

Agricultural and Veterinary Chemicals (Control of Use) Regulations 2007

S.R. No. 82/2007

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STATUTORY RULES 2007

S.R. No. 82/2007

*Agricultural and Veterinary Chemicals (Control of Use) Act
1992*

**Agricultural and Veterinary Chemicals (Control of
Use) Regulations 2007**

The Governor in Council makes the following Regulations:

Dated: 24 July 2007

Responsible Minister:

JOE HELPER
Minister for Agriculture

RUTH LEACH
Clerk of the Executive Council

1 Objectives

The objectives of these Regulations are to—

- (a) prescribe the records to be made and kept by users and sellers of certain chemical products; and
- (b) prescribe requirements for labels and advice notes accompanying certain veterinary chemical products sold by veterinary practitioners for the treatment of stock; and
- (c) to prescribe information to be provided in relation to certain agricultural spraying to be carried out on land near schools, hospitals, aged care services or children's services; and
- (d) prescribe the equipment to be used when carrying out aerial spraying; and

- (e) prescribe other matters authorised by the
**Agricultural and Veterinary Chemicals
(Control of Use) Act 1992.**

2 Authorising provisions

These Regulations are made under sections 27, 45, 47 and 76 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992.**

3 Revocation

The Regulations listed in Schedule 1 are **revoked.**

4 Definitions

In these Regulations—

aged care service has the same meaning as it has in the Aged Care Act 1997 of the Commonwealth;

Agvet Code of Victoria has the same meaning as it has in the **Agricultural and Veterinary Chemicals (Victoria) Act 1994;**

APVMA means the Australian Pesticides and Veterinary Medicines Authority continued in existence by section 6 of the Agricultural and Veterinary Chemicals (Administration) Act 1992 of the Commonwealth;

children's service has the same meaning as it has in the **Children's Services Act 1996;**

home garden product means an agricultural chemical product that is—

- (a) packaged and supplied to the general public for use in and around dwellings; and
- (b) specified, on a label approved by the APVMA, for use in the home garden;

hormonal growth promotant means a veterinary chemical product containing oestrogenic, androgenic or gestagenic activity to enhance growth or production in bovines and bubalines;

hospital means—

- (a) a public hospital; or
- (b) a denominational hospital; or
- (c) a private hospital; or
- (d) a multipurpose service; or
- (e) a day procedure centre—

within the meaning of the **Health Services Act 1988**;

Note

Each type of hospital referred to above is defined in the **Health Services Act 1988**. A public hospital includes a *public health service* within the meaning of that Act.

household product means any chemical product, packaged and supplied to the general public—

- (a) for use in controlling a pest associated with a dwelling; or
- (b) for the treatment of a companion animal or their housing;

mister means spraying equipment that uses air for dispersing the spray and includes the following—

- (a) mist blowers;
- (b) orchard sprayers;
- (c) air blast sprayers;
- (d) air shear sprayers;

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(e) any other spraying equipment that produces a droplet size spectrum that is classified as fine or very fine under ASAE S572 FEB04, Spray Nozzle Classification by Droplet Spectra: American Society of Agricultural Engineers, as published from time to time—

but does not include air assisted boom sprayers or twin fluid nozzle sprayers;

property identification code means the property identification code or number issued under section 9B of the **Livestock Disease Control Act 1994** in relation to livestock;

registered veterinary chemical product means a veterinary chemical product registered under Part 2 of the Agvet Code of Victoria;

Schedule 4 Poison has the same meaning as it has under section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981**;

school has the same meaning as it has under the **Education and Training Reform Act 2006**;

spraying equipment means any equipment or machine for spreading, spraying or dispersing an agricultural chemical product;

the Act means the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**;

unregistered veterinary chemical product means a veterinary chemical product that is not registered under Part 2 of the Agvet Code of Victoria;

veterinary practitioner means a person who is registered under Part 2 of the **Veterinary Practice Act 1997**.

5 Records of use of agricultural chemical products

- (1) This regulation does not apply—
- (a) in relation to the use of a household product or home garden product; or
 - (b) to a person who—
 - (i) uses an agricultural chemical product for which he or she holds a licence as an authorised user of that product under section 108C of the **Health Act 1958**; and
 - (ii) uses the product in, or in the grounds associated with, a dwelling or a commercial building other than a building used for primary production or the handling of agricultural commodities; or
 - (c) to a person who uses an agricultural chemical product in accordance with a quality assurance or similar program relating to the use of agricultural chemical products—
 - (i) that is approved by the chief administrator and notice of that approval has been published in the Government Gazette; and
 - (ii) in respect of which the person has been accredited.
- (2) The user of an agricultural chemical product must, within 48 hours of using that product, make an accurate written record of—
- (a) the trade name of the product; and

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- (b) except in the case of a product which is in the form of a poison bait intended for pest animal control, the date the product was used; and
 - (c) in the case of a product which is in the form of a poison bait intended for pest animal control, the date on which the baiting period commenced and the date on which the baiting period ended; and
 - (d) the rate of application of the product; and
 - (e) the crop or commodity to which, or the situation in which, the product was applied; and
 - (f) except in the case of a product which is in the form of a poison bait intended for pest animal control, the extent of use of the product expressed (as the case requires) as—
 - (i) the area of land to which the product was applied; or
 - (ii) the volume of water to which the product was applied; or
 - (iii) the volume of the stored commodity to which the product was applied; or
 - (iv) the weight of the commodity to which the product was applied; and
 - (g) the specific location at which the product was used; and
 - (h) in the case of a product applied by being sprayed outdoors (other than by means of a hand held appliance) the wind speed and direction at the time the product was used; and
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- (i) the name and address of the person spraying, spreading or dispersing the product and if applicable the name and address of the person supervising such spraying, spreading or dispersing; and
 - (j) the name and address of the person for whom the spraying, spreading or dispersing of the product was carried out.

Penalty: 10 penalty units.

- (3) The user of an agricultural chemical product must keep any record under subregulation (2) for a period of two years after use of the product.

Penalty: 10 penalty units.

- (4) In this regulation *hand held appliance* means a small portable sprayer that can be carried and operated manually.

6 Records of use of veterinary chemical products

- (1) This regulation applies to the use of a veterinary chemical product that—
 - (a) is a Schedule 4 Poison for the treatment of a stock animal by a person other than a veterinary practitioner; or
 - (b) in respect of which a withholding period applies.
- (2) This regulation does not apply to a person who uses a veterinary chemical product in accordance with a quality assurance or similar program relating to the use of veterinary chemical products—
 - (a) that is approved by the chief administrator and notice of that approval has been published in the Government Gazette; and
 - (b) in respect of which the person has been accredited.

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- (3) The user of a veterinary chemical product must, within 48 hours of using that product, make an accurate written record of—
- (a) the trade name of the product; and
 - (b) the species and location of the animal; and
 - (c) any identification number (if known) or a description of the animal; and
 - (d) the date on which the animal was first treated with the product; and
 - (e) the date of each subsequent treatment of the animal with the product; and
 - (f) the quantity of the product used for each treatment of the animal.

Penalty: 10 penalty units.

- (4) The user of a veterinary chemical product must keep any record under subregulation (3) for a period of two years after use of the product.

Penalty: 10 penalty units.

7 Records of sale or use of veterinary chemical products by veterinary practitioners

- (1) This regulation applies to the sale or use of a veterinary chemical product for the treatment of a stock animal that—
- (a) contains a substance that is a Schedule 4 Poison; or
 - (b) is an unregistered veterinary chemical product; or
 - (c) is a registered veterinary chemical product that is sold without a label approved by the APVMA; or

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- (d) is a registered veterinary chemical product sold for use other than in accordance with the label approved by the APVMA; or
 - (e) in respect of which a withholding period applies.
- (2) A veterinary practitioner must, within 24 hours of selling or using a veterinary chemical product for the treatment of a stock animal, make an accurate written record of the following—
- (a) the name of the product and the date the product was sold or used; and
 - (b) the directions for use of the product; and
 - (c) the name and address of the person to whom the product was sold; and
 - (d) in the case of an unregistered veterinary chemical product, the name of the active constituent, the concentration and form in which the product was sold or used; and
 - (e) the amount of the product sold or used; and
 - (f) the species of animal treated or intended to be treated; and
 - (g) the location of the animal treated or intended to be treated; and
 - (h) the withholding period (if any) for the product.

Penalty: 10 penalty units.

- (3) A veterinary practitioner who sells or uses a veterinary chemical product must keep any record under subregulation (2) for a period of two years after sale or use of the product.

Penalty: 10 penalty units.

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8 Labels and advice notes accompanying veterinary chemical products

- (1) This regulation applies to a veterinary chemical product used for the treatment of a stock animal that—
- (a) contains a substance that is a Schedule 4 Poison; or
 - (b) is an unregistered veterinary chemical product; or
 - (c) is a registered veterinary chemical product that is sold without a label approved by the APVMA; or
 - (d) is a registered veterinary chemical product sold for use other than in accordance with a label approved by the APVMA.
- (2) A label or advice note accompanying a veterinary chemical product sold by a veterinary practitioner for the treatment of a stock animal must include the following particulars—
- (a) the business name, address and telephone number of the veterinary practitioner;
 - (b) the date the product was sold;
 - (c) the species and type (breed, age and sex) of the animal to be treated;
 - (d) the directions for treating the animal with the product;
 - (e) the withholding period for the species of animal to be treated or, if no such period applies, the statement "Nil withholding period required";

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- (f) in the case of a registered veterinary chemical product, the name of the product unless it is sold in a container bearing the manufacturer's label;
 - (g) in the case of an unregistered veterinary chemical product, the name of the active constituent and the concentration of the active constituent.
- (3) A label under subregulation (2) must be attached to each container of the product sold.
 - (4) An advice note under subregulation (2) must be supplied to the buyer before treatment of the animal using the product commences or at the time of the initial treatment.

9 Withholding periods on labels or advice notes accompanying a veterinary chemical product

- (1) The label or advice note supplied by a veterinary practitioner that accompanies a veterinary chemical product sold by the veterinary practitioner must specify a withholding period no less than the period which is appropriate for the circumstances for which the product is sold contained in any directions specified on the label or advice note approved by the APVMA and issued by the manufacturer of the product.
- (2) Despite subregulation (1), the label or advice note issued by a veterinary practitioner that accompanies a veterinary chemical product sold by the veterinary practitioner that—
 - (a) is an unregistered veterinary chemical product; or

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- (b) is a registered veterinary chemical product sold with a label or advice note that contains instructions from the veterinary practitioner that differ from the directions on the label or advice note approved by the APVMA and issued by the manufacturer of the product—

must specify a withholding period which is sufficient to ensure that any stock or produce from stock treated with that product will not be contaminated at the end of that period.

10 Offences involving labelling requirements for veterinary chemical products

For the purposes of section 18(1)(b) of the Act—

- (a) the prescribed class of veterinary chemical products is all registered veterinary chemical products; and
- (b) the prescribed requirement is that a registered veterinary product must be accompanied by either—
 - (i) a label approved by the APVMA for the treatment of a species of animal specified on the label in accordance with the directions on the label; or
 - (ii) in the case of a veterinary chemical product sold by a veterinary practitioner, a label or advice note that complies with regulation 8.

11 Records of use of hormonal growth promotants

- (1) The user of a hormonal growth promotant must, within 24 hours of using the hormonal growth promotant for the treatment of a stock animal, make an accurate record of the following particulars—
 - (a) the date of treatment;
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- (b) the breed, age and sex of the animal treated;
 - (c) the name of the hormonal growth promotant used;
 - (d) the name and address of the supplier of the hormonal growth promotant used;
 - (e) the total number of the hormonal growth promotant implants used;
 - (f) the number of hormonal growth promotant implants lost or damaged during treatment;
 - (g) the address of the property on which the animal was treated;
 - (h) the property identification code of the property on which the animal was treated.

Penalty: 10 penalty units.

- (2) The user of a hormonal growth promotant must keep any record made under subregulation (1) for a period of 2 years after making the record.

Penalty: 10 penalty units.

12 Notification of agricultural spraying near services

- (1) An occupier of land who employs or contracts a person to carry out agricultural spraying of an agricultural chemical product on the land by means of an aircraft or mister must at the time the person is employed or contracted—
 - (a) advise the person in writing whether or not there is a school, hospital, premises from which an aged care service is provided or children's service within 200 metres of the land to be sprayed; and

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- (b) if there is such a school, hospital, premises or service, provide the person with details of the location of the school, hospital, premises or service.

Penalty: 15 penalty units.

- (2) A person who is employed or contracted to carry out agricultural spraying on land must, not less than 24 hours before spraying is carried out, provide to the occupier of the land—
- (a) the name of the proposed agricultural chemical product to be sprayed; and
 - (b) the proposed time, date and duration of spraying.

Penalty: 15 penalty units.

- (3) A person who is employed or contracted to carry out agricultural spraying on land must not start the spraying without first having received the information under subregulation (1).

Penalty: 20 penalty units.

- (4) An occupier of land who intends to have agricultural spraying carried out on that land must make every reasonable effort to inform the principal of a school, the site manager of a hospital or premises from which an aged care service is provided or the person in charge of a children's service, which is within 200 metres of the land to be sprayed, of the following information at least 12 hours before spraying is carried out—
- (a) the name of the agricultural chemical product to be sprayed; and
 - (b) the location of the proposed spraying; and

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- (c) the proposed time, date and duration of spraying.

Penalty: 20 penalty units.

13 Prescribed class of chemical product requiring licence

For the purposes of section 30(1)(b) of the Act, the prescribed class of chemical product is all agricultural chemical products.

14 Aerial spraying equipment

A person must not carry out aerial spraying unless any one or more of the following circumstances applies—

- (a) a smoke generating device is used at ground level at or near the point of spraying immediately before and during spraying;
- (b) the aircraft is fitted with a smoke generating device that is operated immediately before and during spraying;
- (c) a windsock is in operation and is clearly visible to the pilot at ground level at or near the point of spraying immediately before and during spraying;
- (d) an automatic weather station is located at or near the point of spraying and information about the wind speed and direction is available to the pilot immediately before and during spraying.

Penalty: 15 penalty units.

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15 Testing of stock or agricultural produce at the expense of the owner

- (1) For the purposes of section 56(2)(e)(i) of the Act, the reasons for requiring testing of stock to be carried out at the expense of the owner are that, at any time during the period of 2 years before the giving of the notice for the testing, the owner—
- (a) has sold or consigned for slaughter contaminated stock; or
 - (b) has been convicted of an offence against section 19(1), 19(3) or 19(6) of the Act in relation to the use of a veterinary chemical product; or
 - (c) has been convicted of an offence against section 50(4) of the Act in relation to any land on which any stock to be tested has been kept during that period; or
 - (d) has been convicted of an offence against the **Drugs, Poisons and Controlled Substances Act 1981** or any regulations made under that Act in relation to the use or possession of a Schedule 4 Poison that was prescribed for use in relation to stock.
- (2) For the purposes of section 56(2)(e)(i) of the Act, the reasons for requiring testing of agricultural produce to be carried out at the expense of the owner are that, at any time during the period of 2 years before the giving of the notice for the testing, the owner—
- (a) has sold or consigned for sale contaminated agricultural produce; or
 - (b) has been convicted of an offence against section 19(1), 19(3) or 19(6) of the Act in relation to the use of an agricultural chemical product; or
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- (c) has been convicted of an offence against section 50(4) of the Act; or
 - (d) has been convicted of an offence against section 52(4) of the Act.

16 Ground for refusing to grant an authority

For the purposes of clause 3(4)(b) of Schedule 1 to the Act, the chief administrator may refuse to grant an authority if the chief administrator is not satisfied that the applicant for the authority has completed a course of training approved by the chief administrator in accordance with guidelines published in the Government Gazette.

17 Form for acknowledgement of consent to enter and search

The prescribed form for the purposes of section 54A(3) of the Act is Form 1 in Schedule 2.

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SCHEDULES

SCHEDULE 1

Regulation 3

REGULATIONS REVOKED

<i>S.R. No.</i>	<i>Title</i>
71/1996	Agricultural and Veterinary Chemicals (Control of Use) Regulations 1996
38/1998	Agricultural and Veterinary Chemicals (Control of Use) (Amendment) Regulations 1998
143/2001	Agricultural and Veterinary Chemicals (Control of Use) (Amendment) Regulations 2001
34/2003	Agricultural and Veterinary Chemicals (Control of Use) (Amendment) Regulations 2003

SCHEDULE 2

Regulation 17

FORM 1

Agricultural and Veterinary Chemicals (Control of Use) Act 1992

Agricultural and Veterinary Chemicals (Control of Use) Regulations 2007

ACKNOWLEDGEMENT OF CONSENT TO ENTRY AND SEARCH

Name of authorised officer

Details of premises

Name of occupier

Address

Consent to entry and search

Purpose of entry and search

Statement of occupier—

1. The authorised officer has informed me (the occupier) of the purpose of the search.
2. I have been informed that anything seized or taken or recordings made with my consent during the search may be used in evidence in proceedings.
3. I have been informed that I may refuse to give consent to the entry and search of the premises.
4. I consent to the entry and search of the premises.

Signature of occupier

Date

Time

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Endnotes

ENDNOTES

**Table of Applied, Adopted or Incorporated Matter Required by the
Subordinate Legislation Regulations 2004**

Note that the following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 4, definition of <i>mister</i>	ASAE S572 FEB04, Spray Nozzle Classification by Droplet Spectra: American Society of Agricultural Engineers, as published from time to time.	Whole document.