

Authorised Version No. 001
Drugs, Poisons and Controlled Substances
(Poppy Cultivation and Processing)
Regulations 2014

S.R. No. 15/2014

Authorised Version as at
16 April 2014

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Objective	1
2 Authorising provisions	2
3 Commencement	2
4 Definitions	2
PART 2—POPPY CULTIVATION LICENCE	3
5 Poppy cultivation licence application fee	3
6 Application for poppy cultivation licence	3
7 Poppy cultivation licence renewal application fee	3
8 Application for renewal of poppy cultivation licence	3
9 Prescribed minor conditions of a poppy cultivation licence	3
10 Provision of contract to Secretary for registration	5
11 Prescribed fee for recovery of administrative costs of poppy cultivation licence	5
PART 3—POPPY PROCESSING LICENCE	6
12 Poppy processing licence application fee	6
13 Application for poppy processing licence	6
14 Poppy processing licence renewal application fee	6
15 Application for renewal of poppy processing licence	6
16 Prescribed minor conditions of a poppy processing licence	6
17 Prescribed fee for recovery of administrative costs of poppy processing licence	8

<i>Regulation</i>	<i>Page</i>
PART 4—GENERAL PROVISIONS APPLYING TO POPPY CULTIVATION AND POPPY PROCESSING LICENCES	9
18 Amendment of licences	9
PART 5—INSPECTION AND ENFORCEMENT	10
19 Prescribed persons to access alkaloid poppy register	10
20 Authorisation by the Secretary	10
21 Fees for compliance and administrative costs	10
PART 6—INFRINGEMENT NOTICES	11
22 Prescribed offences and penalties	11
 SCHEDULES	 12
SCHEDULE 1—Prescribed Fees Compliance or Administrative Costs	12
SCHEDULE 2—Infringement Offences and Infringement Penalties	13
 ENDNOTES	 14
1. General Information	14
2. Table of Amendments	15
3. Explanatory Details	16

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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
- (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

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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.
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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.
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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
processor or an employee of the licensed
processor who is employed to undertake

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- 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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- (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).
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**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.

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.

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. 15/2014

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

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
S.R. No. 15/2014

Endnotes

ENDNOTES

1. General Information

The Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014, S.R. No. 15/2014 were made on 15 April 2014 by the Governor in Council under sections 69V and 132 of the **Drugs, Poisons and Controlled Substances Act 1981**, No. 9719/1981 and came into operation on 16 April 2014: regulation 3.

The Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014 will sunset 10 years after the day of making on 15 April 2024 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

There are no amendments made to the Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Regulations 2014 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

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.