

Pesticides Amendment (Records) Regulation 2000

under the

Pesticides Act 1999

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pesticides Act 1999*.

Minister for the Environment

Explanatory note

The objects of this Regulation are as follows:

- (a) to provide that records of aerial applications of pesticides, which are required to be made by holders of an aircraft (pesticide applicator) licence under the *Pesticides Act 1999*, must contain particulars as to the type of pests targeted in the application of the pesticide concerned, the rate of application and the quantity applied (Schedule 1 [1]),
- (b) to require persons who use pesticides for commercial or occupational purposes, or in connection with agricultural, farming or forestry operations, to make and keep records in relation to the use of pesticides (Schedule 1 [2]),
- (c) to provide for offences in relation to the new requirements under the Regulation to be dealt with by way of penalty notice (Schedule 1 [3]).

With respect to the object referred to in paragraph (b), this Regulation inserts Part 4A in the *Pesticides Regulation 1995*. Clause 11B provides that a person who uses a pesticide for commercial or occupational purposes, that is, when carrying on a business involving the use of pesticides, or while acting as a landlord, or while carrying out pest control operations for or on behalf of a public authority or on a golf course or bowling green, must make a record in relation to the use of the pesticide. Clause 11C provides that a person who uses a pesticide in connection

with any agricultural, farming or forestry operation will also be required to make a record as to the use of the pesticide, but only when using a pesticide in certain specified circumstances (eg whenever spray equipment is used to spray horticultural crops).

Clause 11D sets out the information that must be contained in a record required to be made under Part 4A. A record must be made no later than 24 hours after the use of the pesticide, and must be kept for at least 3 years from when it was made. Clause 11F provides that the owner or occupier of land on which a pesticide is used in connection with any agricultural, farming or forestry operations must be provided with, and is required to keep, a copy of the record made by the person who used the pesticide concerned. Clause 11G makes it an offence for a person, in any record required under Part 4A, to make a statement, or to provide any information, that is false or misleading in a material particular. Clause 11H provides that the EPA may exempt persons from any of the record making and keeping requirements under Part 4A.

This Regulation is made under the *Pesticides Act 1999*, including sections 54 (2) (g), 117 and 119 (the general regulation-making power), in particular section 119 (2) (e) and (o).

Pesticides Amendment (Records) Regulation 2000

1 Name of Regulation

This Regulation is the *Pesticides Amendment (Records) Regulation 2000*.

2 Commencement

This Regulation commences on 30 November 2000.

3 Amendment of Pesticides Regulation 1995

The *Pesticides Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 6A

Insert after clause 6:

6A Records of aerial application of pesticides

For the purposes of section 54 (2) (g) of the Act, the following particulars are required to be contained in a record made under that section:

- (a) the pest or pests targeted in the application of the pesticide,
- (b) the rate of application of the pesticide and the quantity applied.

[2] Part 4A

Insert after Part 4:

Part 4A Records relating to use of pesticides

11A Application of Part

This Part does not apply to or in respect of aerial pesticide operations for which a licence is required under the Act.

11B Requirement to make records relating to use of pesticides for commercial and other related purposes

- (1) A person must make a record, in accordance with clause 11D, that relates to each occasion on which the person uses a pesticide:
 - (a) in the course of carrying on a business involving the use of pesticides, or
 - (b) while acting in the capacity as landlord of the premises on which the pesticide is used, or

- (c) while carrying out pest control operations for or on behalf of a public authority, or
- (d) while carrying out pest control operations on a golf course or bowling green.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (2) Subclause (1) (a) applies regardless of whether the use of pesticides is the primary purpose of the business concerned.
- (3) However, subclause (1) (a) does not apply in relation to the use of a pesticide (other than a fumigant) that:
 - (a) is ordinarily used for home gardening or other domestic purposes, and
 - (b) is readily available to the general public at a shop or other retail outlet, and
 - (c) has been obtained by or for the person using it in a package or container no larger than what is readily available to the general public at a shop or other retail outlet.
- (4) This clause does not apply to persons to whom clause 11C applies.

11C Requirement to make records relating to use of pesticides in connection with agricultural, farming or forestry operations

- (1) This clause applies to persons who use pesticides in connection with any agricultural, farming or forestry operations.
- (2) A person to whom this clause applies must make a record, in accordance with clause 11D, that relates to each occasion on which the person uses a pesticide in any of the circumstances described in subclause (3).

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (3) The circumstances in which a record is required to be made are as follows:
 - (a) whenever livestock are treated for ectoparasites by means of a dip bath or by the use of powered spray equipment that is not hand held,

- (b) whenever harvested horticultural crops are treated by means of a dip bath,
- (c) whenever spray equipment of any type is used to spray horticultural crops,
- (d) whenever powered spray equipment is used to spray crops (other than horticultural crops), or trees in a plantation,
- (e) whenever ground driven powered spray equipment that is not hand held is used,
- (f) whenever baits are applied to control vertebrate pests (other than baits that are used to control rodents in or around buildings).

(4) In this clause:

ground driven powered spray equipment means powered spray equipment that is mounted on or attached to a vehicle.

horticultural crops means fruit, vegetables, flowers, nuts and herbs.

powered spray equipment means spray equipment that is powered otherwise than by human energy.

spray equipment means any device or apparatus that distributes pesticide through the air, and includes ground driven powered spray equipment and powered spray equipment.

11D Information to be contained in record

- (1) A record required to be made under clause 11B or 11C must contain the following information:
 - (a) the full product name of the pesticide applied,
 - (b) the pest or pests targeted in the application of the pesticide,
 - (c) the rate of application of the pesticide and the quantity applied,
 - (d) a description of the equipment used to apply the pesticide,
 - (e) a description of the manner in which the pesticide was applied,

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- (f) a general description of the area treated or affected by the pesticide,
 - (g) the specific location and address where the pesticide was applied,
 - (h) the date and times of the application of the pesticide (including the start and finish time),
 - (i) the name, address and contact details of the person who used the pesticide or, if the pesticide was applied by a person employed to apply the pesticide, the name, address and contact details of the person's employer,
 - (j) the name, address and contact details of the owner or occupier of the land in respect of which the pesticide was applied (if the information is not the same as the information required by paragraph (i)),
 - (k) if the pesticide is applied outdoors by means of any spray equipment within the meaning of clause 11C—a description of the weather conditions (including wind speed and direction, and temperature) immediately before and during the application of the pesticide.
- (2) The record must:
- (a) be made as soon as practicable after the use of the pesticide concerned and, in any event, no later than 24 hours after the pesticide is used, and
 - (b) be in writing and legible.

11E Keeping of records

A person who is required to make a record under clause 11B or 11C must keep the record for a period of not less than 3 years after the date on which the record was made.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

11F Owner or occupier of certain land to be provided with copy of record

- (1) This clause applies if:
 - (a) a person uses a pesticide on land in connection with any agricultural, farming or forestry operations, and
 - (b) the person is not the owner or occupier of the land.
- (2) The person who uses the pesticide must provide the owner or occupier of the land with a copy of the record required to be made by the person under clause 11C.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (3) The owner or occupier must keep the copy of the record for a period of at least 3 years after the date on which the owner or occupier is provided with the copy.

Maximum penalty: 300 penalty units in the case of a corporation, or 150 penalty units in the case of an individual.

11G False or misleading information in record

A person must not, in any record required to be made under clause 11B or 11C, make any statement, or include any information, that is false or misleading in a material particular.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

11H Exemption from record keeping requirements

- (1) The Environment Protection Authority may, by notice published in the Gazette, exempt a specified person or specified class of persons from any requirement under this Part.
- (2) Without limiting subclause (1), an exemption may relate to particular kinds of information referred to in clause 11D.
- (3) Before making an exemption under this clause, the Authority is required to consult the Implementation Committee and such other relevant persons as the Authority thinks appropriate.

11I Integration with other record keeping requirements

The Environment Protection Authority may approve, either in a particular case or generally, of the integration of records that are required to be made and kept under this Part with other records that are required to be made and kept under any other law.

[3] Schedule 1 Penalty notice offences and short descriptions

Insert at the end of the Schedule:

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Provision of this Regn	IPB Code (indivs)	IPB Code (corpns)	Short description code	Penalty \$ (indivs)	Penalty \$ (corpns)
Clause 11B (1)	—	—	not make record of pesticide use	400	800
Clause 11C (2)	—	—	not make record of pesticide use	400	800
Clause 11F (2)	—	—	not provide copy of record to owner or occupier	150	300
Clause 11F (3)	—	—	owner/ occupier not keep record	150	300
Clause 11G	—	—	make/ include false/ misleading statement/ information	200	400