



Queensland

Agriculture and Other Legislation Amendment Regulation (No. 2) 2016

Subordinate Legislation 2016 No. 182

made under the

Agricultural Chemicals Distribution Control Act 1966

Chemical Usage (Agricultural and Veterinary) Control Act 1988

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Agriculture and Other Legislation Amendment Regulation (No. 2) 2016*.

2 Commencement

This regulation commences on the commencement of the *Agriculture and Other Legislation Amendment Act 2015*, section 6.

Part 2 Amendment of Agricultural Chemicals Distribution Control Regulation 1998

3 Regulation amended

This part amends the *Agricultural Chemicals Distribution Control Regulation 1998*.

4 Amendment of s 2 (Definitions)

(1) Section 2, definitions *approved accreditation* and *examination*—

omit.

(2) Section 2—

insert—

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

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.

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

Section 6(a) and (b)—

omit, insert—

- (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**).

6 Replacement of ss 7 and 8

Sections 7 and 8—

[s 6]

omit, insert—

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—
 - (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.

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

[s 7]

- (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.

7 Amendment of s 8A (Commercial operator's licence—relevant pest management qualification for pest management technician—Act, s 16A)

- (1) Section 8A(1)(a)(i) and (ii), 'competencies'—
omit, insert—
units of competency of a VET course
- (2) Section 8A(2)—
omit.

8 Omission of pt 2, div 3 (Examinations and approved accreditations)

Part 2, division 3—
omit.

9 Replacement of pt 2, div 4, hdg (Refusal of licences)

Part 2, division 4, heading—
omit, insert—

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

10 Amendment of s 14 (When chief executive may refuse)

Section 14—

insert—

- (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.

11 Amendment of s 24 (Production of licences)

Section 24(1)(b), ‘32 or’—

omit.

**12 Omission of s 27 (Notice of damage by agricultural
chemicals—Act, s 30(1))**

Section 27—

omit.

13 Insertion of new pt 5

After section 45—

insert—

**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.

14 Amendment of sch 2 (Fees)

- (1) Schedule 2, item 1—
omit.
- (2) Schedule 2, items 2 and 3—
renumber as items 1 and 2.

**Part 3 Amendment of Chemical Usage
(Agricultural and Veterinary)
Control Regulation 1999**

15 Regulation amended

This part amends the *Chemical Usage (Agricultural and Veterinary) Control Regulation 1999*.

16 Amendment of s 5 (Definitions for pt 3)

Section 5, definitions *prescribed qualification* and *registered training organisation*—
omit.

17 Amendment of s 9 (Definitions for div 1)

- (1) Section 9, definition *prescribed qualification*—
omit.
- (2) Section 9—

insert—

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

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.

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

18 Omission of s 11 (Restricted chemical products containing endosulfan)

Section 11—

omit.

19 Amendment of s 11B (Restricted chemical products containing RHDV)

Section 11B(1)(b)(i) and (ii)—

omit, insert—

- (i) has a statement of attainment issued by a registered training organisation stating that the person has successfully completed either or both of the following units of competency of a VET course—
 - (A) RTD3707A—Release biological agents;
 - (B) AHCPMG304A—Release biological agents; or

- (ii) has a record of results issued by a registered training organisation for results that show the person has successfully completed either or both units of competency mentioned in subparagraph (i); or
- (iii) has successfully completed training for using RHDV the chief executive reasonably considers is substantially equivalent to a statement of attainment, or record of results, mentioned in this paragraph.

20 Amendment of s 11C (Restricted chemical products containing copper, chromium and arsenic)

Section 11C(3)(b) and (c)—

omit, insert—

- (b) has a statement of attainment issued by a registered training organisation stating that the person has successfully completed the unit of competency FWPSAW3201—Treat timber, of a VET course; or
- (c) has a record of results issued by a registered training organisation for results that show the person has successfully completed that unit of competency; or
- (d) has a qualification, or successfully completed training for using the product, the chief executive reasonably considers is substantially equivalent to a statement of attainment, or record of results, mentioned in this subsection.

21 Amendment of s 12 (Other restricted chemical products)

Section 12(2), from ‘A person’ to ‘prescribed qualification.’—

omit, insert—

A person must not use a restricted chemical product to which this section applies, unless the person—

- (a) is authorised to use the product; or
- (b) has 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) AHCCHM304—Transport and store chemicals; or
- (c) has 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); or
- (d) has a qualification, or successfully completed training, the chief executive reasonably considers is substantially equivalent to a statement of attainment, or record of results, mentioned in this subsection.

22 Amendment of s 12M (Definitions for div 3)

(1) Section 12M—

insert—

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

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.

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

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

- (2) Section 12M, definition *prescribed qualification*, paragraph (b)—

omit, insert—

- (b) if the person prepares or uses the product otherwise than on or from an aircraft in flight—
- (i) 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—
- (A) AHCPMG301—Control weeds;
 - (B) AHCCHM303—Prepare and apply chemicals;
 - (C) AHCCHM304—Transport and store chemicals; or
- (ii) 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 subparagraph (i); or
- (iii) a qualification, or successfully completed training, the chief executive reasonably considers is substantially

equivalent to a statement of attainment, or record of results, mentioned in this paragraph; or

- (iv) an unrestricted commercial operator's licence prescribed as a class of commercial operator's licence under the *Agricultural Chemicals Distribution Control Act 1966*, section 16(1).

23 Amendment of s 12P (Who may prepare and use particular products)

Section 12P(2)(a) and (b) and (4)(a) and (b)—

omit, insert—

- (a) has the prescribed qualification; or
- (b) prepares or uses the product under the direct supervision of someone else who has the prescribed qualification.

24 Amendment of s 12X (Required record)

- (1) Section 12X(2)(b), after 'the product is used'—

insert—

, by or for the person, as mentioned in subsection (1)(b) (*relevantly used*)

- (2) Section 12X(2)(b)(ii) and (iii)—

omit, insert—

- (ii) any document (including, for example, a receipt) relevant to the acquisition of the product that made the product available to be relevantly used;
- (iii) if the prescribed qualification under which the product was relevantly used

is a document—a copy of the prescribed qualification.

25 Insertion of new pt 8, div 3

Part 8—

insert—

Division 3 Transitional provisions for Agriculture and Other Legislation Amendment Regulation (No. 2) 2016

33 Definitions for division

In this division—

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 amendment, replacement or omission of the provision by part 3 of the amending regulation.

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

34 Persons formerly allowed to use restricted chemical products containing copper, chromium and arsenic—existing qualification

- (1) Subsection (2) applies if, immediately before the commencement, a person held a statement of attainment mentioned in former section 11C(3)(b).

- (2) Section 11C(3)(b) applies to the person as if the amending regulation had not been made.
- (3) Subsection (4) applies if, immediately before the commencement, a person held a qualification, or had successfully completed training, mentioned in former section 11C(3)(c).
- (4) Section 11C(3)(c) applies to the person as if the amending regulation had not been made.

35 Persons formerly allowed to use particular restricted chemical products—existing qualification

- (1) This section applies if, immediately before the commencement, a person held a statement of attainment mentioned in former section 9, definition *prescribed qualification*.
- (2) For section 12(2), the person is taken to have a statement of attainment mentioned in section 12(2)(b).

36 Persons formally allowed to prepare or use particular agricultural chemical products—existing qualification

- (1) This section applies if, immediately before the commencement, a person held a statement of attainment mentioned in former section 12M, definition *prescribed qualification*, paragraph (b)(i).
- (2) Section 12P(2) and (4) applies to the person as if the amending regulation had not been made.

37 Particular use of prescribed agricultural ERA product—continuation of obligation to keep particular records

- (1) This section applies if, immediately before the

commencement, former section 12X(2)(b)(ii) and (iii) applied to a person in relation to the use of a prescribed agricultural ERA product.

- (2) Former section 12X(2)(b)(ii) and (iii) continues to apply to the person in relation to the product as if the amending regulation had not been made.

ENDNOTES

- 1 Made by the Governor in Council on 6 October 2016.
- 2 Notified on the Queensland legislation website on 7 October 2016.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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