



Weapons of Mass Destruction Regulations 1995

Statutory Rules 1995 No. 373 as amended

made under the

*Weapons of Mass Destruction (Prevention of
Proliferation) Act 1995*

This compilation was prepared on 10 October 2005
taking into account amendments up to SLI 2005 No. 218

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1 Name of Regulations [see Note 1]

These Regulations are the *Weapons of Mass Destruction Regulations 1995*.

2 Interpretation

In these Regulations:

Act means the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995*.

store securely, in relation to goods, means store the goods in a manner that:

- (a) prevents unauthorised access to the goods; and
- (b) prevents injury to, or harm to the health of, a person, arising from the goods or a property of the goods.

Note Words and expressions defined in the Act have the same meaning in these Regulations as they do in the Act. Some of these words and expressions are:

authorised person means:

- (a) a member of the Defence Force; or
- (b) a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; or
- (c) an officer of Customs;

goods includes documents.

supply means supply whether or not for any consideration, and includes supply by way of sale, lease, hire or hire-purchase.

Weapons of Mass Destruction program or *WMD program* means a plan or program for the development, production, acquisition or stockpiling of nuclear, biological or chemical weapons or missiles capable of delivering such weapons.

3 Request for information

For the purposes of subsection 12 (1) of the Act, a request for information from the Minister must set out the following particulars:

- (a) the name and address of the person making the request;

- (b) if the person has a postal address that is different from the address set out under paragraph (a) — that address;
- (c) a description of:
 - (i) the goods to be supplied; or
 - (ii) the non-regulated goods to be exported; or
 - (iii) the services to be provided;as the case may be;
- (d) the name and address of the intended recipient of the goods or services;
- (e) the reasons why the person believes or suspects that:
 - (i) the goods will or may be used in a WMD program; or
 - (ii) the services will or may assist a WMD program;as the case may be.

4 Permit to supply or export goods or provide services

For the purposes of paragraph 13 (1) (c) of the Act, an application for a permit to supply or export goods, or provide services, must be in writing, and must set out the following particulars:

- (a) the name and address (not being a post office address) of the person applying for the permit;
- (b) if the person has a postal address that is different from the address set out under paragraph (a) — that address;
- (c) a description of:
 - (i) the goods to be supplied; or
 - (ii) the non-regulated goods to be exported; or
 - (iii) the services to be provided;as the case may be;
- (d) the name and address of the intended recipient of the goods or services;
- (e) the reasons why the person believes that the supply or export of the goods, or provision of the services, would not be contrary to Australia's international or treaty obligations or the national interest.

5 Notice prohibiting supply or export of goods or provision of services

- (1) For the purposes of subsection 14 (1) of the Act, a notice by the Minister:
 - (a) must be in writing; and
 - (b) must set out the Minister's reasons for giving the notice, except to the extent that disclosure of those reasons is not in the national interest.
- (2) If a notice does not set out the Minister's reasons, or some of the Minister's reasons, for giving the notice because disclosure of those reasons is not in the national interest, that fact must be stated in the notice.

6 Revocation of notice of prohibition

For the purposes of subsection 14 (3) of the Act, the revocation of a notice given under subsection 14 (1) of the Act must:

- (a) be in writing; and
- (b) without delay, be notified to the person affected by the notice.

7 Storage of seized goods — prescribed procedures

- (1) For the purposes of subsection 17 (6) of the Act, seized goods must be stored securely by an authorised person at a place approved by the Minister, in writing, as being a place suitable for the storage of goods of the kind seized.
- (2) In approving a place for the storage of a kind of goods, the Minister must consider:
 - (a) the nature of goods of that kind; and
 - (b) the suitability of that place for storing securely goods of that kind; and
 - (c) the need to preserve the condition and value of the goods as far as is practicable.

8 Destruction of condemned goods — prescribed procedures

- (1) For the purposes of subsection 17 (7) of the Act, if particular condemned goods are goods that the Minister is satisfied can safely be destroyed, the goods must be destroyed, to the satisfaction of the Minister, at a place, and in a manner, suitable for safely destroying goods of that kind, unless:
 - (a) the goods are goods to which an approval under regulation 9 applies; and
 - (b) the goods are sold in accordance with the approval.
- (2) In determining a suitable place for safely destroying the goods, and the manner in which the goods may be destroyed, the Minister must consider:
 - (a) the nature of the goods; and
 - (b) the suitability of the place for safely destroying goods of that kind; and
 - (c) the availability of suitable methods with which to safely destroy goods of that kind.

9 Dealing with condemned goods — prescribed procedures

- (1) If the Minister is reasonably satisfied that particular condemned goods are of a kind to which subregulation (2) applies, the Minister may give an authorised person written approval to sell the goods.
- (2) This subregulation applies to goods that:
 - (a) are not, under another law of the Commonwealth, or a State or Territory:
 - (i) required to be destroyed; or
 - (ii) illegal to sell; and
 - (b) are of a kind that can be:
 - (i) given a use other than in a WMD program; or
 - (ii) readily, and safely, altered so that they are no longer of a kind that can be used in a WMD program.

- (3) On receiving the Minister's approval to sell the goods, the authorised person must:
 - (a) if the Minister so requires — alter the goods so that they are no longer of a kind that can be used in a WMD program; and
 - (b) offer the goods for sale at the best reasonably achievable price; and
 - (c) if the goods are sold — pay the proceeds to the Commonwealth.
- (4) The goods must not be transferred to a buyer until the buyer agrees, in writing:
 - (a) not to use the goods in a WMD program and not to cause or allow another person to use the goods in a WMD program; and
 - (b) to use the goods, or cause or allow the goods to be used, only for a lawful purpose.

10 Storage of condemned goods — prescribed procedures

For the purposes of subsection 17 (8) of the Act, until condemned goods are destroyed or otherwise dealt with, they must be stored securely as if they were goods to which regulation 7 applies.

11 Notices

A notice required or permitted to be given to a person under the Act or these Regulations may:

- (a) be given to the person personally; or
- (b) be posted to the person at the postal address last notified to the Minister; or
- (c) be faxed to the person at the fax number (if any) last notified to the Minister; or
- (d) be sent to the person at the e-mail address (if any) last notified to the Minister.

12 Delegation by Minister

The Minister may delegate any of his or her powers under these Regulations to:

- (a) an SES employee in the Department; or
- (b) an APS employee in the Department with the classification of Executive Level 2, or an equivalent classification.

Table of Instruments**Notes to the *Weapons of Mass Destruction Regulations 1995*****Note 1**

The *Weapons of Mass Destruction Regulations 1995* (in force under the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995*) as shown in this compilation comprise Statutory Rules 1995 No. 373 amended as indicated in the Tables below.

Under the Legislative Instruments Act 2003, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

Table of Instruments

| Year and number | Date of notification in <i>Gazette</i> or FRLI registration | Date of commencement | Application, saving or transitional provisions |
|------------------------|--|--|---|
| 1995 No. 373 | 6 Dec 1995 | 6 Dec 1995 | |
| 1996 No. 176 | 21 Aug 1996 | 21 Aug 1996 | — |
| 2001 No. 44 | 16 Mar 2001 | 16 Mar 2001 | — |
| 2005 No. 218 | 7 Oct 2005 (see F2005L02918) | Rr. 1–3 and Schedule 1 [item 39]: 8 Oct 2005 | — |

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------|---------------------|
| R. 1 | rs. 2001 No. 44 |
| R. 5 | am. 1996 No. 176 |
| R. 7 | am. 1996 No. 176 |
| R. 9 | am. 2005 No. 218 |
| R. 12 | am. 2001 No. 44 |
