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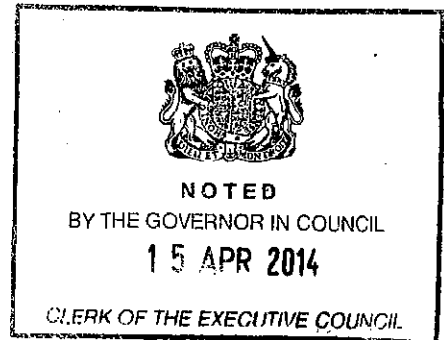
SUBORDINATE LEGISLATION ACT 1994 SECTION 13 CERTIFICATE

Proposed statutory rule : **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014**

Authorising Act : **Drugs, Poisons and Controlled Substances Act 1981**

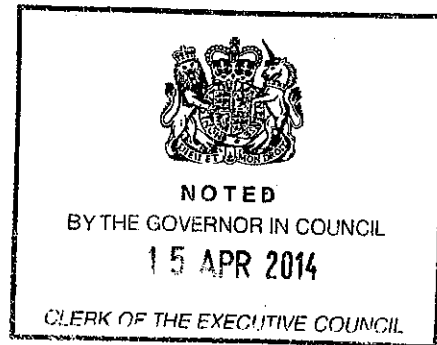
Date of print of proposed statutory rule : **28 March 2014**

A proposed statutory rule that is to be made by, or with the consent or approval of, the Governor in Council must be submitted to the Chief Parliamentary Counsel for the issue of a certificate by the Chief Parliamentary Counsel specifying whether the proposed statutory rule —



- | | |
|---|---|
| (a) <i>appears to be within the powers conferred by the authorising Act;</i> | (a) so appears; |
| (b) <i>appears without clear and express authority being conferred by the authorising Act —</i> | (b) |
| (i) <i>to have a retrospective effect; or</i> | (i) if made on or before 16 April 2014, does not so appear; |
| (ii) <i>to impose a tax, fee, fine, imprisonment or other penalty; or</i> | (ii) does not so appear; |
| (iii) <i>to shift the legal burden of proof to a person accused of an offence; or</i> | (iii) does not so appear; |
| (iv) <i>to sub-delegate powers delegated by the authorising Act;</i> | (iv) does not so appear; |
| (c) <i>appears to be consistent with the general objectives of the authorising Act;</i> | (c) so appears; |

- | | |
|--|--|
| <p>(d) <i>appears to be consistent with and to achieve the objectives set out in the proposed statutory rule and, if the proposed statutory rule is to amend an existing statutory rule, appears to be consistent with the objectives set out in the existing statutory rule;</i></p> <p>(e) <i>appears to be inconsistent with principles of justice and fairness;</i></p> <p>(f) <i>appears significantly or substantially to overlap or conflict with any other statutory rule or legislation;</i></p> <p>(g) <i>is expressed as clearly and unambiguously as is reasonably possible.</i></p> | <p>(d) so appears;</p> <p>(e) does not so appear;</p> <p>(f) does not so appear;</p> <p>(g) is so expressed.</p> |
|--|--|




Gemma Varley

Chief Parliamentary Counsel

Date: 28 March 2014

This certificate relates to the circumstances as at the date of the certificate.

**Drugs, Poisons and Controlled Substances (Poppy
Cultivation and Processing) Regulations 2014**

S.R. No. 15

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STATUTORY RULES 2014

S.R. No. 15

Drugs, Poisons and Controlled Substances Act 1981

**Drugs, Poisons and Controlled Substances (Poppy
Cultivation and Processing) Regulations 2014**

The Governor in Council makes the following Regulations:

Dated: 15 APR 2014

Responsible Minister:

PETER WALSH

Minister for Agriculture and Food Security


Clerk of the Executive Council

PART 1—PRELIMINARY

1 Objective

The objective of these Regulations is to prescribe for the purposes of Part IVB of the **Drugs, Poisons and Controlled Substances Act 1981—**

- (a) the particulars an applicant for a poppy cultivation licence or a poppy processing licence must provide to the Secretary; and
- (b) fees payable for licences and other costs; and
- (c) the minor terms, conditions, limitations or restrictions that apply to a poppy cultivation licence or a poppy processing licence; and
- (d) classes of persons who may access the alkaloid poppy register; and

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(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Part 1—Preliminary

r. 2

- (e) certain offences to be infringement offences within the meaning of the **Infringements Act 2006** and the infringement penalty payable for these offences; and
- (f) other matters necessary to be prescribed for that Part.

2 Authorising provisions

These Regulations are made under sections 69V and 132 of the **Drugs, Poisons and Controlled Substances Act 1981**.

3 Commencement

These Regulations come into operation on 16 April 2014.

4 Definitions

In these Regulations—

cultivation area means an area of land within the specified premises of a poppy cultivation licence where alkaloid poppies are cultivated;

the Act means the **Drugs, Poisons and Controlled Substances Act 1981**.

PART 2—POPPY CULTIVATION LICENCE

5 Poppy cultivation licence application fee

For the purposes of section 69O(3)(c) of the Act, the prescribed application fee is 58·88 fee units.

6 Application for poppy cultivation licence

For the purposes of section 69O(3)(d) of the Act, the prescribed particulars are the full name, date of birth and position of each employee to be employed to carry out activities in the business to be conducted under the poppy cultivation licence.

7 Poppy cultivation licence renewal application fee

For the purposes of section 69OG(3)(d) of the Act, the prescribed renewal fee is 39·25 fee units.

8 Application for renewal of poppy cultivation licence

For the purposes of section 69OG(3)(f) of the Act, the prescribed particulars are the full name, date of birth and position of each current employee, employed to carry out activities in the business conducted under the poppy cultivation licence.

9 Prescribed minor conditions of a poppy cultivation licence

For the purposes of section 69SD(1) of the Act, the prescribed minor conditions of a poppy cultivation licence are that—

- (a) any gate that provides access to a cultivation area must be securely locked unless the licensed grower or an employee of the licensed grower authorised to undertake an activity under the poppy cultivation licence is present; and

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Part 2—Poppy Cultivation Licence

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- (b) a fence must be positioned and maintained between a cultivation area and livestock that are present on the specified premises or any adjacent land to prevent livestock from entering the cultivation area; and
- (c) a sign must be displayed at every gate and along the fence or boundary of the cultivation area in accordance with the following requirements—
- (i) that the sign includes the words "danger", "prohibited area", "keep out", "trespassers prosecuted" and "illegal use of crop may cause death";
 - (ii) that the sign be of A3 size or greater;
 - (iii) that the sign be weather resistant;
 - (iv) that the sign be legible;
 - (v) that the sign be placed at intervals of 250 metres or less along the fence or boundary if it is adjacent to a public road; and
- (d) within 7 days of the alkaloid poppies being harvested from a cultivation area, any alkaloid poppy material remaining on the cultivation area must be destroyed; and
- (e) any alkaloid poppy found growing in the specified premises that was not intentionally grown must be destroyed prior to flowering; and
- (f) a licensed grower must notify the Secretary within 14 days of any change to—
- (i) a current employee carrying out activities in the business conducted under the poppy cultivation licence; or
 - (ii) the risk management plan.
-

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

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Part 2—Poppy Cultivation Licence

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10 Provision of contract to Secretary for registration

A licensed grower who requests registration of a contract under section 69TA(1) of the Act must give the Secretary a copy of the relevant contract.

11 Prescribed fee for recovery of administrative costs of poppy cultivation licence

- (1) The prescribed fee for the recovery of administrative costs for a poppy cultivation licence is 58.64 fee units.
 - (2) A fee under subregulation (1) is payable in any year that alkaloid poppies are cultivated at the specified premises described in a licence.
-

PART 3—POPPY PROCESSING LICENCE

12 Poppy processing licence application fee

For the purposes of section 69P(3)(c) of the Act, the prescribed application fee is 58.88 fee units.

13 Application for poppy processing licence

For the purposes of section 69P(3)(d) of the Act, the prescribed particulars are the full name, date of birth and position of each employee to be employed to carry out activities in the business to be conducted under the poppy processing licence.

14 Poppy processing licence renewal application fee

For the purposes of section 69PG(3)(e) of the Act, the prescribed renewal fee is 19.63 fee units.

15 Application for renewal of poppy processing licence

For the purposes of section 69PG(3)(g) of the Act, the prescribed particulars are the full name, date of birth and position of each employee, employed to carry out activities in the business conducted under the poppy processing licence.

16 Prescribed minor conditions of a poppy processing licence

For the purposes of section 69SD(3) of the Act, the prescribed minor conditions of a poppy processing licence are that—

- (a) the licensed processor must ensure that sufficient fencing exists to the specified premises to prevent access by a person other than a person permitted under the Act to access the specified premises; and
- (b) the specified premises and any buildings in the specified premises must be kept securely locked at all times unless the licensed

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

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Part 3—Poppy Processing Licence

r. 16

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- processor or an employee of the licensed processor who is employed to undertake activities authorised under the poppy processing licence is present at the specified premises; and
- (c) a sign must be displayed at all entry points and on the fence or boundary of the specified premises in accordance with the following requirements—
- (i) that the sign includes the words "danger", "prohibited area", "keep out" and "trespassers prosecuted";
 - (ii) that the sign be of A3 size or greater;
 - (iii) that the sign be weather resistant;
 - (iv) that the sign be legible; and
- (d) any alkaloid poppy found growing in the specified premises must be destroyed immediately; and
- (e) a licensed processor must notify the Secretary within 14 days of any change to—
- (i) a current employee carrying out activities in the business conducted under the poppy processing licence; or
 - (ii) the risk management plan; and
- (f) a licensed processor who has a current contract with a licensed grower must report to the Secretary the following information within 28 days of—
- (i) the completion of sowing alkaloid poppies on the specified premises of the licensed grower, the total number of hectares of alkaloid poppies planted;
-

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Part 3—Poppy Processing Licence

r. 17

- (ii) the failure of an alkaloid poppy crop of the licensed grower whether partial or whole, the date of the failure of the crop and the total area in hectares of the alkaloid poppies that failed;
- (iii) the harvesting of alkaloid poppies on the specified premises of the licensed grower, the total area in hectares of alkaloid poppies harvested and the date the crop was harvested;
- (iv) the harvesting of alkaloid poppies on the specified premises of the licensed grower, the total quantity of poppy straw harvested in kilograms.

17 Prescribed fee for recovery of administrative costs of poppy processing licence

The prescribed fee for the recovery of administrative costs for a poppy processing licence is—

- (a) 811.27 fee units payable on the issuing of a licence under section 69PB(2); and
- (b) 811.27 fee units payable on the renewal of the licence under section 69PI(2).

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Part 4—General Provisions Applying to Poppy Cultivation and Poppy
Processing Licences

r. 18

**PART 4—GENERAL PROVISIONS APPLYING TO POPPY
CULTIVATION AND POPPY PROCESSING LICENCES**

18 Amendment of licences

For the purposes of section 69Q(5)(b) of the Act,
the prescribed fee for the amendment of a poppy
cultivation licence or a poppy processing licence
is 13.08 fee units.

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Part 5—Inspection and Enforcement

r. 19

PART 5—INSPECTION AND ENFORCEMENT

19 Prescribed persons to access alkaloid poppy register

For the purposes of section 69TB(1) of the Act,
the prescribed class of persons are—

- (a) an inspector; and
- (b) a person employed to administer or maintain
the alkaloid poppy register; and
- (c) a contractor, subcontractor or an employee of
a contractor or subcontractor.

20 Authorisation by the Secretary

An authorisation made by the Secretary under
section 69TB(1) of the Act must be in writing.

21 Fees for compliance and administrative costs

The prescribed fee for a compliance or
administrative cost specified in an item in
column 1 of Schedule 1 is the amount specified in
column 2 of that Schedule for that compliance or
administrative cost.

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Part 6—Infringement Notices

r. 22

PART 6—INFRINGEMENT NOTICES

22 Prescribed offences and penalties

- (1) For the purposes of section 69RQ(1) of the Act, an offence against a section of the Act specified in column 1 of Schedule 2 is prescribed as an infringement offence.
 - (2) For the purposes of section 69RR of the Act, the prescribed infringement penalty for an infringement offence specified in column 1 of Schedule 2 is the amount specified in column 2 of Schedule 2 for that infringement offence.
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Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Sch. 1

SCHEDULES

SCHEDULE 1

Regulation 21

PRESCRIBED FEES COMPLIANCE OR ADMINISTRATIVE COSTS

<i>Item No.</i>	<i>Column 1 Compliance or administrative cost</i>	<i>Column 2 Fee</i>
1	Inspecting any place for the cultivation or processing of alkaloid poppies	1.44 fee units per each quarter hour or part of a quarter hour
2	Monitoring compliance with the terms and conditions of a poppy cultivation licence or a poppy processing licence	1.44 fee units per each quarter hour or part of a quarter hour
3	Taking, examining or testing of any sample or specimen	1.44 fee units per each quarter hour or part of a quarter hour
4	Inspection and examination of premises, alkaloid poppies, poppy straw, vehicles, machinery, documents and records	1.44 fee units per each quarter hour or part of a quarter hour
5	Time to travel from and to the inspector's office to the inspection site	1.44 fee units per each quarter hour or part of a quarter hour

Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing) Regulations 2014

S.R. No.

Sch.

SCHEDULE 2

Regulation 22

**INFRINGEMENT OFFENCES AND INFRINGEMENT
PENALTIES**

<i>Item No.</i>	<i>Column 1 Infringement Offence</i>	<i>Column 2 Infringement Penalty</i>
1	Section 69SB(2)(a)	2 penalty units
2	Section 69SB(2)(b)	2 penalty units
3	Section 69SB(2)(f)	2 penalty units
4	Section 69SC	5 penalty units
5	Section 69SD(1)	5 penalty units
6	Section 69SD(3)	5 penalty units
7	Section 69SF(1)	1 penalty unit
8	Section 69SF(2)	1 penalty unit
9	Section 69SK(1)	2 penalty units
10	Section 69SK(2)	2 penalty units

Drugs, Poisons and Controlled Substances (Poppy Cultivation and
Processing) Regulations 2014
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Endnotes

ENDNOTES

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2013 is \$12.84. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2013 is \$144.36.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Drugs, Poisons and Controlled Substances Act 1981

Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014

EXPLANATORY MEMORANDUM



BY THE GOVERNOR IN COUNCIL

15 APR 2014

CLERK OF THE EXECUTIVE COUNCIL

Recommendation (s)

1. It is recommended to the Governor in Council that, under section 69V and section 132 of the **Drugs, Poisons and Controlled Substances Act 1981** (the Act) as will be amended by the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014**, the proposed **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014** (proposed Regulations) be made.
2. An amendment to the Administration of Acts General Order to give the Minister for Agriculture and Food Security the formal responsibility for the new Part IVB of the Act is pending. However the Minister's power to recommend the making of the proposed Regulations is based on the convention that as the responsible Minister for the Amending Act (until it is repealed on 1 December 2015), the Minister has the administration of that Amending Act and consequently the power to recommend the making of the Regulations. This position is supported by the Office of Chief Parliamentary Counsel and the Department of Premier and Cabinet.
3. The Minister for Health supports the recommendation by the Minister for Agriculture and Food Security.

Background

4. The **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014** will, on commencement, insert a new Part IVB in the Act which will provide for a licensing scheme for the cultivation of alkaloid poppies and the processing of poppy straw in Victoria. The proposed Regulations sets out some of the requirements of the licensing and compliance and enforcement framework to authorise and regulate the cultivation of alkaloid poppies and the processing of poppy straw in Victoria.
5. It is planned that the proposed Regulations commence 16 April 2014.

Legislative Provisions

6. The proposed Regulations are made under section 69V and section 132 of the Act.

Effect of Operation of the Proposed Regulations

7. The effects of the proposed Regulations are to prescribe:
 - administrative and compliance fees for licences and other costs;
 - certain offences to be infringement offences;
 - minor terms and conditions of a poppy cultivation licence and a poppy processing licence; and
 - classes of person who may access the alkaloid poppy register.

Provide Details of the Proposed Regulations

8. Regulations 1, 2, 3 and 4 of the proposed Regulations consist of the usual provisions of objectives, authorising provision, commencement and the meaning of the Principal Regulations.
9. Regulation 5 prescribes the application fee for a poppy cultivation licence.
10. Regulation 6 prescribes the particulars to be provided with an application for a poppy cultivation licence to be the full name, date of birth and position of each employee to be employed to carry out activities in the business conducted under the licence.
11. Regulation 7 prescribes the renewal fee of a poppy cultivation licence.

12. Regulation 8 prescribes the particulars to be provided with a renewal of a poppy cultivation licence to be the full name, date of birth and position of each employee to be employed to carry out activities in the business conducted under the licence.
13. Regulation 9 prescribes the minor conditions of a poppy cultivation licence to be that:
 - any gate that provides access to a cultivation area must be securely locked unless an authorised person is present;
 - a fence must be positioned and maintained between a cultivation area and livestock that are present on adjacent land to prevent livestock from entering the cultivation area;
 - signage must be displayed at every gate and along the fence or boundary of the cultivation area. Minimum signage requirements are prescribed;
 - within 7 days of harvest any alkaloid poppy material remaining on the cultivation area must be destroyed;
 - any alkaloid poppy found growing that was not intentionally grown must be destroyed prior to flowering; and
 - a licensed grower must notify the Secretary within 14 days of any change to a current employee carrying out activities under the licence or the risk management plan.
14. Regulation 10 prescribes that a licensed grower who requests registration of a contract must provide the Secretary with a copy of the relevant contract.
15. Regulation 11 prescribes the fee for recovery of administrative costs of a poppy cultivation licence.
16. Regulation 12 prescribes the application fee for a poppy processing licence.
17. Regulation 13 prescribes the particulars to be provided with an application for a poppy processing licence to be the full name, date of birth and position of each employee to be employed to carry out activities in the business conducted under the licence.
18. Regulation 14 prescribes the renewal fee of a poppy processing licence.
19. Regulation 15 prescribes the particulars to be provided with a renewal of a poppy processing licence to be the full name, date of birth and position of each employee to be employed to carry out activities in the business conducted under the licence.
20. Regulation 16 prescribes the minor conditions of a poppy processing licence to be that:
 - sufficient fencing exists to prevent access to the specified premises by a person other than a person permitted to access the specified premises;
 - the specified premises and any building must be kept securely locked at all times unless an authorised person is present.
 - signage must be displayed at all entry points and on the fence or boundary of the specified premises. Minimum signage requirements are prescribed;
 - any alkaloid poppy found growing must be immediately destroyed; and
 - a licensed processor who has a current contract with a licensed grower must report to the Secretary information regarding sowing, crop failure, harvesting and quantities of poppy straw within 28 days of the relevant activity.
21. Regulation 17 prescribes the fee for recovery of administrative costs of a poppy processing licence.
22. Regulation 18 prescribes the fee for the amendment of a poppy cultivation licence or a poppy processing licence.
23. Regulation 19 prescribes the class of persons able to access the alkaloid poppy register as an inspector, a person employed to administer or maintain the alkaloid poppy register and a contractor, subcontractor or an employee of a contractor or subcontractor.
24. Regulation 20 prescribes that an authorisation to access the alkaloid poppy register by the Secretary must be in writing.
25. Regulation 21 prescribes the fees for the compliance and administrative costs set out in Schedule 1 of the regulations.
26. Regulation 22 prescribes the relevant offences listed in Schedule 2 of the regulations to be infringement offences and prescribes that the infringement penalty for each of those offences is the amount specified in column 2 of the schedule.
27. Schedule 1 prescribes the fee for the relevant compliance or administrative cost under regulation 21.



NOTED
BY THE GOVERNOR IN COUNCIL

15 APR 2014

CLERK OF THE EXECUTIVE COUNCIL

28. Schedule 2 prescribes the offences that are infringement offences and the infringement penalty for each of those offences under regulation 22.

Certificates Provided in Accordance with the Subordinate Legislation Act 1994

29. A regulatory impact statement (RIS) was not prepared under section 7 of the **Subordinate Legislation Act 1994** on the basis that the analysis of the impact of these regulations has shown that the total maximum regulatory burden is expected to be less than \$200,000 in any one year. This calculation was done on the basis of the highest cost of each of the separate elements, even though in practice the peak burdens of each cost is likely to occur in different years. This cost is well below \$500,000, which is the threshold for imposing a significant economic or social burden on a sector of the public in any one year over the life of the regulations. VCEC has been consulted with.
30. The following certificates are provided in accordance with the **Subordinate Legislation Act 1994**—
- (a) the Minister's certificate of consultation under section 6, as part of a composite certificate;
 - (b) the Minister's certificate of exemption under section 8(1)(a), as part of a composite certificate;
 - (c) the Minister's certificate of consultation (infringements) under section 6A;
 - (d) the Minister's human rights certificate under section 12A; and
 - (e) the Chief Parliamentary Counsel's certificate under section 13.

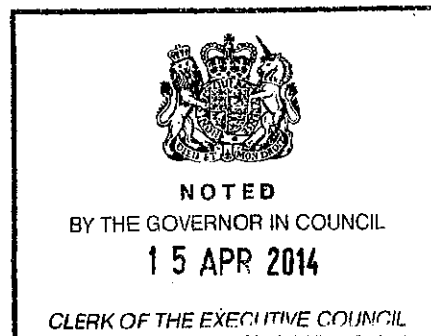
National Competition Policy

31. The Victorian Guide to Regulation, incorporating the Guidelines made under the **Subordinate Legislation Act 1994**, states that a competition policy assessment is not required for regulations that are exempted from the RIS process.

Gazettal

32. A notice of the making of the proposed statutory rule will be published in a Special Gazette on the day of its making.

Contact Name: Alexandra Deprez, Legislation Co-ordinator, Legal Services, DEPI
Telephone Number: 9637 8538





Minister for Agriculture and Food Security

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DRUGS, POISONS AND CONTROLLED SUBSTANCES ACT 1981

Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014

RECOMMENDATION

It is recommended to the Governor in Council that, under section 69V and section 132 of the **Drugs, Poisons and Controlled Substances Act 1981** as will be amended by the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014**, the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014** be made.

Advice from the Chief Parliamentary Counsel is submitted as required by section 13 of the **Subordinate Legislation Act 1994**.

A Regulatory Impact Statement in respect of these Regulations has not been prepared. As the Minister responsible for the administration of Part IVB of the **Drugs, Poisons and Controlled Substances Act 1981** as amended by the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014**, I have issued a certificate of exemption under section 8(1)(a) of the **Subordinate Legislation Act 1994**, as part of a composite certificate, and it is attached.

A certificate of consultation under section 6 of the **Subordinate Legislation Act 1994** as part of a composite certificate, under my hand is also attached.

A certificate of Infringement Offence Consultation under section 6A of the **Subordinate Legislation Act 1994**, under my hand is also attached.

A certificate of compatibility with the Charter of Human Rights and Responsibilities under section 12A of the **Subordinate Legislation Act 1994** under my hand is also attached.

Dated: 7.4.2014

Peter Walsh MLA
Minister for Agriculture and Food Security



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Minister for Agriculture and Food Security

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Subordinate Legislation Act 1994

COMPOSITE CERTIFICATE

CONSULTATION CERTIFICATE / EXEMPTION CERTIFICATE

(Sections 6 and 8)

Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014

I, Peter Walsh, Minister for Agriculture and Food Security, and Minister responsible for administering Part IVB of the **Drugs, Poisons and Controlled Substances Act 1981** as will be amended by the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014**, certify under sections 6 and 8 of the **Subordinate Legislation Act 1994** that:

Consultation

- (a) under section 6 of the **Subordinate Legislation Act 1994** there has been consultation in accordance with the Guidelines made under that Act; and
 - (i) the matters to be dealt with under the proposed **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014** (proposed Regulations) do not impinge upon or unduly affect the area of responsibility of any other Minister and there is no overlapping or duplication of or conflict with, the legislation, statutory rules or stated government policies administered by other agencies; and
 - (ii) the need for, and scope of, the proposed Regulations have been considered and extensive consultation has occurred with the three alkaloid poppy processing companies and prospective growers in Victoria.

Exemption from Regulatory Impact Statement

- (b) A Regulatory Impact Statement (RIS) is not required because under section 8(1)(a) of the **Subordinate Legislation Act 1994**, in my opinion the proposed Regulations do not impose a significant economic or social burden on a sector of the public and are therefore exempted from the requirement to prepare a RIS under section 7(1) of that Act. The reason for forming this opinion is that the analysis of the impact of these regulations has shown that the total maximum regulatory burden is expected to be less than \$200,000 in any one year. This calculation was done on the basis of the highest cost of each of the separate elements, even though in practice the peak burdens of each cost is likely to occur in different years. This cost is well below \$500,000, which is the threshold for imposing a significant economic or social burden on a sector of the public in any one year over the life of the regulations.

Dated: 7.4.2014

Peter Walsh MLA
Minister for Agriculture and Food Security



NOTED
BY THE GOVERNOR IN COUNCIL

15 APR 2014

CLERK OF THE EXECUTIVE COUNCIL



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Subordinate Legislation Act 1994

INFRINGEMENTS OFFENCE CONSULTATION CERTIFICATE (Section 6A)

Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014

I, Peter Walsh, Minister responsible for Agriculture and Food Security and Minister responsible for administering Part IVB of the **Drugs, Poisons and Controlled Substances Act 1981** as will be amended by the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014**, certify under section 6A of the **Subordinate Legislation Act 1994** that:

- (a) the Department of Justice has been consulted about the enforcement of the offences referred to in the proposed **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014**, by infringement notice and the suitability of the offences in the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014** to be infringement offences enforced under the **Infringements Act 2006**; and
- (b) that the Attorney-General's guidelines within the meaning of the **Infringements Act 2006** have been taken into account in the preparation of the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014**; and
- (c) I am satisfied that the proposed **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014** meet the requirements of those guidelines.

Dated: 7.4.2014

Peter Walsh MLA
Minister for Agriculture and Food Security



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Subordinate Legislation Act 1994

HUMAN RIGHTS CERTIFICATE
(Section 12A)

Drugs, Poisons and Controlled Substances Act 1981

I, Peter Walsh, Minister for Agriculture and Food Security and Minister responsible for administering Part IVB of the **Drugs, Poisons and Controlled Substances Act 1981** as will be amended by the **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Act 2014** certify under section 12A(2)(a) of the **Subordinate Legislation Act 1994** that, in my opinion the proposed **Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014** do not limit any human rights set out in the **Charter of Human Rights and Responsibilities Act 2006**.

Dated: 7.4.2014

Peter Walsh MLA
Minister for Agriculture and Food Security



NOTED
BY THE GOVERNOR IN COUNCIL

15 APR 2014

CLERK OF THE EXECUTIVE COUNCIL