Western Australia

Dangerous Goods Safety Act 2004

# Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007

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Western Australia

# Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007

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# Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007

## Part 1 — Preliminary matters

### 1. Citation

These regulations are the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007*.

*[Regulation 1 amended: Gazette 5 Feb 2016 p. 361.]*

### 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 SSAN, 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 SSAN is situated;

***Act*** means the *Dangerous Goods Safety Act 2004*;

***ADG Code*** means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (also called the Australian Dangerous Goods Code) published by the National Transport Commission, including (for the avoidance of doubt) its appendices;

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

***approved form*** means a form approved under regulation 8;

***commercial laboratory*** means an analytical or research laboratory that is operated for lawful commercial purposes, but not a laboratory controlled and managed by a government organisation;

***educational institution*** means —

(a) a government school, or a non-government school, as those terms are defined in the *School Education Act 1999*; or

(b) an institution established under any of these Acts —

(i) *Curtin University of Technology Act 1966*;

(ii) *Edith Cowan University Act 1984*;

(iii) *Murdoch University Act 1973*;

(iv) *University of Notre Dame Australia Act 1989*;

(v) *University of Western Australia Act 1911*;

(vi) *Vocational Education and Training Act 1996*;

***explosive*** has the meaning given to that term in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 8;

***explosives manufacture (MPU) licence*** means an explosives manufacture (MPU) licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007*;

***government organisation*** means any body, whether corporate or unincorporate, or office, established for a public purpose by a written law or by a law of the Commonwealth;

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

***illegal product*** means —

(a) an explosive; or

(b) a substance the possession of which by a member of the public is totally prohibited under a written law; or

(c) a substance the possession of which by a member of the public is prohibited by a written law except in circumstances prescribed by the law;

***interstate transport licence*** means a licence that —

(a) is issued and in force under the law of another State or a Territory that corresponds with the Act and these regulations; and

(b) authorises the holder of the licence to transport an SSAN in that State or Territory;

***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) a licence issued or replaced under these regulations; or

(b) a shotfiring licence; or

(c) an explosives manufacture (MPU) licence; or

(d) an interstate transport licence;

***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;

***required details*** of an SSAN, means these details —

(a) the trade name of the SSAN; and

(b) the chemical composition of the SSAN; and

(c) the form of the SSAN (such as emulsion, gel, suspension, granule, flake, pellet or prill); and

(d) the quantity of the SSAN; and

(e) if the SSAN is dangerous goods, within the meaning given to that term by the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 8 —

(i) the proper shipping name of the SSAN under the ADG Code; and

(ii) the UN Number of the SSAN under the ADG Code; and

(iii) the classification of the SSAN under the ADG Code;

***safety data sheet*** (***SDS***), for an SSAN, means a document in English that contains the information in relation to the SSAN 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 SSAN, means secure from sabotage, theft, unexplained loss, and access by any person who, under these regulations, is not authorised to possess the SSAN;

***secure nominee***, of a licence holder, means an individual who, under regulation 9, is authorised by the holder to have unsupervised access to an SSAN in the holder's possession;

***security clearance*** for an individual, has the meaning given to that term by the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 16;

***security sensitive ammonium nitrate*** (or SSAN) means a substance named in Schedule 2;

***shotfiring licence*** means a shotfiring licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007*;

***SSAN*** stands for security sensitive ammonium nitrate;

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

***supervised*** in relation to access to an SSAN, has the meaning given to that term by regulation 5(1);

***supervised access*** by a person to an SSAN, has the meaning given to that term by regulation 5(2);

***supply*** includes to sell;

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

***unsupervised access*** by a person to an SSAN, has the meaning given to that term by regulation 5(3);

***unsupervised access authorisation*** means an authorisation given under regulation 9 by a licence holder for an individual to have unsupervised access to an SSAN in the licence holder's possession.

*[Regulation 3 amended: Gazette 4 Oct 2011 p. 3949; 16 Mar 2012 p. 1260; 2 Dec 2013 p. 5501-2; 5 Feb 2016 p. 361 and 363; 3 Mar 2017 p. 1476; SL 2020/193 r. 29.]*

## 4. Examples and notes are not part of the law

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

### 5. Supervision and related terms, meaning of

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

the other person.

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

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

*[Regulation 5 amended: Gazette 2 Dec 2013 p. 5502; 5 Feb 2016 p. 363.]*

### 6. Application of these regulations

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

(2) These regulations do not apply to or in respect of an SSAN 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.

*[Regulation 6 inserted: Gazette 2 Dec 2013 p. 5502-3; amended: Gazette 5 Feb 2016 p. 363.]*

## 7. These regulations prevail over other regulations

If these regulations conflict or are inconsistent with any other regulations made under the Act, other than the *Dangerous Goods Safety (General) Regulations 2007*, these regulations prevail.

# Part 2 — Administrative matters

## 8. Approval of forms

(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.

# Part 3 — Security matters

## 9. Licence holder may authorise individuals to have access to SSAN

(1) A licence holder may authorise an individual —

(a) to have unsupervised access; or

(b) to have supervised access,

to an SSAN in the licence holder's possession, and may cancel such an authorisation at any time.

(2) A licence holder must not, under subregulation (1)(a), authorise an individual to have unsupervised access to an SSAN unless the individual has a security clearance.

Penalty: a level 2 fine.

(3) An authorisation given under subregulation (1)(a) by a licence 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 SSAN in the licence 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 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 holder has a record that the individual has stated he or she understands the authorisation.

(5) If a secure nominee of a licence holder requests the licence holder to do so, the holder must give the nominee a copy of the unsupervised access authorisation given by the 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 holder who, under subregulation (1)(b), authorises an individual to have supervised access to an SSAN must ensure the individual is supervised while having access to the SSAN by —

(a) the licence holder; or

(b) a secure nominee of the licence holder acting in accordance with the unsupervised access authorisation given by the holder to the nominee.

Penalty: a level 3 fine.

*[Regulation 9 inserted: Gazette 2 Dec 2013 p. 5503-5; amended: Gazette 5 Feb 2016 p. 363.]*

## 10. Licence holder to keep records as to secure nominees

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

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

(b) a copy of each unsupervised access authorisation given by the holder to the nominee; and

(c) the record required by regulation 9(4)(b),

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

Penalty: a level 2 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 under the *Dangerous Goods Safety (Explosives) Regulations 2007* Part 3 while he or she is a secure nominee;

(c) if the secure nominee does not have such a security card but is a person referred to in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 16(3) —

(i) the details of the written authorisation referred to in that subregulation; 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 holder to the secure nominee is cancelled, the date on which it is cancelled.

*[Regulation 10 inserted: Gazette 2 Dec 2013 p. 5505-6.]*

## 11. Duties of secure nominee

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

Penalty: a level 3 fine.

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

Penalty: a level 3 fine.

*[Regulation 11 inserted: Gazette 2 Dec 2013 p. 5506; amended: Gazette 5 Feb 2016 p. 363.]*

# Part 4 — Possession of SSANs

*[Heading amended: Gazette 5 Feb 2016 p. 365.]*

## 12. Licensing requirements

(1) A person in possession of a quantity of an SSAN at a place must hold at least one of these licences that relates to the SSAN and authorises the possession of that quantity at the place —

(a) an SSAN import/export licence;

(b) an SSAN manufacture licence;

(c) an SSAN storage licence;

(d) an SSAN transport licence;

(e) an interstate transport licence;

(f) an SSAN supply licence;

(g) an SSAN fertiliser licence;

(h) a shotfiring licence;

(i) an explosives manufacture (MPU) licence;

(j) an explosives manufacture licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007*;

(k) an explosives storage licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007*.

(2) A person does not have to hold a licence referred to in subregulation (1) to possess an SSAN if —

(a) the person —

(i) is a secure nominee of the holder of a licence referred to in subregulation (1) that authorises the holder to possess the SSAN in the circumstances; and

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

or

(b) the person possesses the SSAN while being supervised by the holder of a licence referred to in subregulation (1) that authorises the holder to possess the SSAN in the circumstances.

(3) A person does not have to hold a licence referred to in subregulation (1) to possess an SSAN if —

(a) the person —

(i) controls and manages a commercial laboratory; or

(ii) is employed in such a laboratory by the person who controls and manages the laboratory;

and

(b) the person possesses the SSAN in the laboratory for analytical or research purposes that do not involve the manufacture of an illegal product; and

(c) there is not more than 3 kg of any SSAN in the laboratory.

(4) A person does not have to hold a licence referred to in subregulation (1) to possess an SSAN if —

(a) the person —

(i) is an educational institution or government organisation; or

(ii) is employed by such an institution or organisation; or

(iii) is a student at an educational institution;

and

(b) the person possesses the SSAN in a laboratory of the institution or organisation for analytical, educational or research purposes that do not involve the manufacture of an illegal product; and

(c) there is not more than 3 kg of any SSAN in the laboratory.

(5) A person does not have to hold a licence referred to in subregulation (1) to possess an SSAN if —

(a) the person is a student at an educational institution; and

(b) a person employed by the institution holds an SSAN storage licence that authorises that person to possess the SSAN; and

(c) the student possesses the SSAN in the course of his or her studies at the educational institution.

Note for this regulation:

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

*[Regulation 12 amended: Gazette 4 Oct 2011 p. 3950; 2 Dec 2013 p. 5506-7; 5 Feb 2016 p. 363.]*

## 13. Licences etc. to be carried

(1) A person who is in possession of an SSAN must carry or have in the vehicle in which he or she is travelling or at the place where he or she is —

(a) the licence that authorises the person to possess an SSAN; or

(b) if the licence is a shotfiring licence or an explosives manufacture (MPU) licence and a card has been issued to the holder under the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 168(2) in relation to the licence, the card.

Penalty: a level 3 fine.

(2) A person who is in possession of an SSAN and who holds a licence or card referred to in subregulation (1) must, if asked by a DGO to do so, immediately produce it to the DGO for inspection.

Penalty: a level 3 fine.

*[Regulation 13 amended: Gazette 5 Feb 2016 p. 363-4.]*

## 14. Duties to keep SSAN secure

(1) In this regulation —

***unauthorised person*** in relation to an SSAN, means a person who is not authorised under these regulations to possess the SSAN.

(2) A person in possession of an SSAN must keep it secure.

(3) A person in possession of an SSAN must take all reasonable measures to ensure that an unauthorised person does not have unsupervised access to the SSAN.

(4) A person in possession of an SSAN must immediately report to the Chief Officer and a police officer any theft, attempted theft or unexplained loss of any amount of the SSAN.

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

*[Regulation 14 amended: Gazette 5 Feb 2016 p. 363-4.]*

# Part 5 — Import and export of SSANs

*[Heading amended: Gazette 5 Feb 2016 p. 365.]*

## 15. Terms used

In this Part, 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.

## 16. Licensing requirements

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

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

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

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

*[Regulation 16 amended: Gazette 5 Feb 2016 p. 363-4.]*

## 17. Import and export, requirements prior to

The holder of an SSAN import/export licence must not import or export the SSAN to which the licence relates unless the holder has given the Chief Officer —

(a) if the SSAN is being imported — an "SSAN import notice" in respect of the SSAN at least 7 days before the date when the SSAN is expected to arrive in the State; and

(b) if the SSAN is being exported — an "SSAN export notice" in respect of the SSAN at least 7 days before the date when the SSAN is expected to leave the State; and

(c) an SDS for the SSAN.

Penalty: a level 2 fine.

*[Regulation 17 amended: Gazette 4 Oct 2011 p. 3950; 5 Feb 2016 p. 363-4; 3 Mar 2017 p. 1476.]*

### 18. Import and export notices, form and content of

(1) An "SSAN import notice" in respect of an SSAN must be in an approved form and contain the following —

(a) the details of the SSAN import/export licence held by the person importing the SSAN; and

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

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

(d) the country from which the SSAN is being imported;

(e) the date when the SSAN is expected to arrive in the State;

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

(g) the port or place where the SSAN will arrive in the State;

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

(i) where the SSAN will be initially stored after it arrives in the State.

(2) An "SSAN export notice" in respect of an SSAN must be in an approved form and contain the following —

(a) the details of the SSAN import/export licence held by the person exporting the SSAN;

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

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

(d) the date when the SSAN is expected to leave the State;

(e) the country to which the SSAN is being exported;

(f) a certificate that the export is in accordance with the law of that country.

(3) The holder of an SSAN import/export licence must keep a copy of each "SSAN import notice" or "SSAN export notice" given to the Chief Officer under this regulation for 2 years after the date of the import or export of the SSAN.

Penalty: a level 3 fine.

*[Regulation 18 amended: Gazette 4 Oct 2011 p. 3950; 5 Feb 2016 p. 363-4.]*

## 19. Chief Officer may direct that SSAN be analysed

(1) The Chief Officer may give a person importing or exporting an SSAN a written notice that directs the person, at the person's expense, to have the SSAN analysed by a person specified, within a period specified, and in accordance with directions specified, in the notice.

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

Penalty: a level 2 fine.

*[Regulation 19 amended: Gazette 5 Feb 2016 p. 363-4 and 365.]*

# Part 6 — Manufacture of SSANs

*[Heading amended: Gazette 5 Feb 2016 p. 365.]*

## 20. Term used: manufacture

In this Part, unless the contrary intention appears —

***manufacture*** an SSAN, includes —

(a) to manufacture the SSAN wholly or partly from another SSAN; and

(b) to package the SSAN.

*[Regulation 20 amended: Gazette 5 Feb 2016 p. 363-4.]*

## 21. Licensing requirements

(1) A person who manufactures an SSAN must hold an SSAN manufacture licence that relates to the SSAN and that authorises the manufacture of the SSAN.

(2) A person does not have to hold a licence referred to in subregulation (1) to manufacture an SSAN if —

(a) the person —

(i) is a secure nominee of the holder of a licence referred to in subregulation (1) that authorises the holder to manufacture the SSAN in the circumstances; and

(ii) manufactures the SSAN in accordance with the unsupervised access authorisation given by the holder to the nominee;

or

(b) the person manufactures the SSAN while being supervised by the holder of a licence referred to in subregulation (1) that authorises the holder to manufacture the SSAN in the circumstances.

(3) A person does not have to hold a licence referred to in subregulation (1) to manufacture an SSAN if —

(a) the person —

(i) controls and manages a commercial laboratory; or

(ii) is employed in such a laboratory by the person who controls and manages the laboratory;

and

(b) the person manufactures the SSAN in the laboratory for analytical or research purposes that do not involve the manufacture of an illegal product; and

(c) there is not more than 3 kg of any SSAN in the laboratory.

(4) A person does not have to hold a licence referred to in subregulation (1) to manufacture an SSAN if —

(a) the person —

(i) is employed by an educational institution or government organisation; or

(ii) is a student at an educational institution;

and

(b) the person manufactures the SSAN in a laboratory of the institution or organisation for educational or research purposes that do not involve the manufacture of an illegal product; and

(c) there is not more than 3 kg of any SSAN in the laboratory.

Note for this regulation:

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

*[Regulation 21 amended: Gazette 4 Oct 2011 p. 3951; 2 Dec 2013 p. 5507; 5 Feb 2016 p. 363-4.]*

# Part 7 — Storage of SSANs

*[Heading amended: Gazette 5 Feb 2016 p. 365.]*

## 22. Licensing requirements

(1) A person who stores a quantity of an SSAN at a place must hold at least one of these licences that relates to the SSAN and authorises the storage of that quantity at that place —

(a) an SSAN storage licence;

(b) an SSAN manufacture licence.

(2) A person does not have to hold a licence referred to in subregulation (1) to store an SSAN at a place if the person —

(a) holds a shotfiring licence that relates to the SSAN and stores not more than 100 kg of the SSAN for use by the person at the place; or

(b) holds an explosives storage licence issued under the *Dangerous Goods Safety (Explosives) Regulations 2007* and stores the SSAN in accordance with that licence as if the SSAN were an explosive; or

(c) holds an SSAN fertiliser licence that relates to the SSAN and the SSAN is stored for use by the person.

(3) A person does not have to hold a licence referred to in subregulation (1) to store an SSAN if —

(a) the person controls and manages a commercial laboratory; and

(b) the person stores the SSAN in the laboratory for analytical or research purposes that do not involve the manufacture of an illegal product; and

(c) there is not more than 3 kg of any SSAN in the laboratory.

(4) A person does not have to hold a licence referred to in subregulation (1) to store an SSAN if —

(a) the person —

(i) is an educational institution or government organisation; or

(ii) is employed by such an institution or organisation;

and

(b) the person stores the SSAN in a laboratory of the institution or organisation for analytical, educational or research purposes that do not involve the manufacture of an illegal product; and

(c) there is not more than 3 kg of any SSAN in the laboratory.

(5) A person does not have to hold a licence referred to in subregulation (1) to store an SSAN at a place if —

(a) the person holds an SSAN transport licence; and

(b) the person stores the SSAN at the place while it is in transit; and

(c) the person stores the SSAN at the place in containers that are not opened at the place; and

(d) the SSAN is not used at the place.

Note for this regulation:

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

*[Regulation 22 amended: Gazette 4 Oct 2011 p. 3951; 5 Feb 2016 p. 363-4.]*

## 23. Storage requirements, specific

(1) In this regulation —

***licensed place*** means a place specified in —

(a) an SSAN storage licence; or

(b) an SSAN manufacture licence,

as a place where an SSAN may be stored under the licence;

***packaged*** SSAN means any SSAN that is in a container that is designed to store the SSAN and to be transported.

(2) A person who stores any packaged SSAN at any place must keep an inventory for the place.

(3) For the purpose of subregulation (2), an inventory is not kept for a place unless a written record is made of this information —

(a) the required details of the packaged SSAN stored at the place at any time; and

(b) the receipt into or dispatch from storage at the place of any packaged SSAN; and

(c) the day and time of each such receipt or dispatch; and

(d) for each such dispatch —

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

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

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

(4) A person who stores any packaged SSAN at a licensed place must do a stock take of all packaged SSAN stored at the place at least once a month.

(5) For the purpose of subregulation (4), a stock take of packaged SSAN stored at a place is not done unless —

(a) the quantity of packaged SSAN stored at the place at the time of the stock take is compared to the inventory for the place at that time; and

(b) any unexplained loss is investigated; and

(c) if an unexplained loss is found, the person gives the Chief Officer a written report within one month after the stock take of —

(i) the unexplained loss; and

(ii) the findings of the investigation; and

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

(6) A person who stores any SSAN at a licensed place must inspect the place at least once a month.

(7) For the purposes of subregulation (6), a place is not inspected unless —

(a) the means of keeping the SSANs at the place secure are inspected to see that they comply with these regulations; and

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

(c) 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.

Penalty: a level 2 fine.

*[Regulation 23 amended: Gazette 5 Feb 2016 p. 363-4 and 365.]*

# Part 8 — Transport of SSANs

*[Heading amended: Gazette 5 Feb 2016 p. 365.]*

## 24. Licensing requirements

(1) A person who transports a quantity of an SSAN on a road that is open to or used by the public or by rail must hold an SSAN transport licence that relates to that quantity of the SSAN.

(2) A person does not have to hold a licence referred to in subregulation (1) to transport an SSAN if the person —

(a) holds an SSAN fertiliser licence that relates to the SSAN and transports the SSAN for use by the person; or

(b) holds a shotfiring licence that relates to the SSAN and transports the SSAN for use by the person; or

(c) holds an explosives manufacture (MPU) licence that relates to the SSAN and transports the SSAN in a mobile processing unit, as that term is defined in the *Dangerous Goods Safety (Explosives) Regulations 2007*.

(3) A person does not have to hold a licence referred to in subregulation (1) to transport an SSAN if the person —

(a) is a secure nominee of the holder of such a licence that authorises the holder to transport the SSAN; and

(b) transports the SSAN in accordance with the unsupervised access authorisation given by the holder to the nominee.

(4) A person does not have to hold a licence referred to in subregulation (1) to transport an SSAN if —

(a) the person —

(i) controls and manages a commercial laboratory; or

(ii) is employed in such a laboratory by the person who controls and manages the laboratory;

and

(b) the person transports the SSAN for analytical or research purposes in the laboratory that do not involve the manufacture of an illegal product; and

(c) the person transports not more than 3 kg of the SSAN.

(5) A person does not have to hold a licence referred to in subregulation (1) to transport an SSAN if —

(a) the person is employed by an educational institution or government organisation; and

(b) the person transports the SSAN for analytical, educational or research purposes at the institution or organisation that do not involve the manufacture of an illegal product; and

(c) the person transports not more than 3 kg of the SSAN.

(6) A person does not have to hold a licence referred to in subregulation (1) to transport an SSAN if the person holds an interstate transport licence that authorises the person to transport the SSAN in that State or Territory.

Note for this regulation:

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

*[Regulation 24 amended: Gazette 2 Dec 2013 p. 5507; 5 Feb 2016 p. 363-4.]*

### 25. Interstate licences, compliance with etc.

(1) A person who transports an SSAN pursuant to an interstate transport licence must comply with any condition to which the licence is subject.

Penalty: a level 1 fine.

*[(2) deleted]*

(3) A person who transports an SSAN pursuant to an interstate transport licence must comply with any security plan that relates to the licence.

Penalty: a level 2 fine.

(4) A DGO may direct a person who transports an SSAN and who purportedly holds an interstate transport licence to produce the licence to the DGO.

(5) A person given a direction under subregulation (4) must obey it.

Penalty: a level 2 fine.

*[Regulation 25 amended: Gazette 4 Oct 2011 p. 3951; 5 Feb 2016 p. 363-4.]*

### 26. Security breach, duty to report

A person who transports an SSAN must immediately report to the Chief Officer and a police officer any unlawful use, or attempted unlawful use, of a vehicle being used to transport the SSAN.

Penalty: a level 2 fine.

*[Regulation 26 amended: Gazette 5 Feb 2016 p. 363-4.]*

# Part 9 — Supply of SSANs

*[Heading amended: Gazette 5 Feb 2016 p. 365.]*

## 27. Licensing requirements

(1) A person who supplies a quantity of an SSAN to another person must hold at least one of these licences that relates to the SSAN and authorises the supply of that quantity —

(a) an SSAN import/export licence;

(b) an SSAN manufacture licence;

(c) an SSAN storage licence;

(d) an SSAN transport licence;

(e) an SSAN supply licence.

(2) A person does not have to hold a licence referred to in subregulation (1) to supply an SSAN if —

(a) the person —

(i) is a secure nominee of the holder of a licence referred to in subregulation (1) that authorises the holder to supply the SSAN in the circumstances; and

(ii) supplies the SSAN in accordance with the unsupervised access authorisation given by the holder to the nominee;

or

(b) the person supplies the SSAN while being supervised by the holder of a licence referred to in subregulation (1) that authorises the holder to supply the SSAN in the circumstances.

(3) A person does not have to hold a licence referred to in subregulation (1) to supply an SSAN if the person holds a shotfiring licence that relates to the SSAN and —

(a) in the course of manufacturing an explosive for use by another person who holds a shotfiring licence that relates to the SSAN, supplies the SSAN to that person; or

(b) in the course of manufacturing and detonating an explosive as a service provided to another person who does not hold a shotfiring licence that relates to the SSAN —

(i) supplies the SSAN to that person; and

(ii) does not give possession or the control or management of the explosive to the other person.

(4) A person does not have to hold a licence referred to in subregulation (1) to supply an SSAN if the person —

(a) holds an explosives manufacture (MPU) licence that relates to the SSAN; and

(b) in the course of manufacturing an explosive for use by another person who holds a shotfiring licence that relates to the SSAN, supplies the SSAN to that person by means of an MPU; and

(c) does not give possession or the control or management of the explosive to a person who is not authorised to possess it under the *Dangerous Goods Safety (Explosives) Regulations 2007*.

(5) A person does not have to hold a licence referred to in subregulation (1) to supply an SSAN if —

(a) the person —

(i) controls and manages a commercial laboratory; or

(ii) is employed in such a laboratory by the person who controls and manages the laboratory;

and

(b) the person supplies the SSAN for analytical or research purposes in the laboratory that do not involve the manufacture of an illegal product; and

(c) not more than 3 kg of any SSAN is at the laboratory.

(6) A person does not have to hold a licence referred to in subregulation (1) to supply an SSAN if —

(a) the person —

(i) is an educational institution or government organisation; or

(ii) is employed by such an institution or organisation; or

(iii) is a student at an educational institution;

and

(b) the person supplies the SSAN for analytical, educational or research purposes in a laboratory of the institution or organisation that do not involve the manufacture of an illegal product; and

(c) not more than 3 kg of any SSAN is in the laboratory.

Note for this regulation:

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

*[Regulation 27 amended: Gazette 4 Oct 2011 p. 3951; 2 Dec 2013 p. 5508; 5 Feb 2016 p. 363-4.]*

## 28. Suppliers, duties of

(1) This regulation does not apply to the supply of an SSAN by a person in circumstances described in regulation 27(3) or (6).

(2) A person (***A***) must not supply a quantity of an SSAN to a person (***B***) unless B has produced to A, either at or within a reasonable period before the time of supply —

(a) proof of the identity of B 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 issued under the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 20,

that shows B's photograph; and

(b) evidence that B is authorised, whether under a licence or not, to possess that quantity of the SSAN under —

(i) these regulations; or

(ii) if the other person is in a place outside the State, the law of that place.

(3) A person, other than the holder of a shotfiring licence or an explosives manufacture (MPU) licence, who supplies an SSAN to another person must make a written record of this information —

(a) the date of supply;

(b) the name and address of the other person;

(c) the details of the other person's authority, whether under a licence or not, to possess the SSAN under —

(i) these regulations; or

(ii) if the other person is in a place outside the State, the law of that place;

(d) the required details of the SSAN supplied,

and keep it for 2 years after the date of the supply of the SSAN.

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

*[Regulation 28 amended: Gazette 4 Oct 2011 p. 3951-2; 5 Feb 2016 p. 362 and 363-4.]*

# Part 10 — Licences

## Division 1 — Preliminary

### 29. Terms used

In this Part —

***licence*** means any of the following —

(a) an SSAN import/export licence;

(b) an SSAN manufacture licence;

(c) an SSAN storage licence;

(d) an SSAN transport licence;

(e) an SSAN supply licence;

(f) an SSAN fertiliser licence;

***relevant offence*** means any of the following —

(a) an offence against the Act or these or any other regulations made under the Act;

(b) an offence against a law of another place that substantially corresponds to the Act;

(c) an offence against the law of this State or another place an element of which is the handling, storage or transport of explosives.

*[Regulation 29 amended: Gazette 5 Feb 2016 p. 363-4.]*

## Division 2 — General provisions

### 30. Applying for a 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) be accompanied by the annual fee payable for the first year of the licence; and

(da) if the application is not accompanied by a certificate given under subregulation (5), a checking fee equal to the amount (if any) required to be paid under paragraph (c); and

(d) be made to the Chief Officer.

(2) 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.

(3) An application by a body corporate or a partnership must be accompanied by proof of the incorporation of the body or of the existence of the partnership.

(4) In addition to any document that may be required by the approved form for the application, an application for any of the following —

(a) an SSAN manufacture licence;

(b) an SSAN storage licence;

(c) an SSAN transport licence;

(d) an SSAN fertiliser licence,

must be accompanied by a security plan that is in writing and complies with regulation 31.

(5) In addition to any document that is required to accompany the application, an application for a licence may be accompanied by a certificate that complies with subregulation (6) and is signed by a person approved by the Chief Officer.

(6) A certificate given by a person under subregulation (5) must certify that the person —

(a) has read the application; and

(b) is satisfied the application complies with this regulation; and

(c) if the application is accompanied by a document for the purposes of subregulation (3), is satisfied the document complies with that subregulation; and

(d) if the application is accompanied by a security plan —

(i) has read the security plan; and

(ii) is satisfied the plan complies with regulation 31; and

(iii) unless the application is for an SSAN fertiliser licence, has done an assessment of the risks referred to in regulation 31(2)(a) and is satisfied the applicant has taken or will take all reasonably practicable measures to minimise those risks in relation to the SSAN to which the licence would relate;

and

(e) if the licence would relate to a site, is satisfied the site can be operated in accordance with these regulations.

*[Regulation 30 amended: Gazette 16 Mar 2012 p. 1260; 2 Dec 2013 p. 5508-9; 5 Feb 2016 p. 363-4.]*

## 31. Security plans

(1) In this regulation —

***authorised person*** in relation to an SSAN, means a person who is authorised under these regulations to possess the SSAN.

(2) Unless this regulation says otherwise, a security plan for the purposes of any licence referred to in regulation 30(4) must include the following —

(a) an assessment of the risks of the sabotage, theft or unexplained loss of, or access by any unauthorised person to, any SSAN 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 SSAN secure;

(d) the measures that will be taken to ensure that structures and things used to keep any such SSAN secure are inspected regularly and maintained;

(e) the measures that will be taken to control and monitor people's access to any such SSAN;

(f) 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 SSAN;

(g) 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 SSAN;

(h) the measures that will be taken to ensure that people who may have access to any such SSAN are instructed about and comply with —

(i) the Act and these regulations; and

(ii) the security plan;

(i) the measures that will be taken to monitor, and ensure compliance, with the security plan;

(j) the measures that will be taken to ensure the security plan and its effectiveness are reviewed regularly and that the plan is revised if necessary;

(ka) the measures that will be taken to minimise the risk of any unauthorised person gaining access to the security plan;

(k) the measures that will be taken to ensure a record is kept of measures taken under the security plan.

(3) In addition to the matters required by subregulation (2), a security plan for the purposes of an SSAN manufacture licence, or an SSAN 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) the measures that will be taken to ensure that the required details of any SSAN manufactured or received at, or despatched from, the site are recorded and reconciled;

(c) the measures that will be taken to ensure that no SSAN at the site is supplied to a person unless the person is an authorised person;

(d) the measures that will be taken to ensure that a record is kept of —

(i) the details of any person to whom an SSAN at the site is supplied and the person's authority under these regulations to possess the SSAN; and

(ii) the required details of the SSAN supplied;

(e) 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 SSAN at the site is investigated and reported to the Chief Officer and a police officer.

(4) In addition to the matters required by subregulation (2), a security plan for the purposes of an SSAN transport licence must include the following —

(a) the measures that will be taken to ensure that any SSAN is loaded for transport and unloaded after transport at a place where the SSAN is secure;

(b) the measures that will be taken to monitor at all times the location of any SSAN while it is being transported;

(c) the measures that will be taken to ensure that the required details of any SSAN being transported is

recorded at the beginning and end of the journey and reconciled;

(d) the measures that will be taken to ensure that no SSAN is consigned for transport by or 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 the consignor and consignee of any SSAN being transported and their authority under these regulations to possess the SSAN; and

(ii) the required details of the SSAN supplied;

(f) the measures that will be taken to ensure any unlawful entry to or use of a vehicle used to transport any SSAN, or any attempted such entry or use, or any theft, attempted theft or unexplained loss of any SSAN while it is being transported is investigated and reported to the Chief Officer.

(5) A security plan for the purposes of an SSAN fertiliser licence must include the following —

(a) the material listed in subregulation (2)(d) to (k);

(b) such of the material required in a security plan under subregulation (3) or (4) as is relevant to the activities relating to any SSAN that will be conducted by the holder of the licence.

*[Regulation 31 amended: Gazette 4 Oct 2011 p. 3952; 2 Dec 2013 p. 5510; 5 Feb 2016 p. 363-4.]*

## 32. Dealing with applications

(1) In this regulation, a legitimate purpose for an SSAN is —

(a) using it to commercially and lawfully manufacture explosives that have commercial application; or

(b) using it to commercially and lawfully manufacture a product that is not and does not contain an SSAN or an illegal product; or

(c) using it as fertiliser in primary production; or

(d) using it for analytical, educational or research purposes that do not involve the manufacture of illegal products.

(2) For the purposes of deciding an application for a licence, 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 to inspect any place or vehicle to which the licence would relate;

(c) to amend and resubmit any security plan required by regulation 30(4) that is inadequate.

(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 annual 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.

(5) On an application for a licence, the Chief Officer may refuse the application or, subject to this regulation, issue the licence.

(6) The Chief Officer must not issue the licence unless satisfied —

(a) that the application is made in accordance with regulation 30; and

(b) if the applicant is an individual, that he or she —

(i) has reached 21 years of age; and

(ii) has a security clearance that was issued not more than 5 years prior to the date of the application;

and

*[(c) deleted]*

(d) that any SSAN that the applicant intends to possess under the licence will, while it is in the possession of the applicant, be secure, so far as is reasonably practicable; and

(e) if under regulation 30(4) a security plan is required to accompany the application, that the plan —

(i) complies with regulation 31; and

(ii) adequately assesses the risks that it is required to assess; and

(iii) contains provisions that are adequate to minimise those risks.

(7) The Chief Officer must not issue the licence unless satisfied —

(a) if the application is for an SSAN import/export licence — that the applicant conducts a business that involves importing or exporting an SSAN for a legitimate purpose or in order to supply it for a legitimate purpose;

(b) if the application is for an SSAN manufacture licence — that the applicant conducts a business that involves manufacturing an SSAN for a legitimate purpose or in order to supply it for a legitimate purpose;

(c) if the application is for an SSAN storage licence — that the applicant conducts a business that involves storing an SSAN that has a legitimate purpose;

*[(d), (e) deleted]*

(f) if the application is for an SSAN fertiliser licence — that the applicant conducts a business that requires the possession of an SSAN for use as a fertiliser in primary production.

*[Regulation 32 amended: Gazette 16 Mar 2012 p. 1260; 2 Dec 2013 p. 5510; 5 Feb 2016 p. 362 and 363-4.]*

### 33. 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 keep any SSAN possessed under the licence secure; and

(c) has a security clearance that was issued within the previous 5 years.

(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 corporate 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 to keep any SSAN 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 33 inserted: Gazette 2 Dec 2013 p. 5510-12; amended: Gazette 5 Feb 2016 p. 362 and 363-4.]*

## 34. Conditions of licences

(1) A licence may include any of these conditions that the Chief Officer thinks fit —

(a) a condition that the licence relate to one SSAN or more than one, specified in the licence;

(b) a condition that the licence relate to a maximum quantity of an SSAN specified in the licence;

(c) any condition that is reasonably necessary to ensure, so far as is practicable, that any SSAN to which the licence relates will be secure.

(2) Such a condition must be specified in a licence when it is issued.

*[Regulation 34 amended: Gazette 5 Feb 2016 p. 362 and 363-4.]*

## 35. Duration of licences

(1A) In this regulation —

***existing licence*** means a 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 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 licence issued on or after 1 April 2012 has effect for 5 years unless it is cancelled in that period.

*[(1) deleted]*

(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 —

(i) dies; or

(ii) ceases to have a security clearance.

*[Regulation 35 amended: Gazette 16 Mar 2012 p. 1260.]*

### 36. Form of licences

A licence must be in writing in such form as the Chief Officer decides.

### 37. Licences not transferable etc.

(1) A licence is valid only for the person to whom it is issued.

(2) A licence that relates to a place specified in it is valid only for that place.

(3) A licence that relates to an SSAN specified in it is valid only for that SSAN.

(4) A licence that relates to a maximum quantity of an SSAN specified in it is valid only for that quantity.

*[Regulation 37 amended: Gazette 5 Feb 2016 p. 363-4.]*

### 38. 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.

### 39. Lost licences may be replaced

If the Chief Officer is satisfied that a licence has been destroyed, lost or stolen, the Chief Officer may issue the holder of the licence a replacement licence.

### 40. 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) be made to the Chief Officer.

(4) On such an application, the Chief Officer may refuse the application, or grant it and amend the licence.

(5) If, after a licence is issued, the Chief Officer wants to amend the licence in a material way, the Chief Officer must —

(a) give the licence holder written notice of the proposal; and

(b) except where the removal of a condition is proposed, give the licence 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 licence holder written notice of the decision.

(6A) Regulation 32, with any necessary changes, applies in relation to dealing with an application to amend a licence as if it were an application for a licence.

(6B) Regulations 34 and 35, with any necessary changes, apply in relation to amending a licence in the same way as they apply to issuing a licence.

(6) 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.

(7) A decision by the Chief Officer to amend a licence has effect on the date specified in the written notice.

*[Regulation 40 amended: Gazette 2 Dec 2013 p. 5512.]*

### 41. Licences, renewal of

(1) The Chief Officer must renew a licence that is about to expire due to the passage of time (the ***existing licence***) unless —

(a) the holder of the existing licence is dead or, being a body corporate or partnership, is dissolved; or

(b) the holder of the existing licence does not want it renewed; or

(c) if the existing licence relates to a place specified in it, a licence is not needed for the place; or

(d) the annual fee payable for the first year of the new licence has not been paid.

(2) To renew an existing licence the Chief Officer must grant a new licence that has effect immediately after the existing licence expires and the terms of which are the same as those of the existing licence.

*[Regulation 41 inserted: Gazette 16 Mar 2012 p. 1261.]*

## Division 3 — Suspending and cancelling licences

### 42. Suspending or cancelling licences, grounds for

(1) Grounds to suspend a licence exist if —

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 33, 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 or these 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.

(2) Grounds to suspend or cancel a licence exist if —

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 33, 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 an annual fee for the licence in accordance with regulation 46A; or

(c) the holder has not paid a fee in accordance with the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* regulation 34.

*[Regulation 42 amended: Gazette 16 Mar 2012 p. 1261; 2 Dec 2013 p. 5513.]*

**43. Suspending or cancelling licences, procedure for**

(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 44 applies.

(2) The Chief Officer must give the licence holder a written notice that contains this information —

(a) the proposed action;

(b) the grounds for the proposed action and the evidence for them;

(c) if the Chief Officer proposes to suspend the licence, the suspension period (either as a period of time or by reference to a future event);

(d) that the holder is entitled to give the Chief Officer written submissions about the proposed action;

(e) 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 submissions 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) if the notice stated it was proposed to suspend the licence — suspend the licence for not longer than the suspension period stated in the notice;

(b) if the notice stated it was proposed to cancel the licence — either cancel or suspend 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.

**44. 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 43 were followed, an unacceptable risk in relation to an SSAN 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 43 to cancel a licence.

*[Regulation 44 amended: Gazette 5 Feb 2016 p. 363-4.]*

### 45. Suspension or cancellation, general matters

(1) If the Chief Officer suspends or cancels a licence, the holder must return it to the Chief Officer within 14 days after the date of receiving the notice.

(2) A person who receives such a notice and who, without a reasonable excuse, does not return the licence commits an offence.

Penalty: a level 3 fine.

(3) 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

### 46A. Annual fees for 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 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 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 46A inserted: Gazette 16 Mar 2012 p. 1261-2; amended: Gazette 2 Dec 2013 p. 5513-14; 26 Jun 2015 p. 2264; 24 Jun 2016 p. 2328; 23 Jun 2017 p. 3289; 25 Jun 2018 p. 2304; 18 Jun 2019 p. 2044.]*

### 46. 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 33, 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 46 inserted: Gazette 2 Dec 2013 p. 5514.]*

### 47. Condition of licence, contravening

(1) A licence holder must not contravene a condition of the licence.
Penalty: a level 1 fine and imprisonment for 10 months.

*[(2) deleted]*

*[Regulation 47 amended: Gazette 4 Oct 2011 p. 3952.]*

# Part 11 — Miscellaneous matters

## 48. Safety management document prescribed (Act s. 3)

A security plan that relates to a licence referred to in regulation 30(4) is prescribed to be a safety management document for the purposes of the definition of ***safety management document*** in the Act section 3.

## 49. 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 made or kept 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 49 amended: Gazette 2 Dec 2013 p. 5514-15.]*

## 50. Security plan, duties in respect of

(1) In this regulation —

***licence*** means a licence referred to in regulation 30(4).

(2) It is a condition of a licence that the holder obey the security plan that relates to the licence.

(3) If a body corporate or a partnership is the holder of a licence, each individual who, under regulation 33, is, and is recorded by the holder as, a qualified officer of the holder must ensure the security plan that relates to the licence is complied with by the body corporate or partnership.

(4) If the holder of a 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 security plan that relates to the licence.

Penalty: a level 2 fine.

*[Regulation 50 amended: Gazette 2 Dec 2013 p. 5515; 5 Feb 2016 p. 362.]*

## 51. 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 offence is 10% of the maximum fine for the offence under these regulations.

**Table**

| Provision | Provision | Provision |
|---|---|---|
| r. 50(2) | r. 50(4) | |

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.

*[**52.** Deleted: SL 2021/85 r. 13.]*

*[Part 12 (r. 53) deleted: Gazette 4 Oct 2011 p. 3952.]*

# Schedule 1 — Annual fees

[r. 3]

*[Heading inserted: SL 2026/94 r. 8.]*

| Item | Annual fee | | Fee ($) |
|---|---|---|---|
| 1. | Annual fee for a licence (r. 30(1)(c) and 46A) — | | |
| | (a) | SSAN import/export licence | 242.00 |
| | (b) | SSAN manufacture licence | 454.00 |
| | (c) | SSAN storage licence | 213.00 |
| | (d) | SSAN transport licence | 227.00 |
| | (e) | SSAN supply licence | 195.00 |
| | (f) | SSAN fertiliser licence | 73.00 |

*[Schedule 1 inserted: SL 2026/94 r. 8.]*

# Schedule 2 — Security sensitive ammonium nitrate

[r. 3]

*[Heading amended: Gazette 5 Feb 2016 p. 363.]*

**1. Ammonium nitrate, substances containing**

Any substance that contains more than 45% ammonium nitrate is a security sensitive ammonium nitrate unless —

(a) it is an explosive; or

(b) it is an aqueous solution, being a homogenous mixture of 2 or more components in a single phase.

*[Clause 1 amended: Gazette 5 Feb 2016 p. 363.]*

# Notes

This is a compilation of the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) 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 (Security Risk Substances) Regulations 2007* [1] | 31 Dec 2007 p. 6719-75 | 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 (Security Risk Substances) Amendment Regulations (No. 2) 2010* | 25 Jun 2010 p. 2877-8 | 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 (Security Risk Substances) Amendment Regulations 2011* | 4 Oct 2011 p. 3949-52 | r. 1 and 2: 4 Oct 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Oct 2011 (see r. 2(b)) |
| *Dangerous Goods Safety (Security Risk Substances) Amendment Regulations (No. 2) 2012* | 16 Mar 2012 p. 1259-62 | 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 (Security Risk Substances) Amendment Regulations 2013* | 2 Dec 2013 p. 5499-515 | 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)) |
| **Reprint 1: The *Dangerous Goods Safety (Security Risk Substances) Regulations 2007* as at 21 Feb 2014** (includes amendments listed above) | | |
| *Dangerous Goods Safety (Security Risk Substances) Amendment Regulations 2015* | 26 Jun 2015 p. 2263-4 | 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. 6 | 5 Feb 2016 p. 343-68 | 6 Feb 2016 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Levies) Regulations 2016* Pt. 5 | 24 Jun 2016 p. 2325-34 | 1 Jul 2016 (see r. 2(b)) |

| Citation | Published | Commencement |
|---|---|---|
| *Dangerous Goods Safety Regulations Amendment Regulations 2017* Pt. 4 | 3 Mar 2017 p. 1474-82 | 4 Mar 2017 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2017* Pt. 5 | 23 Jun 2017 p. 3279-309 | 1 Jul 2017 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2018* Pt. 5 | 25 Jun 2018 p. 2297-324 | 1 Jul 2018 (see r. 2(b)) |
| **Reprint 2: The *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007* as at 16 Nov 2018** (includes amendments listed above) | | |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2019* Pt. 5 | 18 Jun 2019 p. 2040-56 | 1 Jul 2019 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (COVID-19 Response) Regulations 2020* Pt. 4 | 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) |
| *Dangerous Goods Safety Regulations Amendment Regulations 2020* Pt. 5 | SL 2020/193 9 Oct 2020 | 10 Oct 2020 (see s. 2(c)) |
| *Mines and Petroleum Regulations Amendment (COVID-19 Response) Regulations (No. 2) 2020* Pt. 4 | SL 2020/197 27 Oct 2020 | 28 Oct 2020 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2021* Pt. 5 | SL 2021/85 21 Jun 2021 | 1 Jul 2021 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2022* Pt. 5 | SL 2022/58 20 May 2022 | 1 Jul 2022 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2023* Pt. 5 | SL 2023/36 5 May 2023 | 1 Jul 2023 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2024* Pt. 4 | SL 2024/97 12 Jun 2024 | 1 Jul 2024 (see r. 2(b)) |
| *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2025* Pt. 5 | SL 2025/90 11 Jun 2025 | 1 Jul 2025 (see r. 2(b)) |

| Citation | Published | Commencement |
|---|---|---|
| *Industrial Relations Regulations Amendment (Fees and Charges) Regulations 2026* Pt. 4 | SL 2026/94 10 Jun 2026 | 1 Jul 2026 (see r. 2(b)) |

## Other notes

[1] Now known as the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007*; citation changed (see note under r. 1).

# Defined terms

*[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]*


| Defined term | Provision(s) |
|---|---|
| A | 28(2) |
| access | 3 |
| Act | 3 |
| ADG Code | 3 |
| amend | 40(1) |
| annual fee | 3 |
| approved form | 3 |
| authorised person | 31(1) |
| commercial laboratory | 3 |
| educational institution | 3 |
| existing licence | 35(1A), 41(1) |
| explosive | 3 |
| explosives manufacture (MPU) licence | 3 |
| export | 15 |
| government organisation | 3 |
| grace period | 46A(1) |
| holder | 3 |
| illegal product | 3 |
| import | 15 |
| interstate transport licence | 3 |
| level 1 fine | 3 |
| level 2 fine | 3 |
| level 3 fine | 3 |
| licence | 3, 29, 50(1) |
| licensed place | 23(1) |
| manufacture | 20 |
| officer | 33(1) |
| packaged | 23(1) |
| personal details | 3 |
| proposed action | 43(1) |
| qualified officer | 33(1) |
| relevant offence | 29 |
| required details | 3 |
| safety data sheet | 3 |
| Safe Work Australia | 3 |
| SDS | 3 |
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