



ELIZABETHAE SECUNDAE REGINAE

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No. 27 of 1966

**An Act to Control the Distribution of Agricultural Chemicals  
from Aircraft and from Ground Equipment, and for  
other purposes**

[ASSENTED TO 21ST DECEMBER, 1966]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

**1. Short title.** This Act may be cited as "*The Agricultural Chemicals Distribution Control Act of 1966.*"

**2. Commencement of Parts III, IV, V and VI.** (1) Parts III and IV of this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

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 V and VI of this Act 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 III of this Act 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 IV of this Act 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 three of this Act.

**3. Act not to apply to certain parts of State.** (1) The Governor in Council may from time to time by Order in Council declare that this Act or such provision or provisions hereof as are specified therein shall not be in force in such part or parts of the State as therein defined.

Any such Order in Council may define the part or parts of the State to which it relates as is, in the opinion of the Governor in Council, sufficient to identify such part.

(2) The Governor in Council may by another Order in Council revoke any Order in Council made under subsection (1) of this section and upon and by virtue of such revocation, this Act or, as the case may be, the provision or provisions hereof, specified in the revoked Order in Council shall be in force in the part or parts of the State to which the revoked Order in Council related.

Such a revocation shall not prejudice the power of the Governor in Council to make thereafter any Order in Council under subsection (1) of this section in relation to the part or parts of the State in question.

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

**5. Division of Act.** This Act is divided into Parts as follows:—

- PART I—PRELIMINARY;
- PART II—ADMINISTRATION;
- PART III—AERIAL DISTRIBUTION;
- PART IV—GROUND DISTRIBUTION;
- PART V—REGULATION OF LICENSING;
- PART VI—REGULATION OF DISTRIBUTION;
- PART VII—GENERAL.

**6. Meaning of terms.** (1) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

“Active constituent”—Where used with reference to any agricultural chemical, any constituent or active portion thereof which is or is claimed or prescribed to be the active principle of such agricultural chemical;

“Aerial distribution”—The spraying, spreading or dispersing of any agricultural chemical or any preparation containing any agricultural chemical from an aircraft in flight;

“Aerial equipment”—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”—Any insecticide, fungicide, herbicide or vermin destroyer:

The term includes any material prescribed to be an agricultural chemical for the purposes of this Act;

“Air Navigation regulations”—The regulations made from time to time under and pursuant to the *Air Navigation Act 1920–1963* of the Commonwealth or any Act amending or in substitution for the same;

- “Aircraft”—Any machine that can derive support in the atmosphere from the reactions of the air;
- “Analysis”—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”—A person appointed under and for the purposes of this Act as an analyst:  
The term includes an acting analyst;
- “Board”—The Agricultural Chemicals Distribution Control Board as constituted by this Act;
- “Crop”—Includes standing cultivated plants, trees or pastures:  
The term includes any vegetable growth prescribed to be a crop for the purposes of this Act;
- “Ground distribution”—The spraying, spreading or dispersing of any herbicides or any preparation containing any herbicide from ground equipment;
- “Ground equipment”—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:  
The term includes any machine or apparatus prescribed to be ground equipment for the purposes of this Act:  
The term does not include any machine or apparatus prescribed not to be ground equipment for the purposes of this Act;
- “Hazardous area”—An area declared by the Governor in Council under this Act to be a hazardous area;
- “Herbicide”—Any material used or intended for destroying or preventing the spread of any plants:  
The term includes any material prescribed to be a herbicide for the purposes of this Act;
- “Inspector”—An inspector appointed under and for the purposes of this Act:  
The term includes an acting inspector;
- “Licence”—Any licence issued under this Act and in force at any material time;
- “Licensed commercial operator”—A person who holds a commercial operator’s licence issued under this Act and in force at any material time;
- “Licensee”—Any person holding a licence issued under this Act;
- “Material”—Any article, material, or substance, natural or prepared, including any mixture or compound or derivative of a material:  
The term 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;

“Minister”—The Minister for Primary Industries or other Minister of the Crown for the time being charged with the administration of this Act:

The term includes a Minister of the Crown temporarily performing the duties of the Minister administering this Act;

“Occupier”—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”—The standards officer or the assistant standards officer or any analyst, inspector, member of the Board or other officer appointed by or under and for the purposes of this Act:

The term includes any person who for the time being occupies the office or performs the duties of any such officer;

“Owner”—

(a) In relation to an aircraft or ground equipment that is—

- (i) the subject of a hire-purchase agreement, the hirer of that aircraft or, as the case may be, ground equipment within the meaning of “*The Hire-Purchase Act of 1959*”; or
- (ii) the subject of a bill of sale, the grantor of that bill of sale within the meaning of “*The Bills of Sale and Other Instruments Act of 1955*”;

(b) In relation to land, the person other than Her Majesty who for the time being is entitled to receive the rent of that land either on his own account or on account of some other person or who if the same were let to a tenant at a rack-rent would be entitled to receive the rent thereof: The term also includes the holder of any lease or licence or permission from the Crown, or any person deriving title thereunder;

“Part”—Part of this Act;

“Pilot chemical rating licence”—A pilot chemical rating licence issued under this Act;

“Pilot in command”—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;

“Registered name”—The name under which an agricultural chemical is registered under Part III of “*The Agricultural Standards Acts, 1952 to 1963*”;

“Relative”—means any of the following, that is to say—

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

“Standards officer”—The standards officer or the assistant standards officer appointed under and for the purposes of “*The Agricultural Standards Acts, 1952 to 1963*”:

The term includes an acting standards officer or, as the case may be, an acting assistant standards officer;

“Stock”—Any horse, mule, ass, cattle, sheep, goat, pig, domestic fowl, turkey, duck, goose or bee and any other animal, bird or insect which the Governor in Council, by Order in Council published in the *Gazette*, declares to be stock under and for the purposes of this Act;

“Under Secretary”—The Under Secretary of the Department of Primary Industries:

The term includes any person who for the time being occupies the office or performs the duties of that Under Secretary.

(2) Subject to subsection (3) of this section, any term used in this Act to which a meaning is assigned by “*The Agricultural Standards Acts, 1952 to 1963*,” shall, unless the context otherwise indicates or requires, have the meaning so assigned to it.

(3) Where the meaning assigned by “*The Agricultural Standards Acts, 1952 to 1963*,” to a term used in this Act defines that term to include or not to include for the purpose of those Acts any thing which may be prescribed, then for the purpose of this Act that term, if used in this Act, shall or, as the case may be, shall not include any thing which is so prescribed for the time being.

#### PART II—ADMINISTRATION

**7. Officers.** (1) The Governor in Council may from time to time appoint under and for the purposes of this Act such analysts, inspectors and other officers as he deems necessary for the purposes of this Act.

All such appointments shall be made and the appointees shall hold their respective offices under, subject to and in accordance with “*The Public Service Acts, 1922 to 1965*.”

An analyst, inspector or other officer appointed under this Act may hold his appointment under this Act in conjunction with any other position in the Public Service.

(2) Every inspector shall be furnished with a certificate of appointment signed by the Under Secretary and upon entering any place shall, if required, produce that certificate to the occupier of the place.

**8. (1) The Agricultural Chemicals Distribution Control Board.** There shall be constituted in accordance with this Act a Board to be called “The Agricultural Chemicals Distribution Control Board”.

(2) **Constitution of Board.** The Board shall be deemed to be constituted on and from the date of the first appointment of the members thereof.

(3) The Board shall be constituted by nine members, appointed by the Governor in Council by notification published in the *Gazette* as follows, namely:—

- (a) the Director, Division of Plant Industry Department of Primary Industries or other person appointed in writing by the said Director who *ex officio* shall be a member of the Board and who shall be chairman thereof;
- (b) the standards officer, who *ex officio* shall be a member of the Board;
- (c) five persons nominated by the Minister one of whom shall be a person well versed in matters relating to aerial distribution;
- (d) two persons nominated by the Minister for Lands.

(4) **Co-option of officers.** The Board shall have power to co-opt any officer of any Government Department to act in an advisory capacity with respect to all or any aspect relating to the distribution of agricultural chemicals.

(5) **Deputy chairman.** The Governor in Council may from time to time appoint, by notification published in the *Gazette*, a member of the Board to be the deputy chairman thereof for such term as is specified in the notification of appointment.

(6) **Tenure of office.** Each and every member of the Board other than the *ex officio* members thereof shall, subject to this Act, hold office for such term as is prescribed (but so that any such term shall not exceed three years) and shall, subject to this Act, be eligible for reappointment. The members of the Board shall hold office at the pleasure of the Crown.

(7) **Deputy members.** The Minister may from time to time appoint a deputy to act for any member during his absence from any meetings of the Board, and that deputy shall, while he so acts, have the powers and authorities and shall perform the duties of the member whose deputy he is.

**9. Proceedings at meetings.** (1) **Quorum.** Not less than one-half of the total number of members of the Board for the time being shall form a quorum at any meeting of the Board.

(2) **Conduct of business.** The Board shall meet at such times and places and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may from time to time decide.

(3) **Presiding at meetings.** The chairman of the Board shall preside at all meetings of the Board at which he is present.

If the chairman is unable for any reason to attend at any duly convened meeting of the Board, the deputy chairman shall preside at the meeting.

If both the chairman and the deputy chairman are absent from any duly convened meeting, the members present shall appoint one of their number to preside at the meeting.

The person presiding at any meeting of the Board shall have a vote and when there is an equal division of votes upon any question shall have a second or casting vote.

**10. Committees.** (1) The Board may appoint such advisory committees as it thinks fit to advise it on such matters within the scope of its functions as are referred to those committees by the Board.

(2) A person may be appointed a member of any such committee whether or not he is a member of the Board.

**11. Secretary.** The standards officer shall be the secretary to the Board.

### PART III—AERIAL DISTRIBUTION

**12. Pilot chemical rating licence.** (1) Subject to this Act the Board shall have power to grant pilot chemical rating licences.

(2) A person who does not hold—

- (a) a valid commercial pilot's licence or a valid senior commercial pilot's licence, endorsed with an agricultural rating, issued under the Air Navigation regulations and in force at the material time; and
- (b) the prescribed qualifications,

shall not be entitled to apply for or to hold a pilot chemical rating licence.

(3) A person who desires to obtain a pilot chemical rating licence and who is entitled to apply for such licence shall lodge an application with the Board.

**13. Effect of termination or suspension of pilot's licence.** If by reason of expiration, cancellation or suspension the licence referred to in paragraph (a) of subsection (2) of section twelve of this Act 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:

Provided that 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) Subject to subsection (2) of this section, 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 of the Commonwealth—

(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.

(2) The holder of any such certificate or licence shall, before carrying out any aerial distribution, give as prescribed to the standards officer such particulars as may be prescribed to the satisfaction of the standards officer.

(3) The provisions of sections twenty, twenty-one, twenty-two, and twenty-three of this Act apply with respect to the operation in Queensland of a certificate or licence referred to in subsection (1) of this section 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. Registration of aerial equipment.** (1) The owner of any aircraft from which aerial distribution is to be carried out shall make application to the Board for the registration of the aerial equipment of such aircraft.

Such application shall—

(a) be in the prescribed form;

(b) contain or be accompanied by such information as may be prescribed; and

(c) be accompanied by the prescribed fee (which shall be refunded if the application is refused).

(2) The Board may—

(a) register the equipment the subject of the application; or

(b) refuse to register such equipment.

PART IV—GROUND DISTRIBUTION

**16. Commercial operators' licence.** (1) Subject to this Act the Board shall have power to grant commercial operators' licences.

(2) A person who does not hold the prescribed qualifications shall not be entitled to apply for a commercial operator's licence.

(3) A person who desires to obtain a commercial operator's licence and who is entitled to apply for such licence shall lodge an application with the Board.

PART V—REGULATION OF LICENSING

**17. Application for licences.** (1) Every application for a licence shall be in writing and shall—

(a) be in the prescribed form;

(b) contain or be accompanied by such information as may be prescribed; and

(c) be accompanied by the prescribed fee (which shall be refunded if the application is refused).

(2) The applicant shall, in addition to the information contained in or accompanying the application, supply such information and documents as the Board may from time to time require.

(3) Upon consideration of an application for a licence the Board may—

(a) grant the application; or

(b) refuse the application.

**18. Tenure of licence.** Every licence granted pursuant to this Act shall take effect from its date of issue.

Every licence granted in the first instance pursuant to this Act and every licence renewed in accordance with this Act shall (unless sooner cancelled) expire—

(a) (in the case of a pilot chemical rating licence) on the date of expiry of the commercial pilot's licence or, as the case may be, senior commercial pilot's licence held by the licensee on the date of issue or, as the case may be, on the date of renewal;

(b) (in the case of a commercial operator's licence) on the thirtieth day of June next following the date of issue or, as the case may be, date of renewal.

**19. Renewal of licence.** Every licensee who desires to obtain a renewal of his licence shall—

(a) in the case of the holder of a pilot chemical rating licence, not later than the fifteenth day of the month in which the licence expires; and

(b) in the case of a licensed commercial operator, not less than thirty days prior to the date of the expiration of the licence,

lodge with the Board an application in the prescribed form accompanied by the prescribed fee (which shall be refunded if renewal is refused).

Upon consideration of an application under this section the Board may—

(a) grant the application; or

(b) refuse the application.



**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, he may suspend that licence for such period, not being in excess of one month, as he thinks fit; and such suspension shall remain in force for such period unless sooner removed by the Board.

**21. Cancellation or suspension of licence.** (1) Where the Board is satisfied that—

- (a) a licensee has committed an offence against this Act;
- (b) a licensee has done an act or made an omission that would not entitle him to apply for a licence of the type held by him;
- (c) a licence has been issued erroneously or in consequence of any false document, statement or representation or fraudulent document, statement or misrepresentation; or
- (d) a licensee is in any other respect or respects not a fit and proper person to continue to hold his licence,

the Board may by notice call upon the licensee in question to show cause within the time specified in the notice why the Board should not recommend to the Minister that the Minister—

- (e) cancel the licence concerned; or
- (f) suspend the licence concerned for such time as is specified in the notice,

and where the licensee fails to show cause within the time specified in the notice or within any extension of the time which the Board may allow, the Board may make a recommendation in accordance with the notice.

Where the holder of a licence shows cause why the Board should not recommend that his licence be cancelled, the Board may, if it thinks fit, recommend that his licence should be suspended for the period stated in the recommendation.

(2) (a) Upon a recommendation by the Board under subsection (1) of this section, the Minister may, at his discretion,—

- (i) Where cancellation is recommended cancel the licence in question or suspend it for a period fixed by him;
- (ii) Where suspension is recommended, suspend the licence in question for the period recommended or a lesser period fixed by him,

or he may refrain from acting on the recommendation.

(b) The Minister may terminate any cancellation or suspension of a licence imposed by him under this subsection, or he may substitute a period of suspension for such a cancellation or reduce the period of such a suspension.

(3) The standards officer shall notify the licensee of any action taken by the Minister under subsection (2) of this section.

In this subsection the term “ licensee ”, in a case where the Minister has acted to cancel a licence or to terminate the cancellation of a licence, means “ the person who held the licence immediately prior to its cancellation ”.

(4) Notwithstanding anything contained in section twenty-three of this Act, in this section, the term "licensee" includes a person whose licence is suspended pursuant to section twenty of this Act.

**22. Appeal against cancellation, suspension or refusal of a licence.**

(1) A person whose licence has been cancelled or suspended by the Minister or whose application for a licence or renewal of a licence has been refused by the Board may appeal to a Judge of District Courts or to a Stipendiary Magistrate.

Such an appeal may be made to a Judge of District Courts at any place appointed for holding such courts or to a Stipendiary Magistrate at any place appointed for holding magistrates courts and shall be instituted in the manner and within the time prescribed.

(2) The Judge or Magistrate may by his decision, according as he deems just,—

- (a) upon an appeal against the cancellation or suspension of a licence, confirm or terminate the cancellation or suspension or substitute a period of suspension for cancellation or reduce the period of suspension; or
- (b) upon an appeal against a refusal of a licence or of a renewal of a licence confirm the refusal or direct that the licence or renewal be granted,

and make any further order, including with respect to costs as he thinks fit and his decision in the appeal shall be final and conclusive and shall be given effect to by the Minister, the Board and all persons concerned.

(3) A cancellation or suspension of a licence shall not be affected in any way by reason that an appeal has been instituted under this section.

**23. Effect of suspension.** Suspension of a licence by a Judge of District Courts, or a Stipendiary Magistrate, or the Minister or the 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—

- (a) the names and the prescribed particulars of all licensees; and
- (b) the prescribed particulars of aerial equipment registered pursuant to this Act,

shall be entered.

(2) The register shall be open for public inspection at all reasonable times.

## PART VI—REGULATION OF DISTRIBUTION

**25. Indemnity for loss occasioned by commercial distribution.** (1) The owner of an aircraft from which aerial distribution is to be carried out and the owner of ground equipment by means of which ground distribution is to be carried out by a licensed commercial operator shall, at the commencement of and throughout such distribution have a subsisting policy of insurance as prescribed by subsection (2) of this section and shall, before such distribution is commenced, satisfy the standards officer of the existence of such policy.

(2) A policy of insurance prescribed by subsection (1) of this section shall be approved by the standards officer and shall indemnify the owner and his servants against his or their liability for loss, damage or injury caused by or in connection with the distribution in question and shall—

(a) in the case of aerial distribution—

(i) be for an amount of thirty thousand dollars at the least in respect of each aircraft to be used in such distribution;

(ii) indemnify against such loss, damage or injury so caused at any place in the Commonwealth;

(b) in the case of ground distribution, be for such amount as is prescribed.

(3) In this section the term “owner” does not include the Crown.

**26. Records to be kept.** (1) The owner of an aircraft from which aerial distribution is carried out and the owner of ground equipment from which ground distribution is carried out by or under the supervision of a licensed commercial operator shall make or cause to be made at the time of such distribution a record of the following particulars, namely—

(a) (in the case of aerial distribution) the name of the pilot in command of the aircraft concerned;

(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) the registered name and full description of the agricultural chemicals used in such distribution including the diluents, wetters or spreaders or emulsifiers, or any other material added thereto;

(e) the description or the exact location of the land so treated including distances and directions from the nearest townsite so that the land may be readily identified;

(f) the date and the time of such distribution;

(g) the estimated velocity and the direction of the wind at the time of such distribution;

(h) the quantity and concentration and the total volume of the agricultural chemical applied during such distribution;

(i) the total acreage covered by such distribution;

(j) the type of crop treated;

(k) the purpose or purposes for which such distribution was carried out; and

(l) such other particulars and matters as may be prescribed,

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

(2) At the request of the standards officer a copy of the record kept pursuant to subsection (1) of this section shall within the period specified in the request be forwarded to him by the person who is for the time being in possession of the original thereof.

(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 and shall be liable on conviction on indictment to imprisonment for a term not exceeding five years or on summary conviction to imprisonment for a term not exceeding twelve months or to a penalty not exceeding six hundred dollars or to both such penalty and imprisonment.

**27. Record to be produced.** (1) Any record made pursuant to section twenty-six of this Act shall be produced—

(a) to the standards officer or an officer; or

(b) to any person authorized by the standards officer in writing to demand the production of the record,

on demand being made therefor by the standards officer, or officer or that person, as the case may be.

(2) A record kept pursuant to section twenty-six of this Act shall, upon its production in any proceedings, be evidence of the particulars and other matters stated therein.

**28. Hazardous areas.** Where the Governor in Council is of opinion that any area in the State should be declared a hazardous area for the purposes of this Act, he may, by Order in Council and by notice in a newspaper circulating generally throughout the State, declare the area specified therein, to be a hazardous area for the purposes of this Act, either without limitation as to time or for such period as is specified in the notice.

**29. Governor in Council may issue directions in hazardous area.**

(1) The Governor in Council may from time to time in respect of a hazardous area direct that a person shall not carry out or cause or permit to be carried out any aerial distribution or ground distribution unless in accordance with such conditions as may be specified by him in the direction.

Without limiting the foregoing any such condition may be related to all or any of the following, namely time, place, agricultural chemical, chemical formulation or type of equipment.

(2) The Governor in Council may from time to time amend or revoke any direction made by him under this section and where amended, a direction as so amended shall be the direction for the time being.

(3) A direction made by the Governor in Council under this section may be—

(a) published in the *Gazette*; or

(b) published in any newspaper or newspapers circulating in the hazardous area concerned,

and shall take effect from the date of its first publication.

In the case of any direction which has been published in a newspaper the Governor in Council shall as soon as may be after issuing such direction cause a notification thereof and the date of the issue thereof by him to be published in the *Gazette*.

(4) Any person who in any respect contravenes or fails to comply with any direction by the Governor in Council under this section, shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

**30. Notice of damage by agricultural chemicals.** (1) Where a person alleges that crops or stock on land owned or occupied by him have been injuriously affected by the distribution of agricultural chemicals by aerial or ground distribution he may, in writing, give notice to the standards officer of such injurious effect giving such particulars and information as may be prescribed—

(a) (in the case of injurious effect to crops), within fourteen days; or

(b) (in the case of injurious effect to stock), within two days,

of having suspected such injurious effect.

(2) A person who has given notice to the standards officer shall give fourteen days notice of his intention to harvest or, as the case may be, destroy the crops or stock which are alleged by him to have been injuriously affected.

(3) Any person who in a notice given pursuant to this section makes a statement which he knows to be false with the intent that the standards officer or any officer or any person authorized in writing by the standards officer shall do any act or thing as a result of such statement, commits an offence against this Act.

**31. Effect of failure to give notice.** (1) This section applies to an action claiming damages in respect of the loss of or damage to crops or stock alleged to be caused by or arising out of or in connexion with aerial distribution or ground distribution.

(2) Except by leave of the Court a claimant in an action referred to in subsection (1) of this section who has failed to comply with the provisions of section thirty of this Act shall not call as a witness the standards officer, the assistant standards officer, any analyst, any inspector or any other officer of the Department of Primary Industries or of the Board or any member of the Board or put in evidence any report or statement referred to in sections thirty-two or thirty-three of this Act or any records or writings of the said Department or of the Board or any member of the Board.

Leave as aforesaid shall not be granted by the Court unless with the consent of the defendant or unless the Court is satisfied that the failure to comply with such provisions was occasioned by mistake or by other reasonable cause or that the defendant will not be materially prejudiced in his defence or otherwise by the failure.

**32. Powers of inspection in case of damage to crops, &c.** (1) The standards officer or any officer or any person authorized in writing by the standards officer—

- (a) may enter on any land on which any crops or stock have been notified to him to have been injuriously affected by aerial or ground distribution and carry out such inspections on the land and take and remove such samples of matter on or in that land as he thinks fit for the purpose of making the report referred to in paragraph (c) or, as the case may be, paragraph (d) of this subsection;
- (b) may enter and inspect any land, wheresoever situated for the purpose of ascertaining possible sources of drift of agricultural chemicals and may take and remove such samples of matter on or in that land as he thinks fit for the purpose of making the report referred to in paragraph (c) or, as the case may be, paragraph (d) of this subsection;
- (c) (in the case of an entry by the standards officer), shall make a report of all his findings in connexion with the crops or stock reported to be so affected;
- (d) (in the case of an entry by any officer or person other than the standards officer) shall, after entering land in pursuance of this subsection, make a written report to the standards officer of all his findings in connexion with the crops or stock reported to be so affected; and
- (e) (in the case of an entry by any officer or person other than the standards officer) shall deliver to the standards officer all samples taken and removed in accordance with paragraphs (a) and (b) of this subsection.

(2) A person who prevents, hinders, delays or obstructs the entry on or inspection of or removal of samples from any land by the standards officer or officer or a person authorized pursuant to subsection (1) of this section shall be guilty of an offence against this Act and shall be liable on conviction to a penalty not exceeding two hundred dollars.

**33. Board to make statement on damage.** (1) Where the standards officer receives a report from an officer in pursuance of subsection (1) of section thirty-two of this Act he shall submit such report, together with such comments as he thinks are applicable, to the Board.

Where the standards officer has made a report in pursuance of subsection (1) of section thirty-two of this Act he shall submit that report to the Board.

Upon receiving any such report the Board shall—

- (a) consider the report and comments (if any) of the standards officer; and
- (b) make a statement in relation to the alleged injurious effect which was the subject of the report.

(2) The Board may issue a copy of the statement made in pursuance of subsection (1) of this section to those persons who in the opinion of the Board are interested parties.

**34. Powers of inspectors, &c.** (1) The standards officer or an inspector may—

- (a) enter any place where there is or where he has reasonable ground to believe there is any aircraft or ground equipment which he reasonably believes to be used or intended to be used for aerial or ground distribution of agricultural chemicals;
- (b) search therein for any such aircraft or ground equipment;
- (c) inspect and examine any aircraft or ground equipment found therein;
- (d) call to his aid—
  - (i) any member of the Police Force where he has reasonable cause to apprehend any obstruction in the exercise of his powers or in the execution of his duties;
  - (ii) any person he may think competent to assist him in such search, inspection and examination;
- (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 his answers.

(2) No provision of subsection (1) of this section or of section forty of this Act 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 him; or
- (b) to render any person liable to a penalty for failure to make such an answer or statement.

(3) Subsection (1) of this section shall not authorize 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) of this section, 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 warrant directing the person named therein to search that dwelling-house or part of a building.

#### PART VII—GENERAL

**35. Offence to use agricultural chemicals not registered.** (1) Subject to subsection (2) of this section a pilot in command or licensed commercial operator shall not use or cause to be used in distribution from any aircraft or ground equipment any agricultural chemical unless—

- (a) such agricultural chemical is registered under “*The Agricultural Standards Acts, 1952 to 1963*”;
- (b) such agricultural chemical is used in accordance with the directions and recommendations for use approved in relation to registration of the agricultural chemical under “*The Agricultural Standards Acts, 1952 to 1963*”;

- (c) such agricultural chemical conforms with the registered composition under “*The Agricultural Standards Acts, 1952 to 1963*”; and
- (d) such agricultural chemical is obtained from a package or packages to which or, as the case may be, to each of which is durably attached the registered label of the agricultural chemical.

(2) Subsection (1) of this section does not apply to *bona fide* experimental distribution of agricultural chemicals carried out with the approval of the standards officer.

**36. Faulty or defective equipment.** (1) Where any ground equipment, any aerial equipment, or any part thereof, is or appears to an inspector to be faulty or defective in any particular, or to be in such a state as to be likely to cause damage or injury to any stock or crops, he may give to the owner of that equipment a notice in writing to that effect, and such notice may require the owner either—

- (a) to wholly desist from using such equipment forthwith, or after a date to be stated in such notice, until certain replacements, repairs, or alterations as stated in the notice have been effected; or
- (b) to have certain replacements, repairs, or alterations as stated in the notice effected within the time specified in such notice.

In addition to the matters specified in this subsection, a notice under this subsection may require the owner of the equipment to refrain from selling, hiring, or otherwise disposing of, or parting with the possession of, such equipment until the requirements of the inspector as specified in such notice have been complied with.

(2) A person to whom such notice has been given shall comply in every respect with the requirements of that notice.

**37. Offence to use aerial equipment not registered, &c.** The owner of any aircraft shall not use or permit or allow any other person to use the aerial equipment of such aircraft for the purpose of carrying out aerial distribution unless at the time such distribution is carried out—

- (a) the aerial equipment is registered under this Act; and
- (b) a policy of insurance as prescribed by section twenty-five of this Act is in force in respect of the aircraft.

**38. Offence to use certain ground equipment, &c.** The owner of any ground equipment shall not use or permit or allow any other person to use that ground equipment for the purpose of carrying out ground distribution unless at the time such distribution is carried out—

- (a) the ground equipment is of a type or kind approved for use under this Act;
- (b) (where a policy of insurance in respect of that equipment is required by section twenty-five of this Act) there is a policy of insurance as prescribed by such section in force in respect of that ground equipment; and
- (c) the person using that equipment is at the time in question—
  - (i) a licensed commercial operator; or
  - (ii) under the personal supervision of a licensed commercial operator who is personally present during the whole of such use; or



- (iii) (where such use is on land owned or occupied by the owner)—
  - (A) the owner;
  - (B) a relative of the owner; or
  - (C) (where the owner is primarily engaged in pastoral or agricultural pursuits) an employee of the owner whose contract for service is primarily for services other than the ground distribution in question.

**39. Prohibition of aerial or ground distribution by unlicensed person.**

(1) A person shall not carry out or knowingly permit or allow to be carried out any aerial distribution, unless the pilot in command of the aircraft from which the distribution is carried out holds a pilot chemical rating licence.

(2) A person shall not carry out or permit or allow to be carried out any ground distribution unless the person using the ground equipment from which the distribution is carried out—

- (a) is a licensed commercial operator; or
- (b) uses such equipment under the supervision of a licensed commercial operator who is personally present during the whole of such use.

A person charged with an offence against this subsection shall not be convicted thereof if the Court is satisfied that he was using the ground equipment in question on land which at the time in question was owned or occupied by—

- (a) himself;
- (b) a relative of such person; or
- (c) (where such person is, pursuant to a contract of service which is primarily for services other than the ground distribution in question, employed by a person primarily engaged in pastoral or agricultural pursuits) that employer.

**40. Obstructing inspection, &c.** Any person who—

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

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred dollars or to imprisonment for a term not exceeding six months.

**41. General penalty provision.** (1) Save as expressly provided by or under this Act—

- (a) any person who fails, neglects or refuses to comply with any lawful order or direction made pursuant to this Act; and
- (b) every person who contravenes or fails to comply with any provision of this Act,

shall be guilty of an offence against this Act.

(2) Every person guilty of an offence against this Act for which no penalty is expressly provided shall be liable on conviction to a penalty not exceeding two hundred dollars.

**42. Proceedings generally.** (1) All offences against this Act may be prosecuted, except where otherwise indicated, in a summary way under "*The Justices Acts, 1886 to 1965,*" upon the complaint of—

(a) an officer; or

(b) any person appointed by the Minister either generally or in a particular case.

(2) A prosecution for an offence against this Act may be instituted at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

**43. Liability for offences by corporations, &c.** (1) Except where otherwise expressly provided in this Act, where a corporation offends against this Act each and every one of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly, namely:—

(a) the managing director, manager, or other governing officer, by whatever name called, and every member of the governing body, by whatever name called, thereof; and

(b) every person who in Queensland manages or acts or takes part in the management, administration, or government of the business in Queensland of the corporation.

This subsection applies so as not to limit or affect howsoever the liability of a corporation to be proceeded against and punished for an offence against this Act committed by it.

(2) Except where otherwise expressly provided in this Act, where any member of an unincorporate body or association of persons commits an offence against this Act, the other member or members, as the case requires, of that body or association shall be deemed to have also committed the offence and shall be liable to be proceeded against and punished accordingly.

(3) No person who is proceeded against pursuant to this section shall be convicted if the Court is satisfied that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to all the circumstances.

**44. Protection of the Minister, officers, &c.** No matter or thing done by the Minister or by any person acting with the authority of the Minister, or done by the Board, or by any member of the Board, or by any officer or by any officer of the Department of Primary Industries in good faith and without negligence for the purpose of executing this Act or in the execution of his or its powers and duties under this Act, shall subject the Crown, or the Minister or the Board, member, officer, or officer of such Department to any liability in respect thereof.

**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;

- (b) a certificate purporting to be under the hand of the standards officer of his making any request under this Act, or of his giving, issuing, or posting any notice, direction, or other thing under this Act, or of his giving or not giving any authority under this Act or of the receipt or non-receipt by him 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;
- (c) every entry in any minute book of the Board purporting to be an entry relating to the proceedings of the Board in any such case signed by the chairman thereof or by the standards officer, and every certified copy of or extract from any such entry signed by the standards officer shall upon its production in evidence, be evidence of the proceedings appearing by such entry (without proof of any meeting to which the same may refer or by which the same were made having been duly convened or held or that such proceedings were carried out or made in accordance with the prescribed provisions in that behalf), and that the signature thereon is the signature of the chairman, or as the case may be, standards officer, and in the absence of evidence in rebuttal, shall be conclusive evidence of such proceedings, or as the case may be, signature;
- (d) 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. Service of request, direction, notice, &c.** Any request, direction, notice, or other document under this Act required or authorized to be given, issued, made, or served to or upon any person may be given, issued, made, or served—

- (a) by delivering the same to such person personally; or
- (b) by leaving the same at or by forwarding the same by post in a prepaid letter addressed to such person at his usual or last-known place of abode or address or, in the case of a request, direction, notice, or other document given, made, or served on a pilot in command or licensed commercial operator who has applied for or been issued with a licence, or an owner by leaving the same at or by forwarding the same by post in a prepaid letter addressed to such person at his sole or principal place of business.

In the case of a request, direction, notice, or other document given, issued, made, or served by forwarding the same by post in a prepaid letter under paragraph (b) of this section, such request, direction, notice, or other document shall unless the contrary is proved be deemed to have been given, issued, made, or served at the time at which the letter would be delivered in the ordinary course of post.

**47. Publication of Orders in Council and regulations.** (1) Every Order in Council and regulation made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect on and from the date of such publication, unless in the case of any such regulation a later date is specified in that or any other such regulation for its commencement when in such event it shall take effect from that later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution, of which notice has been given at any time within fourteen sitting days after any such Order in Council or regulation has been laid before the Legislative Assembly, disallowing such Order in Council or regulation or part thereof, that Order in Council, regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime or to the power to make a new Order in Council, or, as the case may be, regulation.

**48. Regulations.** (1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, providing for all or any purposes, whether general or to meet particular cases, as are convenient for the administration of this Act or are necessary or expedient for carrying out the objects and purposes of this Act.

Regulations in relation to aerial distribution may differ from those in relation to ground distribution.

(2) The power to make with respect to any persons or any matters or things whatsoever, any regulation under this Act shall include power to make that regulation so that it may be of general or specially limited application according to time, place, purposes, class, description or circumstances, or otherwise as is prescribed, and so that any regulation of specially limited application may or may not differ from any other regulation of specially limited application with respect to the same persons, matters or things.

The power to make regulations with respect to any matter or thing shall include power to make regulations under this section prohibiting that matter or thing either generally or to meet particular cases.

(3) Without limiting the foregoing provisions of this section, regulations may be made by the Governor in Council under this section, making provision for—

- (a) the regulation of aerial and ground distribution of agricultural chemicals over hazardous areas and the issuing of permits to carry out aerial or ground distribution over such areas: and for the cancellation and suspension of any such permits;
- (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 that have carried agricultural chemicals;
- (d) prohibiting aerial and ground distribution of agricultural chemicals in conditions that are likely to result in such agricultural chemicals drifting;
- (e) prohibiting or regulating the use in aerial and ground distribution of preparations containing agricultural chemicals, either generally or with reference to particular agricultural chemicals or groups of those chemicals, whether absolutely or in prescribed areas, or during prescribed periods of the year in prescribed areas;
- (f) regulating the droplet or particle size in aerial and ground distribution whether generally or in prescribed areas or in prescribed weather conditions;
- (g) the approval of the types and kind of ground equipment that may be used by any person; specifying the authority or person to grant such approval;
- (h) regulating the mode of aerial and ground distribution and the appliances to be used in connexion therewith;
- (i) the qualifications required to hold a licence, the terms and conditions upon which a licence may be obtained and which shall be observed by the holder of a licence;
- (j) the submission of licensees to examinations from time to time, the person or authority by whom or which such examinations are to be held, the times and places when and where such examinations are to be held, and prescribing the subjects of such examinations;
- (k) the fees to be paid in respect of the issue or renewal of a licence or any application for a licence or any other document or the undergoing of any examination or test required by the regulations and in respect of which it appears to be expedient for the purposes of the regulations to charge fees;
- (l) prescribing, regulating and controlling all matters and things with respect to inspection and investigation and to samples including the methods of taking samples, the quantity or weight of samples, the labelling of samples and the delivery to the standards officer of samples;
- (m) prescribing methods of analysis and examination of agricultural chemicals, portions, samples, material and other prescribed things for the purposes of this Act including methods of analysis and examination for determining the composition or physical properties of any agricultural chemical or the nature and amount of any residue on any crop or stock and for the identification of any damage to any crop or stock;
- (n) the imposition of penalties not exceeding four hundred dollars or imprisonment for six months, or both, for any contravention of or failure to comply with any provision of the regulations or any order, direction or instruction given or made under, or in force by virtue of, the regulations;
- (o) regulating the procedure for the recovery of penalties and for the cancellation and suspension of licences;

- (p) prescribing forms and all matters and things required or permitted by this Act to be prescribed;
- (q) prescribing the functions, powers, duties, and privileges of all or any persons engaged in the administration of this Act;
- (r) generally to give full effect to the objects and purposes of this Act.

(4) Regulations may be made under this Act at any time after the passing hereof.