

October 2017

HEALTH AND SAFETY AT WORK (HAZARDOUS SUBSTANCES) REGULATIONS 2017

Controlled Substances Licences

Introduction

The Health and Safety at Work (Hazardous Substances) Regulations 2017 (the Regulations), require that a person have a Controlled Substance Licence (CSL) to possess certain explosives, vertebrate toxic agents and fumigants.

The requirements for CSLs are set out in Part 7 of the Regulations. The provisions for authorisations are covered by Part 5 Subpart 2 of the Health and Safety at Work Act 2015 (HSWA).

Controlled substances are particularly hazardous and pose a risk of serious injury, ill-health or death if they are not handled appropriately. The purpose of the CSL authorisation regime is to protect health and safety of workers and the public by limiting possession of controlled substances to people who have a legitimate work need for them and who can manage the risks associated with them.

The CSL authorisation regime restricts the possession of controlled substances to persons who:

- are 17 years and over; and
- are fit and proper to possess the substances; and
- require possession of the substances to carry out their work; and
- either
 - hold a compliance certificate as a certified handler for the substances or classes of substances concerned; or
 - hold a current dangerous goods endorsement on his or her driver licence under the Land Transport Rule: Dangerous Goods 2005 (if substances are being transported by road); or
 - hold a current aerial vertebrate toxic agent rating issued under Part 61 of the Civil Aviation Rules.

Purpose

This operational policy outlines the approach WorkSafe will take to administering the CSL authorisation regime.

Related documents

The related documents and policies for this operational policy include:

- Part 7 of the Health and Safety at Work (Hazardous Substances) Regulations 2017
- *Authorisations Regulatory Function Policy*
- *Operational Policy Fit and Proper Person Assessment - Health and Safety at Work (Hazardous Substances) Regulations 2017*
- Fit and Proper Test Technical Guide.

Scope

This policy applies to decision-making regarding CSL authorisations. The policy covers:

- Applications
- Conditions on CSLs
- Duration of authorisation.

Applications

WorkSafe will process a CSL application when it receives an application that meets all the requirements of regulations 7.1(1) and 7.1(2), including payment of the specified fee.

WorkSafe must be satisfied that the applicant needs to possess the substance for their work. The applicant will be required to complete a statutory declaration stating they require the controlled substance(s) for their work and provide documented evidence of their work need.

The Regulations do not contain an explicit provision for the renewal of an expired CSL. An application for renewal will be treated as a new application and the provisions of regulation 7.1 shall apply in full.

Conditions on CSLs

WorkSafe may impose conditions on a CSL. Conditions are placed on a licence to support the safe administration of the CSL regime or to ensure that the CSL aligns with the training and competency of the applicant. Conditions placed on CSLs must be fair and reasonable, and in keeping with the purpose of the CSL authorisation regime.

Duration of the authorisation

WorkSafe will issue a CSL for five years, or until the expiry date of the applicant's certified handler certificate or dangerous goods endorsement on his or her driver license or aerial vertebrate toxic agent rating, whichever date comes first.

Fit and proper

When assessing whether a person is fit and proper to hold a CSL, WorkSafe will follow the operational policy: Fit and Proper Person Assessment – Health and Safety at Work (Hazardous Substances) Regulations 2017.