deeply,

and if the mask then clings to the face of that person for a period of not less than 15 seconds, the mask may be regarded as airtight.

[Regulation 44 inserted in Gazette 31 May 1966 p. 1413.]

#### **Halide detector required in certain cases**

45. A fumigator shall not carry out any fumigation involving the use of methyl bromide unless he has with him an efficient halide detector of a type approved by the Executive Director, Public Health.

*[Regulation 45 inserted in Gazette 31 May 1966 p. 1413; amended in Gazette 29 June 1984 p. 1783.]*

#### **Respiratory equipment**

46. A registered firm shall ensure that all respiratory protective devices used by its employees or contractors conform to the requirements of Australian Standard AS 1716-1982 entitled "Respiratory Protective Devices" and are used, checked and maintained in efficient working order in accordance with the recommendations of Australian Standard AS 1715-1982 entitled "Selection, Use and Maintenance of Respiratory Protective Devices".

(2) Any person engaged in the carrying out of fumigations shall not use a canister in his mask that has been in use for a longer period than that for which it is reasonably expected to be efficient, and shall keep a record of the length of time for which each canister has been in use.

*[Regulation 46 inserted in Gazette 31 May 1966 p. 1413; amended in Gazette 3 January 1986 p. 19.]*

#### **Storage and transport of fumigant**

47. A registered firm, fumigator or other person having the custody, control or possession of fumigant shall—

- (a) cause the fumigant to be so stored as to prevent any other person gaining access to the fumigant without the knowledge and authority of that firm, fumigator or person; and
- (b) if the fumigant is being transported to any place, cause it to be so packed and placed as to prevent the accidental or deliberate loss or any leakage of the fumigant.

*[Regulation 47 inserted in Gazette 31 May 1966 p. 1413.]*

#### **Emergency equipment**

48. A fumigator carrying out a fumigation shall keep immediately available at the place of fumigation such first aid and resuscitation appliances and equipment as the Executive Director, Public Health from time to time directs.

*[Regulation 48 inserted in Gazette 31 May 1966 p. 1413; amended in Gazette 29 June 1984 p. 1783.]*

### Directions and offences

49. (1) A person acting with the authority of the Executive Director, Public Health may—

- (a) inspect any building prior to, during or after the fumigation of the building;
- (b) prohibit, or order the discontinuance of, the fumigation of the building if he is of opinion that the carrying out of the fumigation is or may be prejudicial to the health or safety of any person, or will not be, or is not being, carried out in accordance with these regulations;
- (c) prohibit the entry of any person, including a fumigator, into any area that has been treated by fumigant.

(2) Any fumigator or other person who—

- (a) fails to obey the direction given pursuant to subregulation (1); or
- (b) without the authority of the Executive Director, Public Health or of the fumigator conducting the fumigation of a building, enters the building while the notices referred to in regulation 39 (b) are affixed to any door or other means of access to the building,

commits an offence.

*[Regulation 49 inserted in Gazette 31 May 1966 p. 1413; amended in Gazette 29 June 1984 p. 1783.]*

### Medical condition

50. (1) The Executive Director, Public Health may require any fumigator, or any person employed by a registered firm, to submit himself to such medical examination and tests as the Executive Director, Public Health considers necessary to ascertain whether the exposure or continued exposure of that fumigator or person to fumigant has endangered or may endanger the health of that fumigator or person.

(2) The Executive Director, Public Health may suspend for such period as he thinks fit, the licence of any fumigator whose health, in the opinion of the Executive Director, Public Health, may be endangered by the further engaging by that fumigator in the fumigation of buildings, but any person whose licence has been so suspended may at any time apply for the restoration of his licence on the ground that his health will no longer be endangered by his engaging in fumigations.

*[Regulation 50 inserted in Gazette 31 May 1966 p. 1414; amended in Gazette 29 June 1984 p. 1783.]*

### Notification of accidents

51. (1) Where an accident resulting in personal injury or death occurs in the course of, or arises out of, the fumigation of any building—

- (a) the fumigator who carried out the fumigation shall forthwith notify the Executive Director, Public Health or the registered firm that contracted to have the fumigation carried out;
- (b) if that fumigator has died or been injured, the next responsible person assisting in the fumigation shall forthwith notify the Executive Director, Public Health or the registered firm that contracted to have the fumigation carried out; or

- (c) if no person engaged upon the fumigation is capable of so reporting, the registered firm that contracted to have the fumigation carried out shall forthwith notify the Executive Director, Public Health,

of the accident and answer such questions relating to the accident as are put to him or it by a person authorized for the purpose by the Executive Director, Public Health.

- (2) Where a registered firm is notified of an accident under subregulation (1) (a) or (b), it shall forthwith notify the Executive Director, Public Health of the accident.

[Regulation 51 inserted in Gazette 10 January 1986 p. 87.]

### Offences

52. (1) Any registered firm, fumigator or any person who does, or fails to do, any act that by this Division is forbidden, or required to be done, as the case requires, by or in relation to that registered firm, fumigator or person, commits an offence.

(2) In any prosecution for an offence under this Division, an averment in a complaint that any body corporate, partnership or person is or is not registered as a registered firm, or that any person is or is not licensed as a fumigator shall be deemed to be proved in the absence of proof to the contrary.

[Regulation 52 inserted in Gazette 31 May 1966 p. 1414.]

### Revocation or suspension of registration

53. (1) Where the Executive Director, Public Health is satisfied that—

- (a) a registered firm or a fumigator has committed a breach of these regulations, other than a breach of regulation 35 (3) or (4) or regulation 51; and
- (b) in the circumstances of the breach it is necessary in the interests of public safety so to do,

he may, by notice in writing served upon the registered firm or fumigator setting out the facts of the alleged breach, revoke, or suspend for such period as he thinks fit and specifies in the notice, the registration of the registered firm or the licence of the fumigator, as the case may be.

(2) The revocation or suspension of a registration or licence pursuant to subregulation (1) has effect from the time at which service is effected, but—

- (a) expires and is of no effect at the end of the period of 7 days from the service of the notice unless proceedings in a Court of Petty Sessions have been instituted within that period in respect of the alleged breach that gave rise to the revocation or suspension;
- (b) expires and becomes of no effect upon the withdrawal or striking out of, or the acquittal of the registered firm or fumigator in, the proceedings instituted in respect of the alleged breach that gave rise to the revocation or suspension.

(3) The revocation or suspension of the registration of a registered firm or licence of a fumigator that has expired pursuant to subregulation (2) (a) revives where that registered firm or fumigator is subsequently convicted of an offence in respect of the same breach of the regulations for which the revocation or suspension that has expired was first effected.

[Regulation 53 inserted in Gazette 31 May 1966 pp. 1414-15; amended in Gazette 29 June 1984 p. 1783.]

*Division 4—Prescribed organochlorines*  
[Heading inserted in Gazette 3 January 1986 pp. 19-21.]

**Interpretation of Division 4**

54. In this division, unless the contrary intention appears—
- “pesticide operator” means a pesticide operator as defined in regulation 62 who is authorized to use prescribed organochlorine;
  - “prescribed organochlorine” means aldrin, chlordane, dieldrin or heptachlor or any substance containing all or any of them.

[Regulation 54 inserted in Gazette 13 November 1987 p. 4145.]

**Use of organochlorines restricted**

55. A person shall not use a prescribed organochlorine except in accordance with—
- (a) this Division; or
  - (b) the permission in writing of the Executive Director, Public Health, which permission the Executive Director, Public Health, may amend or revoke at will.

[Regulation 55 inserted in Gazette 3 January 1986 p. 19.]

**Permissible uses of prescribed organochlorines**

56. (1) A person may use a prescribed organochlorine—
- (a) where the substance used is chlordane which has been packed in a quantity of 125 g or less and the chlordane is used in accordance with the instructions on the label of the package;
  - (b) if he is a pesticide operator and he does so in accordance with the requirements—
    - (i) of the Australian Standard AS 2057-1986 entitled “Soil Treatment for Buildings under Construction for Protection against Subterranean Termites”;
    - or
    - (ii) of the Australian Standard AS 2178-1986 entitled “The Treatment of Subterranean Termite Infestation in Existing Buildings”,
- but he shall not use prescribed organochlorine on an animal building.

- (2) In subregulation (1)—

“animal building” means building or structure used for keeping animals or birds for food production and includes cattle pen, dairy, feed storage structure, livestock quarters, milking shed, pig sty, poultry house and sheep pen.

(3) A person may use a prescribed organochlorine if he is a pesticide operator or has the written permission of the Executive Director, Public Health—

*[(a) deleted]*

- (b) in manufacturing, preparing and milling procedures for wood preservation purposes in accordance with the requirements of the current Australian Standard AS 1604 entitled "Preservative Treatment for Sawn Timber, Veneer and Plywood";
- (c) for the protection from termites of—
  - (i) railway sleepers forming part of a railway line; and
  - (ii) timbers used in level crossings,
 when necessary in areas of high termite activity; or
- (d) for the treatment of timber in accordance with the recommendations of TPAA Standard 1579 entitled "Light Organic Solvent Preservative Treatment of Timber by Vacuum/Pressure Methods" and published by The Timber Preservers Association of Australia;
- (e) in or on an electrical installation if he does so in accordance with the requirements of the current Australian Standard AS 3000 entitled "The Electrical Installations of Buildings, Structures and Premises" and otherwise known as the "SAA Wiring Rules";
- (f) for the treatment of—
  - (i) a concrete raft or slab on ground construction;
  - (ii) a slab on fill construction; or
  - (iii) pipes, waste-pipes or conduits, in accordance with the requirements of the specification of, and Appendices A and B to, the Australian Standard referred to in subregulation (1) (a) (i);
- (g) for the control of termites by the treatment of—
  - (i) a wooden backyard fence; or
  - (ii) a patio post, garden shed, wood paving or other erected or laid timber,
 by injecting that prescribed organochlorine into the soil around the base of any post or timber projecting from the ground, or by furrowing or removing soil from that base and applying that prescribed organochlorine, at the concentration and rate or frequency, and in accordance with the method, of application indicated or recommended by the label registered under Part I in respect of the prescribed organochlorine;
- (h) for the control of termites by the treatment of any soil from above which stored firewood or timber has been temporarily removed to enable that treatment to take place at the concentration and rate or frequency of application indicated or recommended by the label registered under Part I in respect of the prescribed organochlorine;
- (i) for destroying a termite nest which has been exposed to the atmosphere; or

*[(j) deleted]*

- (k) in accordance with a contract for the routine protection against termites of the premises of another person—
  - (i) in the case of premises situated to the south of the parallel of 23° 27' south latitude, at intervals of not less than 5 years;
  - (ii) in the case of premises situated to the north of the parallel referred to in subparagraph (i), at such intervals as are required; or

- (iii) in the case of premises situated to the south or north of the parallel referred to in subparagraph (i), in which premises—
- (A) a chemically treated soil barrier has been rendered ineffective by removal or substantial disturbance;
  - or
  - (B) a termite infestation has been detected,
- in a concentration and at the rate of application or frequency specified in the Australian Standard referred to in subregulation (1) (b) (ii) on the disturbed portion of the barrier referred to in subparagraph (A) and to any adjoining length of that barrier not exceeding 1 metre from that portion.

[Regulation 56 inserted in Gazette 3 January 1986 pp. 19-20; amended in Gazette 13 November 1987 p. 4145.]

#### **Use of organochlorines in cavity walls permissible**

57. A person may, if—
- (a) an existing building—
    - (i) is infested with subterranean termites; and
    - (ii) has a wall of double brick construction extending below ground level;
 and
  - (b) it is necessary to inject a prescribed organochlorine into the cavity of the wall referred to in paragraph (a) (ii) at a concentration specified in the Australian Standard referred to in regulation 56 (1) (b) (ii) in order to fill that cavity to ground level with the prescribed organochlorine,

use the prescribed organochlorine referred to in paragraph (b) by injecting it through the wall referred to in paragraph (a) (ii) at the point nearest to the ground where it is possible to make such an injection.

[Regulation 57 inserted in Gazette 3 January 1986 p. 20.]

#### **Use of prescribed organochlorines for controlling certain ants permissible**

58. (1) A person who is an officer of—
- (a) the Department of Agriculture acting under the direction of the Chief Entomologist of that Department may use a prescribed organochlorine for controlling infestations of Argentine ants *Iridomyrmex humilis*; or
  - (b) a local authority or a Crown instrumentality, agent of the Crown or Government authority or is acting under the direction of such an officer may use a prescribed organochlorine for controlling infestations of Singapore ants *Monomorium destructor*.

(2) A person other than a person referred to in subregulation (1) (b) may use chlordane or any substance containing it for controlling infestations of Singapore ants *Monomorium destructor*.

[Regulation 58 inserted in Gazette 3 January 1986 pp. 20-21.]



**Prescribed organochlorines not to be used so as to contaminate certain areas or objects or to generate mist**

59. (1) Notwithstanding anything in this Division, a person shall not use a prescribed organochlorine in such a manner as to contaminate—

- (a) any surface of any furniture, whether inside or outside a building;
- (b) any surface of any patio, swimming pool or firewood;
- (c) any garden area, other than a grass lawn, surrounding a swimming pool within 10 metres of the edge of the swimming pool;
- (d) subject to regulations 56 (3) (a) and (j) and 57, any surface of any floor, wall or ceiling of any building;
- (e) any food, whether in a prepared or unprepared state, for human or animal use;
- (f) any appliance or machinery, except an appliance or machinery used for the preparation or application or use of pesticides;
- (g) any toy; or
- (h) any vehicle other than a vehicle used in pest control operations.

(2) A person shall not generate a mist of aerial particles consisting wholly or partly of a prescribed organochlorine.

*[Regulation 59 inserted in Gazette 3 January 1986 p. 21.]*

**Storage or mixing prescribed organochlorines in certain buildings prohibited**

60. A person shall not store or mix a prescribed organochlorine in a building used for—

- (a) housing or feeding dairy cattle or poultry or other food producing birds; or
- (b) containing appliances, furniture or machinery used in a building referred to in paragraph (a).

*[Regulation 60 inserted in Gazette 3 January 1986 p. 21.]*

**Certain crops to which prescribed organochlorines have been applied not to be grazed by or fed to cattle, poultry, etc.**

61. (1) Subject to this regulation, a person shall not cause or allow any crop—

- (a) to which a prescribed organochlorine has been applied to be grazed by or fed to any cattle or poultry or other animals or birds kept for food production; or
- (b) grown in soil to which a prescribed organochlorine has been applied to be grazed by or fed to any cattle or poultry or other animals or birds kept for food production within a period of 12 months after that application.

(2) In subregulation (1)—

“crop” includes harvest residues, lawn mowings, silage and other vegetable matter produced from, or remaining after the harvesting or processing of, a crop.

*[Regulation 61 inserted in Gazette 3 January 1986 p. 21.]*

**Retail sale**

**61A.** A person shall not sell by retail a prescribed organochlorine except to a person who is entitled to use that substance under this Division.

[*Regulation 61A inserted in Gazette 13 November 1987 p. 4145.*]

*Division 5—Commercial pesticide firms and pesticide operators*

[*Heading inserted in Gazette 3 January 1986 pp. 21-27.*]

**Interpretation in Division 5**

**62.** In this Division, unless the contrary intention appears—

“commercial pesticide firm” means person—

- (a) carrying on the trade, business or profession of the use of pesticides for reward; and
- (b) registered under regulation 63 (3);

“direction”, in relation to a pesticide operator, means regular and frequent supervision, but does not necessarily imply continuous personal supervision;

“full pesticides licence” means full pesticides licence issued under regulation 70 (1) or (2);

“metropolitan area” means metropolitan areas as defined by section 6 of the *Metropolitan Region Town Planning Scheme Act 1959*;

“personal supervision”, in relation to a pesticides operator, means close and continuous control requiring the actual presence of the person exercising that control;

“pesticide operator” means provisional pesticide operator or qualified pesticide operator;

“pesticides licence” means provisional pesticides licence or full pesticides licence;

“provisional pesticide operator” means holder of a provisional pesticides licence;

“provisional pesticides licence” means provisional pesticides licence issued under regulation 69 (1);

“qualified pesticide operator” means holder of a full pesticides licence.

[*Regulation 62 inserted in Gazette 3 January 1986 p. 21.*]

**Pest control businesses to be registered**

**63.** (1) A person, other than—

- (a) an employee of, or person engaged for the purpose by, a commercial pesticide firm;
- (b) a person carrying on the trade, business or profession of the use of pesticides for reward solely by means of the spraying, spreading or dispersing of pesticides from an aircraft in flight; or
- (c) a person using only fumigants as defined by regulation 32,

shall not carry on the trade, business or profession of the use of pesticides for reward unless it or he is registered under this regulation.

(2) An application for registration under subregulation (3) shall be in the form of a form approved by the Executive Director, Public Health, and shall be accompanied by a fee of \$72.

(3) If the Executive Director, Public Health is satisfied that an applicant for registration under this subregulation—

- (a) is competent and properly equipped to undertake the use of pesticides; and
- (b) will employ for the purpose of undertaking the use of pesticides only persons who are—
  - (i) qualified pesticide operators; or
  - (ii) provisional pesticide operators working under the personal supervision or the direction, as the case requires, of qualified pesticide operators,

he shall register that applicant as a commercial pesticide firm for the purposes of this Division.

(4) Subject to regulation 73, a registration granted under subregulation (3) is valid until 30 June next following the date of that grant and may, on payment of a fee of \$36, be renewed annually thereafter so long as the Executive Director, Public Health, remains satisfied that the commercial pesticide firm concerned meets the requirements of subregulation (3) (a) and (b).

(5) On the grant or renewal of registration under this regulation, the Executive Director, Public Health, shall issue to the commercial pesticide firm concerned a certificate of registration in the form of Form 2 in Schedule E.

*[Regulation 63 inserted in Gazette 3 January 1986 p. 21-22; amended in Gazette 26 June 1987 p. 2461.]*

#### **Natural person may be both commercial pesticide firm and pesticide operator**

**64.** Nothing in this Division prevents a natural person from being both a commercial pesticide firm and a pesticide operator.

*[Regulation 64 inserted in Gazette 3 January 1986 p. 22.]*

#### **Pest control equipment**

**65.** A commercial pesticide firm shall—

- (a) provide efficient equipment for use; and
- (b) maintain in efficient working order all equipment used,

by pesticide operators employed by it.

*[Regulation 65 inserted in Gazette 3 January 1986 p. 22.]*

### **Names and registration numbers to be displayed on pest control vehicles**

**66.** A commercial pesticide firm shall display clearly on all vehicles used by it in pest control operations in letters and figures not less than 40 mm in height—

- (a) the name of the commercial pesticide firm; and
- (b) the registration number allocated to it when the commercial pesticide firm was registered under regulation 63 (3).

*[Regulation 66 inserted in Gazette 3 January 1986 p. 22.]*

### **Records to be kept of employees of commercial pesticide firms**

**67.** A commercial pesticide firm shall—

- (a) keep a record of all its employees showing the full name, address and date of birth of each of those employees and the date of the commencement, and, if appropriate, the date of the termination, of his employment;
- (b) retain the record referred to in paragraph (a) for 2 years after the date of the last entry therein; and
- (c) make available for inspection on demand by a health surveyor any record kept or retained under this regulation.

*[Regulation 67 inserted in Gazette 3 January 1986 p. 22.]*

### **Applications for pesticides licences**

**68.** An application for a pesticides licence shall be—

- (a) made by a natural person;
- (b) in the form of a form approved by the Executive Director, Public Health; and
- (c) accompanied by a fee of \$36.

*[Regulation 68 inserted in Gazette 3 January 1986 p. 22; amended in Gazette 26 June 1987 p. 2461.]*

### **Provisional pesticides licences**

**69.** (1) If the Executive Director, Public Health, is satisfied that an applicant for a provisional pesticides licence—

- (a) in the case of an applicant who is resident within the metropolitan area, is qualified in basic pest control by reason of having successfully completed before lodging his application—
  - (i) a full-time course of study based on the syllabus of a course entitled "Basic Pest Control" and conducted by the Technical Education Division of the Education Department of Western Australia; or
  - (ii) subject to subregulation (2), any course considered by the Executive Director, Public Health, to be the equivalent of the course referred to in subparagraph (i);

- (b) in the case of an applicant who is resident outside the metropolitan area and subject to subregulation (3), is qualified in basic pest control by reason of having successfully completed before lodging his application—
  - (i) a correspondence course entitled “Pest Control I” and conducted by the Technical Extension Service of the Technical Education Division of the Education Department of Western Australia;
  - (ii) a correspondence course entitled “Pesticide Application” and conducted by the Technical and Further Education Department of the South Australian Government through Adelaide College, Adelaide, South Australia; or
  - (iii) any course, other than a correspondence course referred to in subparagraph (i) or (ii), considered by the Executive Director, Public Health, to be the equivalent of a correspondence course referred to in that subparagraph;
- (c) is medically fit to handle pesticides; and
- (d) is not under the age of 17 years,

he shall, subject to this regulation, issue to that applicant a provisional pesticides licence in the form of Form 3 in Schedule E subject to such conditions as are therein specified.

(2) An applicant referred to in subregulation (1) (a) who proposes to complete a course referred to in subregulation (1) (a) (ii) by means of a correspondence course referred to in subregulation (1) (b) shall, before commencing that correspondence course, write to, and obtain the approval in writing of, the Executive Director, Public Health.

(3) If the examinations in a correspondence course referred to in subregulation (1) (b)—

- (a) are not available or due at the time when the relevant application for a provisional pesticides licence is made, the Executive Director, Public Health, may issue a provisional pesticides licence under subregulation (1) to the applicant concerned on the latter completing that correspondence course;

or

- (b) do not require a knowledge of Western Australian legislation concerning pesticides, the Executive Director, Public Health, may require the applicant concerned, on completing that correspondence course and before a provisional pesticides licence is issued under subregulation (1) to that applicant, to pass an oral or written examination requiring such a knowledge and conducted by the Department.

(4) A provisional pesticides licence issued under subregulation (1) as read with subregulation (3) (a) shall be subject to the conditions that the provisional pesticide operator to whom that provisional pesticides licence is so issued shall take and pass an oral or written examination on the subject of pesticides conducted by the Department within a period specified by the Executive Director, Public Health, and that, if and when the examinations in the relevant correspondence course become available or due, that provisional pesticide operator shall forthwith take and pass those examinations.

(5) Subject to regulations 71, 72 and 73, a provisional pesticides licence—

- (a) is valid for a period of 12 months commencing on the date on which it was issued under subregulation (1) and, subject to subregulation (6), is not renewable; and
- (b) shall specify the pesticides which the provisional pesticide operator concerned is authorized to use and the type of pesticides operation that that provisional pesticide operator is authorized to undertake.

(6) If a provisional pesticide operator applies in writing before the expiry of his provisional pesticides licence to the Executive Director, Public Health, for the extension of his provisional pesticides licence, the Executive Director, Public Health, may extend that provisional pesticides licence for such a period not exceeding 12 months as he thinks fit, having regard to the reasons advanced by the provisional pesticide operator in support of his application, whereupon that provisional pesticides licence remains valid for the period of that extension.

(7) A provisional pesticide operator who is—

- (a) 17 years of age shall not use any pesticide for reward unless he does so under the personal supervision of a qualified pesticide operator; or
- (b) 18 years of age or more shall not use any pesticide for reward—
  - (i) during the first month of his employment in that use unless he does so under the personal supervision of a qualified pesticide operator; and
  - (ii) during the second and each subsequent month of his employment in that use unless he does so under the direction of a qualified pesticide operator.

[Regulation 69 inserted in Gazette 3 January 1986 pp. 23-23.]

#### Full pesticides licences

**70.** (1) If the Executive Director, Public Health, is satisfied that an applicant for a full pesticides licence (other than a full pesticides licence in respect of the use of pesticides for weed control only) who is, or was at the time when he lodged his application, a provisional pesticide operator—

- (a) in the case of an applicant who is resident within the metropolitan area, is qualified in advanced pest control by reason of having successfully completed before lodging his application—
    - (i) a full-time course of study based on the syllabus of a course entitled “Industrial Pest Control” and conducted by the Technical Education Division of the Education Department of Western Australia; or
    - (ii) subject to subregulation (3), any course considered by the Executive Director, Public Health, to be the equivalent of the course referred to in subparagraph (i);
  - (b) in the case of an applicant who is resident outside the metropolitan area and subject to subregulation (4), is qualified in advanced pest control by reason of having successfully completed before lodging his application—
    - (i) a correspondence course entitled “Industrial Pest Control” and conducted by the Technical Extension Service of the Technical Education Division of the Education Department of Western Australia;
    - (ii) 2 correspondence courses respectively entitled “Pest Control I” and “Pest Control IIA” and conducted by the Technical and Further Education Department of the South Australian Government through Adelaide College, Adelaide, South Australia; or
    - (iii) any correspondence course, other than that or those referred to in subparagraph (i) or (ii), considered by the Executive Director, Public Health, to be the equivalent of the correspondence course or correspondence courses referred to in that subparagraph;
- or
- (c) is qualified in advanced pest control by reason of having successfully completed—
    - (i) before lodging his application; and
    - (ii) within the period of 5 years ending immediately before the coming into operation of the *Pesticides Amendment Regulations 1986*<sup>1</sup>

a course, other than a course referred to in paragraph (a) or (b), approved in writing by the Executive Director, Public Health, for the purposes of this paragraph,

the Executive Director, Public Health, shall, subject to this regulation, on being satisfied in addition that that applicant—

- (d) has successfully completed such oral or written examinations or both conducted by the Department as the Executive Director, Public Health, requires;
- (e) in the case of an applicant for a full pesticides licence in respect of the use of pesticides for weed control, has demonstrated practical knowledge of spraying techniques and use of spraying equipment to the satisfaction of an officer of the Department of Agriculture of Western Australia nominated for the purposes of this paragraph by the Director General<sup>3</sup> of Agriculture;
- (f) has conducted himself successfully in such interviews, if any, with officers of the Department as he has been required by the Executive Director, Public Health, to attend;
- (g) is medically fit to handle pesticides; and
- (h) is not under the age of 18 years,

issue to that applicant a full pesticides licence in the form of Form 4 in Schedule E subject to such conditions as are therein specified.

(2) If the Executive Director, Public Health, is satisfied that an applicant for a full pesticides licence in respect of the use of pesticides for weed control only who is, or was at the time when he lodged his application, a provisional pesticide operator is qualified in advanced weed control by reason of having successfully completed before lodging his application—

- (a) a correspondence course entitled “Declared Plant Control” and conducted by the Technical Extension Service of the Technical Education Division of the Education Department of Western Australia;
- (b) a correspondence course entitled “Weed Control 1 and Applied Weed Control 2” and conducted by the Technical and Further Education Department of the South Australian Government through Adelaide College, Adelaide, South Australia; or
- (c) any correspondence course, other than that referred to in paragraph (a) or (b), considered by the Executive Director, Public Health, to be the equivalent of the correspondence course referred to in that paragraph,

the Executive Director, Public Health, shall subject to this regulation, on being satisfied in addition that that applicant—

- (d) has successfully completed such oral or written examinations or both conducted by the Department as the Executive Director, Public Health, requires;
- (e) in the case of an applicant for a full pesticides licence in respect of the use of pesticides for agricultural weed control, has demonstrated practical knowledge of spraying techniques and use of spraying equipment to the satisfaction of an officer of the Department of Agriculture of Western Australia nominated for the purposes of this paragraph by the Director General<sup>3</sup> of Agriculture;
- (f) has conducted himself successfully in such interviews, if any, with officers of the Department as he has been required by the Executive Director, Public Health, to attend;
- (g) is medically fit to handle pesticides; and
- (h) is not under the age of 18 years,

issue to that applicant a full pesticides licence in respect of the use of pesticides for weed control only in the form of Form 4 in Schedule E subject to such conditions as are therein specified.

(3) An applicant referred to in subregulation (1) (a) who proposes to complete a course referred to in subregulation (1) (a) (ii) by means of a correspondence course referred to in subregulation (1) (b) shall, before commencing that correspondence course, write to, and *obtain the approval in writing of, the Executive Director, Public Health.*

(4) If the examinations in a correspondence course referred to in subregulation (1) (b) or (2) (b)—

- (a) are not available or due at the time when the relevant application for a full pesticides licence is made, the Executive Director, Public Health, may issue a full pesticides licence under subregulation (1) or (2) to the applicant concerned on the latter completing that correspondence course; or
- (b) do not require a knowledge of Western Australian legislation concerning pesticides, the Executive Director, Public Health, may require the applicant concerned, on completing that correspondence course and before a full pesticides licence is issued under subregulation (1) or (2) to that applicant, to pass an oral or written examination requiring such a knowledge and conducted by the Department.

(5) A full pesticides licence issued under subregulation (1) as read with subregulation (4) (a) shall be subject to the conditions that the qualified pesticide operator to whom that full pesticides licence is so issued shall take and pass an oral or written examination on the subject of pesticides conducted by the Department within a period specified by the Executive Director, Public Health, and that, if and when the examinations in the relevant correspondence course become available or due, that qualified pesticide operator shall forthwith take and pass those examinations.

(6) Subject to regulations 71, 72 and 73, a full pesticides licence—

- (a) is valid until 30 June next following the date on which the full pesticides licence is issued and may be renewed annually by the Executive Director, Public Health, on payment of a fee of \$15 and
- (b) shall specify the pesticides which the qualified pesticide operator concerned is authorized to use and the type of pesticides operation that that qualified pesticide operator is authorized to undertake.

[*Regulation 70 inserted in Gazette 3 January 1986 pp. 23-25; amended in Gazette 26 June 1987 p. 2461.*]

#### **Amendment of pesticides licences**

71. (1) *The Executive Director, Public Health, may—*

- (a) by notice in writing served on a pesticide operator at any time; and
- (b) in the case of a full pesticides licence, on the renewal of the full pesticides licence,

amend the pesticides licence of the pesticide operator by—

- (c) subjecting that pesticides licence to a new condition; or
- (d) amending or revoking any condition, *except for a condition referred to in regulation 69 (4) or 70 (5), to which that pesticides licence is subject.*

(2) A pesticide operator on whom a notice is served under subregulation (1) (a) shall forthwith surrender his pesticides licence to the Executive Director, Public Health.

(3) On the surrender to him under subregulation (2) of a pesticides licence, the Executive Director, Public Health, shall endorse the pesticides licence with particulars of the amendment concerned and return the pesticides licence to the pesticide operator who so surrendered it.

[*Regulation 71 inserted in Gazette 3 January 1986 p. 25.*]



**Health of pesticide operators and others**

72. (1) The Executive Director, Public Health, may require—

- (a) a pesticide operator; or
- (b) a person, not being a pesticide operator, employed by a commercial pesticide firm,

to submit himself to such medical examinations and tests as the Executive Director, Public Health, considers necessary to ascertain whether or not the exposure of the pesticide operator or that person to pesticides has endangered or may endanger the health of the pesticide operator or that person.

(2) The Executive Director, Public Health, may, by notice in writing served on the pesticide operator concerned setting out the grounds of his opinion, suspend for such period as he thinks fit and specifies in that notice the pesticides licence of a pesticide operator whose health, in the opinion of the Executive Director, Public Health, may be endangered or further endangered, as the case requires, if that pesticide operator continues to use pesticides, but a pesticide operator whose pesticides licence has been suspended under this subregulation may at any time apply to the Executive Director, Public Health, for the termination of that suspension on the ground that his health will not or will no longer be endangered if he continues to use pesticides and the Executive Director, Public Health, may grant or refuse that application.

*[Regulation 72 inserted in Gazette 3 January 1986 p. 25.]*

**Revocation or suspension of registration or pesticides licence**

73. (1) If the Executive Director, Public Health, is satisfied that—

- (a) a commercial pesticide firm or a pesticide operator has contravened—
  - (i) any of these regulations, except for regulation 81; or
  - (ii) in the case of a pesticide operator, any condition imposed by or under regulation 69 or 70, as the case requires;

and

- (b) in the circumstances of the contravention referred to in paragraph (a) it is necessary in the interests of public safety to do so,

the Executive Director, Public Health, may, by notice in writing served on the commercial pesticide firm or pesticide operator setting out the facts of the alleged contravention referred to in paragraph (a), suspend for such period as he thinks fit and specifies in that notice, or revoke, the registration of the commercial pesticide firm or the pesticides licence of the pesticide operator, as the case requires.

(2) The suspension or revocation of a registration or pesticides licence under subregulation (1) has effect from the time at which the relevant notice is served.

*[Regulation 73 inserted in Gazette 3 January 1986 pp. 25-26; amended in Gazette 8 July 1988 p. 2375.]*

**Users of pesticides to be licensed**

74. (1) A person who is not—

- (a) a pesticide operator;
- (b) an employee to which this paragraph applies;

- (c) employed as a casual worker for seasonal spraying of pesticides in agricultural operations by, or under the direction of, a qualified pesticide operator;
- (d) a pilot of an aircraft engaged in pesticides operations solely by means of the spraying, spreading or dispersing of any pesticide from the aircraft in flight who holds a certificate as defined by section 3 of the *Aerial Spraying Control Act 1966*; or
- (e) a person using only fumigants as defined by regulation 32,

shall not use any pesticides for reward .

(2) Subregulation (1) (b) applies to an employee of a commercial pesticide firm who takes part in operations but does not himself use any pesticides.

(3) For the purposes of subregulation (1), a person who is engaged or employed by a commercial pesticides firm to give advice on the use of any pesticides otherwise than in—

- (a) agricultural operations; or
- (b) the retail or wholesale selling of pesticides,

uses those pesticides for reward.

(4) A commercial pesticide firm shall not cause or permit to use any pesticide for reward any person who is prohibited by subregulation (1) from using any pesticide for reward.

[*Regulation 74 inserted in Gazette 3 January 1986 p. 26.*]

#### **General duties of pesticide operators**

75. (1) A pesticide operator shall not—

- (a) undertake any pesticides operation that he is not authorized by his pesticides licence to undertake;
- (b) use any pesticide that he is not authorized by pesticides licence to use; or
- (c) contravene any condition to which his pesticides licence is subject.

(2) A pesticide operator whose pesticides licence has expired or has been suspended or revoked under this Division shall forthwith on that expiry, suspension or revocation surrender his pesticides licence to the Executive Director, Public Health.

(3) When a pesticides licence which has been—

- (a) suspended under this Division; and
- (b) surrendered under subregulation (2),

ceases to be suspended under this Division and again has effect, the Executive Director, Public Health, shall return that pesticides licence to the pesticide operator who so surrendered it.

[*Regulation 75 inserted in Gazette 3 January 1986 p. 26.*]

**Storage of pesticides**

**76.** A commercial pesticide firm which, or a pesticide operator or person employed by a commercial pesticide firm who, has the custody, control or possession of pesticides shall ensure that—

- (a) any pesticide under its or his control is, except when it is in use, kept in—
  - (i) a store which is capable of being locked, is roofed and has an impervious floor; or
  - (ii) a fenced yard which is capable of being locked, which store or yard—
    - (iii) has water available for the washing down of any spillage that may occur; and
    - (iv) is so situated that spillage cannot drain into any water supply or water-course;
- and
- (b) any pesticide in use is under the direct supervision of a pesticide operator or in a locked container or compartment.

*[Regulation 76 inserted in Gazette 3 January 1986 p. 26.]*

**Precautions when using pesticides**

**77.** A pesticide operator shall—

- (a) whenever a spillage of pesticide occurs, cover the contaminated area with a layer of clean soil at least 75 mm in depth or decontaminate that area by other means approved by the Executive Director, Public Health;
- (b) dispose of the residue of any pesticide in a manner not likely to endanger any person;
- (c) wear protective clothing sufficient to prevent contamination of the person when handling pesticides;
- (d) keep securely closed all pesticide containers not in immediate use; and
- (e) keep available at the place where pesticides are in use such first aid appliances as the Executive Director, Public Health, from time to time directs.

*[Regulation 77 inserted in Gazette 3 January 1986 p. 27.]*

**Disposal of pesticide container**

**78.** A commercial pesticide firm shall cause any pesticide container used by it or by any person on its behalf to be disposed of, as soon as practicable after that container has ceased to be used for containing pesticide, in one of the methods specified in regulation 21B.

*[Regulation 78 inserted in Gazette 3 January 1986 p. 27; amended in Gazette 9 December 1988 p. 4824.]*

**Disposal of used pesticide containers following aerial spraying etc.**

**79.** (1) When pesticides are used by being sprayed, spread or dispersed from an aircraft in flight, a person taking part in the spraying, spreading and dispersal shall not leave used pesticide containers unattended on any land which is not owned or occupied by him unless the owner or occupier of the land is notified in writing before the containers are left on the land.

- (2) When used pesticide containers are left on any land—
- (a) the person leaving the containers shall ensure that they are sealed and clearly labelled with particulars of their previous contents; and
  - (b) the owner or occupier of the land shall ensure that the containers are—
    - (i) cleaned, reused and labelled;
    - or
    - (ii) disposed of,
 in accordance with these regulations.
- (3) In subregulation (1)—  
 “the owner or occupier” in relation to land which is Crown land means the Executive Director, Public Health.
- (4) In this regulation—  
 “used pesticide container” shall have the same meaning as in regulation 21A (1).  
 [Regulation 79 inserted in Gazette 9 December 1988 p. 4824.]

#### **Powers of persons authorized by Executive Director, Public Health**

- 80.** (1) A person acting with the authority of the Executive Director, Public Health, may—
- (a) inspect any area or building prior to, during or after the application of a pesticide thereto;
  - (b) prohibit, or order the discontinuance of, the use of any pesticide if he is of the opinion that the use of pesticides is or may be prejudicial to the health or safety of any person or will not be, or is not being, carried out in accordance with these regulations; or
  - (c) prohibit the entry of any person, including a pesticide operator or a person acting on his behalf, into any area or building which has been treated with a pesticide.

(2) A person shall not hinder or prevent an inspection, or fail to obey a prohibition or order, made under subregulation (1).

[Regulation 80 inserted in Gazette 3 January 1986 p. 27.]

#### **Notification of accidents**

**81.** When an accident resulting in personal injury or death occurs in the course of, or arises out of, the use for reward of a pesticide—

- (a) the pesticide operator;
- (b) if the pesticide operator has been injured or has died, the next responsible person assisting in the use of the pesticide; or
- (c) if no person engaged in the use of the pesticide is capable of notifying that accident, the commercial pesticide firm that contracted to use the pesticide,

shall forthwith notify the Executive Director, Public Health, of that accident and answer such questions relating to that accident as are put to him or it by a person authorized for the purpose by the Executive Director, Public Health.

[Regulation 81 inserted in Gazette 3 January 1986 p. 27.]

**Prescribed body under section 246BA (b)**

**81A.** A body specified in Schedule F is a prescribed body for the purposes of section 246BA (b).

*[Regulation 81A inserted in Gazette 9 December 1988 p. 4824.]*

**Offences and penalties**

**82.** (1) A person who contravenes a provision of these regulations specified in the Table in this subregulation commits an offence.

## Table

Regulations 7, 9 (2), (2a), (2b) and (3), 9A, 10, 11, 11A, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 19AA, 20, 20C, 20D, 21, 21B, 21C, 21D (2), 22, 23, 24, 25, 26, 27, 29, 31, 33 (1), 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 51, 55, 56 (1), 59, 60, 61, 61A, 63 (1), 65, 66, 67, 69 (7), 71 (2), 74 (1) and (4), 75 (1) and (2), 76, 77, 78, 79 (1) and (2), 80 (2) and 81.

(2) A person who commits an offence under subregulation (1) or under regulation 20A (2), 20B (2), 49 (2) or 52 (1) is liable to—

- (a) a penalty which is not more than \$2 500 and not less than—
  - (i) in the case of a first such offence, \$250;
  - (ii) in the case of a second such offence, \$500; and
  - (iii) in the case of a third or subsequent such offence, \$1 250; and
- (b) if that offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125.

*[Regulation 82 inserted in Gazette 15 April 1988 p. 1180; erratum in Gazette 22 April 1988 p. 1228; amended in Gazette 9 December 1988 p. 4825.]*

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*[SCHEDULE A. Schedule A repealed in Gazette 18 July 1980 p. 2390.]*

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**SCHEDULE B**

Hydrogen cyanide, substances containing hydrogen cyanide and all cyanides used for fumigation purposes

Methyl bromide, except when mixed with a warning gas

Phorate in concentrations exceeding 10 per cent

Trifluralin and substances containing trifluralin containing in excess of 1 mg per kg of NDPA (otherwise known as N-nitrosodipropylamine) calculated on the trifluralin content

4-Aminopyridine and substances containing 4-Aminopyridine

2,4,5-T Acid, its salts, esters, amine salts and preparations containing any of these in any proportion which contain in excess of 0.01 mg per kg of dioxin (TCDD) in the total acid equivalence of the substance

*[Schedule B inserted in Gazette 12 May 1965 p. 1458; amended in Gazettes 22 September 1969 p. 2872; 28 March 1980 p. 1009; 29 January 1982 p. 295; 16 July 1982 p. 2727; 24 December 1982 p. 4898; 9 December 1988 p. 4825.]*

SCHEDULE C

(Regulation 19A)

Aldrin

Chlordane

Dieldrin

Heptachlor

Any poison listed in the 7th Schedule of Appendix A to the *Poisons Act 1964*

[Schedule C inserted in Gazette 10 January 1986 p. 87.]

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SCHEDULE D

[Form 1 deleted]

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Form 2

*Health Act 1911*

*Health (Pesticides) Regulations 1956*

CERTIFICATE OF REGISTRATION

THIS is to certify that.....

(Name of registered firm)

of .....is registered as a registered firm for the purposes of Division 3 of Part II of the *Health (Pesticides) Regulations 1956* for a period of one year commencing upon.....  
19.....

.....  
Executive Director,  
Public Health and  
Scientific Support Services

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[Form 3 deleted]

Form 4

Health Act 1911

Health (Pesticides) Regulations 1956

THIS is to certify that ..... is licensed as a fumigator and may use ..... for the purposes of Division 3 of Part II of the *Health (Pesticides) Regulations 1956* for a period of one year commencing on ..... 19.....

..... 19.....  
Executive Director,  
Public Health and  
Scientific Support Services

[Schedule D inserted in Gazette 31 May 1966 pp. 1415-16; amended in Gazettes 18 July 1980 p. 2390; 29 June 1984 p. 1783; 3 January 1986 p. 27.]

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SCHEDULE E

[Form 1 deleted]

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Form 2

Health Act 1911

Health (Pesticides) Regulations 1956

(Reg. 63)

CERTIFICATE OF REGISTRATION AS  
COMMERCIAL PESTICIDE FIRM

THIS is to certify that.....

(Name of registered firm)

of..... is registered as a commercial pesticide firm for the purposes of Division 5 of Part II of the *Health (Pesticides) Regulations 1956* for a period of one year commencing upon.....

19.....

.....  
Executive Director,  
Public Health and  
Scientific Support Services.

Form 3

(Reg. 69)

Health Act 1911

Health (Pesticides) Regulations 1956

PROVISIONAL PESTICIDES LICENCE

This is to certify that.....

is licensed as a provisional pesticide operator for the purposes of Division 5 of Part II of the Health (Pesticides) Regulations 1956 until..... and is authorized to use the following pesticides—

.....  
.....  
.....

in the following types of pesticide operation—

.....  
.....  
.....

under the personal supervision/direction of a qualified pesticide operator in accordance with regulation 69(7) of the Health (Pesticides) Regulations 1956 and subject to the following conditions—

.....  
.....  
.....  
.....

.....  
(Date)

.....  
Executive Director,  
Public Health.

\_\_\_\_\_



Form 4

(Reg. 70)

Health Act 1911

Health (Pesticides) Regulations 1956

FULL PESTICIDES LICENCE

This is to certify that.....  
is licensed as a qualified pesticide operator for the purposes of Division 5 of Part II of the  
Health (Pesticides) Regulations 1956 until 30 June 19..... and is authorized to use the  
following pesticides—

.....  
.....  
.....

in the following types of pesticide operation.....

.....  
.....  
.....  
.....

subject to the following conditions—

.....  
.....  
.....  
.....

(Date)

Executive Director,  
Public Health.

[Schedule E inserted in Gazette 28 October 1971 pp. 4194-95; amended in Gazettes 18  
July 1980 p. 2390; 29 June 1984 p. 1783; 3 January 1986 p. 27.]

SCHEDULE F

(Regulation 81A)

Prescribed Bodies Under Section 246BA (b)

Item	Name of body
1	Technical Committee on Agricultural Chemicals (TCAC)
2	Technical Committee on Veterinary Drugs (TCVD)

[Schedule F inserted in Gazette 9 December 1988 p. 4825.]

## NOTES

<sup>1</sup> This reprint is a compilation as at 3 April 1989 of the *Health (Pesticides) Regulations 1956* and includes all amendments effected by the other Regulations referred to in the following Table.

Table of Regulations

Regulation	Gazetted	Commencement	Miscellaneous
<i>Pesticides Regulations</i>	11 April 1956 pp. 953-61	11 April 1956	Citation subsequently amended (see note under regulation 1)
(Regulations effecting amendments included in the previous reprint are not referred to in this table)			
<i>Pesticides Amendment Regulations (No. 3) 1982</i>	24 December 1982 p. 4898	24 December 1982	
<i>Health Legislation Amendment Regulations 1984</i>	29 June 1984 p. 1783	1 July 1984	
<i>Pesticides Amendment Regulations 1985</i>	21 June 1985 p. 2205	1 July 1985	
<i>Pesticides Amendment Regulations (No. 2) 1985</i>	29 November 1985 p. 4451	29 November 1985	
<i>Pesticides Amendment Regulations 1986</i>	3 January 1986 pp. 15-29	2 February 1986 (see regulation 3)	Regulation 27 transitional <sup>4</sup>
<i>Health (Pesticides) Amendment Regulations 1986</i>	10 January 1986 p. 87	11 April 1986 (see regulation 2)	
<i>Health (Pesticides) Amendment Regulations (No. 2) 1986</i>	5 December 1986 pp. 4464-65	5 December 1986	
<i>Health (Pesticides) Amendment Regulations 1987</i>	26 June 1987 pp. 2460-61	1 July 1987	
<i>Health (Pesticides) Amendment Regulations (No. 2) 1987</i>	13 November 1987 p. 4145	13 November 1987	
<i>Health (Pesticides) Amendment Regulations 1988 (erratum 22 April 1988)</i>	15 April 1988 p. 1180	15 April 1988	
<i>Health (Pesticides) Amendment Regulations (No. 2) 1988</i>	8 July 1988 p. 2375	8 July 1988	
<i>Health (Pesticides) Amendment Regulations (No. 3) 1988</i>	9 December 1988 pp. 4823-5	1 January 1989	

<sup>2</sup> Title of department changed pursuant to section 7 (3) (b) of the *Reprints Act 1984*.

<sup>3</sup> Title of changed pursuant to section 7 (3) (h) of the *Reprints Act 1984*.

<sup>4</sup> Regulation 27 of the *Pesticides Amendment Regulations 1986* reads as follows—

**Transitional provisions**

“ 27. (1) A person who, immediately before the coming into operation of these regulations, was registered under what was then regulation 55 of the principal regulations shall for the purposes of the principal regulations be deemed on that coming into operation to be registered under regulation 63 of the principal regulations, subject to regulation 73 thereof, until 30 June next following that coming into operation.

(2) A person who, immediately before the coming into operation of these regulations, was the holder of a licence issued under what was then regulation 59 of the principal regulations (in this regulation called the "former licence")—

- (a) which was subject to a condition requiring him not to use pesticides except under the supervision of another, shall be deemed for the purposes of the principal regulations on that coming into operation to be the holder of a provisional pesticides licence issued under regulation 69 of the principal regulations; or
- (b) which was not subject to a condition referred to in paragraph (a), shall be deemed for the purposes of the principal regulations on that coming into operation to be the holder of a full pesticides licence issued under regulation 70 of the principal regulations,

subject to the same conditions and authorizations as those to which the former licence was subject for the unexpired portion of the term of the former licence.

(3) A revocation or suspension of registration or of a licence effected before the coming into operation of these regulations under what was then regulation 69 of the principal regulations shall for the purposes of the principal regulations be deemed on that coming into operation to be the revocation or suspension of registration or of a pesticides licence effected under regulation 73 of the principal regulations. "