

South Australia

Controlled Substances (Poppy Cultivation) Regulations 2016

under the *Controlled Substances Act 1984*

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Legislative history

1—Short title

These regulations may be cited as the *Controlled Substances (Poppy Cultivation) Regulations 2016*.

2—Commencement

These regulations will come into operation on the day on which the *Controlled Substances (Poppy Cultivation) Amendment Act 2015* comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Controlled Substances Act 1984*;

approved means approved by the Chief Executive;

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

poppy cultivation period means a period commencing on the day on which alkaloid poppies are sown in a poppy cultivation area and ending on the day on which the harvesting of alkaloid poppies growing in the area is completed.

4—Application for poppy cultivation licence—prescribed particulars (section 30D(3)(d) of Act)

An application for a poppy cultivation licence must be accompanied by the full name, date of birth, residential address and position of each person to be employed in carrying out activities in the business to be conducted under the licence.

5—Poppy cultivation licence—prescribed conditions (section 30G(5) of Act)

A poppy cultivation licence is subject to the following conditions:

- (a) a condition that the licensed grower must ensure that any gate providing access to a poppy cultivation area is securely locked unless the licensed grower, or an employee of the licensed grower who is authorised to undertake activities in the business conducted under the licence, is present in the poppy cultivation area;
- (b) a condition that the licensed grower must ensure that there is sufficient fencing to a poppy cultivation area to—
 - (i) prevent access to the poppy cultivation area by any livestock that are present on the specified premises or any adjacent land; and
 - (ii) restrict access to the poppy cultivation area to persons who are authorised to access the area;
- (c) a condition that the licensed grower must ensure that a legible sign of A3 size or greater that—
 - (i) includes the words "danger," "prohibited area," "keep out," "trespassers prosecuted" and "illegal use of crop may cause death"; and
 - (ii) is weather resistant,is displayed during a poppy cultivation period at every gate providing access to, and along the fence or boundary of, the poppy cultivation area (and is placed at intervals of not more than 250 metres along the fence or boundary if it is adjacent to a public road);
- (d) a condition that the licensed grower must ensure that any alkaloid poppy material remaining on the poppy cultivation area after the harvesting of alkaloid poppies is destroyed within 7 days of the harvest taking place;

- (e) a condition that a licensed grower must ensure that any alkaloid poppy that is found growing on the specified premises (other than within a poppy cultivation area) or on any land adjacent to the specified premises is destroyed before flowering occurs;
- (f) a condition that if a person ceases to be employed in carrying out activities in the business conducted under the licence, the licensed grower must give the Chief Executive notice of that fact within 14 days;
- (g) a condition that if a person becomes employed in carrying out activities in the business conducted under the licence, the licensed grower must, within 14 days after the person commences employment, give the Chief Executive notice of the full name, date of birth, residential address and position of the new employee;
- (h) a condition that if the licensed grower makes a change to the risk management plan under the licence, the licensed grower must give the Chief Executive notice of the change within 14 days after the change;
- (i) a condition that the licensed grower must ensure that any poppy plant material taken at different stages of the growing cycle for examination, testing and agronomic assessment (such as soil, nutrient, pest and disease testing) is sent in an approved manner to an approved laboratory or place;
- (j) a condition that the licensed grower must keep such documents and records as are specified in the risk management plan under the licence;
- (k) a condition that the licensed grower must ensure that, at least 1 week before the poppy cultivation area is sown with alkaloid poppy seed, the owners of properties that adjoin the poppy cultivation area, or that are separated from the poppy cultivation area only by a road, are given notice in writing—
 - (i) specifying—
 - (A) the name and contact details of the licensed grower; and
 - (B) the name of the person to whom the notice is given; and
 - (ii) containing a statement that alkaloid poppies are to be grown by the licensed grower and specifying the location of the poppy cultivation area and the date on which it is proposed to sow alkaloid poppy seed; and
 - (iii) containing a statement that livestock and unauthorised persons must be excluded from the poppy cultivation area for their safety; and
 - (iv) containing a warning that illegal use of an alkaloid poppy crop may cause death; and
 - (v) containing a warning that anyone who trespasses on the poppy cultivation area may be prosecuted.

6—Employee identification certificate issued by licensed grower—prescribed information (section 30J(2)(f) of Act)

An employee identification certificate issued by a licensed grower to an employee employed to carry out activities in the business conducted by the licensed grower under a poppy cultivation licence must contain the following information:

- (a) the signature of the employee;
- (b) the signature of the licensed grower;
- (c) the date on which the certificate was issued;
- (d) the date on which the certificate expires.

7—Application for renewal of poppy cultivation licence—prescribed particulars (section 30K(3)(f) of Act)

An application for the renewal of a poppy cultivation licence must contain the full name, date of birth, residential address and position of each person currently employed in carrying out activities in the business conducted under the licence.

8—Application for poppy processing licence—prescribed particulars (section 30N(3)(d) of Act)

An application for a poppy processing licence must be accompanied by the full name, date of birth, residential address and position of each person to be employed in carrying out activities in the business to be conducted under the licence.

9—Poppy processing licence—prescribed conditions (section 30Q(6) of Act)

A poppy processing licence is subject to the following conditions:

- (a) a condition that the licensed processor must ensure that there is sufficient fencing to the specified premises to prevent access by persons who are not authorised to access the specified premises;
- (b) a condition that the licensed processor must ensure that the specified premises and any buildings in the specified premises are kept securely locked at all times unless the licensed processor, or an employee of the licensed processor who is authorised to undertake activities in the business conducted under the licence, is present at the specified premises;
- (c) a condition that the licensed processor must ensure that a legible sign of A3 size or greater that—
 - (i) includes the words "danger," "prohibited area," "keep out" and "trespassers prosecuted"; and
 - (ii) is weather resistant,is displayed at every entry point to the specified premises and on the fence or boundary of the specified premises;
- (d) a condition that the licensed processor must ensure that any alkaloid poppy found growing in the specified premises is destroyed immediately;

- (e) a condition that if a person ceases to be employed in carrying out activities in the business conducted under the licence, the licensed processor must give the Chief Executive notice of that fact within 14 days;
- (f) a condition that if a person becomes employed in carrying out activities in the business conducted under the licence, the licensed processor must, within 14 days after the person commences employment, give the Chief Executive notice of the full name, date of birth, residential address and position of the new employee;
- (g) a condition that if the licensed processor makes a change to the risk management plan under the licence, the licensed processor must give the Chief Executive notice of the change within 14 days after the change;
- (h) a condition that a licensed processor who has a current contract with a licensed grower must—
 - (i) within 28 days after completion of the sowing of alkaloid poppies on the specified premises of the licensed grower—report to the Chief Executive the total number of hectares of alkaloid poppies planted; and
 - (ii) within 28 days after the failure (whether total or partial) of an alkaloid poppy crop of the licensed grower—report to the Chief Executive the date of the failure and the total number of hectares of the alkaloid poppies that failed; and
 - (iii) within 28 days after the harvesting of alkaloid poppies on the specified premises of the licensed grower—report to the Chief Executive—
 - (A) the total number of hectares of alkaloid poppies harvested; and
 - (B) the date on which the crop was harvested; and
 - (C) the total quantity in kilograms of poppy straw harvested;
- (i) a condition that the licensed processor must, before poppy straw is transported under the licence, provide the Chief Executive with all relevant information and documents in accordance with the risk management plan under the licence;
- (j) a condition that the licensed processor must notify the Chief Executive of any issues relating to the transportation of alkaloid poppy material immediately and must ensure that appropriate measures are taken to address those issues in accordance with the risk management plan under the licence;
- (k) a condition that the licensed processor must keep such documents and records as are specified in the risk management plan under the licence.

10—Employee identification certificate issued by licensed processor—prescribed information (section 30T(2)(f) of Act)

An employee identification certificate issued by a licensed processor to an employee employed to carry out activities in the business conducted under the poppy processing licence must contain the following information:

- (a) the signature of the employee;
- (b) the signature of the licensed processor;
- (c) the date on which the certificate was issued;
- (d) the date on which the certificate expires.

11—Application for renewal of poppy processing licence—prescribed particulars (section 30U(3)(g) of Act)

An application for the renewal of a poppy processing licence must contain the full name, date of birth, residential address and position of each person currently employed in carrying out activities in the business conducted under the licence.

12—Request to register a contract (section 30ZZH of Act)

If a licensed grower requests the Chief Executive to register a contract under section 30ZZH of the Act, the licensed grower must provide the Chief Executive with a copy of the contract.

13—Access to the alkaloid poppy register restricted—prescribed classes of persons (section 30ZZI(1) of Act)

For the purposes of section 30ZZI(1) of the Act, the following classes of persons are prescribed:

- (a) inspectors;
- (b) persons engaged to administer or maintain the alkaloid poppy register (whether employees, contractors or subcontractors, or employees of contractors or subcontractors).

14—Fees

- (1) The fees specified in Schedule 1 are prescribed for the purposes of Part 4A of the Act.
- (2) All fees specified in Schedule 1 are payable to the Chief Executive.
- (3) A fee for the recovery of compliance or administrative costs of an amount specified in Schedule 1 is payable each year by the holder of a poppy cultivation licence or poppy processing licence not later than a date determined by the Chief Executive.
- (4) The Chief Executive may waive or reduce a fee payable under the Act or these regulations if satisfied that it is appropriate to do so in a particular case.

15—Expiation of alleged offences (sections 30ZQ and 30ZR of Act)

- (1) For the purposes of section 30ZQ of the Act, the offences specified in the table in Schedule 2 are prescribed.
- (2) For the purposes of section 30ZR of the Act, the expiation fees specified in the table in Schedule 2 are prescribed.

- (3) Text set out in italic type in a column headed "Description of offence" in the table in Schedule 2 is a description for convenience purposes only and is not to be taken to define the offence for which a particular amount is fixed as the expiation fee.

**16—Offence to contravene a licence—prescribed minor conditions
(section 30ZW of Act)**

- (1) For the purposes of section 30ZW(1) of the Act, the conditions prescribed by regulation 5 are prescribed minor conditions.
- (2) For the purposes of section 30ZW(3) of the Act, the conditions prescribed by regulation 9 are prescribed minor conditions.

Schedule 1—Fees

1	On application for—	
	(a) the issue of a poppy cultivation licence	\$1 750
	(b) the renewal of a poppy cultivation licence	\$1 445
	(c) the amendment of a poppy cultivation licence—	
	(i) if the amendment relates to the specified premises described in the licence	\$1 040
	(ii) in any other case	\$200
2	On application for—	
	(a) the issue of a poppy processing licence	\$1 960
	(b) the renewal of a poppy processing licence	\$1 355
	(c) the amendment of a poppy processing licence—	
	(i) if the amendment relates to the specified premises described in the licence	\$1 250
	(ii) in any other case	\$200
3	For a probity check by SAPOL—	
	(a) of a natural person plus all associates of that person	\$200
	(b) of a partner in a partnership plus all associates of that partner	\$200
	(c) of a trustee of a trust plus all associates of that trustee	\$200
	(d) of a director of a body corporate plus all associates of that director	\$200
	(e) of any number of associates of a natural person, partner, trustee or director	\$200
4	For the recovery of compliance or administrative costs—	
	(a) related to a poppy cultivation licence (per year)	\$910
	(b) related to a poppy processing licence (per year)	\$12 500
5	For any inspection under Part 4A of the Act (other than an inspection carried out as part of the process of determining an application for the issue, renewal or amendment of a licence)—a fee of \$140 per hour, charged in blocks of \$14 per each 6 minutes	
6	For taking or removing for examination samples of, or from, or specimens of, soil, any alkaloid poppy or poppy straw, or any other plant or crop—a fee of \$140 per hour, charged in blocks of \$14 per each 6 minutes	
7	For travel by an inspector (to and from the inspector's office) for the purposes of	

carrying out the activities specified in item 5 or 6—a fee of \$140 per hour, charged in blocks of \$14 per each 6 minutes

Schedule 2—Expiation fees

Section of Act	Description of offence	Expiation fee
30ZV	<i>Failing to surrender licence or any related documents to Chief Executive within 14 days of suspension or cancellation of licence</i>	\$315
30ZW(1)	<i>Licensed grower contravening prescribed minor condition to which poppy cultivation licence is subject</i>	\$315
30ZW(3)	<i>Licensed processor contravening prescribed minor condition to which poppy processing licence is subject</i>	\$315

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2016	215	<i>Gazette 1.9.2016 p3632</i>	16.9.2016: r 2