



Queensland

*Agricultural Chemicals Distribution Control Act 1966*

# **Agricultural Chemicals Distribution Control Regulation 1998**

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Queensland

# Agricultural Chemicals Distribution Control Regulation 1998

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# Agricultural Chemicals Distribution Control Regulation 1998

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Agricultural Chemicals Distribution Control Regulation 1998*.

### 2 Definitions

In this regulation—

*apply*, for a licence, includes an application to renew the licence by a person who holds the licence.

*AQF* means the Australian Qualifications Framework within the meaning of the *Higher Education Support Act 2003* (Cwlth), schedule 1.

*hazardous area No. 1* see section 33(1)(a).

*hazardous area No. 2* see section 33(1)(b).

*hazardous area No. 3* see section 33(1)(c).

*record of results*, in relation to a unit of competency of a VET course, means a record of results given to a person under the AQF confirming the results the person has attained for the unit of competency stated in the record.

*registered training organisation* see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

*restricted commercial operator's licence* see section 6(a).

*statement of attainment* means a VET statement of attainment under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

*unrestricted commercial operator's licence* see section 6(b).

*VET course* see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

### **3 Parts of State excluded—Act, s 3**

- (1) For section 3 of the Act, the parts of the State to which the Act does not apply are shown on the map in schedule 1.
- (2) The exact location of the boundary of the parts of the State to which the Act does not apply is held in digital electronic form by the department.
- (3) A map showing the exact location of the boundary of the parts of the State to which the Act does not apply can be accessed, free of charge, on the department's website.
- (4) The information held in digital electronic form can be reduced or enlarged to show the details of the boundaries.

### **4 Exclusion from definition *ground equipment***

- (1) For the definition *ground equipment* in the schedule of the Act, the equipment described in subsection (2) is, other than in a hazardous area, prescribed not to be ground equipment for the Act.
- (2) Subsection (1) applies to equipment used to distribute an agricultural chemical that is—
  - (a) powered by hand or by compressed air or gas applied directly to the spray liquid for distribution without the use of air blast techniques; or
  - (b) a hose proportioning device.



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## Part 2 Licences

### Division 1 General

#### 5 Form of licence

A licence or a renewal of a licence must be in the approved form.

#### 6 Classes of commercial operator's licence—Act, s 16(1)

For section 16(1) of the Act, the prescribed classes of commercial operator's licences are—

- (a) a commercial operator's licence, restricted to herbicides or equipment stated in the licence (a *restricted commercial operator's licence*); and
- (b) a commercial operator's licence, not restricted to herbicides or equipment stated in the licence (an *unrestricted commercial operator's licence*).

### Division 2 Licence qualifications

#### 7 Pilot chemical rating licence—prescribed qualification—Act, s 12

- (1) This section prescribes the qualification for section 12(2)(c) of the Act.
- (2) If a person intends to only pilot a manned aircraft under the licence, the prescribed qualification is a spraysafe accreditation.
- (3) If a person intends to pilot a manned aircraft, and use a UAV, under the licence, the prescribed qualification is a spraysafe accreditation.
- (4) If a person intends to only use a UAV under the licence, the prescribed qualification is—

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- (a) a spraysafe accreditation; or
  - (b) a statement of attainment issued by a registered training organisation stating that the person has successfully completed each of the following units of competency of a VET course—
    - (i) AHCCHM303—Prepare and apply chemicals;
    - (ii) AHCPMG301—Control weeds;
    - (iii) AHCCHM304—Transport and store chemicals; or
  - (c) a record of results issued by a registered training organisation for results that show the person has successfully completed each unit of competency mentioned in paragraph (b).
- (5) This section does not apply to a person mentioned in subsection (2), (3) or (4) who—
- (a) does not hold the prescribed qualification mentioned in the subsection; and
  - (b) has successfully completed training the chief executive reasonably considers is substantially equivalent to the qualification mentioned in the subsection.
- (6) Subsection (7) does not prevent Aerial Application Association of Australia Ltd ACN 002 501 886 from charging a reasonable fee, under an express or implied contract or a law, in relation to providing for a person to attain, or attempt to attain, a spraysafe accreditation.
- (7) In this section—
- spraysafe accreditation*** means an accreditation that is—
- (a) designed for aircraft pilots and relates to safety in aerial distribution; and
  - (b) issued by Aerial Application Association of Australia Ltd ACN 002 501 886.

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**8 Unrestricted commercial operator's licence—prescribed qualification—Act, s 16**

- (1) For section 16(2) of the Act, the prescribed qualification for an unrestricted commercial operator's licence is—
- (a) a statement of attainment issued by a registered training organisation stating that the person has successfully completed each of the following units of competency of a VET course—
    - (i) AHCCHM303—Prepare and apply chemicals;
    - (ii) AHCPMG301—Control weeds;
    - (iii) AHCCHM304—Transport and store chemicals; or
  - (b) a record of results issued by a registered training organisation for results that show the person has successfully completed each unit of competency mentioned in paragraph (a).
- (2) This section does not apply to a person who—
- (a) does not hold the prescribed qualification; and
  - (b) has successfully completed training the chief executive reasonably considers is substantially equivalent to the prescribed qualification.

**8A Commercial operator's licence—relevant pest management qualification for pest management technician—Act, s 16A**

For section 16A(1) of the Act, a relevant pest management qualification is—

- (a) a statement of attainment issued by a registered training organisation stating that an individual has successfully completed—
  - (i) each of the following units of competency of a VET course—
    - (A) CPPPMT3005—Modify environment to manage pests;

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- (B) CPPPMT3006—Apply pesticides to manage pests;
- (C) CPPPMT3018—Maintain equipment and chemical storage areas; or
- (ii) each of the following units of competency of a VET course—
  - (A) PRMPM05—Modify environment to manage pests;
  - (B) PRMPM06—Apply pesticide to manage pests;
  - (C) PRMPM18—Maintain an equipment and consumables storage area; or
- (b) the successful completion of training that the chief executive reasonably considers is substantially equivalent to a statement of attainment mentioned in paragraph (a).

## **Division 4                      Refusal of application for licence or for renewal of particular licences**

### **14            When chief executive may refuse**

- (1) The chief executive may refuse an application for a licence if the applicant has committed an offence against the Act or the *Health (Drugs and Poisons) Regulation 1996*, section 290.
- (2) The chief executive may also refuse an application for an aerial distribution contractor licence or ground distribution contractor's licence if the applicant has contravened a request by the standards officer under section 26(2) of the Act.
- (3) The chief executive may also refuse an application for renewal of an aerial distribution contractor licence or a pilot chemical rating licence if the licensee has contravened a condition of the licence without a reasonable excuse.

## **15 Notice of refusal**

If the chief executive decides to refuse an application for a licence, the chief executive must give the applicant an information notice for the decision as soon as practicable after the making of the decision.

## **Division 5 Suspension and cancellation**

### **16 Notice of suspension by standards officer**

If the standards officer decides to suspend a licence under section 20 of the Act, the standards officer must give the holder of the licence an information notice for the decision as soon as practicable after the making of the decision.

### **17 Right of review**

- (1) This section applies if the standards officer gives the holder of a suspended licence an information notice for the officer's decision to suspend the licence.
- (2) The holder may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

### **18 Substituted decision on review**

Sections 16 and 17 do not apply to a decision that QCAT substitutes for the decision that was reviewed.

### **19 Surrender of licence suspended by standards officer**

- (1) An information notice given to a holder of a licence by the standards officer under section 16(1) may state a day by which the holder must surrender the licence to the standards officer.
- (2) The holder must comply with the information notice unless the holder has a reasonable excuse for not complying with it.

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Maximum penalty—20 penalty units.

- (3) The standards officer must return the licence to the holder as soon as practicable if, because of a review, the suspension mentioned in the notice ends.

### **19A Surrender of licence suspended or cancelled by chief executive**

- (1) An information notice given to a licensee or former licensee by the chief executive under section 21D(3) of the Act may state a day by which the person must surrender the licence to the chief executive.
- (2) The person must comply with a requirement under subsection (1) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) The chief executive must return the licence to the person as soon as practicable if, because of a review, the cancellation or suspension mentioned in the notice ends.

## **Division 7 Miscellaneous**

### **24 Production of licences**

- (1) This section applies if the standards officer or an inspector—
  - (a) finds a licensee committing, or reasonably suspects a licensee has committed, an offence against the Act; or
  - (b) is exercising a power under section 34 of the Act and the exercise of the power relates to a licensee.
- (2) The officer may require the licensee to produce to the officer at a stated reasonable time and place any licence held by the person that relates to the offence or the exercise of the power.
- (3) The person must comply with the requirement unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

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- (4) If the person is required to produce a commercial operator's licence, the requirement may also be complied with by the production of the licence within 2 days to—
- (a) the person in charge of any police station nominated by the officer; or
  - (b) a public service employee employed by the department who is nominated by the officer.

## **Part 3                      Aerial and ground distribution**

### **Division 1                General**

#### **28            Regulation of distribution if damage or injury to crop or stock**

- (1) This section applies to—
- (a) the pilot in command in charge of aerial distribution; or
  - (b) a licensed commercial operator in charge of ground distribution.
- (2) The pilot or operator must not carry out the distribution with equipment or under meteorological conditions that might reasonably be expected to cause damage or injury to—
- (a) a crop that the pilot or operator did not intend to treat by the distribution; or
  - (b) stock.

Maximum penalty—20 penalty units.

#### **29            Regulation of aerial distribution**

A pilot in command must not carry out aerial distribution unless each spray nozzle used to carry out the distribution is fitted with a positive and effective leak-proof cut-off system.

Maximum penalty—20 penalty units.

### **30 Restriction on opening containers of volatile chemicals**

- (1) This section applies if a container holds a volatile formulation of 2,4-D, MCPA or picloram (a *volatile chemical*).
- (2) A person must not open the container within 25m of a crop or of stock that is susceptible to damage from a volatile chemical unless the person has a reasonable excuse for opening the container.

Maximum penalty—20 penalty units.

- (3) It is a reasonable excuse for the person to open the container if the person was not reasonably aware that—
  - (a) the container held a volatile chemical; and
  - (b) the stock or crop was susceptible to damage from a volatile chemical.

### **31 Prescribed matters for register—Act, s 24(1)**

- (1) For section 24(1) of the Act, the register must be kept in an electronic form.
- (2) For section 24(1) of the Act, the following are the prescribed particulars for licensees to be entered in the register—
  - (a) the licensee's address;
  - (b) the number of the licensee's licence or renewal of licence;
  - (c) the date the licence or renewal was granted.
- (3) The standards officer may also enter other particulars in the register that the standards officer thinks are appropriate.



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## Division 2            Hazardous areas

### Subdivision 1        Preliminary

#### 32        Definitions for div 2

In this division—

*authorised technique*, for ground distribution, means—

- (a) a stem injection; or
- (b) cut stump treatment, frill ringing or basal bark treatment carried out no less than 100m of a crop that—
  - (i) is not on a property owned by the person for whom the treatment is carried out; and
  - (ii) is susceptible to damage from the treatment.

*distribution permit* means a distribution permit issued under section 40.

*permit condition* means a condition imposed under section 41.

#### 33        Hazardous areas—Act, s 28(1)

- (1) For section 28 of the Act, each of the following is declared to be a hazardous area—
  - (a) the area shown on the map in schedule 1A (*hazardous area No. 1*);
  - (b) the area shown on the map in schedule 1B (*hazardous area No. 2*);
  - (c) the area shown on the map in schedule 1C (*hazardous area No. 3*).
- (2) The exact location of the boundary of each of the hazardous areas is held in digital electronic form by the department.

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- (3) Maps showing the exact location of the boundary of each of the hazardous areas can be accessed, free of charge, on the department's website.
- (4) The information held in digital electronic form can be reduced or enlarged to show the details of the boundaries.

## **Subdivision 2      Distribution conditions**

### **34      Prescribed conditions for distribution**

This subdivision prescribes, for section 29 of the Act, the conditions for a person to carry out aerial or ground distribution in a hazardous area.

*Note—*

Under section 29 of the Act, a person must not carry out aerial or ground distribution in a hazardous area unless the distribution is carried out under the conditions prescribed by regulation for the area. The maximum penalty for contravention of section 29 is 100 penalty units or 6 months imprisonment.

### **35      No distribution if damage or injury to crop or stock**

Aerial or ground distribution must not be carried out in a hazardous area with equipment or under meteorological conditions that might reasonably be expected to cause damage or injury to—

- (a) a crop that the person did not intend to treat by the distribution; or
- (b) stock.

### **36      Smoke generation for aerial distribution**

Aerial distribution must not be carried out in a hazardous area unless—

- (a) the aircraft used to carry out the distribution has a smoke generating device installed or attached; and

- (b) the device is used to show air movement immediately before and during the distribution.

### **37 Conditions for hazardous area No. 1**

- (1) This section applies to hazardous area No. 1.
- (2) Aerial distribution of picloram or ester formulations of MCPA or 2,4-D (a *chemical*) must not be carried out unless the person carrying out the distribution holds a distribution permit that allows the person to carry out the distribution.
- (3) Ground distribution of a chemical must not be carried out unless—
  - (a) the person carrying out the distribution holds a distribution permit that allows the person to carry out the distribution; or
  - (b) the distribution is by an authorised technique.

### **38 Conditions for hazardous area No. 2**

- (1) This section applies to hazardous area No. 2.
- (2) Aerial or ground distribution of ester formulations of 2,4-D must not be carried out.
- (3) Aerial distribution of an ester formulation of picloram must not be carried out unless the person carrying out the distribution holds a distribution permit that allows the person to carry out the distribution.
- (4) Ground distribution of an ester formulation of picloram must not be carried out unless—
  - (a) the person carrying out the distribution holds a distribution permit that allows the person to carry out the distribution; or
  - (b) the distribution is by an authorised technique.

### **38A Conditions for hazardous area No. 3**

- (1) This section applies to hazardous area No. 3.
- (2) Aerial distribution of an ester formulation of 2,4-D must not be carried out unless the person carrying out the distribution holds a distribution permit that allows the person to carry out the distribution.
- (3) Ground distribution of an ester formulation of 2,4-D must not be carried out unless—
  - (a) the person carrying out the distribution holds a distribution permit that allows the person to carry out the distribution; or
  - (b) the distribution is by an authorised technique.

## **Subdivision 3 Distribution permits**

### **39 Application for a distribution permit**

- (1) A person who holds an aerial distribution contractor licence may apply to the chief executive for a distribution permit for a stated individual to carry out aerial distribution in a stated hazardous area if the individual—
  - (a) is a pilot in command who holds a pilot chemical rating licence; and
  - (b) either—
    - (i) is the applicant; or
    - (ii) will carry out the aerial distribution—
      - (A) in the course of the applicant's business; or
      - (B) at the direction, or under the authority, of the applicant.
- (2) A person who holds an aerial distribution contractor licence or ground distribution contractor's licence may apply to the chief executive for a distribution permit for a stated individual to

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carry out ground distribution in a stated hazardous area if the individual—

- (a) holds a commercial operator's licence; and
  - (b) either—
    - (i) is the applicant; or
    - (ii) will carry out the ground distribution—
      - (A) in the course of the applicant's business; or
      - (B) at the direction, or under the authority, of the applicant.
- (3) An application must be made—
- (a) in the approved form; and
  - (b) at least 10 days before the day on which the applicant proposes to start the distribution applied for.
- (4) The chief executive must grant or refuse the application.
- (5) If the chief executive does not grant or refuse the application within 3 months of the making of the application, the chief executive is taken to have—
- (a) refused the application; and
  - (b) given the applicant an information notice for the refusal at the end of the 3 months.

#### **40 Issue of distribution permit**

If the chief executive grants the application, the chief executive must issue a distribution permit in the approved form within 14 days

#### **41 Distribution permit conditions**

- (1) The chief executive may impose reasonable conditions for the issuing of the distribution permit.

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- (2) If the chief executive imposes a permit condition, the chief executive must give the applicant an information notice for the decision within 14 days after the imposition of the condition.

#### **42 Notice of refusal**

If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice within 14 days after the making of the decision.

#### **43 Right of review**

- (1) This section applies if the chief executive—
  - (a) gives the applicant for a distribution permit an information notice for the chief executive's decision to refuse the application; or
  - (b) decides to grant the application, but to impose a permit condition for the issuing of the distribution permit.
- (2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the decision to refuse the application or impose the permit condition.
- (3) This section does not apply to a decision that QCAT substitutes for the decision.

## **Part 4 Miscellaneous**

#### **44 False or misleading statements or documents**

- (1) A person must not—
  - (a) state anything to the standards officer or chief executive the person knows is false or misleading in a material particular; or
  - (b) give the standards officer or chief executive a document the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) Subsection (1)(b) does not apply to a person who, when giving the document—
  - (a) tells the standards officer or chief executive, to the best of the person’s ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably get, the correct information—gives the correct information to the standards officer or chief executive.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state the statement made or the document given was false or misleading to the person’s knowledge without stating which.

#### 45 Fees

The fees payable under the Act are in schedule 2.

## Part 5 Transitional provisions for Agriculture and Other Legislation Amendment Regulation (No. 2) 2016

#### 46 Definitions for part

In this part—

*amending regulation* means the *Agriculture and Other Legislation Amendment Regulation (No. 2) 2016*.

*former*, in relation to a provision of this regulation, means the provision as in force immediately before the replacement of the provision by part 2 of the amending regulation.

**47 Undecided pilot chemical rating licence—prescribed qualification if commercial pilot’s licence was held**

- (1) This section applies if, immediately before the commencement—
  - (a) a person held a commercial pilot’s licence; and
  - (b) an application by the person for a pilot chemical rating licence had not been decided.

*Note—*

This section applies for undecided applications for a pilot chemical rating licence that may be continued under section 51 of the Act.

- (2) Former section 7 continues to apply in relation to the application as if the amending regulation had not been made.

**48 Particular pilot chemical rating licences applied for after commencement—no prescribed qualification if examination passed**

- (1) This section applies if—
  - (a) within 1 year before the commencement, a person passed the examination, mentioned in former section 7(a), for a pilot chemical rating licence; and
  - (b) within 1 year after the commencement, the person wants to make an application for a pilot chemical rating licence.
- (2) For section 12(2)(c) of the Act, in relation to the application, there is no prescribed qualification.

**49 Undecided application for particular class of commercial operator’s licence—prescribed qualifications for the class**

- (1) This section applies if—
  - (a) before the commencement, a person applied for a commercial operator’s licence that is an unrestricted commercial operator’s licence mentioned in former section 6(a); and



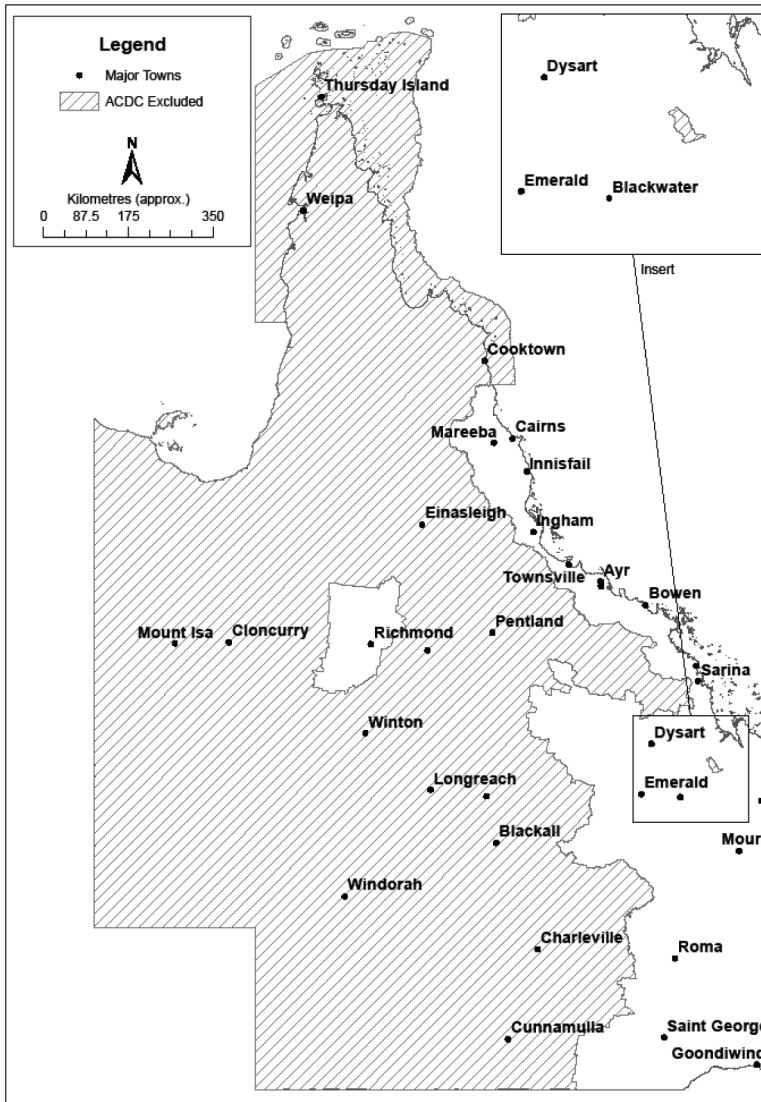
- (b) the application had not been decided before the commencement.
- (2) Former section 8 continues to apply in relation to the application as if the amending regulation had not been made.

**50 Particular commercial operator’s licences applied for after commencement—no prescribed qualification if examination passed**

- (1) This section applies if—
  - (a) within 1 year before the commencement, a person passed the examination, mentioned in former section 8(a), in relation to a commercial operator’s licence; and
  - (b) within 1 year after the commencement, the person wants to make an application for an unrestricted commercial operator’s licence.
- (2) For section 16(2) of the Act, in relation to the application, there is no prescribed qualification for the unrestricted commercial operator’s licence.

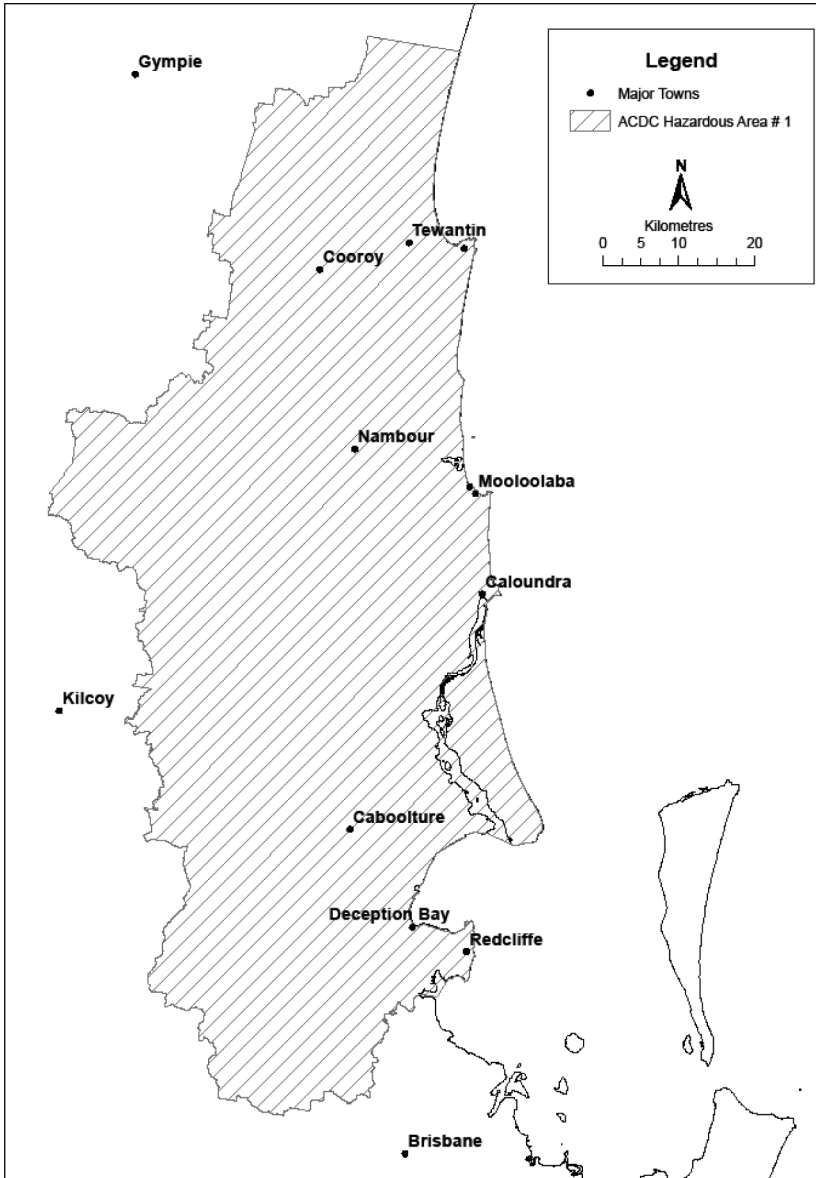
# Schedule 1 Areas excluded from Act

section 3



# Schedule 1A Hazardous area No. 1

section 33(1)(a)



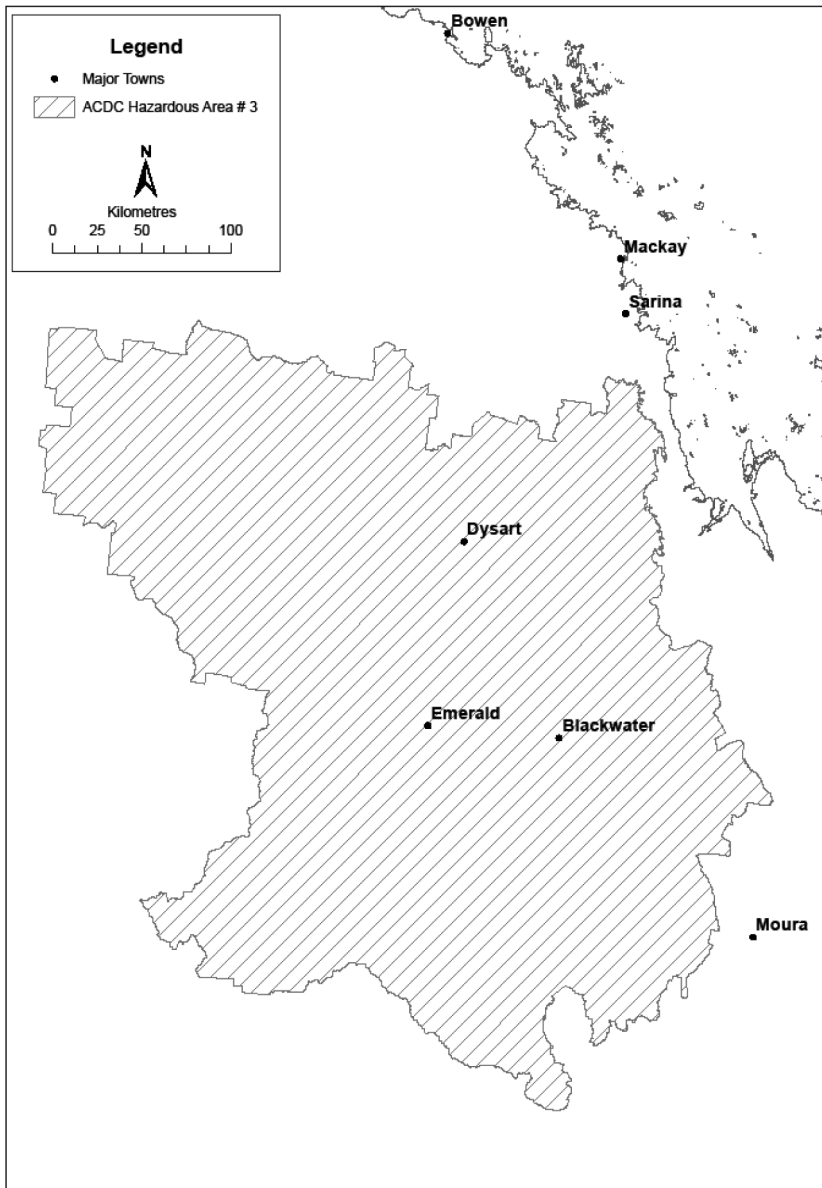
# Schedule 1B Hazardous area No. 2

section 33(1)(b)



# Schedule 1C Hazardous area No. 3

section 33(1)(c)



## Schedule 2      Fees

section 45

|  | \$    |
|--|-------|
| 1 Issue of aerial distribution contractor licence, commercial operator's licence, ground distribution contractor's licence or pilot chemical rating licence—   |       |
| (a) for 1 year   | 33.90 |
| (b) for 3 years  | 79.65 |
| 2 Renewal of aerial distribution contractor licence, commercial operator's licence, ground distribution contractor's licence or pilot chemical rating licence— |       |
| (a) for 1 year   | 22.85 |
| (b) for 3 years  | 68.50 |