Western Australia

Dangerous Goods Safety Act 2004

Dangerous Goods Safety (Explosives) Regulations 2007

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Western Australia

Dangerous Goods Safety (Explosives) Regulations 2007

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Defined terms

Dangerous Goods Safety (Explosives) Regulations 2007

Part 1 — Preliminary matters

1. Citation

These regulations are the *Dangerous Goods Safety (Explosives) 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, unless the contrary intention appears —

access to an explosive, 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 explosive is situated;

Act means the *Dangerous Goods Safety Act 2004*;

ADG Code has the meaning given in the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007* regulation 4;

AE Code means the *Australian Code for the Transport of Explosives by Road and Rail*, Third Edition 2009, published by the Commonwealth of Australia (ISBN 978 0 642 32747 5 or ISBN 978 0 642 32753 6) (also called the Australian Explosives

Code) including (for the avoidance of doubt) its technical appendices;

aerial shell has the meaning given to that term by AS 2187.0;

alternative safety measures has the meaning given to that term in regulation 6;

ammunition means any cartridge or shell for a gun;

ammunition propellant means a deflagrating explosive in powder or granula form that is designed to be used in ammunition to provide propulsion, but not black powder;

ANFO means a mixture of ammonium nitrate and fuel oil or other oil;

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

approved code of practice means a code of practice approved under the Act section 20;

approved form means a form approved under regulation 13;

AS 2187 has the meaning given to that term by regulation 7;

AS 2187.0 has the meaning given to that term by regulation 7;

AS 2187.1 has the meaning given to that term in regulation 7;

AS 2187.2 has the meaning given to that term in regulation 7;

authorised explosive means an explosive authorised under regulation 31;

black powder means an explosive that is constituted by charcoal, sulphur and potassium nitrate or sodium nitrate in granula, meal, pellet or powder form and that deflagrates instead of detonating;

blasting explosive means an authorised explosive that is used to provide the majority of the force when blasting rock or similar solid material;

bulk AN-based explosive means ANFO, or any other explosive that consists mainly of ammonium nitrate, that is not packaged in the form of a cartridge, plug or stick;

classification code of an explosive, has the meaning given to that term in regulation 9;

constituent of an article, substance, or mixture of substances, that is or contains an explosive, means each individual constituent, whether it is an explosive or not, of the article, substance or mixture;

destroy an explosive, means to destroy it other than by initiating it;

district has the meaning given to that term by the *Local Government Act 1995* section 1.4;

emergency device means an article, containing one or more explosives with or without other substances, that is designed to be used in distress or an emergency for signalling, warning or rescue purposes —

(a) to produce light, sound, gas, smoke, or a combination of them, by means of an exothermic chemical reaction that does not rely on oxygen from external sources to sustain the reaction; or

(b) to propel an article, such as a line or a flare, through the air;

employee of a licence holder includes a partner of, and a person employed under a contract for services by, the holder;

explosive has the meaning given to that term in regulation 8;

fee means the relevant fee in Schedule 1;

FES Commissioner has the meaning given in the *Fire and Emergency Services Act 1998* section 3;

firework means an article or substance, containing one or more explosives with or without other substances, that is designed to entertain people by producing light, sound, gas, smoke, or a combination of them, by means of an exothermic chemical reaction that does not rely on oxygen from external sources to sustain the reaction, but not a model rocket motor;

fireworks event has the meaning given to that term in regulation 136;

fireworks event permit means a fireworks event permit issued under Part 13 Division 4;

ground display has the meaning given to that term by AS 2187.0;

gun means a firearm, as defined in the *Firearms Act 2024* section 6, or any other weapon that uses an explosive to propel a missile;

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

initiate an explosive, means to explode, fire or ignite it;

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 licence issued or replaced under Part 15;

manufacture an explosive, includes —

(a) to mix it with any other substance; and

(b) to package it; and

(c) to put it into ammunition;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

mine has the meaning given to that term in the *Mines Safety and Inspection Act 1994* section 4(1);

mobile processing unit (or MPU) means a vehicle or a moveable piece of equipment (also called a mobile mixing unit or MMU) designed to transport the constituents of a bulk AN-based explosive to the place where the explosive will be manufactured and used;

model rocket motor means a commercially manufactured device designed to be used to propel a re-usable rocket built mainly of paper, wood or plastic for educational or recreational purposes;

MPU stands for mobile processing unit;

NEQ stands for net explosive quantity and, of an article or substance that contains an explosive and other constituents that are not explosives, means the net quantity of the explosive in the article or substance, excluding the other constituents;

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;

power device cartridge means a cartridge —

(a) that contains an explosive and a means of ignition; and

(b) that is not ammunition or a power tool cartridge; and

(c) that has been commercially manufactured; and

(d) that is designed to accomplish a mechanical action in order to activate —

(i) a safety device, such as an air bag or seat belt in a passenger vehicle or a fire extinguisher or parachute; or

(ii) a diaphragm, valve or switch;

power tool cartridge means a cartridge —

(a) that contains an explosive and a means of ignition; and

(b) that is not ammunition or a power device cartridge; and

(c) that has been commercially manufactured; and

(d) that is designed to be used to accomplish a mechanical action in a commercially manufactured industrial tool, such as a nail gun or humane killer;

prohibited explosive means an explosive referred to in Schedule 2;

proper shipping name of an explosive, means the proper shipping name for it under the AE Code;

required details of an explosive, means these details —

(a) the trade name of the explosive;

(b) the proper shipping name of the explosive;

(c) the UN Number of the explosive under the AE Code;

(d) the classification code of the explosive;

(e) a description of the explosive's packaging or container;

(f) the quantity of the explosive;

road means a road or other place, other than at a mine, over which vehicles move, whether on private property or not, that is open to, or used by, the public, whether on payment of consideration or not;

safety data sheet (***SDS***), for an explosive, means a document in English that contains the information in relation to the explosive that is required by —

(a) the National Code of Practice for the Preparation of Material Safety Data Sheets 2nd Edition [NOHSC: 2011 (2003)] (ISBN-1-920763-10-4); or

(b) the Preparation of Safety Data Sheets for Hazardous Chemicals - Code of Practice published by Safe Work Australia in February 2016 (ISBN 978-0-642-33311-7);

Safe Work Australia means Safe Work Australia established by the *Safe Work Act 2008* (Commonwealth) section 5;

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

secure nominee, of a licence holder, means an individual who, under regulation 23, is authorised by the licence holder to have unsupervised access to an explosive in the licence holder's possession;

security card means a card issued under regulation 20;

security clearance for an individual, has the meaning given to that term by regulation 16;

security sensitive ammonium nitrate has the meaning given in the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007* regulation 3;

sell includes to barter, exchange, offer for sale and expose for sale;

SSAN stands for security sensitive ammonium nitrate;

State explosives facility means any area of State land on which explosives or other dangerous goods are manufactured or stored;

State land means any Crown land (as that term is defined in the *Land Administration Act 1997*) or any land owned by the Crown, an agency of the Crown, the State or a government agency (as that term is defined in the Act section 51(1));

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

supervised, in relation to access to an explosive, has the meaning given to that term by regulation 10(1);

supervised access by a person to an explosive, has the meaning given to that term by regulation 10(2);

supply includes to sell and has a meaning affected by regulation 11;

test permit means a permit issued under regulation 28;

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;

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

unrestricted firework means a firework referred to in Schedule 3;

unsupervised access by a person to an explosive, has the meaning given to that term by regulation 10(3);

unsupervised access authorisation means an authorisation given under regulation 23 by a licence holder for an individual to have unsupervised access to an explosive in the licence holder's possession;

UNTC means the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria*, Sixth revised edition, published by the United Nations (ISBN 978-92-1-139155-8);

use an explosive, means to initiate or attempt to initiate it.

[Regulation 3 amended: Gazette 24 Nov 2009 p. 4737; 16 Mar 2012 p. 1173-4 and p. 1263; 19 Feb 2013 p. 984; 2 Dec 2013 p. 5571-2; 5 Feb 2016 p. 343-4; 3 Mar 2017 p. 1474-5; 20 Mar 2018 p. 997; SL 2020/197 r. 4; SL 2021/85 r. 4; SL 2024/295 r. 4.]

4. Examples and notes not part of law

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

5. AE Code, general provisions about

(1) This regulation operates for the purposes of these regulations.

(2) A reference in the AE Code to the Competent Authority is to be taken to be a reference to the Chief Officer.

(3) If a provision of the AE Code conflicts or is inconsistent with a provision of these regulations, the provision of these regulations prevails.

6. Alternative safety measures, meaning of

(1) This regulation applies if a provision of these regulations says that alternative safety measures may be complied with instead of other requirements referred to in the provision (such as those of an Australian Standard) (***primary requirements***).

(2) A person who is required to comply with primary requirements in relation to the storage, handling or transport of an explosive may instead comply with alternative measures if —

(a) complying with the alternative measures results in a level of risk from the explosive to people, property and the environment that is equal to or lower than the level of risk that results from complying with the primary requirements; and

(b) the person makes and keeps a written record of the alternative measures and why they result in the equal or lower level of risk.

(3) If alternative measures with which a person complies, or purports or intends to comply, do not or will not result in the equal or lower level of risk referred to in subregulation (2)(a), the person is to be taken, for the purposes of the Act and in particular section 47 of it, to be contravening or about to contravene these regulations.

[Regulation 6 amended: Gazette 16 Mar 2012 p. 1174.]

7. AS 2187, meaning of and general provisions about

(1) In these regulations —

AS 2187 means AS 2187.0, AS 2187.1 or AS 2187.2;

AS 2187.0 means the Australian Standard AS 2187.0—1998, *Explosives—Storage, transport and use, Part 0: Terminology*, published by Standards Australia (ISBN 0 7337 1781 0);

AS 2187.1 means the Australian Standard AS 2187.1—1998, *Explosives—Storage, transport and use Part 1: Storage*, published by Standards Australia (ISBN 0 7337 1782 9) as read with AS 2187.0;

AS 2187.2 means the Australian Standard AS 2187.2—2006, *Explosives—Storage and use, Part 2: Use of explosives*, published by Standards Australia (ISBN 0 7337 7225 0) as read with AS 2187.0.

(2) A reference in AS 2187 to "appropriate authority", "regulatory authority" or "regulatory authority having jurisdiction" is to be taken for the purposes of these regulations to be a reference to the Chief Officer.

(3) If a provision of AS 2187 conflicts or is inconsistent with a provision of these regulations, the provision of these regulations prevails.

8. Explosive, meaning of

(1) A substance or article is an explosive for the purposes of these regulations if —

(a) it satisfies the UNTC Test series 1 for determining if a substance or article has explosive properties; and

(b) it does not satisfy the UNTC Test series 2 for determining if a substance or article is too insensitive to be classified as dangerous goods of Class 1,

or it is declared to be an explosive by the Chief Officer under regulation 15.

(2) Without limiting subregulation (1), a substance or article is an explosive for the purposes of these regulations if —

(a) in the AE Code Appendix 2 —

(i) it is named in an entry in column (2) that is not an entry referred to in the AE Code Appendix 6; and

(ii) it is classified as Class 1 in column (3); and

(iii) it satisfies the criteria in any Special Provision in the AE Code Appendix 3 that is applied to it by column (6); and

(iv) it satisfies any criteria applied to it by column (12);

or

(b) it satisfies the tests and criteria in the UNTC for determining if a substance or article is dangerous goods of Class 1; or

(c) it satisfies the UNTC Test series 1 for determining if a substance or article has explosive properties and —

(i) is named or described in the ADG Code Appendix A; or

(ii) satisfies the tests and criteria in the UNTC for determining if a substance or article is too dangerous to transport.

[Regulation 8 amended: Gazette 24 Nov 2009 p. 4737-8.]

9. Classification of explosives

(1) In this regulation, unless the contrary intention appears —

assigned means assigned —

(a) by using the tests and criteria in the ADG Code for classifying dangerous goods; or

(b) by the Chief Officer under regulation 15 or 31.

(2) This regulation operates for the purposes of these regulations and any provision of the AE Code or AS 2187 to which these regulations refer.

(3) A substance or article must be classified in accordance with the tests and criteria specified in the UNTC for determining if a substance or article is dangerous goods and if it is, whether it is too dangerous to transport.

(4) The classification code of an explosive is the combination of —

(a) the class number "1"; and

(b) the first or the first and second of the following in the following order —

(i) the number assigned to the explosive that indicates its division; and

(ii) the compatibility group letter assigned to the explosive that indicates its compatibility group.

Example for this subregulation:

An explosive with a classification code 1.2B means it has the class number 1, the division number 2, and the compatibility group letter B. An explosive with a classification code 1.4 means it has the class number 1 and the division number 4.

(5) If there is an inconsistency between the classification code assigned to an explosive by the AE Code, or by using the classification procedure in the ADG Code, and the classification code assigned to it by the Chief Officer under regulation 15 or 31, the latter is the explosive's classification code for the purposes of these regulations.

[Regulation 9 amended: Gazette 16 Mar 2012 p. 1174-5.]

10. Supervised and related terms, meaning of

(1) For the purpose of these regulations, an individual is supervised by another person when he or she has access to an explosive 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 explosive is controlled by,

the other person.

(2) For the purpose of these regulations, an individual has supervised access to an explosive if he or she has access to the explosive in circumstances where he or she is supervised by a licence holder who is authorised to possess the explosive or a secure nominee of such a licence holder.

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

[Regulation 10 amended: Gazette 2 Dec 2013 p. 5572.]

11. Supply, meaning of affected

For the purposes of these regulations a person (***A***) does not supply an explosive to another person (***B***) if —

(a) as part of a service involving the use of an explosive provided by A to B, A provides and uses the explosive; and

(b) B does not take possession of or assume the control or management of the explosive.

12. Explosives to which these regulations do not apply

(1) These regulations do not apply to or in respect of an explosive if —

(a) it is a power device cartridge that is a standard component of, and is fitted to, a commercially manufactured article; or

(b) it is an unrestricted firework; or

(c) it is a model rocket motor in which the NEQ is not more than 5 g.

(2) These regulations do not apply to or in respect of an explosive if —

(a) the explosive is in a laboratory for analytical or research purposes; and

(b) there is not more than 0.5 kg of any kind of explosive in the laboratory; and

(c) the laboratory —

(i) is operated for lawful commercial purposes; or

(ii) is controlled and managed by a school, or a non-government school, as those terms are defined in the *School Education Act 1999*; or

(iii) is controlled and managed by a university or other institution established for public purposes under a written law.

(3) These regulations do not apply to or in respect of an explosive if it is in the possession or under the control of —

(a) a DGO acting in the course of duty; or

(b) a police officer acting in the course of duty; or

(c) a member of the police force of another place who is in the State with the approval of the Commissioner of Police for the purposes of, or a purpose related to, law enforcement in this State, acting in the course of duty; or

(d) an officer of the Commonwealth, or a defence force of the Commonwealth, acting in the course of duty; or

(e) the air, military or naval force of another country that is in the State with the approval of the Commonwealth for the purposes of, or a purpose related to, the defence of the Commonwealth.

Part 2 — Administrative matters

13. Forms may be approved by Chief Officer

(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.

14. Courses may be approved by Chief Officer

(1) The Chief Officer may approve, for individuals applying for a licence, a test of competence or a training course or both.

(2) The Chief Officer may only approve such a test or course if he or she considers that individuals who pass the test, or complete the course, will be competent to engage in the activities that would be authorised by the licence concerned.

[Regulation 14 amended: Gazette 16 Mar 2012 p. 1175.]

15. Declaring a substance to be an explosive

(1) The Chief Officer may declare a substance or article to be an explosive for the purposes of these regulations and may at any time, by a subsequent declaration, cancel such a declaration.

(2) Any such declaration must —

(a) be in writing; and

(b) in accordance with the ADG Code, assign the explosive a classification code; and

(c) be published in the *Gazette*.

(3) A substance or article is not an authorised explosive only because it is declared to be an explosive by the Chief Officer.

[Regulation 15 amended: Gazette 16 Mar 2012 p. 1175.]

Part 3 — Security matters

16. Security clearance, meaning of

(1) In this regulation, a card or authorisation is valid if —

(a) it has not expired; and

(b) it has not been cancelled; and

(c) it has not been altered or defaced, whether permanently or temporarily.

(2) A person who has a valid security card has a security clearance for the purposes of these regulations.

(3) An individual has a security clearance for the purposes of these regulations if the person holds a written authorisation that —

(a) is granted or issued under the law of another State or a Territory that corresponds, or substantially corresponds, to the Act; and

(b) authorises the person to have unsupervised access to an explosive or an SSAN.

[Regulation 16 amended: Gazette 5 Feb 2016 p. 344.]

17. Security card, application for

(1) A person who wants a security card must apply to the Chief Officer.

(2) Only an individual can apply for a security card.

(3) The application must —

(a) be made in the approved form; and

(b) include the applicant's consent to the release to the Commissioner of Police by any law enforcement agency in or outside Australia, and by the Australian Security Intelligence Organisation of the Commonwealth, of any information about the applicant that is or may be relevant to the matters listed in regulation 19(5); and

(c) be accompanied by any documents specified in the approved form; and

(d) be accompanied by the fee.

(4) For the purposes of deciding an application for a security card, the Chief Officer may request the applicant —

(a) to give the Chief Officer any other information that is reasonably necessary to decide the application;

(b) to give the Commissioner of Police, for the purposes of verifying the applicant's identity and personal details —

(i) a print of the applicant's hands (including fingers), feet (including toes) or ears;

(ii) a photograph of the applicant;

(iii) the applicant's DNA profile.

(5) 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.

(6) The Commissioner of Police must destroy any material obtained from an applicant under subregulation (4)(b), and any copy of it, as soon as practicable after the applicant's identity and personal details are verified for the purposes of the application.

[Regulation 17 amended: Gazette 2 Dec 2013 p. 5573.]

18. Application to be referred to Commissioner of Police

The Chief Officer must refer an application made under regulation 17 to the Commissioner of Police.

19. Commissioner of Police may object to person having security card

(1) In this regulation —

Commissioner means the Commissioner of Police;

relevant person means —

(a) a person who has applied under regulation 17 for a security card; or

(b) a person who has a security card.

[(2) deleted]

(3) The Commissioner may object under subregulation (4) —

(a) on being referred an application under regulation 18 or at any time before the Chief Officer decides the application; or

(b) at any time in respect of a person who has a security card.

(4) The Commissioner may object to a relevant person having a security card if the Commissioner considers the person ought not to have possession of any explosive or SSAN because there is a risk the person —

(a) might use it for criminal purposes; or

(b) might supply it to another person who might use it for criminal purposes.

(5) In deciding whether to object under subregulation (4), the Commissioner may take into account any of these matters —

(a) any conviction that the relevant person has in this State or elsewhere;

(b) any conviction that a person with whom the relevant person associates has in this State or elsewhere;

(c) any family violence restraining order or violence restraining order issued under the *Restraining Orders Act 1997* against the relevant person;

(d) any order issued outside this State against the relevant person that is substantially similar to a family violence restraining order or violence restraining order issued under the *Restraining Orders Act 1997*;

(e) any security assessment (within the meaning given to that term by Part IV of the *Australian Security Intelligence Organisation Act 1979* (Commonwealth)) made of the relevant person, or of a person with whom the relevant person associates, that is adverse;

(f) any false or misleading information given by the relevant person in or in respect of his or her application for a security card;

(g) any other matter the Commissioner considers relevant.

(6) Any objection made by the Commissioner under this regulation must be in writing, include reasons for the objection and be given to the Chief Officer.

[Regulation 19 amended: Gazette 21 Aug 2009 p. 3271-2; 5 Feb 2016 p. 345; 27 Jun 2017 p. 3432.]

20. Security card, issue of

(1) In this regulation —

application means an application made under regulation 17.

(2) The Chief Officer must refuse an application if —

(a) the Chief Officer is not satisfied the applicant has reached 18 years of age; or

(b) the Chief Officer has not verified the applicant's identity and personal details to the Chief Officer's satisfaction; or

(c) the application is for a security card that would be valid at any time while a security card that the applicant already has is valid.

(3) The Chief Officer may refuse an application if —

(a) the application has been referred to the Commissioner of Police; and

(b) the Commissioner of Police objects under regulation 19 to the applicant having a security card.

(4) Unless subregulation (2) applies, the Chief Officer must grant an application if —

(a) the application has been referred to the Commissioner of Police; and

(b) the Commissioner of Police has not objected under regulation 19 to the applicant having a security card.

(5) A security card must —

(a) display a photograph of the holder; and

(b) show the name of the holder; and

(c) contain such other information as the Chief Officer decides; and

(d) be in such form as the Chief Officer decides.

(6) A security card is valid for 5 years or until the end of a period for which it is extended under regulation 21A unless sooner cancelled by the Chief Officer.

(7) An applicant whose application is refused is not entitled to a refund of the fee.

[Regulation 20 amended: Gazette 2 Dec 2013 p. 5573; 20 Mar 2018 p. 997.]

21A. Extension of period for which security card is valid

(1) A person who has a valid security card may, within the period of 3 months before the security card is due to expire, apply to the Chief Officer for the period at the end of which the security card expires to be extended.

(2) The application —

(a) must be made in the approved form; and

(b) must be accompanied by any documents specified in the approved form; and

(c) must be accompanied by the fee.

(3) If the photograph displayed on the applicant's security card was taken more than a period of 6 years before the application is made, the application must also be accompanied by a photograph of the applicant taken in the period of 6 months before the application is made.

(4) On receiving an application made in accordance with this regulation, the Chief Officer must approve the application and extend the period at the end of which the security card is due to expire by 5 years.

(5) The Chief Officer must, on approving the application —

(a) issue to the applicant a replacement security card showing when it is due to expire and, where applicable, displaying the photograph provided to the Chief Officer under subregulation (3); and

(b) give to the Commissioner of Police notice of the extension of the period at the end of which the security card is due to expire.

(6) If an application is made in accordance with this regulation but the applicant's security card expires before the application is approved, the period at the end of which the security card is due to expire is taken to have been extended under this regulation.

[Regulation 21A inserted: Gazette 2 Dec 2013 p. 5573-4; amended: Gazette 24 Jun 2016 p. 2326.]

21. Security card, cancelling

(1) The Chief Officer may cancel a person's security card if the Commissioner of Police objects under regulation 19 to the person having a security card.

(2) On cancelling a security card, the Chief Officer must give the holder written notice of the cancellation and of the effect of subregulations (3) to (5).

(3) A holder of a security card who receives a notice given under subregulation (2) must, within 7 days after receiving the notice, return the card to the Chief Officer.

Penalty: a level 3 fine.

(4) A holder of a security card who receives a notice given under subregulation (2) must, within 7 days after receiving the notice, return any licence, or any licence issued under the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007*, issued to him or her to the Chief Officer.

Penalty: a level 3 fine.

(5) A holder of a security card who receives a notice given under subregulation (2) and who is the employee of a licence holder must notify the licence holder of the cancellation as soon as practicable after receiving the notice.

Penalty: a level 3 fine.

(6) A person's security card is to be taken to have been cancelled if the person dies.

[Regulation 21 amended: Gazette 5 Feb 2016 p. 345.]

22A. Replacement of security cards

(1) If the Chief Officer is satisfied a security card has been destroyed, lost or stolen, the Chief Officer may issue a replacement.

(2) No fee is to be charged for issuing a replacement under subregulation (1).

[Regulation 22A inserted: Gazette 2 Dec 2013 p. 5575.]

22. Security documents to be carried and produced

(1) In this regulation —

security document means a security card, or a written authorisation, that has been issued to a person and that, under regulation 16, means the person has a security clearance.

(2) A person who has a security document and who is in possession of an explosive or an SSAN must carry the document or have it in the vehicle in which he or she is travelling or at the place where he or she is in possession of the explosive or SSAN.

Penalty: a level 3 fine.

(3) A person who has a security document and who is in possession of an explosive or an SSAN must, if asked to do so by a DGO, immediately produce it to the DGO for inspection.

Penalty: a level 3 fine.

[Regulation 22 amended: Gazette 16 Mar 2012 p. 1175; 5 Feb 2016 p. 34.]

23. Authorisation to have access to explosives

(1) A licence or test permit holder may authorise an individual —

(a) to have unsupervised access; or

(b) to have supervised access,

to an explosive in the licence or test permit holder's possession, and may cancel such an authorisation at any time.

(2) A licence or test permit holder must not, under subregulation (1)(a), authorise an individual to have unsupervised access to an explosive unless —

(a) the individual has a security clearance; and

(b) the licence or test permit holder is satisfied the individual is suitably trained to safely handle any explosive to which the individual will have unsupervised access.

Penalty: a level 2 fine.

(3) An authorisation given under subregulation (1)(a) by a licence or test permit holder to an individual authorising unsupervised access must —

(a) be in writing; and

(b) state the following —

(i) the date on which the authorisation is given;

(ii) the name and residential address of the individual;

(iii) each type of explosive in the licence or test permit holder's possession to which the individual may have unsupervised access;

(iv) details about where and when the individual may have unsupervised access;

(v) each other condition imposed by the licence or test permit holder on the individual in relation to unsupervised access.

(4) An authorisation given under subregulation (1)(a) to an individual has no effect unless —

(a) it complies with subregulation (3); and

(b) the licence or test permit holder has a record that the individual has stated he or she understands the authorisation.

(5) If a secure nominee of a licence or test permit holder requests the licence or test permit holder to do so, the licence or test permit holder must give the nominee a copy of each unsupervised access authorisation given by the licence or test permit holder to the nominee.

Penalty: a level 3 fine.

(6) An unsupervised access authorisation given to an individual ceases to have effect if it is cancelled or the individual ceases to have a security clearance.

(7) A licence or test permit holder who, under subregulation (1)(b), authorises an individual to have supervised access to an explosive must ensure the individual is supervised while having access to the explosive by —

(a) the licence or test permit holder; or

(b) a secure nominee of the licence or test permit holder having access to the explosive in accordance with an unsupervised access authorisation given by the licence or test permit holder to the nominee.

Penalty: a level 2 fine.

[Regulation 23 inserted: Gazette 2 Dec 2013 p. 5575-7; amended: Gazette 5 Feb 2016 p. 346.]

24. Records as to secure nominees

(1) A licence or test permit holder, for each individual who is a secure nominee of the licence or test permit holder, must keep —

(a) a proper record of the secure nominee; and

(b) a copy of each unsupervised access authorisation given by the licence or test permit holder to the secure nominee; and

(c) the record required by regulation 23(4)(b),

while the individual is a secure nominee of the licence or test permit holder and for 2 years after the date on which the individual ceases to be a secure nominee of the licence or test permit holder.

Penalty: a level 3 fine.

(2) For the purpose of subregulation (1)(a), a proper record is not kept of a secure nominee unless a written record is made of this information —

(a) the name and residential address of the secure nominee;

(b) the details of each valid security card held by the secure nominee while a secure nominee;

(c) if the secure nominee does not have a security card but is a person referred to in regulation 16(3) —

(i) the details of the written authorisation referred to in regulation 16(3) that the person holds; and

(ii) if the secure nominee's usual place of residence is in the State, the date on which he or she took up such residence in the State;

(d) if an unsupervised access authorisation given by the licence or test permit holder to the secure nominee is cancelled, the date on which it is cancelled.

[Regulation 24 inserted: Gazette 2 Dec 2013 p. 5577-8; amended: Gazette 5 Feb 2016 p. 346.]

25. Duties of secure nominees

(1) A secure nominee of a licence or test permit holder must comply with each unsupervised access authorisation given by the licence or test permit holder to the secure nominee.

Penalty: a level 3 fine.

(2) A secure nominee of a licence or test permit holder who is in possession of an explosive, if asked by a DGO to do so, must give the DGO the name and address of the licence or test permit holder.

Penalty: a level 3 fine.

[Regulation 25 inserted: Gazette 2 Dec 2013 p. 5578; amended: Gazette 5 Feb 2016 p. 346.]

25A. Duty to correct information in relation to an application under regulation 17 or 21A

(1) In this regulation —

security information means information given by a security card holder to the Chief Officer in, or in relation to, an application made under regulation 17 or 21A.

(2) A security card holder must, within 14 days after becoming aware that security information has become incorrect in a

material respect, correct that information by written notice to the Chief Officer.

Penalty for this subregulation: a level 3 fine.

[Regulation 25A inserted: Gazette 20 Mar 2018 p. 997.]

Part 4 — Authorisation of explosives

Division 1 — Testing unauthorised explosives

26. Term used: unauthorised explosive

In this Division —

unauthorised explosive means an article or substance that is neither an authorised explosive nor a prohibited explosive and that is intended to be manufactured or used to produce an explosion or a pyrotechnic effect by means of a chemical reaction.

27. Applying for test permit

(1) A person may apply for a test permit for an unauthorised explosive.

(2) The application must —

(a) be in an approved form; and

(b) include as much of the other information referred to in regulation 30(2) as the applicant can reasonably obtain in respect of the unauthorised explosive; and

(c) as to the proposed test of the unauthorised explosive, state the following —

(i) the purpose of the test;

(ii) the date when the test will begin and the estimated date when it will end;

(iii) if it is intended to manufacture the unauthorised explosive for the test in the State, where it is intended to do so;

(iv) where the test will be conducted;

(v) the estimated amount of the unauthorised explosive that will be used in the test;

(vi) the name of the person who will supervise the test;

and

(d) be accompanied by the fee; and

(e) be made to the Chief Officer.

28. Dealing with applications for test permits

(1) On an application made under regulation 27, the Chief Officer may request an applicant to supply any other information about the unauthorised explosive or the proposed test that the Chief Officer believes is reasonably necessary to decide whether to issue a test permit or not.

(2) On an application made under regulation 27, the Chief Officer —

(a) may issue a test permit to the applicant; or

(b) may refuse to issue the permit.

(3) The Chief Officer must not issue a test permit for an unauthorised explosive unless he or she is satisfied —

(a) that the unauthorised explosive may have a legitimate use; and

(b) that the activities which the permit would allow can be carried out safely.

(4) A test permit may be subject to conditions decided by the Chief Officer and imposed when or after the permit is issued.

(5) Conditions that may be imposed include conditions as to when, where and under what circumstances the activities authorised by the permit may be carried out.

(6) In addition to any conditions imposed by the Chief Officer, a test permit is subject to these conditions —

(a) the test must not be conducted without the written consent of the owner or occupier of the place where the test is conducted;

(b) the holder of the permit must ensure the test is conducted in accordance with the information about the proposed test given in the application for the test permit;

(c) as soon as practicable after the test ends the holder must give the Chief Officer a written report about the test including —

(i) the results of the test; and

(ii) whether the holder intends to apply to have the unauthorised explosive authorised.

(7) A test permit for an unauthorised explosive must —

(a) be in writing; and

(b) describe the unauthorised explosive; and

(c) subject to regulation 29, state the activities authorised by the permit in connection with testing the unauthorised explosive; and

(d) state the conditions to which it is subject; and

(e) state when the permit expires; and

(f) be signed by the Chief Officer.

(8) The Chief Officer may amend or cancel a test permit.

(9) The Chief Officer must give an applicant written notice of a decision made under this regulation as soon as practicable after it is made.

29. Test permit, effect of

(1) A test permit in respect of an unauthorised explosive entitles the holder, subject to the conditions in it —

(a) to possess and use the unauthorised explosive; and

(b) to carry out any activity specified in the permit,

for the purposes of testing it with a view to applying to have it authorised.

(2) The holder of a test permit is not authorised to supply the unauthorised explosive to which the permit relates to another person but may supply it to a secure nominee of the holder in accordance with an unsupervised access authorisation given by the holder to the nominee.

[Regulation 29 amended: Gazette 2 Dec 2013 p. 5578-9.]

Division 2 — Authorisation procedure

30. Applying to have explosive authorised

(1A) In this regulation —

interstate law means each of these —

(a) the *Dangerous Substances (Explosives) Regulation 2004* (Australian Capital Territory);

(b) the *Explosives Regulation 2013* (New South Wales);

(c) the *Dangerous Goods Regulations* (Northern Territory);

(d) the *Explosives Regulation 2003* (Queensland);

(e) the *Explosives Regulations 2011* (South Australia);

(f) the *Explosives Regulations 2012* (Tasmania);

(g) the *Dangerous Goods Act 1985* (Victoria).

(1) A person, by applying to the Chief Officer, may request the Chief Officer —

(a) to authorise an explosive that is neither an authorised explosive nor a prohibited explosive; or

(b) to change any particulars of the authorisation of an explosive.

(2) The application must —

(a) be in an approved form; and

(b) state the explosive's proper shipping name; and

(c) as to the nature of the explosive —

(i) state the explosive's design and formulation; and

(ii) fully describe each of the explosive's constituents, and the amount of each constituent in the explosive by weight or by volume; and

(iii) if the explosive is in an article or substance with other constituents, state the NEQ of the article or substance; and

(iv) state how the explosive works and may be initiated; and

(v) state the effect of the explosive when it is initiated; and

(vi) state the purposes for which it is designed to be used; and

(vii) be accompanied by an SDS for the explosive;

and

(d) as to the manufacture of the explosive, state —

(i) the name and address of the explosive's manufacturer; and

(ii) the place where the explosive is manufactured; and

(iii) for how long the manufacturer has manufactured the explosive; and

(iv) the explosive's use-by date, if any;

and

(e) if the explosive is packaged —

(i) fully describe the package's design and composition; and

(ii) set out the markings on the package; and

(iii) state the NEQ in each package; and

(iv) state the result of any test conducted on the packaging, and any approval number given to the packaging, under the AE Code;

and

(f) as to authorising the explosive, state —

(i) the UN number of the explosive in the AE Code; and

(ii) the result of any test conducted on the explosive under the UNTC for the purpose of classifying it under the UNTC tests; and

(iii) the classification code given to the explosive under the ADG Code; and

(iv) if, under an interstate law, the explosive is an authorised explosive — the classification code given to it under each such law and details of each such authorisation;

and

(g) set out the history of the explosive's use (including any adverse experiences) in Australia and elsewhere; and

(h) if the explosive is suitable to be used underground, include information about why it is suitable and about any tests carried out on it to decide its suitability; and

(i) include written directions by the explosive's supplier for its safe use and disposal; and

(j) if the application is made under subregulation (1)(a) — be accompanied by the fee.

[Regulation 30 amended: Gazette 16 Mar 2012 p. 1175-6; 2 Dec 2013 p. 5579; 3 Mar 2017 p. 1475; SL 2020/197 r. 5.]

31. Authorising explosives

(1) On an application made under regulation 30, the Chief Officer may request an applicant —

(a) to supply any other information about the explosive that the Chief Officer believes is reasonably necessary to determine its design, formulation and constituents;

(b) to supply drawings or photographs of the explosive;

(c) to supply a sample of the explosive;

(d) to conduct tests on the explosive to determine any of the matters in subregulation 30(2)(c).

(2) 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.

(3) On an application made under regulation 30, the Chief Officer must either —

(a) refuse to authorise it; or

(b) authorise it.

(4) On his or her own initiative, the Chief Officer may —

(a) authorise an explosive;

(b) cancel the authorisation of an explosive;

(c) assign an authorised explosive a different classification code;

(d) amend any particulars of the authorisation of an explosive.

(5) If the Chief Officer authorises an explosive, he or she must assign it a classification code in accordance with the ADG Code.

(6) For the purposes of authorising explosives, the Chief Officer —

(a) may authorise a single article or substance named or specified in the authorisation;

(b) may authorise a category of explosives described by a generic name and a generic description of the category's design, formulation and constituents set out in the authorisation.

(7) The Chief Officer must not authorise an explosive unless satisfied that the explosive —

(a) has a legitimate use; and

(b) can be safely handled, stored and transported,

by suitably licensed people.

(8) The Chief Officer must give an applicant written notice of a decision made under this regulation as soon as practicable after it is made.

[Regulation 31 amended: Gazette 16 Mar 2012 p. 1176.]

32. Register of authorised explosives

(1) The Chief Officer must keep a record in a register of —

(aa) the UN number under the AE Code of every authorised explosive; and

(a) the proper shipping name, or the generic name, of every authorised explosive; and

(b) the trade name, if any, of every authorised explosive; and

(c) the design, formulation and constituents of every authorised explosive; and

(d) the classification code assigned to every authorised explosive.

(2) The register may be in any form the Chief Officer decides.

(3) Any person is entitled to inspect in the register the trade name, the proper shipping name or the generic name, and the classification code, of every authorised explosive.

(4) A person is not entitled to inspect in the register information about the design, formulation or constituents of an authorised explosive unless that information about that explosive is otherwise available to the public.

[Regulation 32 amended: Gazette 16 Mar 2012 p. 1176.]

Part 5 — General provisions about explosives

33. Terms used

In this Part —

explosives facility means an explosives factory, or a place to which an explosives storage licence relates;

explosives facility licence means —

(a) an explosives manufacture licence; or

(b) an explosives storage licence;

explosives factory means a place where there is a building or structure that is used or intended to be used for, or for any purpose incidental to or associated with, the manufacture of any explosive but does not include an MPU;

explosives site means a place —

(a) where explosives are stored or handled; or

(b) where the loading or unloading of explosives in connection with transporting them is carried out.

34. Signage at certain explosives facilities

(1) If at a place to which an explosives facility licence relates there are —

(a) explosives with a classification code of 1.1, 1.2 or 1.5 and the gross weight of the explosives is more than 2.5 kg; or

(b) explosives with a classification code of 1.3 and the gross weight of the explosives is more than 15 kg; or

(c) explosives with a classification code of 1.4 and the gross weight of the explosives is more than 30 kg,

the holder of the licence must ensure that the place has proper perimeter signage.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), a place has proper perimeter signage if —

(a) there is a "HAZCHEM" outer warning placard that complies with the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* Schedule 4 clause 2 —

(i) at every entrance to the place on its perimeter; or

(ii) at a position or positions approved in writing by the FES Commissioner;

and

(b) each such placard complies with regulation 71 of those regulations.

(3) The holder of an explosives facility licence must ensure that any magazine, whether it is portable or not, that is in the place to which the licence relates is marked in accordance with AS 2187.1 section 2.1.3.

Penalty: a level 2 fine.

[Regulation 34 amended: Gazette 16 Mar 2012 p. 1176; 19 Feb 2013 p. 985; 20 Mar 2018 p. 997-8.]

*[**35.** Deleted: Gazette 5 Feb 2016 p. 346.]*

36. Explosives sites, duties of people at

(1) In this regulation —

responsible person in respect of an explosives site, means —

(a) a person who is authorised under these regulations to possess an explosive on the site and who has the control and management of the explosive; or

(b) the person who controls and manages the site; or

(c) if the site is in a State explosives facility, a DGO.

(2) A person must not enter an explosives site except with the permission of a responsible person.

(3) A person must not enter a State explosives facility unless he or she —

(a) holds at least one of these licences that relates to a place in the facility —

(i) an explosives manufacture licence;

(ii) an explosives storage licence;

or

(b) holds at least one of these licences, issued under the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007*, that relates to a place in the facility —

(i) an SSAN manufacture licence;

(ii) an SSAN storage licence;

or

(c) is a secure nominee of the holder of such a licence acting in accordance with an unsupervised access authorisation given by the holder to the nominee; or

(d) has permission to enter the facility from the Chief Officer or a DGO.

(4) A person at an explosives site who is not a responsible person must comply with any lawful and reasonable direction of a responsible person at the site given for the purpose of ensuring the safety of people, property or the environment at the site or the security of any explosive at the site.

(5) Unless he or she has a reasonable excuse not to, a person at an explosives site who becomes aware of a dangerous goods incident, or a dangerous situation, at the site must immediately report it to a responsible person.

(6) A person at an explosives site must not, without reasonable excuse, remove, obscure or interfere with —

(a) any sign, or other display of information, about safety or security at the site; or

(b) any marking on a package containing an explosive.

(7) A person at an explosives site must not, without reasonable excuse, handle an explosive at the site unless he or she —

(a) holds a licence that authorises him or her to do so; or

(b) does so as a secure nominee of the holder of such a licence and in accordance with an unsupervised access authorisation given by the holder to the nominee; or

(c) does so while supervised by a person referred to in paragraph (a) or (b).

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

[Regulation 36 amended: Gazette 2 Dec 2013 p. 5580; 5 Feb 2016 p. 347.]

37. Ignition sources near explosives

(1) A person must not carry a source of ignition in a magazine in which there are explosives.

(2) A person in possession of an explosive must ensure that no source of ignition is so near the explosive that it could cause the unintended initiation of the explosive.

Penalty: a level 2 fine.

(3) Subregulation (2) does not apply to a source of ignition carried for the purposes of initiating the explosive by a person who is authorised to use the explosive.

38. Fire risk substances near explosives

(1) A person in possession of an explosive must ensure that no substance that is readily ignited is so near the explosive that, if the substance were ignited, it could cause the unintended initiation of the explosive.

Penalty: a level 3 fine.

(2) Subregulation (1) does not apply to a substance —

(a) that is a component of the explosive; or

(b) that is in the fuel system of a diesel engine.

39. People affected by alcohol etc. near explosives

(1) In this regulation —

affected person means a person adversely affected by alcohol or a drug to an extent that is likely to increase the risk to people (including the affected person), property or the environment in relation to any explosive near the person or that the person might handle.

(2) A person in possession of an explosive who reasonably suspects that a person in the vicinity of the explosive is an affected person, may order the person to leave the vicinity.

(3) A person given an order under subregulation (2) must obey it.

(4) An affected person must not be on an explosives site.

(5) An affected person must not handle an explosive.

(6) An affected person must not be on a vehicle transporting an explosive.

Penalty: a level 2 fine.

40. Packaging requirements for explosives

(1) In this regulation —

packaging for an explosive includes not only the packaging or article that contains and is in immediate contact with the explosive (the ***inner packaging***) but also any packaging outside the inner packaging and any thing that contains packages of explosives or in which explosives are transported.

(2) A person must not store, transport or supply an explosive unless it is properly packaged.

Penalty: a level 2 fine.

(3) For the purposes of subregulation (2), an explosive is not properly packaged unless —

(a) any packaging containing the explosive is constructed and marked in accordance with the AE Code; and

(b) the explosive is packed in packaging in accordance with the AE Code; and

(c) any information about the explosive on packaging containing the explosive is in English and is correct and not misleading.

41. Defective explosives not to be exported or supplied

(1) A person must not export or supply an explosive that is defective.

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

(2) For the purposes of subregulation (1), but without limiting when an explosive is defective, an explosive is defective if —

(a) it is damaged or has deteriorated; or

(b) its use-by date (if any) has passed.

(3) For the purposes of subregulation (2)(a), but without limiting when an explosive has deteriorated, an explosive is to be taken to have deteriorated if it shows any of the signs of deterioration described in AS 2187.2 Appendix G.

42. MPUs, use of

(1) A person must not use an MPU to transport the constituents of, or to manufacture, an explosive unless it is a complying MPU.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), an MPU is a complying MPU if —

(a) it is designed, constructed, marked and placarded in accordance with the requirements of an approved code

of practice (if any), or alternative safety measures, for MPUs; and

(b) it carries a copy of the SDS —

(i) for each substance transported by the MPU that is a constituent of an explosive; and

(ii) for any explosive that can be manufactured from those constituents.

(3) A person must not transport an explosive in an MPU on a road.

Penalty: a level 2 fine.

[Regulation 42 amended: Gazette 16 Mar 2012 p. 1176; 3 Mar 2017 p. 1475.]

43. Falsely representing that explosive is authorised

A person must not falsely represent an unauthorised explosive to be an authorised explosive.

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

44. Reportable situations prescribed (Act s. 9)

(1) In this regulation —

explosive does not include an explosive named in Schedule 4.

(2) Each of the following is prescribed to be a reportable situation for the purposes of the definition of ***reportable situation*** in the Act section 9(1) —

(a) any dangerous goods incident that involves an explosive;

(b) any malfunction of an explosive not involving a misfire;

(c) any theft or attempted theft or any unexplained loss of an explosive.

(3) The following is prescribed as the information to be included in the report required by the Act section 9(2) in respect of the reportable situation —

(a) when and where the situation happened;

(b) the nature of the situation;

(c) the required details of the explosives that were present at the situation when it happened;

(d) details of any death of or harm to a person;

(e) details of any damage or harm to property or the environment;

(f) what the person making the report believes is the likely cause of the situation;

(ga) the measures taken to control any leak, spill or accidental escape of explosives, and any fire or explosion, arising out of the situation;

(g) the measures taken after the situation in relation to the explosives involved in the situation;

(h) the measures taken after the situation to prevent a similar situation happening again;

(i) the name of each person who had the control and management of the explosive when the situation happened;

(j) if a person who had the control and management of the explosive when the situation happened held a licence, or a permit issued under these regulations, at the time —

(i) the details of the licence or permit; and

(ii) if the person was a body corporate or partnership, the name of the individual concerned in the management of, or employed by, the body or partnership who was responsible for the security of the explosive at the time.

[Regulation 44 amended: Gazette 16 Mar 2012 p. 1177.]

Part 6 — Possession of explosives

Division 1 — Licensing requirements

45. Unauthorised explosives

A person in possession of an explosive that is neither a prohibited explosive nor an authorised explosive must —

(a) hold a test permit that authorises possession of the explosive; or

(b) be a secure nominee of the holder of such a permit acting in accordance with an unsupervised access authorisation given by the holder to the nominee; or

(c) be being supervised by the holder of such a permit, or by a secure nominee of such a holder having access to the explosive in accordance with an unsupervised access authorisation given by the holder to the nominee.

Note for this regulation:

The Act s. 12 (Unlicensed possession of dangerous goods).

[Regulation 45 amended: Gazette 2 Dec 2013 p. 5580.]

46. Possession for which no licence is required (Sch. 4)

A person does not have to hold a licence that authorises the possession of an explosive if it is an authorised explosive and —

(a) the explosive is named in, and the person possesses it in accordance with, Schedule 4; or

(b) the person —

(i) is a secure nominee of the holder of a licence that authorises the holder to possess the explosive in the circumstances; and

(ii) possesses it in accordance with an unsupervised access authorisation given by the holder to the nominee;

or

(c) the person possesses the explosive while being supervised by —

(i) the holder of a licence that authorises the holder to possess the explosive in the circumstances; or

(ii) a secure nominee of such a holder having access to the explosive in accordance with an unsupervised access authorisation given by the holder to the nominee.

[Regulation 46 amended: Gazette 2 Dec 2013 p. 5581.]

47. Authorised explosives, licences and permits entitling possession of

Unless regulation 46 applies, a person in possession of an authorised explosive must hold at least one of these that authorises the person to possess the explosive at the time and in the circumstances —

(a) an explosives import/export licence;

(b) an explosives manufacture licence;

(c) an explosives manufacture (MPU) licence;

(d) an explosives storage licence;

(e) an explosives transport licence;

(f) an explosives driver licence;

(g) a shotfiring licence;

(h) a fireworks contractor licence;

(i) a fireworks operator licence;

(j) a fireworks event permit;

(k) a pyrotechnics (special use) licence.

Note for this regulation:

The Act s. 12 (Unlicensed possession of dangerous goods).

Division 2 — Other requirements

48. Prohibited explosives, possession of

A person must not be in possession of a prohibited explosive.

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

[Regulation 48 amended: Gazette 16 Mar 2012 p. 1177.]

49. Children in possession of explosives

A person under 18 years of age must not be in possession of an explosive unless the explosive is named in, and is possessed in accordance with, Schedule 4.

Penalty: a level 3 fine.

50. Public places, possession in

A person must not be in possession of an explosive in a public place unless in the circumstances the person has a reasonable reason.

Penalty: a level 2 fine.

51. Licences etc. to be carried

(1) A person who holds a licence that authorises the person to possess an explosive and who is in possession of the explosive must —

(a) carry the licence; or

(b) have the licence in the vehicle in which the person is travelling; or

(c) have the licence at the place where the person is in possession of the explosive.

Penalty for this subregulation: a level 3 fine.

(2) A DGO may ask a person in possession of an explosive to produce to the DGO the licence, card or certificate that this regulation requires the person to carry.

(3) A person in possession of an explosive must obey such a request.

Penalty for this subregulation: a level 3 fine.

[Regulation 51 amended: Gazette 5 Feb 2016 p. 347.]

52. Duties to keep explosives secure

(1) In this regulation —

unauthorised person in relation to an explosive, means a person who is not authorised to possess the explosive under the Act or these regulations.

(2) A person in possession of an explosive, other than an explosive named, and possessed in circumstances described, in Schedule 4, must keep it secure.

(3) A person in possession of an explosive, other than an explosive named, and possessed in circumstances described, in Schedule 4, must take all reasonable measures to ensure that an unauthorised person does not have unsupervised access to the explosive.

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

Part 7 — Import and export of explosives

Division 1 — All imports and exports

53. Unauthorised explosives

A person who imports to the State an unauthorised explosive must hold a test permit that authorises the person to import it.

[Div. 2 (r. 54-55) deleted: Gazette 20 Mar 2018 p. 998.]

Division 3 — International imports and exports

56. Terms used

In this Division, 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;

international requirements —

(a) for explosives being transported by water — means the latest edition of the *International Maritime Dangerous Goods Code* published by the International Maritime Organisation;

(b) for explosives being transported by air — means the latest edition of the *Dangerous Goods Regulations* published by the International Air Transport Association.

57. Authorised explosives, licence entitling import or export

(1A) This regulation does not apply to a sparkler that is an authorised explosive.

(1) A person who imports an authorised explosive must hold an explosives import/export licence that authorises the import.

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

(2) A person who exports an authorised explosive must hold an explosives import/export licence that authorises the export.

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

(3) Subregulations (1) and (2) do not apply to an emergency device that is on a vehicle being imported and that, under the law of Australia or another country, has to be carried on the vehicle.

[Regulation 57 amended: Gazette 16 Mar 2012 p. 1177.]

58. International import and export, procedure for

The holder of an explosives import/export licence that authorises the import or export of an authorised explosive must not import or export the explosive unless the holder has given the Chief Officer the following —

(a) if the explosive is being imported — an explosives import notice under regulation 59 in respect of the explosive at least 7 days before the date when the explosive is expected to arrive in the State;

(b) if the explosive is being exported — an explosives export notice under regulation 59 in respect of the explosive at least 7 days before the date when the explosive is expected to leave the State;

(c) an SDS for the explosive.

Penalty: a level 2 fine.

[Regulation 58 amended: Gazette 3 Mar 2017 p. 1475.]

59. Import or export, notice to Chief Officer

(1) An explosives import notice in respect of an explosive must be in an approved form and contain this information —

(a) the details of the explosives import/export licence held by the person importing the explosive;

(b) the name and address of both the consignee and consignor of the explosive;

(c) the required details of the explosive being imported;

(d) a certificate that the explosive —

(i) is an authorised explosive; and

(ii) is packaged in accordance with the relevant international requirements; and

(iii) is in a safe condition to be transported;

(e) the country from which the explosive is being imported;

(f) details that identify the vehicle that will transport the explosive into the State;

(g) the date when the explosive is expected to arrive in the State;

(h) the port or place where the explosive will arrive in the State;

(i) the details of the explosives transport licence held by the person who will transport the explosive in the State from the port or place where the explosive arrives in the State;

(j) where the explosive will be initially stored after it arrives in the State.

(2) An explosives export notice in respect of an explosive must be in an approved form and contain this information —

(a) the details of the explosives import/export licence held by the person importing the explosive;

(b) the name and address of both the consignee and consignor of the explosive;

(c) the required details of the explosive being exported;

(d) a certificate that the explosive —

(i) is packaged in accordance with the relevant international requirements; and

(ii) is in a safe condition to be transported;

(e) the date when the explosive is expected to leave the State;

(f) the country to which the explosive is being exported;

(g) a certificate that the export is in accordance with the law of that country;

(h) details that identify the vehicle that will transport the explosive out of the State.

60. Chief Officer may direct explosive to be analysed

(1) The Chief Officer may give a person importing or exporting an explosive a written notice that directs the person to do any or all of the following —

(a) at the person's expense, to have the explosive analysed or tested by a person specified, and in accordance with directions specified, in the notice;

(b) to allow the explosive to be inspected by a DGO at the time and place stated in the notice, or at some other time or place agreed with a DGO.

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

Penalty: a level 2 fine.

61. Records to be kept by licence holders

(1) The holder of an explosives import/export licence must keep a proper record of explosives imported or exported by the holder.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), a proper record is not kept unless a written record is made of this information —

(a) the required details of the explosive imported or exported;

(b) the date of the import or export;

(c) the name and address of both the consignee and consignor of the explosive,

and is kept for 2 years after the date of the import or export (as the case requires).

62. Port operators may refuse import in certain cases

The harbour master of a port into which an explosive is imported may refuse to permit the explosive to be landed at the port if not satisfied —

(a) that the Chief Officer has been given an explosives import notice in accordance with regulation 58 in respect of the explosive; and

(b) that the consignee of the explosive is the holder of an explosives import/export licence that relates to the explosive.

Part 8 — Manufacture of explosives

Division 1 — Licensing requirements

63. Unauthorised explosives

A person who manufactures an explosive that is neither a prohibited explosive nor an authorised explosive must hold a test permit that authorises the person to manufacture it.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

64. Authorised explosives, licensing for manufacture (Sch. 5)

A person who manufactures an authorised explosive must hold an explosives manufacture licence that authorises the manufacture of the explosive at the place where it is manufactured unless —

(a) the explosive is named in, and the person manufactures it in accordance with, Schedule 5; or

(b) the person holds a licence referred to in regulation 65 or 66 and manufactures the explosive in accordance with that regulation.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

65. Bulk AN-based explosives, licences authorising manufacture of

(1) A person is authorised, without holding an explosives manufacture licence, to manufacture ANFO if the person —

(a) holds a shotfiring licence; or

(b) is a secure nominee of the holder of a shotfiring licence and manufactures the ANFO in accordance with an unsupervised access authorisation given by the holder to the nominee; or

(c) manufactures the ANFO while being supervised by the holder of a shotfiring licence,

and manufactures the ANFO at the place where it will be used.

(2) A person is authorised, without holding an explosives manufacture licence, to manufacture a bulk AN-based explosive if the person —

(a) holds an explosives manufacture (MPU) licence; or

(b) is a secure nominee of the holder of an explosives manufacture (MPU) licence and manufactures the explosive in accordance with an unsupervised access authorisation given by the holder to the nominee; or

(c) manufactures the explosive while being supervised by the holder of an explosives manufacture (MPU) licence,

and manufactures the explosive using only constituents from an MPU that is a complying MPU under regulation 42(2).

[Regulation 65 amended: Gazette 2 Dec 2013 p. 5581-2.]

66. Fireworks, licence authorising manufacture of

A person is authorised, without holding an explosives manufacture licence, to manufacture a firework for use in connection with theatrical entertainment if the person —

(a) holds a fireworks contractor licence, a fireworks operator licence, or a pyrotechnics (special use) licence, that authorises the manufacture; and

(b) in manufacturing the firework, uses only constituents that —

(i) are designed to be used in the manufacture of fireworks for theatrical entertainment; and

(ii) are commercially available;

and

(c) uses the constituents in accordance with the instructions of their manufacturer.

Division 2 — Other requirements

67. Containers of components to be marked

A person who manufactures an explosive must keep each constituent of the explosive in a container that is clearly and conspicuously marked with the name of the constituent.

Penalty: a level 2 fine.

68. Records to be kept by some manufacturers

(1) The holder of an explosives manufacture licence must keep a proper record of any explosive manufactured under the licence.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), a proper record is not kept unless a written record is made of this information —

(a) the required details of the explosive manufactured;

(b) the quantity of the explosive that from time to time the person uses or supplies to another person and when it is used or supplied,

and is kept for 2 years after the date of manufacture.

69. Documents to be kept at place of manufacture

(1) The holder of an explosives manufacture licence must keep a copy of the licence at any place to which the licence relates.

(2) The occupier of a place where any explosive is manufactured must ensure that a copy of the SDS for the explosive is kept at the place in a position that makes it easily accessible to —

(a) any person handling the explosive; and

(b) any person treating an injury suffered when handling the explosive.

Penalty: a level 3 fine.

[Regulation 69 amended: Gazette 3 Mar 2017 p. 1475.]

70. Bulk AN-based explosives, manufacture of

(1) A person who manufactures a bulk AN-based explosive must manufacture it in accordance with the requirements of AS 2187.2 section 3, or alternative safety measures, for the mixing of bulk AN-based explosives.

(2) If, in respect of the manufacture of a bulk AN-based explosive using constituents from an MPU, a requirement of AS 2187.2 section 3 conflicts or is inconsistent with regulation 42, regulation 42 prevails.

(3) The holder of a shotfiring licence who manufactures a bulk AN-based explosive must not supply it to another person except as permitted by regulation 23.

Penalty: a level 2 fine.

71. MPUs in operation not to be left unattended

A person manufacturing a bulk AN-based explosive using constituents from an MPU must not leave the controls of the MPU unattended at any time.

Penalty: a level 3 fine.

72. Fireworks manufactured by licensee, supply and use of

(1) A person who manufactures a firework under regulation 66 must not supply it to another person except as permitted by regulation 23.

Penalty: a level 2 fine.

(2) A person who manufactures a firework under regulation 66 must initiate it or dispose of it within 24 hours after it is manufactured.

Penalty: a level 3 fine.

73. Filling ammunition

(1) In this regulation —

fill ammunition includes to cap it.

(2) A person who fills ammunition must do it properly.

Penalty: a level 2 fine.

(3) For the purposes of subregulation (2), the filling of ammunition is not done properly if —

(a) any substance other than an authorised explosive is used as a propellant in the ammunition; or

(b) any instruction of the manufacturer of the cartridge or shell or of the ammunition propellant is not followed; or

(c) any other work or activity that could adversely affect the safety of the filling is done in the room where the filling is being done; or

(d) in the room where the filling is being done there is —

(i) more ammunition propellant than is needed for the filling operation; or

(ii) any thing that has the potential to initiate the ammunition propellant being used; or

(iii) a substance that is readily ignited.

Part 9 — Storage of explosives

Division 1 — Preliminary matters

74. Term used: safely

(1) In this Part —

safely in relation to storing an explosive, has the meaning given by subregulation (2).

(2) For the purposes of this Part, an explosive is stored safely if —

(a) the explosive is stored in a container; and

(b) the container —

(i) has on its outside a clearly visible sign saying "Explosives"; and

(ii) is made of or lined with a material other than a ferrous metal; and

(iii) can be closed and locked; and

(iv) when closed, protects the explosive from the weather and contamination and sources of ignition; and

(v) when closed, does not allow the explosive to escape or leak from it; and

(vi) when locked, prevents removal of or access to the explosive by unauthorised people;

and

(c) the container is kept closed and locked except when it needs to be opened to deal with an explosive in it; and

(d) only a person authorised under these regulations to possess the explosive has access to the means of unlocking the container.

Division 2 — Licensing requirements

75. Unauthorised explosives

A person who stores an explosive that is not an authorised explosive at a place must hold a test permit that authorises the person to store it at that place.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

76. Authorised explosives, licensing for storage (Sch. 6)

A person who stores a quantity of an authorised explosive at a place must hold an explosives storage licence that authorises the storage of that quantity of that explosive at the place unless —

(a) the explosive is named in, and the person stores it in accordance with, Schedule 6; or

(b) the person holds a licence referred to in regulation 77, 78 or 79 and stores the explosive in accordance with that regulation; or

(c) the person holds a fireworks event permit and stores the explosive at the site of the event in accordance with the permit and regulation 89.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

[Regulation 76 amended: Gazette 16 Mar 2012 p. 1177.]

77A. Explosives transport licence authorises storage of certain explosives in transit

(1) In this regulation —

class 1.4 explosive means an explosive with a classification code of 1.4.

(2) The holder of an explosives transport licence is authorised to store a class 1.4 explosive at a place for which there is no explosives storage licence if —

(a) the holder is authorised to possess the explosive under the explosives transport licence; and

(b) the holder is in the course of transporting the explosive; and

(c) the holder stores the explosive only while it is in transit in the course of being transported.

[Regulation 77A inserted: Gazette 2 Dec 2013 p. 5582.]

77. Shotfiring licence authorises limited storage

(1) In this regulation —

BE initiator means an explosive with a classification code of 1.1 designed primarily to be used to cause a blasting explosive to detonate, such as a primer or detonating cord, but does not include a detonator;

initiating article means an article that is an explosive with a classification code of 1.4 and that is designed to be used to initiate a blasting explosive or a BE initiator, such as a signal tube or safety fuse, but does not include a detonator.

(2) If a term used in this regulation is not defined by subregulation (1) but is defined in AS 2187.0, it has the same meaning in this regulation as it has in AS 2187.0, unless the contrary intention appears.

(3) The holder of a shotfiring licence is authorised to store an explosive at a place for which there is no explosives storage licence if the holder is authorised to possess the explosive under the shotfiring licence and —

(a) if the area of the place is 2 ha or less, there is at the place —

(i) not more than 100 detonators; and

(ii) blasting explosive and BE initiators the NEQ of which is not more than 2.5 kg;

or

(b) if the area of the place is more than 2 ha, there is at the place —

(i) not more than 100 detonators; and

(ii) blasting explosive and BE initiators the NEQ of which is not more than 10 kg.

(4) For the purposes of subregulation (3), the area of a place is the combined area of the land on which the explosive is stored and of any land contiguous to that land that is under the same control and management as that land.

(5) The holder of a shotfiring licence is authorised to store at a place for which there is no explosives storage licence any quantity of initiating articles, if the holder is authorised to possess the articles under the shotfiring licence.

78. Pyrotechnics (special use) licence authorises limited storage

The holder of a pyrotechnics (special use) licence is authorised to store an explosive at a place for which there is no explosives storage licence if —

(a) the holder is authorised to possess the explosive under the pyrotechnics (special use) licence; and

(b) the gross weight of explosives with a classification code of 1.1 or 1.2 at the place is not more than 2.5 kg; and

(c) the gross weight of explosives with a classification code of 1.3 at the place is not more than 15 kg; and

(d) the gross weight of explosives with a classification code of 1.4 at the place is not more than 30 kg.

[Regulation 78 amended: Gazette 20 Mar 2018 p. 998.]

79. Fireworks contractor licence and fireworks operator licence authorise limited storage

The holder of a fireworks contractor licence or a fireworks operator licence is authorised to store a firework at a place for which there is no explosives storage licence if —

(a) the holder is authorised to possess the firework under the licence; and

(b) the gross weight of explosives with a classification code of 1.1 or 1.2 at the place is not more than 2.5 kg; and

(c) the gross weight of explosives with a classification code of 1.3 at the place is not more than 15 kg; and

(d) the gross weight of explosives with a classification code of 1.4 at the place is not more than 30 kg.

[Regulation 79 amended: Gazette 20 Mar 2018 p. 998.]

*[**80.** Deleted: Gazette 16 Mar 2012 p. 1178.]*

Division 3 — Storing Schedule 6 explosives

81. Application of this Division

(1) This Division applies to an explosive named in, and stored in accordance with, Schedule 6.

(2) This Division does not apply if an explosive named in Schedule 6 is stored in a place to which an explosives storage licence relates.

82A. Sparklers

(1) A person storing sparklers with a gross weight of more than 1 000 kg must ensure the sparklers are stored properly.

Penalty for this subregulation: a level 2 fine.

(2) For the purposes of subregulation (1) sparklers are not stored properly unless —

(a) they are in a building or container that is separate from and at least 5 m from other buildings and containers; and

(b) the building or container does not contain anything other than the sparklers, or the sparklers and other explosives with a classification code of 1.4S or 1.4G; and

(c) on the outside of the entrance to the building or container are the following —

(i) a Class 1 Label, Model No. 1.4, that complies with the AE Code Figure 3.1 and that is at least 250 mm square;

(ii) a sign that says "FIREWORKS (SPARKLERS)" in black letters at least 100 mm high on a white or silver background;

and

(d) there is a fire extinguisher containing at least 9 L of water on or close to the outside of the building or container; and

(e) there is no combustible material within 5 m of the outside of the building or container; and

(f) there is a "HAZCHEM" outer warning placard that complies with the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 71 and Schedule 4 clause 2 —

(i) at every entrance in the perimeter of the site where the building or container is situated; or

(ii) at a position or positions approved in writing by the FES Commissioner;

and

(g) except when it needs to be opened to deal with sparklers in it, the building or container is kept closed and locked

so as to prevent removal of or access to the sparklers by unauthorised people.

[Regulation 82A inserted: Gazette 16 Mar 2012 p. 1178-9; amended: Gazette 19 Feb 2013 p. 985; 20 Mar 2018 p. 998-9.]

82. Cartridges for safety devices etc.

(1) A person storing more than 10 000 power device cartridges must ensure that the outside of the cabinet or container in which they are stored has a clearly visible sign saying "Explosives".

(2) A person storing a power device cartridge must store it in a place that is not easily accessible to a person under the age of 14 years.

Penalty: a level 3 fine.

83. Cartridges for nail guns etc.

(1) A person storing more than 10 000 power tool cartridges must ensure that the outside of the cabinet or container in which they are stored has a clearly visible sign saying "Explosives".

(2) A person storing a power tool cartridge must store it in a place that is not easily accessible to a person under the age of 14 years.

Penalty: a level 3 fine.

84. Emergency devices

A person storing an emergency device must store it in a place that is not easily accessible to a person under the age of 14 years.

Penalty: a level 3 fine.

85. Ammunition propellant and black powder

(1) A person storing ammunition propellant or black powder must store it safely.

Penalty for this subregulation: a level 3 fine.

(2) A person must not store black powder the NEQ of which is more than 2 kg in any one container.

Penalty for this subregulation: a level 3 fine.

[Regulation 85 amended: Gazette 20 Mar 2018 p. 999.]

Division 4 — Storage under licences and permits other than explosives storage licences

[Heading inserted: Gazette 16 Mar 2012 p. 1179.]

86A. Storage by explosives transport licence holder

(1) This regulation applies to a person who holds an explosives transport licence and who, under regulation 77A, stores an explosive at a place for which there is not an explosives storage licence held by the person.

(2) The person must ensure the explosive is stored properly.

(3) For the purposes of subregulation (2), an explosive is not stored properly unless —

(a) it is in a building or container that is separate from and at least 5 m from other buildings and containers; and

(b) the building or container does not contain anything other than explosives with a classification code of 1.4; and

(c) on the outside of the entrance to the building or container are the following —

(i) a Class 1 Label, Model No. 1.4, that complies with the AE Code Figure 3.1 and that is at least 250 mm square;

(ii) a sign that says "EXPLOSIVES" in black letters at least 100 mm high on a white or silver background;

and

(d) there is a fire extinguisher containing at least 9 L of water on or close to the outside of the building or container; and

(e) there is no combustible material within 5 m of the outside of the building or container; and

(f) there is a "HAZCHEM" outer warning placard that complies with the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 71 and Schedule 4 clause 2 —

(i) at every entrance in the perimeter of the site where the building or container is situated; or

(ii) at a position or positions approved in writing by the FES Commissioner;

and

(g) except when it needs to be opened to deal with the explosives in it, the building or container is kept closed and locked so as to prevent removal of or access to the explosives by unauthorised people.

(4) If any of the packaging of the explosive is removed while the explosive is being stored, the person commits an offence.

Penalty for an offence against subregulation (2) or (4): a level 2 fine.

[Regulation 86A inserted: Gazette 2 Dec 2013 p. 5583-4.]

86. Shotfiring licence holders, storage by

(1) This regulation applies to a person who holds a shotfiring licence and who, under regulation 77, stores an explosive at a place for which there is not an explosives storage licence held by the person.

(2) The person must not store the explosive in, or in any part of, a building used wholly or partly as a dwelling or a shop.

(3) The person must store the explosive safely.

Penalty: a level 2 fine.

87. Pyrotechnics (special use) licence holders, storage by

(1) This regulation applies to a person who holds a pyrotechnics (special use) licence and who, under regulation 78, stores an explosive at a place for which there is not an explosives storage licence held by the person.

(2) The person must not store the explosive in, or in any part of, a building used wholly or partly as a dwelling or a shop.

(3) The person must store the explosive safely.

Penalty: a level 2 fine.

88. Fireworks contractor licence holders, storage by

(1) This regulation applies to a person who holds a fireworks contractor licence or a fireworks operator licence and who, under regulation 79, stores a firework at a place for which there is not an explosives storage licence held by the person.

(2) The person must not store the firework in, or in any part of, a building used wholly or partly as a dwelling or a shop.

(3) The person must store the firework safely.

Penalty: a level 2 fine.

89. Fireworks event permit holders, storage by

(1) This regulation applies to a person if —

(a) the person holds a fireworks event permit; and

(b) the person does not hold an explosives storage licence for the place where the event will be conducted; and

(c) the person stores at that place a firework that will be used at the event.

(2) The requirements of this regulation are in addition to any condition included in the fireworks event permit that relates to the storage of any firework.

(3) The person must ensure that the firework is stored at the place where the event will be conducted for not more than 48 hours or a longer period approved by the Chief Officer.

Penalty for this subregulation: a level 2 fine.

[(4) deleted]

(5) The person must ensure that the place where the firework is stored is at least 30 m from the place where any other firework is made ready for use or is ready for use or is used.

Penalty for this subregulation: a level 2 fine.

(6) The person must store the firework safely.

Penalty for this subregulation: a level 2 fine.

[Regulation 89 inserted: Gazette 16 Mar 2012 p. 1180-1; amended: Gazette 5 Feb 2016 p. 348.]

Division 5 — Storage under an explosives storage licence

90. General requirements

(1) The holder of an explosives storage licence must store any explosive to which the licence relates at the place to which the licence relates in a magazine that complies with the requirements of AS 2187.1 section 2, or alternative safety measures, for the construction of magazines.

(2) Subregulation (1) does not apply to the storage underground of an explosive.

(3) The holder of an explosives storage licence must store the explosives to which the licence relates at the place to which the

licence relates in accordance with the requirements of AS 2187.1 section 3, or alternative safety measures, for the storage of explosives.

(4) The holder of an explosives storage licence must comply with the requirements of AS 2187.1 section 4, or alternative safety measures, for the management of any magazine in which any explosive to which the licence relates is stored.

(5) The holder of an explosives storage licence must comply with the requirements of AS 2187.1 section 5, or alternative safety measures, for emergency procedures in relation to any explosive to which the licence relates.

(6) The holder of an explosives storage licence must ensure that any person who enters the place to which the licence relates is made aware of and complies with the requirements of AS 2187.1 sections 4 and 5, or any alternative safety measures adopted by the holder instead of sections 4 and 5.

(7) A person who is at a place to which an explosives storage licence relates must comply with the requirements of AS 2187.1 sections 4 and 5, or any alternative safety measures adopted by the holder of the licence instead of sections 4 and 5.

Penalty: a level 2 fine.

[Regulation 90 amended: Gazette 16 Mar 2012 p. 1181.]

91. Underground storage, magazine requirements

(1) In this regulation —

complying magazine means —

(a) a magazine that complies with the requirements of AS 2187.1 clause 2.2.3.1, or alternative safety measures, for the construction of external portable magazines; or

(b) a magazine that complies with the requirements of AS 2187.1 clause 2.3, or alternative safety measures, for the construction of relocatable magazines; or

(c) a magazine that complies with the requirements of AS 2187.1 clause 2.6.2, or alternative safety measures, for the construction of fixed magazines underground.

(2) The holder of an explosives storage licence who stores underground any explosive to which the licence relates, must store the explosive in a complying magazine.

Penalty for this subregulation: a level 2 fine.

[(3) deleted]

(4) The holder of an explosives storage licence must not store explosive the NEQ of which is more than 250 kg or 500 detonators in a complying magazine that is underground and that complies with the requirements of AS 2187.1 clause 2.2.3.1, or alternative safety measures, for the construction of external portable magazines.

Penalty for this subregulation: a level 2 fine.

[Regulation 91 amended: Gazette 16 Mar 2012 p. 1181; 20 Mar 2018 p. 999.]

92. Explosives storage licence holders to keep inventories etc.

(1) The holder of an explosives storage licence must keep a proper inventory for any place to which the licence relates.

Penalty: a level 2 fine.

(2) For the purpose of subregulation (1), a proper inventory is not kept unless a written record is made of this information —

(a) the required details of each explosive received into or dispatched from storage at the place;

(b) the date and time of each such receipt or dispatch;

(c) for each such dispatch —

(i) the name of the person to whom the explosive was dispatched; and

(ii) if a licence is needed to possess the explosive, the person's licence details or authority to possess the explosive;

(d) the quantity of explosive stored at the place after each such receipt or dispatch,

and is kept for 2 years after the date of each such receipt or dispatch.

(3) The holder of an explosives storage licence must do a proper stocktake of the explosives stored at any place to which the licence relates at least once a month.

Penalty: a level 3 fine.

(4) For the purpose of subregulation (3), a proper stocktake of the explosives stored at a place is not done unless —

(a) the explosives stored at the place at the time of the stocktake are compared to the storage inventory for the place at that time; and

(b) any discrepancy between the 2 is investigated; and

(c) if there is a discrepancy that is caused by an unexplained loss, the licence holder gives the Chief Officer a written report within one month after the stocktake of —

(i) the unexplained loss; and

(ii) the findings of the investigation; and

(iii) the measures taken to ensure the unexplained loss does not occur again.

(5) The holder of an explosives storage licence must properly inspect any place to which the licence relates at least once a month.

Penalty: a level 3 fine.

(6) For the purpose of subregulation (5), a place is not properly inspected unless —

(a) any relevant explosive stored at the place is inspected to see that it complies with, and is stored in accordance with, these regulations; and

(b) 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.

[Regulation 92 amended: Gazette 2 Dec 2013 p. 5584.]

93. Documents to be kept at storage places

(1) The holder of an explosives storage licence must keep a copy of the licence at any place to which the licence relates.

(2) The holder of an explosives storage licence must ensure that inside the entrance to any room at any place to which the licence relates there is a notice stating what kinds and quantities of explosives are permitted by the licence to be stored in the room.

(3) The holder of an explosives storage licence must keep a copy of the SDS for each explosive stored at a place to which the licence relates in a position that makes it easily accessible to —

(a) any person handling the explosive; and

(b) any person treating a person for an injury suffered when handling the explosive.

Penalty: a level 3 fine.

[Regulation 93 amended: Gazette 3 Mar 2017 p. 1475.]

94. Magazines to be kept secure

(1) The holder of an explosives storage licence must keep secure any magazine in which any explosive to which the licence relates is stored.

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

(2) For the purposes of subregulation (1), a magazine is not kept secure unless —

(a) it is kept closed and locked except when it needs to be opened for use by the licence holder or a secure nominee of the licence holder acting in accordance with an unsupervised access authorisation given by the holder to the nominee; and

(b) the licence holder keeps the means of unlocking it secure from any person other than a secure nominee of the licence holder.

[Regulation 94 amended: Gazette 2 Dec 2013 p. 5585.]

Part 10 — Transport of explosives

Division 1 — Preliminary matters

95. Terms used

(1) In this Part and Schedule 7, unless the contrary intention appears —

Category 1 load means a quantity of explosives that is within Category 1 under the AE Code Table 2.1;

Category 2 load means a quantity of explosives that is within Category 2 under the AE Code Table 2.1;

Category 3 load means a quantity of explosives that is within Category 3 under the AE Code Table 2.1;

prime contractor has the meaning given to that term by subregulation (2);

rail, in relation to the transport of explosives by rail, does not include —

(a) a railway in a mine; or

(b) a slipway; or

(c) a railway used exclusively by a crane;

rail wagon means a unit of rolling-stock that —

(a) is designed to carry freight; and

(b) bears a unique identifying number or alphanumeric identifier;

road vehicle means a vehicle capable of transporting people or things by road and it does not matter how the vehicle is moved or propelled;

train means 2 or more units of rolling-stock coupled together, of which at least one unit is a locomotive or a self-propelled unit.

(2) For the purposes of this Part, a person is a prime contractor —

(a) for the transport of an explosive, or a constituent of an explosive, by road if the person, in conducting a business for or involving the transport of explosives or such constituents by road, undertakes to be responsible, or is responsible, for the transport of the explosive or constituent by road;

(b) for the transport of an explosive by rail if the person undertakes to be responsible, or is responsible, for —

(i) the transport of the explosive by rail; or

(ii) the condition of a rail wagon transporting the explosive by rail;

(c) for the transport of an explosive by water if the person, in conducting a business for or involving the transport of explosives by water, undertakes to be responsible, or is responsible, for the transport of the explosive by water.

Division 2 — Licensing requirements

96. Unauthorised explosives

A person who transports an explosive that is not an authorised explosive must hold a test permit that authorises the person to transport it.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

97. Authorised explosives, licences entitling transport

(1) In this regulation —

interstate licence means an authorisation (however named) issued and in force under the law of another State or a Territory.

(2) A prime contractor who transports an authorised explosive by road, rail or water must hold an explosives transport licence that authorises the transport of the explosive unless —

(a) the explosive is named in and transported in accordance with Schedule 7; or

(b) the prime contractor holds a licence referred to in regulation 98, 99, 100 or 101 and transports the explosive under that regulation; or

(c) the prime contractor holds an interstate licence that corresponds with an explosives transport licence and authorises the prime contractor to transport the explosive by road, rail or water, as the case may be, in the State or Territory that issued the licence.

(3A) Despite subregulation (2), a prime contractor who transports an authorised explosive by road in a vehicle that is licensed under the *Road Traffic (Vehicles) Act 2012* Part 2 must hold an explosives transport licence that authorises the transport of the explosive unless —

(a) the explosive is named in and transported in accordance with Schedule 7; or

(b) the prime contractor holds a licence referred to in regulation 98, 99, 100 or 101 and transports the explosive under that regulation.

(3) A person who drives a road vehicle on a road transporting an authorised explosive must hold an explosives driver licence that authorises the person to do so unless —

(a) the explosive is named in, and the person transports it in accordance with, Schedule 7; or

(b) the explosive is part of a Category 1 load of explosives on the vehicle and the person —

(i) holds an explosives transport licence; or

(ii) is a secure nominee of the holder of such a licence and transports the load in accordance with an unsupervised access authorisation given by the holder to the nominee;

or

(c) the person holds a licence referred to in regulation 98, 99, 100 or 101 and transports the explosive under that regulation; or

[(d) deleted]

(e) the person —

(i) is an employee of a prime contractor who holds an interstate licence that corresponds with an explosives transport licence and authorises the prime contractor to transport the explosive by road in the State or Territory that issued the licence; and

(ii) is authorised under the law of that State or Territory to drive the vehicle transporting the explosive on a road in that State or Territory; and

(iii) is acting in the course of his or her duties as such an employee.

(4) If under subregulation (2) or (3) a person transports, or drives a vehicle transporting, an explosive under the authority of an interstate licence, then, for the purposes of these regulations, the licence is to be taken to be a licence issued under these regulations.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

[Regulation 97 amended: Gazette 16 Mar 2012 p. 1181; 2 Dec 2013 p. 5585; 8 Jan 2015 p. 129; 5 Feb 2016 p. 348.]

98. Shotfiring licence authorises limited transport

The holder of a shotfiring licence is authorised, without holding an explosives transport licence or an explosives driver licence, to transport an explosive by road if —

(a) the holder is authorised to possess the explosive under the shotfiring licence; and

[(b) deleted]

(c) not more than a Category 2 load is transported.

[Regulation 98 amended: Gazette 20 Mar 2018 p. 999.]

99. Pyrotechnics (special use) licence authorises limited transport

The holder of a pyrotechnics (special use) licence is authorised, without holding an explosives transport licence or an explosives driver licence, to transport an explosive by road if —

(a) the holder is authorised to possess the explosive under the pyrotechnics (special use) licence; and

[(b) deleted]

(c) not more than a Category 2 load is transported.

[Regulation 99 amended: Gazette 20 Mar 2018 p. 999.]

100. Fireworks contractor licence authorises limited transport

The holder of a fireworks contractor licence is authorised, without holding an explosives transport licence or an explosives driver licence, to transport a firework by road if —

(a) the holder is authorised to possess the firework under the fireworks contractor licence; and

[(b) deleted]

(c) not more than a Category 2 load is transported.

[Regulation 100 amended: Gazette 20 Mar 2018 p. 999.]

101. Fireworks operator licence authorises limited transport

(1) The holder of a fireworks operator licence is authorised, without holding an explosives transport licence or an explosives driver licence, to transport a firework by road if —

(a) the holder is authorised to possess the firework under the fireworks operator licence; and

[(b) deleted]

(c) not more than a Category 2 load is transported.

(2) The holder of a fireworks operator licence is authorised, without holding an explosives transport licence or an explosives driver licence, to transport a firework by road if —

(a) the holder is an employee of the holder of a fireworks contractor licence (the ***fireworks contractor***); and

(b) the fireworks contractor is authorised to possess the firework under that fireworks contractor licence; and

[(c) deleted]

(d) not more than a Category 2 load is transported.

[Regulation 101 amended: Gazette 20 Mar 2018 p. 1000.]

102. MPUs, licensing requirements for

(1) A prime contractor who transports a constituent of a bulk AN-based explosive in an MPU on a road or in a mine must hold an explosives manufacture (MPU) licence.

(2) A person who drives an MPU transporting a constituent of a bulk AN-based explosive on a road must be a secure nominee of the holder of an explosives manufacture (MPU) licence acting in accordance with an unsupervised access authorisation given by the holder to the nominee.

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

(3) Subregulation (2) does not affect any requirement in the *Dangerous Goods Safety (Road and Rail Transport of*

Non-explosives) Regulations 2007 to hold a dangerous goods driver licence.

[Regulation 102 amended: Gazette 2 Dec 2013 p. 5585-6.]

Division 3 — Transport by road or rail

103. Application of this Division

This Division applies to and in relation to the transport of an explosive by road or rail.

104. Contravention of AE Code Ch. 8 an offence

(1) If a provision of the AE Code Chapter 8 requires a person to do or not to do an act and the person contravenes the provision, the person commits an offence.

Penalty: a level 2 fine.

(2) Subregulation (1) does not apply —

(a) to the AE Code section 8.2.3(1); or

(b) to the AE Code section 8.3.4(2); or

(c) to the AE Code section 8.4.4(1) to the extent that it requires —

(i) the owner of a vehicle that is transporting explosives and the prime contractor to take all practicable steps to ensure a person who is driving the vehicle complies with the requirements of section 8.4.3; or

(ii) the owner of a vehicle that is transporting explosives to ensure the person who is driving the vehicle is authorised to do so under the Act;

or

(d) to the AE Code section 8.5.6(2); or

(e) to a person, other than the prime contractor, in respect of the transport of an explosive named in, and transported

in accordance with, Schedule 7 on a vehicle that is not transporting any other explosive.

(2A) Also, subregulation (1) does not apply insofar as it requires a person who is transporting an explosive to comply with the AE Code section 3.2.7(1), if —

(a) the explosive being transported is identified in the AE Code as having —

(i) the UN Number 0082, with the proper shipping name of "Explosives, Blasting, Type B" and with the classification code 1.1D; or

(ii) the UN Number 0241, with the proper shipping name of "Explosives, Blasting, Type E" and with the classification code 1.1D; or

(iii) the UN Number 0331, with the proper shipping name of "Explosives, Blasting, Type B" and with the classification code 1.5D; or

(iv) the UN Number 0332, with the proper shipping name "Explosives, Blasting, Type E" and with the classification code 1.5D;

and

(b) the explosive is transported in an Intermediate Bulk Container that is labelled —

(i) in accordance with the requirements for outer packaging stated in the AE Code section 3.2.1; and

(ii) in accordance with the relevant requirements for the explosive set out in the GHS.

(2B) In subregulation (2A) —

GHS has the meaning given in the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 4;

Intermediate Bulk Container means an Intermediate Bulk Container within the meaning of the AE Code;

UN Number, in relation to an explosive, means the UN Number shown in relation to the explosive in Appendix 2 of the AE Code.

(3) Subregulation (2)(a) and (c) do not affect the operation of regulation 97(3) or section 15 of the Act.

[Regulation 104 amended: Gazette 24 Nov 2009 p. 4738; 16 Mar 2012 p. 1182; 20 Mar 2018 p. 1000-1.]

105. Consignor's duties

(1) A person must not consign an explosive for transport by a prime contractor if the person knows, or reasonably ought to know, that the prime contractor does not hold an explosive transport licence that authorises the prime contractor to transport the explosive.

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

(2) Subregulation (1) does not apply to an explosive if it is named in, and transported in accordance with, Schedule 7.

106. Prime contractor's duties

(1) A prime contractor must not use a vehicle to transport an explosive, other than an explosive named in, and transported in accordance with, Schedule 7, by road or rail unless —

(a) the vehicle is marked in accordance with the AE Code Chapter 3; and

(b) the vehicle complies with the AE Code Chapter 6; and

(c) the explosives are transported in accordance with the AE Code Chapter 6.

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

(2) Despite the AE Code section 6.4.2(2), subregulation (1) does not operate to require a vehicle used to transport an explosive by road to be approved by the Chief Officer.

[Regulation 106 amended: Gazette 24 Nov 2009 p. 4738.]

107. Restrictions on transporting certain loads in CBDs

(1) In this regulation —

CBD means a central business district described in Schedule 11;

placarded vehicle means a road vehicle that is marked, or required to be marked, under the AE Code section 3.4.1.

(2) A person must not drive a placarded vehicle —

(a) in the tunnel on the Graham Farmer Freeway; or

(b) in a CBD, except for the purposes of delivering an explosive being carried on the vehicle to a person in the CBD.

Penalty: a level 3 fine.

(3) A prime contractor transporting explosives in a placarded vehicle must instruct the driver of it to comply with subregulation (2).

Penalty: a level 3 fine.

(4) The owner of a placarded vehicle must instruct the driver of the vehicle to comply with subregulation (2).

Penalty: a level 3 fine.

[Regulation 107 amended: Gazette 24 Nov 2009 p. 4738.]

Division 4 — Emergencies

108. Terms used

In this Division —

accountable person means —

(a) for a road vehicle transporting an explosive by road — both the prime contractor for the transport of the explosive and the driver of the vehicle;

(b) for a train transporting an explosive by rail — the prime contractor for the transport of the explosive;

(c) for a vehicle transporting an explosive by water — the prime contractor for the transport of the explosive;

emergency service means —

(a) the police; or

(b) as the case requires —

(i) the FES Commissioner; or

(ii) the department of the Public Service principally assisting in the administration of the *Fire and Emergency Services Act 1998*.

[Regulation 108 amended: Gazette 19 Feb 2013 p. 985.]

109. Dangerous situations, duty to notify authorities

(1) This regulation applies if a vehicle transporting an explosive by road, rail or water is involved in an incident resulting in a dangerous situation.

(2) In the case of a road vehicle involved in such an incident —

(a) one of the accountable persons for the vehicle must notify an emergency service as soon as practicable —

(i) of the incident; and

(ii) of the required details of the explosive being transported;

and

(b) each accountable person for the vehicle must provide the reasonable assistance required by a DGO, or an officer of an emergency service, to deal with the situation.

(3) In the case of a train transporting an explosive by rail involved in such an incident —

(a) the driver of the train must take all reasonable steps to notify the track owner of the incident; and

(b) the track owner must as soon as practicable notify an emergency service —

(i) of the incident; and

(ii) of the required details of the explosive being transported;

and

(c) the track owner and prime contractor must provide the reasonable assistance required by a DGO, or an officer of an emergency service, to deal with the situation.

(4) In the case of a vehicle transporting an explosive by water involved in such an incident —

(a) the master of the vehicle must take all reasonable steps to notify the prime contractor of the incident; and

(b) the prime contractor must as soon as practicable notify an emergency service —

(i) of the incident; and

(ii) of the required details of the explosive being transported;

and

(c) the prime contractor must provide the reasonable assistance required by a DGO, or an officer of an emergency service, to deal with the situation.

(5) As soon as practicable after the incident, each accountable person in relation to the vehicle or train (as the case requires) must notify the Chief Officer of the incident, and provide details of —

(a) when and where the incident happened; and

(b) the nature of the incident; and

(c) the required details of the explosives being transported when the incident happened.

(6) Not later than 21 days after the day when the incident happens, the accountable person must give the Chief Officer a written report about the incident.

(7) The report must provide details of the following —

(a) when and where the incident happened;

(b) the nature of the incident;

(c) the required details of the explosives being transported when the incident happened;

(d) any death of or harm to a person;

(e) any damage or harm to property or the environment;

(f) what the person believes is the likely cause of the incident;

(g) the measures taken to control any leak, spill or accidental escape of explosives, and any fire or explosion, arising out of the incident;

(h) the measures taken after the incident in relation to the explosives involved in the incident;

(i) the measures taken after the incident to prevent a similar incident happening again.

Penalty: a level 2 fine.

(8) It is a defence to a charge of an offence under subregulation (5) or (6) to prove the accused had already complied with the Act section 9(2) in respect of a reportable situation that arose from the incident.

[Regulation 109 amended: Gazette 16 Mar 2012 p. 1182.]

Division 5 — Transport in mines

110. Contravention of certain provisions of AE Code an offence

(1) Unless subregulation (2) says otherwise, the following provisions of the AE Code apply to and in relation to the transport of an explosive by a vehicle in a mine —

(a) section 8.2.7(3) and —

(i) for the purposes of that section, Chapter 7; and

(ii) for the purposes of section 7.2.1(4), Chapter 6;

(b) section 8.3.3(1) and —

(i) for the purposes of section 8.3.3(1)(a), Chapter 6; and

(ii) for the purposes of section 8.3.3(1)(b), section 7.2; and

(iii) for the purposes of section 7.2.1(4), Chapter 6;

(c) section 8.3.6 (other than section 8.3.6(3)(b)) and, for the purposes of section 8.3.6(1) and (2), section 3.4;

(d) section 8.3.9(1) and (2).

(2) Despite subregulation (1), the following provisions of the AE Code do not apply to and in relation to the transport of an explosive by a vehicle in a mine —

(a) sections 3.4.1(3) and (4), 3.4.2 and 3.4.3;

(b) sections 6.1.1, 6.2(1)(a), 6.2(2)(d)(i), 6.3, 6.4.2, 6.4.3 and 6.4.4.

(3) If a provision of the AE Code that, by virtue of subregulations (1) and (2), applies to and in relation to the

transport of an explosive by a vehicle in a mine requires a person to do or not to do an act and the person contravenes the provision, the person commits an offence.

Penalty: a level 2 fine.

[Regulation 110 inserted: Gazette 24 Nov 2009 p. 4739; amended: Gazette 16 Mar 2012 p. 1183.]

Part 11A — Explosives in ports

[Heading inserted: Gazette 2 Dec 2013 p. 5586.]

Division 1 — Preliminary matters

[Heading inserted: Gazette 2 Dec 2013 p. 5586.]

111A. Terms used

(1) If a term used in this Part is not defined in subregulation (2) but is defined in AS 3846 clause 1.4, it has the same meaning in this Part as it has in that clause, unless the contrary intention appears.

(2) In this Part —

AS 3846 means the Australian Standard AS 3846—2005, *The handling and transport of dangerous cargoes in port areas*, published by Standards Australia (ISBN 0 7337 7000 2);

berth means a berth in a port area but does not include any vessel moored at the berth;

handle, an explosive, means (despite section 3(1) of the Act) —

(a) to load it on to a vehicle or into a container;

(b) to unload it from a vehicle or container;

(c) to carry, move or transport it by any means;

(d) to store it while it awaits being so loaded, unloaded, carried, moved or transported;

harbour master —

(a) of a port subject to the *Port Authorities Act 1999*, has the meaning given in section 3(1) of that Act;

(b) of a port subject to the *Shipping and Pilotage Act 1967*, has the meaning given in section 3 of that Act;

operator, of a berth, means the person who controls and manages operations at the berth;

port means —

(a) a port as defined in the *Port Authorities Act 1999* section 3(1); or

(b) a port as defined in the *Shipping and Pilotage Act 1967* section 3;

port area means the area associated with a port being —

(a) if the port is subject to the *Port Authorities Act 1999* — the area or areas described in relation to the port under section 24 of that Act; and

(b) if the port is subject to the *Shipping and Pilotage Act 1967* — the area bounded by the limits specified in relation to the port under section 10 of that Act;

prime contractor has the meaning given in regulation 95(2);

special berth (explosives) means a berth that, under regulation 111N, is declared to be a special berth (explosives);

vessel means anything, including a hovercraft, capable of transporting people or things by water.

[Regulation 111A inserted: Gazette 2 Dec 2013 p. 5586-7.]

111B. General provisions about AS 3846

(1) This regulation operates for the purposes of this Part.

(2) In a provision of AS 3846 to which this Part refers directly or indirectly —

(a) a reference to "regulatory authority" is taken to be a reference to the Chief Officer;

(b) a reference to "dangerous cargo" is taken to be a reference to dangerous goods.

(3) If a term used in AS 3846 is defined in regulation 111A, it has the same meaning in AS 3846 as it has in regulation 111A, despite AS 3846 clause 1.4, unless the contrary intention appears.

(4) If a provision of AS 3846 conflicts or is inconsistent with a provision of this Part, the provision of this Part prevails to the extent of the inconsistency.

[Regulation 111B inserted: Gazette 2 Dec 2013 p. 5588.]

111C. Cases in which this Part does not apply

(1) In this regulation —

emergency device means an article, containing one or more explosives with or without other substances, that is designed to be used in distress or an emergency for signalling, warning or rescue purposes —

(a) to produce light, sound, gas, smoke, or a combination of them, by means of an exothermic chemical reaction that does not rely on oxygen from external sources to sustain the reaction; or

(b) to propel an article, such as a line or a flare, through the air.

(2) This Part does not apply to or in relation to a vehicle in a port area if the only explosive it is carrying is an emergency device to be used in an emergency involving the vehicle or if the vehicle is in distress.

(3) This Part does not apply to or in relation to an emergency device in a port area if it is in the area for the purposes of being used in an emergency involving a vehicle in the area or if a vehicle in the area is in distress.

(4) This Part does not apply to or in relation to explosives in a port area that are required for the operation, safety or maintenance of a vessel and that are or will be part of the vessel's stores or equipment.

[Regulation 111C inserted: Gazette 2 Dec 2013 p. 5588-9.]

Division 2 — Explosives in port areas

[Heading inserted: Gazette 2 Dec 2013 p. 5589.]

111D. Application of this Division

This Division applies to explosives in a port area, whether or not at a special berth (explosives).

[Regulation 111D inserted: Gazette 2 Dec 2013 p. 5589.]

111E. Master's duties

(1) The master of a vessel in a port area that is transporting or about to transport an explosive commits an offence if any of the requirements of AS 3846 clause 4.3.1(b), (f), (h), (k), (l), (n), (o) or (p) is contravened on board or in respect of the vessel.

(2) The master of a vessel on which there is an explosive commits an offence if any of the requirements of AS 3846 clause 4.4 is contravened while the vessel is in a port area.

Penalty: a level 2 fine.

[Regulation 111E inserted: Gazette 2 Dec 2013 p. 5589.]

111F. Prime contractor's duties

The prime contractor for the transport of an explosive by road into, in or from a port area commits an offence if any of the requirements of AS 3846 clause 4.3.1(j), (k), (l) or (n) is contravened in relation to the transport of the explosive into, in or from the port area.

Penalty: a level 2 fine.

[Regulation 111F inserted: Gazette 2 Dec 2013 p. 5589-90.]

111G. Berth operator's duties

The berth operator of a berth where an explosive is being handled commits an offence if a requirement or

recommendation of any of these clauses of AS 3846 is contravened —

(a) clause 4.3.1 (other than paragraphs (d), (e), (h), (m) and (q));

(b) clause 4.3.3(a);

(c) clause 4.3.4;

(d) clause 4.3.5;

(e) clause 4.3.6.

Penalty: a level 2 fine.

[Regulation 111G inserted: Gazette 2 Dec 2013 p. 5590.]

111H. Fire control equipment required at berth

(1) This regulation applies to a berth at which there is all or any part of a load of explosives if the total load that has been, is being, or is to be, transferred to or from the berth includes —

(a) explosives with a classification code of 1.4 and a gross weight of 10 tonnes or more; or

(b) other explosives with a gross weight of 1 kg or more.

(2) The berth operator of the berth must ensure the berth has adequate fire control equipment.

Penalty: a level 1 fine.

(3) For the purposes of subregulation (2), fire control equipment is not adequate fire control equipment unless —

(a) it is designed and constructed either to automatically extinguish or to be capable, when used by a person, of extinguishing any fire that is reasonably foreseeable at the berth having regard to —

(i) the types and quantities of explosives at the berth; and

(ii) the conditions under which they are handled at the berth; and

(iii) any materials and other substances at the berth; and

(b) it is designed and constructed to prevent explosives at the berth from being affected by any such fire; and

(c) the equipment it uses to extinguish any such fire is compatible with equipment used, and can be used immediately without adaptation or modification, by any fire brigade under the control of the FES Commissioner; and

(d) each substance it uses to extinguish any such fire is compatible with the material that is on fire.

(4) The berth operator of the berth must ensure the fire control equipment at the berth is in proper working order.

Penalty: a level 1 fine.

(5) For the purposes of subregulation (4), fire control equipment is not in proper working order unless —

(a) it is installed, maintained and tested in accordance with the instructions of its designer and manufacturer; and

(b) it is always in working order; and

(c) it is always available for immediate use to extinguish a fire; and

(d) it is not obstructed or otherwise positioned in a manner that hinders its operation or access to it or use of it.

(6) If any fire control equipment at the berth stops working or becomes unusable, the operator of the berth must ensure that —

(a) the implications of the equipment being inoperative or unusable are assessed; and

(b) alternative measures are taken to control, to the same level of effectiveness, the risks that were controlled by the equipment when functioning fully; and

(c) the equipment is replaced or returned to full operation as soon as practicable.

Penalty: a level 1 fine.

(7) If the implications assessed by the operator under subregulation (6)(a) include a significant reduction in the effectiveness of the fire control equipment, the operator must notify the FES Commissioner of the fact as soon as practicable after the equipment stops working or becomes unusable.

Penalty: a level 2 fine.

(8) In determining the alternative measures required under subregulation (6)(b) the operator must have regard to the need for —

(a) the provision of alternative fire control equipment; and

(b) a reduction of the quantities of explosives at the berth; and

(c) the handling of explosives to stop or be limited; and

(d) modifications to systems of work.

[Regulation 111H inserted: Gazette 2 Dec 2013 p. 5590-3.]

111I. Emergency plan required for berth

(1) In this regulation —

emergency plan, for a berth, means a document that contains —

(a) a plan of the actions to be taken and the procedures to be followed; and

(b) the information needed by people,

if a dangerous situation occurs at the berth.

(2) This regulation applies to a berth at which there is all or any part of a load of explosives if the total load that has been, is being, or is to be, transferred to or from the berth includes —

(a) explosives with a classification code of 1.4 and a gross weight of 10 tonnes or more; or

(b) other explosives with a gross weight of 1 kg or more.

(3) The operator of the berth must ensure there is an emergency plan for the berth.

Penalty: a level 2 fine.

(4) The operator of the berth may at any time revise the emergency plan for the berth.

(5) The operator of the berth must review the emergency plan and, if necessary, revise it —

(a) whenever there is a significant change in the risk in relation to explosives at the berth to people, property or the environment; and

(b) as soon as practicable after a dangerous situation occurs at the berth; and

(c) in any event, at intervals of not more than 3 years from the day on which the plan was first made or last revised.

Penalty: a level 2 fine.

(6) The operator of the berth must have a copy of the current emergency plan for the berth at the berth.

Penalty: a level 1 fine.

(7) The operator of the berth, on request, must give a copy of the current emergency plan for the berth to the Chief Officer, a DGO or the FES Commissioner.

Penalty: a level 3 fine.

(8) The Chief Officer, a DGO or the FES Commissioner, by a written notice, may direct the operator of the berth to make such amendments to the emergency plan as are specified in the notice before a date specified in the notice.

(9) An operator given a notice under subregulation (8) must obey it.

Penalty: a level 3 fine.

(10) A person who, under an emergency plan for a berth, has a function and who, without a reasonable excuse, does not obey the emergency plan commits an offence.

Penalty: a level 2 fine.

[Regulation 111I inserted: Gazette 2 Dec 2013 p. 5593-4.]

111J. Information for occupier of site at risk from proximity to berth handling explosives

(1) This regulation applies to a berth at which there is all or any part of a load of explosives if the total load that has been, is being, or is to be, transferred to or from the berth includes —

(a) explosives with a classification code of 1.4 and a gross weight of 10 tonnes or more; or

(b) other explosives with a gross weight of 1 kg or more.

(2) If, in the event of a dangerous situation occurring at the berth, the risk in relation to explosives at the berth to people, property or the environment would extend to a place because of its proximity to the berth, the operator of the berth must ensure the occupier of the place is given at least the following —

(a) information about the risk and what might happen if a dangerous situation occurs at the berth;

(b) information about what to do if a dangerous situation occurs at the berth;

(c) information about what the operator will do if a dangerous situation occurs at the berth;

(d) information to enable the occupier to contact the berth operator.

Penalty: a level 2 fine.

[Regulation 111J inserted: Gazette 2 Dec 2013 p. 5595.]

Division 3 — Special berth (explosives)

[Heading inserted: Gazette 2 Dec 2013 p. 5595.]

111K. When special berth (explosives) required

(1) A person must not handle an explosive, or allow an explosive to be handled, in a port area except at a special berth (explosives) at which the explosive may be handled under a declaration made under regulation 111N.

Penalty: a level 1 fine.

(2) Subregulation (1) does not apply to a berth if —

(a) the distance between an explosive at the berth or on any vessel at the berth and each of the following —

(i) every protected place;

(ii) the accommodation quarters on any vessel, other than a vessel at the berth to load or unload the explosive,

is at least the separation distance specified in Table 4.2 in AS 3846 for the NEQ of the explosive or, if the explosive has a classification code of 1.6, for the NEQ of a single article containing the explosive; and

(b) the distance between an explosive at the berth or on any vessel at the berth and each of the following —

(i) every road open to and used by the public;

(ii) every railway used by the public,

is at least half the separation distance specified in Table 4.2 in AS 3846 for the NEQ of the explosive or, if the explosive has a classification code of 1.6, for the NEQ of a single article containing the explosive.

(3) For the purposes of subregulation (2)(a) and (b), the NEQ of an explosive at a berth is the total NEQ of the explosive that is —

(a) at the berth; and

(b) on any vessel at the berth, including any explosive on board that is not handled while the vessel is at the berth.

(4) For the purposes of subregulation (2)(a) and (b), if explosives with different classification codes are to be handled, the greater or greatest separation distance specified in Table 4.2 in AS 3846 applies.

[Regulation 111K inserted: Gazette 2 Dec 2013 p. 5595-7.]

111L. Applying for declaration of special berth (explosives)

(1) Only these persons may apply for a berth to be declared a special berth (explosives) —

(a) the harbour master of the port;

(b) the operator of the berth.

(2) An application for a berth to be declared a special berth (explosives) must —

(a) be made to the Chief Officer; and

(b) be in an approved form; and

(c) specify the following —

(i) the location of the berth;

(ii) the name of the berth operator;

(iii) each explosive that will be handled at the berth;

(iv) the maximum quantity of explosive that will be at the berth and on any vessel at the berth, including any explosive on board that is not handled while the vessel is at the berth;

(v) any other matter required by the approved form;

and

(d) be signed by the applicant; and

(e) be accompanied by the following —

(i) an aerial photo of the berth and its surroundings on which are marked concentric circles with radii

of 500 m, 1 000 m and 2 000 m from the centre of the berth;

(ii) a risk assessment for the berth that complies with regulation 111M;

(iii) the fee.

[Regulation 111L inserted: Gazette 2 Dec 2013 p. 5597-8.]

111M. Content of risk assessment

For the purposes of regulation 111L(2)(e)(ii), a risk assessment for a berth is a document that —

(a) is in a form acceptable to the Chief Officer; and

(b) identifies all hazards relating to the explosive that is or will be handled at the berth and to handling the explosive; and

(c) for each hazard, assesses —

(i) the probability of the hazard causing a fire or explosion; and

(ii) the nature and extent of the harm to people, property and the environment that is likely to result from any such fire or explosion;

and

(d) for each hazard, identifies the measures that will eliminate or, if it is not reasonably practicable to eliminate, that will reduce so far as reasonably practicable —

(i) the probability of the hazard causing a fire or explosion; and

(ii) the harm to people, property and the environment that is likely to result from such a fire or explosion;

and

(e) records the method of reasoning used to determine the matters referred to in paragraphs (b) to (d); and

(f) contains the information listed in, and addresses, the items listed in AS 3846 clause 4.6.2.

[Regulation 111M inserted: Gazette 2 Dec 2013 p. 5598-9.]

111N. Dealing with application under r. 111L

(1) Any decision made by the Chief Officer under this regulation must be in writing.

(2) On an application made under regulation 111L, the Chief Officer may declare the berth to be a special berth (explosives) for a period, not over 5 years, specified in the declaration.

(3) Without limiting the matters the Chief Officer may consider before making a declaration under subregulation (2), he or she must not make a declaration unless he or she has considered —

(a) the adequacy of the risk assessment accompanying the application; and

(b) the items listed in AS 3846 clause 4.6.2.

(4) A declaration made under subregulation (2) may specify any of these requirements that the Chief Officer considers necessary to ensure explosives are handled safely at the special berth (explosives) —

(a) the maximum quantity of explosive that is permitted to be on any vessel at the berth, including any explosive on board that is not handled while the vessel is at the berth;

(b) any requirements that must be obeyed when explosives are handled at the berth.

(5) The Chief Officer may at any time amend or cancel a declaration made under subregulation (2).

[Regulation 111N inserted: Gazette 2 Dec 2013 p. 5599-600.]

111O. Berth operator's duties

The berth operator of a special berth (explosives) where explosives are being handled commits an offence if any requirement specified in a declaration made under regulation 111N is contravened at the berth.

Penalty: a level 1 fine.

[Regulation 111O inserted: Gazette 2 Dec 2013 p. 5600.]

Part 11 — Supply of explosives

Division 1 — Licensing requirements

111. Unauthorised explosives

A person who supplies an explosive that is not an authorised explosive to another commits an offence.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

112. Authorised explosives, licences authorising supply

A person who supplies an authorised explosive to another must hold an explosives supply licence that relates to the explosive unless —

(a) the explosive is referred to in, and the person supplies it in accordance with, Schedule 8; or

(b) the person holds a licence referred to in regulation 113, 114A, 114, 115 or 116 and supplies the explosive in accordance with that regulation; or

(c) in the case of a person who is a secure nominee of the holder of an explosives supply licence —

(i) the supply is authorised by the licence; and

(ii) the person supplies the explosive in accordance with an unsupervised access authorisation given by the licence holder to the nominee;

or

(d) in the case of a person who is a secure nominee of the holder of a licence referred to in regulation 113, 114A, 114, 115 or 116 —

(i) the supply is in accordance with that regulation; and

(ii) the person supplies the explosive in accordance with an unsupervised access authorisation given by the licence holder to the nominee;

or

(e) the person supplies the explosive while being supervised by the holder of an explosives supply licence and the supply is authorised by the licence; or

(f) the person supplies the explosive while being supervised by the holder of a licence referred to in regulation 113, 114A, 114, 115 or 116 and the supply is in accordance with that regulation.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

[Regulation 112 amended: Gazette 16 Mar 2012 p. 1183; 2 Dec 2013 p. 5600-1.]

113. Import/export licence authorises limited supply

(1) The holder of an explosives import/export licence is authorised, without holding an explosives supply licence, to supply to a person outside the State any explosive that the holder exports under the licence.

(2) The holder of an explosives import/export licence is authorised, without holding an explosives supply licence, to supply to any person any explosive that the holder imports under the licence.

[Regulation 113 amended: Gazette 16 Mar 2012 p. 1183.]

114A. Explosives manufacture licence authorises limited supply

The holder of an explosives manufacture licence is authorised, without holding an explosives supply licence, to supply to any person any explosive that the holder manufactures under the licence.

[Regulation 114A inserted: Gazette 16 Mar 2012 p. 1184.]

114. Explosives manufacture (MPU) licence authorises limited supply

The holder of an explosives manufacture (MPU) licence is authorised, without holding an explosives supply licence, to supply an explosive to another person if —

(a) the explosive is manufactured under the explosives manufacture (MPU) licence using constituents from an MPU; and

(b) the explosive is supplied in the course of the holder providing a service to the other person; and

(c) the holder does not give control or management of the explosive to any person other than the holder of a shotfiring licence.

115. Explosives transport licence authorises limited supply

The holder of an explosives transport licence is authorised, without holding an explosives supply licence, to supply an explosive to another person if —

(a) the holder is authorised to transport the explosive under the explosives transport licence; and

(b) the other person is the consignee of the explosive.

116. Explosives driver licence authorises limited supply

The holder of an explosives driver licence is authorised, without holding an explosives supply licence, to supply an explosive to another person if —

(a) the holder is authorised to drive a vehicle transporting the explosive under the explosives driver licence; and

(b) the holder is the driver of a vehicle transporting the explosive; and

(c) the other person is the consignee of the explosive.

Division 2 — Supplying explosives

117. Supply to unauthorised people prohibited

A person must not supply an authorised explosive to another person if the person knows, or reasonably ought to know, that the other person is not authorised to possess the explosive under the Act, these regulations or the law of the Commonwealth.

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

118. Suppliers, duties when supplying

(1) This regulation does not apply to the supply —

(a) of an explosive named in Schedule 8; or

(b) of an explosive under regulation 114.

(2) If a person (***A***) supplies an explosive to a person ***(B***) and supplies it to a person (***C***) for delivery to B, the requirements of this regulation apply to, and in relation to —

(a) the supply by A to B; and

(b) the supply by A to C; and

(c) the supply by C to B; and

(d) if any person other than C is involved in delivering the explosive to B, the supply by that person to the next person.

(3) A person (***X***) must not supply a quantity of an authorised explosive to an individual (***Y***) unless Y has produced to X, either at or within a reasonable period before the time of supply —

(a) proof of the identity of Y in the form of —

(i) a passport; or

(ii) a driver's licence issued in Australia; or

(iia) a photo card as defined in the *Western Australian Photo Card Act 2014* section 3; or

(iii) a security card, or a written authorisation, that is valid under regulation 16,

that shows Y's photograph; and

(b) evidence that Y is authorised, whether under a licence or not, to possess that quantity of the explosive under —

(i) the Act or these regulations; or

(ii) the law of the Commonwealth; or

(iii) if Y is in a place outside the State, the law of that place.

(4) A person (***X***) must not supply a quantity of an authorised explosive to a body corporate or partnership (***Y***) unless —

(a) Y has produced to X, either at or within a reasonable period before the time of supply, evidence that Y is authorised, whether under a licence or not, to possess that quantity of the explosive under —

(i) the Act or these regulations; or

(ii) the law of the Commonwealth; or

(iii) if Y is in a place outside the State, the law of that place;

and

(b) the explosive is delivered to a secure nominee of Y who shows X proof that he or she is a secure nominee; and

(c) X obtains the secure nominee's personal receipt.

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

(5) A person who supplies an authorised explosive to another person must, if the other person so requests, give the other person —

(a) the SDS for the explosive; and

(b) any instructions issued by the manufacturer of the explosive about how to use it safely.

Penalty: a level 3 fine.

[Regulation 118 amended: Gazette 2 Dec 2013 p. 5601; 5 Feb 2016 p. 348; 3 Mar 2017 p. 1475.]

119. Records to be kept by suppliers

(1) This regulation does not apply to the supply —

(a) of an explosive named in Schedule 8; or

(b) of an explosive under regulation 114.

(2) A person who supplies an explosive to another person must keep a proper record of the supply.

(3) For the purposes of subregulation (2) a proper record of a supply is not kept unless a written record is made of this information —

(a) the date of supply;

(b) the name and address of the other person;

(c) the details of the evidence referred to in regulation 118(3)(b) or (4)(a), as the case requires;

(d) the required details of the explosive supplied;

(e) the other person's receipt for the explosive,

and is kept for 2 years after the date of the supply.

Penalty: a level 2 fine.

120. Receiver of explosives not to mislead supplier

(1) This regulation does not apply to the supply of —

(a) a sparkler; or

(b) an explosive under regulation 114.

(2) A person who is supplied an explosive by another person must not give the other person any information about the person's

identity or authority to possess the explosive that the person knows is false or misleading.

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

121. Sale in public prohibited

(1) This regulation does not apply to an explosive named in Schedule 8 but does apply to ammunition and any other explosive.

(2) A person must not sell an explosive in a public place.

(3) A person must not display an explosive for sale in a shop window or in any place in a shop or other place where explosives are sold.

Penalty: a level 2 fine.

Part 12 — Use of explosives other than fireworks

Division 1 — Preliminary

122. Term used: blast plan

In this Part, unless the contrary intention appears —

blast plan for the use of an explosive, means a blast plan that complies with regulation 130.

123. Application of this Part

This Part does not apply to a firework.

Division 2 — Licensing requirements

124. Unauthorised explosives

A person who uses an explosive that is not an authorised explosive must hold a test permit that authorises the person to use it.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

125. Authorised explosives, licences authorising use of

(1) A person does not have to hold a licence to use an authorised explosive if the explosive is named in, and the person uses it in accordance with, Schedule 9.

(2) Unless subregulation (1) applies, a person who uses an explosive must —

(a) if the explosive is being used to blast rock or similar solid material, or to damage, destroy or demolish any thing, whether on or under land or water —

(i) hold a shotfiring licence that authorises the person to use the explosive at the time and place and in the circumstances; or

(ii) be supervised by the holder of such a shotfiring licence;

(b) if the explosive is being used in any circumstances not referred to in paragraph (a) — hold a pyrotechnics (special use) licence that authorises the use of the explosive at the time and place and in the circumstances.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

[Regulation 125 amended: Gazette 5 Feb 2016 p. 348.]

Division 3 — General requirements

126. Occupier's permission needed for use

A person must not use an explosive at a place without the prior permission of the owner or occupier of the place.

Penalty: a level 2 fine.

127. Manufacturer's instructions for use to be followed

A person must not use an explosive except in accordance with the instructions (if any) provided by its manufacturer unless the instructions conflict or are inconsistent with a provision of these regulations.

Penalty: a level 3 fine.

128. Children using explosives

A person under 18 years of age must not use an explosive unless —

(a) the explosive is named in Schedule 9; and

(b) except in the case of a sparkler or an emergency device, the person is under the supervision of a person who has reached 18 years of age.

Penalty: a level 3 fine.

Division 4 — Using explosives to blast, damage, destroy or demolish

129. No use without blast plan

(1) Before an explosive is used to blast rock or similar solid material, or to damage, destroy or demolish any thing, whether on or under land or water, each of the following persons must prepare a blast plan for the use of the explosive or ensure that such a plan has been prepared —

(a) the person who will use the explosive (the ***shotfirer***);

(b) the person for whom the shotfirer will be working at the time, whether under a contract for services or a contract of service;

(c) the person who has the control and management of the work that necessitates the use of the explosive;

(d) the person who has the control and management of the place where the explosive is used.

Note for this subregulation:

Under r. 192 a blast plan is a ***safety management document*** under the Act and accordingly the Act s. 10 (among others) applies in respect of it.

[(2) deleted]

[Regulation 129 amended: Gazette 5 Feb 2016 p. 349.]

130. Blast plans, content of

(1) A blast plan for the use of an explosive must be in writing and include the matters required by —

(a) AS 2187.2 Appendix A section A2 to be in a blast management plan; or

(b) AS 2187.2 Appendix K section K6 to be in a demolition blast plan,

as the circumstances require.

(2) One blast plan may relate to multiple proposed uses of explosives if it is intended that they occur simultaneously or in rapid succession at one site.

[Regulation 130 amended: Gazette 16 Mar 2012 p. 1184.]

131. Blasting in townsite, permit required for

(1) In this regulation —

townsite has the meaning given to that term by the *Land Administration Act 1997* section 26.

(2) A person who uses an explosive in a townsite to blast rock or similar solid material, or to damage, destroy or demolish any thing, whether on or under land or water, must have a written permit issued to the person under this regulation by the local government of the district in which the explosive is used.

Note for this subregulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

(3) The person who wants a permit issued under this regulation must give the local government, at least one working day before the date of the proposed use of the explosive —

(a) a townsite blasting application signed by the person; and

(b) a blast plan for the use of the explosive.

(4) A townsite blasting application must be in an approved form and contain this information —

(a) the details of the person who will use the explosive and of the person's shotfiring licence;

(b) the date and time when the explosion will occur;

(c) where the explosion will occur;

(d) the purpose of the explosion;

(e) the details of any public risk insurance policy for the explosion.

(5) A townsite blasting application may relate to multiple proposed explosions at the one place.

(6) A local government given a townsite blasting application by a person may give the person —

(a) a written notice that prohibits the proposed explosion; or

(b) a written permit for the proposed explosion; or

(c) a written permit for the proposed explosion that contains reasonable conditions for any of these purposes —

(i) to ensure the safety of people, property, or the environment, in the townsite;

(ii) to ensure such people are notified of the proposed explosion;

(iii) to reduce any disturbance of such people.

(7) A local government must not give a person a permit for a proposed explosion unless satisfied that there is public risk insurance for the explosion of at least $5m or such higher amount as the local government decides is reasonable in the circumstances.

(8) A local government may at any time amend or cancel a permit for a proposed explosion by advising the permit holder in writing.

132. General requirements for use

(1) In this regulation —

prescribed requirements for or in connection with the use of an explosive, means the requirements of AS 2187.2 sections 2, 4, 5, 6, 7, 8, 9, 10 and 12, or alternative safety measures, for or in connection with the use of explosives.

(2) A person must comply with the prescribed requirements for or in connection with the use of an explosive, before using, when using and after using the explosive.

(3) The holder of a shotfiring licence must ensure that any secure nominee of the holder complies with the prescribed requirements for or in connection with the use of an explosive, before using, when using and after using the explosive.

(4) A secure nominee of the holder of a shotfiring licence must obey any reasonable direction given to him or her by the holder before using, when using and after using an explosive.

Penalty: a level 2 fine.

[Regulation 132 amended: Gazette 2 Dec 2013 p. 5601.]

133. Blast plans to be obeyed etc.

(1) If a blast plan for the use of an explosive is not complied with, each of the following persons is guilty of an offence —

(a) the person who used the explosive (the ***shotfirer***);

(b) any person who prepared the explosive for use or who assisted in such preparation;

(c) the person for whom the shotfirer was working at the time, whether under a contract for services or a contract of service;

(d) the person who had the control and management of the work that necessitated use of the explosive;

(e) the person who had the control and management of the place where the explosive was used.

Penalty: a level 2 fine.

(2) It is a defence to a charge of an offence under subregulation (1) to prove —

(a) that the breach of the blast plan occurred without the consent or connivance of the accused; and

(b) the accused took all the measures to prevent the breach of the blast plan that the accused could reasonably be expected to have taken in the circumstances.

134. Records to be kept about blasts

(1) The holder of a shotfiring licence must keep a proper record of any use of an explosive by the holder.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), a proper record of the use of an explosive is not kept unless a written record, that complies with AS 2187.2 Appendix A section A3 or alternative safety measures, of the use is made within 7 days after the date of the use.

(3) The blast plan for the use of an explosive, and a record made under subregulation (1) of the use, must be kept by each of these persons for 2 years after the date of the use of the explosive —

(a) the holder of the shotfiring licence (the ***shotfirer***), unless the holder was employed under a contract of service when he or she used the explosive;

(b) the person for whom the shotfirer was working when he or she used the explosive, whether under a contract for services or a contract of service;

(c) the person who has the control and management of the work that necessitated use of the explosive.

Penalty: a level 2 fine.

Division 5 — Use of explosives under pyrotechnics (special use) licence

135. Holder of pyrotechnics (special use) licence, duties of

If a pyrotechnics (special use) licence relates to an explosive to which an approved code of practice applies, the holder of the licence must comply with the code's requirements, or alternative safety measures, for or in connection with the use of the explosive, before using, when using and after using the explosive.

Penalty: a level 2 fine.

Part 13 — Use of fireworks

Division 1 — Preliminary matters

136. Terms used

In this Part —

close proximity firework means a firework, whether designed and labelled to be used indoors or outdoors, that is —

(a) designed to be ignited by using electricity only; and

(b) either —

(i) manufactured commercially and is designed and labelled as suitable to be used in close proximity to a person; or

(ii) manufactured from commercially available constituents that are designed and labelled as suitable to manufacture fireworks to be used in close proximity to a person;

fireworks event means an event or show that involves the use of a firework outdoors to entertain one or more people, whether at a public or private event or show, other than an event or show at which the only firework used is —

(a) an unrestricted firework or a sparkler; or

(b) a firework used by a person in an aircraft or by a skydiver; or

(c) a firework used to create a special effect for film or television at a place where the public are not present; or

(d) a close proximity firework used where people are present or proximate to create a theatrical effect for the purposes of a concert or theatrical performance; or

(e) a cracker chain used under regulation 144 at a public ceremony.

[Regulation 136 amended: Gazette 16 Mar 2012 p. 1184; 2 Dec 2013 p. 5601; 20 Mar 2018 p. 1001-2.]

Division 2 — Licensing requirements

137. Unauthorised explosives

A person who uses a firework that is not an authorised explosive must hold a test permit that authorises the person to use it.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

138. Fireworks, licences authorising use of

(1) A person does not have to hold a licence to use a sparkler if it is an authorised explosive.

(2) Unless subregulation (1) applies, a person who uses a firework that is an authorised explosive must —

(a) if the firework is used at a fireworks event —

(i) hold a fireworks event permit that authorises the use of the firework; or

(ii) hold a fireworks operator licence and be an employee of a person who holds a fireworks event permit that authorises the use of the firework; or

(iii) be supervised by the holder of such a permit or licence that authorises the use of the firework,

at the time and place and in the circumstances; or

(b) otherwise, hold —

(i) a fireworks contractor licence; or

(ii) a fireworks operator licence; or

(iii) a pyrotechnics (special use) licence that authorises the use of the firework at the time and place and in the circumstances.

Note for this regulation:

The Act s. 11 (Unlicensed person involved with dangerous goods).

[Regulation 138 amended: Gazette 16 Mar 2012 p. 1184-5.]

139. Using certain fireworks outdoors other than at fireworks events

(1) This regulation does not apply to —

(a) the use of an unrestricted firework or a sparkler; or

(b) the use of a firework at a fireworks event under a fireworks event permit; or

(c) the use of a cracker chain under regulation 144 at a public ceremony; or

(d) the use of a firework by a person in an aircraft or by a skydiver; or

(e) the use of a firework to create a special effect for film or television at a place where the public are not present; or

(f) the use of a close proximity firework where people are present or proximate to create a theatrical effect for the purposes of a concert or theatrical performance.

(2) A person must not use a firework outdoors unless, at least 14 days before the date of the proposed use of the firework, the person has given a fireworks notice signed by the person to —

(a) the FES Commissioner; and

(b) the local government of the district in which the firework will be used.

Penalty: a level 2 fine.

(3) A fireworks notice must be in an approved form and contain this information —

(a) the details of the fireworks operator licence that the person holds;

(b) a description of the proposed use of the fireworks including —

(i) the date, time and intended duration of the use of the fireworks; and

(ii) if any firework to be used is an aerial shell, the diameter of the largest shell;

(c) where the fireworks will be used;

(d) the purpose of using the fireworks.

(4) On receiving a fireworks notice from a person, the FES Commissioner or a local government may give the person —

(a) a written notice that prohibits the proposed use of the firework; or

(b) a written notice that prohibits the proposed use of the firework unless the person complies with conditions specified in the notice.

(5) Under subregulation (4)(b) the FES Commissioner or a local government may include in a notice any condition that is reasonably necessary for any of these purposes —

(i) to ensure the safety of people, property or the environment in the vicinity of where the firework will be used;

(ii) to ensure such people are notified of the proposed use of the firework;

(iii) to reduce any disturbance of such people.

(6) The FES Commissioner or a local government may amend or cancel a notice it has given to a person under this regulation by advising the person in writing.

(7) A person who is given a written notice under subregulation (4) must comply with it.

Penalty: a level 2 fine.

[Regulation 139 inserted: Gazette 16 Mar 2012 p. 1185-7; amended: Gazette 19 Feb 2013 p. 985; 20 Mar 2018 p 1002.]

*[**140.** Deleted: Gazette 16 Mar 2012 p. 1187.]*

Division 3 — General requirements

141. Occupier's permission needed for use

A person must not use a firework at a place without the prior permission of the owner or occupier of the place.

Penalty: a level 2 fine.

142. Manufacturer's instructions for use to be followed

A person must not use a firework except in accordance with the instructions (if any) provided by its manufacturer unless the instructions conflict or are inconsistent with a provision of these regulations.

Penalty: a level 3 fine.

143. General requirements for use

(1) In this regulation —

prescribed requirements for or in connection with the use of a firework, means the requirements of an approved code of practice (if any), or alternative safety measures, for or in connection with the use of the firework;

relevant licence means —

(a) a pyrotechnics (special use) licence that relates to a firework; or

(b) a fireworks contractor licence; or

(c) a fireworks operator licence.

(2) The holder of a relevant licence must comply with the prescribed requirements for or in connection with the use of a firework, before using, when using and after using the firework.

(3) The holder of a relevant licence must ensure that any secure nominee of the holder complies with the prescribed requirements for or in connection with the use of a firework, before using, when using and after using the firework.

(4) A secure nominee of the holder of a relevant licence must obey any reasonable direction given to him or her by the holder before using, when using and after using a firework.

Penalty: a level 2 fine.

[Regulation 143 amended: Gazette 2 Dec 2013 p. 5602.]

144. Cracker chains, use of

(1) In this regulation —

cracker chain has the meaning given by Schedule 2 clause 2(1).

(2) A person must not use a cracker chain except at a public ceremony at which the use of cracker chains is a custom.

Penalty: a level 2 fine.

(3) A person must not use a cracker chain unless the person has given a ceremonial fireworks notice, signed by the person, at least 7 days before the date of the use, to —

(a) the Commissioner of Police; and

(b) the local government of the district in which the cracker chain will be used.

Penalty: a level 3 fine.

(4) A ceremonial fireworks notice must be in an approved form and contain this information —

(a) the details of the pyrotechnics (special use) licence, or the fireworks operator licence, that the person holds;

(b) the date and time when the cracker chain will be used;

(c) where the cracker chain will be used;

(d) details of the public ceremony at which the cracker chain will be used.

(5) A ceremonial fireworks notice may relate to the use of multiple cracker chains at the one ceremony.

145. Records to be kept by fireworks contractors

(1) The holder of a fireworks contractor licence must keep a proper record of fireworks purchased by the holder.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), a proper record is not kept unless a written record is made of this information —

(a) the required details of each firework purchased by the holder and the date of purchase;

(b) when and where the firework was used or destroyed,

and is kept for 2 years after the date of the purchase.

Division 4 — Fireworks events

146. Term used: event firework

In this Division —

event firework for a fireworks event, means a firework that is proposed to be used, or that is used, at the event.

147. Fireworks used at fireworks events, requirements for

(1) The holder of a fireworks event permit must not use an event firework, or allow an event firework to be used, at the event to which the permit relates unless the holder —

(a) has previously properly tested a firework that the holder is satisfied on reasonable grounds is identical to the event firework; and

(b) is satisfied by the test that a firework that is identical to the one tested would be safe to use at a fireworks event.

Penalty: a level 2 fine.

(2) For the purposes of subregulation (1), a person does not properly test a firework unless the person uses the firework at a place where —

(a) the public is not present; and

(b) the firework can be used safely; and

(c) the effects of the use of the firework can be observed safely; and

(d) any risk in relation to the firework in relation to people, property and the environment, including any risk from any malfunctioning of it or of the means of initiating it, is reduced as far as is reasonably practicable.

148. Fireworks event permits, preliminary matters

(1) Only the holder of a fireworks contractor licence can apply for a fireworks event permit.

(2) Before the holder of a fireworks contractor licence can apply for a fireworks event permit, the holder must sign a fireworks event notice and give it to the following —

(a) the Commissioner of Police;

(b) the FES Commissioner;

(c) the local government of the district in which the event will occur.

[(d) deleted]

(3) The fireworks event notice must be in an approved form and contain this information —

(a) the details of the fireworks contractor licence held;

(b) the date and time when the event will begin;

(c) the expected duration of the event;

(d) where the event will occur;

(e) the details of any public risk insurance policy for the event.

(4) A fireworks event notice may relate to more than one event at the one place if the event will be repeated at the place on a number of occasions at intervals of not more than 48 hours.

(5) On receiving a fireworks event notice, the FES Commissioner may give the holder a written response that —

(a) agrees to the proposed event; or

(b) objects to it unless certain conditions specified in the response are met; or

(c) objects to it on the grounds that the FES Commissioner considers it will cause danger to the public or unintended damage to any property.

(6) On receiving a fireworks event notice, a local government may give the holder a written response that —

(a) agrees to the proposed event; or

(b) objects to it unless certain conditions specified in the response are met; or

(c) objects to it on the grounds that the local government considers the event —

(i) is not in the public interest; or

(ii) will cause danger to the public or unintended damage to any property or to the environment.

(7) On receiving a fireworks event notice, an airport manager may give the holder a written response that —

(a) agrees to the proposed event; or

(b) objects to it unless certain conditions specified in the response are met.

[Regulation 148 amended: Gazette 16 Mar 2012 p. 1187; 19 Feb 2013 p. 985-6; 20 Mar 2018 p. 1002.]

149. Application for fireworks event permit

(1) An application for a fireworks event permit must —

(a) be in an approved form and contain the information required by subregulation (2); and

(b) be accompanied by the following —

(i) a copy of the fireworks event notice given under regulation 148;

(ii) written confirmation by each person to whom the notice is required to be given under regulation 148 that the person received the notice;

(iii) any response from such a person made under regulation 148;

(iv) if an explosives management plan for the purposes of the applicant's fireworks contractor licence is not provided to the Chief Officer within the period of 5 years ending on the day on which the application is made — an explosives management plan that complies with the requirements set out in regulation 164(2)(f)(i) to (iii);

and

(c) be accompanied by a site plan (in 3 dimensions if any event firework will be more than 2 m above ground or water level when it is initiated) of the place where the fireworks event will occur (the ***site***) including details of the following —

(i) where the event fireworks will be situated when initiated;

(ii) if the event fireworks will be on a vehicle when initiated, a description of the vehicle and where it will be when the event fireworks are initiated;

(iii) where spectators or any other person not authorised to use the event fireworks will be situated;

and

(d) be accompanied by any other document that is required by the approved form; and

(e) be accompanied by —

(i) if the application is made more than 14 days before the date of the proposed event, the fee;

(ii) if the application is made within 14 days before the date of the proposed event, the fee plus a fee of $41.00.

(2) The application must contain this information —

(a) the address of the site where the fireworks event will occur;

(b) the person from whom the applicant has purchased or will purchase the event fireworks;

(c) a description of the event including the following —

(i) if the event will occur once at the site, the date, time and intended duration of the event;

(ii) if the event will be repeated at the site on a number of occasions at intervals of not longer than 48 hours, the date and time and duration of each occasion;

(iiia) the number of event fireworks that are ground displays (if any);

(iiib) the number of event fireworks that are aerial shells (if any);

(iii) the required details of each event firework;

(iv) if any event firework is an aerial shell, the diameter of the largest shell;

(d) if the applicant proposes to store the event fireworks at the site of the event before the event and there is no explosives storage licence for the site, details of where, how and for how long they will be stored at the site;

(e) any other information the form reasonably requires to be provided.

[Regulation 149 amended: Gazette 16 Mar 2012 p. 1187-8; 2 Dec 2013 p. 5602-3; 26 Jun 2015 p. 2267; 24 Jun 2016 p. 2326; 23 Jun 2017 p. 3284; 25 Jun 2018 p. 2298; 18 Jun 2019 p. 2040; SL 2022/122 r. 4.]

150. Dealing with applications for fireworks event permits

(1) When deciding an application for a fireworks event permit, the Chief Officer must consider any response made by a person under regulation 148.

(2) For the purposes of deciding an application for a fireworks event permit, 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 or a person nominated by the Chief Officer to inspect the place where the event will occur and any vehicle on which any firework will be situated when initiated at the event.

(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) On an application for a fireworks event permit, the Chief Officer may refuse the application or, subject to this regulation, grant the application and issue the permit.

(5) The Chief Officer must not grant an application for a fireworks event permit unless satisfied as to each of these matters —

(a) that the application complies with regulation 149;

(b) that the applicant holds a fireworks contractor licence that authorises the use of the fireworks that will be used at the event;

(c) that any risk in relation to the fireworks that will be used in the event in relation to people, property or the environment is acceptable;

(d) that there is public risk insurance for the event of at least $5m or such higher amount that is reasonable in the circumstances and set by the Chief Officer.

(6) The Chief Officer may refuse to issue a fireworks event permit if —

(a) a local government, in a response made under regulation 148, has objected to the event because it considers the event is not in the public interest; and

(b) the Chief Officer considers the event is not in the public interest.

(7) A fireworks event permit may be issued subject to conditions decided by the Chief Officer and specified in it.

(8) Conditions that may be imposed include —

(a) a condition that limits the time, place or circumstances in which the fireworks event may be conducted;

(b) a condition that a firework specified in the permit must not be used in the event;

(ca) a condition as to where, how and for how long any firework that will be used in the event may be stored at the place of the event before the event;

(c) a condition as to where any firework used in the event must or must not be situated when it is initiated;

(d) any condition that is reasonably necessary to ensure, so far as is practicable, that any firework used in the event will be secure before it is used;

(e) any condition that is reasonably necessary to ensure, so far as is practicable, that the event is conducted safely;

(f) any condition that is reasonably necessary to minimise any risk in relation to the fireworks that will be used in the event in relation to people, property and the environment;

(g) any reasonable condition specified in a response made by a person under regulation 148;

(h) any condition —

(i) to ensure people in the vicinity of the proposed event are notified of it;

(ii) to minimise any disturbance of those people.

(9) The Chief Officer must give an applicant written notice of a decision made under this regulation as soon as practicable after it is made.

[Regulation 150 amended: Gazette 16 Mar 2012 p. 1188.]

151. Amending, suspending and cancelling fireworks event permits

The Chief Officer may amend, suspend or cancel a fireworks event permit by advising the permit holder in writing.

152. Fireworks event, conduct of

A person who assists in conducting a fireworks event or in preparing a firework for use in or in using a firework in the event must comply with the permit holder's explosive management plan.

Penalty: a level 2 fine.

153. Records to be kept by fireworks event permit holders

(1) The holder of a fireworks event permit must keep a proper record of the fireworks event conducted under the permit.

Penalty: a level 2 fine.

(2) If a fireworks event permit authorises the holder to conduct a fireworks event on more than one occasion, the record required by subregulation (1) must be made for each occasion the event occurs.

(3) For the purpose of subregulation (1), a proper record is not kept unless a written record is made of this information —

(a) the details of the fireworks event permit;

(b) the date, time and duration of the event;

(c) where the event occurred;

(d) details of the weather conditions;

(e) the required details of —

(i) each firework used in the event; and

(ii) each firework that was intended to be used in the event but which for any reason was not;

(f) the reasons why any such firework was not used including, in the case of a misfire or malfunction, the reasons for the misfire or malfunction;

(g) the name of any holder of a fireworks operator licence who was involved in preparing or conducting the event and the details of the licence;

(h) the details of the holder's fireworks contractor licence,

and is kept for 2 years after the date of the event.

Part 14 — Disposal of explosives

154. Who can dispose of explosives

A person must not destroy or dispose of an explosive unless the person has a licence that authorises the person to use the explosive.

155. Improper disposal of explosives

(1) A person must not abandon or discard an explosive.

(2) A person must dispose of an explosive properly.

Penalty: a level 2 fine.

(3) For the purposes of subregulation (2) an explosive is disposed of properly if it is disposed of in accordance with the requirements of AS 2187.2 section 11, or alternative safety measures, for the disposal of surplus and defective explosives.

Part 15 — Licences

Division 1 — Preliminary matters

156. Terms used

(1) In this Part, unless the contrary intention appears —

licence means —

(a) an explosives import/export licence;

(b) an explosives manufacture licence;

(c) an explosives manufacture (MPU) licence;

(d) an explosives storage licence;

(e) an explosives transport licence;

(f) an explosives driver licence;

(g) an explosives supply licence;

(h) a shotfiring licence;

(i) a fireworks contractor licence;

(j) a fireworks operator licence;

(k) a pyrotechnics (special use) licence;

relevant offence means any of the following —

(a) an offence against the Act, these regulations or any other regulations made under the Act;

(b) an offence against a law of another place that substantially corresponds to the Act or the regulations made under it;

(c) an offence against the law of this State or another place an element of which is the handling, storage or transport of explosives;

renewal application means an application made under regulation 173 for a new licence;

required age has the meaning given to that term by subregulation (2).

(2) For the purposes of this Part, the required age is —

(a) 21 years of age for —

(i) an explosives driver licence;

(ii) a fireworks contractor licence;

(b) 18 years of age for any other licence.

Division 2 — General matters

157. Applying for 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) 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 —

(i) the annual fee (if any) payable for the 1st year of the licence applied for; and

(ii) if the application is not accompanied by a certificate given under subregulation (8), a checking fee equal to the amount (if any) required to be paid under subparagraph (i);

and

(d) be made to the Chief Officer.

(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.

(2) Only an individual can apply for —

(a) an explosives driver licence;

(b) a shotfiring licence;

(c) a fireworks operator licence;

(d) a pyrotechnics (special use) licence.

(3) An application for a licence by an individual must be accompanied by the following —

(a) one photograph of the applicant's face and shoulders that is 45-50 mm high and 35-40 mm wide and taken in the 6 months before the date of the application;

(b) evidence of the applicant's identity;

(c) evidence that the applicant has reached the required age;

(d) if the application is for an explosives driver licence —

(i) the medical evidence required by regulation 158;

(ii) the competency evidence required by regulation 159;

(iii) the driver licence evidence required by regulation 160;

(e) if the application is for a shotfiring licence —

(i) the medical evidence required by regulation 158;

(ii) the competency evidence required by regulation 159;

(f) if the application is for a fireworks operator licence —

(i) the medical evidence required by regulation 158;

(ii) the competency evidence required by regulation 159;

(g) if the application is for a pyrotechnics (special use) licence — the competency evidence required by regulation 159.

(4) 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.

(5) An application by a body corporate or partnership must be accompanied by proof of the incorporation of the body or the existence of the partnership.

[(6) deleted]

(7) In addition to any document that may be required by the approved form for the application, an application for —

(a) an explosives manufacture licence; or

(b) an explosives manufacture (MPU) licence; or

(c) an explosives storage licence; or

(d) an explosives transport licence; or

(e) a fireworks contractor licence,

must be accompanied by a written explosives management plan that complies with regulation 161.

(8) In addition to any document that is required to accompany the application, an application for a trading licence may be accompanied by a certificate that complies with subregulation (9) and is signed by a person approved by the Chief Officer.

(9) A certificate given by a person under subregulation (8) must —

(a) if it relates to an application for a trading licence that, under subregulation (7), is accompanied by a written explosives management plan, certify that the person —

(i) has read the application; and

(ii) is satisfied the application complies with this regulation; and

(iii) if the application is accompanied by a document for the purposes of subregulation (5), is satisfied the document complies with that subregulation; and

(iv) has read the explosives management plan; and

(v) is satisfied the plan complies with regulation 161; and

(vi) has done a risk assessment of the activities the licence would authorise and, having regard to section 8 of the Act, is satisfied the applicant has taken or will take all reasonably practicable measures to minimise the risk to people, property and the environment in relation to the explosives to which the licence would relate; and

(vii) if the trading licence would relate to a site, is satisfied the site can be operated in accordance with these regulations; and

(viii) is satisfied the explosives to which the licence would relate will be secure;

(b) if it relates to an application for any other trading licence, certify that the person —

(i) has read the application; and

(ii) is satisfied the application complies with this regulation; and

(iii) if the application is accompanied by a document for the purposes of subregulation (5), is satisfied the document complies with that subregulation.

[Regulation 157 amended: Gazette 16 Mar 2012 p. 1188 and p. 1263-4; 2 Dec 2013 p. 5603-5; 5 Feb 2016 p. 349.]

158. Medical evidence

The medical evidence for the purposes of an application for a licence, or a renewal application, by an individual is a report —

(a) that is made by a medical practitioner who examined the applicant within 6 months before the day the application is made; and

(b) that is about the applicant's physical and mental fitness to engage safely in the activities that would be authorised by the licence; and

(c) that certifies that the medical practitioner examined and passed the applicant in accordance with the set of medical standards described as the commercial standards in *Assessing Fitness to Drive for commercial and private vehicle drivers*, Fourth Edition 2012, published by Austroads Ltd (ISBN 978-1-921991-01-1).

[Regulation 158 amended: Gazette 24 Nov 2009 p. 4739; 2 Dec 2013 p. 5605.]

159. Competency evidence

The competency evidence for the purposes of an application for a licence, or a renewal application, by an individual is —

(a) a certificate issued by a person who conducted a test or course, approved under regulation 14 in relation to the licence, stating that the applicant passed the test or completed the course within 6 months before the day when the application is made; or

(b) other written evidence that the applicant passed such a test or completed such a course within 6 months before the day when the application is made; or

(c) if no such test or course has been approved under regulation 14 in relation to the licence, such evidence as the Chief Officer requires of the individual's

competence to engage in the activities that would be authorised by the licence.

160. Driver licence evidence

(1) In this regulation —

driver licence means an Australian driver licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1) but does not include a provisional licence;

provisional licence has the meaning given in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1).

(2) The driver licence evidence for an application, or a renewal application, for an explosives driver licence is —

(a) a copy of the applicant's driver licence; and

(b) an extract of entries about the applicant in the register of driving licences kept by the licensing authority of each jurisdiction in Australia where the applicant is licensed to drive, certified by the authority within 6 months before the day when the application is made; and

(c) a copy of the record of any conviction of the applicant of an offence involving the use of a road vehicle, certified by the appropriate authority of the jurisdiction where the applicant was convicted within 6 months before the day when the application is made.

[Regulation 160 amended: Gazette 8 Jan 2015 p. 130; 5 Feb 2016 p. 349.]

161. Explosives management plans

(1) In this regulation —

authorised person, in relation to an explosive, means a person who is authorised to possess the explosive under the Act, these regulations or a law of the Commonwealth.

(2A) In subregulations (2) and (4) —

explosive includes a constituent of an explosive that is a security sensitive ammonium nitrate.

(2) An explosives management plan for the purposes of an explosives manufacture 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 matters in Schedule 10 clauses 2, 3A, 3 and 4;

(c) the measures that will be taken to ensure that the required details of any explosive manufactured or received at, or despatched from, the site are recorded and reconciled;

(d) the measures that will be taken to ensure that no explosive at the site is supplied 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 any person to whom an explosive at the site is supplied and the person's authority under these regulations to possess the explosive; and

(ii) the required details of the explosive supplied;

(f) 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 explosive at the site is investigated and reported to the Chief Officer.

(3) An explosives management plan for the purposes of an explosives manufacture (MPU) licence, must include the matters required by subregulation (5) which, with Schedule 10 clauses 2, 3A and 4, applies with any necessary changes as if any reference to an explosive were a reference to a constituent of an explosive.

(4) An explosives management plan for the purposes of an explosives 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) if the licence will authorise the storage on the site of any of the following —

(i) 2.5 kg or more of explosives with a classification code of 1.1 or 1.2;

(ii) 15 kg or more of explosives with a classification code of 1.3;

(iii) 30 kg or more of explosives with a classification code of 1.4;

(iv) 100 or more detonators,

the matters in Schedule 10 clauses 2, 3A and 4;

(c) the measures that will be taken to ensure that the required details of any explosive received at, or despatched from, the site are recorded and reconciled with the required details of any explosive on the site;

(d) the measures that will be taken to ensure that no explosive at the site is supplied 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 any person to whom an explosive at the site is supplied and the person's authority under these regulations to possess the explosive; and

(ii) the required details of the explosive supplied;

(f) 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 explosive at the site is investigated and reported to the Chief Officer.

(5) An explosives management plan for the purposes of an explosives transport licence, must include the following —

(a) the matters in Schedule 10 clauses 2, 3A and 4;

(b) the measures that will be taken to ensure that any explosive is loaded for transport and unloaded after transport at a place where the explosive is secure;

(c) the measures that will be taken to monitor at all times the location of any explosive while it is being transported;

(d) the measures that will be taken to ensure that —

(i) any unlawful entry to or use of a vehicle used to transport any explosive, or any attempted such entry or use; or

(ii) any theft, attempted theft or unexplained loss of any explosive while it is being transported,

is investigated and reported to the Chief Officer;

(e) the measures that will be taken to ensure that the required details of any explosive being transported is recorded at the beginning and end of the journey and reconciled;

(f) the measures that will be taken to ensure that no explosive is consigned for transport by or to a person unless the person is an authorised person;

(g) the measures that will be taken to ensure that a record is kept of —

(i) the details of the consignor and consignee of any explosive being transported and their authority under these regulations to possess the explosive; and

(ii) the required details of the explosive supplied.

(6) An explosives management plan for the purposes of a fireworks contractor licence, must include the following —

(a) the matters in Schedule 10 clauses 2, 3A, 3 and 4;

(b) in respect of the fireworks to which the licence will relate, the measures that will be taken before they are used at a fireworks event —

(i) to ensure they will function in the way they are designed to function, such as by initiating samples of them; and

(ii) to test the means that will be used to initiate them at the event;

(c) in respect of fireworks events to which the licence will relate —

(i) the procedures that will be followed if weather conditions occur that may adversely affect preparations for the event, the event itself or any firework that may be used in it;

(ii) the measures that will be taken to ensure that spectators at the event and any person not authorised to use fireworks at the event are kept a safe distance from the fireworks before and during the event;

(iii) the measures that will be used to prevent a misfire of a firework;

(iv) the measures that will be used to determine if a misfire of a firework has occurred and the procedures that will be followed if a misfire does occur;

(v) the measures that will be taken to collect and remove any uninitiated firework and any debris from initiated fireworks from the area where the

event occurs before any person who is not an authorised person enters the area.

[Regulation 161 amended: Gazette 16 Mar 2012 p. 1188-9; 5 Feb 2016 p. 349.]

162. Chief Officer's powers for dealing with applications for licences

(1) For the purposes of deciding an application for a licence, the Chief Officer may request the applicant to do 1 or more of the following —

(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 or a person nominated by the Chief Officer to inspect any place to which the licence would relate;

(c) to give the Chief Officer a report by a person nominated by the Chief Officer about the suitability of any place to which the licence would relate for the manufacture, storage or transport (as the case requires) of explosives to which the licence would relate;

(d) to amend and resubmit any explosives management plan required by regulation 157(7) that does not comply with the requirements set out in regulation 164(2)(f)(i) to (iii);

(e) if the applicant is an individual, to give the Chief Officer a report by —

(i) a medical practitioner about the person's physical health and fitness to engage safely in the activities that would be authorised by the licence; and

(ii) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession about the person's mental health and fitness to engage safely in the activities that would be authorised by the licence.

(2) On an application for a licence made by an individual, the Chief Officer may request the applicant to demonstrate he or she —

(a) is competent to engage safely in the activities that would be authorised by the licence; or

(b) is competent to keep any explosive possessed under the licence secure; or

(c) is competent to do both of the above.

(3) An applicant who does not obey a request made under this regulation 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.

[Regulation 162 amended: Gazette 24 Nov 2009 p. 4740; 2 Dec 2013 p. 5606; SL 2022/122 r. 5.]

163. Licence for place that is or may be major hazard facility

(1) In this regulation —

MHF stands for major hazard facility;

MHF Regulations means the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007*.

(2) If —

(a) an application is made for an explosives manufacture licence, or an explosives storage licence, in respect of a dangerous goods site that, under the MHF Regulations, is an MHF; and

(b) the type and quantity of dangerous goods that would be permitted to be on the site (including explosives to which the licence would relate if it were issued) are such

that an approved safety report for the site would be required under those regulations,

the Chief Officer may refuse to decide the application until a safety report for the site is approved under those regulations.

(3) If —

(a) an application is made for an explosives manufacture licence, or an explosives storage licence, in respect of a dangerous goods site that, under the MHF Regulations, is not an MHF; but

(b) the type and quantity of dangerous goods that would be permitted to be on the site (including explosives to which the licence would relate if it were issued) are such that the site may be classified as an MHF under those regulations,

the Chief Officer may refuse to decide the application until either —

(c) a decision is made not to classify the site as an MHF; or

(d) the site is classified as an MHF and a safety report for the site is approved under those regulations.

[Regulation 163 amended: Gazette 16 Mar 2012 p. 1264.]

164. Deciding applications for licences

(1) On an application for a licence, the Chief Officer may refuse the application or, subject to this regulation, issue the licence.

(2) The Chief Officer must not issue the licence unless satisfied as to each of these matters —

(a) that the application complies with regulation 157;

[(b) deleted]

(c) if the applicant is an individual, that the applicant —

(i) has reached the required age for the licence; and

(ii) has a security clearance; and

(iii) is physically and mentally fit to engage safely in the activities that would be authorised by the licence;

(d) if the application is by an individual for —

(i) an explosives driver licence; or

(ii) a shotfiring licence; or

(iii) a fireworks operator licence; or

(iv) a pyrotechnics (special use) licence,

that the applicant is competent to engage safely in the activities that would be authorised by the licence;

[(e) deleted]

(f) if under regulation 157(7) an explosives management plan is required to accompany the application, that the plan —

(i) complies with regulation 161; and

(ii) adequately assesses the risks that it is required to assess; and

(iii) contains provisions that are adequate to minimise those risks.

(3) In addition, the Chief Officer must not issue an explosives transport licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

(4) In addition, the Chief Officer must not issue an explosives driver licence if —

(a) the applicant does not hold, or is disqualified from holding or obtaining, a licence that authorises the applicant to drive a vehicle on a road; or

(b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road; or

(c) in the 5 years before the day when the application is made —

(i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting more than a Category 1 load, as that term is defined in regulation 95; or

(ii) any licence to drive a vehicle on a road held by the applicant has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting such a load.

(5) In addition, on an application by an individual for a licence other than a licence mentioned in subregulation (2)(d), the Chief Officer must not issue a licence if he or she believes that the individual is not competent to engage safely in the activities that would be authorised by the licence and to keep any explosive possessed under the licence secure.

[(6) deleted]

(7) As soon as practicable after making a decision under this regulation, the Chief Officer must give the applicant a written notice of —

(a) the decision; and

(b) if the decision is to refuse an application, the reasons for the decision.

(8) If the Chief Officer refuses an application for a licence, the applicant is entitled to a refund of the fee.

[Regulation 164 amended: Gazette 16 Mar 2012 p. 1189-90; 2 Dec 2013 p. 5606-7.]

165. Body corporate and partnership to have qualified officer

(1) In this regulation —

officer, of a body corporate or a partnership, means an individual who is concerned in the management of, or employed by, the body or partnership;

qualified officer, of a body corporate or a partnership that holds a licence, means an officer of the body or partnership who —

(a) has reached 21 years of age; and

(b) is competent to engage safely in the activities that are authorised by the licence and to keep any explosive possessed under the licence secure; and

(c) has a security clearance.

(2) A body corporate or a partnership that holds a licence must have one or more qualified officers.

Penalty: a level 3 fine.

(3) A body corporate or a partnership that holds a licence must keep a proper record of at least one of its qualified officers.

Penalty: a level 3 fine.

(4) For the purpose of subregulation (3), a proper record is not kept of a qualified officer unless a written record is made of this information —

(a) the officer's personal details;

(b) the officer's date of birth;

(c) the position the officer holds in the body corporate or partnership;

(d) details of the security clearance held by the officer,

and is kept while the officer is, and for 2 years after the date on which the officer ceases to be, an officer of the body or partnership.

(5) The Chief Officer at any time may direct an individual who is recorded by a body corporate or a partnership under subregulation (3) to demonstrate to the Chief Officer that he or she is competent —

(a) to engage safely in the activities that are authorised by the licence held by the body corporate or partnership; and

(b) to keep any explosive possessed under the licence secure.

(6) The power in subregulation (5) may be exercised whether or not the individual is an officer of the body corporate or partnership.

(7) A person who does not comply with a direction given under subregulation (5) commits an offence.

Penalty: a level 3 fine.

[Regulation 165 inserted: Gazette 2 Dec 2013 p. 5607-8; amended: Gazette 5 Feb 2016 p. 350.]

165A. Fireworks contractor licence requirements

(1) An individual who holds a fireworks contractor licence must hold a fireworks operator licence.

Penalty for this subregulation: a level 3 fine.

(2) A body corporate or a partnership that holds a fireworks contractor licence must have at least one individual who is concerned in the management of, or employed by, the body or partnership who holds a fireworks operator licence.

Penalty for this subregulation: a level 3 fine.

[Regulation 165A inserted: Gazette 5 Feb 2016 p. 350.]

166. Conditions of licences

(1) A licence may be subject to conditions decided by the Chief Officer and imposed when it is issued or while it has effect.

(2) Any such conditions must be specified in the licence.

(3) Conditions that may be imposed include —

(a) a condition that the licence relate to one explosive or more than one, specified in the licence;

(b) a condition that the licence relate to a maximum quantity of an explosive specified in the licence;

(c) a condition that limits the time, place or circumstances in which an activity authorised by the licence may be conducted;

(d) any condition that is reasonably necessary to ensure, so far as is practicable, that any explosive to which the licence relates will be secure;

(e) any condition that is reasonably necessary to ensure, so far as is practicable, that any activity that is authorised by the licence is conducted safely;

(f) any condition that is reasonably necessary to minimise the risks in relation to any explosive to which the licence relates in relation to people, property or the environment.

(4) In addition, conditions that may be imposed on an explosives manufacture (MPU) licence or an explosives transport licence may include conditions about —

(a) the areas where a vehicle can or cannot be used to transport constituents of explosives, explosives or particular explosives under the licence;

(b) periodic inspections of such a vehicle.

(5) In addition, conditions that may be imposed on an explosives driver licence may include conditions about —

(a) the vehicles that may be driven by the holder to transport explosives;

(b) the containers that may or may not be used to transport explosives in a vehicle driven by the holder;

(c) the supervision of the holder when driving a vehicle transporting explosives;

(d) medical examinations that the holder must undergo in accordance with the publication referred to in regulation 158(c).

167. Duration of licences

(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 for 5 years commencing on the date on which it was issued, unless it is cancelled in that period.

(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, dies.

[Regulation 167 amended: Gazette 16 Mar 2012 p. 1264-5; 2 Dec 2013 p. 5609; 24 Oct 2014 p. 4121; amended: Gazette 5 Feb 2016 p. 350.]

168A. Licence suspended in certain circumstances

(1) A licence is to be taken to have been suspended for any period during which the holder, being an individual, does not have a security clearance.

(2) A fireworks contractor licence is to be taken to have been suspended for any period during which —

(a) the licence holder, being an individual, does not hold a fireworks operator licence; or

(b) the licence holder, being a body corporate or a partnership, does not have an individual who holds a fireworks operator licence concerned in the management of, or employed by, the body or partnership.

[Regulation 168A inserted: Gazette 5 Feb 2016 p. 351.]

168. Form of licences

(1) A licence must be in such form as the Chief Officer decides.

[(2) deleted]

[Regulation 168 amended: Gazette 5 Feb 2016 p. 351.]

169. Licences not transferable etc.

(1) A licence is valid only for the person to whom it is issued.

(2) A licence that relates to an explosive specified in it is valid only for that explosive.

(3) A licence that relates to a maximum quantity of an explosive specified in it is valid only for that quantity.

(4) A licence that relates to a place specified in it is valid only for that place.

170. 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.

171. Lost licences may be replaced

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

[(2) deleted]

(3) No fee is to be charged for issuing a replacement under subregulation (1).

[Regulation 171 amended: Gazette 2 Dec 2013 p. 5609; 5 Feb 2016 p. 351.]

172. Amending licences

(1) In this regulation —

amend, a licence, includes —

(a) to amend the licence to delete the name of the holder of the licence and substitute another; and

(b) 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) 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 — be accompanied by 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

(d) be made to the Chief Officer.

(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.

(4) The Chief Officer may refuse the application, or grant it and amend the licence.

(5) If, while a licence has effect, the Chief Officer wants to amend it in any material way, the Chief Officer must —

(a) give the holder written notice of the proposal and reasons for it; and

(b) except where the removal of a condition is proposed, give the 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 holder written notice of the decision.

(6) Regulations 162 to 164, with any necessary changes, apply in relation to dealing with an application to amend a licence as if it were an application for a licence.

(7) Regulations 166 and 167, with any necessary changes, apply in relation to amending a licence in the same way as they apply to issuing a licence.

(8) 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.

(9) A decision by the Chief Officer to amend a licence has effect on the date stated in it under subregulation (8)(a).

(10) 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.

[Regulation 172 amended: Gazette 16 Mar 2012 p. 1265; 19 Feb 2013 p. 986; 2 Dec 2013 p. 5609-10.]

173. Procedure for renewing licences

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

(1) The holder of a licence that, under regulation 167(1)(a), will expire within 3 months may apply for a new licence of the same kind before it expires.

(2) An application cannot be made under this regulation if the licence has ceased to have effect.

(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) if it is by an individual, be accompanied by one recent photograph of the applicant that is 45-50 mm high and 35-40 mm wide; and

(d) if it is for an explosives driver licence, be accompanied by the evidence referred to in regulation 157(3)(d); and

(e) if it is for a shotfiring licence, be accompanied by the evidence referred to in regulation 157(3)(e); and

(f) if it is for a fireworks operator licence, be accompanied by the evidence referred to in regulation 157(3)(f); and

[(g) deleted]

(h) if it is for a pyrotechnics (special use) licence, be accompanied by the evidence referred to in regulation 157(3)(g); and

(i) be accompanied by the fee; and

(j) be made to the Chief Officer.

[(4) deleted]

(5) Subject to subregulation (6B), regulations 162 to 164, with any necessary changes, apply in relation to dealing with a renewal application as if it were an application for a licence.

(6A) Subregulation (6B) applies if a renewal application relates to a licence that is suspended under regulation 168A.

(6B) Regulation 164(2)(c)(ii), as applied by subregulation (5), does not have effect in relation to the renewal application but, if the renewal application is granted, the licence continues to be suspended under regulation 168A.

(6) Regulations 166 and 167, with any necessary changes, apply in relation to renewing a licence in the same way as they apply to issuing a licence.

(7) If a renewal application is not granted or refused before the date on which the licence expires under regulation 167(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.

(8) If the Chief Officer grants a renewal application before or after the date on which the licence expires under regulation 167(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 167(1).

[Regulation 173 amended: Gazette 16 Mar 2012 p. 1266; 2 Dec 2013 p. 5610; 24 Oct 2014 p. 4121; 5 Feb 2016 p. 352; SL 2022/122 r. 6.]

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.

[Regulation 174A inserted: Gazette 16 Mar 2012 p. 1266.]

Division 3 — Suspending and cancelling licences

174. Grounds for suspending or cancelling

(1) Grounds to suspend a licence exist if —

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder,

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 licence; or

(ii) has not complied with the Act, these regulations 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; or

(iv) is not physically or mentally fit to engage safely in the activities that would be authorised by the licence; or

(v) is not competent to engage safely in the activities that would be authorised by the licence; or

(vi) is not qualified under these regulations to hold the licence;

or

(c) there are reasonable grounds to suspect that a place to which the licence relates does not comply with these regulations or a condition of the licence; or

(d) there are reasonable grounds to suspect that if an application were made for the licence, the Chief Officer may or would have to refuse it under regulation 164.

(2) Grounds to suspend or cancel a licence exist if —

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder,

is convicted in this State or elsewhere of a relevant offence; or

(b) the holder has not paid any fee payable under these regulations; or

(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.

[Regulation 174 amended: Gazette 16 Mar 2012 p. 1190 and p. 1266-7; 2 Dec 2013 p. 5610-11.]

175. Procedure for suspending or cancelling

(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 176 applies.

(2) The Chief Officer must give the licence holder a written notice that —

(a) states the proposed action; and

(b) if the Chief Officer proposes to suspend the licence, states the suspension period (either as a period of time or by reference to a future event); and

(c) states the grounds and the evidence for them; and

(d) states that the holder is entitled to give the Chief Officer written submissions about the proposed action; and

(e) states 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 submission 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) suspend the licence for not longer than the suspension period stated in the notice; or

(b) cancel 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.

176. 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 175 were followed, an unacceptable risk in relation to an explosive 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 175 to cancel a licence.

177. Licences etc. to be returned on cancellation etc.

If the Chief Officer suspends or cancels a licence, the holder must return the licence to the Chief Officer within 14 days after the date of receiving notice of the suspension or cancellation.

Penalty: a level 3 fine.

[Regulation 177 amended: Gazette 5 Feb 2016 p. 352.]

178. Suspension may be terminated

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

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 (if any) 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 of $41.00.

[Regulation 179A inserted: Gazette 16 Mar 2012 p. 1267; amended: Gazette 2 Dec 2013 p. 5611; 26 Jun 2015 p. 2267; 24 Jun 2016 p. 2326; 23 Jun 2017 p. 3284; 25 Jun 2018 p. 2298; 18 Jun 2019 p. 2040.]

179. Wrong information, duty to correct

(1) This regulation applies if the holder of a licence becomes aware that information given by the holder to the Chief Officer in, or in relation to, an application made under regulation 157, 172 or 173 is or has become incorrect in a material respect.

(2) Within 14 days after becoming aware of the matter, the holder must inform the Chief Officer about the matter and give the correct information to the Chief Officer.

Penalty: a level 3 fine.

180. Licence holder to notify Chief Officer of certain convictions and charges

If —

(a) the holder of a licence; or

(b) an individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder,

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

Penalty: a level 3 fine.

[Regulation 180 inserted: Gazette 2 Dec 2013 p. 5611-12.]

181. Licences relating to places, notification of development

(1) In this regulation —

development means the construction, alteration or removal of any fixture, plant or equipment that will be or is used to manufacture, process, pack, treat, destroy or store an explosive.

(2) The holder of an explosives manufacture licence must give the Chief Officer written notice of any proposed development at the site to which the licence relates.

Penalty: a level 3 fine.

[Regulation 181 amended: Gazette 2 Dec 2013 p. 5612.]

182. Condition of licence, contravening

(1) A licence holder must not contravene a condition of the licence.

Penalty:

(a) if the condition is that imposed by regulation 194(2), a level 2 fine;

(b) otherwise, a level 1 fine and imprisonment for 10 months.

(2) It is a defence to a charge of an offence under subregulation (1) in which a breach of the condition referred to in regulation 194(2) is alleged to prove the accused acted in accordance with the AE Code or AS 2187.

[Regulation 182 amended: Gazette 16 Mar 2012 p. 1190.]

Division 4A — Mutual recognition

[Heading inserted: Gazette 5 Feb 2016 p. 352.]

182A. Terms used

In this Division —

another participating jurisdiction means a participating jurisdiction other than this State;

corresponding law means a law of another State or a Territory corresponding, or substantially corresponding, to these regulations;

participating jurisdiction means —

(a) this State; and

(b) another State or a Territory that has a corresponding law;

relevant licence means —

(a) an explosives driver licence;

(b) a shotfiring licence;

(c) a fireworks operator licence;

(d) a pyrotechnics (special use) licence.

[Regulation 182A inserted: Gazette 5 Feb 2016 p. 352-3.]

182B. Recognition of licences granted in other participating jurisdiction

(1) This regulation applies to a licence granted in another participating jurisdiction if —

(a) the licence is granted under a provision of a corresponding law; and

(b) the licence authorises the holder to carry out the activities that would be authorised by a relevant licence; and

(c) in the case of a licence held by an individual — the licence authorises the holder to have unsupervised access to an explosive or an SSAN; and

(d) the licence has effect in the other jurisdiction.

(2) Except for circumstances that do not exist in this State, the licence has effect in this State as if it were a relevant licence granted by the Chief Officer under regulation 164.

[Regulation 182B inserted: Gazette 5 Feb 2016 p. 353.]

Division 5 — Miscellaneous matters

183. Register of licences

(1) The Chief Officer must keep a register of all licences.

(2) The register must record, in relation to each licence, this information —

(a) the name of the holder of the licence;

(b) the date on which the licence was issued;

(c) the date (if any) on which the licence was renewed;

(d) the date (if any) on which the licence was suspended;

(e) the date (if any) on which the licence was cancelled.

(3A) The register may record any other information relevant to a licence holder or to the issue, amendment, renewal, suspension or cancellation of a licence that the Chief Officer thinks fit.

(3) The register must be kept in such form and in such manner as the Chief Officer decides.

(4) The Chief Officer must ensure the information in the register is up-to-date.

(5) The Chief Officer must ensure the information listed in subregulation (2) and recorded in the register is accessible to the public during normal office hours.

[Regulation 183 amended: Gazette 2 Dec 2013 p. 5612-13.]

*[**184.** Deleted: Gazette 16 Mar 2012 p. 1267]*

Part 16 — Fees for using State explosives facilities

185. Terms used

In this Part —

Baldivis facility means the SEF on the land being Reserve 38575 and being Lot 1340 on Deposited Plan 215902 and being the whole of the land in Crown Land Title Volume 3088 Folio 574;

Kalgoorlie facility means the SEF on the land being Reserve 3540 and being Lots 190 and 249 on Crown Land Title Volume LR3111 Folio 38;

magazine means a building designed and situated to store explosives safely;

official capacity of a magazine, means the storage capacity of the magazine determined by the Chief Officer;

SEF stands for State explosives facility;

type A facility means the Baldivis facility or the Kalgoorlie facility;

type B facility means an SEF other than the Baldivis facility or the Kalgoorlie facility.

186. Application of this Part

This Part applies to the holder of a licence referred to in this Part even if the holder occupies land in an SEF under a lease, sublease or licence granted under the *Land Administration Act 1997* Part 4 by the management body of the SEF.

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.

[Regulation 187 inserted: Gazette 16 Mar 2012 p. 1268.]

188. Fees for using SEF to manufacture explosives

The holder of an explosives manufacture licence that authorises the manufacture of an explosive at an SEF must pay for each year a fee being —

(a) if the SEF is a type A facility — the greater of —

(i) $4 302; or

(ii) $13.30 per m^2 or part thereof of the area of land occupied by the holder at the SEF other than for storing explosives;

(b) if the SEF is a type B facility — 50% of the fee that would be payable if paragraph (a) applied.

[Regulation 188 amended: Gazette 25 Jun 2010 p. 2876; 16 Mar 2012 p. 1268; 11 Jan 2013 p. 54; 28 Jun 2013 p. 2823; 17 Jun 2014 p. 1989.]

189. Fees for using SEF to store explosives

The holder of an explosives storage licence that authorises the storage of an explosive at an SEF must pay for each year a fee being —

(a) if the explosive is stored in a magazine provided by the State at a type A facility —

(i) if the licence authorises the storage of less than 100 kg of explosive — $270;

(ii) if the licence authorises the storage of 100 kg or more but not more than 1 000 kg of explosive — $270 plus $2.30 for each 10 kg or part thereof over 100 kg authorised by the licence;

(iii) if the licence authorises the storage of 1 000 kg or more of explosive — 125% of the fee in paragraph (b) for each 1 000 kg or part thereof of the official capacity of the magazine;

(b) if the explosive is stored in a magazine provided by the holder at a type A facility — $479.00 for each 1 000 kg or part thereof of the official capacity of the magazine;

(c) if the explosive is stored in a magazine at a type B facility — 50% of the fee in paragraph (b) for each 1 000 kg or part thereof of the official capacity of the magazine.

[Regulation 189 amended: Gazette 25 Jun 2010 p. 2876; 16 Mar 2012 p. 1268-9; 11 Jan 2013 p. 54; 28 Jun 2013 p. 2824; 17 Jun 2014 p. 1989.]

190. Fees for using SEF to manufacture or store SRSs

(1) In this regulation —

SSAN licence means either of the following licences issued under the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007* —

(a) an SSAN manufacture licence;

(b) an SSAN storage licence.

(2) The holder of an SSAN licence that authorises the manufacture or storage of an SSAN at an SEF must pay for each year a fee being —

(a) if the SEF is a type A facility — the greater of —

(i) $4 302; or

(ii) $13.30 per m^2 or part thereof of the area of land occupied by the holder at the SEF other than for storing explosives;

(b) if the SEF is a type B facility — 50% of the fee that would be payable if paragraph (a) applied.

[Regulation 190 amended: Gazette 25 Jun 2010 p. 2876; 16 Mar 2012 p. 1269; 11 Jan 2013 p. 54-5; 28 Jun 2013 p. 2824; 17 Jun 2014 p. 1989; 5 Feb 2016 p. 354.]

Part 17 — Miscellaneous matters

*[**191.** Deleted: Gazette 5 Feb 2016 p. 354.]*

192. Safety management documents prescribed (Act s. 3)

Each of the following documents is prescribed to be a safety management document for the purposes of the definition of ***safety management document*** in the Act section 3 —

(a) an explosives management plan referred to in regulation 161;

(b) a blast plan referred to in regulation 130 and required to be prepared for the use of an explosive.

[Regulation 192 amended: SL 2022/122 r. 7.]

193. 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 kept or made 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; or

(d) any certificate that may be given under these regulations.

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

[Regulation 193 amended: Gazette 2 Dec 2013 p. 5613.]

194. Duties in respect of explosives management plan

(1) In this regulation —

relevant licence means —

(a) an explosives manufacture licence; or

(b) an explosives manufacture (MPU) licence; or

(c) an explosives storage licence; or

(d) an explosives transport licence; or

(e) a fireworks contractor licence.

(2) It is a condition of a relevant licence that the holder obey the explosives management plan for the purposes of the licence.

(3) If a body corporate or a partnership is the holder of a relevant licence, each individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder must ensure the explosives management plan for the purposes of the licence is complied with by the body corporate or partnership.

Penalty for this subregulation: a level 2 fine.

(4) If the holder of a relevant 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 explosives management plan for the purposes of the licence.

Penalty for this subregulation: a level 2 fine.

(5) Subregulation (6) applies if a person works at a place —

(a) to which an explosives manufacture licence or explosives storage licence relates; or

(b) where the loading or unloading of explosives in connection with transporting them is carried out in connection with an explosives transport licence.

(6) The person must comply with the explosives management plan for the purposes of the explosives manufacture licence, explosives storage licence or explosives transport licence.

Penalty for this subregulation: a level 2 fine.

[Regulation 194 amended: Gazette 2 Dec 2013 p. 5613-14; 5 Feb 2016 p. 354; SL 2022/122 r. 8.]

195. Conditions of a permit, contravening

(1) A person who has —

(a) a test permit; or

(b) a fireworks event permit; or

(c) a permit issued under regulation 131,

must obey any condition that is in the permit.

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

[(2) deleted]

[Regulation 195 amended: Gazette 16 Mar 2012 p. 1191.]

196. Permits have no effect if holder's licence ceases to have effect

If, when a licence ceases to have effect, the holder also holds a permit issued under these regulations, the permit ceases to have effect at the same time.

197. 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 prescribed offence is 10% of the maximum fine for the offence under these regulations.

Table

Provision	Provision	Provision
r. 23	r. 133(1)	r. 194(4)
r. 39(4)	r. 147(1)	r. 194(6)
r. 39(5)	r. 152	
r. 39(6)	r. 155(2)	

Note for this regulation:

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.

[Regulation 197 amended: SL 2022/122 r. 9.]

[197A. *Deleted: SL 2021/85 r. 5.]*

Part 18 — Transitional matters

198. Transitional status of secure employees

If immediately before the day on which the *Dangerous Goods Safety (Explosives) Amendment Regulations 2013* regulation 10 commences an individual is a secure employee of a licence holder, then, on the commencement of that regulation, the person is taken to be a secure nominee of the licence holder until —

(a) the person, under regulation 23, is authorised by the licence holder to have unsupervised access to an explosive in the licence holder's possession; or

(b) the end of 3 months after the date of that commencement,

whichever happens first.

[Regulation 198 inserted: Gazette 2 Dec 2013 p. 5614.]

199. Assessing fitness to drive

If a certificate that complies with regulation 158(c) as in force immediately before the date on which the *Dangerous Goods Safety (Explosives) Amendment Regulations 2013* regulation 31 commences is issued within one year after that date, it is taken to be a certificate that complies with regulation 158(c) as in force after that date.

[Regulation 199 inserted: Gazette 2 Dec 2013 p. 5614.]

*[**200-206.** Deleted: Gazette 2 Dec 2013 p. 5614.]*

Schedule 1 — Fees

[r. 3]

[Heading inserted: SL 2026/94 r. 4.]

Item	Column 1 Matter	Column 2 Fee $
1.	Application for a security card (r. 17(3)(d))	189.00
2.	Application to extend period for which a security card is valid (r. 21A(2)(c))	54.50
3.	Application for a test permit for an unauthorised explosive (r. 27(2)(d))	235.00
4.	Application to have an explosive authorised (r. 30(2)(j)) —	
	(a) if the explosive is authorised under an interstate law (as defined in r. 30(1A))	186.00
	(b) otherwise	753.00
5.	Application for a berth to be declared a special berth (explosives) (r. 111L(2)(e)(iii))	5 640.00
6.	Application for a fireworks event permit (r. 149(1)(e)) —	
	(a) if the event fireworks include a ground display but no aerial shells	190.00
	(b) if the event fireworks include aerial shells but not more than 3 000 aerial shells	386.00
	(c) if the event fireworks include more than 3 000 aerial shells	5 370.00
7.	Application for a licence (other than a trading licence) (r. 157(1)(c)) —	
	(a) explosives driver licence	129.00
	(b) shotfiring licence	129.00

Item	Column 1 Matter	Column 2 Fee $
	(c) fireworks contractor licence	597.00
	(d) fireworks operator licence	147.00
	(e) pyrotechnics (special use) licence	147.00
8.	Annual fee for a trading licence (r. 157(1)(da)(i) and 179A) —	
	(a) explosives import/export licence	242.00
	(b) explosives manufacture licence	513.00
	(c) explosives manufacture (MPU) licence	1 170.00
	(d) explosives storage licence —	
	(i) for less than 1 tonne of explosives	150.00
	(ii) for 1 tonne or more but less than 5 tonnes of explosives	180.00
	(iii) for 5 tonnes or more of explosives	485.00
	(e) explosives transport licence	1 190.00
	(f) explosives supply licence	82.00
9.	Application for renewal of a licence (other than a trading licence) (r. 173(3)(i))	The fee in item 7 for the licence

[Schedule 1 inserted: SL 2026/94 r. 4.]

Schedule 2 — Prohibited explosives

[r. 3]

1. Explosive containing chlorate etc.

An explosive that contains a chlorate mixed with an ammonium salt is a prohibited explosive.

2. Fireworks, various types of

(1) In this clause, unless the contrary intention appears —

candle means a firework that is a single tube designed to shoot fireworks into the air intermittently with or without emitting sparks between each such shot;

cracker means a firework that is a tube of rolled paper fitted with a wick and designed to explode with a single sharp report, but does not include a snap for either a bonbon or Christmas cracker;

cracker chain means a chain of crackers connected to one another so as to produce a series of reports in rapid succession after the chain's fuse is ignited;

flash powder means a substance, other than black powder, that explodes and produces a brilliant flash of light and a loud sound;

fountain means a firework that is a single tube designed to shoot sparks and burning glitter into the air continuously for a period;

multi-shot box item means a firework that comprises candles, or fountains, or both, fastened together in parallel and designed so that the components fire in a sequence from a single point of initiation;

salute means a firework that is designed to be propelled into the air, or to propel itself into the air, and then to produce a loud report with or without a brilliant flash of light or sparks;

sky rocket means a firework that when initiated produces a jet of flame to propel it into the air and that may or may not contain other explosives that are initiated when the propellant is finished to produce aural or visual effects.

(2) Each of the following is a prohibited explosive —

(a) a firework from which an explosive may escape;

(b) a firework, other than an unrestricted firework, that contains a chlorate salt, whether or not the firework contains another substance;

(c) a firework containing or attached to a thing capable of initiating the firework by friction or percussion;

(da) a sparkler the combustible part of which is more than 300 mm long;

(d) a cracker, other than a cracker that is a component in a cracker chain that is not a prohibited explosive under paragraph (e);

(e) a cracker chain —

(i) in which any cracker is more than 75 mm long or has a diameter of more than 30 mm; or

(ii) which is designed so that 3 or more of the crackers will initiate simultaneously;

(f) a candle with an internal diameter of more than 25 mm containing flash powder;

(g) a candle, not being a candle referred to in paragraph (f), with an internal diameter of more than 50 mm;

(h) a fountain with an internal diameter of more than 125 mm;

(i) a multi-shot box item in which any candle or fountain has an internal diameter of more than 50 mm;

(j) a cylindrical salute with a length of more than 75 mm;

(k) a spherical salute with a diameter of more than 75 mm;

(l) a sky rocket.

[Clause 2 amended: Gazette 16 Mar 2012 p. 1191.]

Schedule 3 — Unrestricted fireworks

[r. 3]

Item	Description of article
1.	Party popper (also called a streamer cone) in which the NEQ is not more than 1.6 g per 1 000 of such articles.
2.	Percussion cap for a toy pistol (also called an amorce).
3.	Percussion cap for a starting pistol.
4.	Snap for either a bonbon or Christmas cracker in which the NEQ is not more than 1.6 g per 1 000 of such articles.
5.	Throwdown in which the NEQ is not more than 2.6 g per 1 000 of such articles.

Schedule 4 — Explosives that may be possessed without a licence

[r. 46]

1. Sparklers

A person may possess a sparkler.

[Clause 1 inserted: Gazette 16 Mar 2012 p. 1191.]

2. Cartridges for safety devices etc.

A person may possess a power device cartridge if in the circumstances the person has a reasonable reason to possess it.

3. Cartridges for nail guns etc.

A person may possess a power tool cartridge if in the circumstances the person has a reasonable reason to possess it.

4. Emergency devices

A person may possess an emergency device if in the circumstances the person has a reasonable reason to possess it.

[Clause 4 inserted: Gazette 16 Mar 2012 p. 1192.]

5. Ammunition, ammunition propellant and black powder

A person may possess ammunition, ammunition propellant or black powder if authorised under the *Firearms Act 2024* to do so.

[Clause 5 inserted: SL 2024/295 r. 5.]

6. Model rocket motors

A person may possess a model rocket motor if the NEQ in the motor is not more than 62.5 g.

[Clause 6 inserted: Gazette 16 Mar 2012 p. 1192.]

7. Smoke generators

A person may possess an article that generates smoke signals if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) in the circumstances the person has a reasonable reason to possess it.

[Clause 7 inserted: Gazette 2 Dec 2013 p. 5616.]

8. Thermite igniters

A person may possess an article that ignites thermite if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the person is employed to weld rails for railways or is an employee of such a person; and

(c) the person possesses the article in the course of his or her duties as such.

[Clause 8 inserted: Gazette 2 Dec 2013 p. 5616.]

Schedule 5 — Explosives that may be manufactured without a licence

[r. 64]

1. Ammunition for private use

A person may manufacture ammunition by filling cartridge cases with ammunition propellant if —

(a) the person uses ammunition propellant possessed by the person under Schedule 4 clause 5; and

(b) the person is authorised under the *Firearms Act 2024* to manufacture the ammunition; and

(c) the ammunition is not sold.

[Clause 1 amended: SL 2024/295 r. 6.]

Schedule 6 — Explosives that may be stored without a licence

[r. 76]

1. Sparklers

A person may store a sparkler at any place.

[Clause 1 inserted: Gazette 16 Mar 2012 p. 1192.]

2. Cartridges for safety devices etc.

A person may store a power device cartridge at any place.

3. Cartridges for nail guns etc.

A person may store a power tool cartridge at any place.

4. Emergency devices

A person may store an emergency device at any place if —

(a) the gross weight of emergency devices with a classification code of 1.1 or 1.2 at the place is not more than 2.5 kg; and

(b) the gross weight of emergency devices with a classification code of 1.3 at the place is not more than 15 kg; and

(c) the gross weight of emergency devices with a classification code of 1.4 at the place is not more than 30 kg.

[Clause 4 amended: Gazette 20 Mar 2018 p. 1002.]

5. Ammunition, ammunition propellant and black powder

(1) A person may store any quantity of ammunition at any place.

(2) A person may store ammunition propellant or black powder at any place if —

(a) the NEQ of any ammunition propellant, excluding any ammunition propellant in ammunition, stored at the place is not more than 15 kg; and

(b) the NEQ of black powder at the place is not more than 4 kg.

[Clause 5 amended: Gazette 20 Mar 2018 p. 1002.]

6. Model rocket motors

A person may store a model rocket motor at any place if the NEQ in the motor is not more than 62.5 g.

[Clause 6 inserted: Gazette 16 Mar 2012 p. 1193.]

7. Smoke generators

A person may store an article that generates smoke signals at any place if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the gross weight of such articles at the place is not more than 250 kg.

[Clause 7 inserted: Gazette 2 Dec 2013 p. 5616; amended: Gazette 20 Mar 2018 p. 1002.]

Schedule 7 — Explosives that may be transported without a licence

[r. 97]

1. Sparklers

A person may transport any quantity of sparklers that have a classification code of 1.4G or 1.4S.

2. Cartridges for safety devices

A person may transport any quantity of power device cartridges.

3. Cartridges for nail guns etc.

A person may transport any quantity of power tool cartridges.

4. Emergency devices

A person may transport an emergency device if —

(a) the gross weight of emergency devices with a classification code of 1.3G in the vehicle is not more than 50 kg; and

(b) the gross weight of emergency devices with a classification code of 1.4 in the vehicle is not more than 250 kg.

[Clause 4 amended: Gazette 16 Mar 2012 p. 1193; 20 Mar 2018 p. 1003.]

5. Ammunition, ammunition propellant and black powder

(1) A person may transport any quantity of ammunition.

(2) A person may transport ammunition propellant or black powder if —

(a) the NEQ of any ammunition propellant, excluding any ammunition propellant in ammunition, in the vehicle is not more than 50 kg; and

(b) the NEQ of black powder in the vehicle is not more than 4 kg.

[Clause 5 amended: Gazette 16 Mar 2012 p. 1193; 20 Mar 2018 p. 1003.]

6. Model rocket motors

A person may transport any quantity of model rocket motors if the NEQ in each motor is not more than 62.5 g.

[Clause 6 inserted: Gazette 16 Mar 2012 p. 1193.]

7. Smoke generators

A person may transport an article that generates smoke signals if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the gross weight of such articles in the vehicle is not more than 250 kg.

[Clause 7 inserted: Gazette 2 Dec 2013 p. 5617; amended: Gazette 20 Mar 2018 p. 1003.]

8. Thermite igniters

A person may transport an article that ignites thermite if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the person is engaged or employed to weld rails for railways or is an employee of such a person; and

(c) the person transports the article in the course of his or her duties as such.

[Clause 8 inserted: Gazette 2 Dec 2013 p. 5617.]

Schedule 8 — Explosives that may be supplied without a licence

[r. 112]

1. Sparklers

A person may supply a sparkler.

2. Cartridges for safety devices etc.

A person may supply a power device cartridge.

3. Cartridges for nail guns etc.

A person may supply a power tool cartridge.

4. Emergency devices

A person may supply an emergency device.

5. Ammunition, ammunition propellant and black powder

A person may supply ammunition, ammunition propellant or black powder if authorised under the *Firearms Act 2024* to do so.

[Clause 5 inserted: Gazette 16 Mar 2012 p. 1193; amended: SL 2024/295 r. 7.]

6. Smoke generators

A person may supply an article that generates smoke signals if the article has a classification code of 1.4G or 1.4S.

[Clause 6 inserted: Gazette 2 Dec 2013 p. 5617.]

7. Thermite igniters

A person may supply an article that ignites thermite if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the person is engaged or employed to weld rails for railways or is an employee of such a person; and

(c) the person supplies the article in the course of his or her duties as such; and

(d) the person to whom the article is supplied is engaged or employed to weld rails for railways or is an employee of such a person.

[Clause 7 inserted: Gazette 2 Dec 2013 p. 5617-18.]

Schedule 9 — Explosives that may be used without a licence

[r. 125(1)]

1. Sparklers

A person may use a sparkler.

2. Cartridges for safety devices etc.

A person may use a power device cartridge if the person uses it —

(a) for the purposes for which it is designed; and

(b) in accordance with its manufacturer's directions for its use.

3. Cartridges for nail guns etc.

A person may use a power tool cartridge if the person uses it —

(a) for the purposes for which it is designed; and

(b) in accordance with its manufacturer's directions for its use.

4. Emergency devices

A person may use an emergency device if the person uses it in accordance with its manufacturer's directions for its use and —

(a) for the purposes for which it is designed; or

(b) to show another person how to correctly use such a device; or

(c) while skydiving for the purposes of public entertainment.

[Clause 4 amended: Gazette 16 Mar 2012 p. 1194.]

5. Ammunition

(1) A person may use ammunition if authorised under the *Firearms Act 2024* to do so.

(2) A person may use ammunition propellant if it is in ammunition that is used under subclause (1).

(3) A person may use black powder if the person is authorised under the *Firearms Act 2024* to possess a firearm that uses black powder and uses the powder in that firearm.

[Clause 5 amended: SL 2024/295 r. 8.]

6. Model rocket motors

A person may use a model rocket motor if the NEQ in the motor is not more than 62.5 g.

[Clause 6 inserted: Gazette 16 Mar 2012 p. 1194.]

7. Smoke generators

A person may use an article that generates smoke signals if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the person uses it for the purposes for which it is designed; and

(c) the person uses it in accordance with its manufacturer's instructions for its use.

[Clause 7 inserted: Gazette 2 Dec 2013 p. 5618.]

8. Thermite igniters

A person may use an article that ignites thermite if —

(a) the article has a classification code of 1.4G or 1.4S; and

(b) the person is engaged or employed to weld rails for railways or is an employee of such a person; and

(c) the person uses the article in the course of his or her duties as such.

[Clause 8 inserted: Gazette 2 Dec 2013 p. 5618.]

Schedule 10 — Provisions for required plans

[r. 161]

1. Terms used

In this Schedule —

licence means a licence or permit referred to in the definition of ***required plan***;

required plan means an explosives management plan referred to in regulation 161 and required under regulation 157(7) to accompany an application for a licence referred to in that regulation.

2. General matters

If a required plan is required to contain the matters in this clause it must contain the following —

(a) the measures that will be taken to ensure any dangerous goods incident involving an explosive is reported to the Chief Officer as soon as practicable;

(b) the measures that will be taken to ensure that people who may have access to an explosive are instructed about and comply with these regulations;

(c) the measures that will be taken to ensure that people who may have access to an explosive are instructed about and comply with the plan;

(d) the measures that will be taken to monitor and ensure compliance with the plan;

(e) the measures that will be taken to ensure that the plan is reviewed to see whether it meets current standards and addresses current circumstances —

(i) whenever there is a significant change in the risk in relation to the explosives to which the licence relates to people, property or the environment; and

(ii) as soon as practicable after a dangerous situation occurs that involves the explosives to which the licence relates; and

(iii) in any event, at intervals of not more than 5 years after the grant of the licence or the last review of the plan,

and that the plan is revised if necessary;

(f) the measures that will be taken to ensure a record is kept of measures taken under the plan.

[Clause 2 inserted: Gazette 16 Mar 2012 p. 1194-5; amended: Gazette 2 Dec 2013 p. 5619.]

3A. Emergency management plans

If a required plan is required to contain the matters in this clause it must contain an emergency management plan to deal with any dangerous goods incident, or any dangerous situation, involving an explosive that might occur that includes these matters —

(a) the equipment and facilities that will be available;

(b) the procedures that will be followed and the measures that will be taken, including matters such as sounding alarms and evacuating people;

(c) the measures that will be taken to investigate why the incident or situation occurred;

(d) the individuals who will be responsible for implementing the emergency management plan;

(e) the measures that will be taken to train people to execute the emergency management plan;

(f) which emergency services and other people will be given a copy of the emergency management plan.

[Clause 3A inserted: Gazette 16 Mar 2012 p. 1195.]

3. Safety matters

If a required plan is required to contain the matters in this clause it must contain the following —

(a) an assessment of the risks in relation to any explosive possessed under the licence in relation to people, property or the environment;

(b) the measures that will be taken to ensure there is an ongoing assessment of those risks;

(c) the measures that will be taken to minimise those risks;

(d) the measures that will be taken to ensure that structures and things used to minimise those risks are inspected and tested regularly and maintained;

(e) the measures that will be taken to ensure that any person handling any explosive possessed under the licence is competent to do so;

(f) the measures that will be taken to ensure that explosives or other articles or substances that are not compatible with one another are kept adequately separated.

4. Security matters

(1) In this clause —

authorised person, in relation to an explosive, means a person who is authorised to possess the explosive under the Act, these regulations or a law of the Commonwealth.

(2) If a required plan is required to contain the matters in this clause it must contain the following —

(a) an assessment of the risks of the sabotage, theft or unexplained loss of, or access by any unauthorised person to, any explosive 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 explosive secure;

(d) the measures that will be taken to ensure that structures and things used to keep any such explosive secure are inspected regularly and maintained;

(e) the measures that will be taken to control and monitor people's access to any such explosive;

(f) the measures that will be taken to ensure that no individual has unsupervised access to any such explosive unless he or she is an authorised person;

(g) 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 explosive;

(h) 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 explosive.

Schedule 11 — Central business districts

[r. 107]

1. Fremantle central business district

The Fremantle central business district is the land bounded by a line that goes —
from the western end of the South Mole, easterly and north easterly along Fleet Street, Phillimore Street, Elder Place and Beach Street to James Street;
then southerly along James Street, Ord Street and Hampton Road to the intersection of Hampton Road and Douro Road;
then westerly along Douro Road;
then west from the end of Douro Road to the sea;
but does not include James Street, Ord Street or Hampton Road.

[Clause 1 amended: Gazette 16 Mar 2012 p. 1196.]

2. Perth central business district

The Perth central business district is the land bounded by a line that goes —
from the intersection of Kings Park Road and Thomas Street, north easterly along Thomas Street and Loftus Street to Newcastle Street;
then south easterly along Newcastle Street;
then southerly along Lord Street to the Perth-Midland railway reserve;
then north easterly and easterly along the Perth-Midland and Perth-Armadale railway reserves to the western foreshore of the Swan River;
then southerly and south westerly along the western foreshore of the Swan River to the Causeway;
then westerly along the Causeway and Riverside Drive to Barrack Street;
then northerly along Barrack Street;
then westerly along the Esplanade and Mounts Bay Road to Spring Street;
then north westerly along Spring Street to Mount Street;
then south westerly along Mount Street to Cliff Street;
then north westerly along Cliff Street to Malcolm Street;
then south westerly along Malcolm Street to Kings Park Road;

then westerly along Kings Park Road to the start;
but does not include Thomas Street, Loftus Street, Newcastle Street, the Kwinana Freeway, the Mitchell Freeway, the Causeway or Riverside Drive.

Notes

This is a compilation of the *Dangerous Goods Safety (Explosives) Regulations 2007* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Dangerous Goods Safety (Explosives) Regulations 2007	31 Dec 2007 p. 6541-717	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 *Gazette* 29 Feb 2008 p. 669)
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2009	16 Jun 2009 p. 2195-6	r. 1 and 2: 16 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations 2009	21 Aug 2009 p. 3271-2	r. 1 and 2: 21 Aug 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Aug 2009 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 2) 2009	24 Nov 2009 p. 4737-40	r. 1 and 2: 24 Nov 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Nov 2009 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 2) 2010	25 Jun 2010 p. 2875-7	r. 1 and 2: 25 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations 2012	16 Mar 2012 p. 1173-96	r. 1 and 2: 16 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 17 Mar 2012 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2012	16 Mar 2012 p. 1263-9	r. 1 and 2: 16 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Apr 2012 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 5) 2012	11 Jan 2013 p. 53-5	r. 1 and 2: 11 Jan 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Apr 2013 (see r. 2(b))

Citation	Published	Commencement
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 4) 2012	19 Feb 2013 p. 984-6	r. 1 and 2: 19 Feb 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Feb 2013 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2013	28 Jun 2013 p. 2823-4	r. 1 and 2: 28 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2013 (see r. 2(b))
Reprint 1: The *Dangerous Goods Safety (Explosives) Regulations 2007* as at 16 Aug 2013 (includes amendments listed above)		
Dangerous Goods Safety (Explosives) Amendment Regulations 2013	2 Dec 2013 p. 5567-619	r. 1 and 2: 2 Dec 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2014 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 2) 2014	17 Jun 2014 p. 1988-9	r. 1 and 2: 17 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2014	24 Oct 2014 p. 4120-1	r. 1 and 2: 24 Oct 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Oct 2014 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations 2014	8 Jan 2015 p. 129-30	r. 1 and 2: 8 Jan 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Apr 2015 (see r. 2(b) and *Gazette* 17 Apr 2015 p. 1371)
Dangerous Goods Safety (Explosives) Amendment Regulations 2015	26 Jun 2015 p. 2267-8	r. 1 and 2: 26 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b))
Dangerous Goods Safety Regulations Amendment Regulations 2016 Pt. 2	5 Feb 2016 p. 343-68	6 Feb 2016 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Levies) Regulations 2016 Pt. 2	24 Jun 2016 p. 2325-34	1 Jul 2016 (see r. 2(b))
Reprint 2: The *Dangerous Goods Safety (Explosives) Regulations 2007* as at 7 Oct 2016 (includes amendments listed above)		
Dangerous Goods Safety Regulations Amendment Regulations 2017 Pt. 2	3 Mar 2017 p. 1474-82	4 Mar 2017 (see r. 2(b))

Citation	Published	Commencement
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2017 Pt. 2	23 Jun 2017 p. 3279-309	1 Jul 2017 (see r. 2(b))
Dangerous Goods (Explosives) Amendment Regulations 2017	27 Jun 2017 p. 3431-2	r. 1 and 2: 27 Jun 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2017 (see r. 2(b))
Dangerous Goods Safety Regulations Amendment Regulations 2018 Pt. 2	20 Mar 2018 p. 996-1005	21 Mar 2018 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 2	25 Jun 2018 p. 2297-324	1 Jul 2018 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2019 Pt. 2	18 Jun 2019 p. 2040-56	1 Jul 2019 (see r. 2(b))
Mines and Petroleum Regulations Amendment (COVID-19 Response) Regulations 2020 Pt. 2	SL 2020/103 29 Jun 2020	Repealed by SL 2020/104 r. 3 prior to commencement
Mines and Petroleum Regulations Amendment (COVID-19 Response) Repeal Regulations 2020	SL 2020/104 29 Jun 2020	29 Jun 2020 (see r. 2)
Mines and Petroleum Regulations Amendment (COVID-19 Response) Regulations (No. 2) 2020 Pt. 2	SL 2020/197 27 Oct 2020	28 Oct 2020 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2021 Pt. 2	SL 2021/85 21 Jun 2021	1 Jul 2021 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2022 Pt. 2	SL 2022/58 20 May 2022	1 Jul 2022 (see r. 2(b))
Dangerous Goods Safety (Explosives) Amendment Regulations 2022	SL 2022/122 30 Jun 2022	r. 1 and 2: 30 Jun 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2022 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2023 Pt. 2	SL 2023/36 5 May 2023	1 Jul 2023 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2024 Pt. 2	SL 2024/97 12 Jun 2024	1 Jul 2024 (see r. 2(b))

Citation	Published	Commencement
Dangerous Goods Safety (Explosives) Amendment Regulations 2024	SL 2024/295 21 Dec 2024	r. 1 and 2: 21 Dec 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 31 Mar 2025 (see r. 2(b) and SL 2024/289 cl. 2)
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2025 Pt. 2	SL 2025/90 11 Jun 2025	1 Jul 2025 (see r. 2(b))
Industrial Relations Regulations Amendment (Fees and Charges) Regulations 2026 Pt. 2	SL 2026/94 10 Jun 2026	1 Jul 2026 (see r. 2(b))

Defined terms

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