

Western Australia

**Dangerous Goods Safety (Security Risk
Substances) Regulations 2007**

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Dangerous Goods Safety (Security Risk Substances) Regulations 2007

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Dangerous Goods Safety (Security Risk Substances) Regulations 2007

Part 1 — Preliminary matters

1. Citation

These regulations are the *Dangerous Goods Safety (Security Risk Substances) Regulations 2007*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the Act Part 3 comes into operation.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —
access to an SRS, includes having access to, or having the means of unlocking, a building, room, container, tank, vehicle or other thing, or a place, in which the SRS is situated;

Act means the *Dangerous Goods Safety Act 2004*;

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, Seventh edition, 2007, published by the Commonwealth of Australia (ISBN 1 921168

57 9) (also called the Australian Dangerous Goods Code) including (for the avoidance of doubt) its appendices;

approved form means a form approved under regulation 8;

commercial laboratory means an analytical or research laboratory that is operated for lawful commercial purposes, but not a laboratory controlled and managed by a government organisation;

educational institution means —

- (a) a government school, or a non-government school, as those terms are defined in the *School Education Act 1999*; or
- (b) an institution established under any of these Acts —
 - (i) *Curtin University of Technology Act 1966*;
 - (ii) *Edith Cowan University Act 1984*;
 - (iii) *Murdoch University Act 1973*;
 - (iv) *University of Notre Dame Australia Act 1989*;
 - (v) *University of Western Australia Act 1911*;
 - (vi) *Vocational Education and Training Act 1996*;

explosive has the meaning given to that term in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 8;

explosives manufacture (MPU) licence means an explosives manufacture (MPU) licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007*;

fee means the relevant fee in Schedule 1;

government organisation means any body, whether corporate or unincorporate, or office, established for a public purpose by a written law or by a law of the Commonwealth;

holder of a licence, means the person to whom the licence is issued;

illegal product means —

- (a) an explosive; or

- (b) a substance the possession of which by a member of the public is totally prohibited under a written law; or
- (c) a substance the possession of which by a member of the public is prohibited by a written law except in circumstances prescribed by the law;

interstate transport licence means a licence that —

- (a) is issued and in force under the law of another State or a Territory that corresponds with the Act and these regulations; and
- (b) authorises the holder of the licence to transport an SRS in that State or Territory;

level 1 fine means —

- (a) for an individual, a fine of \$10 000;
- (b) for a body corporate, a fine of \$50 000;

level 2 fine means —

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000;

level 3 fine means —

- (a) for an individual, a fine of \$1 000;
- (b) for a body corporate, a fine of \$5 000;

licence means —

- (a) a licence issued or replaced under these regulations; or
- (b) a shotfiring licence; or
- (c) an explosives manufacture (MPU) licence; or
- (d) an interstate transport licence;

Material Safety Data Sheet (or MSDS) for an SRS, means a document that contains the information in relation to the SRS that is required by the *National Code of Practice for the Preparation of Material Safety Data Sheets, 2nd Edition* [NOHSC: 2011(2003)] published by the National Occupational

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Health and Safety Commission, whether or not the document is in the form required by that code of practice;

MSDS stands for Material Safety Data Sheet;

personal details of an individual, means his or her name and address and a telephone number or numbers on which he or she can be contacted during and after working hours;

required details of an SRS, means these details —

- (a) the trade name of the SRS; and
- (b) the chemical composition of the SRS; and
- (c) the form of the SRS (such as emulsion, gel, suspension, granule, flake, pellet or prill); and
- (d) the quantity of the SRS; and
- (e) if the SRS is dangerous goods, within the meaning given to that term by the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 8 —
 - (i) the proper shipping name of the SRS under the ADG Code; and
 - (ii) the UN Number of the SRS under the ADG Code; and
 - (iii) the classification of the SRS under the ADG Code;

secure, in relation to an SRS, means secure from sabotage, theft, unexplained loss, and access by any person who, under these regulations, is not authorised to possess the SRS;

secure employee of a licence holder, means an individual who —

- (a) is an employee of the licence holder; and
- (b) is authorised by the holder under regulation 9(2) to have unsupervised access to an SRS;

security clearance for an individual, has the meaning given to that term by the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 16;

security risk substance (or SRS) means a substance named in Schedule 2;

shotfiring licence means a shotfiring licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007*;

SRS stands for security risk substance;

store an SRS, does not include to put or keep the SRS in a vehicle while transporting the SRS;

supervised in relation to access to an SRS, has the meaning given to that term by regulation 5(1);

supervised access by a person to an SRS, has the meaning given to that term by regulation 5(2);

supply includes to sell;

unexplained loss of an SRS, means any loss or apparent loss of the SRS that cannot be explained by things such as product density changes, spillage, calibration variances and the effects of humidity;

unsupervised access by a person to an SRS, has the meaning given to that term by regulation 5(3).

4. Examples and notes are not part of the law

Examples and notes in these regulations do not form part of them and are provided to assist understanding.

5. Supervision and related terms, meaning of

- (1) For the purpose of these regulations, an individual is supervised by another person while he or she has access to an SRS if at the time he or she —
 - (a) is in the presence of; or
 - (b) is in a place where any handling or removal of the SRS is controlled by,

the other person.

- (2) For the purpose of these regulations, an individual has supervised access to an SRS if he or she has access to the SRS in circumstances where he or she is supervised by a licence holder who is authorised to possess the SRS or a secure employee of such a licence holder.
- (3) For the purpose of these regulations, an individual has unsupervised access to an SRS if he or she has access to the SRS in circumstances where he or she is not supervised by a licence holder who is authorised to possess the SRS or a secure employee of such a licence holder.

6. These regulations do not apply to explosives

These regulations do not apply to or in respect of an explosive.

7. These regulations prevail over other regulations

If these regulations conflict or are inconsistent with any other regulations made under the Act, other than the *Dangerous Goods Safety (General) Regulations 2007*, these regulations prevail.

Part 2 — Administrative matters

8. Approval of forms

- (1) The Chief Officer may approve any form required for the purposes of these regulations.
- (2) The form of an application to the Chief Officer may require an applicant to verify information in the form by means of a statutory declaration.

Part 3 — Security matters

9. Licence holders may authorise employees to have access to SRSs

- (1) A licence holder may authorise an employee of the licence holder to have, in the course of his or her duties, unsupervised access to an SRS in the licence holder's possession and may cancel such an authorisation at any time.
- (2) A licence holder must not authorise an employee of the holder to have unsupervised access to an SRS in the licence holder's possession unless the employee has a security clearance.
Penalty: a level 2 fine.
- (3) A licence holder must not authorise an employee of the holder who is not a secure employee of the holder to have access to an SRS in the course of the employee's duties unless the employee is supervised while having access to the SRS by —
 - (a) the licence holder; or
 - (b) a secure employee of the licence holder acting in the course of the employee's duties.
- (4) An employee of a licence holder who, under an authorisation given under this regulation, has access to an SRS in the course of his or her duties may have possession of the SRS in the course of those duties.
- (5) An employee authorised under subregulation (3) is not authorised by subregulation (4) to have possession unless the employee is supervised as required by subregulation (3).

10. Licence holders to keep record of secure employees

- (1) A licence holder must keep a proper record of each of the licence holder's secure employees.
Penalty: a level 2 fine.

- (2) For the purpose of subregulation (1), a proper record is not kept of a secure employee unless a written record is made of this information —
- (a) the name and residential address of the secure employee;
 - (b) the details of every security card the employee is issued under the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 20;
 - (c) if the employee does not have such a security card but is a person referred to in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 16(3) —
 - (i) the details of the written authorisation referred to in that subregulation that the person holds; and
 - (ii) if the employee's usual place of residence is in the State, the date on which the employee took up such residence in the State;
 - (d) the date on which the holder, under regulation 9(2)9, authorised the employee to have unsupervised access to an SRS in the holder's possession;
 - (e) if the authorisation given under regulation 9(2) is cancelled, the date on which it is cancelled,

and is kept for 2 years after the date on which the employee ceases to be a secure employee of the licence holder.

11. Secure employee to disclose employer's details if asked

A secure employee who is in possession of an SRS must, if asked by a DGO to do so, give the DGO the name and address of the employee's employer who authorised the employee to possess the SRS.

Penalty: a level 3 fine.

Part 4 — Possession of SRSs

12. Licensing requirements

- (1) A person in possession of a quantity of an SRS must hold at least one of these licences that relates to the SRS and authorises the possession of that quantity —
 - (a) an SRS import/export licence;
 - (b) an SRS manufacture licence;
 - (c) an SRS storage licence;
 - (d) an SRS transport licence;
 - (e) an interstate transport licence;
 - (f) an SRS supply licence;
 - (g) an SRS fertiliser licence;
 - (h) a shotfiring licence;
 - (i) an explosives manufacture (MPU) licence.
- (2) A person does not have to hold a licence referred to in subregulation (1) to possess an SRS if —
 - (a) the person —
 - (i) is a secure employee of the holder of a licence referred to in subregulation (1) that authorises the holder to possess the SRS in the circumstances; and
 - (ii) possesses the SRS in the course of his or her duties as such an employee;
 - or
 - (b) the person possesses the SRS while being supervised by the holder of a licence referred to in subregulation (1) that authorises the holder to possess the SRS in the circumstances.
- (3) A person does not have to hold a licence referred to in subregulation (1) to possess an SRS if —

- (a) the person —
 - (i) controls and manages a commercial laboratory;
or
 - (ii) is employed in such a laboratory by the person who controls and manages the laboratory;and
 - (b) the person possesses the SRS in the laboratory for analytical or research purposes that do not involve the manufacture of an illegal product; and
 - (c) there is not more than 3 kg of any SRS in the laboratory.
- (4) A person does not have to hold a licence referred to in subregulation (1) to possess an SRS if —
- (a) the person —
 - (i) is an educational institution or government organisation; or
 - (ii) is employed by such an institution or organisation; or
 - (iii) is a student at an educational institution;and
 - (b) the person possesses the SRS at the premises of the institution or organisation for analytical, educational or research purposes that do not involve the manufacture of an illegal product; and
 - (c) there is not more than 3 kg of any SRS at the premises.
- (5) A person does not have to hold a licence referred to in subregulation (1) to possess an SRS if —
- (a) the person is a student at an educational institution; and
 - (b) a person employed by the institution holds an SRS storage licence that authorises that person to possess the SRS; and

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- (c) the student possesses the SRS in the course of his or her studies at the educational institution.

Note: the Act s. 12 (Unlicensed possession of dangerous goods).

13. Licences etc. to be carried

- (1) A person who is in possession of an SRS must carry or have in the vehicle in which he or she is travelling or at the place where he or she is —
 - (a) the licence that authorises the person to possess an SRS; or
 - (b) if the licence is a shotfiring licence or an explosives manufacture (MPU) licence and a card has been issued to the holder under the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 168(2) in relation to the licence, the card.

Penalty: a level 3 fine.

- (2) A person who is in possession of an SRS and who holds a licence or card referred to in subregulation (1) must, if asked by a DGO to do so, immediately produce it to the DGO for inspection.

Penalty: a level 3 fine.

14. Duties to keep SRS secure

- (1) In this regulation —
unauthorised person in relation to an SRS, means a person who is not authorised under these regulations to possess the SRS.
- (2) A person in possession of an SRS must keep it secure.
- (3) A person in possession of an SRS must take all reasonable measures to ensure that an unauthorised person does not have unsupervised access to the SRS.

- (4) A person in possession of an SRS must immediately report to the Chief Officer and a police officer any theft, attempted theft or unexplained loss of any amount of the SRS.

Penalty: a level 1 fine and imprisonment for 10 months.

Part 5 — Import and export of SRSs

15. Terms used in this Part

In this Part, unless the contrary intention appears —

export means to export from the State to a country outside Australia;

import means to import to the State from a country outside Australia.

16. Licensing requirements

- (1) A person who imports an SRS must hold an SRS import/export licence that authorises the import.

Penalty: a level 1 fine and imprisonment for 10 months.

- (2) A person who exports an SRS must hold an SRS import/export licence that authorises the export.

Penalty: a level 1 fine and imprisonment for 10 months.

17. Import and export, requirements prior to

The holder of an SRS import/export licence must not import or export the SRS to which the licence relates unless the holder has given the Chief Officer —

- (a) if the SRS is being imported — an “SRS import notice” in respect of the SRS at least 7 days before the date when the SRS is expected to arrive in the State; and
- (b) if the SRS is being exported — an “SRS export notice” in respect of the SRS at least 7 days before the date when the SRS is expected to leave the State; and
- (c) an MSDS for the SRS; and
- (d) a certificate of analysis of the SRS signed by the holder.

Penalty: a level 2 fine.

18. Import and export notices, form and content of

- (1) An “SRS import notice” in respect of an SRS must be in an approved form and contain the following —
 - (a) the details of the SRS import/export licence held by the person importing the SRS; and
 - (b) the name and address of both the consignee and consignor of the SRS;
 - (c) the required details of the SRS being imported;
 - (d) the country from which the SRS is being imported;
 - (e) the date when the SRS is expected to arrive in the State;
 - (f) details that identify the vehicle that will transport the SRS into the State;
 - (g) the port or place where the SRS will arrive in the State;
 - (h) the details of the SRS transport licence held by the person who will transport the SRS in the State from the port or place where the SRS arrives in the State;
 - (i) where the SRS will be initially stored after it arrives in the State.

- (2) An “SRS export notice” in respect of an SRS must be in an approved form and contain the following —
 - (a) the details of the SRS import/export licence held by the person exporting the SRS;
 - (b) the name and address of both the consignee and consignor of the SRS;
 - (c) the required details of the SRS being exported;
 - (d) the date when the SRS is expected to leave the State;
 - (e) the country to which the SRS is being exported;
 - (f) a certificate that the export is in accordance with the law of that country.

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- (3) The holder of an SRS import/export licence must keep a copy of each “SRS import notice” or “SRS export notice” given to the Chief Officer under this regulation for 5 years after the date of the import or export of the SRS.

Penalty: a level 3 fine.

19. Chief Officer may direct that SRS be analysed

- (1) The Chief Officer may give a person importing or exporting an SRS a written notice that directs the person, at the person’s expense, to have the SRS analysed by a person specified, within a period specified, and in accordance with directions specified, in the notice.

- (2) A person given such a notice must obey it.

Penalty: a level 2 fine.

Part 6 — Manufacture of SRSs

20. Terms used in this Part

In this Part, unless the contrary intention appears —

manufacture an SRS, includes —

- (a) to manufacture the SRS wholly or partly from another SRS; and
- (b) to package the SRS.

21. Licensing requirements

- (1) A person who manufactures an SRS must hold an SRS manufacture licence that relates to the SRS and that authorises the manufacture of the SRS.
- (2) A person does not have to hold a licence referred to in subregulation (1) to manufacture an SRS if —
 - (a) the person —
 - (i) is a secure employee of the holder of a licence referred to in subregulation (1) that authorises the holder to manufacture the SRS in the circumstances; and
 - (ii) manufactures the SRS in the course of his or her duties as such an employee;
 - or
 - (b) the person manufactures the SRS while being supervised by the holder of a licence referred to in subregulation (1) that authorises the holder to manufacture the SRS in the circumstances.
- (3) A person does not have to hold a licence referred to in subregulation (1) to manufacture an SRS if —
 - (a) the person —
 - (i) controls and manages a commercial laboratory;
 - or

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- (ii) is employed in such a laboratory by the person who controls and manages the laboratory;
 - and
 - (b) the person manufactures the SRS in the laboratory for analytical or research purposes that do not involve the manufacture of an illegal product; and
 - (c) there is not more than 3 kg of any SRS in the laboratory.
- (4) A person does not have to hold a licence referred to in subregulation (1) to manufacture an SRS if —
- (a) the person —
 - (i) is employed by an educational institution or government organisation; or
 - (ii) is a student at an educational institution;
 - and
 - (b) the person manufactures the SRS at the premises of the institution or organisation for educational or research purposes that do not involve the manufacture of an illegal product; and
 - (c) there is not more than 3 kg of any SRS at the premises.

Note: the Act s. 11 (Unlicensed person involved with dangerous goods).

Part 7 — Storage of SRSs

22. Licensing requirements

- (1) A person who stores a quantity of an SRS at a place must hold at least one of these licences that relates to the SRS and authorises the storage of that quantity at that place —
 - (a) an SRS storage licence;
 - (b) an SRS manufacture licence.
- (2) A person does not have to hold a licence referred to in subregulation (1) to store an SRS at a place if the person —
 - (a) holds a shotfiring licence that relates to the SRS and stores not more than 100 kg of the SRS for use by the person at the place; or
 - (b) holds an explosives storage licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007* and stores the SRS in accordance with that licence as if the SRS were an explosive; or
 - (c) holds an SRS fertiliser licence that relates to the SRS and the SRS is stored for use by the person.
- (3) A person does not have to hold a licence referred to in subregulation (1) to store an SRS if —
 - (a) the person controls and manages a commercial laboratory; and
 - (b) the person stores the SRS in the laboratory for analytical or research purposes that do not involve the manufacture of an illegal product; and
 - (c) there is not more than 3 kg of any SRS in the laboratory.
- (4) A person does not have to hold a licence referred to in subregulation (1) to store an SRS if —

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- (a) the person —
 - (i) is an educational institution or government organisation; or
 - (ii) is employed by such an institution or organisation;and
 - (b) the person stores the SRS at the premises of the institution or organisation for analytical, educational or research purposes that do not involve the manufacture of an illegal product; and
 - (c) there is not more than 3 kg of any SRS at the premises.
- (5) A person does not have to hold a licence referred to in subregulation (1) to store an SRS at a place if —
- (a) the person holds an SRS transport licence; and
 - (b) the person stores the SRS at the place while it is in transit; and
 - (c) the person stores the SRS at the place in containers that are not opened at the place; and
 - (d) the SRS is not used at the place.

Note: the Act s. 11 (Unlicensed person involved with dangerous goods).

23. Storage requirements, specific

- (1) In this regulation —
- licensed place*** means a place specified in —
- (a) an SRS storage licence; or
 - (b) an SRS manufacture licence,
- as a place where an SRS may be stored under the licence;
- packaged SRS*** means any SRS that is in a container that is designed to store the SRS and to be transported.
- (2) A person who stores any packaged SRS at any place must keep an inventory for the place.

- (3) For the purpose of subregulation (2), an inventory is not kept for a place unless a written record is made of this information —
- (a) the required details of the packaged SRS stored at the place at any time; and
 - (b) the receipt into or dispatch from storage at the place of any packaged SRS; and
 - (c) the day and time of each such receipt or dispatch; and
 - (d) for each such dispatch —
 - (i) the name of the person to whom the packaged SRS was dispatched; and
 - (ii) if a licence is needed to possess the SRS, the person's licence details or authority to possess the SRS,
- and is kept for 2 years after the date of each such receipt or dispatch.
- (4) A person who stores any packaged SRS at a licensed place must do a stock take of all packaged SRS stored at the place at least once a month.
- (5) For the purpose of subregulation (4), a stock take of packaged SRS stored at a place is not done unless —
- (a) the quantity of packaged SRS stored at the place at the time of the stock take is compared to the inventory for the place at that time; and
 - (b) any unexplained loss is investigated; and
 - (c) if an unexplained loss is found, the person gives the Chief Officer a written report within one month after the stock take of —
 - (i) the unexplained loss; and
 - (ii) the findings of the investigation; and
 - (iii) any measures taken to ensure the unexplained loss does not occur again.

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- (6) A person who stores any SRS at a licensed place must inspect the place at least once a month.
- (7) For the purposes of subregulation (6), a place is not inspected unless —
 - (a) the means of keeping the SRSs at the place secure are inspected to see that they comply with these regulations; and
 - (b) any SRS stored at the place is inspected to see that it complies with, and is stored in accordance with, these regulations; and
 - (c) a written record is kept for 2 years after the date of the inspection of the date and time of the inspection, the matters inspected, and the findings of the inspection.

Penalty: a level 2 fine.

Part 8 — Transport of SRSs

24. Licensing requirements

- (1) A person who transports a quantity of an SRS on a road that is open to or used by the public or by rail must hold an SRS transport licence that relates to that quantity of the SRS.
- (2) A person does not have to hold a licence referred to in subregulation (1) to transport an SRS if the person —
 - (a) holds an SRS fertiliser licence that relates to the SRS and transports the SRS for use by the person; or
 - (b) holds a shotfiring licence that relates to the SRS and transports the SRS for use by the person; or
 - (c) holds an explosives manufacture (MPU) licence that relates to the SRS and transports the SRS in a mobile processing unit, as that term is defined in the *Dangerous Goods Safety (Explosives) Regulations 2007*.
- (3) A person does not have to hold a licence referred to in subregulation (1) to transport an SRS if the person —
 - (a) is a secure employee of the holder of such a licence that authorises the holder to transport the SRS; and
 - (b) transports the SRS in the course of his or her duties as such an employee.
- (4) A person does not have to hold a licence referred to in subregulation (1) to transport an SRS if —
 - (a) the person —
 - (i) controls and manages a commercial laboratory; or
 - (ii) is employed in such a laboratory by the person who controls and manages the laboratory;and

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- (b) the person transports the SRS for analytical or research purposes in the laboratory that do not involve the manufacture of an illegal product; and
 - (c) the person transports not more than 3 kg of the SRS.
- (5) A person does not have to hold a licence referred to in subregulation (1) to transport an SRS if —
- (a) the person is employed by an educational institution or government organisation; and
 - (b) the person transports the SRS for analytical, educational or research purposes at the institution or organisation that do not involve the manufacture of an illegal product; and
 - (c) the person transports not more than 3 kg of the SRS.
- (6) A person does not have to hold a licence referred to in subregulation (1) to transport an SRS if the person holds an interstate transport licence that authorises the person to transport the SRS in that State or Territory.

Note: the Act s. 11 (Unlicensed person involved with dangerous goods).

25. Interstate licences, compliance with etc.

- (1) A person who transports an SRS pursuant to an interstate transport licence must comply with any condition to which the licence is subject.
Penalty: a level 1 fine.
- (2) A person convicted of an offence under subregulation (1) may be punished for the offence even if the condition contravened is subsequently amended or cancelled, despite *The Criminal Code* section 11.
- (3) A person who transports an SRS pursuant to an interstate transport licence must comply with any security plan that relates to the licence.
Penalty: a level 2 fine.

- (4) A DGO may direct a person who transports an SRS and who purportedly holds an interstate transport licence to produce the licence to the DGO.
- (5) A person given a direction under subregulation (4) must obey it.
Penalty: a level 2 fine.

26. Security breach, duty to report

A person who transports an SRS must immediately report to the Chief Officer and a police officer any unlawful use, or attempted unlawful use, of a vehicle being used to transport the SRS.

Penalty: a level 2 fine.

Part 9 — Supply of SRSs

27. Licensing requirements

- (1) A person who supplies a quantity of an SRS to another person must hold at least one of these licences that relates to the SRS and authorises the supply of that quantity —
 - (a) an SRS import/export licence;
 - (b) an SRS manufacture licence;
 - (c) an SRS storage licence;
 - (d) an SRS transport licence;
 - (e) an SRS supply licence.
- (2) A person does not have to hold a licence referred to in subregulation (1) to supply an SRS if —
 - (a) the person —
 - (i) is a secure employee of the holder of a licence referred to in subregulation (1) that authorises the holder to supply the SRS in the circumstances; and
 - (ii) supplies the SRS in the course of his or her duties as such an employee;
 - or
 - (b) the person supplies the SRS while being supervised by the holder of a licence referred to in subregulation (1) that authorises the holder to supply the SRS in the circumstances.
- (3) A person does not have to hold a licence referred to in subregulation (1) to supply an SRS if the person holds a shotfiring licence that relates to the SRS and —
 - (a) in the course of manufacturing an explosive for use by another person who holds a shotfiring licence that relates to the SRS, supplies the SRS to that person; or

- (b) in the course of manufacturing and detonating an explosive as a service provided to another person who does not hold a shotfiring licence that relates to the SRS —
 - (i) supplies the SRS to that person; and
 - (ii) does not give possession or the control or management of the explosive to the other person.
- (4) A person does not have to hold a licence referred to in subregulation (1) to supply an SRS if the person —
 - (a) holds an explosives manufacture (MPU) licence that relates to the SRS; and
 - (b) in the course of manufacturing an explosive for use by another person who holds a shotfiring licence that relates to the SRS, supplies the SRS to that person by means of an MPU; and
 - (c) does not give possession or the control or management of the explosive to a person who is not authorised to possess it under the *Dangerous Goods Safety (Explosives) Regulations 2007*.
- (5) A person does not have to hold a licence referred to in subregulation (1) to supply an SRS if —
 - (a) the person —
 - (i) controls and manages a commercial laboratory; or
 - (ii) is employed in such a laboratory by the person who controls and manages the laboratory;and
 - (b) the person supplies the SRS for analytical or research purposes in the laboratory that do not involve the manufacture of an illegal product; and
 - (c) not more than 3 kg of any SRS is at the laboratory.

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- (6) A person does not have to hold a licence referred to in subregulation (1) to supply an SRS if —
- (a) the person —
 - (i) is an educational institution or government organisation; or
 - (ii) is employed by such an institution or organisation; or
 - (iii) is a student at an educational institution;and
 - (b) the person supplies the SRS for analytical, educational or research purposes at premises of the institution or organisation that do not involve the manufacture of an illegal product; and
 - (c) not more than 3 kg of any SRS is at the premises.

Note: the Act s. 11 (Unlicensed person involved with dangerous goods).

28. Suppliers, duties of

- (1) This regulation does not apply to the supply of an SRS by a person in circumstances described in regulation 27(3) or (6).
- (2) A person (A) must not supply a quantity of an SRS to a person (“B”) unless B has produced to A, either at or within a reasonable period before the time of supply —
 - (a) proof of the identity of B in the form of a passport or a driver’s licence issued in Australia, that shows B’s photograph; and
 - (b) evidence that B is authorised, whether under a licence or not, to possess that quantity of the SRS under —
 - (i) these regulations; or
 - (ii) if the other person is in a place outside the State, the law of that place.
- (3) A person, other than the holder of a shotfiring licence or an explosives manufacture (MPU) licence, who supplies an SRS to

another person must make a written record of this information —

- (a) the date of supply;
- (b) the name and address of the other person;
- (c) the details of the other person's authority, whether under a licence or not, to possess the SRS under —
 - (i) these regulations; or
 - (ii) if the other person is in a place outside the State, the law of that place;
- (d) the required details of the SRS supplied,

and keep it for 5 years after the date of the supply of the SRS.

Penalty: a level 1 fine and imprisonment for 10 months.

Part 10 — Licences

Division 1 — Preliminary

29. Terms used in this Part

In this Part —

licence means any of the following —

- (a) an SRS import/export licence;
- (b) an SRS manufacture licence;
- (c) an SRS storage licence;
- (d) an SRS transport licence;
- (e) an SRS supply licence;
- (f) an SRS fertiliser licence;

relevant offence means any of the following —

- (a) an offence against the Act or these or any other regulations made under the Act;
- (b) an offence against a law of another place that substantially corresponds to the Act;
- (c) an offence against the law of this State or another place an element of which is the handling, storage or transport of explosives.

Division 2 — General provisions

30. Applying for a licence

- (1) An application for a licence must —
 - (a) be in an approved form; and
 - (b) be accompanied by any document that is required by the approved form; and
 - (c) be accompanied by the fee; and
 - (d) be made to the Chief Officer.

- (2) An application for a licence by an individual must disclose —
- (a) the details of any relevant offence of which he or she has been convicted; and
 - (b) the details of any charge of a relevant offence against him or her that is pending.
- (3) An application by a body corporate or a partnership must —
- (a) be accompanied by proof of the incorporation of the body, or the existence of the partnership; and
 - (b) specify at least one individual who is concerned in the management of, or employed by, the body or partnership who will be responsible for the safety and security of any SRS possessed by the body or partnership under any licence issued to it; and
 - (c) state the individual's personal details; and
 - (d) be accompanied by documentary proof of the individual's identity, age and position with the body or partnership; and
 - (e) disclose the details referred to in subregulation (2) in relation to the individual.
- (4) In addition to any document that may be required by the approved form for the application, an application for any of the following —
- (a) an SRS manufacture licence;
 - (b) an SRS storage licence;
 - (c) an SRS transport licence;
 - (d) an SRS fertiliser licence,

must be accompanied by a security plan that is in writing and complies with regulation 31.

31. Security plans

(1) In this regulation —

authorised person in relation to an SRS, means a person who is authorised under these regulations to possess the SRS.

(2) A security plan for the purposes of any licence referred to in regulation 30(4) must include the following —

- (a) an assessment of the risks of the sabotage, theft or unexplained loss of, or access by any unauthorised person to, any SRS possessed under the licence;
- (b) the measures that will be taken to ensure there is an ongoing assessment of those risks;
- (c) the measures that will be taken —
 - (i) to minimise those risks; and
 - (ii) to keep any such SRS secure;
- (d) the measures that will be taken to ensure that structures and things used to keep any such SRS secure are inspected regularly and maintained;
- (e) the measures that will be taken to control and monitor people's access to any such SRS;
- (f) the measures that will be taken to ensure that any individual who is not an authorised person is supervised at any time he or she has access to any such SRS;
- (g) the measures that will be taken to ensure a record is kept of the name and address of every individual who has supervised or unsupervised access to any such SRS;
- (h) the measures that will be taken to ensure that people who may have access to any such SRS are instructed about and comply with —
 - (i) the Act and these regulations; and
 - (ii) the security plan;

- (i) the measures that will be taken to monitor, and ensure compliance, with the security plan;
 - (j) the measures that will be taken to ensure the security plan and its effectiveness are reviewed regularly and that the plan is revised if necessary;
 - (k) the measures that will be taken to ensure a record is kept of measures taken under the security plan.
- (3) In addition to the matters required by subregulation (2), a security plan for the purposes of an SRS manufacture licence, or an SRS storage licence, must include the following —
- (a) the address and a site plan of the place to which the licence will relate (the *site*);
 - (b) the measures that will be taken to ensure that the required details of any SRS manufactured or received at, or despatched from, the site are recorded and reconciled;
 - (c) the measures that will be taken to ensure that no SRS at the site is supplied to a person unless the person is an authorised person;
 - (d) the measures that will be taken to ensure that a record is kept of —
 - (i) the details of any person to whom an SRS at the site is supplied and the person's authority under these regulations to possess the SRS; and
 - (ii) the required details of the SRS supplied;
 - (e) the measures that will be taken to ensure any unlawful entry or attempted unlawful entry to the site or any theft, attempted theft, or unexplained loss, of any SRS at the site is investigated and reported to the Chief Officer and a police officer.
- (4) In addition to the matters required by subregulation (2), a security plan for the purposes of an SRS transport licence must include the following —

- (a) the measures that will be taken to ensure that any SRS is loaded for transport and unloaded after transport at a place where the SRS is secure;
 - (b) the measures that will be taken to monitor at all times the location of any SRS while it is being transported;
 - (c) the measures that will be taken to ensure that the required details of any SRS being transported is recorded at the beginning and end of the journey and reconciled;
 - (d) the measures that will be taken to ensure that no SRS is consigned for transport by or to a person unless the person is an authorised person;
 - (e) the measures that will be taken to ensure that a record is kept of —
 - (i) the details of the consignor and consignee of any SRS being transported and their authority under these regulations to possess the SRS; and
 - (ii) the required details of the SRS supplied;
 - (f) the measures that will be taken to ensure any unlawful entry to or use of a vehicle used to transport any SRS, or any attempted such entry or use, or any theft, attempted theft or unexplained loss of any SRS while it is being transported is investigated and reported to the Chief Officer.
- (5) In addition to the matters required by subregulation (2), a security plan for the purposes of an SRS fertiliser licence must include such of the material required in a security plan under subregulation (3) or (4) as is relevant to the activities relating to any SRS that will be conducted by the holder of the licence.

32. Dealing with applications

- (1) In this regulation, a legitimate purpose for an SRS is —
 - (a) using it to commercially and lawfully manufacture explosives that have commercial application; or
 - (b) using it to commercially and lawfully manufacture a product that is not and does not contain an SRS or an illegal product; or
 - (c) using it as fertiliser in primary production; or
 - (d) using it for analytical, educational or research purposes that do not involve the manufacture of illegal products.
- (2) For the purposes of deciding an application for a licence, the Chief Officer may request the applicant —
 - (a) to give the Chief Officer any other information that is reasonably necessary in order to decide the application;
 - (b) to permit the Chief Officer to inspect any place or vehicle to which the licence would relate;
 - (c) to amend and resubmit any security plan required by regulation 30(4) that is inadequate.
- (3) An applicant who does not obey such a request within 21 days after the date on which it is made, or any longer period permitted by the Chief Officer, is to be taken to have withdrawn the application and is entitled to a refund of the fee.
- (4) In making a request under this regulation, the Chief Officer may require an applicant to verify information by means of a statutory declaration.
- (5) On an application for a licence, the Chief Officer may refuse the application or, subject to this regulation, issue the licence.
- (6) The Chief Officer must not issue the licence unless satisfied —
 - (a) that the application is made in accordance with regulation 30; and

- (b) if the applicant is an individual, that he or she —
 - (i) has reached 18 years of age; and
 - (ii) has a security clearance that was issued not more than 5 years prior to the date of the application;and
 - (c) if the applicant is a body corporate or a partnership, that each individual specified under regulation 30(3)(b) —
 - (i) has reached 18 years of age; and
 - (ii) is concerned in the management of, or employed by, the body or partnership; and
 - (iii) has a security clearance that was issued not more than 5 years prior to the date of the application;and
 - (d) that any SRS that the applicant intends to possess under the licence will, while it is in the possession of the applicant, be secure, so far as is reasonably practicable; and
 - (e) if under regulation 30(4) a security plan is required to accompany the application, that the plan —
 - (i) complies with regulation 31; and
 - (ii) adequately assesses the risks that it is required to assess; and
 - (iii) contains provisions that are adequate to minimise those risks.
- (7) The Chief Officer must not issue the licence unless satisfied —
- (a) if the application is for an SRS import/export licence — that the applicant conducts a business that involves importing or exporting an SRS for a legitimate purpose or in order to supply it for a legitimate purpose;
 - (b) if the application is for an SRS manufacture licence — that the applicant conducts a business that involves

manufacturing an SRS for a legitimate purpose or in order to supply it for a legitimate purpose;

- (c) if the application is for an SRS storage licence — that the applicant conducts a business that involves storing an SRS that has a legitimate purpose;
- (d) if the application is for an SRS transport licence — that the applicant conducts a business that involves transporting an SRS for a legitimate purpose or in order to supply it for a legitimate purpose;
- (e) if the application is for an SRS supply licence — that the applicant conducts a business that involves supplying an SRS for a legitimate purpose;
- (f) if the application is for an SRS fertiliser licence — that the applicant conducts a business that requires the possession of an SRS for use as a fertiliser in primary production.

33. Licences issued to bodies corporate and partnerships

- (1) A licence issued to a corporate or a partnership must specify the personal details of at least one individual who is responsible for the security of any SRS possessed by the body or partnership under any licence issued to it.
- (2) A body corporate or a partnership that holds a licence may at any time apply to have the licence amended so as to add, amend or remove the personal details of an individual responsible for the security of any SRS possessed by the body or partnership under any licence issued to it.
- (3) The application must be made in accordance with regulation 40.
- (4) On such an application, the Chief Officer must not amend the licence unless satisfied —
 - (a) the application is made in accordance with regulation 40; and

- (b) that any individual whose personal details are to be added to the licence —
 - (i) has reached 18 years of age; and
 - (ii) is concerned in the management of, or employed by, the body or partnership; and
 - (iii) has a security clearance that was issued not more than 5 years prior to the date of the application.
- (5) A licence issued to a body corporate or a partnership ceases to have effect if every individual specified in the licence under this regulation —
 - (a) ceases to be concerned in the management of, or employed by, the body or partnership; or
 - (b) ceases to have a security clearance.

34. Conditions of licences

- (1) A licence may include any of these conditions that the Chief Officer thinks fit —
 - (a) a condition that the licence relate to one SRS or more than one, specified in the licence;
 - (b) a condition that the licence relate to a maximum quantity of an SRS specified in the licence;
 - (c) any condition that is reasonably necessary to ensure, so far as is practicable, that any SRS to which the licence relates will be secure.
- (2) Such a condition may be specified in a licence when it is issued.

35. Duration of licences

- (1) A licence has effect on and from the date it is issued —
 - (a) for the term specified in it, not being more than 3 years; or
 - (b) until it is cancelled before that term expires.

- (2) A licence is to be taken to have been cancelled if —
- (a) it ceases to have effect under these regulations; or
 - (b) the holder, being a body corporate or a partnership is dissolved; or
 - (c) the holder, being an individual —
 - (i) dies; or
 - (ii) ceases to have a security clearance.

36. Form of licences

A licence must be in writing in such form as the Chief Officer decides.

37. Licences not transferable etc.

- (1) A licence is valid only for the person to whom it is issued.
- (2) A licence that relates to a place specified in it is valid only for that place.
- (3) A licence that relates to an SRS specified in it is valid only for that SRS.
- (4) A licence that relates to a maximum quantity of an SRS specified in it is valid only for that quantity.

38. Licences may be surrendered

- (1) A licence holder may surrender the licence by giving it to the Chief Officer with written notice that it is being surrendered.
- (2) On being so notified the Chief Officer must cancel the licence.

39. Lost licences may be replaced

If the Chief Officer is satisfied that a licence has been destroyed, lost or stolen, the Chief Officer may issue the holder of the licence a replacement licence.

40. Amending licences

- (1) In this regulation —
amend a licence, includes to amend, include and remove a condition of the licence.
- (2) A licence holder may apply to amend the licence.
- (3) The application must —
 - (a) be in an approved form; and
 - (b) be accompanied by any document that is required by the approved form; and
 - (c) be made to the Chief Officer.
- (4) On such an application, the Chief Officer may refuse the application, or grant it and amend the licence.
- (5) If, after a licence is issued, the Chief Officer wants to amend the licence in a material way, the Chief Officer must —
 - (a) give the licence holder written notice of the proposal; and
 - (b) except where the removal of a condition is proposed, give the licence holder a reasonable opportunity to make submissions about the proposal; and
 - (c) consider any submissions and then decide whether to amend the licence; and
 - (d) give the licence holder written notice of the decision.
- (6) If the Chief Officer decides to amend a licence, the Chief Officer must give the licence holder written notice of the decision that —
 - (a) states the date (being a date no earlier than the date on which the notice is received by the holder) on which the decision takes effect; and
 - (b) is accompanied by a replacement licence the terms of which incorporate the amendment.

- (7) A decision by the Chief Officer to amend a licence has effect on the date specified in the written notice.

41. Renewing licences, procedure for

- (1) In this regulation —
renewal application means an application made under subregulation (2).
- (2) The holder of a licence that, under regulation 35(1)(a), will expire within 3 months may apply under this regulation for a new licence.
- (3) A renewal application cannot be made if the licence has expired.
- (4) A renewal application must —
- (a) be in an approved form; and
 - (b) be accompanied by any document that is required by the approved form; and
 - (c) be accompanied by the fee; and
 - (d) be made to the Chief Officer.
- (5) A renewal application in respect of a licence referred to in regulation 30(4) need not be accompanied by a security plan.
- (6) On a renewal application, the Chief Officer may request the applicant to supply any other information that is reasonably necessary to decide whether to issue a new licence.
- (7) The Chief Officer, in making such a request, may require an applicant to verify information by means of a statutory declaration.
- (8) An applicant who does not obey such a request within 21 days after the date on which it is made, or any longer period permitted by the Chief Officer, is to be taken to have withdrawn the renewal application and is entitled to a refund of the fee.

- (9) The Chief Officer must deal with a renewal application under regulation 32 as if it were an application for a licence.
- (10) If a renewal application is not granted or refused before the date on which the licence expires under regulation 35(1)(a), the licence has effect after that date until the application is granted or refused, unless in the meantime the licence is cancelled or the application is withdrawn.
- (11) If the Chief Officer grants a renewal application before or after the date on which the licence expires under regulation 35(1)(a), the Chief Officer may issue a licence that has effect on and from that date instead of the date it is issued, despite regulation 35(1).

Division 3 — Suspending and cancelling licences

42. Suspending or cancelling licences, grounds for

- (1) Grounds to suspend a licence exist if —
 - (a) the holder, or an individual specified in the licence under regulation 33, is charged in this State or elsewhere with a relevant offence; or
 - (b) there are reasonable grounds to suspect the holder —
 - (i) has not complied with the terms of the licence; or
 - (ii) has not complied with the Act or these or any other regulations made under the Act; or
 - (iii) in purported compliance with the Act, these regulations, or the licence, gave false or misleading information.
- (2) Grounds to suspend or cancel a licence exist if the holder is convicted in this State or elsewhere of a relevant offence.

43. Suspending or cancelling licences, procedure for

- (1) This regulation applies if the Chief Officer considers there are grounds to suspend or cancel a licence and proposes to suspend or cancel it (the *proposed action*), unless regulation 44 applies.

- (2) The Chief Officer must give the licence holder a written notice that contains this information —
 - (a) the proposed action;
 - (b) the grounds for the proposed action and the evidence for them;
 - (c) if the Chief Officer proposes to suspend the licence, the suspension period (either as a period of time or by reference to a future event);
 - (d) that the holder is entitled to give the Chief Officer written submissions about the proposed action;
 - (e) the date (the *submission date*), being at least 28 days after the date on which the notice is given to the holder, by which any such submissions must be given.
- (3) If after the submission date the Chief Officer, having considered any submissions received from the holder before that date, is satisfied there are grounds to do so, he or she may —
 - (a) if the notice stated it was proposed to suspend the licence — suspend the licence for not longer than the suspension period stated in the notice;
 - (b) if the notice stated it was proposed to cancel the licence — either cancel or suspend the licence.
- (4) The Chief Officer must give the holder written notice of any decision to, or not to, suspend or cancel the licence with written reasons for any decision to suspend or cancel the licence.
- (5) The suspension or cancellation of the licence has effect when the holder is given the notice or on any later date stated in it.

44. Suspension in urgent circumstances

- (1) If the Chief Officer is satisfied —
 - (a) there are grounds to suspend or cancel a licence; and
 - (b) that if the procedure in regulation 43 were followed, an unacceptable risk in relation to an SRS in relation to

people, property or the environment would exist while it is followed,

he or she may suspend the licence for such period as he or she decides by giving the holder of the licence a written notice of the suspension and the suspension period (stated either as a period of time or by reference to a future event) and written reasons for the decision.

- (2) The suspension has effect when the holder is given the notice or on any later date stated in it.
- (3) This regulation does not prevent the Chief Officer from also taking action under regulation 43 to cancel a licence.

45. Suspension or cancellation, general matters

- (1) If the Chief Officer suspends or cancels a licence, the holder must return it to the Chief Officer within 14 days after the date of receiving the notice.
- (2) A person who receives such a notice and who, without a reasonable excuse, does not return the licence commits an offence.
Penalty: a level 3 fine.
- (3) The Chief Officer may terminate the suspension of a licence at any time by giving the holder a written notice of the fact.

Division 4 — Duties of licence holders

46. Licence holder charged with or convicted of relevant offence to notify Chief Officer

A licence holder who is charged with or convicted of a relevant offence, in this State or elsewhere, must give the Chief Officer written notice of the fact as soon as practicable.

Penalty: a level 3 fine.

47. Condition of licence, contravening

- (1) A licence holder must not contravene a condition of the licence.
Penalty: a level 1 fine and imprisonment for 10 months.
- (2) A person convicted of an offence under subregulation (1) may be punished for the offence even if the condition contravened was amended or cancelled after the offence was committed, despite *The Criminal Code* section 11.

Part 11 — Miscellaneous matters

48. “Safety management document” prescribed (Act s. 3)

A security plan that relates to a licence referred to in regulation 30(4) is prescribed to be a safety management document for the purposes of the definition of “safety management document” in the Act section 3.

49. False or misleading information, offences

- (1) A person must not record any information that the person knows is false or misleading in a plan, record or report that is required to be made or kept under these regulations.

Penalty: a level 1 fine and imprisonment for 10 months.

- (2) A person must not give materially false or misleading information in, or in connection with —
- (a) any notice that the person is required to give to another person under these regulations; or
 - (b) an application for or in relation to a licence; or
 - (c) any other application that may be made under these regulations.

Penalty: a level 1 fine and imprisonment for 10 months.

50. Security plan, duties in respect of

- (1) In this regulation —
licence means a licence referred to in regulation 30(4).
- (2) It is a condition of a licence that the holder obey the security plan that relates to the licence.
- (3) If the holder of a licence is a body corporate or a partnership, each individual specified in the licence under regulation 33 is responsible for the implementation of the security plan that relates to the licence.

- (4) If the holder of a licence is a body corporate or a partnership, each individual concerned in the management of, or employed by, the body or partnership must obey the security plan that relates to the licence.
Penalty: a level 2 fine.
- (5) The holder of a licence must promptly give the Chief Officer written notice of any change of the identity or contact details of the individual responsible for ensuring the security plan that relates to the licence is implemented.
Penalty: a level 2 fine.

51. Prescribed offences and modified penalties (Act s. 56)

For the purposes of the Act section 56 —

- (a) each offence under these regulations the penalty for which is a level 2 fine or a level 3 fine is a prescribed offence unless the provision creating the offence is listed in the Table to this regulation; and
- (b) the modified penalty for each such offence is 10% of the maximum fine for the offence under these regulations.

Table

Provision	Provision	Provision
r. 50(2)	r. 50(4)	

Note: the *Dangerous Goods Safety (General) Regulations 2007* prescribe the form of an infringement notice and other matters for the purposes of the Act s. 56.

Part 12 — Transitional matters

52. Licences

- (1) In this regulation —
licence has the meaning given to that term by regulation 29.
- (2) A person who under these regulations is required to hold a licence to possess an SRS or to engage in an activity in respect of an SRS, is not required to hold the licence during the period that commences on the date on which these regulations commence and ends —
 - (a) 12 months after that commencement; or
 - (b) when the person is issued the licence under these regulations; or
 - (c) when the person is refused the licence under these regulations and either —
 - (i) the time for applying for a review of the refusal expires without an application being made; or
 - (ii) an application for a review of the refusal is made but is unsuccessful,whichever happens first.
- (3) For the purposes of subregulation (2)(c), an application for a review of a refusal is unsuccessful if —
 - (a) it results in the refusal being confirmed; or
 - (b) it is dismissed without being decided, discontinued, or withdrawn.

53. Security plans

- (1) This regulation applies if a licence referred to in regulation 30(4) is issued to a person in the 12 month period that commences when these regulations commence.

- (2) A prosecution for an offence under regulation 47(1) alleging the person has contravened the condition referred to in regulation 50(2) cannot be commenced in the 12 month period that commences when these regulations commence.

Schedule 1 — Fees

[r. 3]

Item	Fee for	Fee (\$)
1.	Application for a licence, for the term of the licence per year or part of a year (r. 30(1)(c)) —	
	(a) SRS import/export licence	160
	(b) SRS manufacture licence	300
	(c) SRS storage licence	140
	(d) SRS transport licence	150
	(e) SRS supply licence	130
	(f) SRS fertiliser licence	50
2.	Application for renewal of a licence (r. 41(4)(c)) — the fee in item 1 for the licence	

Schedule 2 — Security risk substances

[r. 3]

1. Ammonium nitrate, substances containing

Any substance that contains more than 45% ammonium nitrate is a security risk substance unless —

- (a) it is an explosive; or
- (b) it is an aqueous solution, being a homogenous mixture of 2 or more components in a single phase.

Notes

¹ This is a compilation of the *Dangerous Goods Safety (Security Risk Substances) Regulations 2007*. The following table contains information about those regulations.

Compilation table

Citation	Gazettal	Commencement
<i>Dangerous Goods Safety (Security Risk Substances) Regulations 2007</i>	31 Dec 2007 p. 6719-75	r. 1 and 2: 31 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Mar 2008 (see r. 2(b) and <i>Gazette</i> 29 Feb 2008 p. 669)