

PESTICIDES (AMENDMENT) ACT, 1985, No. 4

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 4, 1985.

An Act to amend the Pesticides Act, 1978, in relation to the application of pesticides and fertilizers from aircraft; to repeal the Aerial Spraying Control Act, 1969; and for other purposes. [Assented to, 27th March, 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Pesticides (Amendment) Act, 1985".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 1, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) The Minister administering the Principal Act may, by order published in the Gazette before the day appointed and notified under subsection (2), suspend the operation of such provision or provisions of the Principal Act, as amended by this Act, as is or are specified in the order, being a provision or provisions which is or are to be inserted into the Principal Act by this Act.

(4) An order under subsection (3) shall—

- (a) take effect on and from the day appointed and notified under subsection (2); and
- (b) unless sooner revoked, cease to have effect at the expiration of 12 months after that day.

(5) A provision which is suspended by operation of an order under subsection (3) has no effect while the order is in force in relation to the provision.

Principal Act.

3. The Pesticides Act, 1978, is referred to in this Act as the Principal Act.

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Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—REPEALS.

Amendment of Act No. 57, 1978.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Repeals.

6. Each Act specified in Schedule 3 is, to the extent indicated therein, repealed.

Construction of certain references.

7. On and from the day appointed and notified under section 2 (2), a reference in any other Act (whether assented to before, on or after that day), in any statutory instrument or in any other document, whether of the same or of a different kind, to the Pesticides Act, 1978, shall be read and construed as a reference to the Pesticides and Allied Chemicals Act, 1978.

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SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT.

(1) Long title—

After “pesticides;”, insert “to control the application of pesticides and fertilizers from aircraft;”.

(2) Section 1—

After “Pesticides”, insert “and Allied Chemicals”.

(3) Section 3—

Omit the section.

(4) (a) Section 5 (1), definitions of “aircraft”, “aircraft pesticide application equipment”, “aircraft (pesticide applicator) licence”—

Before the definition of “analyst”, insert:—

“aircraft” includes any machine that can derive support in the atmosphere from the reactions of the air;

“aircraft pesticide application equipment” means equipment attached to, or forming part of, an aircraft, being equipment which is manufactured, adapted or used for the purpose of facilitating the application of pesticides or fertilizers from the aircraft;

“aircraft (pesticide applicator) licence” means a licence issued under section 22F (1), and includes a renewal of such a licence;

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(b) Section 5 (1), definition of “approved aircraft”—

After the definition of “animal”, insert:—

“approved aircraft” means an aircraft that complies with a specification approved by the Registrar under section 22F (3);

(c) Section 5 (1), definitions of “approved insurance policy”, “approved insurer”—

After the definition of “approved container”, insert:—

“approved insurance policy” means a policy of indemnity insurance which is, or which belongs to a class of policies of indemnity insurance which are, for the time being approved under subsection (9);

“approved insurer” means an insurer who is, or who belongs to a class of insurers who are, for the time being approved under subsection (8);

(d) Section 5 (1), definition of “fertilizer”—

After the definition of “distinctive name”, insert:—

“fertilizer” means any substance or organism that is manufactured, represented, sold or used as a means for directly or indirectly—

(a) supplying nutriment for the purpose of enhancing the development, productivity, quality or reproductive capacity of vegetation; or

(b) affecting the nature or composition of soil or any other matter in which vegetation is grown,

and any substance or organism specified or described and declared to be a fertilizer in an order published under subsection (7), but does not include any substance or organism so specified or described and declared not to be a fertilizer in an order so published;

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(e) Section 5 (1), definition of “pesticide”—

(i) From paragraph (e), omit “or” where lastly occurring.

(ii) Omit paragraph (f), insert instead:—

(f) notwithstanding paragraph (c), a substance or organism that is represented as being for use and is used solely as a fertilizer; or

(g) a substance or organism specified or described and declared not to be a pesticide in an order published under subsection (7);

(f) Section 5 (1), definition of “pilot (pesticide rating) licence”—

After the definition of “pesticide residue”, insert:—

“pilot (pesticide rating) licence” means a licence issued under section 22F (2), and includes a renewal of such a licence;

(g) Section 5 (7)—

After “pesticide”, insert “or fertilizer, as the case may be,”.

(h) Section 5 (8)–(10)—

After section 5 (7), insert:—

(8) The Minister—

(a) may grant an approval in respect of a specified insurer or specified class of insurers, subject to such conditions as the Minister may think fit to impose on the approval; and

(b) may vary or revoke an approval so granted.

(9) The Minister—

(a) may grant an approval in respect of a specified policy of indemnity insurance or a specified class of policies of indemnity insurance (being a policy or class of policies

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

issued by an approved insurer), subject to such conditions as the Minister may think fit to impose on the approval; and

(b) may vary or revoke an approval so granted.

(10) Where the Minister grants, varies or revokes an approval under subsection (8) or (9), the Minister shall cause notice of that fact to be served on the insurer to whom the approval relates, or by whom the policy of indemnity insurance to which the approval relates is issued, as the case may require.

(5) Section 5A—

After section 5, insert:—

Act binds Crown.

5A. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(6) Part III, headings—

Omit the heading to Part III, insert instead:—

PART III.**REGISTRATION, APPROVALS AND LICENCES.****DIVISION 1.—*Pesticides, Labels and Containers.***

(7) Part III, Division 2—

At the end of Part III, insert:—

DIVISION 2.—*Licences and Approvals for the Application of Pesticides from Aircraft.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

Applications generally.

22A. (1) Subject to subsection (2) and sections 22B–22D, a person may apply to the Registrar—

- (a) for an aircraft (pesticide applicator) licence;
- (b) for a pilot (pesticide rating) licence; or
- (c) for approval of a specification for a class of aircraft.

(2) An application made under this section shall—

- (a) be in or to the effect of the form prescribed in respect of the application;
- (b) be accompanied by the fee prescribed in respect of the application; and
- (c) be lodged at the office of the Registrar.

(3) The Registrar may, with the consent of the applicant, amend an application that has been lodged under subsection (2) (c).

(4) A person shall not, in connection with an application under this section—

- (a) make a statement; or
- (b) furnish information,

that the person knows to be false or misleading in a material particular.

Penalty (subsection (4)): \$500 or, for an offence by a corporation, \$2,000.

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.***Application for aircraft (pesticide applicator) licence.**

22B. An application under section 22A for an aircraft (pesticide applicator) licence shall—

- (a) specify the name and address of the applicant;
- (b) be accompanied by evidence that an approved insurance policy—
 - (i) is in force in relation to the applicant; or
 - (ii) will, upon the issue of the licence, come into force in relation to the applicant; and
- (c) be accompanied by such other particulars as are required by the regulations to accompany the application.

Application for pilot (pesticide rating) licence.

22C. An application under section 22A for a pilot (pesticide rating) licence shall—

- (a) specify the name and address of the applicant; and
- (b) be accompanied by such other particulars as are required by the regulations to accompany the application.

Application for approval of aircraft.

22D. An application under section 22A for approval of a specification for a class of aircraft shall—

- (a) specify the name and address of the applicant; and
- (b) be accompanied by such other particulars as are required by the regulations to accompany the application.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

Further information.

22E. (1) If, in the opinion of the Registrar, information supplied in connection with an application under section 22A is inadequate for the Registrar to decide whether—

- (a) to issue an aircraft (pesticide applicator) licence;
- (b) to issue a pilot (pesticide rating) licence; or
- (c) to approve a specification for a class of aircraft,

as the case may require, the Registrar may, by notice in writing served by post on the applicant, require the applicant to furnish the Registrar with such information relevant to the application as may be specified in the notice by a date so specified.

(2) If an applicant fails to comply with the requirements of a notice served under subsection (1) or, in purported compliance with a notice so served, provides information that, in the opinion of the Registrar, is inadequate, the Registrar may refuse to grant the application.

Licences and approvals.

22F. (1) Subject to section 22G, the Registrar, after receipt of an application for an aircraft (pesticide applicator) licence, may issue the licence to the applicant subject to such conditions as the Registrar thinks fit to impose on the licence.

(2) Subject to section 22H, the Registrar, after receipt of an application for a pilot (pesticide rating) licence, may issue the licence to the applicant subject to such conditions as the Registrar thinks fit to impose on the licence.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(3) Subject to section 22i, the Registrar, after receipt of an application for approval of a specification for a class of aircraft, may approve the specification.

(4) The Registrar approves a specification by—

- (a) filing a description of the specification; and
- (b) allocating the approval a distinguishing number.

Restriction on issue of certain aircraft (pesticide applicator) licences.

22G. The Registrar may not issue an aircraft (pesticide applicator) licence in response to an application under section 22A—

- (a) unless the applicant has the prescribed qualifications;
- (b) unless an approved insurance policy—
 - (i) is in force in relation to the applicant; or
 - (ii) will, upon the issue of the licence, come into force in relation to the applicant; or
- (c) if the issue of the licence is prohibited by the regulations.

Restriction on issue of certain pilot (pesticide rating) licences.

22H. The Registrar may not issue a pilot (pesticide rating) licence in response to an application under section 22A—

- (a) unless the applicant has the prescribed qualifications; or
- (b) if the issue of the licence is prohibited by the regulations.

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.***Restriction on approval of certain aircraft.**

22I. The Registrar may not approve a specification for a class of aircraft in response to an application under section 22A if—

- (a) a standard or specification has been prescribed in respect of that class of aircraft, or in respect of a class of aircraft of which that class of aircraft is a member, and that class of aircraft does not conform to the standard or specification to the extent that the regulations require;
- (b) aircraft complying with the specification would not comply with any other requirement of the regulations or use of the aircraft in the application of pesticides is prohibited by the regulations;
- (c) the applicant is not the holder of an aircraft (pesticide applicator) licence; or
- (d) the Registrar has not been satisfied by the applicant for approval of the specification that use of aircraft of the class to which the specification relates in the application of pesticides, with the exercise of no more than reasonable care, would be sufficiently safe to avoid unintended harm that may be caused by that use.

Notification of certain particulars.

22J. (1) When the Registrar issues an aircraft (pesticide applicator) licence or a pilot (pesticide rating) licence, the Registrar shall forthwith cause to be published in the Gazette a notice—

- (a) stating—
 - (i) the name and address of the person to whom the licence has been issued; and
 - (ii) the date on which the licence was issued; and

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(b) containing such other information as the Registrar thinks fit.

(2) When the Registrar approves a specification for a class of aircraft, the Registrar shall forthwith cause to be—

(a) served by post on the applicant for approval of the specification; and

(b) published in the Gazette,
a notice—

(c) describing the specification that has been approved;

(d) stating—

(i) the distinguishing number of the approval; and

(ii) the date on which the specification was approved;
and

(e) containing such other information as the Registrar thinks fit.

(3) A specification may be described by reference to a prescribed specification relating to a class of aircraft in a notice served or published under subsection (2).

Duties of Registrar.

22k. If the Registrar approves a specification for a class of aircraft, the Registrar shall cause a record—

(a) describing the specification by reference to a prescribed specification or otherwise; and

(b) identified by the distinguishing number of the approval of the specification.

to be kept at the Registrar's office while the specification remains an approved specification.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

Term of licence.

22L. (1) Subject to any suspension or cancellation thereof—

- (a) an aircraft (pesticide applicator) licence; or
- (b) a pilot (pesticide rating) licence,

is in force for such period (not exceeding 3 years) commencing on the date on which the licence is issued as the Registrar may determine and as shall be specified in the licence.

(2) Notwithstanding subsection (1), an aircraft (pesticide applicator) licence has no force unless—

- (a) the holder of the licence has the prescribed qualifications; and
- (b) an approved insurance policy is in force in relation to the holder of the licence.

(3) Notwithstanding subsection (1), a pilot (pesticide rating) licence has no force unless the holder of the licence has the prescribed qualifications.

Applicants to supply certain later information.

22M. (1) When—

- (a) information comes to the knowledge of a person who—
 - (i) is an applicant for, or holder of, an aircraft (pesticide applicator) licence or pilot (pesticide rating) licence;
 - (ii) is an applicant for approval of a specification for a class of aircraft; or
 - (iii) has been served with a notice under section 22J (2) in relation to the approval of the specification,

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
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not being information that has come to the person's knowledge after the application has been refused or withdrawn, or the licence or approval has been suspended or cancelled or has otherwise ceased to be in force; and

- (b) the information contradicts or modifies any information supplied by the person in connection with an application made by the person to the Registrar for—
 - (i) the aircraft (pesticide applicator) licence or pilot (pesticide rating) licence; or
 - (ii) approval of the specification,

the person shall forthwith supply the Registrar with particulars of the firstmentioned information.

(2) When—

- (a) the holder of an aircraft (pesticide applicator) licence ceases to have the prescribed qualifications; or
- (b) the holder of a pilot (pesticide rating) licence ceases to have the prescribed qualifications,

the person shall forthwith supply the Registrar with particulars of that fact.

(3) When an approved insurance policy expires, or is varied, suspended or cancelled, the holder of the aircraft (pesticide applicator) licence to whom the policy relates shall forthwith supply the Registrar with particulars of that fact.

Penalty: \$500 or, for an offence by a corporation, \$2,000.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

Suspension and cancellation of licences.

22N. (1) The Registrar may, for such reasons as the Registrar thinks fit, suspend—

- (a) an aircraft (pesticide applicator) licence; or
- (b) a pilot (pesticide rating) licence,

by notice in writing served on the holder of the licence for such period (not exceeding 6 months) as is specified in the notice and may, in like manner, rescind the suspension or vary the period of the suspension.

(2) Notwithstanding subsection (1), the Registrar may not suspend—

- (a) an aircraft (pesticide applicator) licence; or
- (b) a pilot (pesticide rating) licence,

for a period exceeding 3 months except with the consent of the Minister.

(3) The Registrar may, by notice in writing served on the holder of the licence, cancel—

- (a) an aircraft (pesticide applicator) licence—
 - (i) if the holder of the licence ceases to have the prescribed qualifications; or
 - (ii) if the holder of the licence ceases to be a person in relation to whom an approved insurance policy is in force; or
- (b) a pilot (pesticide rating) licence—if the holder of the licence ceases to have the prescribed qualifications.

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(4) When information about—

- (a) the holder of an aircraft (pesticide applicator) licence; or
- (b) the holder of a pilot (pesticide rating) licence,

comes to the knowledge of the Registrar and the Registrar is of the opinion that, if the information had been received at the time when an application for the licence was made, the Registrar would have refused the application, the Registrar shall, by notice in writing served on the holder of the licence, cancel the licence.

(5) When information about a pesticide comes to the knowledge of the Registrar and the Registrar is of the opinion that, if the information had been received at the time when an application for—

- (a) an aircraft (pesticide applicator) licence; or
- (b) a pilot (pesticide rating) licence,

was made, the Registrar would have refused the application, the Registrar shall, by notice in writing served on the holder of the licence, cancel the licence.

(6) Forthwith after the Registrar has suspended or cancelled an aircraft (pesticide applicator) licence or a pilot (pesticide rating) licence, the Registrar shall cause a notice to be published in the Gazette—

- (a) stating that the licence has been suspended or cancelled, as the case may be; and
- (b) containing such other information as the Registrar thinks fit.

Cancellation of approvals.

22o. (1) When information about an approved aircraft comes to the knowledge of the Registrar and the Registrar is of the opinion that, if the information had been received at the time when an application for approval of the specification for the class of aircraft of

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

which the approved aircraft is a member was made, the Registrar would have refused the application, the Registrar shall cancel the approval of the specification.

(2) When information about a pesticide comes to the knowledge of the Registrar and the Registrar is of the opinion that, if the information had been received at the time when an application for approval of a specification for a class of aircraft was made, the Registrar would have refused the application, the Registrar shall cancel the approval of the specification.

(3) The Registrar cancels approval of a specification for a class of aircraft by entering a note to the effect that approval of the specification is cancelled in the records required to be kept by the Registrar in relation to the specification under section 22k.

(4) When the Registrar cancels approval of a specification for a class of aircraft, all aircraft of that class cease to be approved aircraft.

(5) Forthwith after the Registrar has cancelled approval of a specification for a class of aircraft, the Registrar shall—

- (a) cause notice of the cancellation to be served on—
 - (i) any person who was an applicant for approval of the specification; and
 - (ii) any other person who, in the opinion of the Registrar, should be given notice of the cancellation; and
- (b) cause a notice to be published in the Gazette—
 - (i) stating that the approval has been cancelled; and
 - (ii) containing such other information as the Registrar thinks fit.

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(8) Section 23 (1)—

Omit “or 43”, insert instead “, 43, 49A or 49E”.

(9) Part VI, Division 4—

After Division 3, insert:—

DIVISION 4.—*Application of Pesticides and Fertilizers from Aircraft.*

Control of aircraft application of pesticides and fertilizers.

49A. (1) Subject to subsections (2) and (3), the Registrar may, with the consent of the Minister, make an order prohibiting or controlling, during the period specified in the order, the use of aircraft in the application of any pesticide or fertilizer.

(2) An order under subsection (1) may prohibit or control the use of aircraft in the application of a pesticide or fertilizer by reference to—

- (a) the class of aircraft from which the pesticide or fertilizer may be applied;
- (b) the concentration in which the pesticide or fertilizer may be applied;
- (c) the land over which the pesticide or fertilizer may be applied;
- (d) the manner in which the pesticide or fertilizer may be applied;
- (e) the climatic conditions under which the pesticide or fertilizer may be applied;
- (f) the equipment by means of which the pesticide or fertilizer may be applied; or
- (g) any other factor specified in the order.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
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(3) An order under subsection (1) is in force for the period specified in it unless it is sooner revoked by a further order made by the Registrar with the consent of the Minister which further order the Registrar is hereby authorised to make.

(4) When the Registrar makes an order under this section, the Registrar shall forthwith cause the order to be published in the Gazette and in such newspapers and other publications as the Registrar thinks fit.

(5) Except to the extent that, pursuant to a permit, the person is otherwise authorised by section 25, a person shall not cause an aircraft to be used in the application of a pesticide or fertilizer in contravention of an order in force under subsection (1).

Penalty (subsection (5)): \$500 or, for an offence by a corporation, \$2,000.

Records of aircraft application of pesticides and fertilizers.

49B. (1) The holder of an aircraft (pesticide applicator) licence shall not fail, forthwith after having caused an aircraft to be used in the application of a pesticide or fertilizer, to cause a record of that fact to be made.

Penalty: \$500 or, for an offence by a corporation, \$2,000.

(2) A record referred to in subsection (1) shall—

- (a) contain, in respect of each occasion on which the holder of the licence concerned has caused an aircraft to be used in the application of a pesticide or fertilizer—
- (i) the name and address of the person by whom the aircraft was piloted;
 - (ii) a description of the pesticide or fertilizer which was applied;

*Pesticides (Amendment) 1985***SCHEDULE 1—continued.****AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—continued.**

- (iii) the date and time of the occasion on which the pesticide or fertilizer was applied;
 - (iv) the registration mark of the aircraft which was used in the application of the pesticide or fertilizer;
 - (v) a description of the manner in which, the climatic conditions under which and the equipment by means of which the pesticide or fertilizer was applied;
 - (vi) a description of the land over which the pesticide or fertilizer was applied; and
 - (vii) such other particulars as are required by the regulations to be contained in the record;
- (b) be kept for a period of not less than 1 year and not more than 2 years from the date of each such occasion; and
 - (c) be furnished to the Registrar not later than on the expiration of the period of 2 years referred to in paragraph (b).

(3) The holder of an aircraft (pesticide applicator) licence shall not fail, forthwith after having been so requested in writing by the Registrar, to send to the Registrar a copy of such record, as referred to in subsection (1), as is specified in the request.

Penalty (subsection (3)): \$500 or, for an offence by a corporation, \$2,000.

Defective aircraft pesticide application equipment.

49c. (1) Where an inspector believes on reasonable grounds that any aircraft pesticide application equipment is defective, the inspector may, by notice in writing served on such person as appears to the inspector to have custody or control for the time being of the equipment, order that the equipment shall not be used in the application of pesticides.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(2) An order under subsection (1) takes effect when it is served as referred to in that subsection.

(3) A person shall not cause any aircraft pesticide application equipment to be used while an order under subsection (1) is in force in respect of that equipment.

Penalty (subsection (3)): \$500 or, for an offence by a corporation, \$2,000.

Certain statements prohibited.

49D. (1) A person shall not—

- (a) falsely represent that the person is the holder of an aircraft (pesticide applicator) licence; or
- (b) disseminate any false or misleading information about the conditions to which an aircraft (pesticide applicator) licence held by the person is subject.

(2) A person shall not—

- (a) falsely represent that the person, or any other person employed by the person, is the holder of a pilot (pesticide rating) licence; or
- (b) disseminate any false or misleading information about the conditions to which a pilot (pesticide rating) licence held by the person, or any other person employed by the person, is subject.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(3) A person shall not falsely represent that an aircraft which is owned or used by the person is an approved aircraft.

Penalty: \$500 or, for an offence by a corporation, \$2,000.

Piloting of aircraft used in the application of pesticides.

49E. (1) Except to the extent that, pursuant to a permit, the person is otherwise authorised by section 25, a person shall not pilot an aircraft which is being used in the application of a pesticide unless—

(a) the person—

- (i) is the holder of a pilot (pesticide rating) licence which is in force; and
- (ii) is piloting the aircraft in accordance with the conditions (if any) to which the licence is subject;

(b) the person—

- (i) is the holder of an aircraft (pesticide applicator) licence which is in force; or
- (ii) is engaged, when so applying the pesticide, in the employment of the holder of an aircraft (pesticide applicator) licence which is in force,

and the use of the aircraft by that person is in accordance with the conditions (if any) to which the licence is subject; and

(c) the aircraft is an approved aircraft.

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(2) Except to the extent that, pursuant to a permit, the person is otherwise authorised by section 25, a person shall not employ any other person to pilot an aircraft which is being used in the application of a pesticide unless—

- (a) the firstmentioned person is the holder of an aircraft (pesticide applicator) licence which is in force and the use of the aircraft by the secondmentioned person is in accordance with the conditions (if any) to which the licence is subject;
- (b) the secondmentioned person—
 - (i) is the holder of a pilot (pesticide rating) licence which is in force; and
 - (ii) is piloting the aircraft in accordance with the conditions (if any) to which the licence is subject; and
- (c) the aircraft is an approved aircraft.

Penalty: \$500 or, for an offence by a corporation, \$2,000.

(10) (a) Section 53 (1) (a)—

Before “fixture”, insert “equipment,”.

(b) Section 53 (1) (a1)–(a3)—

After section 53 (1) (a), insert:—

- (a1) enter and examine any place in which the inspector suspects on reasonable grounds that an aircraft used in the application of pesticides or fertilizers is kept;
- (a2) enter and examine any aircraft and examine any equipment or fitting which the inspector suspects on reasonable grounds has been used or is likely to be used in the application of pesticides or fertilizers;

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

- (a3) enter and examine any place in or on which the inspector suspects on reasonable grounds that a pesticide or fertilizer is being or has been applied from an aircraft;
- (c) Section 53 (1) (c1)—
After section 53 (1) (c), insert:—
(c1) subject to subsection (3), seize and remove any aircraft pesticide application equipment if the inspector suspects on reasonable grounds that there has been a contravention of this Act or the regulations in respect of the equipment;
- (d) Section 53 (1) (k)—
Omit “manufacturer of a pesticide”, insert instead “person”.
- (e) Section 53 (3) (a)—
Omit “or” where lastly occurring.
- (f) Section 53 (3) (b)—
Omit “containers,”, insert instead “containers; or”.
- (g) Section 53 (3) (c)—
After section 53 (3) (b), insert:—
(c) under subsection (1) (c1)—to remove any aircraft pesticide application equipment,
- (11) (a) Section 58 (6) (c)—
Omit “a permit”, insert instead “an aircraft (pesticide applicator) licence, pilot (pesticide rating) licence, permit”.
- (b) Section 58 (6) (c)—
After “in the”, insert “licence,”.

Pesticides (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(12) (a) Section 60 (a) (ia)—

After section 60 (a) (ii), insert:—

(ia) that an aircraft described in the certificate was, or was not, an approved aircraft on any date, or during any period, specified in the certificate;

(b) Section 60 (a) (iv), (vi)—

Omit “that a” wherever occurring, insert instead “that an aircraft (pesticide applicator) licence, pilot (pesticide rating) licence,”.

(13) (a) Section 66 (1) (a)—

Omit “under section 8 (2) (c)”.

(b) Section 66 (2)—

Omit the subsection, insert instead:—

(2) Where application is made to the Registrar under section 8, 22A, 23 or 46 and the Registrar does not grant or refuse to grant the application within the prescribed time, the Registrar shall, for the purposes of section 58, be deemed to have refused to grant the application.

(14) (a) Section 70—

Omit “holder of a” wherever occurring, insert instead “holder of an aircraft (pesticide applicator) licence, pilot (pesticide rating) licence,”.

(b) Section 70—

Omit “the permit” wherever occurring, insert instead “the licence, permit”.

*Pesticides (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(c) Section 70 (2)—

Omit “A permit”, insert instead “An aircraft (pesticide applicator) licence, pilot (pesticide rating) licence, permit”.

(15) (a) Section 71 (1), (4)—

Before “a certificate” wherever occurring, insert “an aircraft (pesticide applicator) licence, a pilot (pesticide rating) licence or”.

(b) Section 71 (2), (3)—

Omit “a permit” wherever occurring, insert instead “an aircraft (pesticide applicator) licence, pilot (pesticide rating) licence, permit”.

(c) Section 71 (4)—

Omit “the permit”, insert instead “the licence, permit”.

(16) Section 73 (1)—

Omit “to this Act.”, insert instead:—

to this Act and, in particular, for or with respect to—

- (a) prescribing standards for the application of pesticides and fertilizers from aircraft;
- (b) prescribing standards in relation to the design and construction of aircraft pesticide application equipment and in relation to the attachment of such equipment to, and the installation of such equipment in, aircraft; and
- (c) prescribing forms to be used for the purposes of this Act.

Pesticides (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE APPLICATION
OF PESTICIDES AND FERTILIZERS FROM AIRCRAFT—*continued.*

(17) Section 75 (3) (b)—

After “is”, insert “, in the opinion of the Registrar,”.

(18) (a) Section 77—

Omit “be given notice”.

(b) Section 77 (a)—

Before “of a notification under section 21”, insert “be given notice”.

(c) Section 77 (b)—

Before “of any other matter”, insert “be given or served notice”.

SCHEDULE 2.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 7 (1)—

Omit “1902”, insert instead “1979”.

(2) Section 8 (4)—

Omit “for an offence against this subsection”, insert instead “(subsection (4))”.

(3) (a) Sections 9, 10, 11—

Omit “be accompanied by” wherever occurring.

*Pesticides (Amendment) 1985*SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Sections 9 (a), 10 (a), 11 (a)—
Before “the name” wherever occurring, insert “specify”.
 - (c) Section 9 (b)—
Before “a statement”, insert “contain”.
 - (d) Section 9 (c)—
Before “the formulation”, insert “specify”.
 - (e) Sections 9 (c), (d), 10 (b), (c), (e), 11 (e)—
Before “particulars” wherever occurring, insert “contain”.
 - (f) Section 9 (e)—
Before “full particulars”, insert “contain”.
 - (g) Section 9 (f)—
Before “details”, insert “contain”.
 - (h) Sections 9 (g), 10 (f), 11 (f)—
Before “such” wherever occurring, insert “be accompanied by”.
- (4) (a) Section 10 (d)—
Before “the prescribed”, insert “be accompanied by”.
- (b) Section 10 (e)—
Before “a sample”, insert “be accompanied by”.
- (5) (a) Section 11 (b)—
Before “a description”, insert “contain”.

*Pesticides (Amendment) 1985*SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 11 (c)—
Before “a copy”, insert “be accompanied by”.
- (c) Section 11 (d)—
After “cases,”, insert “be accompanied by”.
- (6) Sections 13 (8), 14, 15, 16, 23 (2), 27 (2), 47 (2), 51 (3), 53 (2)—
Omit “shall not” wherever occurring, insert instead “may not”.
- (7) Section 30 (1) (a)—
Omit “was”, insert instead “is”.
- (8) Section 50 (5)—
Omit “for an offence against this subsection”, insert instead “(subsection (5))”.
- (9) (a) Section 53 (1) (j)—
After “place”, insert “and require any person found in that place to furnish to the inspector information concerning the pesticide or foodstuff, as the case may be”.
- (b) Section 53 (5)—
Omit the subsection, insert instead:—
(5) Where—
(a) an inspector—
(i) requires a person to furnish information to the inspector pursuant to subsection (1) (j); and

*Pesticides (Amendment) 1985*SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(ii) informs the person that refusal or failure to comply with the requirement constitutes an offence against this Act;

(b) the person complies with the requirement; and

(c) the information furnished in compliance with the requirement tends to incriminate the person,

neither the terms of the requirement, nor the information furnished in compliance with the requirement, may be used in any proceedings against the person, except proceedings under section 54 in respect of the furnishing of information which the person knows to be false or misleading in a material particular.

(c) Section 53 (6)—

Omit “answering the question”, insert instead “furnishing the information”.

(10) (a) Section 54 (c), (c1)—

Omit section 54 (c), insert instead:—

(c) refuse or fail to comply with a direction or requirement of an inspector under section 53 (1) (e), (f), (g), (h) or (k);

(c1) refuse or fail to comply with a requirement of an inspector to furnish information under section 53 (1) (j) where the inspector has informed the person that refusal or failure to comply with the requirement constitutes an offence against this Act;

(b) Section 54 (e)—

Omit the paragraph, insert instead:—

(e) in response to—

(i) an inquiry by an inspector under section 53 (1) (i) or (j)—make a statement; or

Pesticides (Amendment) 1985

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) a requirement of an inspector under section 53 (1) (j)—furnish information, that the person knows to be false or misleading in a material particular.
- (11) Section 68 (2)—
Omit “Revenue”.
- (12) Section 69 (4)—
Omit “for an offence against this subsection”, insert instead “(subsection (4))”.
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SCHEDULE 3.

(Sec. 6.)

REPEALS.

- Aerial Spraying Control Act, 1969, No. 11—the whole Act.
Metric Conversion Act, 1978, No. 67—sections 4 (4) and 8 and Schedule 3.
Metric Conversion (Amendment) Act, 1978, No. 175—section 2 (d).
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