



New South Wales

# Drug Misuse and Trafficking Amendment (Precursors) Regulation 2007

under the

Drug Misuse and Trafficking Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Drug Misuse and Trafficking Act 1985*.

BOB DEBUS, M.P.,  
Attorney General

## Explanatory note

The object of this Regulation is to make various amendments to the *Drug Misuse and Trafficking Regulation 2006* for the following purposes:

- (a) to make amendments consequential on the commencement of Schedule 1.15 [2] and [13] to the *Crimes and Courts Legislation Amendment Act 2006* (which relate to the regulation-making power in relation to the sale and storage of certain drug precursors and apparatus capable of being used in the manufacture or production of a prohibited drug) (**Schedule 1 [1], [2] and [11]**),
- (b) to provide that the only proof of identity that may be used to comply with provisions relating to the supply of certain drug precursors is an Australian driver licence that displays a photograph, an Australian passport or a Photo Card issued under the *Photo Card Act 2005* (**Schedule 1 [3], [4], [6] and [7]**),
- (c) to provide that the end user declaration that is provided to a supplier of certain drug precursors by the receiver is to contain information setting out the intended use of the precursor (**Schedule 1 [5] and [8]**),
- (d) to provide for the regulation of the sale of certain listed drug manufacture or production apparatus in a similar manner to the regulation of the sale of certain drug precursors (**Schedule 1 [9] and [11]**),
- (e) to prescribe certain interstate drug analysts so that they may give certificate evidence relating to their analyses under section 43 of the *Drug Misuse and Trafficking Act 1985* (**Schedule 1 [10]**).

This Regulation is made under the *Drug Misuse and Trafficking Act 1985*, including sections 24A, 43 and 45 (the general regulation-making power).

## **2007 No 38**

Clause 1 Drug Misuse and Trafficking Amendment (Precursors) Regulation 2007

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# **Drug Misuse and Trafficking Amendment (Precursors) Regulation 2007**

under the

Drug Misuse and Trafficking Act 1985

### **1 Name of Regulation**

This Regulation is the *Drug Misuse and Trafficking Amendment (Precursors) Regulation 2007*.

### **2 Commencement**

- (1) Subject to subclause (2), this Regulation commences on 2 February 2007.
- (2) Schedule 1 [3]–[9] to this Regulation commence on 1 March 2007.

### **3 Amendment of Drug Misuse and Trafficking Regulation 2006**

The *Drug Misuse and Trafficking Regulation 2006* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 3)

**[1] Part 3, heading**

Omit the heading to Part 3. Insert instead:

**Part 3 Precursors and drug manufacture or production apparatus****[2] Clause 9**

Omit the clause. Insert instead:

**9 Precursors and drug manufacture or production apparatus**

- (1) The substances listed in Schedule 1 are specified as precursors for the purposes of section 24A of the Act.
- (2) The substances listed in Schedules 1 and 2 are prescribed as precursors for the purposes of section 45 of the Act.
- (3) The types of apparatus listed in Schedule 3 are prescribed for the purposes of section 45 of the Act.

**Note.** The term **substance** is defined in section 3 of the Act as including preparation and admixture and all salts, isomers, esters or ethers of any substance and all salts of those isomers, esters and ethers.

**[3] Clause 10 Sales and storage of Schedule 1 precursors**

Omit “(for example, a driver licence or passport)” from clause 10 (1) (c).

**[4] Clause 10 (8A)**

Insert after clause 10 (8):

- (8A) The only proof of identity that may be used for the purposes of subclause (1) (including the provision of an end user declaration) is:
  - (a) an Australian driver licence held by the receiver that displays a photograph of the receiver, or
  - (b) an Australian passport, or
  - (c) a Photo Card held by a receiver and issued under the *Photo Card Act 2005*.

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Schedule 1 Amendments

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### [5] Clause 10 (9)

Insert at the end of the definition of *end user declaration*:

- (e) the intended use for the Schedule 1 precursor.

### [6] Clause 11 Sales of Schedule 2 precursors

Omit clause 11 (1). Insert instead:

- (1) A person (*supplier*) must not supply any Schedule 2 precursor to a person (*receiver*) unless the receiver has furnished the supplier with proof of the receiver's identity and:
  - (a) payment for the supply is made through an account that the receiver has with the supplier, or
  - (b) the receiver has provided the supplier with an end user declaration.

### [7] Clause 11 (4A)

Insert after clause 11 (4):

- (4A) The only proof of identity that may be used for the purposes of subclause (1) (including the provision of an end user declaration) is:
  - (a) an Australian driver licence held by the receiver that displays a photograph of the receiver, or
  - (b) an Australian passport, or
  - (c) a Photo Card held by a receiver and issued under the *Photo Card Act 2005*.

### [8] Clause 11 (5)

Insert at the end of the definition of *end user declaration* in clause 11 (5):

- (d) the intended use for the Schedule 2 precursor.

### [9] Clause 11A

Insert after clause 11:

#### 11A Sales of Schedule 3 apparatus

- (1) A person (*supplier*) must not supply any Schedule 3 apparatus to a person (*receiver*) unless the receiver has furnished the supplier with proof of the receiver's identity and:
  - (a) payment for the supply is made through an account that the receiver has with the supplier, or

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- (b) the receiver has provided the supplier with an end user declaration.
- (2) A supplier must not supply any Schedule 3 apparatus to a person unless the supplier has recorded:
- (a) the name and quantity of the Schedule 3 apparatus supplied, and
  - (b) the date of supply of the Schedule 3 apparatus from the supplier's premises.
- (3) A supplier must make each end user declaration provided to the supplier in accordance with subclause (1) (b), and each record made under subclause (2), available for inspection on request by a police officer during business hours.
- (4) A supplier must keep each end user declaration provided to the supplier in accordance with subclause (1) (b), and each record made under subclause (2), for a period of at least 2 years.
- (5) The only proof of identity that may be used for the purposes of subclause (1) (including the provision of an end user declaration) is:
- (a) an Australian driver licence held by the receiver that displays a photograph of the receiver, or
  - (b) an Australian passport, or
  - (c) a Photo Card held by a receiver and issued under the *Photo Card Act 2005*.
- (6) In this clause:
- end user declaration** means a document, completed by a proposed receiver of any Schedule 3 apparatus, that specifies the following:
- (a) the name and address of the receiver,
  - (b) details of the receiver's proof of identity furnished to the supplier concerned,
  - (c) the name and quantity of the Schedule 3 apparatus to be supplied,
  - (d) the intended use for the Schedule 3 apparatus.
- Schedule 3 apparatus** means any apparatus listed in Schedule 3.
- Maximum penalty:
- (a) in the case of a corporation—100 penalty units for a first offence or 150 penalty units for a second or subsequent offence, or

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#### Schedule 1 Amendments

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- (b) in the case of an individual—30 penalty units for a first offence or 50 penalty units for a second or subsequent offence.

#### [10] Clause 21

Insert after clause 20:

##### **21 Certificate evidence from interstate analysts: section 43**

For the purposes of the definition of *analyst* in section 43 (6) of the Act, the following persons are prescribed:

- (a) an analyst within the meaning of the *Drugs of Dependence Act 1989* of the Australian Capital Territory,
- (b) an analyst within the meaning of the *Poisons and Drugs Act 1978* of the Australian Capital Territory,
- (c) an analyst within the meaning of the *Misuse of Drugs Act* of the Northern Territory,
- (d) an analyst within the meaning of the *Drugs Misuse Act 1986* of Queensland,
- (e) an analyst within the meaning of the *Controlled Substances Act 1984* of South Australia,
- (f) an analyst within the meaning of the *Poisons Act 1971* of Tasmania,
- (g) an analyst within the meaning of section 120 of the *Drugs, Poisons and Controlled Substances Act 1981* of Victoria,
- (h) an analyst within the meaning of the *Misuse of Drugs Act 1981* of Western Australia (being an analyst registered under section 203 of the *Health Act 1911* of Western Australia).

#### [11] Schedule 3

Insert after Schedule 2:

### **Schedule 3 Drug manufacture or production apparatus—clause 11A**

(Clauses 9 and 11A)

Hydrogen sulfide gas cylinder  
Hydrogen chloride gas cylinder  
Hydrogen gas cylinder

Ammonia gas cylinder  
Methylamine gas cylinder  
Round bottom reaction flask (capacity 500ml or greater)  
Condenser (joint size B19 or greater)  
Splash head  
Distillation head  
Heating mantle (capacity 500ml or greater)  
Pill or tablet press (whether manual or mechanical)  
Rotary evaporator