



Agricultural Chemicals Distribution Control Act 1966

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Queensland

Agricultural Chemicals Distribution Control Act 1966

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Agricultural Chemicals Distribution Control Act 1966

An Act to control the distribution of agricultural chemicals from aircraft and from ground equipment, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Agricultural Chemicals Distribution Control Act 1966*.

2 Commencement of pts 3–6

- (1) Parts 3 and 4 shall come into operation on a date to be fixed by the Governor in Council by proclamation published in the gazette.
- (1A) The same date may be so fixed in respect of both of those parts or different dates may be so fixed in respect of them respectively.
- (2) Parts 5 and 6 shall come into operation—
 - (a) to the extent to which the provisions of those parts relate to aerial distribution—on the date on which part 3 comes into operation; and
 - (b) to the extent to which the provisions of those parts relate to ground distribution—on the date on which part 4 comes into operation.
- (3) No provision of this section or proclamation made under this section shall limit or prejudice howsoever the power conferred upon the Governor in Council by section 3.

3 Application of Act

The Governor in Council, by regulation, may declare that this Act, or a specified provision of this Act, does not apply in a specified part of the State.

4 Act to bind Crown

Save as where otherwise expressly provided in this Act, the provisions of this Act bind the Crown.

6 Definitions

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

6A Words and expressions used in Agvet Code and this Act

- (1) Words and expressions used in the Agvet Code and this Act have the same meanings in this Act as they have in the Agvet Code.
- (2) Words and expressions mentioned in subsection (1) that are expressly defined in section 3 of the Agvet Code are also signposted in the dictionary.

6B Reference to loss or damage

A reference in this Act to loss or damage caused by aerial or ground distribution, or by the distribution of agricultural chemicals by aerial or ground distribution, includes loss or damage caused by the drift of any agricultural chemical used in the distribution.

Part 2 Administration

7 Appointment of inspectors and analysts

- (1) The chief executive may appoint a person to be an inspector or analyst.
- (2) The chief executive may appoint a person as an inspector or analyst only if the chief executive is satisfied the person has the necessary expertise or experience.
- (3) In this section—
inspector does not include the standards officer or a deputy standards officer.

7A Limitation of inspector's powers

The powers of an inspector may be limited—

- (a) under a regulation; or
- (b) under a condition of appointment; or
- (c) by written notice of the chief executive given to the inspector.

7B Inspector's identity card

- (1) The chief executive must give each inspector an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the inspector; and
 - (b) be signed by the inspector; and
 - (c) identify the person as an inspector under this Act.
- (3) A person who ceases to be an inspector must return the person's identity card to the chief executive as soon as practicable (but within 21 days) after the person ceases to be an inspector, unless the person has a reasonable excuse for not returning it.

[s 7C]

Maximum penalty—10 penalty units.

- (4) This section does not prevent the giving of a single identity card to a person under this Act and for other Acts or purposes.

7C Production or display of inspector's identity card

- (1) An inspector may exercise a power under this Act in relation to someone else only if the inspector—
 - (a) first produces his or her identity card for the person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the person.
- (2) However, if for any reason 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.

8 Delegations by chief executive

The chief executive may delegate the chief executive's powers under this Act to the standards officer.

Part 3 Aerial distribution

12 Pilot chemical rating licence

- (1) Subject to this Act, the chief executive may grant pilot chemical rating licences.
- (2) A person may apply under section 17 for a pilot chemical rating licence if the person gives the chief executive evidence that the person holds—
 - (a) if the person intends to pilot a manned aircraft under the licence—the authorisation mentioned in subsection (3); and

- (b) if the person intends to use an unmanned aircraft other than a balloon or a kite (a *UAV*) under the licence—the authorisation mentioned in subsection (4); and
 - (c) the qualification prescribed by regulation.
- (3) For subsection (2)(a), the authorisation is a civil aviation authorisation under which the person may pilot (as pilot in command) the manned aircraft the person intends to use under the licence to carry out aerial distribution in the circumstances the person intends to carry out the aerial distribution.

Examples of circumstances for subsection (3)—

- aerial distribution to be conducted as a commercial operation
 - application of agricultural chemicals to crops to control pests
 - application of agricultural chemicals for mosquito control
- (4) For subsection (2)(b), the authorisation is a civil aviation authorisation under which the person may act as the controller of the *UAV* the person intends to use under the licence to carry out aerial distribution in the circumstances the person intends to carry out the aerial distribution.

13 Effect of termination or suspension of pilot's licence

- (1) If by reason of expiration, cancellation or suspension a civil aviation authorisation mentioned in section 12(3) or (4) of a person who holds a pilot chemical rating licence ceases to be in force then, on and from the date of such cesser and by virtue thereof, that chemical rating licence shall also cease to be in force.
- (2) However, in the case of such cesser by suspension if the suspended licence is revived upon or by termination of the suspension the pilot chemical rating licence shall also be revived unless it has been sooner cancelled or further suspended.

14 Certificate issued in another State

- (1) For the purposes of the provisions of this Act relating to aerial distribution a certificate or licence issued under a law of any other State or Territory—
 - (a) which corresponds to a pilot chemical rating licence issued under this Act; and
 - (b) which is in force at any material time in the State or Territory in which it was issued;shall be equivalent in Queensland to a pilot chemical rating licence issued under this Act and shall have force and effect accordingly.
- (3) The provisions of sections 20 to 23 apply with respect to the operation in Queensland of a certificate or licence referred to in subsection (1) as if it were a pilot chemical rating licence issued under this Act and its operation in Queensland may be cancelled or suspended accordingly.

15 Aerial distribution contractor licence

- (1) Subject to this Act, the chief executive may grant aerial distribution contractor licences.
- (2) A person may apply under section 17 for an aerial distribution contractor licence if the person gives the chief executive evidence that the person holds—
 - (a) if the person intends a manned aircraft to be used under the licence—the authorisation mentioned in subsection (3); and
 - (b) if the person intends a UAV to be used under the licence—the authorisation mentioned in subsection (4).
- (3) For subsection (2)(a), the authorisation is a civil aviation authorisation that is an AOC under which the aircraft the person intends to be used under the licence to carry out aerial distribution may operate in Australian territory for commercial purposes that are the distribution of agricultural chemicals.

Example of an AOC complying with subsection (3)—

an AOC endorsed for aerial application operations to distribute agricultural chemicals

- (4) For subsection (2)(b), the authorisation is a civil aviation authorisation under which the person may operate for hire or reward the UAV the person intends to be used under the licence to carry out aerial distribution in the circumstances the person intends to carry out the aerial distribution.

Examples of circumstances for subsection (4)—

- the area in which aerial distribution is to be carried out
- application of agricultural chemicals to crops to control pests
- application of agricultural chemicals for mosquito control

Part 4 Ground distribution

16 Commercial operators' licence

- (1) Subject to this Act, the chief executive may grant commercial operators' licences of all or any of the classes thereof prescribed.
- (2) A person who does not possess the qualifications prescribed for a particular class of commercial operator's licence shall not be entitled to apply for and shall not be granted a commercial operator's licence of that class.

16A When pest management technician is taken to hold commercial operator's licence

- (1) For a provision of this Act relating to ground distribution, a pest management technician who holds a relevant pest management qualification is taken to hold a commercial operator's licence.
- (2) Sections 20 to 23 apply, with necessary changes, to the operation, under this Act, of the pest management technician's licence as if it were a commercial operator's licence.

[s 16B]

- (3) For subsection (2), a reference in sections 20 to 23 to the suspension or cancellation of a commercial operator's licence is taken to be a reference to the suspension or cancellation of the operation of the pest management technician's licence under this Act as a commercial operator's licence.
- (4) In subsection (1)—
relevant pest management qualification means a qualification prescribed for the subsection under a regulation.

16B Ground distribution contractor licence

The chief executive may grant a ground distribution contractor's licence.

Part 5 Regulation of licensing

17 Application for licences

- (1) An application for a licence must—
 - (a) be made to the chief executive in the approved form; and
 - (b) be accompanied by the fee (if any) prescribed by regulation.
- (2) If asked by the chief executive, the applicant must give the further relevant information or evidence the chief executive reasonably requires to decide the application.
- (3) The chief executive must consider an application for a licence and may grant, or refuse to grant, the licence.
- (4) If the chief executive decides to grant the application, the chief executive must as soon as practicable—
 - (a) issue a new licence to the applicant; and
 - (b) if the chief executive decides to impose a condition on the licence under section 17A(2)(a) or 17B(2)(a) when the licence is issued—give the licensee an information notice for the decision.

- (5) The chief executive may grant an application for a pilot chemical rating licence or commercial operator's licence only if the chief executive is satisfied the applicant is at least 17 years of age.
- (6) If the chief executive decides to refuse to grant the application, the chief executive must, as soon as practicable—
 - (a) give the applicant an information notice about the decision; and
 - (b) refund the fee mentioned in subsection (1)(b).

17A Conditions of pilot chemical rating licence

- (1) A pilot chemical rating licence is subject to the following conditions—
 - (a) the licensee must hold a civil aviation authorisation under which the licensee may—
 - (i) if the licensee is piloting a manned aircraft under the licence to carry out aerial distribution—pilot (as pilot in command) the aircraft in the circumstances the aerial distribution is being carried out; and
 - (ii) if the licensee is using a UAV under the licence to carry out aerial distribution—act as the controller of the UAV in the circumstances the aerial distribution is being carried out;
 - (b) any reasonable conditions, imposed by the chief executive, that the chief executive considers appropriate for the proper control of aerial distribution carried out under the licence.
- (2) The chief executive may impose a condition under subsection (1)(b)—
 - (a) when the licence is issued or renewed; or
 - (b) at another time if the chief executive considers there is a risk relating to the licence that warrants the condition being imposed at that time.

- (3) If the chief executive decides to impose a condition on the licence under subsection (2)(b), the chief executive must, as soon as practicable, give the licensee an information notice for the decision.

17B Conditions of aerial distribution contractor licence

- (1) An aerial distribution contractor licence is subject to the following conditions—
 - (a) the licensee must hold a civil aviation authorisation—
 - (i) if a manned aircraft is being used under the licence to carry out aerial distribution—that is an AOC under which the aircraft may operate in Australian territory for commercial purposes that are the distribution of agricultural chemicals; and
 - (ii) if a UAV is being used under the licence to carry out aerial distribution—under which the licensee may operate for hire or reward the UAV in the circumstances the aerial distribution is being carried out;
 - (b) any reasonable conditions, imposed by the chief executive, that the chief executive considers appropriate for the proper control of aerial distribution carried out under the licence.
- (2) The chief executive may impose a condition under subsection (1)(b)—
 - (a) when the licence is issued or renewed; or
 - (b) at another time if the chief executive considers there is a risk relating to the licence that warrants the condition being imposed at that time.
- (3) If the chief executive decides to impose a condition on the licence under subsection (2)(b), the chief executive must, as soon as practicable, give the licensee an information notice for the decision.

17C Licence holder must not contravene condition of licence

- (1) The holder of a licence must not contravene a condition of the licence unless the holder has a reasonable excuse.

Maximum penalty—100 penalty units.

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

18 Term of licence

- (1) A licence has effect from the day it is issued.
- (2) The chief executive may issue, or renew, a licence for up to 3 years.

19 Renewal of licence

- (1) A licensee may apply to the chief executive to renew a licence within 60 days before the licence expires.
- (2) If the chief executive does not receive an application to renew a licence by the day the licence is to expire, the licence expires.
- (3) The application must be—
- (a) made in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (4) The applicant must give the chief executive any relevant information or document the chief executive reasonably requires to decide the application.
- (5) The chief executive must consider the application and either grant, or refuse to grant, the application.
- (6) If the chief executive decides to grant the application, the chief executive must as soon as practicable—
- (a) issue a new licence to the applicant; and

[s 19A]

- (b) if the chief executive decides to impose a condition on the licence under section 17A(2)(a) or 17B(2)(a) when the licence is renewed—give the licensee an information notice for the decision.
- (7) The new licence takes effect from the day the licence being renewed would otherwise have expired.
- (8) If the chief executive decides to refuse to grant the application, the chief executive must, as soon as practicable—
 - (a) give the applicant an information notice about the decision; and
 - (b) refund the fee mentioned in subsection (3)(b).

19A Expiring licence continues in force

- (1) If a licensee has applied, under section 19, to renew a licence, the 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 applicant; 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 applicant.
- (2) Subsection (1) does not apply if the licence is earlier suspended or cancelled.

19B Notice of change in circumstances

- (1) Subsection (2) applies if there is a change of the following type in a licensee's circumstances—
 - (a) a change in the licensee's name or address;
 - (b) another change in the licensee's circumstances prescribed under a regulation.

- (2) The licensee must, within 21 days after the change, give the chief executive written notice of the change.

Maximum penalty—10 penalty units.

20 Suspension of licence by standards officer

Where the standards officer is of the opinion that it is in the public interest that a licence should be suspended during any investigation into any act or omission alleged to have been committed by the licensee, the standards officer may suspend that licence for such period, not being in excess of 1 month, as the standards officer thinks fit; and such suspension shall remain in force for such period unless sooner removed by the chief executive.

21 Grounds for suspension or cancellation of licence by chief executive

Each of the following is a ground for suspending or cancelling a licence under section 21D—

- (a) the licensee has committed an offence against this Act or the *Health (Drugs and Poisons) Regulation 1996*, section 290, made under the *Health Act 1937*;
- (b) the licensee has done an act or made an omission that would not entitle the licensee to apply for a licence of the type held by the licensee;
- (c) the licence was issued because of a materially false, fraudulent or misleading document, representation or declaration;
- (d) the licensee is not, or is no longer, an appropriate person to continue to hold the licence;
- (e) the licensee has contravened a condition of the licence;
- (f) if the licence is an aerial distribution contractor licence or a ground distribution contractor licence—the licensed distribution contractor has not complied with a request made by the standards officer under section 26(2).

21A Show cause notice

- (1) This section applies if the chief executive believes a ground exists to suspend or cancel a licence (the *proposed action*).
- (2) Before taking the proposed action, the chief executive must give the licensee a notice (a *show cause notice*) stating the following—
 - (a) the proposed action;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the licence—the proposed suspension period;
 - (e) that the licensee may, within a stated period (the *show cause period*), make written representations to the chief executive to show why the proposed action should not be taken.
- (3) The show cause period must end at least 21 days after the licensee is given the show cause notice.

21B Representations about show cause notice

- (1) The licensee may, within the show cause period, make written representations to the chief executive about why the proposed action should not be taken.
- (2) The chief executive must consider all representations (the *accepted representations*) made under subsection (1).

21C Ending show cause process without further action

If, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the licence, the chief executive—

- (a) must not take any further action about the show cause notice; and

- (b) must give the licensee a notice that no further action is to be taken about the show cause notice.

21D Suspension or cancellation of licence

- (1) This section applies if—
 - (a) there are no accepted representations for a show cause notice; or
 - (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel the licence; and
 - (ii) believes suspension or cancellation of the licence is warranted.
- (2) The chief executive may—
 - (a) if the proposed action was to suspend the licence—suspend the licence for no longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.
- (3) If the chief executive decides to take action under subsection (2), the chief executive must as soon as practicable give the licensee an information notice for the decision.
- (4) The decision takes effect on the later of the following days—
 - (a) the day the information notice is given to the licensee;
 - (b) the day stated in the information notice for that purpose.

22 Right of review by QCAT

- (1) This section applies to a decision of the chief executive—
 - (a) to refuse an application for a licence or the renewal of a licence; or
 - (b) to impose a condition on a licence; or

- (c) to suspend or cancel a licence.
- (2) The applicant or licensee may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

23 Effect of suspension

Suspension of a licence (whether by QCAT, the chief executive or standards officer)—

- (a) shall, whilst such licence is so suspended, have the same effect as the cancellation of the licence;
- (b) shall, whilst such licence is so suspended, prohibit the issuing to the person who held that licence of any licence under this Act;
- (c) shall not, upon the termination of that suspension extend the period during which that licence would have remained in force if it had not been so suspended.

24 Register

- (1) The standards officer shall in the prescribed manner keep a register in which the names and the prescribed particulars of all licensees shall be entered.
- (2) The register shall be open for public inspection at all reasonable times.

Part 6 Regulation of distribution

26 Records to be kept

- (1) A distribution contractor must make a record of the following particulars, namely—
 - (a) in the case of aerial distribution—the name of the pilot in command and the registration mark of the aircraft concerned;

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- (b) in the case of ground distribution—the name of the licensed commercial operator carrying out or supervising the carrying out of such distribution;
 - (c) the name and address of the person or persons for whom such distribution is being carried out;
 - (d) for each agricultural chemical used in the distribution—particulars to identify the chemical and, if the chemical has a distinguishing number, the number;

Examples of particulars for paragraph (d)—

- 1 name of the chemical
 - 2 name of the manufacturer of the chemical
 - 3 name and amount of the active constituent in the chemical
- (e) a description of any diluent, wetter, spreader, emulsifier or other material added to an agricultural chemical used in the distribution;
 - (f) the description or the exact location of the land so treated including distances and directions from the nearest town site so that the land may be readily identified;
 - (g) the date and the time of such distribution;
 - (h) the estimated velocity and direction of the wind at the time and place of the distribution, any change in the velocity or direction during the distribution, and the time of the change;
 - (i) the quantity and concentration and the total volume of the agricultural chemical applied during such distribution;
 - (j) the total area covered by such distribution;
 - (k) the type of crop treated;
 - (l) the purpose or purposes for which such distribution was carried out;
 - (m) such other particulars and matters as may be prescribed;

and shall keep such record or cause it to be kept for a period of 2 years after such distribution.

- (2) At the request in writing of the standards officer a copy of the record kept pursuant to subsection (1) shall within the period and in the manner specified in the request be furnished to the standards officer by the distribution contractor.

(2A) A person who fails—

- (a) to make or cause to be made a record required by subsection (1) to be made;
- (b) to keep or cause to be kept a record required by subsection (1) to be kept;
- (c) to comply with a request made pursuant to subsection (2);

shall be guilty of an offence against this Act.

Maximum penalty—20 penalty units.

(3) Any person who with intent to defraud or deceive any other person—

- (a) alters or falsifies any record made pursuant to this section; or
- (b) makes or concurs in the making of any false or fraudulent entry in any such record; or
- (c) omits or concurs in omitting any material particular from any such record;

shall be guilty of an offence against this Act.

Maximum penalty—

- (a) on indictment—50 penalty units or imprisonment for 5 years; or
- (b) on a summary proceeding—50 penalty units or imprisonment for 1 year.

Note—

See section 44.

27 Production of distribution records

- (1) This section applies to a record of a distribution that a person is required under section 26 to keep for 2 years after the distribution.
- (2) An inspector may, within the 2 years, ask the person to produce the record for inspection.
- (3) The person must immediately produce the record for inspection by the inspector, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) The inspector may keep the record to make a copy of it.
- (5) However, the inspector must return the record to the person as soon as practicable after making a copy of it.

28 Hazardous areas

- (1) A regulation may declare an area to be a hazardous area and prescribe conditions for carrying out aerial or ground distribution in the area.
- (2) The chief executive must publish a notice of the declaration and conditions in a newspaper circulating generally in the hazardous area.

29 Carrying out of distributions in hazardous areas

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.

Maximum penalty—100 penalty units or imprisonment for 6 months.

34 Powers of inspectors

- (1) An inspector may—
 - (a) enter any place where—

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- (i) there is or the inspector has reasonable ground to believe there is or will be any aircraft or ground equipment which the inspector reasonably believes to be used or intended to be used for aerial or ground distribution;
 - (ii) the inspector has reasonable ground to believe aerial or ground distribution is being, has been or will be carried out;
 - (b) search therein for any crop, material, aircraft, aerial equipment, ground equipment, loading equipment or mixing equipment;
 - (c) inspect and examine or cause to be inspected and examined any crop, material, aircraft, aerial equipment, ground equipment, loading equipment or mixing equipment found therein;
 - (ca) open or cause to be opened any package, container, bin, tank or hopper found therein that contains or that the inspector has reasonable ground to believe contains an agricultural chemical;
 - (cb) select and take or cause to be selected and taken, and remove or cause to be removed for analysis any crop or material found therein or any other matter found therein that the inspector suspects is an agricultural chemical, or portions or samples of any such crop, material or matter;
 - (d) ask anyone the inspector considers can help, to help the inspector search, inspect, examine, open, select, take or remove anything on the place;
 - (e) question with respect to matters under this Act any person; and require any person to answer the questions put and to sign a declaration of the truth of the person's answers.
- (2) No provision of subsection (1) or of section 40 shall be construed so as—
- (a) to oblige any person to answer any question or make any statement which answer or statement would or would tend to incriminate the person; or

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- (b) to render any person liable to a penalty for failure to make such an answer or statement.
 - (3) Subsection (1) shall not authorise any of the persons mentioned in that subsection to enter and search without the permission of the occupier any dwelling house or any part used for residential purposes of a building unless that person does so under the authority of a search warrant.
 - (4) If it appears to a justice of the peace, upon complaint made on oath by any of the persons mentioned in subsection (1), that such person has reasonable grounds for believing and does believe that any aircraft or ground equipment or agricultural chemical which such person reasonably believes to be used or to be intended to be used for aerial distribution or ground distribution is in any dwelling house or in any part used for residential purposes of a building then that justice may issue his or her warrant directing the person named therein to search that dwelling house or part of a building.

Part 7 General

36 **Faulty or defective equipment**

- (1) This section applies if an inspector reasonably believes ground equipment or aerial equipment, or part of the equipment, to be faulty or defective or likely to cause loss of, or damage to, stock or crops.
- (2) The inspector may give to the owner or distribution contractor responsible for the use of the equipment, written notice requiring the owner or contractor to do any 1 or more of the following—
 - (a) stop using the equipment immediately, or after a date stated in the notice, until the equipment is repaired or altered in the way stated in the notice;
 - (b) repair or alter the equipment in the way, and within the time, stated in the notice;

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- (c) refrain from selling, hiring, or otherwise disposing of, or parting with possession of, the equipment until the requirements under paragraph (a) or (b) have been satisfied.
- (3) A person to whom such notice has been given shall comply in every respect with the requirements of that notice.
Maximum penalty for subsection (3)—20 penalty units.
- (4) If it is not practicable to give written notice, the inspector may give the notice orally but must, as soon as practicable, give notice again in writing.

39 Aerial or ground distribution by or under supervision of licensed persons

- (1) A person shall not carry out or cause or permit to be carried out aerial distribution unless the pilot in command of the aircraft from which the distribution is carried out holds a pilot chemical rating licence and the aerial distribution is carried out in the course of the business of, at the direction of or under the authority of a licensed aerial distribution contractor.
Maximum penalty—20 penalty units.
- (2) A person shall not carry out or cause or permit to be carried out ground distribution unless the person who operates the ground equipment from which the distribution is carried out—
 - (a) either—
 - (i) holds a commercial operator’s licence and carries out the ground distribution under the licence; or
 - (ii) operates the equipment under the supervision of the holder of a commercial operator’s licence, who is authorised under the licence to carry out the distribution and is present during the whole of the distribution; and
 - (b) carries out the ground distribution in the course of the business of, at the direction of, or under the authority of—

- (i) a licensed aerial distribution contractor; or
- (ii) a licensed ground distribution contractor.

Maximum penalty—20 penalty units.

- (3) It is a defence to a charge of an offence against subsection (2) that the operator of the ground equipment was using the equipment at the material time on—
- (a) land owned or occupied by—
 - (i) himself or herself; or
 - (ii) a relative of his or hers; or
 - (iii) his or her employer who is primarily engaged in pastoral or agricultural pursuits and to whom he or she is bound by a contract of service that is primarily for work other than the carrying out of the ground distribution in question; or
 - (b) any unallocated State land, reserve or road under the *Land Act 1994* that adjoins land mentioned in paragraph (a) with the permission of the entity that holds or controls the unallocated State land, reserve or road.

40 Obstructing inspection etc.

Any person who—

- (a) assaults, resists, or obstructs an inspector in the exercise of the inspector's powers or in the discharge of the inspector's duties under this Act or attempts so to do; or
- (b) fails to answer any question put to the person in pursuance of this Act by an inspector or gives any false or misleading answer to any such question; or
- (c) directly or indirectly prevents any person from appearing before or being questioned by an inspector, or attempts so to do; or
- (d) uses any threat or any abusive or insulting language to any inspector or to an employee with respect to any inspection or examination or questioning; or

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- (e) fails when reasonably required so to do to assist an inspector in the exercise of the inspector's powers under section 34;

shall be guilty of an offence against this Act.

Maximum penalty—20 penalty units or imprisonment for 6 months.

42 Prosecutions generally

- (1) An offence against this Act is a summary offence, unless expressly provided otherwise.
- (2) A proceeding for an offence against this Act must start—
 - (a) within 1 year after the offence is committed; or
 - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

43 Responsibility for acts or omissions of representatives

- (1) If, in a proceeding for an offence against this Act, 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 or omission 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.
- (2) An act or omission 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, in a proceeding for an offence against this Act, to have been done or omitted to be done also by the person, unless the person proves the person took all reasonable steps to prevent the act or omission.
- (3) If—

- (a) an individual is convicted of an offence against this Act; and
 - (b) the individual would not have been convicted of the offence if subsections (1) and (2) had not been enacted;
- the individual is not liable to be punished by imprisonment for the offence.

44 Liability of executive officer—offence committed by corporation against s 26(3)

- (1) An executive officer of a corporation commits an offence if—
 - (a) the corporation commits an offence against section 26(3); 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 section 26(3) 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 section 26(3); and
 - (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against section 26(3); 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 section 26(3).
- (4) This section does not affect—

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- (a) the liability of the corporation for the offence against section 26(3); 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 section 26(3).

45 Evidence

In any proceedings—

- (a) it shall not be necessary to prove the appointment of any officer, or the authority of any officer to do any act or to give any direction or order; and
- (b) a certificate purporting to be under the hand of the standards officer of the standards officer making any request under this Act, or of the standards officer giving, issuing, or posting any notice, direction, or other thing under this Act, or of the standards officer giving or not giving any authority under this Act or of the receipt or non-receipt by the standards officer of any notice, application, or other document or of any other thing required by or under this Act to be given, made, or lodged to or with the standards officer, shall upon its production in evidence, be evidence of the matter or matters certified to therein and that the signature on the certificate is the signature of the standards officer, and in the absence of evidence in rebuttal, shall be conclusive evidence of such matter or matters and signature; and
- (c) the production of a certificate of analysis purporting to be under the hand of an analyst shall upon its production in evidence be evidence of the matter or matters certified therein and that the signature thereon is the signature of the analyst concerned, and in the absence of evidence in rebuttal shall be conclusive evidence of such matter or matters and signature.

46 Chief executive may approve forms

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

48 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may make provision about the following—
 - (a) regulating aerial and ground distribution of agricultural chemicals over hazardous areas, including issuing permits for carrying out the distribution (and cancelling and suspending them);
 - (b) regulating the flying of aircraft equipped with aerial equipment, or movement of ground equipment carrying agricultural chemicals, over hazardous areas;
 - (c) providing for and regulating the cleansing of aircraft and ground equipment used to carry agricultural chemicals;
 - (d) regulating aerial and ground distribution of agricultural chemicals in conditions likely to cause the chemicals to drift;
 - (e) regulating the use in aerial and ground distribution of preparations containing agricultural chemicals;
 - (f) regulating the droplet or particle size in aerial and ground distribution;
 - (g) the types of aerial and ground equipment that may be used;
 - (h) regulating the type of aerial and ground distribution and the appliances that may be used;
 - (i) types of licences, qualifications needed to hold a licence, terms under which licences may be obtained and held and the authority the licence confers on the licensee;

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- (j) testing of licensees, the entity giving the tests, the times and places the tests are to be held, and the subjects of the tests;
- (k) fees to be paid for the issue or renewal of a licence, an application for a licence or permit, undertaking a test or any other purpose of the Act;
- (l) regulating inspection, investigation and samples, including—
 - (i) the way samples are taken; and
 - (ii) the quantity or weight of samples; and
 - (iii) the labelling of samples; and
 - (iv) the delivery of samples to the standards officer;
- (m) analysis and examination of agricultural chemicals, portions, samples, material and other things for this Act, including ways of analysing and examining to decide—
 - (i) the composition or physical properties of an agricultural chemical; or
 - (ii) the nature and amount of residue on any crop or stock; or
 - (iii) damage to any crop or stock;
- (n) imposing penalties not exceeding 35 penalty units for a contravention of a regulation;
- (o) regulating cancellation and suspension of licences.

Part 8

Transitional provisions for Agriculture and Other Legislation Amendment Act 2015

49 Definition for pt 8

In this part—

amending Act means the *Agriculture and Other Legislation Amendment Act 2015*.

50 Holder of former pilot chemical rating licence

- (1) This section applies if, immediately before the commencement, a person held a pilot chemical rating licence.
- (2) The licence is taken to have been issued under section 17.

51 Undecided application for pilot chemical rating licence

- (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.
- (2) The application may be decided as if the amending Act had not been enacted.
- (3) If the person is granted a pilot chemical rating licence on the application, the person is taken to hold the authorisation mentioned in section 17A(1)(a) while the person holds a commercial pilot’s licence.
- (4) In this section—

commercial pilot’s licence means a commercial pilot’s licence, endorsed with an agricultural rating, issued under the Civil Aviation Regulations or Orders (Cwlth).

52 Holder of former aerial distribution contractor licence

- (1) This section applies if, immediately before the commencement, a person held an aerial distribution contractor licence.
- (2) The licence is taken to have been issued under section 17.

53 Undecided application for aerial distribution contractor licence

- (1) This section applies if, immediately before the commencement—
 - (a) a person held a formerly required civil aviation authorisation; and
 - (b) an application by the person for an aerial distribution contractor licence had not been decided.
- (2) The application may be decided as if the amending Act had not been enacted.
- (3) If the person is granted an aerial distribution contractor licence on the application, the person is taken to hold the authorisation mentioned in section 17B(1)(a) while the person holds a formerly required civil aviation authorisation.
- (4) In this section—

formerly required civil aviation authorisation means a civil aviation authorisation required to apply for an aerial distribution contractor licence.

Schedule Dictionary

sections 6 and 6A(2)

accepted representations see section 21B(2).

aerial distribution means the spraying, spreading or dispersing whether intended or not of any agricultural chemical or any preparation containing any agricultural chemical from an aircraft in flight.

aerial distribution contractor means any person who carries on the business of aerial distribution or at whose direction or upon whose authority, an aircraft is used to carry out aerial distribution.

aerial equipment means, where used in relation to an aircraft, the equipment installed or attached or partly installed or partly attached to that aircraft and which is the means or the intended means by which the spraying, spreading or dispersing of any agricultural chemical or any preparation containing any agricultural chemical is or shall be undertaken from that aircraft when in flight.

agricultural chemical means—

- (a) an agricultural chemical product; or
- (b) another material prescribed by regulation to be an agricultural chemical.

agricultural chemical product see the Agvet Code, section 3.

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

aircraft means any machine that can derive support in the atmosphere from the reactions of the air.

analysis means analysis or examination or analysis and examination, including any test or determination relative to composition or physical property of an agricultural chemical

or to detection, identification and determination of the residue of agricultural chemicals.

analyst means an analyst appointed under this Act.

approved form means a form approved by the chief executive.

APVMA see the Agvet Code, section 3.

chemical product see the Agvet Code, section 3.

civil aviation authorisation means a civil aviation authorisation under the *Civil Aviation Act 1988* (Cwlth), section 3.

Civil Aviation Orders means orders in force under the *Civil Aviation Act 1988* (Cwlth).

Civil Aviation Regulations means the regulations in force under the *Civil Aviation Act 1988* (Cwlth).

crop includes standing cultivated plants, trees or pastures, and also includes any vegetable growth prescribed to be a crop for the purposes of this Act.

deputy standards officer means a deputy standards officer appointed under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

distinguishing number, for a chemical product, means a number, together with 1 or more letters or symbols, given to the product on its registration by the APVMA.

distribution contractor means an aerial distribution contractor or ground distribution contractor.

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.

ground distribution means the spraying, spreading or dispersing of any herbicides or any preparation containing any herbicide from ground equipment.

ground distribution contractor means a person who carries on the business of ground distribution or at whose direction or

on whose authority, ground equipment is used to carry out ground distribution.

ground equipment means any machine or apparatus of any kind whatsoever other than an aircraft in flight used or intended to be used or capable of being used for the distribution of any herbicide, and includes any machine or apparatus prescribed to be ground equipment for the purposes of this Act, but does not include any machine or apparatus prescribed not to be ground equipment for the purposes of this Act.

hazardous area means an area declared under the regulations to be a hazardous area.

herbicide means—

- (a) a material used, or intended for use, for destroying, or preventing the spread of, plants; or
- (b) another material prescribed by regulation to be a herbicide;

but does not include a material used, or intended for use, for destroying, or preventing the spread of, plants if the material is declared by regulation to be a material to which this Act does not apply.

information notice means a notice complying with the QCAT Act, section 157(2).

inspector means an inspector appointed under this Act, and includes the standards officer and a deputy standards officer.

licence means any licence issued under this Act and in force at any material time.

licensed commercial operator means a person who holds a commercial operator's licence issued under this Act and in force at any material time.

licensee means any person holding a licence issued under this Act.

material means any article, material, or substance, natural or prepared, including any mixture or compound or derivative of a material, and includes any agricultural chemical or portion

thereof and any material used or intended as an agricultural chemical or which enters into or is used in the composition or preparation of any agricultural chemical or any such material.

obstruct includes hinder, resist and attempt to obstruct.

occupier means the person in actual occupation of any land or if there is no person in actual occupation the person entitled to possession of the land.

officer means—

- (a) the standards officer or a deputy standards officer; or
- (b) an inspector; or
- (c) an analyst; or
- (d) another officer appointed under this Act.

owner means—

- (a) for aircraft or ground equipment subject to a security interest under the *Personal Property Securities Act 2009* (Cwlth)—
 - (i) the person who holds the security interest; or
 - (ii) the personal representative of the person mentioned in subparagraph (i); or
 - (iii) if the person mentioned in subparagraph (i) is a corporation—a transferee of, or successor to, the corporation's interest; or
- (b) for aircraft or equipment subject to a lease—the lessee; or
- (c) for land—the person (other than the State) who—
 - (i) is entitled to receive rent for the land; or
 - (ii) would be entitled to receive rent for the land if it were leased at a rack-rent;

and, for land, includes a lessee or sublessee of land held from the State and the holder of a licence or permission to occupy from the State.

pest management qualification see the *Pest Management Act 2001*, schedule 3.

pest management technician see the *Pest Management Act 2001*, schedule 3.

pilot chemical rating licence means a pilot chemical rating licence issued under this Act.

pilot in command means the pilot responsible for the operation and safety of an aircraft from the moment at which the aircraft moves under its own power for the purpose of taking off until the moment at which it comes to rest after being airborne.

proposed action see section 21A(1).

relative means any of the following—

- (a) spouse;
- (b) son or daughter;
- (c) father;
- (d) mother;
- (e) brother or sister;
- (f) grandparent;
- (g) grandchild.

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.

show cause notice see section 21A(2).

show cause period see section 21A(2)(e).

standards officer means the standards officer appointed under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

Schedule

stock means any horse, mule, ass, cattle, camel, buffalo, deer, sheep, goat, pig, dog, cat, domestic fowl, turkey, duck, goose, rabbit, pigeon, bee and any other animal or bird in captivity.

UAV see section 12(2)(b).