

# Remaking the Pesticides Regulation 1995: Frequently asked questions

## 1. What does the Pesticides Regulation do?

The NSW Pesticides Regulation 1995 provides for:

- **mandatory training** – (see *Question 4* below)
- **mandatory record-keeping** – (see *Question 5*)
- **mandatory notification of pesticide use** – (see *Question 6*)
- **aerial licensing** – it sets the fees for licence applications, details the particulars to accompany applications, prescribes the qualifications for the issuing of a licence, and sets out particulars relating to records.
- **penalties** (including penalties for offences under the Pesticides Act) and **fees** for regulated activities.
- **administrative matters**, notably definitions such as relevant standards for defining prohibited pesticide residuals in agricultural produce.

## 2. Why is the Regulation being remade?

The *Subordinate Legislation Act 1989* provides for the staged repeal of statutory rules, including regulations, every five years.

The Regulation was due to be repealed in 2005 but permission was granted to postpone the repeal of the existing Pesticides Regulation until 1 September 2009. The postponements recognised that a substantial part of the Regulation had been made within the last few years so much of its content is relatively new.

As the Regulation contains provisions that prescribe pesticide user training, record-keeping and the notification of pesticide use (requirements that help to reduce the risks associated with the use of pesticides to human health, the environment, property, industry and trade), it is important that it continues to operate and not be allowed to lapse.

## 3. Is the proposed new Regulation changing anything?

DECC is only proposing minor changes to the Regulation in order to streamline the Regulation's operation so that it is more effective and efficient. It is also proposing to refine the wording and layout of the Regulation so that it is easier to read, refinements which will not change the legal intent of the Regulation.

In summary, the following changes are proposed:

### **Training**

- Repeal of expired transitional provisions for training
- Change the small use defence to training to operate instead as an exemption to the training requirement
- Update the references to the national vocational education accreditation council

### **Record-keeping**

- Rewrite the record-keeping provisions into plain English
- Increase the penalty for certain record-keeping offences so that they are in line with similar offences under the *Protection of the Environment Operations Act 1997*

## **Restricted pesticides**

- Repeal of the fee for an application for a certificate to authorise the use or possession of a restricted pesticide

## **Aerial pesticide applicator licensing**

- Removal of references to the NSW aerial applicators exam as it is no longer offered

## **4. What are the Regulation's training requirements?**

Since 1 September 2005, training in the use of pesticides has been compulsory for most people who use pesticides in their job or business. The main exception to this is if a pesticide user satisfies the requirements of the small use exemption/defence (see *Question 7* for more information).

Most users are expected to achieve specific national units of competency in chemical use at Australian Qualifications Framework Level 3. Separate training requirements apply to aerial pesticide applicators and pest management technicians (pest controllers) and fumigators licensed by WorkCover NSW. For more details about this and the training provisions go to DECC's [training](#) webpage.

The changes that are proposed to the current training requirements include:

- the repeal of transitional provisions that have expired
- change of a provision that currently operates as a defence to proceedings brought against a person for not being trained into an exemption to the training requirement, thus preventing confusion in the community about the operation of this provision.

It is also proposed that the notice of units of competency approved under clause 8 of the Regulation be updated to reflect changes to relevant units in the new national training package and clarify the circumstances in which a particular level of competency should be achieved.

## **5. What are the Regulation's record-keeping requirements?**

Since July 2002, most people who use pesticides in their job or business are required to keep a record of their pesticide use. However, those who satisfy all of the requirements of the small use exemption do not need to record such uses (see *Question 7* for information about the small use exemption/defence).

For more information about the record keeping provisions, go to DECC's pesticide [record-keeping](#) webpage.

The main change to record-keeping proposed by the 2009 Regulation is an increase in some of the penalties imposed for breaches of the requirements. This is to bring them into line with similar offences under the *Protection of the Environment Operations Act 1997*.

The penalties relate to the requirement:

- to make records relating to the use of pesticides for commercial and occupational purposes (clause 11B)
- to make records relating to the use of pesticides in connection with agricultural, farming or forestry operations (clause 11C)
- not to make any statement, or include any information in a record, that is false or misleading (clause 11F).

It is proposed to increase the penalties to \$750 for individuals and \$1500 for corporations, an increase of between \$350 and \$550 for individuals and \$700 and \$1100 for corporations.

## **6. What are the Regulation's requirements for notification of pesticide use?**

Since February 2007, it has been compulsory for the following groups to give notice of pesticide use:

- **Public authorities**, including NSW Government departments, local councils and county councils need to develop a notification plan describing how they will provide the public with notice about their pesticide use in outdoor public places, such as parks and ovals, and those near sensitive places, such as schools and nursing homes.
- **People who organise a professional pesticide treatment** by a pest management technician (urban pest controller) in the common areas of multiple occupancy residential complexes need to advise residents prior to pesticide use in these areas. These include property and strata managers and managing agents.
- **Pest management technicians** who apply pesticides in the common areas of multiple occupancy residential complexes need to give residents notice while they are using pesticides in these areas. Additionally, from 1 September 2009, urban pest controllers will also be required to notify those responsible for sensitive places when they propose to spray or inject liquid pesticides outdoors on an adjoining property.

No changes are proposed to the notification requirements.

For more information about the notification requirements, go to DECC's [pesticide notification](#) webpage.

## **7. What is the small use exemption/defence?**

The record-keeping and training requirements do not apply to the use of pesticides that are:

- ordinarily used in the home or garden, and
- widely available to the general public at retail outlets, and
- being used in small quantities, that is –
  - for outdoors use, in quantities of no more than 5 litres/5 kilograms of concentrated product or 20 litres/20 kilograms of the ready-to-use product, or
  - for indoors use, in quantities of no more than 1 litre/1 kilogram of concentrated product or 5 litres/5 kilograms of the ready-to-use product, and
- being applied by hand or using hand-held equipment only.

## **8. Why isn't the Pesticides Act being reviewed?**

DECC considers that it would be prudent to await the outcomes of developments at the national level before reviewing the Pesticides Act. In particular, the Council of Australian Governments recently requested a proposal for a single national framework for regulating agricultural and veterinary chemicals in Australia. The proposal is to be considered in the first half of 2010 and is expected to lead to changes to the *Pesticides Act 1999* and the Pesticides Regulation in subsequent years.

## **9. When will the Pesticides Act be reviewed?**

The Pesticides Act will be reviewed once developments at the national level have been finalised.

## **10. How can I make comments?**

You can send us your own comments or contribute comments through your organisation. Submissions need to be in writing and should be sent to:

Manager, Chemicals Policy  
Department of Environment and Climate Change NSW  
PO Box A290  
Sydney South NSW 1232

Submissions may also be emailed to [pesticides.regulation@environment.nsw.gov.au](mailto:pesticides.regulation@environment.nsw.gov.au)

The closing date for all comments is **Friday 17 April 2009**.

**11. Where can I find out more information about the proposed Regulation?**

Call DECC's Environment Line on 131 555 (for the cost of a local call from anywhere in NSW).

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