Chemical Weapons (Prohibition) Regulations 1997

Statutory Rules 1997 No. 84 as amended

made under the

Chemical Weapons (Prohibition) Act 1994

This compilation was prepared on 2 December 2006
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Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General’s Department, Canberra
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Part 1 Preliminary

1 Name of regulations [see Note 1]

These regulations are the Chemical Weapons (Prohibition) Regulations 1997.

2 Commencement [see Note 1]

(1) Regulation 4 commences on the day that section 20 of the Act commences.

(2) Regulation 5 commences on the day that section 29 of the Act commences.

(3) Regulations 6 and 7 commence on the day that section 30 of the Act commences.

(4) Part 3 commences on the day that section 49 of the Act commences.

(5) Part 4 commences on the day that section 101 of the Act commences.

(6) Regulation 15 commences on the day that section 98 of the Act commences.

3 Definitions

In these Regulations:

declarable Schedule 1 activity means a Schedule 1 activity, in a year, with either or both of the following characteristics:

(a) over 100 grams of Schedule 1 chemicals are likely to be produced at the facility in the year for research, medical or pharmaceutical purposes;

(b) a Schedule 1 chemical is likely to be produced at the facility in the year for protective purposes.

excluded Schedule 1 chemical has the same meaning as in section 16 of the Act.
IUPAC chemical name means a designation attributed to a chemical by the International Union of Pure and Applied Chemistry.

non-declarable Schedule 1 activity means a Schedule 1 activity other than a declarable Schedule 1 activity.

permit year means a year for which there is or was a permit to operate a facility.

PSF chemical means an unscheduled discrete organic chemical containing 1 or more of the elements phosphorous, sulphur and fluorine.

Schedule 1 activity means operating a facility as mentioned in subsection 16 (1) of the Act.

Schedule 2 activity means operating a facility as mentioned in subsection 16 (2) of the Act.

Schedule 3 activity means operating a facility as mentioned in subsection 16 (3) of the Act.


3AA Amendments of the Convention accepted by Australia

For the definition of Convention in subsection 7 (1) of the Act, the English text of the amendments to the Convention that have been accepted by Australia is set out in Schedule 1.

3A Meaning of consumption — Schedule 2 chemicals

For the Act, consumption of a Schedule 2 chemical means its conversion to another chemical through a chemical reaction.

3B Meaning of processing — Schedule 2 chemicals

(1) For the Act, processing of a Schedule 2 chemical means a physical process, including formulation, extraction and purification, in which the chemical is not converted to another chemical.

(2) However, processing of a Schedule 2 chemical does not include packaging or distributing the chemical.
3C Meaning of production

(1) For the Act, production of a chemical means its formation through a chemical reaction as an intermediate (in a reaction sequence) or otherwise, only if the chemical can be isolated.

(2) For the Act, production of saxitoxin and ricin also includes extracting and purifying saxitoxin or ricin (as the case requires).

(3) However, production of a Schedule 2 chemical does not include its regeneration as part of a cycle of consumption and regeneration.

3D Meaning of explosive and hydrocarbon in section 28

For section 28 of the Act:

(a) explosive means a chemical produced for use only as an explosive; and

(b) hydrocarbon means a chemical containing carbon and hydrogen only.

3E Amount of Schedule 1 chemicals

For the Act, the method for working out the total amount of a Schedule 1 chemical produced, acquired, retained or used at, or transferred from, a facility in a year is set out in the following table.

Table

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1</td>
<td>The amount of the chemical is the weight of the chemical.</td>
</tr>
<tr>
<td>2</td>
<td>The weight of the chemical is to be worked out as the less accurate of the following:</td>
</tr>
<tr>
<td></td>
<td>(a) to within 5 percent;</td>
</tr>
<tr>
<td></td>
<td>(b) to the nearest 0.1 grams.</td>
</tr>
</tbody>
</table>

3F Amount of Schedule 2 chemicals

For the Act, the method for working out the total amount of a Schedule 2 chemical produced, processed or consumed at a
plant, comprising, or comprising part of, a facility in a year is set out in the following table.

**Table**

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1</td>
<td>The amount of the chemical is the weight of the chemical.</td>
</tr>
<tr>
<td>2</td>
<td>The weight of a Schedule 2 chemical, mentioned in Part A of Schedule 2 to the Convention and designated with an ‘*’, is to be worked out as accurate to the nearest 100 grams.</td>
</tr>
<tr>
<td>3</td>
<td>The weight of a Schedule 2 chemical, mentioned in Part A of Schedule 2 to the Convention but not designated with an ‘*’, is to be worked out as accurate to the nearest kilogram.</td>
</tr>
<tr>
<td>4</td>
<td>The weight of a Schedule 2 chemical, mentioned in Part B of Schedule 2 to the Convention, is to be worked out as accurate to the nearest 0.1 tonnes.</td>
</tr>
<tr>
<td>5</td>
<td>However, for a mixture containing:</td>
</tr>
<tr>
<td></td>
<td>(a) 0.5 percent or less by weight of a chemical mentioned in Part A of Schedule 2 to the Convention; or</td>
</tr>
<tr>
<td></td>
<td>(b) 30 percent or less by weight of a chemical mentioned in Part B of Schedule 2 to the Convention;</td>
</tr>
<tr>
<td></td>
<td>the amount of the chemical is zero.</td>
</tr>
<tr>
<td>6</td>
<td>If the chemical is produced as part of a mixture — to work out the percentage of the chemical in the mixture by weight, the following components of the mixture are to be disregarded:</td>
</tr>
<tr>
<td></td>
<td>(a) any liquid or gas, the main function of which is to act as a carrier in a chemical reaction process that produces the chemical; and</td>
</tr>
<tr>
<td></td>
<td>(b) if a feedstock gas is incompletely reacted in a chemical reaction process that produces the chemical — the gas that did not react.</td>
</tr>
</tbody>
</table>
3G Amount of Schedule 3 chemicals

For the Act, the method for working out the total amount of a Schedule 3 chemical produced at a plant comprising, or comprising part of, a facility in a year is set out in the following table.

Table

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>The amount of the chemical is the weight of the chemical.</td>
</tr>
<tr>
<td>2</td>
<td>The weight of the chemical is to be worked out accurate to within 5 percent.</td>
</tr>
<tr>
<td>3</td>
<td>However, for a mixture containing 30 percent or less by weight of the chemical, the amount of the chemical is zero.</td>
</tr>
<tr>
<td>4</td>
<td>For working out the percentage of the chemical in a mixture by weight, the following components of the mixture are to be disregarded:</td>
</tr>
<tr>
<td></td>
<td>(a) any liquid or gas, the main function of which is to act as a carrier in a chemical reaction process that produces the chemical;</td>
</tr>
<tr>
<td></td>
<td>(b) if a feedstock gas is incompletely reacted in a chemical reaction process that produces the chemical — the gas that did not react.</td>
</tr>
</tbody>
</table>

3H Amount of unscheduled discrete organic chemicals

For paragraphs 28 (6) (a) and (b) of the Act, the method for working out the total amount of unscheduled discrete organic chemicals produced at a facility in a year is set out in the following table.
Table

1 The amount of the chemicals is the weight of the chemicals.

2 The weight of the chemicals is to be worked out accurate to within 5 percent.

3 In dealing with a discrete organic chemical:
   (a) the only oxides of carbon compounds that are to be disregarded are carbon monoxide, carbon dioxide and carbonyl sulfide; and
   (b) the only sulfides of carbon compounds that are to be disregarded are carbon disulfide and carbonyl sulfide.

4 For working out the weight of the chemicals, the following chemicals are to be disregarded:
   (a) oligomers and polymers;
   (b) chemicals containing carbon and metal only.
Part 2 Permits, renewals and notifications

4 Last day for permit applications

(1) For subsection 17 (1) of the Act, this regulation sets out the prescribed day, which is the last day on which a person may give a permit application to the Controller.

(2) If the permit authorises a declarable Schedule 1 activity, the prescribed day is 200 days before the person intends to start the activity.

(3) If the permit authorises a non-declarable Schedule 1 activity, the prescribed day is 7 days before the person intends to start the activity.

(4) If the permit authorises a Schedule 2 activity or a Schedule 3 activity, the prescribed day is 21 days before the person intends to start the activity.

4A Last day for permit renewal applications

(1) For subsection 20 (1) of the Act, this regulation sets out the prescribed day, which is the last day on which a holder of a permit may apply for renewal of the permit for a year.

(2) If the permit authorises a declarable Schedule 1 activity, the prescribed day is 14 September before the year starts.

(3) For any other permit, the prescribed day is 14 October before the year starts.

5 Manner of production of hydrocarbons or explosives

(1) For subsection 28 (7) of the Act, this regulation sets out manners in which hydrocarbons or explosives may be produced, so that the notification arrangements in subsection 28 (6) will not apply.
(2) The hydrocarbons or explosives may be produced in the following manner:
   (a) they were produced at a facility in the year before the year in which the facility is notified;
   (b) the manner must ensure that the hydrocarbons or explosives are the only unscheduled discrete organic chemicals produced at the facility in the year.

(3) The hydrocarbons or explosives may also be produced in the following manner:
   (a) they were produced at a facility in the year before the year in which the facility is notified;
   (b) the production of the hydrocarbons or explosives must have happened at the facility where unscheduled discrete organic chemicals other than the hydrocarbons or explosives were also produced in the year;
   (c) the production of the hydrocarbons or explosives must have happened at the facility where the amount of unscheduled discrete organic chemicals produced at the facility in the year, without the amount of the hydrocarbons or explosives, was 200 tonnes or less;
   (d) the production of the hydrocarbons or explosives must have been part of operations at the facility where:
      (i) other unscheduled discrete organic chemicals, containing 1 or more of the elements phosphorus, sulphur or fluorine may have been produced in the year at a plant comprising, or comprising part of, the facility; and
      (ii) the amount of each of those unscheduled discrete organic chemical produced at the plant in the year was 30 tonnes or less.

5A Last day for notifications

(1) For subsection 29 (2) of the Act, this regulation sets out the prescribed day, which is the last day on which certain notifications must be given under section 28 of the Act in relation to a facility.
Regulation 5A

(2) If the notification is required under subsection 28 (1) of the Act, in relation to a permit authorising a declarable Schedule 1 activity, the prescribed day is 14 September in the year for which the permit is or was held.

(3) If the notification is required under subsection 28 (1) of the Act, in relation to a permit authorising a non-declarable Schedule 1 activity, the prescribed day is 14 October in the year for which the permit is or was held.

(4) If the notification is required under paragraph 28 (2) (a) of the Act, in relation to a permit authorising a Schedule 2 activity, the prescribed day is 14 October in the year for which the permit is or was held.

(5) If the notification is required under paragraph 28 (4) (a) of the Act, in relation to a permit authorising a Schedule 3 activity, the prescribed day is 14 October in the year for which the permit is or was held.

(6) If the notification is required under subsection 28 (6) of the Act, in relation to activities at a facility in a year, the prescribed day is 28 February in the next year.
Part 2A Reports and records

6 Last day for giving reports
For paragraph 30 (2) (a) of the Act, the prescribed day by which an operator of a Schedule 1 facility, a Schedule 2 facility, or a Schedule 3 facility is to give the Director a report for a permit year for the facility is 28 February in the next year.

7 Records for Schedule 1 facilities
(1) For paragraph 30 (2) (b) of the Act, the records to be kept by the operator of a Schedule 1 facility are records of the information mentioned in this regulation.

(2) For each Schedule 1 chemical produced, acquired, used or stored at, or transferred from, the facility in a permit year for the facility, the information is:
   (a) the identity of the chemical, including its Chemical Abstracts Service registry number, if assigned, and its common or trade name (if any); and
   (b) the quantities produced, acquired, used or transferred; and
   (c) the purpose or purposes of the production, acquisition or use.

(3) For each Schedule 1 chemical produced at the facility in a permit year for the facility, the information is also the name and quantity of any precursors used that are listed in Schedule 1, 2 or 3 to the Convention.

(4) For each Schedule 1 chemical stored at the facility in a permit year for the facility, the information is also:
   (a) the maximum quantity stored at any time in the year; and
   (b) the quantity stored at the end of the year.

(5) For a facility at which declarable Schedule 1 activities occurred in a permit year for the facility, the information is:
   (a) for each Schedule 1 chemical transferred to another facility in Australia in the year:
(i) the total quantity transferred; and
(ii) the quantity, recipient and purpose of each shipment; and
(b) technical descriptions of any changes at the facility in the year including, for a single small-scale facility, inventories of equipment and detailed diagrams of the facility; and
(c) for a single small-scale facility and a protective facility — the production methods employed for each Schedule 1 chemical produced at the facility in the year; and
(d) for a single small-scale facility — in relation to each Schedule 1 chemical received from another facility in Australia in the year:
(i) the total quantity received; and
(ii) the quantity, origin and purpose of each shipment.

7A Keeping records for Schedule 1 facilities

For paragraph 30 (2) (b) of the Act, the period for which a record mentioned in regulation 7 is to be kept is:
(a) the period, in the year to which the information in the record relates, when the record exists; and
(b) the next 2 years.

7B Records for Schedule 2 facilities

(1) For paragraph 30 (2) (b) of the Act, the records to be kept by the operator of a Schedule 2 facility are records of the information mentioned in this regulation.

(2) For each plant comprising, or comprising part of, the facility in a permit year for the facility, the information is:
(a) the chemicals produced in the year; and
(b) the processes in the year involving an amount of a Schedule 2 chemical exceeding the chemical’s Schedule 2 permit threshold; and
(c) the processes in the year involving other chemicals; and
(d) any other main activities in the year; and
Regulation 7B

(e) if an amount of a Schedule 2 chemical exceeding, in the aggregate, the chemical’s Schedule 2 permit threshold is produced, processed or consumed at the plant in the year — the production capacity of the plant for the chemical; and

(f) whether the plant’s function is dedicated or multi-purpose.

(3) If more than the Schedule 2 permit threshold of a Schedule 2 chemical is produced, processed or consumed at a plant comprising, or comprising part of, the facility in a permit year for the facility, the information for the chemical is also:

(a) the identity of the chemical, including its Chemical Abstracts Service registry number, if assigned, and its common or trade name (if any); and

(b) the sum of:

(i) the total amount produced, processed or consumed; and

(ii) the total amount imported or exported by the operator.

(4) If more than the Schedule 2 permit threshold of a Schedule 2 chemical is produced, processed or consumed at a plant comprising, or comprising part of, the facility in a permit year for the facility, the information is the purposes for which the chemical was produced, processed or consumed, including:

(a) if the chemical was processed or consumed at the facility — a general description of the final product; and

(b) whether the chemical was produced for sale or transfer within Australia, direct export or other use; and

(c) if the chemical was transferred within Australia:

(i) whether it was to be transferred to another industry, a trader or another destination; and

(ii) if possible, a general description of the final product; and

(d) if the chemical was to be exported directly — a specification of the destination; and

(e) if the chemical was produced or processed for another use — an identification of that use.
Regulation 7C

**Keeping records for a Schedule 2 facility**

For paragraph 30 (2) (b) of the Act, the period for which a record mentioned in regulation 7B is to be kept is:

(a) the period, in the year to which the information in the record relates, when the record exists; and

(b) the next 4 years.

7D **Records for a Schedule 3 facility**

(1) For paragraph 30 (2) (b) of the Act, the records to be kept by the operator of a Schedule 3 facility are records of the information mentioned in this regulation.

(2) For each plant comprising, or comprising part of, the facility in a permit year for the facility, the information is:

(a) the chemicals produced in the year; and

(b) the processes in the year involving chemicals; and

(c) any other main activities in the year.

(3) If more than 30 tonnes of a Schedule 3 chemical is produced at a plant comprising, or comprising part of, the facility in a permit year for the facility, the information for the chemical is:

(a) the identity of the chemical, including its Chemical Abstracts Service registry number, if assigned, and its common or trade name (if any); and

(b) the total amount produced.

(4) For each scheduled chemical imported or exported by the operator in a permit year for the facility, the information is:

(a) the amount imported or exported; and

(b) the names of the countries from which the chemical was imported, or to which it was exported; and

(c) if the chemical was imported from or exported to more than 1 country — the amount imported from or exported to each country.

7E **Keeping records for Schedule 3 facilities**

For paragraph 30 (2) (b) of the Act, the period for which a record mentioned in regulation 7D is to be kept is:
(a) the period, in the year to which the information in the record relates, when the record exists; and
(b) the next 2 years.

7F Records for an OCP facility
For paragraph 30 (2) (b) of the Act, the records to be kept by the operator of an OCP facility are records of:
(a) the amount of unscheduled discrete organic chemicals produced at the facility in a permit year for the facility; and
(b) if more than 30 tonnes of a PSF chemical were produced at a plant in the facility in a permit year for the facility — the total amount of PSF chemicals produced at the plant in the year.

7G Keeping records of an OCP facility
For paragraph 30 (2) (b) of the Act, the period for which a record mentioned in regulation 7F is to be kept is:
(a) the period, in the year to which the information in the record relates, when the record exists; and
(b) the next 2 years.
Part 3 Verification procedures

8 Clarification procedures — subsection 49 (3) inspections

(1) For subsection 49 (4) of the Act, this regulation sets out modifications of challenge inspection procedures applicable to an inspection of premises by consent.

*Note* Under subsection 49 (4), the Director may determine that 1 or more of the listed modifications are to apply to an inspection by consent.

(2) The modifications are to apply only to the extent that they do not reduce the rights, under the Act, of the occupier of the premises.

(3) The modifications are as follows:

(a) the time limits for the giving of access set out in paragraphs 14, 18, 19, 39 and 43 of Part X of the Verification Annex of the Convention are taken to be omitted;

(b) the exit monitoring provisions set out in paragraph 46 (1) (c) of the Act and in paragraphs 23 to 31 (inclusive) of Part X of the Verification Annex of the Convention are taken to be omitted;

(c) the provisions relating to access to declared facilities set out in paragraphs 15, 51 and 52 of Part X of the Verification Annex of the Convention are taken to be omitted;

(d) the provisions relating to the perimeter of the site in Part X of the Verification Annex of the Convention are taken to be omitted.

9 Clarification procedures — subsection 49 (10) inspections

(1) For subsection 49 (10) of the Act, this regulation sets out modifications of challenge inspection procedures applicable to an inspection of premises by consent.
Note Under subsection 49 (10), the Director may determine that 1 or more of the listed modifications are to apply to an inspection.

(2) The modifications are to apply only to the extent that they do not reduce the rights, under the Act, of the occupier of the premises.

(3) The modifications are as follows:

(a) the time limits for the giving of access set out in paragraphs 14, 18, 19, 39 and 43 of Part X of the Verification Annex of the Convention are taken to be omitted;

(b) the exit monitoring provisions set out in paragraph 46 (1) (c) of the Act and in paragraphs 23 to 31 (inclusive) of Part X of the Verification Annex of the Convention are taken to be omitted;

(c) the provisions relating to access to declared facilities set out in paragraphs 15, 51 and 52 of Part X of the Verification Annex of the Convention are taken to be omitted;

(d) the provisions relating to the perimeter of the site in Part X of the Verification Annex of the Convention are taken to be omitted;

(e) the provisions relating to observers set out in paragraph 12 of Article IX and paragraphs 53 to 56 (inclusive) of Part X of the Verification Annex of the Convention are taken to be omitted;

(f) the provisions relating to the inspection mandate in paragraph 18 of Article IX of the Convention are taken to be varied to require the inspection mandate to be agreed between the Director and the person holding an equivalent position in the State Party seeking clarification before the arrival of the foreign country inspectors in Australia;

(g) paragraph 46 (1) (b) of the Act is taken to be varied to exclude the power of a foreign country inspector to take photographs (including video recordings);

(h) paragraph 46 (1) (e) of the Act is taken to be varied to exclude the power of a foreign country inspector to remove samples from the premises;
Regulation 9A

(i) paragraph 46 (1) (g) of the Act is taken to be varied to exclude the power of a foreign country inspector to examine a document;

(j) paragraph 46 (1) (h) of the Act is taken to be varied to exclude the power of a foreign country inspector to take extracts from, or make copies of, a document.

9A International compliance inspection period

(1) For section 53 of the Act, an international compliance inspection starts when the pre-inspection briefing, mentioned in paragraph 37 of Part II of the Verification Annex of the Convention, is completed.

(2) The inspection ends when the review of the preliminary findings for the inspection starts, as mentioned in paragraph 60 of Part II of the Verification Annex of the Convention.

9B Challenge inspection period

(1) For section 53 of the Act, a challenge inspection starts when the later of the following things happens:
   (a) the pre-inspection briefing, mentioned in paragraph 37 of Part II of the Verification Annex of the Convention, is completed;
   (b) the inspection team first enters the inspection site for the inspection.

(2) The inspection ends when the first of the following things happens:
   (a) the inspection team leaves the inspection site, and is not expecting to return as part of the inspection;
   (b) post-inspection procedures begin at the inspection site.
Part 4 Privileges and immunities of an inspector

10 Application of this Part

(1) Subject to subregulation (2), this Part applies to an Organization inspector who:
   (a) is in Australia to carry out an inspection under the Convention; or
   (b) is passing through Australia on the way to, or when returning from conducting, an inspection outside Australia; or
   (c) has left Australia, with respect to acts previously performed in the exercise of his or her official duties.

(2) This Part does not apply to an Organization inspector who is an Australian citizen, except in respect of anything done in his or her capacity as an Organization inspector.

11 Privileges and immunities of an inspector carrying out an inspection in Australia

(1) An Organization inspector is not liable to any form of arrest or detention.

(2) An Organization inspector’s living quarters and office premises (including any furnishings and other property in them), means of transport, records, papers and correspondence are not liable to search, requisition, attachment or execution.

(3) Samples and approved equipment in the possession of an Organization inspector are not liable to:
   (a) subject to regulation 12 — search, requisition, attachment or execution; or
   (b) customs duties.

(4) An Organization inspector has immunity from criminal and civil law, except for:
(a) a civil action relating to private immovable property in Australia, unless the inspector holds it on behalf of the Organization for the purposes of the Organization; or
(b) a civil action relating to succession in which the inspector is involved as executor, administrator, heir or legatee as a private person and not on behalf of the Organization; or
(c) a civil action relating to a professional or commercial activity exercised by the inspector in Australia outside his or her official functions.

(5) An Organization inspector is not required to give evidence as a witness.

(6) No measures of execution may be taken against an Organization inspector, except for matters referred to in paragraph (4) (a), (b) or (c).

(7) An Organization inspector carrying out activities under the Convention is exempt from all dues and taxes, whether personal or real, except:
(a) indirect taxes of a kind which are normally incorporated in the price of goods or services; and
(b) dues and taxes on private immovable property in Australia, unless he or she holds the property for the Organization for the purposes of the Organization; and
(c) subject to subregulation (8) — estate, succession or inheritance duties; and
(d) dues and taxes on private income having its source in Australia and capital taxes on investments made in commercial undertakings in Australia; and
(e) charges levied for specific services rendered; and
(f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property.

(8) Movable property that is in Australia solely due to the presence in Australia of an Organization inspector or a member of the family of an Organization inspector is not liable for estate, succession or death duties.
(9) An Organization inspector may bring into Australia, without payment of customs duties or related charges, any article for personal use except an article the import or export of which is prohibited by law or controlled by quarantine laws.

(10) An Organisation inspector is exempt from currency and exchange restrictions to the same extent as a representative of a foreign government on a temporary mission on behalf of that government.

12 Samples and approved equipment

(1) An Organization inspector who has in his or her possession a sample from a facility in Australia must:
   (a) allow a national inspector to take and retain:
       (i) a portion of that sample; or
       (ii) a duplicate sample; and
   (b) if he or she analyses the sample at the facility — allow a national inspector to be present during the analysis.

(2) An Organization inspector must allow a national inspector to inspect his or her inspection equipment on arrival in Australia.

(3) A national inspector may exclude from use or access to an inspection site inspection equipment of an Organization inspector that:
   (a) does not meet the description of equipment approved for the inspection; or
   (b) does not bear a document or device from the Technical Secretariat authenticating the equipment’s designation and approval by the Secretariat.

(4) An Organization inspector must obey all applicable Commonwealth, State and Territory laws relating to the handling and transport of hazardous goods.
13 **Application of the Public Order (Protection of Persons and Property) Act 1971 to Organization inspectors**

(1) For section 101 of the Act, the privileges and immunities that apply to a protected person under the *Public Order (Protection of Persons and Property) Act 1971* apply to an Organization inspector.

(2) For section 101 of the Act, the privileges and immunities that apply to protected premises under the *Public Order (Protection of Persons and Property) Act 1971* apply to the living quarters and office premises of an Organization inspector.

14 **Waiver**

If the Organization waives a privilege or immunity set out in a provision of regulation 11 for an Organization inspector, that provision does not apply to that inspector.
Part 4A  Privileges and immunities of an observer

14A Application of Part

(1) This Part applies to an observer who is in Australia:
   (a) to observe a challenge inspection under the Convention; or
   (b) on the way to observing a challenge inspection outside Australia; or
   (c) as part of returning from observing a challenge inspection outside Australia.

(2) This Part also applies to an observer who has left Australia, but only with respect to acts previously performed in the exercise of the observer’s official duties.

(3) However, if the observer is an Australian citizen, this Part applies only with respect to acts performed in the exercise of the observer’s official duties.

14B Privileges and immunities of an observer

(1) For section 101A of the Act, an observer has the privileges and immunities mentioned in this regulation.

(2) An observer is not liable to any form of arrest or detention.

(3) An observer’s living quarters and office premises (including any furnishings and other property in them), means of transport, records, papers and correspondence are not liable to search, requisition, attachment or execution.

(4) An observer for a State Party has immunity from criminal and civil law, except for:
   (a) a civil action relating to private immovable property in Australia, unless the observer holds it on behalf of the State Party for the purposes of the State Party; or
Regulation 14B

(b) a civil action relating to succession in which the observer is involved as an executor, administrator, heir or legatee as a private person and not on behalf of the State Party; or

(c) a civil action relating to a professional or commercial activity exercised by the observer in Australia outside his or her official functions.

(5) An observer is not required to give evidence as a witness.

(6) No measures of execution may be taken against an observer, except for matters referred to in paragraph (4) (a), (b) or (c).

(7) An observer, for a State Party, carrying out activities under the Convention is exempt from all dues and taxes, whether personal or real, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services; and

(b) dues and taxes on private immovable property in Australia, unless he or she holds the property on behalf of the State Party for the purposes of the State Party; and

(c) subject to subregulation (8) — estate, succession or inheritance duties; and

(d) dues and taxes on private income having its source in Australia in capital taxes on investments made in commercial undertakings in Australia; and

(e) charges levied for specific services; and

(f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property.

(8) Movable property that is in Australia solely due to the presence in Australia of an observer or a member of the family of an observer is not liable for estate, succession or death duties.

(9) An observer may bring into Australia, without payment of customs duties or related charges, any article for personal use except an article the import or export of which is prohibited by law or controlled by quarantine laws.

(10) An observer is exempt from currency and exchange restrictions to the same extent as a representative of a foreign government on a temporary mission on behalf of that government.
14C Application of the Public Order (Protection of Persons and Property) Act 1971 to observers

(1) For section 101A of the Act, the privileges and immunities applying to a protected person under the Public Order (Protection of Persons and Property) Act 1971 apply to an observer.

(2) For section 101A of the Act, the privileges and immunities applying to protected premises under the Public Order (Protection of Persons and Property) Act 1971 apply to the living quarters and office premises of an observer.
Part 5 Miscellaneous

15 Register of permits and notifications
(1) The Register of Permits and Notifications must be maintained in the form of one or more electronic database files.

(2) The structure of the databases in the Register must be sufficient to record information on facilities required for Part 3 and sections 83 and 98 of the Act.

16 Notices
A notice that the Director must give to a person must be given in writing, addressed to the person and delivered, sent by pre-paid post, or faxed to the person or the person’s last known address.

17 Reports
The Director must provide declarations and reports to the Organization in accordance with Australia’s obligations under the Convention.
Schedule 1  Amendments to the Convention accepted by Australia
(regulation 3AA)


Section B of Part VI of the Verification Annex to the Convention

Add a new paragraph 5bis, as follows:

“For quantities of 5 milligrams or less, the Schedule 1 chemical saxitoxin shall not be subject to the notification period in paragraph 5 if the transfer is for medical/diagnostic purposes. In such cases, the notification shall be made by the time of transfer.”


Insert the following paragraph after paragraph 72 in Part V of the Verification Annex:

“(72 bis) If a State ratifies or accedes to this Convention after the six-year period for conversion set forth in paragraph 72, the Executive Council shall, at its second subsequent regular session, set a deadline for submission of any request to convert a chemical weapons production facility for purposes not prohibited under this Convention. A decision by the Conference to approve such a request, pursuant to paragraph 75, shall establish the earliest practicable deadline for completion of the conversion. Conversion shall be completed as soon as possible, but in no case later than six years after this Convention enters into force for the State Party. Except as modified in this
paragraph, all provisions in Section D of this Part of this Annex shall apply.”
Notes to the Chemical Weapons (Prohibition) Regulations 1997

Note 1


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.

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