



Crimes (Biological Weapons) Regulations 2019

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 March 2019

Peter Cosgrove
Governor-General

By His Excellency's Command

Christian Porter
Attorney-General

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Part 1—Preliminary

1 Name

This instrument is the *Crimes (Biological Weapons) Regulations 2019*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	30 March 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Crimes (Biological Weapons) Act 1976*.

4 Purpose of this instrument

For the purposes of section 13 of the Act, this instrument provides for and in relation to:

- (a) procedures to be followed in the storage and disposal of substances and articles in respect of which an offence referred to in section 10 of the Act has been, or is alleged to have been, committed; and
- (b) an opportunity for a person charged with an offence referred to in section 10 of the Act in respect of a substance referred to in paragraph 8(1)(a) of the Act to have a sample of the substance analysed on the person's behalf.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Section 6

6 Definitions

In this instrument:

Act means the *Crimes (Biological Weapons) Act 1976*.

Health Department means the Department administered by the Minister administering the *National Health Act 1953*.

prohibited item means a substance or article in respect of which an offence referred to in section 10 of the Act has been, or is alleged to have been, committed.

Part 2—Prohibited items

7 Acquisition, storage and labelling of prohibited items

Notification requirement

- (1) If a person acquires a prohibited item on behalf of the Commonwealth, the person must, as soon as practicable, notify the Commonwealth Chief Medical Officer, in writing, that the person has so acquired the prohibited item.

Storage directions

- (2) If the Commonwealth Chief Medical Officer is notified of the acquisition of a prohibited item under subsection (1), the Officer must, in writing, give such directions in relation to the storage of the prohibited item as the Officer considers appropriate in the circumstances.
- (3) Without limiting subsection (2), directions under that subsection in relation to the storage of a prohibited item may relate to the following matters:
 - (a) the place at which the prohibited item is to be stored;
 - (b) the temperature and relative humidity at which the prohibited item is to be stored;
 - (c) the type of container (if any) in which the prohibited item is to be stored.
- (4) A person who is responsible for the storage of a prohibited item must comply with any direction given under subsection (2) in relation to the item.

Labelling requirements

- (5) A person who is responsible for the storage of a prohibited item must ensure that the following information is recorded on a label attached to the prohibited item or to a container in which the prohibited item is stored:
 - (a) a description of the prohibited item when acquired by a person on behalf of the Commonwealth;
 - (b) the place, date and time when the prohibited item was so acquired;
 - (c) the name of the person who so acquired the prohibited item;
 - (d) particulars of any dealings with the prohibited item after it was so acquired.

8 Disposal of prohibited items

- (1) A person must not dispose of a prohibited item unless the person does so in accordance with any directions given under subsection (2).
- (2) The Commonwealth Chief Medical Officer may, in writing, give such directions in relation to the disposal of a prohibited item as the Officer considers necessary, having regard to:
 - (a) the requirements of public health and safety; and
 - (b) the effect of the disposal on plants and animals.

Section 9

9 Analysis of certain substances

- (1) A person (the **offender**) who has been charged with an offence referred to in section 10 of the Act in respect of a substance referred to in paragraph 8(1)(a) of the Act may:
 - (a) nominate another person (the **nominee**) to analyse a sample of the substance on the offender's behalf; and
 - (b) request, in writing, that the Commonwealth Chief Medical Officer permit the nominee to analyse the sample.
- (2) If the Commonwealth Chief Medical Officer is satisfied that, because of the nominee's training and experience, the nominee is competent to analyse the sample, the Officer must permit, in writing, the nominee to analyse the sample.
- (3) If the Commonwealth Chief Medical Officer permits the nominee to analyse the sample, the Officer must:
 - (a) make a sample of the substance available for analysis by the nominee; and
 - (b) specify, in writing, a time and place for the nominee to analyse the sample; and
 - (c) maintain control of the sample while the sample is analysed.
- (4) A time and place specified by the Commonwealth Chief Medical Officer under paragraph (3)(b) must be reasonable in the circumstances, having regard to:
 - (a) the nature of the sample to be analysed; and
 - (b) the requirements of public health and safety.

10 Delegation

- (1) The Commonwealth Chief Medical Officer may, in writing, delegate all or any of the Officer's functions or powers under this instrument to an SES employee, or acting SES employee, in the Health Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations (applying because of subsection 13(1) of the *Legislation Act 2003*).
- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Commonwealth Chief Medical Officer.

Schedule 1—Repeals

Crimes (Biological Weapons) Regulations

1 The whole of the instrument

Repeal the instrument.