Queensland

Pest Management Act 2001

Current as at 15 December 2014

Queensland

Pest Management Act 2001

Contents

		Page
Part 1	**Preliminary**	
Division 1	**Introduction**	
1	Short title	7
2	Commencement	7
3	Act binds all persons	7
4	Main object of Act	7
5	Definitions	8
5A	Meaning of fumigant	8
Division 2	**Application**	
6	Definitions for div 2	9
7	Non-application of Act	9
8	Whether pest control activity is used in primary production	11
9	Pest control activities using household pesticides	12
Division 3	**Exemptions**	
10	Limited exemptions under regulation	12
Part 2	**Licences**	
Division 1	**Licences generally**	
11	Licence is required to carry out pest management activity	12
12	Restriction on application for licence	13
13	Transfer of licence prohibited	13
Division 2	**Suitability to hold licences**	
14	Suitability of person to hold licence	13
15	Requirement to undergo health assessment	14
16	Applicant failing to undergo health assessment	15
17	Use of assessment report	15
18	Payment for health assessment and report	16
Division 3	**Applications for licences**	

19	Requirements about application for licence	16
20	Further information or documents to support application for licence	17
Division 4	**Decisions about applications for licences**	
21	Decision about application for licence	17
22	Failure to decide application	18
23	Further consideration of application for licence	18
Division 5	**Issue of licences**	
24	Form of licence	20
25	Term of licence	20
Division 6	**Conditions of licences**	
26	Conditions of licence	21
27	Contravention of condition	21
Division 7	**Renewals of licences**	
28	Notice of imminent expiry of licence	22
29	Requirements about application for renewal of licence	22
30	Further information or documents to support application for renewal	22
31	Decision about application for renewal	23
32	Expiring licence continues in force	23
Division 8	**Variation of licences**	
Subdivision 1	**Variation on chief executive's initiative**	
33	Varying licence—chief executive's initiative	24
Subdivision 2	**Applications for variation**	
34	Varying licence—application by pest management technician	25
35	Further information or documents to support application for variation	25
36	Decision about application for variation of licence	26
37	Failure to decide application for variation of licence	26
38	Further consideration of application for variation	27
Subdivision 3	**Recording variations**	
39	Varied licence to be produced and new licence issued	28
Division 9	**Replacement of licences**	
40	Application for replacement of licence	29
41	Decision about application for replacement of licence	29
Division 10	**Surrender of licences**	
42	Surrender of licence	30
Division 11	**Suspension and cancellation of licences**	
43	Grounds for suspension or cancellation	30

44	Show cause notice	31
45	Representations about show cause notice	32
46	Ending show cause process without further action	32
47	Suspension or cancellation	32
48	Return of cancelled or suspended licence to chief executive	33
49	Immediate suspension of licence	33
Division 12	**Offences**	
50	Holding out while unlicensed	35
51	When pest management technician etc. must not permit or require another person to carry out a pest management activity	35
52	Failure to supervise trainee	36
Division 13	**Notices to be given to chief executive**	
53	Pest management technician to give chief executive notice about certain events	36
54	Notice of change in circumstances	37
Part 3	**Monitoring, investigation and enforcement**	
Division 1	**Inspectors**	
55	Appointment and qualifications	37
56	Appointment conditions and limit on powers	37
57	Issue of identity card	38
58	Production or display of identity card	38
59	When inspector ceases to hold office	39
60	Resignation	39
61	Return of identity card	39
Division 2	**Powers of inspectors**	
Subdivision 1	**Entry of places**	
62	Power to enter places	40
Subdivision 2	**Procedure for entry**	
63	Consent to entry	42
64	Application for warrant	43
65	Issue of warrant	43
66	Special warrant	44
67	Warrant—procedure before entry	45
68	Stopping motor vehicles	46
Subdivision 3	**Powers after entry**	
69	General powers after entering place	47

70	Failure to help inspector	48
71	Failure to give information	48
Subdivision 4	**Power to seize evidence**	
72	Seizing evidence at a place that may be entered without consent or warrant	49
73	Seizing evidence at a place that may only be entered with consent or warrant	49
74	Securing seized thing	50
75	Tampering with seized thing	50
76	Powers to support seizure	51
77	Receipt for seized thing	51
78	Forfeiture of seized thing	52
79	Forfeiture on conviction	53
80	Dealing with forfeited things etc.	53
81	Return of seized thing	54
82	Access to seized thing	54
Subdivision 5	**Power to obtain information**	
83	Power to require name and address	54
84	Failure to give name or address	55
85	Power to require production of documents	55
86	Failure to produce document	56
87	Failure to certify copy of document	56
88	Power to require information	56
Division 3	**General enforcement matters**	
89	Compliance notice	57
90	Notice of damage	58
91	Compensation	59
92	False or misleading statements	60
93	False or misleading documents	60
94	Obstructing inspector	61
95	Impersonation of inspector	61
96	Dealing with certain things	61
Division 4	**State analysts**	
97	Appointment and qualifications	63
98	Appointment conditions and limit on powers	63
99	When State analyst ceases to hold office	63

100	Resignation	64
101	Analysis	64
102	Certificates must indicate methodology used	64
Part 4	**Reviews**	
Division 1	**Internal review of decisions**	
103	Review process starts with internal review	65
104	Application for review to be made to the chief executive	65
105	Applying for review	65
106	Review decision	66
107	Stay of operation of original decision	66
Division 2	**External review of decisions**	
108	Who may apply for external review	67
Part 5	**Legal proceedings**	
Division 1	**Application**	
114	Application of part	67
Division 2	**Evidence**	
115	Appointments and authority	68
116	Signatures	68
117	Other evidentiary aids	68
Division 3	**Proceedings**	
118	Summary proceedings for offences	70
119	Recovery of costs of investigation	70
120	Application for order for payment of costs under s 119	71
121	Responsibility for acts or omissions of representatives	71
122	Liability of executive officer—particular offences committed by corporation	72
Part 6	**Miscellaneous**	
123	Notifiable incidents	73
124	Protecting officials from liability	74
125	Information may be given to foreign regulatory authorities	74
126	Confidentiality of information about person's health	75
127	Certain information may be disclosed	75
128	Delegation by chief executive	76
129	Approval of forms	76
130	Regulation-making power	76
Part 7	**Saving and transitional provisions for Act No. 103 of 2001**	

Division 1 **Interpretation**

131 Definitions for pt 7 77

Division 2 **Saving and transitional provisions**

132 References to repealed provision 78

133 Existing licences 79

134 First renewal applications for certain licences 79

135 No second renewals of certain licences 80

136 Certain licences not to include activity for timber pests starting on determining day 80

137 Chief executive to give notice to pest management technicians . 81

138 Pending applications 81

139 Action to cancel or suspend an existing licence 82

140 Suspended licence 82

141 Offences 83

142 Things seized 83

143 Appeals 83

Part 8 **Transitional provision for repeal of Act No. 30 of 1987**

145 Non-application of Act to use of timber preservative treatment under authorisation 84

Schedule 1 **Decisions for which information notices must be given** 86

Schedule 3 **Dictionary** 87

Pest Management Act 2001

An Act to provide for the registration of pest control and fumigation activities, and for other purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Pest Management Act 2001*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act binds all persons

(1) This Act binds all persons, including the State.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

4 Main object of Act

(1) The main object of this Act is to protect the public from—

(a) health risks associated with pest control activities and fumigation activities; and

(b) the adverse results of the ineffective control of pests.

(2) The object is to be achieved by—

Authorised by the Parliamentary Counsel

(a) establishing a licensing regime to—

(i) regulate pest control activities and fumigation activities; and

(ii) ensure the activities are carried out by pest management technicians in a safe and competent way; and

(b) providing for compliance with this Act to be monitored and enforced.

5 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

5A Meaning of *fumigant*

(1) A ***fumigant*** is a substance that—

(a) is capable of producing a gas or vapour; and

(b) is ordinarily used to do any of the following when in a gaseous or vaporous state—

(i) kill a pest;

(ii) sterilise grain or seed to prevent germination;

(iii) perform another function prescribed under a regulation for this subparagraph.

(2) However, a substance is not a fumigant if it is—

(a) ordinarily used for household use; and

(b) ordinarily available for purchase in a retail store where groceries are sold; and

(c) packaged in a way it is ordinarily available for purchase in a store mentioned in paragraph (b).

Example of a substance for subsection (2)—

naphthalene packaged as mothballs

Authorised by the Parliamentary Counsel

Division 2 Application

6 Definitions for div 2

In this division—

aerial distribution means spraying, spreading or dispersing, whether intentionally or not, from an aircraft in flight.

agricultural chemical product has the meaning given by the Agvet Code of Queensland, section 4.

household pesticide means a household pesticide under section 7(i).

primary production means the production, storage, or preparation for marketing or export, of agricultural or horticultural products.

7 Non-application of Act

This Act does not apply to the following pest management activities—

(a) a pest control activity carried out by aerial distribution of an agricultural chemical product or of a preparation containing an agricultural chemical product;

Note—

The *Agricultural Chemicals Distribution Control Act 1966* contains provisions about the aerial distribution of agricultural products or preparations containing agricultural products.

(b) a pest control activity being used in primary production, regardless of whether the activity is carried out by the producer or another entity;

Examples for paragraph (b)—

1 spraying pesticide on an agricultural crop by using a motor vehicle with attached spray booms

2 laying baits to protect stockfeed from attack by rats

3 dipping fruit in a pesticide to protect the fruit from damage by insects

Authorised by the Parliamentary Counsel

(c) a fumigation activity carried out on a farming property in primary production;

Examples for paragraph (c)—

1 sterilising soil on a farming property by using a fumigant to prepare the soil for planting an agricultural crop

2 fumigating a grain storage facility on a farming property

(d) a pest control activity being used in relation to processing grain or seed for use as food for animals;

(e) a pest control activity relating to the caring for, or growing of, a plant at a place that is primarily used for recreational or sporting activities;

Example for paragraph (e)—

spraying a bowling green to protect it from damage by insects

(f) a pest control activity that—

(i) relates to using a chemical to treat timber for preservation on a commercial basis; and

(ii) is an environmentally relevant activity under the *Environmental Protection Act 1994*;

Note—

See also section 145 (Non-application of Act to use of timber preservative treatment under authorisation).

(g) a pest control activity being used to control a pest on an animal;

Example for paragraph (g)—

using a pesticide to control fleas or ticks on a dog

(h) a pest control activity carried out by a person at residential premises—

(i) occupied by the person, whether or not the person is the owner of the premises; or

(ii) owned by the person but not occupied by any person;

(i) a pest control activity carried out by a person using only a pesticide (a ***household pesticide***)—

Authorised by the Parliamentary Counsel

(i) ordinarily used for household use; and

(ii) ordinarily available for purchase in a retail store where groceries are sold; and

(iii) packaged in a way the pesticide is ordinarily available for purchase in a store mentioned in subparagraph (ii).

Example of a pesticide for paragraph (i)—

a spray pack of pesticide available for purchase at a supermarket

8 Whether pest control activity is used in primary production

(1) Without limiting section 7(b), a pest control activity is being used in primary production if the activity is being used in relation to an unprocessed product—

(a) while the product is in the form in which it left the place where it was produced; and

(b) until the product is transported to a place where—

(i) it is processed from the form in which it left the place where it was produced into another form; or

(ii) it is stored by a processor before being processed into another form.

Examples for paragraph (b)—

1 wheat until it is transported to a flour mill

2 sugar cane until it is transported to a sugar mill

3 cattle until they are transported to an abattoir

(2) In this section—

processor means a person who processes an agricultural or horticultural product from the form in which it left the place where it was produced into another form.

unprocessed product means an agricultural or horticultural product that is to be processed from the form in which it left the place where it was produced into another form.

Authorised by the Parliamentary Counsel

9 Pest control activities using household pesticides

Despite section 7(i), this Act applies to a pest control activity carried out by a person using a household pesticide as part of a business of providing a pest control activity.

Division 3 Exemptions

10 Limited exemptions under regulation

(1) A regulation may exempt from this Act or any of its provisions all or any of the following—

(a) a particular pest management activity or a type of pest management activity;

(b) the use of a particular fumigant or pesticide;

(c) the use of a particular form or concentration of a fumigant or pesticide;

(d) a particular method of use of a fumigant or pesticide.

(2) An exemption may be given under a regulation only if the activity, use or method could be reasonably expected to pose no, or only a negligible, health risk to any person.

Part 2 Licences

Division 1 Licences generally

11 Licence is required to carry out pest management activity

A person must not carry out a pest management activity unless the person is—

(a) a pest management technician who holds a licence for the activity; or

Authorised by the Parliamentary Counsel

(b) a trainee who is being properly supervised by a pest management technician who holds a licence for the activity.

Maximum penalty—1000 penalty units.

12 Restriction on application for licence

Only an individual may apply for a licence.

13 Transfer of licence prohibited

A licence may not be transferred.

Division 2 Suitability to hold licences

14 Suitability of person to hold licence

(1) In deciding whether a person is a suitable person to hold, or continue to hold, a licence the chief executive may have regard to all of the following—

(a) the person's skills and competency to carry out a pest management activity under the licence;

(b) the person's physical and mental capacity to carry out a pest management activity under the licence;

(c) if the person has held a licence or pest management authority that was affected—

(i) by the imposition of a condition—the nature of the condition and the reason for its imposition; or

(ii) by a suspension or cancellation—the reason for the suspension or cancellation; or

(iii) in another way—the way it was affected and why it was affected;

(d) whether action relating to a pest management activity has been taken against the person under—

Authorised by the Parliamentary Counsel

(i) repealed section 101 of the *Queensland Building and Construction Commission Act 1991*; or

(ii) the repealed *Queensland Building Tribunal Act 2000*, part 5, division 3; or

(iii) the repealed *Commercial and Consumer Tribunal Act 2003*, part 6, division 2; or

(iv) the *Queensland Building and Construction Commission Act 1991*, part 6A or section 97B or 97C;

(e) if the person has a conviction, other than a spent conviction, for a relevant offence, the nature of the offence and the circumstances of its commission;

(f) any other issue relevant to the person's ability to competently and safely carry out a pest management activity.

(2) In this section—

repealed section 101 of the Queensland Building and Construction Commission Act 1991 means section 101 of that Act as in force before the section was omitted by the *Queensland Building Tribunal Act 2000*.

15 Requirement to undergo health assessment

(1) This section applies if the chief executive, in deciding whether a person is a suitable person to hold, or to continue to hold, a licence, or to hold a licence as proposed to be varied under an application under section 34(1), reasonably believes it is necessary to obtain an assessment of the person's physical and mental capacity to carry out a pest management activity under the licence (a ***health assessment***).

(2) The chief executive may require the person to undergo a health assessment by a doctor.

(3) The chief executive must give the person a notice stating—

(a) the reason for the assessment; and

Authorised by the Parliamentary Counsel

(b) the name, position, if any, and qualifications of the doctor who is to conduct the assessment; and

(c) the reasonable place where the assessment is to be conducted; and

(d) the reasonable day and time when the assessment is to be conducted.

(4) A doctor who conducts a health assessment must give the chief executive a written assessment report (an ***assessment report***).

(5) The assessment report must include the doctor's findings about the person's mental and physical capacity to carry out a pest management activity under the licence.

16 Applicant failing to undergo health assessment

(1) This section applies if—

(a) a person who makes an application to the chief executive is required under section 15 to undergo a health assessment; and

(b) the person fails, without reasonable excuse, to undergo the assessment.

(2) The person's application is taken to have been withdrawn.

17 Use of assessment report

(1) An assessment report is not admissible in a proceeding, other than a review started under part 4 (a ***part 4 proceeding***).

(2) A person can not be compelled to produce the report, or to give evidence about the report or its contents, in a proceeding, other than a part 4 proceeding.

(3) Subsections (1) and (2) do not apply if the report is admitted or produced, or evidence about the report or its contents is given, with the consent of the person to whom the report relates.

(4) In this section—

Authorised by the Parliamentary Counsel

assessment report includes a copy of the report, or a part of the report or copy.

18 Payment for health assessment and report

A doctor who conducts a health assessment and prepares an assessment report for the chief executive is entitled to be paid for his or her work by the chief executive.

Division 3 Applications for licences

19 Requirements about application for licence

(1) An application for a licence must—

(a) be made to the chief executive; and

(b) be in the approved form; and

(c) be accompanied by—

(i) the fee prescribed under a regulation; and

(ii) if the application is for a licence under which a fumigation activity may be carried out only in a certain site environment—a declaration of assessment.

(2) A declaration of assessment must be—

(a) in writing; and

(b) signed by an accredited assessor.

(3) In this section—

accredited assessor, for the demonstration of the competence of an applicant for a licence to carry out a fumigation activity in a certain site environment, means a person authorised by a registered training organisation to certify the applicant's competence.

declaration of assessment, for an applicant for a licence under which a fumigation activity may be carried out only in a

Authorised by the Parliamentary Counsel

certain site environment, means a declaration that the applicant is competent to carry out the fumigation activity in the site environment.

20 Further information or documents to support application for licence

(1) The chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within a reasonable period of at least 21 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The chief executive may, in the notice, require the applicant to verify the further information or document by statutory declaration.

(3) The applicant is taken to have withdrawn the application if the applicant does not comply with a requirement under subsection (1) or (2) within the stated period.

Division 4 Decisions about applications for licences

21 Decision about application for licence

(1) The chief executive must consider the application and either grant, or refuse to grant, the application.

(2) The chief executive may grant the application only if the chief executive is satisfied the applicant—

(a) is at least 17 years; and

(b) is a suitable person to hold the licence applied for; and

Note—

See section 14 (Suitability of person to hold licence).

(c) holds a pest management qualification relevant to a pest management activity the applicant intends to carry out under the licence.

Authorised by the Parliamentary Counsel

(3) If the chief executive decides to grant the application, the chief executive must, as soon as practicable, issue the licence applied for to the applicant.

(4) If the chief executive decides to refuse to grant the application, the chief executive must, as soon as practicable, give the applicant an information notice about the decision.

22 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if the chief executive has—

(a) under section 20(1), required the applicant to give the chief executive further information or a document; or

(b) under section 15, required the applicant to undergo a health assessment.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application before the expiry of 60 days after the chief executive receives the further information or document, verified, if required, by statutory declaration, or an assessment report.

(4) This section is subject to section 23.

23 Further consideration of application for licence

(1) This section applies if the chief executive considers more time is needed to make a decision about the application because of the complexity of the matters that need to be considered in deciding the application.

Example of an application likely to raise complex matters—

an application requiring the chief executive to obtain and consider further information about the applicant from a foreign regulatory authority

Authorised by the Parliamentary Counsel

(2) The chief executive may at any time before the final consideration day give notice to the applicant that—

(a) because of the complexity of the matters that need to be considered in deciding the application, the chief executive needs more time to decide the application; and

(b) the period within which the chief executive must decide the application is extended to a day (the ***extended day***) that is 60 days after the final consideration day.

(3) Also, the applicant and chief executive may, at any time before the final consideration day, agree in writing on a day (the ***agreed extended day***) by which the application is to be decided.

(4) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application by the latest of the following days—

(a) if the chief executive has given a notice to the applicant under subsection (2)—the extended day;

(b) if there is an agreement between the applicant and chief executive under subsection (3)—the agreed extended day;

(c) if both subsections (2) and (3) apply—the later of the extended day and the agreed extended day.

(5) In this section—

final consideration day means the latest of the following days—

(a) the day that is 60 days after receipt of the application;

(b) if the chief executive has, under section 20, required the applicant to give the chief executive further information or a document—the day that is 60 days after the chief executive receives the further information or document verified, if required, by statutory declaration;

(c) if the chief executive has, under section 15, required the applicant to undergo a health assessment—the day that

Authorised by the Parliamentary Counsel

is 60 days after the chief executive receives an assessment report.

Division 5 Issue of licences

24 Form of licence

(1) A licence must be in the approved form.

(2) The licence must—

(a) contain a recent photograph of the pest management technician; and

(b) state the following particulars—

(i) the pest management technician's name;

(ii) the licence number;

(iii) the date of issue of the licence;

(iv) the date the licence expires;

(v) each pest management activity that may be carried out under the licence;

(vi) if a fumigation activity may be carried out under the licence only in a certain site environment, the site environment;

(vii) each condition imposed under section 26(2).

25 Term of licence

The chief executive may issue a licence for a period up to 5 years.

Authorised by the Parliamentary Counsel

Division 6 Conditions of licences

26 Conditions of licence

(1) A licence is subject to the following conditions—

(a) the pest management technician may carry out only a pest management activity stated in the technician's licence;

(b) if a fumigation activity may be carried out under the licence only in a certain site environment, the pest management technician may carry out the activity only in the environment;

(c) the pest management technician must not use a fumigant or pesticide that is an agricultural chemical product under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* in contravention of section 13 or 13A of that Act.

(2) The chief executive may issue a licence on additional conditions the chief executive reasonably considers necessary or desirable to protect persons from health risks associated with a pest management activity.

(3) If the chief executive decides to issue a licence on additional conditions, the chief executive must, as soon as practicable, give the applicant for the licence an information notice about the decision.

27 Contravention of condition

(1) A pest management technician must not contravene a condition of the technician's licence.

Maximum penalty—200 penalty units.

(2) The penalty under subsection (1) may be imposed whether or not the licence is cancelled or suspended because of the contravention.

Authorised by the Parliamentary Counsel

Division 7 Renewals of licences

28 Notice of imminent expiry of licence

The chief executive must give a pest management technician notice of the imminent expiry of the technician's licence at least 60 days before the expiry.

29 Requirements about application for renewal of licence

(1) A pest management technician may apply to the chief executive for renewal of the technician's licence within 60 days before the licence expires.

(2) However, if the technician receives a notice under section 28 more than 60 days before the licence expires, the technician may apply to the chief executive for renewal at any time after the technician receives the notice and before the licence expires.

(3) The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

30 Further information or documents to support application for renewal

(1) The chief executive may, by notice given to a pest management technician, require the technician to give the chief executive, within a reasonable period of at least 21 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The chief executive may, in the notice, require the technician to verify the further information by statutory declaration.

(3) The technician is taken to have withdrawn the application if the technician does not comply with a requirement under subsection (1) or (2) within the stated period.

Authorised by the Parliamentary Counsel

(4) A notice under subsection (1) must be given to the technician within 60 days after the chief executive receives the application.

31 Decision about application for renewal

(1) The chief executive must consider the application and either grant, or refuse to grant, the application.

(2) The chief executive may grant the application only if the chief executive is satisfied the pest management technician is a suitable person to continue to hold a licence.

Note—

See section 14 (Suitability of person to hold licence).

(3) If the chief executive decides to grant the application, the chief executive must, as soon as practicable, issue a new licence to the technician.

(4) If the chief executive decides to refuse to grant the application, the chief executive must, as soon as practicable, give the technician an information notice about the decision.

(5) If the chief executive decides to grant the application before the expiring licence expires, the new licence must take effect from the expiry of the expiring licence.

32 Expiring licence continues in force

(1) If a pest management technician applies for a renewal under section 29, the technician's licence continues in force from the day it would, apart from this section, have expired until—

(a) if the application is granted—a new licence is issued to the technician; or

(b) if the application is withdrawn—the day the application is withdrawn; or

(c) if the application is refused—the day the information notice about the decision is given to the technician.

Authorised by the Parliamentary Counsel

(2) Subsection (1) does not apply if the licence is earlier suspended or cancelled.

Division 8 Variation of licences

Subdivision 1 Variation on chief executive's initiative

33 Varying licence—chief executive's initiative

(1) The chief executive may vary a licence if the chief executive reasonably believes it is necessary or desirable to do so to protect persons from health risks associated with a pest management activity that may be carried out under the licence.

(2) A variation must relate only to—

(a) a pest management activity that may be carried out under the licence; or

(b) a condition of the licence.

(3) Before varying the licence, the chief executive must—

(a) give the pest management technician a notice (a ***notice of intention***) stating—

(i) particulars of the proposed variation; and

(ii) the grounds for the proposed variation; and

(iii) an outline of the facts and circumstances forming the basis for the grounds; and

(iv) that the technician may make a written submission to the chief executive about the proposed variation before a stated day; and

(b) have regard to any written submissions made to the chief executive by the technician before the stated day.

Authorised by the Parliamentary Counsel

(4) The stated day must not be earlier than 21 days after the notice is given to the technician.

(5) If, after giving the technician the notice of intention and taking into account any written submissions made by the technician, the chief executive decides to vary the technician's licence, the chief executive must, as soon as practicable, give the technician an information notice about the decision.

(6) The variation takes effect on the day the information notice is given and does not depend on the issue of a new licence mentioned in section 39(2).

Subdivision 2 Applications for variation

34 Varying licence—application by pest management technician

(1) A pest management technician may apply to the chief executive to vary the technician's licence in relation to—

(a) a pest management activity that may be carried out under the licence; or

(b) a condition of the licence.

(2) The application must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

35 Further information or documents to support application for variation

(1) The chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within a reasonable period of at least 21 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

Authorised by the Parliamentary Counsel

(2) The chief executive may, in the notice, require the applicant to verify the further information or document by statutory declaration.

(3) The applicant is taken to have withdrawn the application if the applicant does not comply with a requirement under subsection (1) or (2) within the stated period.

36 Decision about application for variation of licence

(1) The chief executive must consider the application and either grant, or refuse to grant, the application.

(2) The chief executive may grant the application only if the chief executive is satisfied the applicant—

(a) is a suitable person to hold the licence as proposed to be varied; and

Note—

See section 14 (Suitability of person to hold licence).

(b) if relevant, holds a pest management qualification relevant to the pest management activity the applicant intends to carry out under the licence as proposed to be varied.

(3) If the chief executive decides to grant the application, the chief executive must, as soon as practicable, give the applicant a notice (a ***variation notice***) stating the decision.

(4) If the chief executive decides to refuse to grant the application, the chief executive must, as soon as practicable, give the applicant an information notice about the decision.

(5) A variation to the licence takes effect on the day the variation notice is given to the applicant.

37 Failure to decide application for variation of licence

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

Authorised by the Parliamentary Counsel

(2) Subsection (3) applies if the chief executive has—

(a) under section 35(1), required the applicant to give the chief executive further information or a document; or

(b) under section 15, required the applicant to undergo a health assessment.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application before the expiry of 60 days after the chief executive receives the further information or document, verified, if required, by statutory declaration, or an assessment report.

(4) This section is subject to section 38.

38 Further consideration of application for variation

(1) This section applies if the chief executive considers the chief executive needs more time to make a decision about the application because of the complexity of the matters that need to be considered in deciding the application.

Example of an application likely to raise complex matters—

an application requiring the chief executive to obtain and consider further information about the applicant from a foreign regulatory authority

(2) The chief executive may at any time before the final consideration day give notice to the applicant that—

(a) because of the complexity of the matters that need to be considered in deciding the application, the chief executive needs more time to decide the application; and

(b) the period within which the chief executive must decide the application is extended to a day (the ***extended day***) that is 60 days after the final consideration day.

(3) Also, the applicant and chief executive may at any time before the final consideration day agree in writing on a day (the ***agreed extended day***) by which the application is to be decided.

Authorised by the Parliamentary Counsel

(4) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application by the latest of the following days—

(a) if the chief executive has given a notice to the applicant under subsection (2)—the extended day;

(b) if there is an agreement between the applicant and chief executive under subsection (3)—the agreed extended day;

(c) if both subsections (2) and (3) apply—the later of the extended day and the agreed extended day.

(5) In this section—

final consideration day means the latest of the following days—

(a) the day that is 60 days after receipt of the application;

(b) if the chief executive has, under section 35, required the applicant to give the chief executive further information or a document—the day that is 60 days after the chief executive receives the further information or document, verified, if required, by statutory declaration;

(c) if the chief executive has, under section 15, required the applicant to undergo a health assessment—the day that is 60 days after the chief executive receives an assessment report.

Subdivision 3 Recording variations

39 Varied licence to be produced and new licence issued

(1) If the chief executive decides to vary a licence under this division, the pest management technician must return the licence to the chief executive within 7 days after receiving an information notice under section 33(5) or a variation notice under section 36(3), unless the technician has a reasonable excuse.

Authorised by the Parliamentary Counsel

Maximum penalty—10 penalty units.

(2) When the chief executive receives the licence, the chief executive must, as soon as practicable, issue a new licence to the technician.

(3) Failure to issue a new licence recording the variation, does not affect the validity of the variation.

Division 9 Replacement of licences

40 Application for replacement of licence

(1) A pest management technician may apply for replacement of the technician's licence if the licence has been damaged, destroyed, lost or stolen.

(2) The application must—

(a) be made to the chief executive; and

(b) include information about the circumstances in which the licence was damaged, destroyed, lost or stolen; and

(c) be accompanied by the fee prescribed under a regulation.

41 Decision about application for replacement of licence

(1) The chief executive must consider the application and either grant, or refuse to grant, the application.

(2) The chief executive must grant the application if the chief executive is satisfied the licence has been destroyed, lost or stolen, or damaged in a way to require its replacement.

(3) If the chief executive decides to grant the application, the chief executive must, as soon as practicable, issue another licence to the applicant to replace the damaged, destroyed, lost or stolen licence.

Authorised by the Parliamentary Counsel

(4) If the chief executive decides to refuse to grant the application, chief executive must, as soon as practicable, give the applicant an information notice about the decision.

Division 10 Surrender of licences

42 Surrender of licence

(1) A pest management technician may surrender the technician's licence by notice given to the chief executive.

(2) The surrender takes effect—

(a) on the day the notice is given to the chief executive; or

(b) if a later day of effect is stated in the notice—on the later day.

(3) The technician who surrenders the licence must return the licence to the chief executive within 7 days after the day the surrender takes effect, unless the technician has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 11 Suspension and cancellation of licences

43 Grounds for suspension or cancellation

Each of the following is a ground for suspending or cancelling a licence—

(a) the pest management technician is not, or is no longer, a suitable person to hold, or continue to hold, the licence;

Note—

See section 14 (Suitability of person to hold licence).

(b) the pest management technician has failed, without reasonable excuse, to undergo a health assessment the

Authorised by the Parliamentary Counsel

chief executive has required the technician to undergo under section 15(2);

(c) the pest management technician has contravened a provision of this Act;

(d) the pest management technician has contravened a condition of the licence;

(e) the pest management technician has carried out a pest management activity in a fraudulent or improper way;

Example of fraudulent way—

purporting to carry out a pest management activity and, for that purpose, using water or another substance instead of an appropriate pesticide

(f) the licence was issued because of a materially false or misleading representation or declaration.

44 Show cause notice

(1) This section applies if the chief executive believes a ground exists to suspend or cancel a licence, and—

(a) the pest management technician has not been given, and it is not intended to give the technician, a compliance notice about a matter to which the ground relates; or

(b) the pest management technician has been given a compliance notice about a matter to which the ground relates and the technician has failed, without a reasonable excuse, to comply with the notice.

(2) The chief executive must give the pest management technician a notice under this section (a ***show cause notice***).

(3) The show cause notice must state each of the following—

(a) the action (the ***proposed action***) the chief executive proposes taking under this division;

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances forming the basis for the grounds;

Authorised by the Parliamentary Counsel

(d) if the proposed action is suspension of the licence—the proposed suspension period;

(e) an invitation to the technician to show within a stated period (the ***show cause period***) why the proposed action should not be taken.

(4) The show cause period must be a period ending at least 21 days after the show cause notice is given to the technician.

45 Representations about show cause notice

(1) The pest management technician may make written representations about the show cause notice to the chief executive in the show cause period.

(2) The chief executive must consider all written representations (the ***accepted representations***) made under subsection (1).

46 Ending show cause process without further action

(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the licence.

(2) The chief executive must not take any further action about the show cause notice.

(3) The chief executive must, as soon as practicable, give the pest management technician notice that no further action will be taken about the show cause notice.

47 Suspension or cancellation

(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive—

(a) still believes a ground exists to suspend or cancel the licence; and

Authorised by the Parliamentary Counsel

(b) believes suspension or cancellation of the licence is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The chief executive may—

(a) if the proposed action stated in the show cause notice was to suspend the licence for a stated period—suspend the licence for not longer than the stated period; or

(b) if the proposed action stated in the show cause notice was to cancel the licence—either cancel the licence or suspend it for a period.

(4) The chief executive must, as soon as practicable, give the pest management technician an information notice about the decision.

(5) The decision takes effect on the later of the following days—

(a) the day the information notice is given to the pest management technician;

(b) the day stated in the information notice for that purpose.

48 Return of cancelled or suspended licence to chief executive

(1) This section applies if the chief executive has cancelled or suspended a licence and given the pest management technician an information notice about the decision.

(2) The technician must return the licence to the chief executive within 7 days after receiving the information notice, unless the technician has a reasonable excuse.

Maximum penalty—10 penalty units.

49 Immediate suspension of licence

(1) The chief executive may suspend a licence immediately if the chief executive believes—

Authorised by the Parliamentary Counsel

(a) a ground exists to cancel the licence; and

(b) it is necessary, in the interests of the health or safety of any person, to immediately suspend the licence until the formal cancellation procedure is completed.

(2) The suspension—

(a) must be effected by an information notice given to the pest management technician about the decision to suspend the technician's licence together with a show cause notice; and

Note—

See section 44 (Show cause notice).

(b) operates immediately the notices are given; and

(c) continues to operate until the earliest of the following happens—

(i) the chief executive cancels the remaining period of the suspension;

(ii) the show cause notice is finally dealt with;

(iii) 60 days have passed since the notices were given to the technician.

(3) Subsection (4) applies if—

(a) a suspension under this section stops because—

(i) the chief executive cancels the remaining period of the suspension; or

(ii) the show cause notice is finally dealt with by a decision being made not to cancel the licence; or

(iii) 60 days have passed since the notices mentioned in subsection (2)(a) were given to the technician; and

(b) the pest management technician has returned the licence to the chief executive under section 48.

(4) The chief executive must, as soon as practicable, give the licence to the technician.

Authorised by the Parliamentary Counsel

Division 12 Offences

50 Holding out while unlicensed

(1) A person who is not licensed to carry out a pest management activity must not advertise or hold out that the person carries out the activity.

Maximum penalty—1000 penalty units.

Note—

This provision is an executive liability provision—see section 122.

(2) Subsection (3) applies to a person who is not licensed to carry out a pest management activity, but carries on a business that provides the pest management activity and the activity is carried out by a pest management technician who is licensed to carry out the activity.

(3) Despite subsection (1), the person does not commit an offence under that subsection merely because the person advertises or holds out that the person carries on a business of providing the activity.

51 When pest management technician etc. must not permit or require another person to carry out a pest management activity

(1) This section applies to a pest management technician, or another person carrying on a business of providing a pest management activity, (the ***relevant person***).

(2) The relevant person must not permit or require another person to carry out a pest management activity unless the other person is—

(a) a pest management technician who is authorised to carry out the activity under the technician's licence; or

(b) a trainee who is properly supervised in carrying out the activity.

Maximum penalty—1000 penalty units.

Authorised by the Parliamentary Counsel

Note—

This provision is an executive liability provision—see section 122.

52 Failure to supervise trainee

(1) This section applies if a pest management technician, or another person carrying on a business of providing a pest management activity, (the ***employer***) employs or otherwise engages a trainee to carry out a pest management activity.

(2) The employer must ensure the trainee is properly supervised while the trainee is carrying out the activity.

Maximum penalty—200 penalty units.

Division 13 Notices to be given to chief executive

53 Pest management technician to give chief executive notice about certain events

(1) This section applies if—

(a) a pest management technician is convicted of a relevant offence; or

(b) a pest management authority held by a pest management technician is suspended or cancelled.

(2) The technician must give the chief executive a notice under subsections (3) and (4) about the conviction, cancellation or suspension within 21 days after the technician becomes aware of it.

Maximum penalty—50 penalty units.

(3) The notice must be in the approved form.

(4) Information in the notice must, if the approved form requires, be verified by a statutory declaration.

Authorised by the Parliamentary Counsel

54 Notice of change in circumstances

A pest management technician must, within 21 days after the happening of a change in the technician's circumstances prescribed under a regulation, give the chief executive notice of the change.

Maximum penalty—10 penalty units.

Part 3 Monitoring, investigation and enforcement

Division 1 Inspectors

55 Appointment and qualifications

(1) The chief executive may appoint any of the following persons as an inspector—

(a) an officer of the department;

(b) a health service employee.

(2) However, the chief executive may appoint a person as an inspector only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

56 Appointment conditions and limit on powers

(1) An inspector holds office on any conditions stated in—

(a) the inspector's instrument of appointment; or

(b) a signed notice given to the inspector; or

(c) a regulation.

Authorised by the Parliamentary Counsel

(2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector's powers under this Act.

(3) In this section—

signed notice means a notice signed by the chief executive.

57 Issue of identity card

(1) The chief executive must issue an identity card to each inspector.

(2) The identity card must—

(a) contain a recent photo of the inspector; and

(b) contain a copy of the inspector's signature; and

(c) identify the person as an inspector under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

58 Production or display of identity card

(1) In exercising a power under this Act in relation to a person, an inspector must—

(a) produce the inspector's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.

(3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 62(1)(b) or (2).

Authorised by the Parliamentary Counsel

59 When inspector ceases to hold office

(1) An inspector ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the inspector ceases to hold office;

(c) the inspector's resignation under section 60 takes effect.

(2) Subsection (1) does not limit the ways an inspector may cease to hold office.

(3) In this section—

condition of office means a condition on which the inspector holds office.

60 Resignation

(1) An inspector may resign by signed notice given to the chief executive.

(2) However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.

61 Return of identity card

A person who ceases to be an inspector must return the person's identity card to the chief executive within 21 days after ceasing to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Authorised by the Parliamentary Counsel

Division 2 Powers of inspectors

Subdivision 1 Entry of places

62 Power to enter places

(1) An inspector may enter a place if—

(a) its occupier consents to the entry; or

(b) it is a public place and the entry is made when the place is open to the public; or

(c) the entry is authorised by a warrant; or

(d) it is a place where a pest management technician carries on business under the technician's licence and the place is open for carrying on the business or otherwise open for entry; or

(e) it is a place where a person carries on a business of providing pest management activities by employing pest management technicians to conduct the activities and the place is open for carrying on business or otherwise open for entry; or

(f) it is a building site; or

(g) the inspector reasonably believes a pest management activity is being carried on by a pest management technician at the place and the place is open for carrying on business or otherwise open for entry.

(2) For the purpose of asking the occupier of a place for consent to enter, an inspector may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Authorised by the Parliamentary Counsel

(3) Subsection (4) applies if an individual carries on business at a place and also resides at the place.

(4) Subsection (1)(d), (e) or (g) does not authorise an inspector to enter a part of the place in which the individual resides.

(5) In this section—

building includes a structure of any type and part of a building or structure.

building site means a place, other than a place where an individual resides, where building work is being, or is about to be, carried out and at which a sign must, under the *Queensland Building and Construction Commission Act 1991*, section 52, be exhibited.

building work means—

(a) an activity (a ***building activity***) of—

(i) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building; or

(ii) providing airconditioning, drainage, heating, lighting, sewerage, ventilation or water supply for a building; or

(b) excavating or filling—

(i) for, or incidental to, a building activity; or

(ii) that may adversely affect the stability of a building, whether on the land on which the building is situated or on adjoining land; or

(c) supporting (whether vertically or laterally) land for a building activity.

Authorised by the Parliamentary Counsel

Subdivision 2 Procedure for entry

63 Consent to entry

(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place under section 62(1)(a).

(2) Before asking for the consent, the inspector must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

(a) the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) the occupier gives the inspector consent to enter the place and exercise powers under this division; and

(d) the time and date the consent was given.

(5) If the occupier signs an acknowledgment, the inspector must immediately give a copy to the occupier.

(6) If—

(a) an issue arises in a proceeding about whether the occupier consented to the entry; and

(b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Authorised by the Parliamentary Counsel

64 Application for warrant

(1) An inspector may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

65 Issue of warrant

(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of an offence against this Act; and

(b) the evidence is at the place, or may be at the place within the next 7 days.

(2) The warrant must state—

(a) that a stated inspector may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry; and

(ii) exercise the inspector's powers under this division; and

(b) the offence for which the warrant is sought; and

(c) the evidence that may be seized under the warrant; and

(d) the hours of the day or night when the place may be entered; and

Authorised by the Parliamentary Counsel

(e) the date, within 14 days after the warrant's issue, the warrant ends.

66 Special warrant

(1) An inspector may apply for a warrant (a ***special warrant***) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the inspector's remote location.

(2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the inspector—

(a) the magistrate must tell the inspector—

(i) what the terms of the warrant are; and

(ii) the date and time the warrant was issued; and

(b) the inspector must complete a form of warrant (a ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the terms of the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the

Authorised by the Parliamentary Counsel

exercise of the other powers stated in the warrant issued by the magistrate.

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the inspector completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) If—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and

(b) the warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

67 Warrant—procedure before entry

(1) This section applies if an inspector named in a warrant issued under this division for a place is intending to enter the place under the warrant.

(2) Before entering the place, the inspector must do or make a reasonable attempt to do the following—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspector's identity card or other document evidencing the appointment;

(b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 66(6), a copy of the facsimile warrant or warrant form;

Authorised by the Parliamentary Counsel

(c) tell the person the inspector is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the inspector immediate entry to the place without using force.

(3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

68 Stopping motor vehicles

(1) This section applies if an inspector suspects on reasonable grounds, or is aware, that a thing in or on a motor vehicle may provide evidence of the commission of an offence against this Act.

(2) For the purpose of exercising the powers of an inspector under this division, an inspector may—

(a) if the motor vehicle is moving—ask or signal the person in control of the motor vehicle to stop the motor vehicle; and

(b) whether or not the motor vehicle is moving—ask or signal the person in control of the motor vehicle to bring the motor vehicle to a convenient place within a reasonable distance to allow the inspector to exercise the inspector's powers under this division.

(3) Despite section 58, for the purpose of exercising a power under subsection (2)(a), the inspector must—

(a) have with him or her the inspector's identity card; and

(b) produce the identity card for the person's inspection immediately after the motor vehicle is stopped.

(4) The person must comply with the inspector's request or signal, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Authorised by the Parliamentary Counsel

(5) If the motor vehicle is stopped, the inspector may direct the person—

(a) not to move the motor vehicle until the inspector has exercised the inspector's powers under this division; or

(b) to move the motor vehicle to, and keep it at, a stated reasonable place to allow the inspector to exercise the inspector's powers under this division.

(6) When giving the direction, the inspector must warn the person it is an offence not to comply with the direction, unless the person has a reasonable excuse.

(7) The person must comply with the inspector's direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (7)—50 penalty units.

Subdivision 3 Powers after entry

69 General powers after entering place

(1) This section applies to an inspector who enters a place.

(2) However, if an inspector enters a place to get the occupier's consent to enter a place, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

(3) For monitoring or enforcing compliance with this Act, the inspector may—

(a) search any part of the place; or

(b) inspect, photograph or film any part of the place or anything at the place; or

(c) take a thing at the place for analysis; or

(d) take an extract from, or copy, a document at the place; or

(e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this division; or

Authorised by the Parliamentary Counsel

(f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (e); or

(g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector find out whether this Act is being complied with.

(4) When making a requirement under subsection (3)(f) or (g), the inspector must warn the person it is an offence not to comply with the requirement unless the person has a reasonable excuse.

70 Failure to help inspector

(1) A person required to give reasonable help under section 69(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) If an individual is required under section 69(3)(f) to give information or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

71 Failure to give information

(1) A person of whom a requirement is made under section 69(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Authorised by the Parliamentary Counsel

Subdivision 4 Power to seize evidence

72 Seizing evidence at a place that may be entered without consent or warrant

An inspector who enters a place that may be entered under this division without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

73 Seizing evidence at a place that may only be entered with consent or warrant

(1) This section applies if—

(a) an inspector is authorised to enter a place under this division only with the consent of the occupier or a warrant; and

(b) the inspector enters the place after obtaining the necessary consent or warrant.

(2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—

(a) the inspector reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(3) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

(4) The inspector also may seize anything else at the place if the inspector reasonably believes—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

Authorised by the Parliamentary Counsel

(ii) used to continue, or repeat, the offence.

(5) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

74 Securing seized thing

Having seized a thing, an inspector may do 1 or more of the following—

(a) move the thing from the place where it was seized (the ***place of seizure***);

(b) leave the thing at the place of seizure but take reasonable steps to restrict access to it;

Examples of restricting access to a thing—

1 sealing a thing and marking it to show access to it is restricted

2 sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted

(c) make the thing inoperable if it is equipment.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

75 Tampering with seized thing

(1) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—100 penalty units.

(2) If an inspector makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an inspector's approval.

Maximum penalty—100 penalty units.

Authorised by the Parliamentary Counsel

76 Powers to support seizure

(1) To enable a thing to be seized, an inspector may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

(2) The requirement—

(a) must be made by notice in the approved form; or

(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.

(3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

77 Receipt for seized thing

(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing's nature, condition and value).

Authorised by the Parliamentary Counsel

78 Forfeiture of seized thing

(1) A seized thing is forfeited to the State if the inspector who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against this Act.

(2) In applying subsection (1)—

(a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and

(b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

Example for paragraph (b)—

The owner of the thing has migrated to another country.

(3) If the inspector makes a decision under subsection (1)(c), resulting in the seized thing being forfeited to the State, the inspector must, as soon as practicable, give the owner an information notice for the decision.

(4) Subsection (3) does not apply if—

(a) the inspector can not find the owner, after making reasonable inquiries; or

(b) it is impracticable or would be unreasonable to give the information notice.

(5) Regard must be had to a thing's nature, condition and value—

(a) in deciding—

(i) whether it is reasonable to make inquiries or efforts; and

Authorised by the Parliamentary Counsel

(ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or

(b) in deciding whether it would be unreasonable to give the information notice.

79 Forfeiture on conviction

(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; or

(b) if the thing has been seized—whether or not the thing has been returned to its owner.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

80 Dealing with forfeited things etc.

(1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

(3) Despite subsection (1), the chief executive must not deal with the thing in a way that could prejudice the outcome of—

(a) a review applied for under section 105 or 108; or

(b) an appeal, relevant to the thing, of which the chief executive is aware.

Authorised by the Parliamentary Counsel

81 Return of seized thing

(1) If a seized thing is not forfeited, the inspector must return it to its owner—

(a) generally—at the end of 6 months; or

(b) if a proceeding for an offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing is forfeited, the inspector must, as soon as practicable, return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

82 Access to seized thing

(1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Subdivision 5 Power to obtain information

83 Power to require name and address

(1) This section applies if—

(a) an inspector finds a person committing an offence against this Act; or

(b) an inspector finds a person in circumstances that lead, or has information about a person that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.

(2) The inspector may require the person to state the person's name and residential address.

Authorised by the Parliamentary Counsel

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.

(5) A requirement under subsection (2) or (4) is called a ***personal particulars requirement***.

84 Failure to give name or address

(1) A person of whom a personal particulars requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

85 Power to require production of documents

(1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—

(a) a document issued to the person under this Act; or

(b) a document required to be kept by the person under this Act.

(2) The inspector may keep the document to copy it.

(3) If the inspector copies a document mentioned in subsection (1)(b), or an entry in the document, the inspector

Authorised by the Parliamentary Counsel

may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(4) The inspector must return the document to the person as soon as practicable after copying it.

(5) However, if a requirement (a ***document certification requirement***) is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.

(6) A requirement under subsection (1) is called a ***document production requirement***.

86 Failure to produce document

(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for a person not to comply with a document production requirement that complying with the requirement might tend to incriminate the person.

87 Failure to certify copy of document

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

88 Power to require information

(1) This section applies if an inspector reasonably believes—

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

Authorised by the Parliamentary Counsel

(2) The inspector may, by notice given to the person, require the person to give information about the offence to the inspector at a stated reasonable time and place.

(3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(4) It is a reasonable excuse for an individual to fail to give information if giving the information might tend to incriminate the individual.

Division 3 General enforcement matters

89 Compliance notice

(1) This section applies if the chief executive or an inspector reasonably believes—

(a) a person—

(i) is contravening a provision of this Act; or

(ii) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention is reasonably capable of being rectified; and

(c) it is appropriate to give the person an opportunity to rectify the matter; and

(d) if the person is a pest management technician—the chief executive has not given a show cause notice to the technician under section 44 relating to the contravention.

(2) The chief executive or inspector may give the person a notice (a ***compliance notice***) requiring the person to rectify the matter.

(3) The compliance notice must state—

Authorised by the Parliamentary Counsel

(a) that the chief executive or inspector believes the person—

(i) is contravening a provision of this Act; or

(ii) has contravened a provision of this Act in circumstances that make it likely that the contravention will continue or be repeated; and

(b) the provision the chief executive or inspector believes is being, or has been, contravened; and

(c) briefly, how it is believed the provision is being, or has been contravened; and

(d) the matter relating to the contravention that the chief executive or inspector believes is reasonably capable of being rectified; and

(e) the reasonable steps the person must take to rectify the matter; and

(f) that the person must take the steps within a stated reasonable period of not less than 21 days; and

(g) that it is an offence to fail to comply with the compliance notice unless the person has a reasonable excuse.

(4) The person must comply with the compliance notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(5) The person can not be prosecuted for contravention of the provision unless the person—

(a) fails to comply with the compliance notice within the stated period; and

(b) does not have a reasonable excuse for failing to comply with the notice.

90 Notice of damage

(1) This section applies if—

Authorised by the Parliamentary Counsel

(a) an inspector damages property when exercising or purporting to exercise a power; or

(b) a person (the ***other person***) acting under the direction or authority of an inspector damages property.

(2) The inspector must, as soon as practicable, give notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.

(3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector's or other person's control, the inspector may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the inspector reasonably believes is trivial.

(6) In this section—

owner, of property, includes the person in possession or control of it.

91 Compensation

(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 2—

(a) subdivision 1 (Entry of places);

(b) subdivision 3 (Powers after entry);

(c) subdivision 4 (Power to seize evidence).

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

Authorised by the Parliamentary Counsel

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

92 False or misleading statements

(1) A person must not state anything to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the statement was, without specifying which, 'false or misleading'.

93 False or misleading documents

(1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the inspector, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the statement was, without specifying which, 'false or misleading'.

Authorised by the Parliamentary Counsel

94 Obstructing inspector

(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

(a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and

(b) the inspector considers the person's conduct is an obstruction.

(3) In this section—

obstruct includes hinder and attempt to obstruct or hinder.

95 Impersonation of inspector

A person must not pretend to be an inspector.

Maximum penalty—50 penalty units.

96 Dealing with certain things

(1) If an inspector takes a thing under section 69(3)(c), the inspector must—

(a) divide the thing into 3 separate parts and—

(i) seal or fasten each part in a way that will, so far as is practicable, prevent a person tampering with the part; and

(ii) attach a label containing the label details to each part; and

(b) leave 1 part with the owner of the thing or the person from whom the thing was obtained; and

(c) deal with 1 of the remaining parts under section 101; and

Authorised by the Parliamentary Counsel

(d) keep the other remaining part for future comparison.

(2) Subsection (3) applies if a thing is in more than 1 package and the inspector reasonably believes that, because of the size of the packages, dividing 1 package of the thing for analysis into 3 separate parts would—

(a) affect the composition or quality of the thing in a way that would make the separate parts unsuitable for accurate analysis; or

(b) make the parts insufficient for accurate analysis; or

(c) make the thing in any other way unsuitable for analysis.

(3) If the inspector reasonably believes the packages contain the same substance, the inspector may—

(a) mix 2 or more of the packages and deal with the mixture under subsection (1); or

(b) use more than 1 of the packages to make up each part mentioned in subsection (1).

(4) Subsections (1) to (3) do not apply to a thing to the extent that, because of its nature, it is impossible or impractical to deal with it in the way mentioned in the subsections.

(5) In this section—

label details means—

(a) an identification number; and

(b) a description of the thing; and

(c) the date it was taken or seized; and

(d) the place where it was taken or seized; and

(e) the inspector's signature.

Authorised by the Parliamentary Counsel

Division 4 State analysts

97 Appointment and qualifications

(1) The chief executive may appoint any of the following persons as a State analyst—

(a) an officer of the department;

(b) a health service employee.

(2) However, the chief executive may appoint a person as a State analyst only if the chief executive is satisfied the person has the necessary expertise or experience to be a State analyst.

98 Appointment conditions and limit on powers

(1) A State analyst holds office on any conditions stated in—

(a) the State analyst's instrument of appointment; or

(b) a signed notice given to the State analyst; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to the State analyst or a regulation may limit the State analyst's powers under this Act.

(3) In this section—

signed notice means a notice signed by the chief executive.

99 When State analyst ceases to hold office

(1) A State analyst ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the State analyst ceases to hold office;

(c) the State analyst's resignation under section 100 takes effect.

Authorised by the Parliamentary Counsel

(2) Subsection (1) does not limit the ways a State analyst may cease to hold office.

(3) In this section—

condition of office means a condition on which the State analyst holds office.

100 Resignation

(1) A State analyst may resign by signed notice given to the chief executive.

(2) However, if holding office as a State analyst is a condition of the State analyst holding another office, the State analyst may not resign as a State analyst without resigning from the other office.

101 Analysis

(1) If an inspector who, under section 69(3)(c), takes a thing for analysis is not a State analyst, the inspector must, as soon as practicable, give it to a State analyst for analysis.

(2) The State analyst must, as soon as practicable, complete a certificate of analysis for the thing and give the certificate to the inspector.

(3) If an inspector who takes or seizes a thing as mentioned in subsection (1) is a State analyst, the inspector must, as soon as practicable, complete a certificate of analysis for the thing.

(4) For dealing with a part of a thing mentioned in section 96(1)(c), subsections (1) and (3) apply as if a reference to a thing were a reference to a part.

102 Certificates must indicate methodology used

The certificate of analysis must include information about the methodology used to conduct the analysis.

Authorised by the Parliamentary Counsel

Part 4 Reviews

Division 1 Internal review of decisions

103 Review process starts with internal review

(1) Subject to this division, a person who is given, or is entitled to be given, an information notice for a decision (the ***original decision***) may apply for review of the decision under this part.

(2) The review must be, in the first instance, by way of an application for internal review under section 104.

(3) To help users of this Act, schedule 1 identifies the decisions for which an information notice must be given under this Act.

104 Application for review to be made to the chief executive

The person may apply to the chief executive for a review of the original decision.

105 Applying for review

(1) The application must be made within 28 days after—

(a) if the person is given an information notice for the decision—the day the person is given the information notice; or

(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.

(2) The chief executive may, at any time, extend the time for applying for the review.

(3) The application must be in writing and state fully the grounds of the application.

Authorised by the Parliamentary Counsel

106 Review decision

(1) After reviewing the original decision, the chief executive must make a further decision (the ***review decision***) to—

(a) confirm the original decision; or

(b) amend the original decision; or

(c) substitute another decision for the original decision.

(2) The chief executive must, as soon as practicable, give the applicant notice of the review decision.

(3) If the review decision is not the decision sought by the applicant, the notice must be a QCAT information notice for the review decision.

(4) If the chief executive does not give the notice mentioned in subsection (2) within 60 days after the application is made, the chief executive is taken to have made a review decision confirming the original decision.

(5) If the review decision confirms the original decision, for the purpose of a review of the review decision by QCAT, the original decision is taken to be the review decision.

(6) If the review decision amends the original decision, for the purpose of a review of the review decision by QCAT, the original decision as amended is taken to be the review decision.

107 Stay of operation of original decision

(1) If an application is made for a review of an original decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.

(2) QCAT may stay the decision to secure the effectiveness of the review and any later review.

(3) The stay—

(a) may be given on conditions QCAT considers appropriate; and

(b) operates for the period fixed by QCAT; and

Authorised by the Parliamentary Counsel

(c) may be revoked or amended by QCAT.

(4) The period of the stay must not extend past the time when the chief executive makes a review decision about the original decision and any later period QCAT allows the applicant to enable the applicant to apply for a review of the review decision.

(5) An application under subsection (1) affects the original decision, or carrying out of the original decision, only if the original decision is stayed.

Division 2 External review of decisions

108 Who may apply for external review

A person who has applied for the review of an original decision under division 1 and is dissatisfied with the review decision may apply, as provided under the QCAT Act, to QCAT for a review of the review decision.

Part 5 Legal proceedings

Division 1 Application

114 Application of part

This part applies to a proceeding under this Act.

Authorised by the Parliamentary Counsel

Division 2 Evidence

115 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

(a) the chief executive's appointment;

(b) the appointment of an inspector or State analyst;

(c) the authority of the chief executive, an inspector or State analyst to do anything under this Act.

116 Signatures

A signature purporting to be the signature of the chief executive, an inspector or State analyst is evidence of the signature it purports to be.

117 Other evidentiary aids

(1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(a) a stated document is an appointment, licence or notice made, given, issued or kept under this Act;

(b) a stated document is a document given to the chief executive under this Act;

(c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, a stated person was or was not the holder of a licence;

(e) on a stated day, or during a stated period, a licence—

(i) was or was not in force; or

(ii) was or was not subject to a stated condition;

(f) on a stated day, a licence was suspended or cancelled;

Authorised by the Parliamentary Counsel

(g) on a stated day, or during a stated period, an appointment as an inspector or State analyst was, or was not, in force for a stated person;

(h) on a stated day, a stated person was given a stated notice under this Act;

(i) on a stated day, a stated requirement was made of a stated person.

(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

(3) A certificate purporting to be that of a State analyst in relation to a thing taken by an inspector at a place under section 69(3)(c), or seized under section 72 or 73, stating any of the following matters is evidence of the matters—

(a) the analyst's qualifications;

(b) the analyst took, or received from a stated person, the thing;

(c) the thing was analysed at a stated place on a stated day or during a stated period;

(d) the methodology used to analyse the thing;

(e) the results of the analysis.

(4) In a proceeding in which the chief executive applies under section 119 to recover costs incurred by the chief executive, a certificate by the chief executive stating that stated costs were incurred and the way in which, and purpose for which, they were incurred is evidence of the matters stated.

(5) Subsections (6) and (7) apply if it is necessary to prove a particular article or substance (a ***relevant item***) is, or contains, a particular fumigant or pesticide.

(6) Evidence that a substance ordinarily sold under the same name or description as a relevant item is, or contains, a particular fumigant or pesticide is evidence that the relevant item is, or contains the fumigant or pesticide.

Authorised by the Parliamentary Counsel

(7) Evidence that a container holding a relevant item is labelled in the same way a container holding a particular fumigant or pesticide must be labelled under the Agvet Code of Queensland is evidence that the container holds the fumigant or pesticide.

Division 3 Proceedings

118 Summary proceedings for offences

(1) A proceeding for an offence against this Act is to be taken in a summary way under the *Justices Act 1886*.

(2) The proceeding must start—

(a) within 1 year after the commission of the offence; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

119 Recovery of costs of investigation

(1) This section applies if—

(a) a court convicts a person of an offence against this Act; and

(b) the chief executive applies to the court for an order against the person for the payment of the costs the chief executive has incurred in taking a thing, conducting an analysis or doing something else during the investigation of the offence; and

(c) the court finds the chief executive has reasonably incurred the costs.

(2) The court may order the person to pay the chief executive an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Authorised by the Parliamentary Counsel

120 Application for order for payment of costs under s 119

(1) An application to a court under section 119 is, and any order made by the court on the application is a judgment, in the court's civil jurisdiction.

(2) Any issue on the application is to be decided on the balance of probabilities.

121 Responsibility for acts or omissions of representatives

(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative, of a person, means—

(a) if the person is a corporation—an executive officer, employee or agent of the corporation; or

(b) if the person is an individual—an employee or agent of the individual.

state of mind of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

Authorised by the Parliamentary Counsel

122 Liability of executive officer—particular offences committed by corporation

(1) An executive officer of a corporation commits an offence if—

(a) the corporation commits an offence against an executive liability provision; and

(b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

(2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—

(a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against the executive liability provision; and

(b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against the executive liability provision; and

(c) any other relevant matter.

(3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against the executive liability provision.

(4) This section does not affect—

(a) the liability of the corporation for the offence against the executive liability provision; or

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the executive liability provision.

(5) In this section—

Authorised by the Parliamentary Counsel

executive liability provision means either of the following provisions—

- section 50(1)
- section 51(2).

Part 6 Miscellaneous

123 Notifiable incidents

(1) A pest management technician must, unless the technician has a reasonable excuse, give the chief executive notice about the occurrence of a notifiable incident that occurs—

(a) when the technician is carrying out a pest management activity; or

(b) when the technician is supervising the carrying out of a pest management activity by a trainee.

Maximum penalty—50 penalty units.

(2) For subsection (1)—

(a) the notice must—

(i) be given immediately, orally or in writing; and

(ii) state enough particulars to identify the incident, its nature and its location; and

(b) if notice is given orally, the technician must give the chief executive a written notice within 7 days from when the incident occurred.

(3) The pest management technician must not give the chief executive a notice the technician knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

Authorised by the Parliamentary Counsel

(4) In a proceeding for an offence against subsection (3), it is enough for a charge to state that the statement was, without specifying which, 'false or misleading'.

(5) In this section—

notifiable incident means an exposure, spillage or other release of a pesticide or fumigant that adversely affects, or is likely to adversely affect, a person's health.

Example of an exposure—

exposure of a person to a fumigant because of a failure of protective equipment

124 Protecting officials from liability

(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

official means—

(a) the chief executive; or

(b) an inspector or State analyst; or

(c) a person acting under the direction of an inspector; or

(d) a person appointed by the chief executive to conduct a health assessment.

125 Information may be given to foreign regulatory authorities

The chief executive may disclose to a foreign regulatory authority information obtained by the chief executive under this Act about a person who is, or was, a pest management technician or an applicant for a licence if the disclosure is necessary for the foreign regulatory authority to perform its functions.

Authorised by the Parliamentary Counsel

126 Confidentiality of information about person's health

(1) This section applies to a person (the ***relevant person***) who is or was—

(a) the chief executive; or

(b) an inspector or State analyst; or

(c) a person appointed by the chief executive to conduct a health assessment; or

(d) a person otherwise involved in the administration of this Act.

(2) The relevant person must not disclose information about a person's health obtained by the relevant person in the course of performing the relevant person's functions under this Act.

Maximum penalty—50 penalty units.

(3) However, the relevant person may disclose the information—

(a) to the extent necessary to perform the relevant person's functions under this Act; or

(b) if the disclosure is authorised under this or another Act; or

(c) if the disclosure is otherwise required or permitted by law; or

(d) if the person to whom the information relates agrees to the disclosure; or

(e) if the disclosure is in a form that does not disclose the identity of a person.

127 Certain information may be disclosed

(1) The chief executive may disclose whether or not an individual is a pest management technician.

(2) For a pest management technician, the chief executive may disclose all the following—

(a) the number of the technician's licence;

Authorised by the Parliamentary Counsel

(b) each pest management activity that may be carried out under the licence;

(c) any conditions imposed on the licence under section 26(2);

(d) if the technician's licence is suspended—the licence is suspended and the period of the suspension;

(e) if the technician is employed as a technician, the name and address of the technician's employer;

(f) if the technician is self-employed, the business name, if any, under which the technician carries on business.

128 Delegation by chief executive

(1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified officer of the department.

(2) However, the chief executive may not delegate the power to review an original decision under part 4, division 1.

(3) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the department

129 Approval of forms

The chief executive may approve forms for use under this Act.

130 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

Authorised by the Parliamentary Counsel

(a) requirements about the conduct of persons, or procedures to be followed, before, while and after pest management activities are carried out;

(b) requirements about containers, equipment or motor vehicles used in relation to the carrying out of pest management activities;

(c) labelling by a pest management technician of containers used by the technician to hold fumigants or pesticides;

(d) disposal of containers or equipment used in carrying out pest management activities;

(e) handling, storage and transport of fumigants or pesticides;

(f) disposal of fumigants or pesticides;

(g) the keeping of records, and the records to be kept, by a pest management technician;

(h) fees, including the refunding of fees, for this Act;

(i) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.

Part 7 Saving and transitional provisions for Act No. 103 of 2001

Division 1 Interpretation

131 Definitions for pt 7

In this part—

commencement day means the day on which this part commences.

Authorised by the Parliamentary Counsel

determining day means the day 2 years after the commencement day.

existing licence means a licence that was—

(a) granted under a repealed provision; and

(b) in force immediately before the commencement day.

first renewal application, in relation to a restricted licence or a licence under section 133(2), means the first application for renewal of the licence made by the pest management technician after the commencement day.

fumigator's licence means an existing licence granted under the *Health Regulation 1996*, part 12.

pest control operator's licence means an existing licence granted under the *Health Act 1937*, part 4, division 7.

restricted licence means a licence under section 133(1) that is subject to a condition restricting the pest management technician to the use of only a pesticide named in the licence.

second renewal application, in relation to a restricted licence or a licence under section 133(2), means an application for renewal of the licence for a period commencing immediately after the determining day.

timber pests means pests that attack, infest or destroy timber or timber products.

timber pests qualification means a pest management qualification that includes the competency standard prescribed under a regulation for a pest management activity for timber pests.

Division 2 Saving and transitional provisions

132 References to repealed provision

In an Act or document, a reference to a repealed provision or a provision of a repealed provision may, if the context permits, be taken as a reference to this Act or a provision of this Act.

Authorised by the Parliamentary Counsel

133 Existing licences

(1) A pest control operator's licence is taken to be a licence under this Act to carry out a pest control activity, including an activity for timber pests.

(2) A fumigator's licence is taken to be a licence under this Act to carry out a fumigation activity.

(3) A licence under subsection (1) or (2) is taken to have been issued—

(a) on the same conditions as those to which the pest control operator's licence or fumigator's licence was subject immediately before the commencement day; and

(b) on the conditions mentioned in section 26(1).

134 First renewal applications for certain licences

(1) This section applies to a first renewal application for—

(a) a restricted licence; or

(b) a licence under section 133(2).

(2) If the chief executive decides to grant the application, the licence issued under section 31(3) expires on the determining day.

(3) The fee for the application must be worked out using the following formula—

$$\frac{\mathbf{YF \times FW}}{\mathbf{52}}$$

(4) In this section—

FW means the number of full weeks from the day the licence mentioned in subsection (1) expires to the determining day.

YF means the fee prescribed under a regulation for an application for renewal of a licence for 1 year.

Authorised by the Parliamentary Counsel

135 No second renewals of certain licences

(1) This section applies to a second renewal application for—

(a) a restricted licence; or

(b) a licence under section 133(2).

(2) The chief executive must not grant the application unless the chief executive is satisfied the applicant holds a pest management qualification relevant to the pest management activity the applicant intends to carry out under the licence.

136 Certain licences not to include activity for timber pests starting on determining day

(1) This section applies if—

(a) on the commencement day a licence held by a pest management technician was a licence under section 133(1) that was not a restricted licence; and

(b) during the relevant period the pest management technician's licence was or is renewed under this Act (the ***renewed licence***); and

(c) immediately before the determining day, the pest management technician does not have a timber pests qualification.

(2) Starting on the determining day, the renewed licence is taken not to authorise the carrying out of a pest control activity for timber pests.

(3) Subject to subsection (4), the pest management technician must return the technician's renewed licence to the chief executive within 7 days after the determining day, unless the technician has a reasonable excuse.

Maximum penalty—10 penalty units.

(4) Subsection (3) does not apply if the renewed licence states that the pest control activity that may be carried out under the licence does not include a pest control activity for timber pests after 20 September 2005.

Authorised by the Parliamentary Counsel

(5) After the chief executive receives the renewed licence, the chief executive must as soon as practicable, issue a new licence to the pest management technician.

(6) In this section—

relevant period means the period commencing on the commencement day and ending immediately before the determining day.

137 Chief executive to give notice to pest management technicians

(1) This section applies if it appears to the chief executive that a licence will be affected by section 136(2).

(2) The chief executive must, at least 60 days before the determining day, give the pest management technician who holds the licence a notice that, starting on the determining day, the licence will no longer authorise the carrying out of a pest control activity for timber pests unless the technician holds a timber pests qualification.

138 Pending applications

(1) A pending application for a licence is taken to be an application for a licence under this Act.

(2) A pending application for renewal of an existing licence is taken to be—

(a) for a licence that would, if it had been renewed under a repealed provision immediately before the commencement day, be taken to be a restricted licence or a licence under section 133(2)—a first renewal application for the licence; or

(b) for a licence that would, if it had been renewed under a repealed provision immediately before the commencement day, be taken to be a licence under section 133(1) other than a restricted licence—an application under section 29.

Authorised by the Parliamentary Counsel

(3) The provisions of this Act about making an application for a licence or an application for renewal in the approved form and paying a fee do not apply to the applications mentioned in subsections (1) and (2).

(4) In this section—

pending application means an application made under a repealed provision and not decided immediately before the commencement day.

139 Action to cancel or suspend an existing licence

(1) This section applies if, immediately before the commencement day—

(a) a person holds an existing licence; and

(b) the person has received a notice under the *Health Regulation 1996*, section 107 to show cause why the licence should not be cancelled or suspended; and

(c) the commencement day is or precedes the day by which the person could show cause.

(2) The person may attempt to show cause under the repealed provisions as if this Act had not commenced.

(3) The chief executive may, after the person has attempted to show cause, cancel or suspend the existing licence under the repealed provisions as if this Act had not commenced.

(4) A suspension or cancellation under subsection (3) has effect as the suspension or cancellation of the licence the existing licence is taken to be under section 133(1).

140 Suspended licence

(1) This section applies if an existing licence has been suspended under a repealed provision and the period of suspension has not ended immediately before the commencement day.

(2) The suspension is taken to continue as a suspension of a licence under this Act.

Authorised by the Parliamentary Counsel

141 Offences

(1) A proceeding for an offence against a repealed provision may be started or continued, and the repealed provisions, and other provisions of the *Health Act 1937*, that are necessary or convenient to be used in relation to the proceeding continue to apply, as if this Act had not commenced.

(2) For subsection (1), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.

142 Things seized

A thing seized under a repealed provision, and in relation to which a proceeding for an offence under a repealed provision was not finalised or started immediately before the commencement day, is taken to have been properly seized under this Act.

143 Appeals

(1) Subsection (2) applies if—

(a) a person has, before the commencement day, appealed to the Minister under a repealed provision against a decision of the chief executive; and

(b) the Minister has not made a decision about the appeal before the commencement.

(2) The Minister may decide the appeal under the repealed provisions as if this Act had not commenced.

(3) Subsection (4) applies if—

(a) immediately before the commencement day a person could have appealed to the Minister under a repealed provision against a decision of the chief executive; and

(b) the person has not appealed before the commencement day.

Authorised by the Parliamentary Counsel

(4) The person may appeal, and the Minister may decide the appeal, under the repealed provisions as if this Act had not commenced.

(5) For giving effect to the Minister's decision under subsection (2) or (4), the Minister may give directions to the chief executive that the Minister considers necessary having regard to the provisions of this Act.

Example for subsection (5)—

On an appeal by a person against a decision of the chief executive to refuse to grant a licence under a repealed provision, the Minister may direct the chief executive to issue a licence to the person under this Act.

Part 8 Transitional provision for repeal of Act No. 30 of 1987

145 Non-application of Act to use of timber preservative treatment under authorisation

(1) This Act does not apply to the use by a person of a preservative treatment if—

(a) an existing approval for the treatment is in force; and

(b) the person uses the treatment under an existing authorisation that is in force.

Note—

Particular existing approvals and authorisations continue in force for a limited period under the *Land Protection (Pest and Stock Route) Management Act 2002*, chapter 11, part 3 (Savings and transitional provisions for repeal of Act No. 30 of 1987).

(2) In this section—

existing approval means an approval of a preservative treatment for timber under section 15 of the repealed Act, whether the approval was made on the TUMA chief executive's own volition or because of an application under section 16 of that Act.

Authorised by the Parliamentary Counsel

existing authorisation means an authorisation under section 22(1)(a)(i) of the repealed Act to use a preservative treatment for which there is an existing approval.

preservative treatment means treatment by a chemical substance to—

(a) protect timber from attack by wood-destroying animals, bacteria or fungi; or

(b) increase timber's—

(i) resistance to fire, moisture change, decomposition or degradation; or

(ii) dimensional stability.

repealed Act means the repealed *Timber Utilisation and Marketing Act 1987*.

Note—

The repealed Act was repealed under the *Geothermal Energy Act 2010*, section 387.

timber means the wood of any tree, shrub, palm, grass or vine, including, for example, hardboard, chipboard, particle board, fibre board, insulation board and similar materials and plywood.

TUMA chief executive means the chief executive of the department in which the repealed Act was administered.

Authorised by the Parliamentary Counsel

Schedule 1 Decisions for which information notices must be given

section 103(3)

Section	Description of decision
21	refusing to grant an application for a licence
26	issuing a licence on additional conditions
31	refusing to grant an application for renewal of a licence
33	varying a licence on the chief executive's initiative
36	refusing to grant an application to vary a licence in relation to pest management activities that may be carried out under the licence, or a condition of the licence
41	refusing to grant an application for replacement of a licence
47	suspending or cancelling a licence
49	immediately suspending a licence
78(1)(c)	decision resulting in a thing being forfeited to the State

Authorised by the Parliamentary Counsel

Schedule 3 Dictionary

section 5

accepted representations see section 45(2).

aerial distribution see section 6.

agricultural chemical product see section 6.

Agvet Code of Queensland means the provisions applying because of section 5 of the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*.

analyse includes measure and test.

approved form means a form approved by the chief executive.

assessment report see section 15(4).

compliance notice see section 89(2).

conviction means a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

corresponding law means a law applying, or that applied, in another State, the Commonwealth or a foreign country that provides, or provided for the same matter as this Act or a provision of this Act.

document certification requirement see section 85(5).

document production requirement see section 85(6).

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

foreign regulatory authority means an entity established under a law of another State, the Commonwealth or a foreign country and involved in the administration of a corresponding law.

fumigant see section 5A.

Authorised by the Parliamentary Counsel

fumigation activity means—

(a) preparing a fumigant for use, including measuring, mixing or weighing the fumigant; or

(b) using a fumigant to—

(i) kill a pest; or

(ii) sterilise grain or seed to prevent germination; or

(iii) perform another function prescribed under a regulation for this subparagraph.

health assessment see section 15(1).

health service employee see the *Hospital and Health Boards Act 2011*, schedule 2.

household pesticide see section 6.

information notice, for a decision made by the chief executive or an inspector, is a notice stating the following—

(a) the decision;

(b) the reasons for the decision;

(c) that the person to whom the notice is given may have the decision reviewed within 28 days;

(d) the way the person may have the decision reviewed;

(e) if the decision is that a licence be suspended or cancelled, a direction that the person surrender the licence to the chief executive within 7 days after receiving the notice;

(f) if the decision is to vary a licence, a direction that the person return the licence to record the variation of the licence within 7 days after receiving the notice.

inspector means a person who is appointed as an inspector under section 55.

licence means a licence under this Act.

motor vehicle means a vehicle for which registration is required under the *Transport Operations (Road Use*

Authorised by the Parliamentary Counsel

Management—Vehicle Registration) Regulation 1999 and includes a trailer.

notice means a written notice.

original decision see section 103(1).

personal particulars requirement see section 83(5).

pest—

(a) generally—means an arthropod, bird, mollusc, or rodent, or another biological entity prescribed under a regulation, that injuriously affects, or may injuriously affect—

(i) a place by transmitting disease, a toxin or another pest in the place or by causing physical damage to the place or a thing in the place; or

(ii) a person by transmitting disease, a toxin or another pest to the person or by causing distress to, or an adverse physiological or social effect in, the person; and

(b) for the definitions *fumigant* and *fumigation activity*—includes a fox or rabbit.

pest control activity means—

(a) preparing a pesticide for use, including measuring, mixing or weighing the pesticide; or

(b) using a pesticide to—

(i) kill, stupefy or repel a pest; or

(ii) inhibit the feeding of a pest; or

(iii) modify the physiology of a pest to alter its natural development or reproductive capacity.

pesticide means a chemical or biological entity that is ordinarily used to—

(a) kill, stupefy or repel a pest; or

(b) inhibit the feeding of a pest; or

Authorised by the Parliamentary Counsel

(c) modify the physiology of a pest to alter its natural development or reproductive capacity.

Example of a biological entity—

bacillus thuringiensis, a bacterium used for the control of mosquito larvae

pest management activity means a fumigation activity or pest control activity.

pest management authority means an authority under a corresponding law to carry out a pest management activity that is the equivalent of a licence.

pest management qualification means a certificate issued by a registered training organisation stating that an individual has achieved a competency standard prescribed under a regulation.

pest management technician means an individual who holds a licence.

place includes premises and vacant land.

place of seizure see section 74(a).

premises includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) land where a building or other structure is situated; and

(d) an aircraft, motor vehicle or ship.

primary production see section 6.

properly supervised, in relation to the carrying out of a pest management activity by a trainee, means the trainee carries out the pest management activity under the supervision of a pest management technician who—

(a) is authorised to carry out the activity under the technician's licence; and

(b) is personally present with the trainee at all times while the trainee carries out the pest management activity; and

Authorised by the Parliamentary Counsel

(c) ensures the trainee carries out the pest management activity under any requirements, relevant to the trainee, prescribed under a regulation.

proposed action see section 44(3)(a).

public place means a place the public is entitled to use, open to the public or used by the public, whether or not on payment of money.

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

registered training organisation see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

relevant offence means—

(a) an indictable offence; or

(b) an offence against—

(i) this Act; or

(ii) a repealed provision; or

(iii) a corresponding law; or

(c) an offence, relating to a pest management activity—

(i) against the *Work Health and Safety Act 2011*; or

(ii) against another law applying, or that applied, in the State, the Commonwealth, another State or a foreign country.

repealed provision means the *Health Act 1937*, part 4, division 7 or the *Health Regulation 1996*, part 10 or 12, as in force before its omission by this Act.

review decision see section 106(1).

show cause notice see section 44(2).

show cause period see section 44(3)(e).

site environment means a particular place or type of place.

Examples of a site environment—

a ship's hold or a silo

Authorised by the Parliamentary Counsel

spent conviction means a conviction—

(a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(b) that is not revived as prescribed by section 11 of that Act.

State analyst means a State analyst appointed under section 97(1).

thing includes a sample of, or from, a thing.

trainee means a individual who is—

(a) 17 years or more; and

(b) being trained to enable the individual to obtain a pest management qualification.

vary, a pest management activity that may be carried out under a licence, or a condition of a licence, means—

(a) the inclusion of a new activity or condition; or

(b) the removal of an activity or condition.

Authorised by the Parliamentary Counsel

1 Index to endnotes

2 Key

3 Table of reprints

4 List of legislation

5 List of annotations

2 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
AIA	=	**Acts Interpretation Act 1954**	**(prev)**	=	**previously**
amd	=	**amended**	**proc**	=	**proclamation**
amdt	=	**amendment**	**prov**	=	**provision**
ch	=	**chapter**	**pt**	=	**part**
def	=	**definition**	**pubd**	=	**published**
div	=	**division**	**R[X]**	=	**Reprint No. [X]**
exp	=	**expires/expired**	**RA**	=	**Reprints Act 1992**
gaz	=	**gazette**	**reloc**	=	**relocated**
hdg	=	**heading**	**renum**	=	**renumbered**
ins	=	**inserted**	**rep**	=	**repealed**
lap	=	**lapsed**	**(retro)**	=	**retrospectively**
notfd	=	**notified**	**rv**	=	**revised version**
num	=	**numbered**	**s**	=	**section**

Key		Explanation	Key		Explanation
o in c	=	**order in council**	**sch**	=	**schedule**
om	=	**omitted**	**sdiv**	=	**subdivision**
orig	=	**original**	**SIA**	=	**Statutory Instruments Act 1992**
p	=	**page**	**SIR**	=	**Statutory Instruments Regulation 2012**
para	=	**paragraph**	**SL**	=	**subordinate legislation**
prec	=	**preceding**	**sub**	=	**substituted**
pres	=	**present**	**unnum**	=	**unnumbered**
prev	=	**previous**			

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1	2003 Act No. 9	20 September 2003	
	2003 Act No. 30		

Reprint No.	Amendments included	Effective	Notes
1A rv	2005 Act No. 10	29 April 2005	
1B	2006 Act No. 25	1 July 2006	R1B withdrawn, see R2
2	—	1 July 2006	
2A	2009 Act No. 24 2009 Act No. 48	1 December 2009	
2B	2010 Act No. 31	1 October 2010	
2C	2011 Act No. 41	24 November 2011	
2D	2011 Act No. 18	1 January 2012	
2E	2012 Act No. 11	29 June 2012	
2F	2011 Act No. 32 (amd 2012 Act No. 9)	1 July 2012	

Current as at	Amendments included	Notes
23 September 2013	2013 Act No. 39	RA s 44
1 November 2013	2013 Act No. 51	
1 December 2013 rv	2013 Act No. 38	RA s 44A
15 December 2014	2014 Act No. 57	RA s 27

4 List of legislation

Pest Management Act 2001 No. 103

date of assent 19 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 20 September 2003 (automatic commencement under AIA s 15DA(2) (2002 SL No. 345 s 2))

amending legislation—

Health and Other Legislation Amendment Act 2003 No. 9 s 1, pt 9

date of assent 28 March 2003
commenced on date of assent

Commercial and Consumer Tribunal Act 2003 No. 30 ss 1–2, 169 sch 1
date of assent 23 May 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2003 (see s 2)

Health Legislation Amendment Act 2005 No. 10 pt 1, s 50 sch
date of assent 1 April 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 29 April 2005 (2005 SL No. 72)

Health Quality and Complaints Commission Act 2006 No. 25 ss 1–2(1), 241(2) sch 4
date of assent 29 May 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2006 (see s 2(1))

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 7 pt 16
date of assent 26 June 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2009 (2009 SL No. 252)

State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 48 ss 1, 2(5), ch 4 pt 13
date of assent 19 November 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2009 (see s 2(5) and 2009 SL No. 251)

Geothermal Energy Act 2010 No. 31 ss 1–2(1), ch 10 pt 3 div 6
date of assent 1 September 2010
ss 1–2 commenced on date of notification
remaining provisions commenced 1 October 2010 (2010 SL No. 267)

Work Health and Safety Act 2011 No. 18 ss 1–2, 404 sch 4 pt 2 div 1
date of assent 6 June 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2012 (2011 SL No. 238)

Hospital and Health Boards Act 2011 No. 32 ss 1–2, 332 sch 1 pt 2 (prev Health and Hospitals Network Act 2011) (this Act is amended, see amending legislation below)
date of assent 28 October 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2012 (2012 SL No. 61 item 3) (previous proclamation 2012 SL No. 23 item 3 was rep (2012 SL No. 61))
amending legislation—

Health and Hospitals Network and Other Legislation Amendment Act 2012 No. 9 ss 1–2(1), 47 (amends 2011 No. 32 above)
date of assent 27 June 2012

ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2012 (see s 2(1))

Health Legislation Amendment Act 2011 No. 41 s 1, pt 5
date of assent 24 November 2011
commenced on date of assent

Vocational Education and Training (Commonwealth Powers) Act 2012 No. 11 pt 1, s 43 sch pt 2
date of assent 27 June 2012
ss 1–2 commenced on date of assent
remaining provisions commenced 29 June 2012 (see s 2)

Queensland Building Services Authority Amendment Act 2013 No. 38 ss 1–2, 14 sch 1
date of assent 29 August 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2013 (2013 SL No. 240)

Treasury and Trade and Other Legislation Amendment Act 2013 No. 39 ss 1, 109 sch 2
date of assent 23 September 2013
commenced on date of assent

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 45, s 229 sch 1
date of assent 29 October 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 1 November 2013 (see s 2(1))

Queensland Building and Construction Commission and Other Legislation Amendment Act 2014 No. 57 ss 1–2, 80 sch 1
date of assent 27 October 2014
ss 1–2 commenced on date of assent
remaining provisions commenced 15 December 2014 (SL No. 308)

5 List of annotations

Meaning of fumigant
s 5A ins 2003 No. 9 s 55

Non-application of Act
s 7 amd 2010 No. 31 s 530

Suitability of person to hold licence
s 14 amd 2003 No. 30 s 169 sch 1; 2009 No. 24 s 1168; 2013 No. 38 s 14 sch 1; 2014 No. 57 s 80 sch 1

Use of assessment report
s 17 amd 2009 No. 24 s 1169

Requirements about application for licence
s 19 amd 2011 No. 41 s 48

Conditions of licence
s 26 amd 2005 No. 10 s 50 sch

Holding out while unlicensed
s 50 amd 2013 No. 51 s 229 sch 1

When pest management technician etc. must not permit or require another person to carry out a pest management activity
s 51 amd 2013 No. 51 s 229 sch 1

Notice of change in circumstances
s 54 amd 2003 No. 9 s 56

Power to enter places
s 62 amd 2013 No. 38 s 14 sch 1

Dealing with forfeited things etc.
s 80 amd 2009 No. 24 s 1170

Dealing with certain things
s 96 amd 2003 No. 9 s 57

Analysis
s 101 amd 2003 No. 9 s 58

PART 4—REVIEWS
pt hdg amd 2009 No. 24 s 1171

Review process starts with internal review
s 103 amd 2009 No. 24 s 1172

Review decision
s 106 amd 2009 No. 24 s 1173

Stay of operation of original decision
s 107 prev s 107 om 2009 No. 24 s 1174
pres s 107 ins 2009 No. 48 s 165

Division 2—External review of decisions
div hdg sub 2009 No. 24 s 1175

Who may apply for external review
s 108 amd 2009 No. 24 s 1176

Starting appeal
s 109 om 2009 No. 24 s 1177

Stay of operation of decision
s 110 om 2009 No. 24 s 1177

Hearing procedures
s 111 amd 2003 No. 9 s 59
om 2009 No. 24 s 1177

Powers of court on appeal
s 112 om 2009 No. 24 s 1177

Appeal to Supreme Court only on questions of law
s 113 om 2009 No. 24 s 1177

Liability of executive officer—particular offences committed by corporation
s 122 sub 2013 No. 51 s 120

PART 7—SAVING AND TRANSITIONAL PROVISIONS FOR ACT No. 103 OF 2001
pt hdg amd 2010 No. 31 s 531

Certain licences not to include activity for timber pests starting on determining day
s 136 sub 2005 No. 10 s 50 sch

Governor in Council's power not affected
s 144 om 2013 No. 39 s 109 sch 2

PART 8—TRANSITIONAL PROVISION FOR REPEAL OF ACT No. 30 OF 1987
pt hdg prev pt hdg om R1 (see RA s 7(1)(k))
pres pt hdg ins 2010 No. 31 s 532

Non-application of Act to use of timber preservative treatment under authorisation
s 145 prev s 145 om R1 (see RA s 40)
pres s 145 ins 2010 No. 31 s 532

SCHEDULE 2—AMENDMENT OF ACTS AND REGULATION
om R1 (see RA s 40)

SCHEDULE 3—DICTIONARY
def *fumigant* sub 2003 No. 9 s 60
def *health service employee* sub 2011 No. 32 s 332 sch 1 pt 2 (amd 2012 No. 9 s 47)
def *QCAT information notice* ins 2009 No. 24 s 1178(2)
def *registered training organisation* amd 2006 No. 25 s 241 sch 4
sub 2012 No. 11 s 43 sch pt 2
def *relevant offence* amd 2011 No. 18 s 404 sch 4 pt 2 div 1
def *review notice* om 2009 No. 24 s 1178(1)
def *site environment* amd 2011 No. 41 s 49

© State of Queensland 2016