

WESTERN AUSTRALIA

HEALTH ACT 1911

**HEALTH
(PESTICIDES)
REGULATIONS
1956**

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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*¹.

[*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;

“**approved label**”, in relation to a container, means a label that is —

- (a) approved under Part 2 of the Agvet Code of Western Australia for the container; and

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(b) attached to the container in accordance with section 8 of the Agvet Code of Western Australia;

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

“container” includes anything by which or in which a registered pesticide is, or is to be, covered, enclosed, contained or packaged;

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

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

“registered pesticide” means a pesticide registered under Part 2 of the Agvet Code of Western Australia;

“substance” has the same meaning as it has in section 3 of the Agvet Code of Western Australia;

“supply” has the same meaning as it has in section 3 of the Agvet Code of Western Australia;

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

[Regulation 2 amended in Gazette 28 October 1971 p.4187; 16 July 1982 p.2725; 29 June 1984 p.1783; 3 January 1986 p.16; 30 June 1995 p.2719.]

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.

[4, 5. Repealed in Gazette 30 June 1995 p.2719.]

[6. Repealed in Gazette 24 June 1994 p.2856.]

[6A, 6B, 7, 8, 9, 9A. Repealed in Gazette 30 June 1995 p.2719.]

[9AA. Repealed in Gazette 3 January 1986 p.17.]

Permission required to possess or use certain registered pesticides

10. (1) Subject to subregulation (2), a person shall not —
- (a) except for the purpose of supply, possess a registered pesticide; or
 - (b) use a registered pesticide,

that contains any substance listed in Schedule B.

(2) Subregulation (1) does not apply to a person who possesses or uses a registered pesticide that contains any such substance with the written permission of the Executive Director, Public Health, and in accordance with any conditions on which the permission is granted.

[Regulation 10 inserted in Gazette 30 June 1995 p.2720.]

[11. Repealed in Gazette 22 June 1990 p.3036.]

Pesticide device to be labelled

11A. A person shall not sell or supply a device which dispenses, or is claimed to dispense, a registered 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; amended in Gazette 30 June 1995, p.2720.]

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. (1) 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.

(2) No person shall, except for the purpose of supply, store a registered pesticide unless it is in a container of a kind —

- (a) referred to in the conditions on which registration of the pesticide was granted; or

(b) prescribed in the Agvet Regulations of Western Australia.

(3) In subregulation (2) —

“Agvet Regulations of Western Australia” has the same meaning as it has in the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*.

[*Regulation 15 amended in Gazette 30 June 1995 p.2720.*]

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.

[18. *Repealed in Gazette 30 June 1995 p.2721.*]

Certain pesticides prohibited

19. (1) Subject to subregulation (2), a person shall not —

(a) except for the purpose of supply, possess or transport a pesticide; or

(b) use a pesticide,

unless it is a registered pesticide in a container of a kind mentioned in regulation 15 (2) that has an approved label in respect of the registered pesticide.

(2) Subregulation (1) does not apply to a person who possesses, transports or uses a pesticide with the written permission of the

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Executive Director, Public Health, and in accordance with any conditions on which the permission is granted.

[Regulation 19 inserted in Gazette 30 June 1995 p.2721.]

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 registered pesticide containing a substance listed in Schedule C in or on a public place shall ensure that, during the time the registered 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 registered 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; amended in Gazette 30 June 1995 p.2726.]

Transportation of diluted pesticides

19AA. (1) A person shall not transport —

- (a) any registered pesticides; or
- (b) a herbicide which is included in the Seventh Schedule of Appendix A to the *Poisons Act 1964*,

in a container of a capacity of 15 L or more in a public place in a diluted form or to which any other substance has been added unless the name and concentration of the registered pesticide or herbicide is clearly marked on the container in letters with a minimum height of 25 mm.

(2) A person who transports a herbicide which is not included in the Seventh Schedule of Appendix A to the *Poisons Act 1964* in a container of a capacity of more than 15 L in a public place in a diluted

form or to which any other substance has been added shall ensure that —

- (a) the herbicide is transported in accordance with subregulation (1); or
 - (b) the words “DILUTED HERBICIDE” are clearly marked on the container in letters with a minimum height of 25 mm; and
 - (c) the name and concentration of the herbicide are prominently displayed within the cab of the vehicle in which the herbicide is transported.
- (3) In this regulation —

“herbicide” means any registered pesticide intended for preventing, destroying or controlling any unwanted plant, including any algae or aquatic weed.

[Regulation 19AA inserted in Gazette 23 November 1990 p.5790; amended in Gazette 30 June 1995 pp.2726 and 2727.]

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 registered pesticides may be used on specified crops in prescribed areas of the State.

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(2) Where a notice is published in accordance with subregulation (1), a person who uses a pesticide other than a registered 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; 30 June 1995 pp.2721 and 2727.]

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 registered 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 Gazette 26 August 1977 p.2978; 29 June 1984 p.1783; 30 June 1995 p.2727.]

Application of pesticides to be in accordance with labels

20C. A person shall not apply, or cause or permit to be applied, a registered 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 approved label for containers of the registered pesticide, unless the registered 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 registered pesticide imposed in writing by the Executive Director, Public Health,

or in accordance with a permit issued under section 114 of the Agvet Code of Western Australia.

[Regulation 20C inserted in Gazette 3 January 1986 p.17; amended in Gazette 5 December 1986 p.4465; 30 June 1995 pp.2721 and 2726.]

Cereal pickles

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

- (a) the registered 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 registered pesticide unless a distinctive colour has been added, either by the registered pesticide or by a dye added to the registered pesticide, so as to make the pickled cereal easily distinguishable by sight from cereal grains which have not been pickled.

[Regulation 20D inserted in Gazette 16 July 1982 p.2725; amended in Gazette 30 June 1995 p.2726.]

Certain treatments of cavity walls prohibited

20E. Except with the written permission of the Executive Director, Public Health and in accordance with any conditions attached to that permission, a person shall not —

- (a) treat a cavity wall of a building with a prescribed organochlorine (as defined in regulation 54); or

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- (b) for the prevention or control of termite infestation, treat a cavity wall of a building with a pesticide registered under Part 2 of the Agvet Code of Western Australia to be used for the control of termites.

[Regulation 20E inserted in Gazette 9 August 1991 p.4115; amended in Gazette 30 June 1995 p.2721.]

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 registered pesticide; or
- (b) 2 kg of solid registered pesticide,

when used for domestic or home garden purposes.

[Regulation 21A inserted in Gazette 9 December 1988 p.4823; amended in Gazette 30 June 1995 p.2726.]

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

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- (b) subject to subregulation (3) clearly labelled "USED PESTICIDE CONTAINER".
- (2) A container referred to in subregulation (1) shall not be —
 - (a) used to contain substances or foodstuffs for human or animal consumption; or
 - (b) reused as a registered pesticide container, other than with the approval of, and on any conditions imposed by, the Executive Director, Public Health.
- (3) A person who reuses a used pesticide container —
 - (a) on the property of the owner of the used pesticide container; or
 - (b) in accordance with subregulation (2) (b),is not required to comply with subregulation (1) (b).

[Regulation 21D inserted in Gazette 9 December 1988 p.4824. Corrigendum in Gazette 28 April 1989 p.1240; amended in Gazette 22 June 1990 p.3036; 30 June 1995 p.2726.]

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 being used in accordance with the approved label for containers of the pesticide;
 - (aa) with the written permission of the Executive Director, Public Health and in accordance with any conditions on which the permission is granted;
 - (ab) in accordance with a permit issued under section 114 of the Agvet Code of Western Australia;
 - (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.

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(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; amended in Gazette 30 June 1995 pp.2721-2.]*

PART II — SPECIAL PROVISIONS

[*Division 1 (regulations 22-28) — Repealed in Gazette
30 June 1995 p.2722.*]

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 Agriculture Western Australia.

(2) No person other than an officer of Agriculture Western Australia authorized in writing by the chief executive officer of that department shall manufacture any pesticide 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 chief executive officer of Agriculture Western Australia may in writing authorize an officer of that department to manufacture or distribute registered pesticides containing sodium fluoroacetate on behalf of the department if the chief executive officer 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

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(c) in first aid treatment in respect to harm caused by sodium fluoroacetate.

(5) Subject to subregulation (6), any pesticide containing sodium fluoroacetate manufactured or distributed on behalf of Agriculture Western Australia shall require to be a registered pesticide.

(6) Authorized officers of Agriculture Western Australia may, with written permission from the Executive Director, Public Health, use a pesticide containing sodium fluoroacetate, that is not a registered pesticide, for experimental purposes.

(7) A registered pesticide containing sodium fluoroacetate may be supplied by officers of Agriculture Western Australia to officers of the Department of Fisheries² and the Department of Conservation and Land Management² who have been trained to the satisfaction of the chief executive officer of Agriculture Western Australia in accordance with the provisions of subregulation (4).

(8) An officer of Agriculture Western Australia may supply a registered pesticide containing sodium fluoroacetate to —

- (a) a farmer or his employee;
- (b) a pastoralist or his employee;
- (c) a person engaged by a farmer or pastoralist to carry out baiting with that registered pesticide for a purpose referred to in regulation 29A (1); or
- (d) a person approved in writing by the Executive Director, Public Health, to carry out baiting with that registered pesticide for a purpose referred to in regulation 29A (1),

if, and only if, the farmer, pastoralist or employee or the person so engaged, or the person so approved, as the case requires, has been trained to the satisfaction of the chief executive officer of Agriculture Western Australia 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), or a person approved under subregulation 8 (d)

shall not use a registered pesticide 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 approved label attached to the container of the registered pesticide; or
- (b) in accordance with an instruction in writing given to him by an officer of Agriculture Western Australia.

[Regulation 29 inserted in Gazette 16 July 1982 p.2725; amended in Gazette 29 June 1984 p.1783; 3 January 1986 p.18; 7 August 1992 pp.3862-3; 30 June 1995 p.2722; 15 October 1996 pp.5444-5 and p.5446.]

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 goats, feral pigs, foxes, feral cats, rats, agile wallabies and sulphur crested cockatoos but the Executive Director, Public Health may grant written permission for any pesticide containing sodium fluoroacetate to be used for experimental control of any other pest by officers of Agriculture Western Australia.

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

- (a) that person is —
 - (i) an officer of Agriculture Western Australia; or
 - (ii) a person to whom a registered pesticide containing sodium fluoroacetate may be supplied under regulation 29 (8);
- (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 Water Corporation or a local government or environmental health officers, who are trained to the satisfaction of the chief executive officer of Agriculture Western Australia in accordance with the provisions of regulation 29 (4), may assist officers of Agriculture Western Australia to bait for rats.

(4) The Executive Director, Public Health must not grant permission under subregulation (2) (b) to a person referred to in subregulation (2) (a) (ii) unless the rats to be baited by that person are, in the opinion of the Executive Director, Public Health, present in the locality specified in the permission in plague numbers or are likely to become present in that locality in such number if they are not baited.

[Regulation 29A inserted in Gazette 16 July 1982 p.2726; amended in Gazette 29 June 1984 p.1783; 15 April 1994 p.1578; 30 June 1995 p.2723; 28 June 1996 p.3024; 15 October 1996 p.5445 and p.5446.]

Records to be kept

30. (1) The chief executive officer of Agriculture Western Australia must keep up to date records of the name and address of each person to whom a registered pesticide containing sodium fluoroacetate is distributed or supplied by that department.

(2) The records are to be kept for at least 2 years and are to be available for inspection by environmental health officers, other officers appointed under the Act and persons declared under section 52A of the *Poisons Act 1964* to be authorized officers for the purposes of that Act.

[Regulation 30 inserted in Gazette 15 October 1996 p.5445.]

Baits containing sodium fluoroacetate (1080)

31. (1) Pesticide baits containing sodium fluoroacetate mixed and prepared immediately prior to laying shall not be prepared by any person other than an officer of Agriculture Western Australia or an authorized person trained to the satisfaction of the chief executive officer of Agriculture Western Australia in accordance with the provisions of regulation 29 (4).

(2) A person who is supplied with pesticide baits containing sodium fluoroacetate shall not give possession of those pesticide baits to any other person unless the other person is authorized to receive them by these regulations.

(3) A person who is supplied with pesticide baits containing sodium fluoroacetate must keep them in the container in which they were supplied and keep that container in a locked compartment or locked room except when the baits are required for immediate use.

(4) A person shall not lay pesticide baits containing sodium fluoroacetate on land other than land approved for that purpose by the chief executive officer of Agriculture Western Australia.

(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 Agriculture Western Australia.

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

(6a) A person who gives notification under subregulation (6) shall do so —

- (a) in writing; or
- (b) if the person is an officer of Agriculture Western Australia, the Fisheries Department or the Department of Conservation and Land Management, in writing or in a form approved by the Executive Director, Public Health in the particular case.

(6b) A person may request approval of a proposed form of giving notification under subregulation (6a) (b) by submitting details of the proposal in writing to the Executive Director, Public Health.

(7) During the period of baiting and within 14 days after the burial of uneaten pesticide bait containing sodium fluoroacetate, rabbits and other wild animals captured or found dead on the baited property,

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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 pesticide 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 Agriculture Western Australia, when an officer of that department directs that pesticide baits be so returned.

[Regulation 31 inserted in Gazette 16 July 1982 p.2726; amended in Gazette 3 January 1986 p.18; 21 April 1995 pp.1362-3; 30 June 1995 p.2723; 15 October 1996 pp.5445-6 and p.5446.]

Division 3 — Use of Certain Fumigants as Pesticides

[Heading inserted in Gazette 31 May 1966 p.1409.]

Interpretation

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

“**fumigant**” means a registered pesticide that contains 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 any treatment carried out with a fumigant;

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

“**primary produce**” means produce resulting directly from land used for —

- (a) agriculture (other than forestry or reafforestation); and

- (b) grazing, horticulture, viticulture, apiculture, pig-raising or poultry farming;

“registered firm” means a body corporate, partnership or person registered under regulation 33;

“sheet fumigation” means the fumigation of an area covered by a gas-proof sheet of a minimum thickness of 0.1 mm.

- (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;
 - (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;
- or
- (c) the use of a fumigant for the treatment of soil by a person approved by the Executive Director, Public Health.

[Regulation 32 inserted in Gazette 31 May 1966 p.1409; amended in Gazette 3 January 1986 p.18; 22 June 1990 p.3037; 17 September 1993 p.5064; 30 June 1995 p.2723.]

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 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 \$270.

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

- (a) is properly equipped to undertake fumigations;

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- (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 20 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 \$250, be renewed annually so long as the Executive Director, Public Health remains satisfied that the registered firm meets with the requirements of subregulation (3).

(4a) Where, on the initial assessment of an application for registration or for renewal of registration, the Executive Director, Public Health is not satisfied that the applicant meets the requirements of subregulation (3) a fee of \$155 is payable for any subsequent assessment which is necessary in order to satisfy the Executive Director, Public Health as required by that subregulation.

(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 Gazette 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; 16 June 1989 p.1473; 22 June 1990 pp.3036-7; 28 June 1991 p.3150; 27 May 1994 pp.2209-10; 27 June 1995 pp.2553-4; 28 June 1996 p.3025.]

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 in Gazette 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 and observed the conditions, if any, imposed under subregulation (1a).

(1a) Where a registered firm gives notice under subregulation (1) that it intends to undertake fumigation the Executive Director, Public Health may specify in writing given to that firm the conditions with which the firm shall comply.

(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 (1a) 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;

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- (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; 22 June 1990 p.3037.]

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 \$290.

(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.

(2a) Where a fumigator wishes to use a fumigant which is not specified on his licence he may apply to the Executive Director, Public Health for his licence to be endorsed to include that fumigant.

(2b) An application for endorsement of a licence shall be in a form approved by the Executive Director, Public Health and shall be accompanied by a fee of \$135.

(2c) Where the Executive Director, Public Health is satisfied that the applicant for endorsement of a licence meets the requirement specified in subregulation (2) (a) he shall endorse the licence accordingly.

(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 and, so long as the Executive Director, Public Health remains satisfied that the fumigator meets the requirements specified in subregulation (2) (a), (b) and (c), may be renewed annually on payment of a fee of \$135; and
- (b) authorizes the licensee to carry out fumigations with the fumigant specified in the licence.

(3a) Where, on an initial assessment of an application for a licence, a renewal of a licence or an endorsement on a licence, the Executive Director, Public Health is not satisfied that the applicant meets the relevant requirements specified in subregulation (2) a fee of —

- (a) \$80 in the case of an application for a licence; or
- (b) \$40 in the case of an application for a renewal of a licence or an endorsement on a licence,

is payable for any subsequent assessment which is necessary in order to satisfy the Executive Director, Public Health that the applicant does meet those requirements.

(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 Gazette 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; 16 June 1989 p.1473; 22 June 1990 p.3036; 28 June 1991 p.3150; 27 May 1994 p.2210; 27 June 1995 pp.2554-5; 25 August 1995 p.3849; 28 June 1996 p.3025.]

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.]*

Persons present at fumigation to be trained

37A. (1) A fumigator shall not permit a person who is not a fumigator to be present while a fumigation is being carried out unless the fumigator is satisfied that the person —

- (a) knows the first aid and emergency procedures set out in the material safety data sheet for the fumigant that is to be used; and
- (b) is trained in the fitting and wearing of, and knows the filter life and any limitations of, respiratory protective devices that are required by these regulations to be used during the fumigation or in an emergency.

(2) In this regulation —

“code” means the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011 (1994)] published by the National Occupational Health and Safety Commission, as amended from time to time or, if that code is replaced by another similar code, the replacement code as it is amended from time to time;

“**material safety data sheet**” means a document that contains the information in relation to a fumigant that is required by the code to be included in the material safety data sheet for the fumigant, whether or not the document is in the form required by the code.

[Regulation 37A inserted in Gazette 28 June 1996 pp.3025-6; amended in Gazette 15 October 1996 p.5446.]

Precautions prior to fumigation

- 38.** A fumigator shall not begin to fumigate 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;
 - (ab) in the case of sheet fumigation, he has by personal inspection ascertained that —
 - (i) no person without adequate protection from the fumigant to be used is within the distance from the area covered as may be specified by the Executive Director under regulation 35 (1a);
 - (ii) the area that is covered, plus at least 3 metres on every side of that area, is cordoned off;
 - (iii) the sheet is free from obvious holes or tears and has been effectively sealed to prevent the escape of any fumigant; and
 - (b) in the case of any other fumigation, he has by personal inspection ascertained that —
 - (i) no person is within the area to be fumigated;

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- (ii) all electric radiators, fires and naked lights within the area to be fumigated have been switched off or extinguished;
- (iii) all windows in the area to be fumigated have been securely fastened;
- (iv) the area 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; 22 June 1990 p.3037.]

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”, “SILO BEING FUMIGATED” or “FUMIGATION UNDER SHEET IN PROGRESS” 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.1433-4; 22 June 1990 p.3038.]

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 any fumigation shall not enter any fumigated area before it is established that the concentration of fumigant present in the area being entered 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 Gazette 29 June 1984 p.1783; 3 January 1986 p.18; 22 June 1990 p.3038.]

Precautions after fumigation

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

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

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- (b) ensure that all fabrics, furnishings and goods within the fumigated area are free from fumigant;
- (c) cause the fumigated area to be thoroughly ventilated with fresh air in such a manner that prevents any person in the vicinity of the area from being exposed to fumigant;
- (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; amended in Gazette 22 June 1990 p.3038.]

Fumigant concentration to be tested

43. The fumigator by whom any fumigation 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 the area fumigated 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 area fumigated 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 Gazette 30 September 1966 p.2653; 3 May 1974 pp.1433-4; 14 February 1975 p.542; 29 June 1984 p.1783; 3 January 1986 p.18; 22 June 1990 p.3038.]

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.]

Gas detection equipment to be carried

45. A fumigator shall not carry out any fumigation unless he has with him gas detection equipment —

- (a) capable of measuring the fumigants mentioned in regulation 43 at the concentrations described in that regulation; and
- (b) of a type approved by the Executive Director, Public Health.

[Regulation 45 inserted in Gazette 22 June 1990 p.3038.]

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 1716-1984 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; 22 June 1990 p.3038.]

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 area that is fumigated, or is to be fumigated, before, during or after the fumigation of the area;
- (b) prohibit, or order the discontinuance of, any fumigation 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, enters any area while any notice referred to in regulation 39 (b) is affixed to any door or other means of access to the area that is fumigated, or is to be fumigated,

commits an offence.

*[Regulation 49 inserted in Gazette 31 May 1966 p.1413;
amended in Gazette 29 June 1984 p.1783; 22 June 1990
p.3039.]*

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, any fumigation —

- (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;
amended in Gazette 22 June 1990 p.3039.]*

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 under subregulation (1) has effect from the time at which the relevant notice is served.

[Regulation 53 inserted in Gazette 31 May 1966 pp.1414-15; amended in Gazette 29 June 1984 p.1783; 22 June 1990 p.3039.]

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 a registered pesticide that contains chlordane or heptachlor.

[Regulation 54 inserted in Gazette 13 November 1987 p.4145; amended in Gazette 30 June 1995 p.2723.]

Use of organochlorines restricted

55. (1) A person shall not use a prescribed organochlorine except in accordance with —

(a) this Division; or

(b) the written permission —

(i) of the Executive Director, Public Health; or

(ii) where regulation 56 (3) (a) applies, of the relevant local government,

and any conditions attached to that permission.

(2) The Executive Director, Public Health may at any time amend or revoke a permission granted by him under subregulation (1), and a local government may do likewise in respect of a permission granted by it.

[Regulation 55 inserted in Gazette 9 August 1991 p.4115; amended in Gazette 15 October 1996 p.5446.]

Use of organochlorines during construction of building

56. (1) Subject to subregulation (2), a person may, during the construction of a building or part of a building, use a prescribed organochlorine for the protection of the building or part of a building against subterranean termites if the person —

- (a) is a pesticide operator; and
- (b) uses the prescribed organochlorine in accordance with Australian Standard AS 2057-1986 entitled “Soil Treatment for Buildings under Construction for Protection against Subterranean Termites”.

(2) Subregulation (1) does not authorize the use of a prescribed organochlorine —

- (a) contrary to regulation 20E; or
- (b) on an animal building.

(3) Notwithstanding subregulation (1) (b) a pesticide operator may use a prescribed organochlorine at a concentration that is less than the concentration specified in the Australian Standard referred to in subregulation (1) (b), if the pesticide operator has the written permission of —

- (a) the local government for the district where the organochlorine is to be used; or
- (b) the Executive Director, Public Health, under regulation 55 (1).

(4) In subregulation (2) (b) “**animal building**” means a 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.

*[Regulation 56 inserted in Gazette 9 August 1991 p.4115;
amended in Gazette 15 October 1996 p.5446.]*

[57, 58, 58A. Repealed in Gazette 9 August 1991 p.4115.]

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) 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;
amended in Gazette 9 August 1991 p.4115.]*

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.*]

[61. *Repealed in Gazette 9 August 1991 p.4115.*]

[61A. *Repealed in Gazette 30 June 1995 p.2723.*]

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 registered 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; amended in Gazette 30 June 1995 p.2723.]

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 registered 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 —

- (a) \$270; or

- (b) \$135, if the application is received by the Executive Director, Public Health, before 1 July of the year in which the licence applied for will expire.

(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 registered pesticides; and
- (b) will employ for the purpose of undertaking the use of registered 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 \$270 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 subject to such conditions as are specified in the certificate.

[Regulation 63 inserted in Gazette 3 January 1986 pp.21-22; amended in Gazette June 1987 p.2461; 16 June 1989 p.1743; 28 June 1991 p.3150; 9 August 1991 p.4116; 15 May 1992 p.1987; 2 October 1992 p.4816; 11 June 1993 p.2878; 27 May 1994 p.2210; 27 June 1995 p.2555; 30 June 1995 pp.2724 and 2727; 28 June 1996 p.3026.]

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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 —
 - (i) \$135, application is for a full pesticides licence other than referred to in subparagraph (ii);
 - (ii) \$67.50, if the application is for a full pesticides licence and the application is received by the Executive Director, Public Health before 1 July of the year in which the licence applied for will expire; or
 - (iii) \$135, if the application is for a provisional pesticides licence.

[Regulation 68 inserted in Gazette 3 January 1986 p.22; amended in Gazette 26 June 1987 p.2461; 16 June 1989 p.1743; 28 June 1991 p.3150; 15 May 1992 p.1987; 2 October 1992 pp.4816-7; 11 June 1993 p.2878; 27 May 1994 p.2210; 27 June 1995 p.2555; 28 June 1996 p.3026.]

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 registered 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.

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(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 registered 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 registered 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 registered 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.22-3; amended in Gazette 30 June 1995 pp.2724 and 2727.]

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 registered 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 11A" 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

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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*¹,

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 registered pesticides for weed control, has demonstrated practical knowledge of spraying techniques and use of spraying equipment to the satisfaction of an officer of Agriculture Western Australia nominated for that purpose by the chief executive officer of that department;
- (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 registered 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 registered 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 registered pesticides for agricultural weed control, has demonstrated practical knowledge of spraying techniques and use of spraying equipment to the satisfaction of an officer of Agriculture Western Australia nominated for that purpose by the chief executive officer of that department;
- (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 registered 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 registered 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 70A, 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 \$135 and
- (b) shall specify the registered pesticides which the qualified operator concerned is pesticide 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.23-5; amended in Gazette 26 June 1987 p.2461; 16 June 1989 p.1743; 4 August 1989 p.2501; 28 June 1991 p.3150; 15 May 1992 p.1987; 11 June 1993 p.2878; 27 May 1994 p.2210; 27 June 1995 p.2555; 30 June 1995 p.2724; 28 June 1996 p.3026; 15 October 1996 p.5446.]

Review of pesticides licence

70A. (1) The Executive Director, Public Health, may, whenever he thinks fit, review the issue of a full pesticides licence and for the purposes of that review may require the holder of that licence to undertake such oral or written examinations or both conducted by the Department as the Executive Director, Public Health, requires.

(2) If a pesticide operator fails to successfully complete an examination he is required to undertake under subregulation (1) the Executive Director, Public Health, may, by notice in writing served on that pesticide operator, suspend for such period as he thinks fit and specifies in that notice, or revoke, the pesticides licence of the pesticide operator.

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

[Regulation 70A inserted in Gazette 4 August 1989 p.2501.]

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 registered 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 registered pesticides and the Executive Director, Public Health, may grant or refuse that application.

*[Regulation 72 inserted in Gazette 3 January 1986 p.25;
amended in Gazette 30 June 1995 p.2725.]*

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

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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.25-6; 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 registered 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 registered 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 registered pesticides otherwise than in —

- (a) agricultural operations; or

(b) the retail or wholesale selling of pesticides,
uses those registered pesticides for reward.

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

*[Regulation 74 inserted in Gazette 3 January 1986 p.26;
amended in Gazette 30 June 1995 p.2725.]*

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 registered 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;
amended in Gazette 30 June 1995 p.2726.]*

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 registered pesticides shall ensure that —

- (a) any registered 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 registered 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; amended in Gazette 30 June 1995 p.2725.]

Precautions when using pesticides

77. A pesticide operator shall —

- [(a) deleted]*
- (b) dispose of the residue of any registered pesticide in a manner not likely to endanger any person;
- (c) wear protective clothing sufficient to prevent contamination of the person when handling registered pesticides;

- (d) keep securely closed all pesticide containers not in immediate use; and
- (e) keep available at the place where registered 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; amended in Gazette 4 August 1989 p.2501; 30 June 1995 pp.2726 and 2727.]

Decontamination procedures

77A. (1) A pesticide operator shall —

- (a) whenever a spillage or other accident involving a registered pesticide occurs, cover the contaminated area or article with a layer of clean soil at least 75 mm in depth or decontaminate that area or article by other means approved by the Executive Director, Public Health; and
- (b) whenever that pesticide operator uses a registered pesticide other than in accordance with these regulations, resulting in contamination of an area or article, decontaminate that contaminated area or article by means approved by the Executive Director, Public Health.

(2) If the Executive Director, Public Health, is of the opinion that a registered pesticide has been used other than in accordance with these regulations and has caused an area or article to become contaminated, he may direct the responsible pesticide operator to decontaminate that contaminated area or article by means approved by the Executive Director, Public Health.

(3) A pesticide operator who —

- (a) fails to comply with subregulation (1); or
- (b) fails to comply with a direction of the Executive Director, Public Health, given under subregulation (2),

commits an offence.

[Regulation 77A inserted in Gazette 4 August 1989 p.2501; amended in Gazette 30 June 1995 p.2725.]

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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 registered 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; amended in Gazette 30 June 1995 p.2727.]

Notice of treatment

79A. (1) Where —

- (a) a building under construction is treated for protection against termites; or
- (b) an existing building is treated for termite infestation,

with a prescribed organochlorine or other pesticide registered under Part 2 of the Agvet Code of Western Australia to be used for the control of termites the responsible pest control operator shall prepare a notice of treatment in accordance with subregulation (2).

(2) A notice of treatment referred to in subregulation (1) shall —

- (a) be in a form approved by the Executive Director, Public Health;
- (b) specify —
 - (i) the registered pesticide applied;
 - (ii) the concentration of the registered pesticide;
 - (iii) the location of the application;
 - (iv) the date on which the registered pesticide was applied;
 - (v) the name of the commercial registered pesticide firm which applied the registered pesticide; and

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(vi) in the case of a notice of treatment of an existing building, the licence number of the responsible pest control operator;

and

(c) be legibly signed by the person who applied the registered pesticide.

(3) The notice of treatment referred to in subregulation (1) shall —

(a) where it relates to a building under construction, be affixed to the inside of the door panel or the electric meter box of that building by the person carrying out the building work as soon as is practicable after completion of the treatment; and

(b) where it relates to an existing building, be affixed to the inside of the door panel of the electric meter box of that building, or where no meter box exists, in the proximity of the electric meter against the wall of that building, by the responsible pest control operator on completion of the treatment.

(4) A person who —

(a) fails to prepare a notice of treatment as required under subregulation (1);

(b) fails to affix a notice of treatment in accordance with subregulation (3); or

(c) obscures, removes or alters a notice of treatment affixed in accordance with subregulation (3),

commits an offence.

(5) In this regulation —

“commercial pesticide firm” means commercial pesticide firm as defined in regulation 62;

“pesticide operator” means pesticide operator as defined in regulation 62;

“prescribed organochlorine” means prescribed organochlorine as defined in regulation 54.

[Regulation 79A is inserted in Gazette 4 August 1989 pp.2501-2; amended in Gazette 30 June 1995 p.2726.]

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;

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- (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.]

[81A. Repealed in Gazette 30 June 1995 p.2726.]

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 10, 11, 11A, 12, 13, 14, 15, 16, 17, 19, 19A, 19AA (1) and (2), 20, 20C, 20D, 20E, 21, 21B, 21C, 21D (2), 29, 31, 33 (1), 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 51, 55, 59, 60, 61, 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), 52 (1), 58A, 77A (3) or 79A (4) 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; 4 August 1989 p.2503;
23 November 1990 p.5790; 9 August 1991 p.4115; 30 June
1995 p.2726.]*

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

SCHEDULE B

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

Methyl bromide

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 Gazette 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; 17 September 1993 p.5064.]

SCHEDULE C

(Regulation 19A)

Chlordane

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;
amended in Gazette 30 June 1995 p.2726.]*

SCHEDULE D

[Form 1 deleted]

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

[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

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

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

SCHEDULE E

[Form 1 deleted]

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... subject to the following conditions —

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

.....
Executive Director,
Public Health

Health (Pesticides) Regulations 1956

Sch. E

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 registered 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 registered 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.4194-5; amended in Gazette 18 July 1980 p.2390; 29 June 1984 p.1783; 3 January 1986 p.27; 9 August 1991 p.4116; 30 June 1995 p.2726.]

[Schedule F. Repealed in Gazette 30 June 1995 p.2726.]

Health (Pesticides) Regulations 1956

NOTES

¹ This reprint is a compilation as at 10 January 1997 of the *Health (Pesticides) Regulations 1956* and includes in the reprint published in the *Gazette* on 7 April 1989 and amendments effected by the other regulations referred to in the following Table.

Table of Regulations

| Regulation | Gazettal | Commencement | Miscellaneous |
|--|---|------------------|---|
| <i>Health (Pesticides) Regulations 1956</i> | 11 April 1956 pp.953-61 | 11 April 1956 | Citation subsequently amended (see note under regulation 1) |
| (Regulations effecting amendments in the previous reprint are not referred to in this Table) | | | |
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1988</i> Corrigendum | 9 December 1988 pp.4823-5 28 April 1989 p.1240 | 1 January 1989 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1989</i> | 16 June 1989 p.1743 | 1 July 1989 | |
| <i>Health (Pesticides) Amendment Regulations 1989</i> | 4 August 1989 pp.2500-02 | 1 September 1989 | |
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1989</i> | 17 November 1989 p.4107 | 17 November 1989 | |
| <i>Health (Pesticides) Amendment Regulations 1990</i> | 22 June 1990 pp.3036-9 | 22 June 1990 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1990</i> | 22 June 1990 pp.3035-6 | 22 June 1990 | |
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1990</i> | 23 November 1990 p.5790 | 23 November 1990 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1991</i> | 28 June 1991 pp.3149-50 | 1 July 1991 | |

Health (Pesticides) Regulations 1956

| Regulation | Gazettal | Commencement | Miscellaneous |
|---|--------------------------------|---|---------------|
| <i>Health (Pesticides) Amendment Regulations 1991</i> | 9 August 1991 pp.4114-5 | 9 August 1991 | |
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1991</i> | 9 August 1991 p.4116 | 9 August 1991 | |
| <i>Health (Pesticides) Amendment Regulations 1992</i> | 15 May 1992 p.1987 | 15 May 1992 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1992</i> | 7 August 1992 pp.3862-3 | 7 August 1992 | |
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1992</i> | 2 October 1992 pp.4816-7 | 2 October 1992 | |
| <i>Health (Pesticides) Amendment Regulations (No. 4) 1992</i> | 31 December 1992 pp.6336-7 | 1 January 1993 | |
| <i>Health (Pesticides) Amendment Regulations 1993</i> | 11 June 1993 pp.2877-8 | 1 July 1993 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1993</i> | 17 September 1993 pp.5063-4 | 18 September 1994 (see regulation 2) | |
| <i>Health (Pesticides) Amendment Regulations 1994</i> | 15 April 1994 p.1578 | 15 April 1994 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1994</i> | 27 May 1994 pp.2209-10 | 1 July 1994 | |
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1994</i> | 24 June 1994 p.2856 | 24 June 1994 | |
| <i>Health (Pesticides) Amendment Regulations 1995</i> | 21 April 1995 pp.1362-3 | 21 April 1995 | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1995</i> | 27 June 1995 pp.2553-5 | 1 July 1995 (see regulation 2) | |

Health (Pesticides) Regulations 1956

| Regulation | Gazettal | Commencement | Miscellaneous |
|---|------------------------------|--|---------------|
| <i>Health (Pesticides) Amendment Regulations (No. 3) 1995</i> | 30 June 1995 pp.2719-27 | 30 June 1995 | |
| <i>Health (Pesticides) Amendment Regulations (No. 5) 1995</i> | 25 August 1995 p.3849 | 25 August 1995 | |
| <i>Health (Pesticides) Amendment Regulations 1996</i> | 28 June 1996 pp.3024-6 | Regulations 5, 6, 8, 9 and 10: 1 July 1996; balance 28 June 1996 (see regulation 2) | |
| <i>Health (Pesticides) Amendment Regulations (No. 2) 1996</i> | 15 October 1996 pp.5444-6 | 15 October 1996 | |

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