



Queensland

Pest Management Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 244

made under the

Pest Management Act 2001

General outline

Short title

Pest Management Amendment Regulation (No. 1) 2012.

Authorising law

Section 130 of the *Pest Management Act 2001*.

Policy objectives and the reasons for them

The *Pest Management Act 2001* (PM Act) and *Pest Management Regulation 2003* (PM Regulation) provide the legislative framework for a licensing regime for pest management activities. The fundamental objective of the legislation is to protect the public from health risks associated with pest control and fumigation activities and from adverse effects resulting from the ineffective control of pests.

Consistent with the objective of the legislation, the PM Act requires persons performing pest management activities to be suitably qualified. In addition, the PM Act recognises a limited range of circumstances where an exemption from the Act may be required for particular pest management activities or for the use of particular fumigants or pesticides.

Removal of exempted pest management activity

Section 10 of the PM Act provides a mechanism for a regulation to exempt the application of the Act to a particular pest management activity or the use, form or concentration, or method of use, of a particular fumigant or pesticide. However, an exemption may only be given if the activity, use or method poses no, or negligible, health risk to any person. Current exemptions are prescribed under Part 1A of the PM Regulation.

Section 3F of the PM Regulation provides an exemption for a pest management activity involving the installation of HomeGuard precision termite management products if carried out by an accredited installer. This provision exempts an accredited installer from having to hold a pest management technician licence to install the product. The exemption has been in place since 2009 and was based on an assessment of any health risks associated with the products, which are made from plastic polymer sheets or granules and contain the pesticide, bifenthrin.

It has recently been identified that bifenthrin, a chemical used in the manufacture of the HomeGuard product, is listed as a restricted chemical under the *Chemical Usage (Agricultural and Veterinary) Control Act 1998*. Section 10 of the *Chemical Usage (Agricultural and Veterinary) Control Regulation 1999* provides that persons may only use products containing bifenthrin if they are licenced for a pest control activity under the PM Act or if they are authorised by Biosecurity Queensland.

Therefore, the exemption for the HomeGuard products under the PM Act is not valid due to its inconsistency with the *Chemical Usage (Agricultural and Veterinary) Control Act 1998*, and should be removed from the PM Regulation. As a consequence of removing this exemption, persons installing HomeGuard precision termite management products, will be required to hold a pest management technician licence under the PM Act.

New Competency Unit Codes

Section 11 of the PM Act provides that pest management activities must only be carried out by a licensed technician or their trainee (under supervision). To determine if a person is suitable to hold a licence, a number of matters are considered, including whether the person holds a relevant pest management qualification.

The PM Act defines a qualification to mean a certificate issued by a registered training organisation stating that an individual has achieved a

competency standard prescribed under a regulation. Competencies are currently prescribed in Part 2 of the PM Regulation. Section 4 of the PM Regulation provides for competency standards and course codes required to obtain a pest management technician licence for pest control and fumigation activities.

The National Quality Council, which is responsible for endorsing training packages, has approved a new pest management qualification – the Certificate III in Pest Management. The new qualification commenced in February 2012 and will co-exist with the current course until 2014. In order for graduates of the new course to be eligible to apply for and hold a pest management technician licence, the competency unit codes of the new course will need to be prescribed under the PM Regulation.

Achievement of policy objectives

To achieve its objectives, the regulation will—

- remove the exemption for HomeGuard termite management products so the requirements for installation of these products complies with provisions of the Chemical Usage (Agricultural and Veterinary) Control Act 1998; and
- prescribe competency unit codes relating to a new qualification in pest management.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives of the *Pest Management Act 2001*.

Inconsistency with policy objectives of other legislation

The removal of the HomeGuard exemption will ensure consistency with the *Chemical Usage (Agricultural and Veterinary) Control Act 1998*.

Alternative ways of achieving policy objectives

The amendments are the only effective means of meeting government policy and ensuring the public is protected from health risks associated

with pest control and fumigation activities and from adverse effects resulting from the ineffective control of pests.

Benefits and costs of implementation

The amendment to remove the exemption for HomeGuard products imposes an obligation on accredited installers of these products to obtain a pest management technician licence, if they do not already hold one. Therefore, accredited installers who do not already hold a pest management licence will incur the cost of obtaining a licence under section 19 of the PM Act.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles, as set out in section 4 of the Legislative Standards Act 1992.

Consultation

FMC Australasia, providers of HomeGuard precision termite management products has been advised about the proposal to remove the exemption from the PM Regulation and about the licensing implications resulting from the removal. FMC Australasia was invited to respond to the proposal. No issues or concerns were raised.

Notes on provisions

Short Title

Clause 1 provides the short title of the regulation.

Regulation amended

Clause 2 specifies that the regulation amends the *Pest Management Regulation 2003*.

Omission of s 3F (Exemption for homeguard precision termite management products—Act, s 10)

Clause 3 omits section 3F. The effect of this amendment is to remove the current exemption from holding a pest management technician licence that applies to accredited installers of HomeGuard precision termite management products. This corrects an inconsistency with the *Chemical Usage (Agricultural and Veterinary) Control Act 1998*.

Amendment of s 4 (Competency standard—pest control and fumigation activities)

Clause 4 amends section 4 to prescribe new competencies required for a pest management qualification for the following activities:

- (a) a pest control activity, other than for timber pests;
- (b) a pest control activity, including for timber pests; and
- (c) a fumigation activity

The existing competencies will be retained along with the new competencies, so existing licensees will not be impacted by the amendments.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is Queensland Health.