



Agricultural Chemicals Distribution Control Act 1966

Agricultural Chemicals Distribution Control Regulation 2021

Current as at 31 August 2021

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Queensland

Agricultural Chemicals Distribution Control Regulation 2021

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Agricultural Chemicals Distribution Control Regulation 2021

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Agricultural Chemicals Distribution Control Regulation 2021*.

2 Commencement

This regulation commences on 31 August 2021.

3 Definitions

The dictionary in schedule 6 defines particular words used in this regulation.

4 Parts of State excluded from application of Act—Act, s 3

- (1) For section 3 of the Act, it is declared that the Act does not apply in the parts of the State shown on the map in schedule 1.
- (2) The exact location of the boundary of the parts of the State in which the Act is declared not to 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 in which the Act is declared not to 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.

5 Ground equipment—Act, schedule

For the schedule of the Act, definition *ground equipment*, a machine or apparatus, in an area other than a hazardous area, is prescribed not to be ground equipment for the purposes of the Act if the machine or apparatus—

- (a) is powered by hand; or
- (b) is powered by compressed air or gas applied directly to the spray liquid for distribution without the use of air blasting techniques; or
- (c) is a hose proportioning device.

Part 2 Aerial distribution

6 Qualification for pilot chemical rating licence—Act, s 12

- (1) This section prescribes the qualification for section 12(2)(c) of the Act.
- (2) If a person intends to pilot only a manned aircraft under the licence, the qualification prescribed is a spraysafe accreditation.
- (3) If a person intends to pilot a manned aircraft, and use a UAV, under the licence, the qualification prescribed is a spraysafe accreditation.
- (4) If a person intends to use only a UAV under the licence, the qualification prescribed 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) AHCCHM307—Prepare and apply chemicals to control pest, weeds and diseases;

- (ii) AHCCHM304—Transport and store chemicals; or
 - (c) a record of results issued by a registered training organisation that shows the person has successfully completed each of the units of competency mentioned in paragraph (b).
- (5) This section does not apply in relation to a person mentioned in subsection (2), (3) or (4) who—
- (a) does not hold the qualification prescribed under the subsection; but
 - (b) has successfully completed training the chief executive reasonably considers is substantially equivalent to the qualification.
- (6) Nothing in this section prevents Aerial Application Association of Australia Ltd ACN 002 501 886 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 issued by Aerial Application Association of Australia Ltd ACN 002 501 886 that—
- (a) is designed for aircraft pilots; and
 - (b) relates to safety in aerial distribution.

Part 3 Ground distribution

7 Classes of commercial operator's licence—Act, s 16

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

- (a) a commercial operator's licence, restricted to herbicides or equipment stated in the licence (a *restricted commercial operator's licence*);

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

8 Qualification for unrestricted commercial operator's licence—Act, s 16

- (1) For section 16(2) of the Act, the qualification prescribed 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) AHCCHM307—Prepare and apply chemicals to control pest, weeds and diseases;
 - (ii) AHCCHM304—Transport and store chemicals; or
 - (b) a record of results issued by a registered training organisation that shows the person has successfully completed each of the units of competency mentioned in paragraph (a).
- (2) This section does not apply in relation to a person who—
 - (a) does not hold the qualification prescribed under subsection (1); but
 - (b) has successfully completed training the chief executive reasonably considers is substantially equivalent to the qualification.

9 Relevant pest management qualification for pest management technician—Act, s 16A

For section 16A(4) of the Act, definition *relevant pest management qualification*, the qualification prescribed is—

- (a) a statement of attainment issued by a registered training organisation stating that a person has successfully

completed each of the following units of competency of a VET course—

- (i) CPPUPM3005—Manage pests without applying pesticides;
 - (ii) CPPUPM3006—Manage pests by applying pesticides;
 - (iii) CPPUPM3018—Maintain equipment and pesticide storage area in pest management vehicles; or
- (b) the successful completion of training the chief executive reasonably considers is substantially equivalent to a statement of attainment mentioned in paragraph (a).

Part 4 Regulation of licensing

10 Form of licence

A licence must be in the approved form.

11 Information notice for decision of standards officer to suspend licence—Act, s 20

- (1) This section applies if the standards officer decides, under section 20 of the Act, to suspend a licence.
- (2) The standards officer must, as soon as practical after the decision is made, give the holder of the licence an information notice for the decision.

12 Right of review

- (1) This section applies if the holder of a licence must be given an information notice under section 11 for a decision of the standards officer to suspend the licence.

- (2) The holder may apply to QCAT, as provided under the QCAT Act, for a review of the decision.

13 Register—Act, s 24

- (1) For section 24(1) of the Act, the manner prescribed is in electronic form.
- (2) For section 24(1) of the Act, the following particulars are prescribed for each licensee—
 - (a) the licensee's name;
 - (b) the licensee's suburb;
 - (c) the number of the licence;
 - (d) the type of licence;
 - (e) the date the licence commences;
 - (f) the date the licence expires.
- (3) The standards officer may also enter other particulars in the register that the standards officer thinks are appropriate.

Part 5 Regulation of distribution

Division 1 General

14 Particular requirements for 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 leakproof cut-off system.

Maximum penalty—20 penalty units.

Division 2 Areas other than hazardous areas

15 No distribution if damage or injury to crop or stock

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

Maximum penalty—20 penalty units.

Note—

See section 19 in relation to aerial distribution and ground distribution in a hazardous area.

Division 3 Hazardous areas

Subdivision 1 Declaration of hazardous areas

16 Hazardous areas—Act, s 28

- (1) For section 28 of the Act, each of the following areas is declared to be a hazardous area—
 - (a) the area shown on the map in schedule 2 (*hazardous area no. 1*);

[s 17]

- (b) the area shown on the map in schedule 3 (*hazardous area no. 2*);
 - (c) the area shown on the map in schedule 4 (*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.
 - (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 Conditions for distribution in hazardous areas—Act, ss 28 and 29

17 Purpose of subdivision

For sections 28(1) and 29 of the Act, this subdivision prescribes the conditions for carrying out aerial distribution or ground distribution in a hazardous area.

Note—

Under section 29 of the Act, a person must not carry out aerial distribution 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 a contravention of section 29 of the Act is 100 penalty units or 6 months imprisonment.

18 Definition for subdivision

In this subdivision—

authorised technique, in relation to ground distribution, means—

- (a) a stem injection; or

- (b) cut stump treatment, frill ringing or basal bark treatment carried out not less than 100m from 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.

19 No distribution if damage or injury to crop or stock

Aerial distribution 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 the person carrying out the distribution did not intend to treat by the distribution; or
- (b) stock.

20 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.

21 Conditions for hazardous area no. 1

- (1) This section applies in relation to hazardous area no. 1.
- (2) Aerial distribution of picloram, or of an ester formulation of MCPA or 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 picloram, or of an ester formulation of MCPA or 2,4-D, must not be carried out unless—

[s 22]

- (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.

22 Conditions for hazardous area no. 2

- (1) This section applies in relation to hazardous area no. 2.
- (2) Aerial distribution or ground distribution of an ester formulation 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.

23 Conditions for hazardous area no. 3

- (1) This section applies in relation 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

24 Application for distribution permit

- (1) A person who holds an aerial distribution contractor licence may apply to the chief executive for a permit (a *distribution permit*) for a stated individual to carry out aerial distribution in a stated hazardous area if—
 - (a) the individual is a pilot in command who holds a pilot chemical rating licence; and
 - (b) either—
 - (i) the individual is the applicant; or
 - (ii) the individual will carry out the aerial distribution in the course of the applicant’s business, or at the direction, or under the authority, of the applicant.
- (2) A person who holds an aerial distribution contractor licence or a ground distribution contractor’s licence may apply to the chief executive for a permit (also a *distribution permit*) for a stated individual to carry out ground distribution in a stated hazardous area if—
 - (a) the individual holds a commercial operator’s licence; and
 - (b) either—
 - (i) the individual is the applicant; or
 - (ii) the individual will carry out the ground distribution in the course of the applicant’s business, or at the direction, or under the authority, of the applicant.
- (3) The application must—
 - (a) be in the approved form; and
 - (b) be made at least 10 days before the day the applicant proposes to start the distribution to which the application relates.

25 Decision on application

- (1) The chief executive must consider the application and decide to grant, or refuse to grant, the application.
- (2) If the chief executive does not make a decision under subsection (1) within 3 months after the day the application is made, the chief executive is taken—
 - (a) to have decided to refuse to grant the application; and
 - (b) to have given the applicant an information notice for the decision on the last day of that period.

26 Issue of distribution permit

If the chief executive decides to grant the application, the chief executive must, within 14 days after the decision is made, issue a distribution permit in the approved form.

27 Conditions for distribution permit

- (1) The chief executive may issue the distribution permit on the reasonable conditions the chief executive considers appropriate.
- (2) If the chief executive decides under subsection (1) to issue the distribution permit on conditions, the chief executive must, within 14 days after the decision is made, give the applicant an information notice for the decision.

28 Notice of refusal

If the chief executive decides to refuse to grant the application, the chief executive must, within 14 days after the decision is made, give the applicant an information notice for the decision.

29 Right of review

- (1) This section applies if the applicant must be given an information notice under section 27(2) or 28 for a decision of the chief executive—
 - (a) to issue the distribution permit on conditions; or
 - (b) to refuse to grant the application.
- (2) The applicant may apply to QCAT, as provided under the QCAT Act, for a review of the decision.

Part 6 General

30 False or misleading statements or documents

- (1) A person must not, in applying for a licence or distribution permit—
 - (a) state anything to the chief executive the person knows is false or misleading in a material particular; or
 - (b) give the 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 if the person, when giving the document—
 - (a) tells the chief executive, to the best of the person's ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the chief executive.
- (3) In this section—

apply, for a licence, includes apply for the renewal of a licence.

31 Fees

The fees payable under the Act are stated in schedule 5.

Part 7 Repeal and transitional provisions

Division 1 Repeal

32 Repeal

The Agricultural Chemicals Distribution Control Regulation 1998, SL No. 135 is repealed.

Division 2 Transitional provisions

33 Definition for division

In this division—

repealed regulation means the repealed *Agricultural Chemicals Distribution Control Regulation 1998*.

34 Existing applications for pilot chemical rating licences

- (1) This section applies if—
 - (a) before the commencement, an application was made under section 17 of the Act for a pilot chemical rating licence; and
 - (b) immediately before the commencement, the application had not been dealt with.
- (2) Despite section 6 of this regulation, the repealed regulation, section 7 continues to prescribe the qualification for section 12(2)(c) of the Act.

35 Existing applications for unrestricted commercial operators' licences

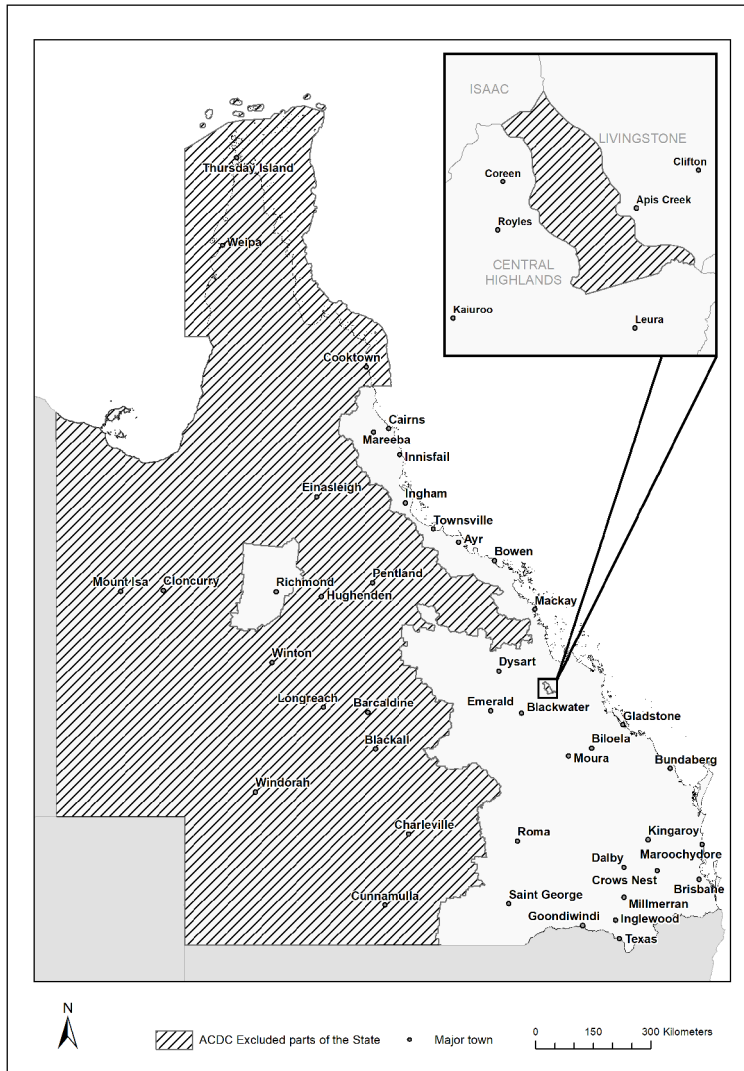
- (1) This section applies if—
 - (a) before the commencement, an application was made under section 17 of the Act for an unrestricted commercial operator's licence; and
 - (b) immediately before the commencement, the application had not been dealt with.
- (2) Despite section 8 of this regulation, the repealed regulation, section 8 continues to prescribe the qualification for section 16(2) of the Act.

36 Existing applications for distribution permits

- (1) This section applies if—
 - (a) before the commencement, an application was made under the repealed regulation, section 39 for a distribution permit; and
 - (b) immediately before the commencement, the application had not been dealt with.
- (2) The application is taken to have been made under section 24 of this regulation and must be dealt with under part 5, division 3, subdivision 3 of this regulation.

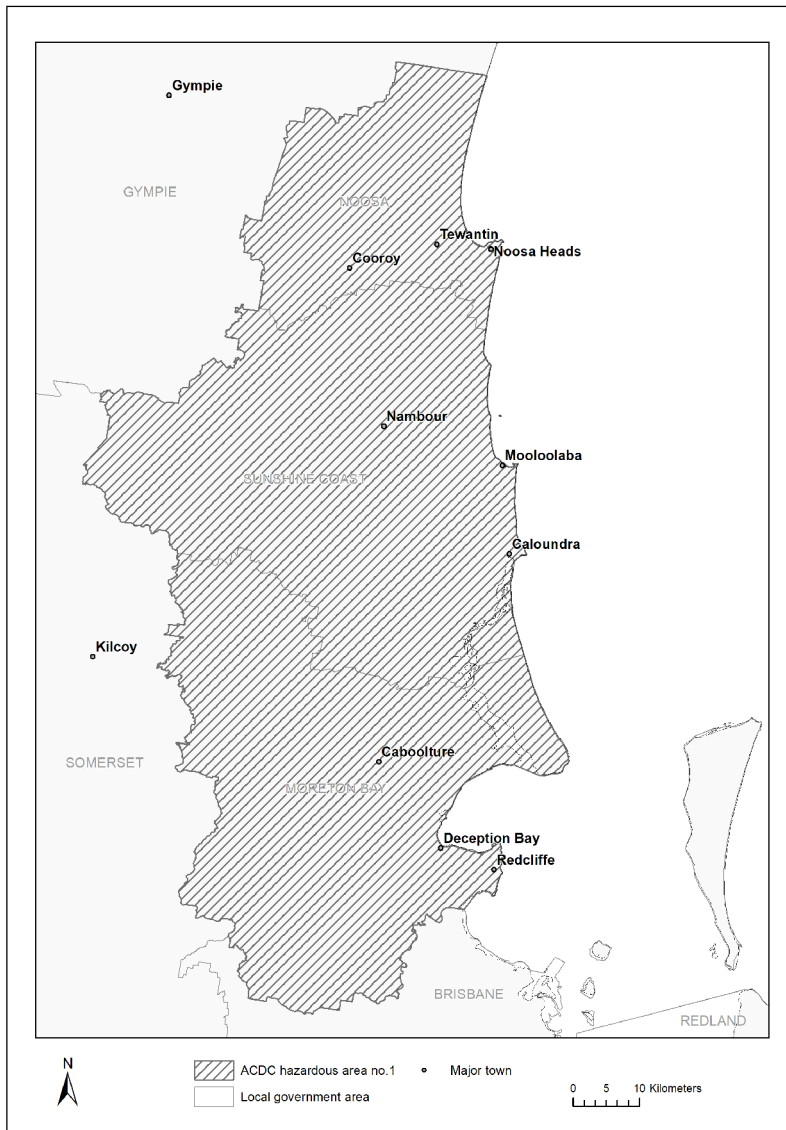
Schedule 1 Areas excluded from application of Act

section 4



Schedule 2 Hazardous area no. 1

section 16(1)(a)



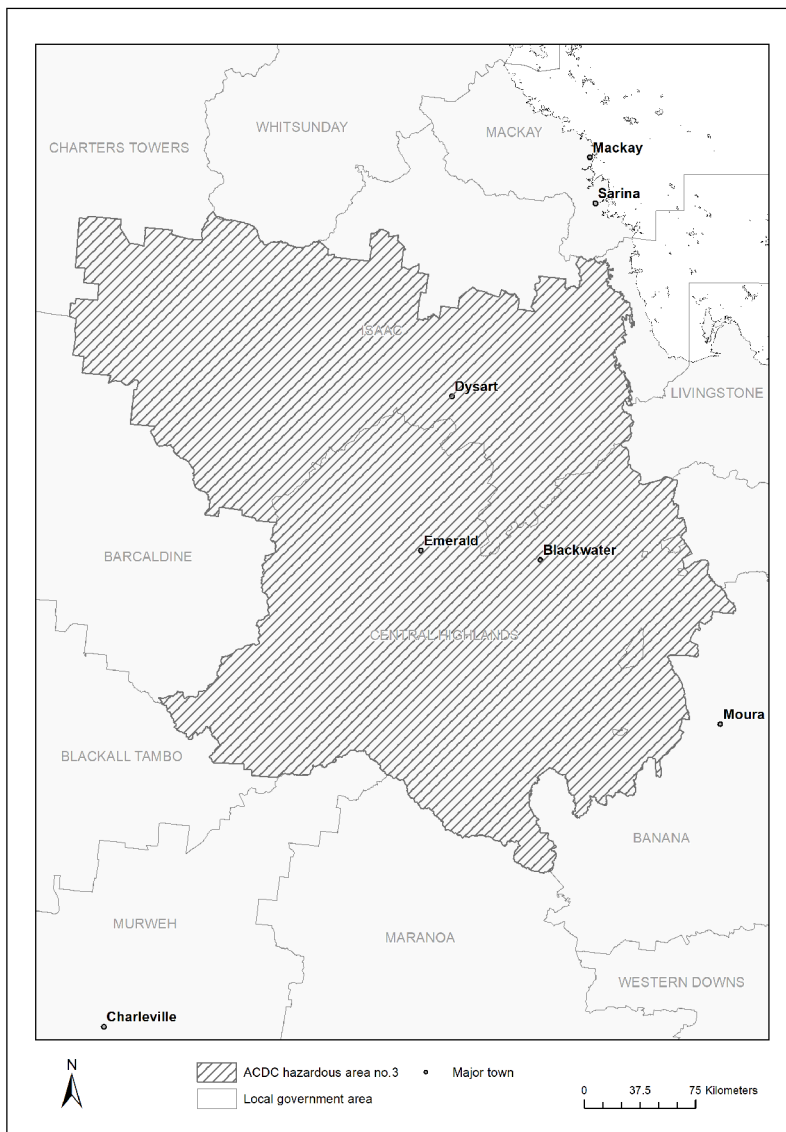
Schedule 3 Hazardous area no. 2

section 16(1)(b)



Schedule 4 Hazardous area no. 3

section 16(1)(c)



Schedule 5 Fees

section 31

	\$
1 Application for aerial distribution contractor licence, commercial operator's licence, ground distribution contractor's licence or pilot chemical rating licence (Act, s 17(1)(b))—	
(a) for 1 year	35.10
(b) for 3 years	82.50
2 Application for renewal of aerial distribution contractor licence, commercial operator's licence, ground distribution contractor's licence or pilot chemical rating licence (Act, s 19(3)(b))—	
(a) for 1 year	23.65
(b) for 3 years	70.95

Schedule 6 Dictionary

section 3

Australian Qualifications Framework see the *Higher Education Support Act 2003* (Cwlth), schedule 1.

authorised technique, in relation to ground distribution, for part 5, division 3, subdivision 2, see section 18.

distribution permit see section 24(1) and (2).

hazardous area no. 1 see section 16(1)(a).

hazardous area no. 2 see section 16(1)(b).

hazardous area no. 3 see section 16(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 Australian Qualifications Framework 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 7(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 7(b).

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