

Acquisition, Retention, Use, or Transfer of Schedule 1 chemicals: Consumption Facility

Permit Application / Renewal /Notification Guide

When is a permit application or renewal required ?

Section 16(1) of the *Chemical Weapons (Prohibition) Act 1994* requires the operator of a facility to obtain a permit to operate the facility during a particular calendar year if Schedule 1 chemicals (other than excluded Schedule 1 chemicals) are likely to be produced, acquired, retained or used at, or transferred from, the facility during the year.

For the purposes of subsection (1), Schedule 1 chemicals are excluded chemicals in relation to a facility and to a year if:

- (a) the total amount of those chemicals likely to be acquired, retained or used at, or transferred from, the facility during the year does not exceed 100 grams; and
- (b) Schedule 1 chemicals will not be produced at the facility during that year; and
- (c) the Schedule 1 chemicals are intended only to be put to research, medical or pharmaceutical purposes.

Application for a permit to operate a Consumption Facility

Section 19(6) of the *Chemical Weapons (Prohibition) Act* allows for an application to be made to operate a consumption facility whereby Schedule 1 chemicals, in quantities greater than 100 grams, can be acquired, retained, use at, or transferred from the facility, provided no production of Schedule 1 chemicals takes place during the calendar year.

Application to renew a consumption facility permit for a calendar year must be made before 14 October in the preceding year. To apply for a permit or renewal of a permit, use the form referred to in this guide.

The *Chemical Weapons (Prohibition) Act* prescribes penalties for operating a facility without a permit, if one is required.

When is a notification required?

Section 28 of the *Chemical Weapons (Prohibition) Act* requires the operator of a facility to make a notification if a permit to operate the facility during a particular year is or was held in accordance with a requirement of subsection 16(1) but there is no requirement for such a permit under that subsection in respect of the next year. Notification must be made before 15 October if the facility was not included in Australia's declarations to the OPCW (see below).

To make a notification, use the form referred to in this guide, although questions 12 to 22 do not need to be answered.

Declarations to the Organisation for the Prohibition of Chemical Weapons (OPCW)

The main purpose of collecting this information is to enable the Australian Safeguards and Non-Proliferation Office (ASNO) to prepare declarations to be provided to the OPCW. Each country which is a party to the CWC must make these declarations as a part of measures to provide assurance that the country is complying with its obligations under the Convention.

Consumption facilities will not be declared to the OPCW, though such facilities still require a permit under the *Chemical Weapons (Prohibition) Act*. If a consumption facility, however, expects to produce any Schedule 1 chemicals in any calendar year, then ASNO must be notified at least 180 days prior to the anticipated date of production so that Australia's CWC obligations continue to be fully met.

Confidentiality

The CWC contains strict measures for the protection of information provided to the OPCW. The principle guiding these measures is that it is only to fulfil obligations under the Convention that information and data can be used or disseminated by the OPCW or requested by any other country. This is reflected in the *Chemical Weapons (Prohibition) Act*, which prescribes criminal penalties for unauthorised release of information by ASNO officers.

To help create transparency, and confidence in the CWC, the Convention provides that certain information be made available, if requested, to ASNO's counterparts in other countries which are party to the CWC. Australian information disclosed following such a request must also be protected by ASNO's counterpart with the level of confidentiality specified by ASNO. This includes all information contained in both the initial and annual declarations.

If there is any particular aspect of the information you provide which you believe requires special protection, the level of protection sought should be based on the OPCW criteria set out below. Please describe the information to be protected against the classifications at item 23 on the form. If you do indicate that certain details require particular protection, ASNO will not include these in the reminder sent to you for permit renewal. The OPCW's classification categories are :

"OPCW R estricted"	information for which unauthorised disclosure <i>would be prejudicial</i> to the interests of Australia, or of a commercial or governmental body or citizen
"OPCW P rotected"	information for which unauthorised disclosure may <i>cause substantial damage</i> to the interests of Australia, or of a commercial or governmental body or citizen
"OPCW H ighly Protected"	information for which unauthorised disclosure would <i>cause serious damage from the point of view of national security or commercial secrecy</i> , to the interests of Australia or of a commercial or governmental body or citizen

On completing the form

When you have completed the form, please sign the declaration on the last page and return the form to ASNO. The *Chemical Weapons (Prohibition) Act* prescribes penalties for provision of false or misleading information, and for operating a facility without a permit, if one is required.

If you have any queries, please contact the Director of the Chemical Weapons Convention Implementation Section on either (02) 6261 1914 or (02) 6261 1920.