

MP303*

Dangerous Goods Safety Act 2004

Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2012*.

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 1 April 2012.

3. Regulations amended

These regulations amend the *Dangerous Goods Safety (Explosives) Regulations 2007*.

4. Regulation 3 amended

In regulation 3 insert in alphabetical order:

annual fee, for a trading licence, means the annual fee in Schedule 1 for the licence;

trading licence means —

- (a) an explosives import/export licence; or
- (b) an explosives manufacture licence; or
- (c) an explosives manufacture (MPU) licence; or
- (d) an explosives storage licence; or
- (e) an explosives transport licence; or
- (f) an explosives supply licence;

5. Regulation 157 amended

(1) Delete regulation 157(1)(c) and insert:

- (c) if the application is not for a trading licence, be accompanied by the fee; and

- (da) if the application is for a trading licence, be accompanied by the annual fee payable for the first year of the licence applied for; and
- (2) After regulation 157(1) insert:
- (2A) An annual fee is not payable under subregulation (1)(da) if the licence would relate to a place and a fee would be payable under the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* regulation 34 in respect of the place if the licence were issued.
- 6. Regulation 163 amended**
- (1) In regulation 163(2)(a) delete “licence” and insert:
- licence, or an explosives storage licence,
- (2) In regulation 163(3)(a) delete “licence” and insert:
- licence, or an explosives storage licence,
- 7. Regulation 167 amended**
- Delete regulation 167(1) and insert:
- (1A) In this regulation —
existing trading licence means a trading licence that, immediately before 1 April 2012, is in effect.
- (1B) This regulation is subject to the *Dangerous Goods Safety (General) Regulations 2007* regulation 15.
- (1C) Each existing trading licence has effect for 5 years commencing on —
- (a) if it has never been renewed, the date on which it was issued; or
- (b) if it has been renewed, the date on which the last renewal took effect,
- unless it is cancelled in that period.
- (1D) A trading licence issued on or after 1 April 2012 has effect for 5 years unless it is cancelled in that period.

- (1) A licence other than a trading licence has effect on and from the date it is issued —
 - (a) for the period specified in it, being 3 years or less; or
 - (b) until it is cancelled in that period.

8. Regulation 172 amended

- (1) Delete regulation 172(3)(c) and insert:
 - (c) if the proposed amendment relates to an explosives storage licence and would increase the maximum quantity of explosives specified in it to a quantity that would mean a greater annual fee is payable for the licence than has already been paid — a fee equal to the difference between —
 - (i) the greater annual fee; and
 - (ii) the fee already paid,adjusted proportionally for the remaining part of the year to which the annual fee relates; and
- (2) After regulation 172(3) insert:
 - (4A) A fee is not payable under subregulation (3)(c) if a fee is payable under the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* regulation 34 in respect of the site to which the licence relates.
- (3) After regulation 172(9) insert:
 - (9) If an explosives storage licence is amended to reduce the maximum quantity of explosives specified in it to a quantity that would mean a lower annual fee is payable for the licence, the licence holder is entitled to a refund of the difference between —
 - (a) the annual fee already paid; and
 - (b) the lower annual fee,adjusted proportionally for the remaining part of the year for which the annual fee was paid.

9. Regulation 173 amended

(1) Before regulation 173(1) insert:

(1A) This regulation does not apply to a trading licence.

(2) Delete regulation 173(3)(i) and insert:

(i) be accompanied by the fee; and

(3) In regulation 173(4) delete “licence referred to in regulation 157(7),” and insert:

fireworks contractor licence,

10. Regulation 174A inserted

After regulation 173 insert:

174A. Trading licences, renewal of

- (1) The Chief Officer must renew a trading licence that is about to expire due to the passage of time (the *existing trading licence*) unless —
- (a) the holder of the existing trading licence is dead or, being a body corporate or partnership, is dissolved; or
 - (b) the holder of the existing trading licence does not want it renewed; or
 - (c) if the existing trading licence relates to a place specified in it, a trading licence is not needed for the place; or
 - (d) the annual fee payable for the first year of the new trading licence has not been paid.
- (2) To renew an existing trading licence the Chief Officer must grant a new trading licence that has effect immediately after the existing trading licence expires and the terms of which are the same as those of the existing trading licence.

11. Regulation 174 amended

In regulation 174(2):

(a) in paragraph (b) delete “regulations.” and insert:

regulations; or

- (b) after paragraph (b) insert:
 - (c) the holder has not paid a fee in relation to the licence in accordance with the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* regulation 34.

12. Regulation 179A inserted

Before regulation 179 insert:

179A. Annual fees for trading licences

- (1) In this regulation —
grace period means the 3 month period referred to in subregulation (3).
- (2) An annual fee is not payable under this regulation in respect of a trading licence if the licence relates to a place specified in it and a fee is payable under the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* regulation 34 in respect of the place.
- (3) The holder of a trading licence must pay the annual fee for the licence before, on or within 3 months after —
 - (a) if under the *Dangerous Goods Safety (General) Regulations 2007* regulation 15 the Chief Officer has set a due date for the licence — the due date in each year;
 - (b) in any other case, each anniversary of —
 - (i) if the licence has never been renewed, the date on which it was granted; or
 - (ii) if the licence has been renewed, the date on which the last renewal took effect.
- (4) If an annual fee is paid in the grace period, the holder must pay, with the annual fee, a late payment fee equal to 10% of the fee.

13. Regulation 184 deleted

Delete regulation 184.

14. Regulation 187 replaced

Delete regulation 187 and insert:

187. Fees to be paid annually

The fees payable under this Part by the holder of a licence referred to in this Part for use of an SEF must be paid in advance —

- (a) if the holder was lawfully using the SEF immediately before 1 May 2012, before 1 May in each year;
- (b) in any other case, before —
 - (i) the first day on which the holder is authorised to use the SEF; and
 - (ii) subsequently, before 1 May in each year.

15. Regulation 188 amended

In regulation 188:

- (a) delete “or part of a year”;
- (b) delete paragraph (a) and insert:
 - (a) if the SEF is a type A facility — the greater of —
 - (i) \$3 187; or
 - (ii) \$8.45 per m² or part thereof of the area of land occupied by the holder at the SEF other than for storing explosives;

16. Regulation 189 amended

In regulation 189:

- (a) delete “or part thereof”;
- (b) delete paragraph (a)(i) and (ii) and insert:
 - (i) if the licence authorises the storage of less than 100 kg of explosive — \$200;
 - (ii) if the licence authorises the storage of 100 kg or more but not more than 1 000 kg of explosive — \$200 plus \$1.70 for each 10 kg or part thereof over 100 kg authorised by the licence;

(c) delete paragraph (b) and insert:

- (b) if the explosive is stored in a magazine provided by the holder at a type A facility — \$305 for each 1 000 kg or part thereof of the official capacity of the magazine;

17. Regulation 190 amended

In regulation 190(2):

- (a) delete “or part thereof”;
 (b) delete paragraph (a) and insert:

- (a) if the SEF is a type A facility — the greater of —
- (i) \$3 187; or
 - (ii) \$8.45 per m² or part thereof of the area of land occupied by the holder at the SEF other than for storing explosives;

18. Schedule 1 amended

- (1) Delete Schedule 1 item 5(a), (b), (c), (d), (e) and (g).
 (2) After Schedule 1 item 5 insert:

6A. Annual fee for a trading licence (r. 157(1)(da) and 174A) —

(a) explosives import/export licence	163
(b) explosives manufacture licence	347
(c) explosives manufacture (MPU) licence	800
(d) explosives storage licence —	
(i) for less than 1 t of explosives	102
(ii) for 1 t or more but less than 5 t of explosives	123
(iii) for more than 5 t of explosives	327
(e) explosives transport licence	817
(f) explosives supply licence	56

By Command of the Governor,

G. MOORE, Clerk of the Executive Council.