

Western Australia

Aerial Spraying Control Regulations 1971

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Aerial Spraying Control Regulations 1971

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Aerial Spraying Control Regulations 1971

Part I — Preliminary

1. Citation

These regulations may be cited as the *Aerial Spraying Control Regulations 1971*¹.

[Regulation 1 amended in Gazette 15 Jun 2001 p. 2973.]

[2. *Repealed in Gazette 6 Jan 1998 p. 33.*]

3. Definitions

In these regulations, unless the contrary intention appears —

“**Act**” means the *Aerial Spraying Control Act 1966*;

“**Schedule**” means Schedule to these regulations.

3A. Agricultural chemicals

(1) The chemicals that are registered under Part 2 of the Agvet Code of Western Australia are prescribed as agricultural chemicals for the purposes of the definition of “agricultural chemical” in section 3 of the Act except for those chemicals appearing in the Fourth Schedule to these regulations.

(2) In this regulation —

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

Aerial Spraying Control Regulations 1971

Part I Preliminary

r. 3A

*[Regulation 3A inserted in Gazette 3 Jul 2001 p. 3280-1;
amended in Gazette 11 Jun 2002 p. 2765.]*

Part II — Pilot chemical rating certificate

4. Application for and renewal of certificate

- (1) A person is not eligible to apply for a certificate or for the renewal of a certificate unless he —
 - (a) is the holder of a current and valid commercial or senior commercial pilot's licence endorsed with an agricultural rating under the Air Navigation Regulations of the Commonwealth as in force from time to time or any regulations in substitution therefor as so in force; and
 - (b) has passed the relevant examination as prescribed in regulation 9.
- (2) An applicant for a certificate shall submit an application to the Director in the form of Form 1 in the First Schedule.
- (3) An applicant for the renewal of a certificate shall —
 - (a) submit an application to the Director in the form of Form 1 of the First Schedule; and
 - (b) forward with the application a fee of \$11.50.

[Regulation 4 amended in Gazette 6 Jun 1980 p. 1702; 7 Jul 1989 p. 2116; 3 Aug 1990 p. 3672; 18 Oct 1991 p. 5309; 24 Jul 1992 p. 3601; 17 Sep 1993 p. 5042; 21 Jul 1995 p. 3059; 3 Sep 1996 p. 4370; 23 Jun 1998 p. 3316; 15 Jun 2001 p. 2973; 31 May 2005 p. 2396; 16 Jun 2006 p. 2111; 15 Jun 2007 p. 2751.]

5. Form of certificate

The certificate issued to a pilot shall be in the form of Form 2 in the First Schedule.

6. Period of validity of certificate

A certificate, unless sooner suspended or cancelled, remains valid until 30 June following the date of its issue.

r. 7

7. Refusal to grant or renew certificate

- (1) The Director may —
 - (a) refuse to issue or renew a certificate; or
 - (b) vary, suspend or cancel a certificate,if a pilot commits an offence against the Act or fails to observe these regulations.
- (2) Notification of the refusal, variation, suspension or cancellation of a certificate shall be forwarded by the Director to the pilot by registered mail.
- (3) On receipt of any notification under subregulation (2) the pilot shall, if a current certificate is held, return that certificate to the Director for variation, suspension or cancellation.

[8. *Repealed in Gazette 30 Dec 2004 p. 6893.*]

9. Examinations

- (1) Every examination of candidates for qualification for a certificate, shall be held at such times and at such places as the Director from time to time determines and notification of each determination and the closing date for entries for the examination shall be advertised in a newspaper circulating generally throughout the State.
- (2) A candidate for an examination for qualification for a certificate shall —
 - (a) be the holder of a pilot's licence specified in regulation 4(1)(a); and
 - (b) forward an examination fee of \$21.50 to the Director prior to the date of the examination.
- (3) Every examination for qualification for a certificate shall —
 - (a) be conducted by 3 examiners appointed by the Director;
 - (b) be based on the information set out in the "Aerial Agriculture — Chemical Rating Manual" produced by

Commonwealth and State Authorities on behalf of the Australian Agricultural Council, or such other information as the Director determines and has specified in a public manner;

- (c) be a written examination of 1½ hours' duration; and
 - (d) embrace questions on the various sections of the Manual or other information referred to in paragraph (b).
- (4) The examiners shall determine from time to time the percentage of marks required to be obtained by a candidate to pass the examination.

[Regulation 9 amended in Gazette 7 Jul 1989 p. 2116; 3 Aug 1990 p. 3672; 18 Oct 1991 p. 5310; 24 Jul 1992 p. 3601; 24 Jun 1994 p. 2831; 3 Sep 1996 p. 4370; 23 Jun 1998 p. 3316; 15 Jun 2001 p. 2973; 31 May 2005 p. 2397; 16 Jun 2006 p. 2111; 15 Jun 2007 p. 2751.]

Part III — Aerial spraying

10. Prohibition on spraying

- (1) The pilot in command of an aircraft shall not cause or permit aerial spraying with any agricultural chemical to be carried out from the aircraft at any time when, having regard to —
- (a) the equipment used for that purpose;
 - (b) the height from which the aerial spraying is carried out;
 - (c) the wind speed or direction of the wind at the place where the aerial spraying is carried out;
 - (d) the proximity of any susceptible crop to the place at which the aerial spraying is carried out;
 - (e) the volatility of the agricultural chemical being used; or
 - (f) any other circumstance contributing to, or likely to contribute to, the possibility of spray drift,

or any combination of those circumstances, it could reasonably be expected that that aerial spraying might cause spray drift onto any susceptible crop.

- (2) The pilot in command of an aircraft shall not cause or permit aerial spraying to be carried out from the aircraft with the agricultural chemicals D.D.T. (dichlorodiphenyltrichloroethane), dieldrin, aldrin or chlordane, unless he has first obtained the consent in writing of the Director and complies with the conditions, if any, which the Director imposes for the purpose at the time of giving his consent.
- (3) The pilot in command of an aircraft shall not cause or permit that aircraft to carry out aerial spraying with any agricultural chemicals unless each individual spray nozzle is fitted with a positive and effective leak-proof cut-off valve.

*[Regulation 10 amended in Gazette 21 Sep 1972 p. 3861;
3 Dec 1976 p. 4869.]*

10A. Inspector's certificate

- (1) A person appointed to be an inspector under section 13A of the Act shall be furnished with a certificate in the form of Form 4 in the First Schedule evidencing his appointment.

[(2) repealed]

*[Regulation 10A inserted in Gazette 28 Jul 1978 p. 2764;
amended in Gazette 30 Dec 2004 p. 6893.]*

11. Form of records

- (1) The records required to be made pursuant to section 12 of the Act shall be made in such a form or forms as is or are approved by the Director.
- (2) A person who makes any record pursuant to section 12 of the Act shall cause a legible copy thereof to be sent to the Director not later than the 21st day of the month following the month in which the record was so made.
- (3) The requirements of subregulation (2) are in addition to those provided by section 13(1) of the Act.

Part IV — Aerial spraying over hazardous areas

12. Aerial spraying over hazardous area

The pilot in command of an aircraft shall not cause or permit aerial spraying to be carried out from the aircraft with any agricultural chemicals prescribed in the Second Schedule within any hazardous area prescribed in the Third Schedule unless —

- (a) he has first obtained the consent in writing of the Director to the carrying out of the aerial spraying; and
- (b) the aerial spraying is carried out in accordance with the conditions, if any, which the Director imposes for the purpose at the time of giving his consent.

13. Transport of agricultural chemicals over hazardous area

The pilot in command of an aircraft equipped for aerial spraying shall not transport in that aircraft any of the agricultural chemicals prescribed in the Second Schedule over hazardous areas prescribed in the Third Schedule.

14. Flying of aircraft over hazardous area

A pilot in command of an aircraft which has been carrying any of the agricultural chemicals prescribed in the Second Schedule shall not fly over a hazardous area prescribed in the Third Schedule unless the aircraft's spray tanks and spraying equipment have been emptied and, together with the aircraft, cleansed of the agricultural chemicals.

Part V — Penalty

15. Penalty

Any person who contravenes or fails to comply with any provisions of these regulations or any order, direction or instruction given or made under these regulations commits an offence and is liable on conviction to a penalty of \$400.

[Regulation 15 amended in Gazette 14 May 2004 p. 1446.]

First Schedule

Form 1

Aerial Spraying Control Act 1966

APPLICATION FOR $\frac{* \text{ THE ISSUE}}{\text{ THE RENEWAL}}$ OF A PILOT CHEMICAL RATING CERTIFICATE

The Director of Agriculture ²,
Department of Agriculture,
Jarrah Road,
SOUTH PERTH.

I, (Surname) (Other Names)
(BLOCK LETTERS)

of, (Postal Address).....

hereby make application for a Pilot Chemical Rating Certificate for the period ending
30 June, 20.... in accordance with the provisions of the *Aerial Spraying Control*
Act 1966, and the regulations thereunder, and submit the following particulars in answer
to the questions hereunder: —

Type and Number of Pilot's Licence held

Is Pilot's Licence endorsed with an agricultural rating under the Air Navigation
Regulations of the Commonwealth?

Have you passed the prescribed examination for qualification for a Pilot Chemical
Rating Certificate?

If so, state date and place of examination

* I enclose herewith the fee prescribed in regulation 4(3)(b).

DATESignature.....

* Delete that which is not applicable.

[Form 1 amended in Gazette 6 Jun 1980 p. 1702; 7 Jul 1989 p. 2116.]

Form 2

Aerial Spraying Control Act 1966

PILOT CHEMICAL RATING CERTIFICATE NUMBER

THIS IS TO CERTIFY THAT
(Name)

of
(Address)

is authorised to act as pilot in command of an aircraft from which aerial spraying is carried out from the date hereof to 30 June, 20..... inclusive subject to, and in accordance with the *Aerial Spraying Control Act 1966*, the *Air Navigation Act 1920*, of the Commonwealth as amended from time to time and the regulations made under the aforesaid Acts.

.....
Director of Agriculture²

(Date)

[Form 3 deleted in Gazette 7 Jul 1989 p. 2116.]

Form 4

Appointment notified in *Government*
Gazette Number

CERTIFICATE OF
AUTHORITY

No.

dated

This is to Certify that

.....

Specimen Signature of Holder

.....
has been appointed to an Inspector under
the *Aerial Spraying Control Act 1966* and
has legal authority to exercise the powers
conferred by the Act upon the holder of
such office.

.....

Minister for Agriculture³

[Form 4 amended in Gazette 28 Jul 1978 p. 2764.]

Second Schedule

Aerial Spraying Control Act 1966

Agricultural chemicals for the purposes of Part IV of these regulations —

MCPA

MCPB

2, 4-D

2, 4-DB

2, 4, 5-T

Dicamba

Fenoprop (2, 4, 5-TP)

4 CPA

Picloram

Third Schedule

Aerial Spraying Control Act 1966

Hazardous Areas:

1. All that land bounded by a circular line 19 kilometres radius from Mount Scott in the Geraldton townsite commencing on the western coast of the State north from Buller River and ending at the Midland Railway line south from Georgina Siding from which point the boundary continues in a straight line to the mouth of the Greenough River.
2. All that land bounded by lines starting from the junction of Ida Street and Anzac Terrace in the Shire of Bassendean, extending east to the south-east corner of Swan Location 3218; thence north to the south-east corner of Swan Location 1339; thence west to the north-west corner of Swan Location 277; thence south to the starting point.
3. The following King District Locations in the Kimberley Division as constituted and defined by section 28 of the *Land Act 1933*⁴ —
203, 205 to 221 each location inclusive, 227 to 229 each location inclusive, 231 to 247 each location inclusive, 249, 251 to 261 each location inclusive, 263, 264, 267 to 271 each location inclusive, 273, 276 to 283 each location inclusive, 288 to 291 each location inclusive, 293 to 296 each location inclusive, 299, 303, 304, 306, 317 to 319 each location inclusive, 323 and 383 to 387 each location inclusive.

*[Third Schedule amended in Gazette 11 Jul 1975 p. 2431;
30 Dec 2004 p. 6893.]*

Fourth Schedule

(Regulation 3A)

1. Registered meat bait products containing 'Sodium Fluoroacetate (1080)'

[Fourth Schedule inserted in Gazette 11 Jun 2002 p. 2766.]

Notes

- ¹ This is a compilation of the *Aerial Spraying Control Regulations 1971* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Aerial Spraying Control Regulations</i> ⁵	31 Mar 1971 p. 1065-70	31 Mar 1971
Untitled regulations	21 Sep 1972 p. 3861	21 Sep 1972
Untitled regulations	11 Jul 1975 p. 2431-2	11 Jul 1975
Untitled regulations	3 Dec 1976 p. 4869	3 Dec 1976
Untitled regulations	31 Dec 1976 p. 5143	31 Dec 1976
Untitled regulations	28 Jul 1978 p. 2764	28 Jul 1978
Untitled regulations	6 Jun 1980 p. 1702	6 Jun 1980
Reprint of the <i>Aerial Spraying Control Regulations</i> authorised 5 Oct 1983 (see <i>Gazette</i> 11 Oct 1983 p. 4137-46) (includes amendments listed above)		
<i>Aerial Spraying Control Amendment Regulations 1989</i>	7 Jul 1989 p. 2116	7 Jul 1989
<i>Aerial Spraying Control Amendment Regulations 1990</i>	3 Aug 1990 p. 3672	3 Aug 1990
<i>Aerial Spraying Control Amendment Regulations 1991</i>	18 Oct 1991 p. 5309-10	18 Oct 1991
<i>Aerial Spraying Control Amendment Regulations 1992</i>	24 Jul 1992 p. 3601	24 Jul 1992
<i>Aerial Spraying Control Amendment Regulations 1993</i>	17 Sep 1993 p. 5042	17 Sep 1993
<i>Aerial Spraying Control Amendment Regulations 1994</i>	24 Jun 1994 p. 2830-1	1 Jul 1994 (see r. 2)
<i>Aerial Spraying Control Amendment Regulations 1995</i>	21 Jul 1995 p. 3059	21 Jul 1995
<i>Aerial Spraying Control Amendment Regulations 1996</i>	3 Sep 1996 p. 4369-70	4 Sep 1996 (see r. 2)

Citation	Gazettal	Commencement
<i>Miscellaneous Amendments Regulations 1997</i> r. 2	6 Jan 1998 p. 33	6 Jan 1998
<i>Aerial Spraying Control Amendment Regulations 1998</i>	23 Jun 1998 p. 3315-16	23 Jun 1998
Reprint of the Aerial Spraying Control Regulations as at 24 Dec 1999 (includes amendments listed above)		
<i>Aerial Spraying Control Amendment Regulations 2001</i>	15 Jun 2001 p. 2973	1 Jul 2001 (see r. 2)
<i>Aerial Spraying Control Amendment Regulations (No. 2) 2001</i>	3 Jul 2001 p. 3280-1	3 Jul 2001
<i>Aerial Spraying Control Amendment Regulations 2002</i>	11 Jun 2002 p. 2765-6	11 Jun 2002
<i>Sentencing Legislation (Short Sentences) Amendment Regulations 2004</i> r. 4	14 May 2004 p. 1445-7	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Aerial Spraying Control Amendment Regulations 2004</i>	30 Dec 2004 p. 6893	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
Reprint 3: The Aerial Spraying Control Regulations 1971 as at 4 Mar 2005 (includes amendments listed above)		
<i>Aerial Spraying Control Amendment Regulations 2005</i>	31 May 2005 p. 2396-7	1 Jul 2005 (see r. 2)
<i>Aerial Spraying Control Amendment Regulations 2006</i>	16 Jun 2006 p. 2111	1 Jul 2006 (see r. 2)
<i>Aerial Spraying Control Amendment Regulations 2007</i>	15 Jun 2007 p. 2751	r. 1 and 2: 15 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Aerial Spraying Control Amendment Regulations 2008</i> r. 3-5 ⁶	20 May 2008 p. 1933	1 Jul 2008 (see r. 2(b))

² Now the Director General of Agriculture. See *Agriculture Act 1988* s. 16.

³ Now the Minister for Agriculture and Forestry.

⁴ *Land Act 1933* repealed. Now see *Land Administration Act 1997* s. 6 and Sch. 1.

⁵ Now known as the *Aerial Spraying Control Regulations 1971*; citation changed (see note under r. 1).

⁶ On the date as at which this compilation was prepared, the *Aerial Spraying Control Amendment Regulations 2008* r. 3-5 had not come into operation. They read as follows:

“

3. The regulations amended

The amendments in these regulations are to the *Aerial Spraying Control Regulations 1971*.

4. Regulation 4 amended

Regulation 4(3)(b) is amended by deleting “\$11.50.” and inserting instead —

“ \$11.90. ”.

5. Regulation 9 amended

Regulation 9(2)(b) is amended by deleting “\$21.50” and inserting instead —

“ \$22.20 ”.

”.