

Factsheet – Poisons and Pest Management for Horticulture Businesses (Excluding Primary Producers)

Who is this factsheet for?

This factsheet is for persons (entities or their employees) who use poisons or carry out pest control activities at facilities used for horticulture businesses such as at recreational or sporting facilities. There is a separate factsheet for primary producers including production nurseries, fruit and vegetable growers. Examples of persons that this factsheet applies to include:

- A garden centre worker using pesticides to control insects on plants being offered for sale.
- A ground keeper employed by a sporting club and applying pesticides as part of ground maintenance.

This factsheet details how the new *Medicines and Poisons Act 2019* (the MPA) may affect persons working in these types of horticulture businesses.

How will it affect me?

Prior to 27 September 2021, two pieces of public health legislation applied to the use of agricultural chemicals in Queensland.

Health (Drugs and Poisons) Regulation 1996 (HDPR)

- The HDPR applied to the use of scheduled poisons¹ in agriculture, industrial or mining activities. The HDPR had prescribed some Schedule 7 (S7) poisons (e.g. strychnine, cyanide and fluoroacetic acid) as regulated poisons² and these required an approval or permit for their use. The HDPR also placed supply controls on all S7 poisons.
- The use of all agricultural chemicals was also subject to various pieces of agricultural (*Chemical Usage (Agricultural and Veterinary) Control Act 1988, Agricultural Chemicals Distribution Control Act 1966, etc.*) and workplace laws. For example, a farmer using S7 agricultural chemicals such as paraquat for controlling weeds on a farm was allowed to do so subject to compliance with the relevant agricultural and workplace health and

¹ Scheduled poisons are poisons included in schedules 5, 6 and 7 of the Poison Standard (Standard for Uniform) Scheduling of Medicines and Poisons, a Commonwealth Statutory Instrument under the Therapeutic Goods Act 1989.

² See Appendix 7 of the HDPR

safety laws. Where the chemical was prescribed as a regulated poison the person must also comply with the relevant requirements of the HDPR.

- The purchase of S7 poisons such as paraquat was only allowed from a S7 poisons retailer or wholesaler licensed under the HDPR. The supply was restricted to persons who were able to demonstrate evidence of workplace use of the poison.

Pest Management Act 2001

- Under the *Pest Management Act 2001* (the Pest Management Act), 'pest' is defined as a pest animal³ and does not include pest plants or plant diseases. Therefore, the Act only applied to the use of pesticides⁴ on pest animals and not to the use of fungicides or herbicides.
- The Pest Management Act required individuals carrying out pest management activities to hold a pest control or fumigation licence.
- The Pest Management Act did not apply to pest control activities in primary production.
- The Pest Management Act also exempted pest control activities at recreational and sporting grounds. For example, an employee of a bowling green carrying out pest control to protect the lawns from damage by insects.

From the commencement of the MPA on 27 September 2021, the HDPR and Pest Management Act will no longer apply.

Medicines and Poisons Act 2019

- A key objective of the MPA is to manage risks to public health from the use of regulated substances for industrial, agricultural and domestic purposes.
- The MPA has integrated the HDPR and Pest Management Act into a single regulatory system as they both apply to the use of chemicals.

Pest Management

- Like the Pest Management Act, the MPA only applies to pest animals and not pest plants or plant diseases. Therefore, the MPA applies to the use of pesticides⁴ as defined by the MPA, and not the use of fungicides or herbicides.
- Similar to the Pest Management Act, the MPA requires individuals carrying out pest management activities to hold a pest control or fumigation licence.

³ means an arthropod, bird, mollusc, or rodent, or another biological entity prescribed under a regulation.

⁴ 'pesticides' and 'fumigants' are APVMA-registered substances used to control pest animals and does not include herbicides or fungicides.

- While the exemption for pest control activities by primary producers and horticulturists remains, commercial contractors providing such services are required to be authorised under the MPA.
- This means that employees of the horticultural businesses are not required to hold a pest management licence, for pest control activities being carried out at their employer's premises.
- If the horticulture business contracts out pest control activities to a commercial operator, the person applying the pesticide must hold an appropriate pest management licence unless they are an 'approved person' under the MPA.
- Approved person is a person prescribed under schedule 1 of the Medicines and Poisons (Pest Management Activities) Regulation 2021 and has the relevant competency or training to carry out the specific pest management activity without a licence.
- Attachment 1 to this factsheet, '*Horticulture sector - Exempted and approved persons*' provides the scope of activities, and requirements including limitations for exempted and approved persons.
- If a fumigation activity is required, a licenced pest management technician must be employed to undertake this activity. However, horticulturalists who are also primary producers may carry out the fumigation activity on their own property without requiring a licence.

Use of Poisons

- S7 substances (including herbicides, fungicides, pesticides, and fumigants) used in horticulture must only be purchased from licensed S7 retailers or wholesalers who are licensed under the MPA. The use of such poisons is limited to workplace use.

How to apply for a licence

To apply for a pest management licence, go to 'Forms and Fees – Pest Management'.

For further information

Please refer to the Medicines and Poisons (Pest Management Activities) Regulation 2021.

Definitions

Term	Definition
S7 substance	(a) an S7 poison; or (b) a fumigant or pesticide containing a substance to which the Poison Standard, schedule 7 applies.
Horticulturist	Means a person producing or storing horticultural products.

Attachment 1

Horticulture Sector - Exempted and Approved Persons *Medicines and Poisons Act 2019*

Exempted persons	Scope of pest management activity	Requirements	Limitations
Horticulture businesses and their agents. This includes employees and volunteers.	Applying pesticides ⁵ (including rodenticides) on plants on land or at premises owned or occupied by the horticulture business.	Nil	Does not apply to the use of 1080, strychnine or Para-aminopropiophenone (PAPP). An Approval is required, as is currently the case.

⁵ Refer to sections 14, 19 and schedule 1 (Dictionary) of the Medicines and Poisons Act.

Approved persons ⁶	Scope of pest management activity	Requirements	Limitations
Commercial fee for service operators working in primary production and horticulture.	On farm ground spraying of pesticides, on crops and horticulture produce.	Licensed as a commercial operator under the <i>Agricultural Chemicals Distribution Control Act 1966</i>	Applies to all areas within the state. Does not apply to laying baits, for example, rodent baits or fumigation activities. These activities require a licensed pest management technician.
Persons (employees) working in post-harvest facilities (e.g. packing sheds).	Spraying of, or immersion in, pesticides of harvested agricultural or horticultural produce.	Core pesticide competencies AHCCHM304 and AHCCHM307 OR Supervised pesticide competency AHCCHM201. The person supervising should have a PMT licence.	Does not apply to laying baits e.g. rodent baits or fumigation. These activities require a licensed pest management technician.

⁶ An approved person is authorised to carry out the pest management activity without a pest management licence provided they have the specified competency or licence. They will be required to comply with provisions in the Medicines and Poisons (Pest Management Activities) Regulation 2021.