

|  |
| --- |
| Pest control technical note – Conditions on Licence |
| Number 17 Updated December 2019 |

The Pest Control Program has developed this technical note to inform pest control operators[[1]](#footnote-1) of their obligations under the relevant Victorian laws. It also forms an accompaniment to the guidelines for pest control operators in Victoria.

The Public Health and Wellbeing Act 2008 (the PHW Act) was developed following the review of the Health Act 1958 and was passed by the Victorian Parliament in August 2008. Most provisions of the PHW Act came into operation on 1 January 2010. This legislation contains a number of changes to the previous laws governing the pest control industry.

## Offences and penalties – Conditions on Licence

A pest control licence is subject to a number of general conditions and in some circumstances additional specific conditions may also be imposed on individual licences. These conditions seek to ensure that pest control operators conduct their work in a manner that does not impact their health and safety, the health and safety of the general public, or the environment.

The PHW Act outlines the requirements of both licence holders and businesses employing pest controllers. Failure to comply with the requirements may be an offence and the PHW Act sets out the penalties for non-compliance.

All licence holders must comply with the conditions placed on their Licence. The penalty for not complying is 120 penalty units or **up to $20,000 in fines.**

All pest control operators (businesses) must take all reasonable steps to ensure that persons they employ as a pest control operator comply with the provisions of the PHW Act and the Regulations. This includes Conditions on Licence. The penalties for not complying are:

in the case of a natural person, 60 penalty units or **up to $10,000 in fines**

in the case of a body corporate, 300 penalty units or **up to $48,000 in fines**

The value of a penalty unit generally increases at the beginning of each financial year.

## General conditions on all licences

General conditions apply to all licences issued under the PHW Act, that is, all technician, trainee and interstate operator licences and are issued in writing with the licence. Section 103 (1) of the PHW Act states that all licence holders are required to:

1. **Comply with the PHW Act2008 and the *Public Health and Wellbeing Regulations* 2019.**

Non-compliance with an obligation or limitation could therefore constitute a breach of a condition on licence in addition to an offence under the PHW Act or regulations.

1. **Only use the pesticides or classes of pesticides specified on the licence.**

The pest control licence will authorise a pest control operator to use one or more classes of pesticides depending on the type of pest control work the pest control operator is qualified to undertake. The existing authorisations listed below continue to apply and will appear on the photo ID card.

Qualification requirements apply in relation to the authorisations.

* Pesticides (excluding fumigants) formulated to control pests other than pest animals and timber pests.
* Pesticides (excluding fumigants) formulated to control pests other than pest animals.
* Pesticides that have been formulated for the control of pest animals; to protect an area or place in a building used for commercial purposes or domestic premises or privately owned land adjacent to domestic premises.
* Pesticides in the form of fumigants.

In the case of a Trainee licence holder, the use of pesticides specified on the licence may only be used **under the supervision** of a person who holds a fully qualified technician licence with the same authorisation.

1. **Comply with the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* and the *Occupational Health and Safety Act 2004.***

The PHW Act specifies the licensing requirements for pest control operators in Victoria. Other laws also apply to the industry and pest control operators have additional responsibilities under these Acts and regulations including the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* and the *Occupational Health and Safety Act 2004.*

This condition enables the department to require pest control operators to comply with these Acts and take appropriate action in the event that a pest control operator is found to be contravening a relevant provision of the legislation. In relation to the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992,* provisions relating to off-label use apply. In relation to the *Occupational Health and Safety Act 2004,* provisions relating to hazardous substances, dangerous goods and risk assessment apply.

## Breaches of Conditions

It is an offence to breach a condition of licence. In instances where a potential breach of a condition has occurred, the department willinvestigate and take appropriate action. If a pest control operator is found to be contravening a relevant provision of the legislation, the department could issue one or more of the following measures:

Formal warning

Infringement notice

Prohibition notice

Improvement notice

Additional condition/s on licence to use pesticides

Cancellation of the licence to use pesticides

Prosecution

## Special conditions on a licence

Specific conditions may be placed on an individual licence and will apply in addition to the general conditions. These conditions include:

1. **That a certain pesticide or class of pesticides may only be used for the specified uses.**

This condition (Section 103 (2) (a)) enables the department to restrict the activities of an individual pest control operator, by requiring that they only use a particular pesticide in a specific manner if the licence holder has failed to comply with the PHW Act, Regulations or licence conditions.

1. **That the licence holder may use a prescribed chemical product for an exempt purpose.**

Under section 103 (2)(b) of the PHW Act, the department may issue a pest control licence with a condition authorising the holder to use pesticides for an exempt purpose.

An exempt purpose includes:

* + horticulture
  + agriculture
  + water treatment
  + weed control
  + controlling a pest animal to protect an area or place which is not a building used for commercial purposes or domestic premises or privately owned land adjacent to domestic premises.

Ordinarily, the use of pesticides for these exempt purposes is licensed by the Department of Jobs, Precincts and Regions.

1. **Any other condition imposed by the Secretary – Special Conditions**Please refer to the *Conditions on Licence – Technicians* and *Conditions on Licence – Trainees* for the list of Special Conditions applying to Licence holders.

If a decision is made to vary or delete a condition relating to the authorisations on a licence, or the use of a specified pesticide for a specified use only, the holder may be required to return their pest control licence to the department. The department will then reissue the licence with the revised conditions at no additional cost. The holder must comply with a request to return a pest control licence. A penalty exists for non-compliance.

|  |
| --- |
| *To receive this publication in an accessible format email pestcontrol@dhhs.vic.gov.au*  Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.  © State of Victoria, Department of Health and Human Services January, 2018.  Available at <https://www2.health.vic.gov.au/public-health/environmental-health/pesticide-use-and-pest-control> |

1. The *Public Health and Wellbeing Act* 2008 defines “pest control operator” as a person who carries on or holds themselves out in any way as carrying on the business of controlling, destroying or repelling pests. [↑](#footnote-ref-1)