

EXPOSURE DRAFT

(Prepared by Parliamentary Counsel's Office)

Dangerous Substances (Explosives) Regulations 2004

Subordinate Law SL2003-

The Australian Capital Territory Executive makes the following regulations under the *Dangerous Substances Act 2004*.

Dated 2003.

Minister

Minister

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Dangerous Substances Act 2004

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Chapter 1 General

Part 1.1 Preliminary

1 Name of regulations

These regulations are the *Dangerous Substances (Explosives) Regulations 2004*.

2 Commencement

These regulations commence on a day fixed by the Minister by written notice.

Note 1 The provisions of regulations providing for the name and commencement automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Dictionary

The dictionary at the end of these regulations is part of these regulations.

Note 1 The dictionary at the end of these regulations defines certain terms used in these regulations, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*driver licence*—see the *Road Transport (Driver Licence) Act 1999*, dictionary.' means that the expression 'driver licence' is defined in the dictionary to that Act and the definition applies to these regulations.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulations unless the definition, or another provision of the regulations, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in these regulations is explanatory and is not part of these regulations.

Note 1 For comparison, a number of regulations contain notes under their headings to draw attention to corresponding provisions of certain interstate legislation. For example—

- the note in reg 5 indicates the corresponding provision (regulation 111) of the *Dangerous Goods (Explosives) Regulations 2000* (Vic)
- the note in reg 25 indicates the corresponding provision (regulation 11) of the *Explosives Regulation 2003* (Qld)
- the note in reg 27 indicates the corresponding provision (section 9) of the *Explosives Act 1999* (Qld).

Note 2 See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Incorporated documents
VR 111

- (1) If a provision of an incorporated document that applies to these regulations is inconsistent with a provision of these regulations, the provision of these regulations prevails to the extent of the inconsistency.
- (2) For these regulations, a reference to an incorporated document (in these regulations or in another incorporated document) is a reference to—
 - (a) the document as in effect at the commencement of this regulation; and
 - (b) if the document is amended after the commencement of this section, and an incorporated document notice under the Act, section 220 for the amendment is notified—the document as amended by the amendment; and
 - (c) if the document (or a replacement document mentioned in this paragraph) is replaced by another document after the commencement, and an incorporated document notice under the Act, section 220 for the replacement is notified—the replacement document; and
 - (d) if a replacement document mentioned in paragraph (c) is amended, and an incorporated document notice under the Act, section 220 for the amendment is notified—the replacement document as amended.

Example of replacement document

a new edition of an incorporated document published after the commencement of this regulation

Note 1 For the meaning of *notification*, see Legislation Act, s 63

Note 2 An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) In this regulation:

incorporated document means the following documents:

- (a) the Australian Dangerous Goods Code;
- (b) the Australian Explosives Code;
- (c) AS 2187.0;
- (d) AS 2187.1;
- (e) AS 2187.2;
- (f) AS 4326;
- (g) the UN Test Manual.

6 Offences against regulations—application of Criminal Code etc

Other legislation applies in relation to offences against these regulations.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against these regulations (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 1.2 Key concepts

7 Meaning of *explosive*

- (1) In these regulations, and for the Act:

explosive means a dangerous substance that—

- (a) is an explosive substance or an explosive article as defined in subregulation (3); or
- (b) is an explosive substance or an explosive article within the meaning of the UN Test Manual; or
- (c) is a substance or an article listed as class 1, or as having a subsidiary risk of class 1, in the Australian Explosives Code, appendix 2; or
- (d) is a substance or a combination of substances, or an article, determined by the Minister to be an explosive.

Note **Dangerous substance** is defined in the Act, s 10.

- (2) A determination by the Minister under subregulation (1) (b) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) In subregulation (1) (a):

explosive article means an article, including a pyrotechnic article, containing 1 or more explosive substances.

explosive substance—

- (a) means a solid or liquid substance, or a mixture of substances, which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings; and
- (b) includes a pyrotechnic substance, even if the pyrotechnic substance does not evolve gas.

8 Hazard divisions

VR 108, 109

- (1) In these regulations:

hazard division, of an explosive, means—

- (a) the hazard division of the explosive under this regulation; or
 - (b) if the explosive is stored or carried with an explosive of a different hazard division under this regulation—the collective hazard division worked out under regulation 9 (Collective hazard division—explosives stored or carried together).
- (2) Subject to regulation 9 (Collective hazard division—explosives stored or carried together), explosives are classified into hazard divisions as follows:
- (a) *hazard division 1.1*—explosives that have a mass explosion hazard;
 - (b) *hazard division 1.2*—explosives that have a projection hazard, but not a mass explosion hazard;

- (c) *hazard division 1.3*—explosives that have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard;
- (d) *hazard division 1.4*—explosives that present no significant hazard;
- (e) *hazard division 1.5*—very insensitive explosive substances that do not have a mass explosion hazard;
- (f) *hazard division 1.6*—very insensitive explosive articles that do not have a mass explosion hazard.

9 Collective hazard divisions—explosives stored or carried together

VR 110

- (1) For these regulations, and for any incorporated document within the meaning of regulation 5 (Incorporated documents), if explosives of 2 or more different hazard divisions are stored or carried together, the *collective hazard division* of the explosives must be worked out in accordance with this regulation.
- (2) The collective hazard division of explosives of 2 different hazard divisions (*primary hazard divisions*) is the hazard division shown in table 9.1 at the intersection of the row and column corresponding to the primary hazard divisions of each of the explosives.

Table 9.1 Collective hazard divisions

column 1 item	column 2 primary hazard division	column 3 1.1	column 4 1.2	column 5 1.3	column 6 1.4	column 7 1.5	column 8 1.6
1	1.1	1.1	1.1	1.1	1.1	1.1	1.1
2	1.2	1.1	1.2	1.1	1.2	1.1	1.2
3	1.3	1.1	1.1	1.3	1.3	1.1	1.3
4	1.4	1.1	1.2	1.3	1.4	1.5	1.6
5	1.5	1.1	1.1	1.1	1.5	1.5	1.5
6	1.6	1.1	1.2	1.3	1.6	1.5	1.6

- (3) The collective hazard division of explosives of more than 2 different primary hazard divisions is the hazard division (the *final collective hazard division*) worked out as follows:
- (a) step 1—work out the collective hazard division (the *initial collective hazard division*) of any 2 of the different primary hazard divisions in accordance with subregulation (2);
 - (b) step 2—work out the collective hazard division (the *subsequent collective hazard division*) of a third different primary hazard division and the initial collective hazard division, in accordance with subregulation (2);
 - (c) further steps (if necessary)—continue working out subsequent collective hazard divisions in the same way as in step 2 until all different primary hazard divisions have been considered;
 - (d) final step—the final collective hazard division is the subsequent collective hazard division worked out when the last different primary hazard division has been considered.

10 Hazard division 1.6
VR 110 (4)

- (1) For these regulations, if different kinds of explosive articles of hazard division 1.6 are stored or carried together, their collective hazard division is taken to be hazard division 1.1, unless subregulation (2) applies.
- (2) The collective hazard division of the explosive articles may be treated as hazard division 1.6 if the person seeking to treat them as such establishes that it is proved by testing or analogy that there is no additional risk of sympathetic detonation between the articles.

11 Method of classification of explosives

Subject to regulation 12, the classification of an explosive must be worked out by an independently verified test carried out in accordance with the UN Test Manual.

12 Default classification of explosives

- (1) This regulation applies if the classification of an explosive has not been worked out by an independently verified test carried out in accordance with the UN Test Manual.
- (2) The hazard division of the explosive is taken to be hazard division 1.1, unless the explosive is a firework.
- (3) If the explosive is a firework, the hazard division of the explosive is taken to be the hazard division worked out in accordance with default criteria determined by the Minister.

- (4) A determination by the Minister under subregulation (3) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

13 Detonators, classification 1.4
VR 109

For these regulations, a detonator that would otherwise be classified as of classification code 1.4B or 1.4S is taken to be of classification code 1.1B if it is not in its original unopened packaging.

14 Classification of articles

For these regulations, if an explosive substance is securely contained within an explosive article—

- (a) the substance is taken to be a part of the article; and
- (b) the substance is taken not to be an independent explosive.

15 Compatibility group
eg VR 106, def

In these regulations:

compatibility group, of an explosive, means the letter showing the compatibility group for the explosive under the Australian Explosives Code.

Note The ***compatibility group*** of an explosive determines which explosives can and cannot be safely carried or stored together.

16 Classification code
eg VR 106, def

In these regulations:

classification code, of an explosive, means a code consisting of the explosive's hazard division number followed by its compatibility group.

Example

The hazard division for an explosive article containing only extremely insensitive detonating substances is 1.6. The article's compatibility group is N. Its classification code is 1.6N.

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

17 Licensing—meaning of *application* and *issue*

In these regulations:

application, for a licence authorising the handling of explosives, includes an application for the amendment of the licence to give the applicant a new kind of handling authority for the explosives.

issue, of a licence giving the licensee a particular kind of handling authority, includes the amendment of a licence to give the licensee that kind of handling authority in addition to another kind or kinds of handling authority given by the licence.

Note The following terms are defined in the Act as follows:

- **handle** a dangerous substance means to deal with the substance in a wide variety of ways (see the Act, s 11)

- **handling authority** is a kind of handling of a dangerous substance (which includes an explosive) that is authorised by a licence (see the Act, s 56 (1) (d))
- **licence** is a licence issued under the Act (see the Act, dict).

18 Meaning of *ensure*

If a provision of the regulations requires a person to **ensure** that something is or is not done in relation to an explosive, the provision is taken to require the person to ensure that reasonable steps are taken to minimise any risk, and eliminate any hazard, that might result if the requirement were not met.

Note For the meaning of **reasonable steps**, see the Act, section 16 (2).

19 References to quantities of explosives

VR 107

In these regulations, a reference to a quantity of explosive by weight is a reference to the NEQ of the explosive unless the contrary intention appears.

Note **NEQ** is the net explosive quantity (see dict, def **NEQ**).

Chapter 2 Explosives generally

Part 2.1 General duties

20 Misuse of explosives

VR 130

- (1) A person commits an offence if—
 - (a) the person—
 - (i) uses an explosive in a way that produces an explosive effect; or
 - (ii) modifies an explosive so that it is capable of producing an explosive effect; and
 - (b) the explosive effect is other than that for which the explosive was designed.

Maximum penalty: 30 penalty units.

- (2) In a prosecution for an offence against subregulation (1), if the explosive is an authorised explosive, an entry in the register describing the explosive effect for which the explosive is designed is evidence of that fact.
- (3) This regulation does not apply if the person is authorised under a licence or these regulations to use or modify the explosive in the way mentioned in subregulation (1) (a).
- (4) An offence against this regulation is a strict liability offence.

21 Explosives incidents—reporting damage or injury
VR 131

- (1) If someone is injured or property is damaged as a direct or indirect result of an explosion, fire or other incident involving explosives (including injury or damage resulting from the ignition or discharge of fireworks) the person having control or management of the explosives must—
- (a) if there is a fire, immediately notify the incident to the fire brigade or the rural firefighting service, as appropriate; and
 - (b) without delay, notify the incident to the chief executive and a police officer; and
 - (c) at the request of an inspector, within 48 hours after the request give a report of the incident to the inspector setting out the details of the incident and the injury or damage.

Maximum penalty: 30 penalty units.

Examples of people having control or management of explosives

- 1 the occupier of a factory where the explosives are stored
- 2 the owner of a vehicle transporting the explosives, or a person having direct charge of the vehicle
- 3 a person storing the explosives
- 4 a shotfirer using the explosives
- 5 the owner of a mine or quarry where the explosives are used
- 6 a person supervising the discharge of fireworks or discharging fireworks

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) If there are 2 or more people having control or management of the explosives, compliance by any 1 or more of them with subregulation (1) is taken to be sufficient compliance with this regulation.
- (3) An offence against this regulation is a strict liability offence.

22 Loss or theft of explosives—reporting
VR 133

- (1) A person in charge of premises where there are (or have been) explosives, on becoming aware of an incident of theft or loss must—
 - (a) without delay, give notice of the incident to the chief executive and a police officer; and
 - (b) at the request of an inspector, within 48 hours after the request give a written report to the inspector setting out the details of the incident and describing the kind and amount of any explosives lost or stolen.

Maximum penalty: 30 penalty units.

Examples of people in charge of premises (including vehicles)

- 1 the occupier of a factory where explosives are stored
- 2 a person holding a licence authorising the manufacture, storage or transport of explosives
- 3 a person storing the explosives at the premises
- 4 a shotfirer using the explosives
- 5 the owner, or a person directly in charge of, a vehicle used to transport the explosives

Note 1 **Premises** are defined in the Act, dict, to include land, structures and vehicles.

Note 2 An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) If there are 2 or more people having control or management of the explosives, compliance by any 1 or more of them with subregulation (1) is taken to be sufficient compliance with this regulation.
- (3) An offence against this regulation is a strict liability offence.
- (4) In this regulation:
incident of theft or loss, at premises, means—
 - (a) the theft or loss of explosives from the premises; or
 - (b) a break-in to the premises; or
 - (c) an attempt to do something mentioned in paragraph (a) or (b).

Part 2.2 **Authorised, exempt and prohibited explosives**

Division 2.2.1 **Authorised explosives**

23 **Authorised explosives as *controlled dangerous substances***

Authorised explosives are controlled dangerous substances for the Act.

24 Declaration of authorised explosives

QR 13; QA 8

- (1) At the written request of a person, accompanied by the information required by regulation 25 (Information required for authorisation request), the chief executive may declare an explosive to be an authorised explosive for the Act.

Note 1 If a form is approved under the Act, s 222 for a request, the form must be used.

Note 2 A fee may be determined under the Act, s 221 for this regulation.

- (2) Before making a declaration, the chief executive must—
- (a) define the composition, quality and character of the explosive; and
 - (b) assign a classification code to the explosive, unless the explosive is an unstable explosive.

Note Regulation 11 (Method of classification of explosives) and reg 12 (Default classification) deal with the method of classification to be applied here.

- (3) The chief executive may refuse a request if any of the required information is not given with the request.
- (4) The chief executive must refuse a request if—
- (a) the explosive is a prohibited explosive; or
 - (b) for a consumer firework—the firework does not meet the standards under schedule 1 (Consumer fireworks—authorisation standards).

Note **Consumer fireworks** are defined in reg 258.

(5) The chief executive may also refuse a request if satisfied that the explosive does not meet criteria determined by the Minister by notice.

(6) A notice under subregulation (5) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(7) A decision of the chief executive to refuse a request for authorisation is—

(a) a reviewable decision for the Act, section 186 (Application of ch 9); and

(b) an internally reviewable decision for the Act, section 188 (Internal review of certain decisions).

Note The effect of this subregulation is to make the decision reviewable first by a delegate of the chief executive other than the delegate who made the initial decision (an internal review), and then, if necessary, by the AAT. See the Act, ch 9 for the relevant procedures.

(8) The person requesting authorisation is prescribed for the Act, section 187 (Notice of reviewable decisions).

(9) In this regulation:

unstable explosive means an explosive that is rejected for classification into hazard division 1.1 to 1.6 under the UN Test Manual because it is thermally unstable or too dangerous to transport.

25 Information required for authorisation request
QR 11

The following information must accompany a request by a person for the authorisation of an explosive:

- (a) the person's name and contact details;
- (b) a description of the explosive, including each of the following:
 - (i) the explosive's name;
 - (ii) the explosive's composition, formulation, net quantity of explosive composition and (for a firework) pyrotechnic composition;
 - (iii) the explosive's UN number and classification code, unless it is an unstable explosive within the meaning of regulation 24;
 - (iv) if required by the chief executive—a diagram showing the construction of the explosive (for example, a cutaway drawing showing each component);
- (c) how the person intends to handle the explosive;
- (d) the use for which the explosive is intended;
- (e) the following details about the explosive's manufacture or import:
 - (i) if the explosive is manufactured in Australia—the name, address and ABN number of the manufacturer who is to supply the explosive;

- (ii) if the explosive is manufactured outside Australia—the name, address and ABN number of the importer who is to supply the explosive;
- (f) details of any performance and testing of the explosive, in accordance with the UN Test Manual;
- (g) for consumer fireworks—a successful test report as required by the consumer fireworks standards in schedule 1;
- (h) if the explosive is to be handled in a packaged form—details about the packaging including the following:
 - (i) the method of marking the packaging;
 - (ii) the number of explosives in each form of packaging in which the explosive is handled;
 - (iii) the results of any testing of the packaging under the Australian Explosives Code, and any approval number assigned to the packaging under the Code;
- (i) a copy of a safety data sheet for the explosive, or equivalent information if no safety data sheet is available;
- (j) any other information required in a form approved under the Act, section 222 for a request for authorisation.

26 Authorisation of consumer fireworks each year

The authorisation of a consumer firework—

- (a) ends after the second Monday in June each year; and
- (b) may only be renewed on a further request under regulation 24 for authorisation.

Note The second Monday in June is an annual public holiday to celebrate the Queen's birthday (see *Holidays Act 1958*, s 3 (1) (a) (viii)).

27 Register of authorised explosives

QA 9

- (1) The chief executive must keep a register of authorised explosives.
- (2) The register must include the following information about each authorised explosive:
 - (a) its name;
 - (b) a manufacturer or importer of the explosive;
 - (c) its UN number and the classification code assigned under regulation 24;
 - (d) its composition, quality and character, as defined under regulation 24;
 - (e) its authorised use (or uses).
- (3) The register is open to inspection only by the chief executive or a person authorised by the chief executive.
- (4) However, the chief executive must give a list of authorised explosives to anyone who asks for it.

- (5) The list must not mention the defined composition, quality or character of the explosives listed.

28 Revocation of authorisation

- (1) The chief executive may revoke the authorisation of an explosive if satisfied that the explosive, as currently handled in the ACT, no longer has the composition, quality or character registered for the explosive under regulation 27.

Example

A batch of an authorised explosive that is imported into the ACT is found to be damaged or to have degraded, so that it no longer has the same composition, quality or character described in the registered authorisation of explosive of that kind.

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A decision of the chief executive to revoke the authorisation of an explosive is—
- (a) a reviewable decision for the Act, section 186 (Application of ch 9); and
 - (b) an internally reviewable decision for the Act, section 188 (Internal review of certain decisions).

Note The effect of this subregulation is to make the decision reviewable first by a delegate of the chief executive other than the delegate who made the initial decision (an internal review), and then, if necessary, by the AAT. See the Act, ch 9 for the relevant procedures.

- (3) The person on whose request the explosive was authorised is prescribed for the Act, section 187 (Notice of reviewable decisions).

29 Disposal of explosive after authorisation revoked

- (1) If the chief executive intends to revoke the authorisation of an explosive, the chief executive must, no later than 4 weeks before the intended date of revocation, give each person in the ACT known to be handling the explosive written notice of that intention, stating that the person is required to dispose of the explosive on or before the intended date of revocation by destroying the explosive or removing it from the ACT.
- (2) If a person fails to comply with the notice, the chief executive may take whatever steps are necessary and reasonable to dispose of the explosive under the person's control.
- (3) The reasonable costs of the disposal of an explosive under subregulation (2) are a debt owing to the Territory by the person who failed to comply with the notice.
- (4) A person to whom a notice is given under subregulation (1) must comply with the notice.
Maximum penalty: 30 penalty units.
- (5) An offence against this regulation is a strict liability offence.

Division 2.2.2 Exempt explosives

30 Which explosives are exempt?

General use fireworks are exempt explosives.

Note **General use fireworks** are those listed in reg 257

31 Exempt explosives are authorised

An exempt explosive is taken to be authorised.

Division 2.2.3 Prohibited explosives

32 Which explosives are prohibited?

- (1) The fireworks mentioned in regulation 260 (Fireworks that are prohibited explosives) are prohibited explosives.
- (2) The Minister may, by instrument, declare an explosive to be a prohibited explosive.
- (3) A declaration is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Note 2 Explosives prescribed under the regulations as prohibited are ***prohibited dangerous substances*** for the Act, ch 5 (see s 73).

Note 3 Prohibited explosives may not be authorised (see reg 24 (4) (a) (Declaration of authorised explosives)).

Part 2.3 Packaging and marking explosives

33 Application of pt 2.3 VR 201

- (1) This part applies to the following:
 - (a) the packaging of explosives;
 - (b) the marking of packages, unit loads and intermediate bulk containers of explosives.
- (2) A term used in this part has the same meaning as in the Australian Explosives Code.

34 Packaging and marking—Australian Explosives Code VR 202

- (1) It is a condition of a manufacturing licence that the licensee ensures that, on completion of manufacture, explosives manufactured under the authority of the licence are packaged and marked in accordance with the Australian Explosives Code.
- (2) It is a condition of an import, storage or carrying licence that the licensee ensures that explosives are not handled under the authority of the licence unless they are marked in accordance with the Australian Explosives Code.

- (3) Markings mentioned in subregulations (1) and (2) must be in English.

Note 1 See Australian Explosives Code, ch 3 (Marking of packages, vehicles and transport containers) and ch 5 (Packaging, IBCs and unit loads for explosives).

Note 2 Regulation 35 provides a number of exceptions to this regulation.

35 Exceptions to reg 34

- (1) Regulation 34 (Packaging and marking—Australian Explosives Code) does not apply if the explosives are—
- (a) in the process of being manufactured, or are semifinished, and are at the place of manufacture; or
 - (b) intended for use at, and are not carried beyond the boundaries of, the premises where they are manufactured, if the containers are clearly and conspicuously marked with the name of the contents; or
 - (c) blasting explosives at a place where they are about to be used, if regulation 64 (Storage of unused explosive mixtures) and regulation 198 (Site receptacles) are complied with; or
 - (d) blasting explosives manufactured at a place where they are about to be used; or
 - (e) not more than 5kg of safety ammunition or distress signals or general use fireworks that are stored or carried by an individual for the individual's personal use; or
 - (f) blasting explosives being carried in containers by an individual for the individual's personal use, if the explosives are of the kind set out in table 35.1, column 1, and of no more than the corresponding quantity set out in table 35.1, column 2.

Table 35.1 Blasting explosives carried for personal use

column 1 item	column 2 kind of explosives	column 3 minimum amount for notice purposes
1	hazard division 1.1 (except detonators)	5kg
2	detonators	125 in number
3	hazard division 1.5	25kg

36 Packaging and marking—further licence conditions

- (1) It is a condition of a licence authorising the packing of an explosive that the licensee ensures that—
 - (a) the packaging of the explosive is clean and free from grit before the explosive is packed; and
 - (b) the markings on the outside of the package accurately identify the explosive; and
 - (c) the markings on the outside of the package are not misleading.
- (2) It is a condition of a licence authorising the supply of an explosive in a package that the licensee ensures that—
 - (a) the markings on the outside of the package accurately identify the explosive; and
 - (b) the markings on the outside of the package are not misleading.

Part 2.4 Manufacturing explosives

Division 2.4.1 Definitions

37 Manufacturing definitions

VR 301, 302

(1) In these regulations:

central mixing point, for an explosive mixture, means a structure or place at a mine, quarry, construction or other work site where the mixture is prepared, but does not include a factory.

explosive mixture means a mixture of an oxidising agent and a fuel component, if the mixture is an authorised explosive.

factory—

- (a) means premises, other than a mobile manufacturing unit, used or intended to be used for the manufacture of an explosive, or a purpose related to that manufacture; and
- (b) includes land used or intended to be used for the disposal of explosives or waste materials.

filling or capping, in relation to safety cartridges, includes—

- (a) filling an explosive powder and projectiles into safety cartridge cases; and
- (b) filling an explosive powder into safety cartridge cases; and
- (c) capping safety cartridge cases.

manufacture, of explosives, means—

- (a) the manufacture of the explosives at a factory; or
- (b) the manufacture of ammunition at a factory, including the filling and capping of safety cartridges at the factory; or
- (c) the manufacture of explosive mixtures at the point of application or use; or
- (d) the filling or capping of safety cartridges for a commercial purpose other than at a factory.

Note Division 2.4.7 (Filling or capping safety cartridges other than at a factory) imposes obligations on individuals filling or capping safety cartridges for non-commercial purposes.

manufacturing licence, for explosives, means a licence authorising the manufacture of explosives in a way (or ways) and at premises stated in the licence.

mobile manufacturing unit means a vehicle or other mobile unit used for the manufacture of explosives.

Note This applies the definition used in AS 2187.0. In AS 2187.0, AS 2187.1 and AS 2187.2, the term ***mobile manufacturing unit*** is used interchangeably with the terms ***MMU*** and ***mobile mixing unit***.

modification, of a factory or a safety management system, means a change to the factory or system that has the effect of creating a new hazard or increasing the risk associated with an existing hazard, and includes—

- (a) a change to any plant, building, storage facility or process, including the introduction of new plant processes; and

- (b) a change to the quantity of explosives present or likely to be present, including the introduction of any new explosive material; and
- (c) a change to the quantity of any dangerous goods present or likely to be present, including the introduction of new dangerous goods; and
- (d) for a safety management system—a change to the system.

point of application or use, of an explosive, includes—

- (a) a central mixing point for the explosive; and
- (b) a mobile manufacturing unit for the explosive.

(2) For subregulation (1), definition of ***explosive mixture***:

fuel component—

- (a) means—
 - (i) a combustible granular solid; or
 - (ii) a clean oil, fuel oil or other oil which has a closed-cup flash point of 60.5°C or higher; and
- (b) includes a compatible dye or sensitising agent.

oxidising agent includes—

- (a) a granular solid of class 5.1; and
- (b) an aqueous gel, or emulsion, of class 5.1.

38 Meaning of *explosive* for pt 4

In this part:

explosive includes a substance or a mixture of substances that is manufactured with the intention of producing an explosive substance within the meaning of regulation 7.

Division 2.4.2 Manufacturing licences

39 Requirement for manufacturing licence

VR 303

- (1) A person is authorised to manufacture an explosive if—
- (a) the person holds a manufacturing licence authorising the manufacture of the explosive; or
 - (b) the person is engaged (as an employee or contractor) by a person who holds a manufacturing licence to manufacture the explosive under the licensee's supervision.

Note 1 Manufacturing licences are issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this provision may commit an offence against the Act, s 74 (Unauthorised manufacture of certain dangerous substances).

- (2) This regulation does not apply to a person if—
- (a) the person manufactures an explosive mixture using a mobile manufacturing unit; and
 - (b) the manufacture of the mixture using the unit is permitted by a licence or other authority given under the law of a State or another Territory.

40 Manufacturing licences—restrictions on authorisation

- (1) A manufacturing licence may only be issued authorising the manufacture of an authorised explosive.
- (2) A manufacturing licence authorising the manufacture of an explosive mixture at or near the point of application or use may authorise the manufacture of an explosive for the licensee's or any individual's personal use only if—
 - (a) the explosive is ANFO; and
 - (b) the amount of ANFO authorised to be manufactured is no more than 50kg at a single time for the use.
- (3) A manufacturing licence only authorises the manufacture of an explosive by a person other than the licensee if the licensee is satisfied on reasonable grounds that the person has the appropriate skills and training to manufacture the explosive.

41 Prescribed licence conditions—compliance with pt 2.4

It is a condition of a manufacturing licence that—

- (a) the licensee ensures that explosives manufactured under the authority of the licence are manufactured in accordance with this part; and
- (b) anyone else involved in the manufacture of the explosives complies with a duty imposed under this part.

Note A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

42 Information to be given with manufacturing licence application

VR 304

- (1) An applicant for a manufacturing licence must give the following information (if applicable) to the chief executive with the application:
 - (a) the name and address of the applicant;
 - (b) the address of premises at which the explosives are kept or are to be kept;
 - (c) the maximum number of people likely to be present in—
 - (i) the explosives manufacturing area; and
 - (ii) other areas of the premises;
 - (d) details of the fire protection proposed to be used;
 - (e) any other information required by a form approved under the Act, section 222;
 - (f) any other information the Chief Executive considers necessary to assess the application.
- (2) An applicant for a manufacturing licence authorising the manufacture of explosives at a factory must give the following information (if applicable) to the chief executive with the application in addition to that required under subregulation (1):
 - (a) a plan of the premises where the explosives are to be manufactured adequately showing the following:
 - (i) the boundaries of the premises and the nature of any fences;

- (ii) the location of all buildings and structures on the premises and their uses, including details of quantities of explosives and any other dangerous substances that may be present in those buildings and structures, and applicable safety distances for those explosives and other dangerous substances;
 - (iii) areas of public access and car parking areas;
 - (iv) details of all internal roads and points of entry into, and exit from, the premises;
 - (v) the location of automatic fire sprinkler systems, fire hydrants, fire hose reels, portable fire extinguishers and other fire protection devices;
 - (vi) the place where the manifest and other emergency information about explosives and other dangerous substances at the premises is kept;
 - (vii) the location of gas, steam and electricity generation or distribution areas;
 - (viii) details of all loading and unloading areas for road and rail vehicles and ships;
 - (ix) details of all buildings, structures and storage areas on adjacent premises and areas open to the public;
- (b) an identification number or code for each building on the premises;
- (c) the correct product name, UN number, classification code and packing group for each kind of explosive, and any other dangerous substance, kept on the premises;

- (d) the maximum quantity of each kind of explosive and any other dangerous substance likely to be kept on the premises;
 - (e) a detailed description of the process of manufacture, including the nature of any chemical reaction involved and the various operations to which explosives and any other dangerous substances used in the process will be subjected;
 - (f) a preliminary process flow sheet which provides sufficient detail to make an assessment of the risks of manufacture and includes information about the temperatures and pressures of materials at each stage of manufacture;
 - (g) a list of the main plant items, specifying the following:
 - (i) the capacity, design pressure and temperature limits for safe operation (upper and lower);
 - (ii) any special features of construction;
 - (iii) details of utility services;
 - (h) details of the principal standards and codes to be used in the design of the plant items;
 - (i) a statement of the method by which the manufacturing process will be controlled;
 - (j) a description of the location and construction of any control room.
- (3) An applicant for a manufacturing licence authorising the manufacture of explosives at a central mixing point must supply the applicable information mentioned in subregulation (2) (a), (b), (c), (d), (e), (g) and (i) in addition to that required under subregulation (1).

- (4) An applicant for a manufacturing licence authorising the manufacture of explosives by filling or capping safety cartridges for commercial purposes must supply the applicable information mentioned in subregulation (2) (a), (e) and (g) in addition to that required under subregulation (1).

Division 2.4.3 Factory manufacture

43 Application of div 2.4.3—factory manufacture

This division applies if a manufacturing licence authorises the manufacture of explosives at a factory.

44 Establishment etc of safety management system

VR 306

- (1) The licensee must, as soon as practicable after the licence is issued, establish and implement a safety management system in accordance with this division to ensure that the manufacture of explosives at the factory is carried out as safely as practicable.
- (2) The licensee must ensure that the safety management system is described in a document that—
- (a) is comprehensible to people who use it; and
 - (b) is readily accessible; and
 - (c) sets out—
 - (i) the safety objectives of the system; and
 - (ii) the systems and procedures by which those objectives are to be achieved; and

- (iii) the means by which the safety objectives are measured and maintained; and
 - (d) sets out the matters listed in regulation 45 (Safety management system requirements), or, if any of those matters are set out in a separate document, identifies the other document and states where it can be accessed; and
 - (e) is communicated to each person involved in the implementation of the system, or otherwise affected by the system.
- (3) The licensee must ensure that the safety management system—
- (a) is implemented and enforced; and
 - (b) is reviewed and, if necessary, revised—
 - (i) whenever a modification is made to the factory; or
 - (ii) whenever an incident occurs that must be reported under regulation 21 (Explosives incidents—reporting damages or injury); or
 - (iii) whenever a change in the operation of the factory occurs; and
 - (c) is reviewed and, if necessary, revised at least every 5 years.

45 Safety management system requirements
VR 307

- (1) A safety management system must include all of the following:
- (a) procedures for ongoing hazard identification and risk assessment and control;

- (b) procedures to deal with the implementation of the safety management system;
 - (c) procedures for the provision of information, education and training to the workforce, contractors and visitors;
 - (d) procedures for incident reporting and investigation;
 - (e) an emergency response plan and procedures to monitor preparedness for emergencies;
 - (f) procedures for collecting and maintaining records, activities and statistics in relation to the safety management system;
 - (g) schedules for the maintenance of plant and equipment and provision to ensure that the maintenance occurs;
 - (h) procedures to identify and respond to changes affecting the safety management system;
 - (i) procedures that employees are required to follow in relation to—
 - (i) establishing and implementing the safety management system; and
 - (ii) reviewing any procedures for hazard identification, risk assessment control;
 - (j) the matters stated in schedule 1 (Safety management systems).
- (2) A safety management system must provide for safety consultation with—
- (a) employees within the factory; and
 - (b) contractors' agents who enter the factory.

- (3) In developing or reviewing procedures under subregulations (1) (b) and (i) and (2) (a) the licensee must, if practicable, consult the health and safety representative of each designated work group to which the employees affected by the system belong.
- (4) The plans for emergency response and preparedness required under subregulation (1) (e) must be developed in conjunction with the fire brigade or the rural firefighting service, as appropriate.
- (5) In this regulation:
designated work group—see *Occupational Health and Safety Act 1989*, section 5 (1).

46 Information concerning safety management systems
VR 308

- (1) The licensee must keep written records of all modifications made to, or affecting the operation of, a safety management system for at least 5 years.
- (2) At the reasonable request of the chief executive, the licensee must provide the chief executive with any requested information in relation to the licensee's safety management system.
- (3) The licensee must comply with a request under subregulation (2) as soon as is practicable, but no later than 7 days after receiving the request.

47 Direction to change safety management system
VR 309

- (1) The chief executive may, in writing, direct the licensee to change a safety management system if the chief executive believes that the system does not comply with this part.
- (2) The licensee must comply with a direction within 30 days after receiving the direction, or within any longer period stated in the direction.
- (3) The chief executive must not issue a direction unless—
 - (a) the chief executive has given the licensee a written notice that—
 - (i) states that the chief executive intends to issue the direction; and
 - (ii) states the reasons why the direction is to be issued; and
 - (iii) invites the licensee to make a written submission about the intended issue of the direction; and
 - (b) the chief executive has considered any submission made in response to the notice.
- (4) In this regulation:
change, a safety management system, includes—
 - (a) add to the system (whether or not in substitution for an existing part of the system); and
 - (b) remake the whole system.

48 Notice to fire authorities
VR 310

- (1) The licensee must provide the following information to the fire commissioner or the chief fire control officer (whichever is appropriate) as soon as practicable after the licence is issued, renewed or amended:
 - (a) the name and address of the licensee;
 - (b) the address or location of the factory stated in the licence;
 - (c) the kind of licence;
 - (d) the kinds of explosives stated in the licence;
 - (e) the maximum quantities of explosives permitted by the licence to be at the factory;
 - (f) a site plan including the location of any danger buildings, including magazines;
 - (g) the location of manifests, emergency plans and critical controls and interfaces for fire systems.
- (2) If a licence is cancelled or has otherwise ceased to be in force, the person who held the licence must notify the fire commissioner or the chief fire control officer (whichever is appropriate) of the cancellation or cessation within 14 days.

Maximum penalty: 30 penalty units.
- (3) An offence against this regulation is a strict liability offence.

(4) In this regulation:

danger building means premises at which either of the following is present, or is likely to be present:

- (a) an explosive;
- (b) an ingredient or component for the manufacture of explosives which by itself, or when mixed with any other substance also present at the premises, can form an explosive substance.

49 Separation distances for factories

VR 311

The separation distances required by AS 2187.1 must be maintained between any building containing explosives within a factory and any of the following on the licensed premises:

- (a) magazines;
- (b) other buildings on the premises;
- (c) protected works;
- (d) vulnerable facilities.

Note In applying AS 2187.1, regulation 9 (Collective hazard divisions—explosives stored or carried together) must be used to work out the collective hazard division of explosives that are stored together instead of the approach set out in the standard itself.

50 Amendment of licence to reflect factory modifications

- (1) The licensee must, before making any modification to the factory—
 - (a) notify the chief executive of the proposed modification; and
 - (b) give the chief executive an assessment of the effect of the modification.
- (2) In this regulation:

modification means a modification of the factory that would make the information about the factory given with the licensee's application for the licence inaccurate or misleading.

Division 2.4.4 Central mixing points

51 Application of div 2.4.4

This division applies if a manufacturing licence authorises the manufacture of explosive mixtures at a central mixing point.

52 Meaning of *explosive mixture controller* for div 2.4.4

In this division:

explosive mixture controller means a person controlling or managing the process of making an explosive mixture.

53 General restrictions

VR 313

- (1) Explosive mixtures must, as far as practicable, be manufactured at or near the place where they are to be used.

- (2) Explosive mixtures must not be manufactured with a combustible component in a powder form that is capable of causing a dust explosion at the place where the mixture is manufactured.

54 Premises and equipment requirements

VR 314

The following must be constructed in accordance with AS 2187.2:

- (a) buildings or other structures in or on which an explosive mixture is to be manufactured;
- (b) mixing appliances and associated equipment used for the manufacture of an explosive mixture.

55 Components to be kept in marked containers

VR 316

Containers of components of explosive mixtures must be clearly and conspicuously marked with the name of the contents.

56 Warning notice

VR 317

An explosive mixture controller must ensure that when the mixture is being made a notice showing the words set out in table 56.1, in conspicuous red letters on a white background, is prominently displayed—

- (a) if the mixture is made in the open air—at the mixing point; or
- (b) if the mixture is made in or on a building or structure—outside every entrance to the building or structure.

Table 56.1 Text of notice

DANGER EXPLOSIVES NO SMOKING OR FLAME

57 Other people to keep clear
VR 318

- (1) An explosive mixture controller must ensure that anyone who is not involved in the process does not enter or stay within 10m of the place where the explosive mixture is being made.
- (2) A person who is not involved in the process of making an explosive mixture commits an offence if the person fails to comply with a reasonable requirement made by an explosive mixture controller in carrying out the controller's duty under subregulation (1).

Maximum penalty: 30 penalty units.

- (3) An offence against this regulation is a strict liability offence.
- (4) In this regulation:

person involved, in the process of making an explosive mixture, includes a person engaged in making, carrying or using the mixture.

58 Other explosives to be kept away

VR 319

A person making an explosive mixture must ensure that any detonator, primer, detonating cord or other explosive (except any explosives necessarily in a blast hole) is kept in a securely closed receptacle at least 10m away from the point where the explosive mixture is made.

59 Fire sources to be kept away

VR 320

- (1) An authorised person must not introduce, or allow another person to introduce, within 10m of any place where an explosive mixture is present or is being made—
 - (a) a source of ignition; or
 - (b) a flammable liquid or gas or readily combustible substance or material.
- (2) Subregulation (1) does not apply to an ignition source needed to fire the charge, if all of the explosive mixture is in a blast hole.
- (3) Subregulation (1) (b) does not apply in relation to—
 - (a) a substance or material that is a component of the mixture being made; or
 - (b) fuel in the fuel tank of a diesel engine.
- (4) In subregulation (1):
authorised person means any of the following:
 - (a) a licensee;

- (b) an explosive mixture controller;
- (c) a person making an explosive mixture;
- (d) a person authorised by someone mentioned in paragraph (a), (b) or (c) to be at premises where an explosive mixture is being made.

60 Fire precautions at central mixing point

VR 321

- (1) The fire prevention measures required by AS 2187.2 must be taken in relation to central mixing points, subject to subregulation (2).
- (2) The minimum distance for any distance standard prescribed by AS 2187.2 is 10m.

61 Disposal of spills and packaging

VR 322

An explosive mixture controller must ensure—

- (a) that any spillage of the explosive mixture or of an intended component of the mixture is cleaned up promptly and disposed of safely; and
- (b) that any waste packaging of components or equipment used in the process of making the mixture is removed promptly and disposed of safely.

62 Cleaning of equipment—general

VR 323 (1)

Equipment (including mixers, receptacles and tools) used to make an explosive mixture must be left free of the mixture as far as practicable with the following objects:

- (a) any residual trace of the mixture left on equipment used to make the mixture must not be capable of initiating or contributing to an explosion;
- (b) there must be no risk to any possible later user of the equipment.

63 Cleaning of equipment before repairs

VR 323 (2)

- (1) This regulation applies if a repair or alteration is to be made to—
 - (a) any equipment (including mixers, receptacles and tools) that has come into contact with an explosive mixture; or
 - (b) any premises on which an explosive mixture is or has been stored.
- (2) If the repair or alteration will require the use of a potential source of heat, flame or sparks (for example, welding, cutting or grinding equipment)—
 - (a) the explosive mixture must be moved to a safe place; and
 - (b) any residual trace of the explosive mixture must be removed before the repair or alteration begins.
- (3) In this regulation:
explosive mixture includes a component of an explosive mixture.

64 Storage of unused explosive mixtures

VR 324

If an explosive mixture cannot be used or loaded into blast holes on the day it is made, the mixture must be—

- (a) put in closed, clean, nonmetallic, leakproof containers, or packagings, conspicuously labelled ‘EXPLOSIVE MIXTURE’; and
- (b) kept in a magazine for which a licence is in force until the mixture can be used; and
- (c) used as soon as is practicable.

65 Separation distances for central mixing points

VR 329

- (1) The separation distances required by AS 2187.1 must be maintained between the central mixing point and any of the following on the licensed premises:
 - (a) magazines;
 - (b) process buildings;
 - (c) protected works;
 - (d) vulnerable facilities.

Note In applying AS 2187.1, regulation 9 (Collective hazard divisions—explosives stored and carried together) must be used to work out the collective hazard division of explosives that are stored together instead of the approach set out in the standard itself.

- (2) For working out the separation distances required by the standard between the central mixing point and a magazine or other building containing explosives, a reference to the NEQ of the explosives is taken to be a reference to the greater of the following:
 - (a) the maximum quantity of explosives that can be stored in the magazine or other building containing explosives;
 - (b) the sum of the maximum quantity of explosive mixture that can be present, and half of the maximum quantity of ammonium nitrate that can be present, at the central mixing point.
- (3) For working out separation distances between the central mixing point and protected works or vulnerable facilities, the NEQ is the sum of the maximum quantity of explosive mixture that can be present, and half of the maximum quantity of ammonium nitrate that that can be present, at the central mixing point.

Division 2.4.5 ANFO manufacture

66 Application of div 2.4.5

- (1) This division applies if a manufacturing licence authorises the manufacture of ANFO, whether at a central mixing point or elsewhere.
- (2) A requirement under this division is in addition to any other requirement under these regulations.
- (3) However, if a requirement under this division is inconsistent with another requirement under these regulations, the requirement under this division prevails.

67 Compliance with AS 2187.2
VR 325

ANFO must be manufactured in accordance with AS 2187.2.

68 Storage of ammonium nitrate for the manufacture of explosive mixtures
VR 326

- (1) Ammonium nitrate must be stored in accordance with AS 4326.
- (2) A person controlling or managing the storage of ammonium nitrate must ensure that the external area within 10m of the walls of an ammonium nitrate store is kept free from rubbish and dry grass.
- (3) A person controlling or managing the storage of ammonium nitrate must ensure that a notice showing the words set out in table 68.1, in conspicuous letters at least 50mm high, is prominently displayed outside each entrance of an ammonium nitrate store.

Table 68.1 Text of notice

AMMONIUM NITRATE NO SMOKING OR FLAME

69 Separation distances for ammonium nitrate stores
VR 327

- (1) The separation distances required by AS 2187.1 must be maintained between each ammonium nitrate store and any of the following on the licensed premises where explosives are likely to be present:
 - (a) magazines;
 - (b) central mixing points;

- (c) process buildings.

Note In applying AS 2187.1, regulation 9 (Collective hazard divisions—explosives stored or carried together) must be used to work out the collective hazard division of explosives that are stored together instead of the approach set out in the standard itself.

- (2) For working out the separation distances required by the standard between an ammonium nitrate store and a central mixing point, a reference to the NEQ of the explosives is taken to be a reference to the greater of the following:
- (a) the maximum quantity of explosives likely to be present at the central mixing point;
 - (b) half the ammonium nitrate likely to be present at the central mixing point.

70 Ignition source to be kept away from ammonium nitrate
VR 328

A source of ignition must not be introduced within 10m of an ammonium nitrate store.

Division 2.4.6 Mobile manufacturing units

71 Application of div 2.4.6
VR 331

This division applies if a manufacturing licence authorises the manufacture of an explosive mixture using a mobile manufacturing unit.

72 Requirements for mobile manufacturing units
VR 332

- (1) A mobile manufacturing unit must conform to the requirements of AS 2187.2.
- (2) A mobile manufacturing unit transporting explosives must be marked as required by the Australian Explosives Code.

73 Operator to stop system

A person who operates the processing equipment of a mobile manufacturing unit must ensure that control of that operation is not left unattended while the processing equipment is operating.

**Division 2.4.7 Filling or capping safety cartridges
other than at a factory—
commercial purposes**

74 Application of div 2.4.7

This division applies if a manufacturing licence authorises the manufacture of an explosive by filling or capping safety cartridges for commercial purposes other than at a factory

75 Licensee requirements

Anyone filling or capping safety cartridges under the authority of the licence must comply with the following requirements:

- (a) the filling and capping process must be carried out safely;
- (b) no other activities that may adversely affect the safety of the filling and capping process are to be conducted in close proximity of the process;

- (c) any propellant stored in the room being used in the filling and capping process must be isolated from the operation and any sources of ignition;
- (d) any propellant being directly used for the filling and capping process must not be exposed unnecessarily and must not be exposed to sources of ignition;
- (e) the quantity of propellant present must be no greater than is reasonably necessary for the process;
- (f) a person who takes part in the filling or capping process or the handling of cartridges must wear clothing and footwear that does not contribute to the accidental initiation of explosives used in the process;
- (g) flammable liquids and gases, combustible liquids and other materials capable of being ignited easily and of burning strongly must be isolated, as far as is practicable, from the filling and capping process;
- (h) when the filling operation is completed the equipment used in the operation must be cleaned, and any spills of propellant must be removed and disposed of safely.

Division 2.4.8 Filling or capping safety cartridges for a non-commercial purpose

76 Application of div 2.4.8

This division applies if an individual fills or caps safety cartridges for a purpose other than a commercial purpose.

77 Only authorised explosives to be used
VR 334

- (1) The individual must not fill a safety cartridge with an explosive other than an authorised explosive.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

78 Application of licence requirements

- (1) The individual must not cap or fill safety cartridges other than in accordance with the requirements stated in regulation 75 (a) to (h) (Licensee requirements).

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

Part 2.5 Importing explosives

Division 2.5.1 Interpretation

79 Meaning of *import licence*

In these regulations:

import licence means a licence authorising the import of explosives.

Note *Import* (of a dangerous substance) is defined in the Act, dict, to mean import into the ACT. Explosives are dangerous substances.

Division 2.5.2 Import licences

80 Requirement for import licence

VR 1001

A person is authorised to import an explosive if the person holds an import licence authorising the import of the explosive.

Note 1 Import licences are issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this provision may commit an offence against the Act, s 75 (Unauthorised import of certain dangerous substances).

81 Exceptions to reg 81

(1) Regulation 81 does not apply to the import of the following explosives:

- (a) distress signals;
- (b) safety cartridges;

- (c) safety fuses;
 - (d) starting pistol caps;
 - (e) exempt explosives;
 - (f) any other explosive declared by the Minister under subregulation (3).
- (2) Also, subregulation (1) does not apply to the import of black powder if—
- (a) the importer is an individual;
 - (b) the import is for personal use by the importer; and
 - (c) the importer—
 - (i) holds a licence under the *Firearms Act 1996*; and
 - (ii) is a member of an approved hunting or shooting club; and
 - (iii) intends to use the black powder in a competition, or training for a competition, conducted by an approved hunting or shooting club; and
 - (iv) keeps a written record of the amount of black powder brought into the ACT, the amount used and any amount exported from the ACT at the end of the competition or training; and
 - (d) the total amount of black powder imported for the competition or training is less than 500g.
- (3) A declaration under subregulation (1) (f) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(4) In this regulation:

approved hunting or shooting club means a hunting or shooting club approved under the *Firearms Act 1996*.

82 Import licences—restrictions on authorisation

VR 1002 (2)

- (1) An import licence may only be issued authorising the import of an authorised explosive.
- (2) The chief executive may refuse an application for an import licence if the application is made within 10 business days before the earliest proposed date of import of explosives.

83 Prescribed licence conditions—compliance with pt 2.5

It is a condition of an import licence that the licensee ensures that explosives imported under the authority of the licence are imported in accordance with this part.

Note A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

84 Information to be given with licence application

An applicant for an import licence must provide the following information:

- (a) the name and address of the applicant;
- (b) the address of premises at which the imported explosives are kept or are to be kept;
- (c) the purpose of the import, including the earliest proposed date for the import of explosives under the licence;

- (d) the correct product name, UN number and packing group for each kind of explosive, and any other dangerous substances, kept on the premises;
- (e) a safety management system for the import, including (but not limited to) safe handling, emergency and security procedures for the explosives;
- (f) any other information required by a form approved under the Act, section 222.

Division 2.5.3 Import conditions

85 Notice of import

- (1) The holder of an import licence must give the chief executive notice of the licensee's intention to import explosives mentioned in table 85.1, column 1 in an amount greater than or equal to the amount stated in column 2 for the explosives.
- (2) The notice must be given no later than 2 business days before the day when the explosives are to arrive in the ACT.
- (3) The notice must include the following information:
 - (a) the name and licence number of the licensee;
 - (b) the intended date of import of the explosives;
 - (c) the name and authorisation number, and classification assigned on authorisation of the explosives;
 - (d) the quantity of each kind of explosive imported, as follows:

- (i) if the explosives are in a package containing only a single kind of explosive—the weight of each individual package and the number of packages;
- (ii) if the import is in bulk—the NEQ of the explosive;
- (iii) if the import is in a package containing different kinds of explosive—the quantity of each kind of explosives (in NEQ or numbers of articles, or both);
- (e) the name of the intended recipient of the explosives (if different from that of the licensee) and the address of the place where the explosives are to be kept in the ACT;
- (f) any other information required by a form approved under the Act, section 222.

Note If a form is approved under the Act, s 222 for a notice, the form must be used.

Table 85.1 Notifiable imports

column 1 item	column 2 kind of explosives	column 3 minimum amount for notice purposes
1	blasting explosives of classification codes 1.1D and 1.5D (including gelignite, water gels, emulsions, nitrate mixtures and boosters)	3.5kg

column 1 item	column 2 kind of explosives	column 3 minimum amount for notice purposes
2	detonating cord of classification code 1.1D	350m
3	gunpowder for blasting of classification code 1.1D	5kg
4	propellant gunpowder of classification code 1.1D	5kg
5	explosives of classification code 1.1D not otherwise mentioned in this table	3.5kg
6	propellants of classification code 1.3C	20kg
7	detonators of classification code 1.1B and 1.4B	125 in number
8	explosives of classification code 1.1B, not otherwise mentioned in this table	50g

column 1 item	column 2 kind of explosives	column 3 minimum amount for notice purposes
9	display fireworks of classification code 1.2G, 1.3G and 1.4G	10kg gross
10	distress signals of classification code 1.3G	5kg
11	distress signals of classification code 1.4G	10kg
12	distress signals of classification code 1.3G and 1.4G	10kg in total, not more than 5kg of which can be classification code 1.3G
13	explosives of hazard division 1.2, not otherwise mentioned in this table	2.5kg
14	explosives of hazard division 1.3, not otherwise mentioned in the table	5kg
15	fuse lighters of classification code 1.4G	10kg gross

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column 1 item	column 2 kind of explosives	column 3 minimum amount for notice purposes
16	plastic igniter cord of classification code 1.4G	500m
17	safety cartridges of classification code 1.4S	40 000 in number
18	primers or percussion caps of classification code 1.4S	10 000 in number
19	safety fuse of classification code 1.4S	350m
20	general use fireworks of classification code 1.4G and 1.4S	30kg gross
21	air bag inflators, air bag modules and seat belt pretensioners of hazard division 1.4, which are not installed in vehicles or in completed vehicle components.	10kg in total

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column 1 item	column 2 kind of explosives	column 3 minimum amount for notice purposes
22	explosives of classification code 1.4S, not otherwise mentioned in the table	50kg
23	explosives of hazard division 1.4, not otherwise mentioned in the table	10kg
24	explosives of hazard division 1.6	10kg

86 Record-keeping

- (1) The licensee must make a record of all explosives imported into the ACT under the authority of the licence.

Note This is a condition of the licensee's licence (see reg 41 (Prescribed licence conditions—compliance with pt 2.4)). A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

- (2) Each record must be kept for at least 3 years after the date of the import.

Maximum penalty: 30 penalty units.

- (3) An offence against this regulation is a strict liability offence.

Part 2.6 Carrying explosives

Division 2.6.1 Preliminary

87 Application of pt 2.6.1 VR 601

This part applies to the carrying of explosives by road or rail.

88 Carrying explosives—definitions

In these regulations:

carrying licence means a licence authorising the carrying of explosives by road or rail.

Note *Carry* is defined in the Act, dict. *Carried* and *carrying* have corresponding meanings (see Legislation Act, s 157 (Defined terms—other parts of speech and grammatical forms)).

drive, in relation to a vehicle that is a trailer, includes drive a vehicle that is towing the trailer.

explosives driving licence means a licence authorising the driving of a vehicle to carry explosives.

vehicle—see *Road Transport (General) Act 1999*, dictionary.

Division 2.6.2 Carrying licences

89 Requirement for carrying licence—by road VR 1001

- (1) A person may carry an explosive by road only if the person is authorised under a licence to carry the explosive by road.
- (2) A licence that authorises the carrying of an explosive by road authorises the carrying of the explosive by—
 - (a) the licensee; and
 - (b) anyone engaged by the licensee (as an employee or contractor) to carry the explosive by road under the licensee's supervision.

Note 1 Carrying licences are issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this regulation may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

90 Requirement for carrying licence—by rail VR 1001

- (1) A person may carry an explosive by rail only if the person is authorised under a licence to carry the explosive by rail.
- (2) A licence that authorises the carrying of explosives by rail authorises the carrying of the explosives by—
 - (a) the licensee; and

- (b) anyone engaged by the licensee (as an employee or contractor) to carry the explosive by rail under the licensee's supervision.

Note 1 Carrying licences are issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this regulation may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

91 Engagement of persons to carry explosives

VR 602 (4)

- (1) A person must not engage the services of another person to carry explosives by road or rail.

Maximum penalty: 30 penalty units.

- (2) Subregulation (1) does not apply if the person whose services are engaged holds a carrying licence authorising the carrying of explosives by road or rail (whichever is alleged).
- (3) An offence against this regulation is a strict liability offence.

92 Carrying licences—restrictions on authorisation

- (1) A carrying licence may only authorise the carrying of authorised explosives.
- (2) A carrying licence authorising the carrying of explosives by road must only be issued if the explosives are carried in an approved vehicle.

- (3) For subregulation (1), a vehicle is *approved* if—
- (a) it is a vehicle of a kind stated in the licence, and meets the requirements of the Australian Explosives Code in relation to the category of load (within the meaning of the code) carried by the vehicle; or
 - (b) the carrying of explosives using the vehicle is authorised under the law of the Commonwealth, a State or another Territory.

93 Prescribed carrying licence conditions—compliance with pt 6

It is a condition of a carrying licence that the licensee ensures that explosives carried under the authority of the licence are carried in accordance with this part.

Note A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

Division 2.6.3 Explosives driving licences

94 Meaning of *exempt driver* for div 2.6.3
VR 603 (4)

In this division:

exempt driver means—

- (a) someone who lives in a State or another Territory, if the person, in addition to holding a driver's licence, is authorised under a law of the State or Territory to drive a vehicle used for carrying explosives (within the meaning of the other law); or

- (b) an inspector or a police officer carrying explosives in the course of exercising a function under the Act.

Examples of authorisation for par (a)

- 1 licence
- 2 permit
- 3 registration

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

95 Requirement for explosives driving licence

VR 602 (1), (2)

A person may drive a vehicle to carry an explosive by road only if the person holds an explosives driving licence authorising the driving of the vehicle to carry the explosive.

Note 1 Explosives driving licences are issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this regulation may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

96 Driving vehicle for exempt carrying of explosives

VR 603 (1), (2)

- (1) This regulation applies if—
- (a) regulation 109 (Exemptions—personal users) authorises a person to carry an explosive otherwise than under the authority of a carrying licence; and
 - (b) the explosive is not of hazard division 1.4.

- (2) The person is not authorised to drive a vehicle to carry the explosive unless—
- (a) the person holds an explosives driving licence; or
 - (b) the person is an exempt driver.

Note 1 Explosives driving licences are issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this regulation may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

97 Engaging person to drive vehicle
VR 603 (3)

- (1) A person commits an offence if the person—
- (a) owns or controls a vehicle and allows another person to drive the vehicle to carry explosives; or
 - (b) employs or engages the services of another person to drive a vehicle to carry explosives.

Maximum penalty: 30 penalty units.

- (2) Subregulation (1) does not apply if the other person—
- (a) holds an explosives driving licence; or
 - (b) is an exempt driver.
- (3) An offence against this regulation is a strict liability offence.

98 Explosives driving licences—restrictions on authorisation

VR 605, 606

- (1) The chief executive may issue or renew an explosives driving licence only if satisfied that the applicant for the licence—
- (a) is at least 21 years old; and
 - (b) has held a driver's licence for at least 12 months; and
 - (c) has at least 12 months experience driving vehicles of the class in which the explosives will be carried; and
 - (d) has demonstrated an adequate knowledge of—
 - (i) the requirements of these regulations and the Australian Explosives Code that relate to the carrying of explosives by road; and
 - (ii) the characteristics of explosives of the various hazard divisions; and
 - (iii) the precautions to be taken for the prevention of accidents in the carrying and associated handling of explosives; and
 - (iv) the actions to be taken in the event of an emergency involving explosives; and
 - (e) the person has been examined by a doctor and has been found to have met a standard for medical and physical fitness approved by the chief executive.

- (2) A person satisfies the requirements of subregulation (1) (d) if the person has completed and passed a training course approved by the chief executive.

Note Additional criteria apply to the issue of the licence (see the Act, pt 4.2).

**99 Prescribed explosives driving licence conditions—
compliance with pt 2.6**

It is a condition of an explosives driving licence that the licensee complies with this part.

Note A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

100 Production of driving authority on request

- (1) A person who holds an explosives driving licence or who is an exempt driver must—
- (a) carry the driving authority at all times while driving a vehicle carrying explosives; and
 - (b) produce the driving authority on request by an inspector or a police officer.

Maximum penalty: 30 penalty units.

- (2) Subregulation (1) does not apply to a person who is an exempt driver because the person is an inspector or police officer.
- (3) An offence against this regulation is a strict liability offence.

(4) In this regulation:

driving authority means—

- (a) for a person who holds an explosives driving licence—the licence; or
- (b) for an exempt driver—the licence or permit mentioned in regulation 94, definition of *exempt driver*, paragraph (a), or a certificate that is evidence of the registration mentioned in that paragraph, as the case may be.

101 Cancellation of explosives driving licences

The chief executive may cancel an explosives driving licence if—

- (a) the licensee’s driver’s licence is suspended or cancelled for any reason; or
- (b) the licensee is convicted of an offence in relation to driving a vehicle carrying dangerous substances, if the offence caused, or may have caused, danger to people or property from the dangerous substances; or
- (c) the licensee surrenders the licence.

Note The licence may also be cancelled on other grounds (see the Act, s 68).

Division 2.6.4 Australian explosives code— carrying conditions

102 Australian Explosives Code requirements

VR 611 (3), 610 (2)

- (1) Explosives must be carried in accordance with the Australian Explosives Code.

- (2) Subregulation (1) does not apply in relation to a requirement of the Australian Explosives Code if—
- (a) the explosives carried have been confiscated or received by, and are under the direct supervision of, a police officer or inspector; and
 - (b) the circumstances do not allow the police officer or inspector to comply with the requirement.

103 Training in Australian Explosives Code requirements
VR 611 (3)

A person who holds a carrying licence must ensure that each person engaged by the licensee (as an employee or contractor) to carry explosives under the licensee's supervision who carries is appropriately trained in the relevant requirements of the Australian Explosives Code.

Division 2.6.5 Road carrying conditions

104 Route restrictions

- (1) The chief executive may, in writing, approve—
- (a) routes by which particular quantities, classification codes (or both), of explosives may be carried by road in the ACT; or
 - (b) routes by which particular quantities, classification codes (or both), of explosives must not be carried by road in the ACT.
- (2) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) If the chief executive issues an approval about the carrying by road of explosives of a particular quantity or classification code (or both), explosives of that quantity or classification code (or both) may be carried by road only in accordance with the approval.

105 Maximum vehicle loads

VR 617

The driver of a vehicle carrying explosives on the road must ensure that the maximum quantity of explosives carried on the vehicle does not exceed the lesser of the following:

- (a) the quantity (if any) mentioned in table 105.1, column 2 for explosives of the hazard division, or collective hazard division, if 2 or more kinds of explosives are carried together, stated in column 1;
- (b) the maximum loading capacity of the vehicle permitted under any applicable law of the Territory.

Table 105.1 Maximum vehicle loads

column 1 item	column 2 hazard division of explosives loaded	column 3 maximum load
1	1.1, 1.2 or 1.3	25 000 kg
2	1.4	unlimited
3	1.5 or 1.6	40 000 kg

Division 2.6.6 Rail carrying conditions

106 Requirements for explosives held in rail yards or sidings VR 618

If a rail vehicle containing explosives is held at a rail yard or siding, a person holding a licence to carry the explosives by rail must ensure that—

- (a) the maximum amount of explosive of any hazard division, except hazard division 1.4, per vehicle must not exceed 40 000 kg;
- (b) explosives must not be kept in the rail yard or siding for longer than—
 - (i) 48 hours over 2 consecutive business days; or
 - (ii) if there is a weekend or public holiday within 48 hours after the explosives are first kept in the rail yard—4 days.

107 Separation distances for explosives in rail yards or sidings

If a rail vehicle containing explosives is held at a rail yard or siding, a person holding a licence to carry the explosives by rail must ensure that the vehicle is separated from any other vehicles containing explosives and placarded loads of other dangerous goods by the separation distances for the separation of rail vehicles stated in the Australian Explosives Code.

108 Sources of ignition

- (1) A person must not introduce a source of ignition on to a rail vehicle containing explosives.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

Division 2.6.7 Exemptions from carrying licence requirement

109 Exemptions—personal users

- (1) This regulation applies to each of the following (an *exempt person*) in relation to the carrying of the explosives mentioned (the *exempt explosives*) by the person in the circumstances mentioned (the *applicable circumstances*):
 - (a) a person who carries general use fireworks, if the explosives are for the person's own use;
 - (b) a person who carries explosives other than blasting explosives, if the explosives are for the person's own use.
- (2) An exempt person is authorised to carry an explosive otherwise than under the authority of a carrying licence if—
 - (a) the exempt person carries the exempt explosives in the applicable circumstances; and
 - (b) the exempt explosives carried are of a kind mentioned in table 109.1, column 1; and

- (c) the quantity of exempt explosives carried does not exceed the corresponding quantity (if any) stated in column 2.

Note However, under regulation 96 (Driving vehicle for exempt carrying of explosives), an explosives driving licence may be required to drive a vehicle to carry the explosive by road.

Table 109.1 Exempt explosives—personal users

column 1 item	column 2 explosives carried	column 3 maximum exempt quantity
1	explosives of hazard division 1.1, except detonators and propellants	100kg
2	detonators of classification code 1.1B and 1.4B, if carried with other explosives	500 in total
3	detonators of classification code 1.1B and 1.4B, if no other explosives are on the vehicle	5000 in total
4	propellant gunpowder of classification code 1.1D	50kg
5	explosives of hazard division 1.2	50kg

Chapter 2 Explosives generally
Part 2.6 Carrying explosives
Division 2.6.7 Exemptions from carrying licence requirement

Regulation 109

column 1 item	column 2 explosives carried	column 3 maximum exempt quantity
6	explosives of hazard division 1.3, other than distress signals	100kg
7	explosives of hazard division 1.4, other than distress signals and explosives of classification code 1.4S or 1.4B	250kg
8	distress signals of classification code 1.3G, if unaccompanied by distress signals of any other classification code	100kg
9	distress signals of classification code 1.4G, if unaccompanied by distress signals of any other classification code	250kg
10	distress signals of classification code 1.3G and 1.4G	250kg in total, if no more than 50kg is of classification code 1.3G

EXPOSURE DRAFT

column 1 item	column 2 explosives carried	column 3 maximum exempt quantity
11	explosives of classification code 1.4S	unlimited
12	explosives of hazard division 1.5	100kg
13	explosives of hazard division 1.6	25kg

110 Exemptions—general

A person is authorised to carry an explosive otherwise than under the authority of a carrying licence if—

- (a) the explosives carried are of a kind mentioned in table 110.1, column 1; and
- (b) the quantity of explosives carried does not exceed the corresponding quantity (if any) stated in column 2.

Table 110.1 Exempt explosives—general

column 1 item	column 2 explosives carried	column 3 maximum exempt amount
1	propellant gunpowder of classification code 1.1D	5kg
2	explosives of hazard division 1.2	5kg

Chapter 2 Explosives generally
Part 2.6 Carrying explosives
Division 2.6.7 Exemptions from carrying licence requirement

Regulation 110

column 1 item	column 2 explosives carried	column 3 maximum exempt amount
3	explosives of hazard division 1.3, other than distress signals	50kg
4	explosives of hazard division 1.4, other than distress signals and explosives of classification code 1.4S or 1.4B	250kg
5	distress signals of classification code 1.3G, if unaccompanied by distress signals of classification code 1.4G	100kg
6	distress signals of classification code 1.4G, if unaccompanied by distress signals of any other classification code 1.3G	250kg

EXPOSURE DRAFT

column 1 item	column 2 explosives carried	column 3 maximum exempt amount
7	distress signals of classification code 1.3G and 1.4G, carried together	250kg in total, if not more than 50kg is of classification code 1.3G
8	explosives of classification code 1.4S	unlimited
9	explosives of hazard division 1.6	25kg

Division 2.6.8 Carrying explosives by boat

111 Approval to carry explosives by boat

- (1) This regulation applies if a person intends to carry an explosive mentioned in table 109.1, column 2 in a quantity or amount greater than that stated for the explosive in the table, column 3.
- (2) The person must give written notice to the chief executive of the intended carrying at least 21 days before the explosives are to be carried.
- (3) The person must give the chief executive any information reasonably required by the chief executive.
- (4) The person may carry the explosives only if the chief executive gives written approval.
- (5) The person must comply with any conditions of the approval.

Part 2.7 Storing explosives

Division 2.7.1 Preliminary

112 Application of pt 2.7

VR 401

- (1) This part applies to the storage of explosives—
 - (a) in a magazine (including a magazine in a mine or quarry); and
 - (b) in retail and other premises; and
 - (c) on a small scale anywhere.
- (2) This part does not require the Territory to hold a storage licence.

113 Storage definitions

In these regulations:

large scale storage, of explosives, means the storage of explosives of a kind mentioned in table 114.1, column 1 in an amount greater than the corresponding amount stated in column 3.

medium scale storage, of explosives, means the storage of explosives of a kind mentioned in table 114.1, column 1 in an amount—

- (a) greater than the corresponding amount stated in column 2; and
- (b) less than or equal to the corresponding amount stated in column 3.

small scale storage, of explosives, means the storage of explosives of a kind mentioned in table 114.1, column 1 in an amount less than or equal to the corresponding amount stated in column 2.

storage licence, for explosives, means a licence authorising the storage of explosives at a place (or places) stated in the licence.

storage quantity table—see regulation 114.

114 Storage quantity table

VR 403, table

In this part, the *storage quantity table* is table 114.1:

Table 114.1 Storage quantity table

column 1 item	column 2 kind of explosive	column 3 maximum for small scale storage	column 4 maximum for medium scale storage
1	blasting explosives of classification code 1.1D or 1.5D (including gelignite, water gels, emulsions, nitrate mixtures and boosters)	3.5kg NEQ	30kg NEQ
2	detonating cord of classification code 1.1D	350m	1 000m
3	gunpowder for blasting of classification code 1.1D	5kg	20kg
4	propellant gunpowder of classification code 1.1D	5kg	50kg
5	explosives of classification code 1.1D, if not otherwise mentioned in this table	3.5kg NEQ	30kg NEQ

column 1 item	column 2 kind of explosive	column 3 maximum for small scale storage	column 4 maximum for medium scale storage
6	propellants of classification code 1.3C	20kg	100kg
7	detonators of classification code 1.1B or 1.4B	125 in number	500 in number
8	explosives of classification code 1.1B, if not otherwise mentioned in this table	50g	1kg
9	display fireworks of classification code 1.2G, 1.3G or 1.4G	10kg gross	50kg gross
10	distress signals of classification code 1.3G if unaccompanied by distress signals of classification code 1.4G	5kg	100kg
11	distress signals of classification code 1.4G if unaccompanied by distress signals of classification code 1.3G	10kg	200kg
12	distress signals of classification codes 1.3G and 1.4G, stored together	10kg in total, if not more than 5 kg of is of classification code 1.3G	200kg in total, if not more than 50kg is of classification code 1.3G

column 1 item	column 2 kind of explosive	column 3 maximum for small scale storage	column 4 maximum for medium scale storage
13	explosives of hazard division 1.2, if not otherwise mentioned in this table	2.5kg	10kg
14	fuse lighters of classification code 1.4G	10kg gross	100kg gross
15	plastic igniter cord of classification code 1.4G	500m	5 000m
16	safety cartridges of classification code 1.4S	10 000 in number	50 000 in number
17	primers or percussion caps of classification code 1.4S	10 000 in number	50 000 in number
18	safety fuse of classification code 1.4S	350m	5 000m
19	general use fireworks of classification code 1.4G or 1.4S	30kg gross	500kg gross
20	air bag inflators, air bag modules and seat belt pretensioners of hazard division 1.4, if not installed in vehicles or in completed vehicle components	10kg in total	50kg in total
21	explosives of classification code 1.4S, if not otherwise mentioned in this table	50kg	100kg

column 1 item	column 2 kind of explosive	column 3 maximum for small scale storage	column 4 maximum for medium scale storage
22	explosives of hazard division 1.4, if not otherwise mentioned in this table	10kg	50kg
23	explosives of hazard division 1.6	10kg	50kg

Division 2.7.2 Storage licence requirements— general

115 Requirement for storage licence

VR 402 (1), (4)

- (1) A person must not store an explosive, or allow an explosive to be stored, at a place that is owned or controlled by the person unless the person holds a storage licence authorising the storage of the explosive at the place.

Note A person who contravenes this provision may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

- (2) A licence must state the explosive or explosives authorised by the licence to be stored.
- (3) A licence must state, for each stated explosive, whether the licence authorises—
- (a) large scale storage; or
 - (b) medium scale storage; or

- (c) storage of the explosives in a mine or quarry.
- (4) Subregulation (1) does not apply to—
- (a) small scale storage of explosives at a place other than a mine or quarry; or
- Note* Division 2.7.6 (Small scale storage) regulates small scale storage of explosives by non-licensees.
- (b) a person who, with the written permission of a person who holds a licence authorising the storage of explosives in a magazine, stores explosives in the magazine; or
- (c) the storage of explosives at a factory for which a manufacturing licence has been issued; or
- (d) the storage of explosives by the holder of a fireworks display licence if—
- (i) the fireworks for which the licence is issued are stored in a building; and
 - (ii) the building is used otherwise than as a dwelling or workplace; and
 - (iii) the building is kept securely locked at all times except while attended by a person responsible for the supervision of the fireworks; and
 - (iv) the fireworks are stored for no more than 14 days.

116 Licence conditions

VR 402 (2)

If a person holds a storage licence, a requirement that applies to the licensee under this part in relation to the storage of explosives is a condition of the licence.

117 Emergency plan

VR 402 (3)

The holder of a storage licence must establish and maintain an appropriate plan to manage emergencies that may reasonably be expected to affect the storage of explosives authorised by the licence.

118 Where must explosives be stored?

VR 403

- (1) For medium scale storage of explosives authorised by a licence, the explosives must be stored—
 - (a) at premises that comply with division 2.7.5, at a place stated in the licence; or
 - (b) in a magazine at a place stated in the licence.
- (2) For large scale storage of explosives authorised by a licence, the explosives must be stored in a magazine at a place stated in the licence.

- (3) Despite subregulations (1) and (2), if the storage of explosives in a mine or quarry is authorised by a licence, the explosives must be stored—
- (a) in a magazine; or
 - (b) at other premises, or in a receptacle, approved in writing by the chief executive.
- (4) This regulation does not apply to the storage of explosives by the Territory.

119 Large scale storage licensees—notice to fire authorities

- (1) The holder of a storage licence authorising large scale storage of explosives must give written notice of the following information to the fire commissioner or the chief fire control officer (whichever is appropriate) when the licence is issued, renewed or amended:
- (a) the name and address of the licensee;
 - (b) the location of the magazine stated in the licence;
 - (c) the kinds of explosives authorised by the licence to be stored;
 - (d) the maximum quantities of explosives authorised by the licence to be in the magazine stated in the licence;
 - (e) a site plan showing the location of the magazine.
- (2) If the licence is cancelled or otherwise ceases to operate, the licensee must give written notice to the fire commissioner or the chief fire control officer (whichever is appropriate) that the licence is cancelled or has otherwise ceased to operate.

Division 2.7.3 Large scale storage—location and construction of magazines

120 Application to large scale storage licence

This division applies to the location, construction and signage for the large scale storage of explosives by the holder of a storage licence in a magazine authorised by the licence.

121 Meaning of *magazine area* for pt 2.7

In this part:

magazine area means a site at which there are 2 or more magazines to which this division applies.

122 Separation distance for magazines

- (1) The licensee must ensure that the separation distances required by AS 2187.1 are maintained between the magazine and any of the following on the licensed premises:
 - (a) other magazines;
 - (b) other buildings on the premises;
 - (c) protected works;
 - (d) vulnerable facilities.

Note In applying AS 2187.1, regulation 9 (Collective hazard divisions—explosives stored or carried together) must be used to work out the collective hazard division of explosives that are stored together instead of the approach set out in the standard itself.

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- (2) Subregulation (1) does not apply—
- (a) to an annexe to the magazine in which detonators are stored near the magazine if—
 - (i) there are no more than 50 000 detonators in the annexe; and
 - (ii) the distance between the annexe and any magazine is in accordance with the requirements stated in AS 2187.1 for separation distances between premises used for the storage of detonators and premises used for storing other explosives; or
 - (b) to an annexe to the magazine if—
 - (i) the magazine is used for the packing of fireworks; and
 - (ii) there are no more than 200kg of fireworks in the annexe.

123 Construction of magazine
VR 408

The magazine must be constructed in accordance with AS 2187.1.

124 Mounding for surface magazines
VR 409

- (1) Mounds for a surface magazine must be constructed in accordance with the requirements of AS 2187.1.
- (2) If a mound or barrier around the magazine has a vertical wall, the material of the wall must—
 - (a) be of close-joined wood or other approved material; and

- (b) if the wall is on the side nearer the magazine—be of non-combustible material or be faced on the exposed surface with sheet metal not less than 1mm thick.
- (3) This regulation does not apply to a magazine used only to store any of the following explosives:
 - (a) explosives of hazard division 1.4;
 - (b) fireworks;
 - (c) distress signals.

125 Lightning protection

VR 410

- (1) The magazine must be provided with lightning protection in accordance with the requirements of AS 2187.1 and AS 1768.
- (2) This regulation does not apply to a magazine used only to store explosives of classification code 1.4S.

126 Security fencing for above-ground magazines

VR 411

- (1) This regulation applies if the licence authorises explosives to be stored in—
 - (a) an above-ground magazine; or
 - (b) 2 or more above-ground magazines in a magazine area.
- (2) If required by the licence, or by the chief executive by written notice, the licensee must construct a security fence surrounding the magazine or magazine area.

- (3) The licensee must comply with the licence or notice within a reasonable time stated in the licence or notice.
- (4) The security fence must be constructed in accordance with AS 2187.1.
- (5) This regulation does not apply to a magazine used only to store explosives of classification code 1.4S.

127 Signs on magazines—explosives stored
VR 412 (1)

The magazine, and any annexe to the magazine containing explosives, must, if it is used for the purpose indicated in table 127.1, column 1 have a sign showing the corresponding words stated in column 2, in conspicuous red letters on a white background, prominently displayed on the outside of its door.

Table 127.1 Signs for magazines and annexes

column 1 item	column 2 use of magazine	column 3 wording of sign
1	detonator storage only	EXPLOSIVES DETONATORS
2	firework storage only	FIREWORKS
3	safety ammunition storage only	AMMUNITION
4	propellant storage only	PROPELLANTS

column 1 item	column 2 use of magazine	column 3 wording of sign
5	distress signals only	DISTRESS SIGNALS
6	black powder storage, whether alone or with other explosives	BLACK POWDER
7	any explosives not mentioned in this table, or mixed storage of explosives (other than black powder mixed with other explosives)	either of the following: (a) EXPLOSIVES; (b) more specific wording accurately describing explosives stored

128 Other signs on magazines

VR 412 (2), (3)

- (1) A class label, no less than 250mm. square, showing the hazard division of the explosives stored in the magazine, must be fixed—
 - (a) to the outside of the door of the magazine; and
 - (b) if there is a security fence around the magazine or magazine area—on the gate of the fence, facing outwards.

Note If 2 or more kinds of explosives are stored together in a magazine, the hazard division to be shown on the label is the collective hazard division of the explosives (see regulation 9 (Collective hazard divisions—explosives stored or carried together)).

- (2) The name and address of the licensee must be displayed conspicuously on the outside of the magazine or magazine area.

Division 2.7.4 Large scale storage—operation of magazines

129 Application to large scale storage licence

This division applies to the operation, by the holder of a storage licence for the large scale storage of explosives of—

- (a) each magazine authorised by the licence; and
- (b) if there are 2 or more magazines authorised by the licence—the magazine area.

130 Magazine to be used exclusively for explosives VR 413

The magazine must not contain anything except explosives and any articles required to be kept by this division.

131 Storage of more than a single compatibility group VR 414

Explosives must be stored in the magazine in accordance with the following requirements—

- (a) detonators and capped fuses must be stored in a magazine or annexe that does not contain anything else;
- (b) the magazine or annexe must not contain explosives of more than a single compatibility group, subject to this regulation;

- (c) explosives of compatibility group S, other than detonators, may be stored with explosives of any compatibility group other than group A, K and L;
- (d) explosives of compatibility groups C, D, E and N may be stored together;
- (e) explosives of compatibility groups C, D, E and N may be stored with the following:
 - (i) plastic igniter cord;
 - (ii) fuse lighters;
 - (iii) explosive articles of classification codes 1.3G and 1.4G (other than fireworks) that are not liable to give rise to loose explosive powder;
- (f) explosives of compatibility group G (other than firework composition) which are securely packed so as not to give rise to loose explosive powder, and which are not readily sensitive to mechanical stimulus, may be stored with explosives of compatibility groups C and D;
- (g) explosives which are ammonium nitrate-based must not be stored with chlorate-based explosives.

132 General operational requirements

VR 417

The magazine, and the mounds and areas surrounding the magazine, must be managed, operated, and maintained in accordance with AS 2187.1.

133 Packaging of explosives

VR 415

Explosives in the magazine must be stored in—

- (a) a closed package or packages in compliance with part 2.3 (Packaging and marking explosives); or
- (b) a receptacle or receptacles constructed in accordance with regulation 148.

134 Defective explosives or packages

VR 416

- (1) Defective explosives in the magazine must, as soon as possible after the discovery of the defect, be—
 - (a) removed from the magazine; and
 - (b) disposed of in accordance with part 2.10 (Disposal of explosives).
- (2) As soon as possible after the discovery of a defective package of explosives in a magazine—
 - (a) the package must be removed from the magazine; and
 - (b) the explosives must be repacked.
- (3) In this regulation:
defective explosives, or packages of explosives, includes explosives or packages that are—
 - (a) in a state of deterioration; or
 - (b) damaged; or

- (c) leaking; or
- (d) exuding liquid.

135 Requirement for materials handling equipment
VR 418

Materials handling equipment, including forklifts, lifting appliances, pumps and other equipment that is used in the magazine, must conform to, and be operated in accordance with, AS 2187.1.

136 Emergency management
VR 419

- (1) If there is an emergency mentioned in AS 2187.1 that affects explosives stored in the magazine, the requirements of that standard must be complied with.

Note AS 2187.1 includes emergency procedures in the event of thunderstorm, dust storm, theft and fire (see the Standard, s 5).

- (2) The licensee must ensure that—
 - (a) appropriate fire-fighting equipment is provided for the magazine; and
 - (b) the equipment is maintained in good condition and working order; and
 - (c) the equipment is available for immediate use.

137 Additional fire precautions for magazine areas

- (1) This regulation applies if the magazine is in a magazine area.
- (2) The licensee must ensure that no person brings matches, cigarette lighters or other sources of ignition into the magazine area.

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- (3) The licensee must ensure that no person smokes in a magazine area.
 - (4) The licensee must ensure that vehicles do not enter the magazine area except for the purposes of—
 - (a) loading or unloading explosives as required by the licensee; or
 - (b) parking at a place authorised by the licensee; or
 - (c) security patrols authorised by the licensee; or
 - (d) inspection by an inspector.
 - (5) The licensee must ensure that—
 - (a) the magazine area is kept free from rubbish or other combustible or flammable materials; and
 - (b) dry grass and other vegetation is adequately controlled so that the risk of a fire spreading within the magazine area is prevented or minimised.

138 Security
VR 421

- (1) The licensee must—
 - (a) ensure that the magazine is kept securely locked, except when it is required to be open for purposes relating to its use or management; and
 - (b) ensure that the keys to the magazine and to the magazine area are at all times in the licensee's custody (or in the custody of a person authorised by the licensee); and
 - (c) on request, give the keys to an inspector or a police officer exercising a power under the Act.

- (2) The licensee must ensure that no one enters a magazine or magazine area unless authorised to do so by the licensee or a person controlling or managing the magazine or magazine area.

139 Notices to be posted in magazines

VR 422

The licensee must ensure that a notice that states the kinds and quantities of explosives which are licensed to be stored in the magazine and any annexe is posted on the inside of the entrance to the magazine.

140 Number of persons present at a magazine

VR 423

The licensee must ensure that the number of people present at the magazine and any annexe at any particular time is kept to a minimum.

141 Night work at magazines

- (1) The licensee must ensure that explosives are not placed in, or removed from, the magazine outside daylight hours unless the magazine is lit by—
- (a) electric lighting that conforms with AS 2187.1; or
 - (b) a hand-held flame-proof torch.
- (2) This regulation applies to an underground magazine at all times.

142 Magazine closure—mines and quarries
VR 425

- (1) This regulation applies to a magazine at or in a mine or quarry.
- (2) If it is not intended to conduct blasting operations at the mine or quarry in which the magazine is located for a period of 3 months or less after blasting operations have temporarily ended, the licensee and the manager of the mine or quarry must ensure that the magazine is effectively secured and that the magazine remains effectively secured until blasting operations resume.
- (3) If it is not intended to conduct blasting operations at the mine or quarry in which the magazine is located for a period of more than 3 months but less than 12 months after blasting operations have temporarily ended, the licensee and the manager of the mine or quarry must ensure that all explosives are removed from the magazine immediately after the end of blasting operations.
- (4) If it is not intended to conduct blasting operations at the mine or quarry in which the magazine is located for a period of 12 months or more after blasting operations have temporarily or permanently ended—
 - (a) the licence holder and the manager of the mine or quarry must ensure that all explosives stored in the magazine are removed immediately after the end of blasting operations; and
 - (b) the licensee must surrender the licence to the chief executive within 30 days after the end of blasting operations.

Division 2.7.5 Medium scale storage

143 Application to medium scale storage licence

VR 426

- (1) This division applies to the medium scale storage of explosives at a building, room or receptacle authorised under a storage licence.
- (2) In this division:

licensed premises means premises at which medium scale storage of explosives is authorised under a storage licence.

licensed storage place means the building, room or receptacle on the licensed premises where explosives are authorised to be stored under the licence.

144 Signs for premises

VR 427

At the main entrance to premises where there is a licensed storage place, a notice must be displayed showing—

- (a) the words ‘LICENSED TO STORE EXPLOSIVES’, in conspicuous red letters on a white background; and
- (b) a class label not less than 100mm. square in relation to the kinds of explosive stored at the premises.

145 General requirements for keeping explosives

VR 428

- (1) All explosives at licensed premises must be stored at a licensed storage place in accordance with the following requirements:
 - (a) the storage place must be—

- (i) detached from any building where people live; and
 - (ii) if required under the licence, or by the chief executive by written notice to the licensee—barricaded or mounded in accordance with division 2.7.3; and
 - (iii) not accessible to the public; and
 - (iv) used exclusively for the storage of explosives; and
 - (v) kept securely locked, except when required to be open for purposes relating to its use or management;
- (b) the explosives must be stored as far away as is practicable from the entry points of the storage place;
- (c) the entry to the storage place must be kept clear at all times;
- (d) the floor and other parts of the storage place must be kept clean and free of extraneous materials;
- (e) the explosives must be stored in closed containers or packaging that can prevent the escape of the contents;
- (f) detonators and other explosives of compatibility group B must be kept in a separate storage place located at least 3m away from any other explosives;
- (g) if explosives of more than 1 compatibility group are kept in the same storage place, the explosives must be separated by a partition or intervening space that can prevent fire or explosion in those of 1 group from causing a fire or explosion in those of another.
- (2) Subregulation (1) (g) does not apply if the explosives comprise only compatibility groups C, D and E.

146 Construction of buildings and rooms

VR 429

- (1) A building or room that is a licensed storage place must be constructed and maintained in accordance with the following requirements:
 - (a) any steel, brick, stone or concrete on the inside of the building or room must be covered with wood or another suitable non-sparking material;
 - (b) the building or room must be fitted with an effective and secure locking system;
 - (c) all explosives must be removed before maintenance, renovation, repair or reconstruction work is performed on the building or room.
- (2) Subregulation (1) (a) does not apply to a building or room in which explosives are all of classification code 1.4S.
- (3) Subregulation (1) (c) does not apply if the chief executive has given a written approval for the maintenance, renovation, repair or reconstruction work to be performed while the explosives remain in the building or room.

147 General fire precautions

VR 430

- (1) Any combustible material must be kept at least 3m away from—
 - (a) the explosives; and
 - (b) any licensed storage place.

(2) Subregulation (1) does not apply to safety ammunition that is packaged so that it cannot be affected by a source of ignition less than 3m away.

(3) In this regulation:

combustible material means material (including flammable liquids and gases and combustible liquids) that can be ignited easily, and burns strongly.

148 Construction of receptacles

VR 431

A receptacle that is a licensed storage place must be constructed and maintained in accordance with the following requirements:

- (a) its construction must be sturdy;
- (b) its inner construction must—
 - (i) be made from, or be lined with, plywood or close-jointed timber or another suitable non-sparking material; and
 - (ii) not include exposed iron or steel; and
 - (iii) be spark-proof;
- (c) it must be fitted with an effective locking system and must be kept securely locked, except when it is required to be open for purposes relating to its use or management;
- (d) its interior must be kept clean and free of extraneous materials.

149 Signs on licensed storage places—explosives stored
VR 432 (2) (a)

A licensed storage place must, if it is used for the purpose indicated in table 149.1, column 1 have a sign showing the corresponding words stated in, column 2, in conspicuous red letters on a white background, prominently displayed on the outside of its door (if the place is a building or room) or the outside of its lid (if the place is a receptacle).

Table 149.1 Signs for licensed storage places

column 1 item	column 2 use of licensed storage place	column 3 wording of sign
1	detonator storage only	EXPLOSIVES DETONATORS
2	firework storage only	FIREWORKS
3	propellant storage only	PROPELLANTS
4	distress signals only	DISTRESS SIGNALS
5	any explosives not mentioned in this table, or mixed storage of explosives	either of the following: (a) EXPLOSIVES; (b) more specific wording accurately describing explosives stored

150 Other signs on licensed storage places
VR 432 (2) (b), (3)

- (1) A licensed storage place must have a class label, no less than 100mm square, showing the hazard division of the explosive stored

there, fixed to the outside of its door (if the place is a building or room) or the outside of its lid (if the place is a receptacle).

Note If 2 or more kinds of explosives are stored together in a licensed storage place, the hazard division to be shown on the label is the collective hazard division of the explosives (see regulation 9 (Collective hazard divisions—explosives stored or carried together)).

- (2) A receptacle used to store explosives must be marked on the inside with the name and address of the owner, unless the receptacle is permanently fixed in place.
- (3) The name and address of the licensee must be displayed conspicuously on—
 - (a) for a building or room, or a receptacle that is fixed in place—the outside of the door or lid; or
 - (b) for a receptacle that is not fixed in place—on the inside of the receptacle.

Division 2.7.6 Small scale storage

151 Application of div 2.7.6

This division applies to the small scale storage of explosives.

152 Small scale storage offence

- (1) A person commits an offence if the person (the *explosives storer*)—
 - (a) stores explosives; and
 - (b) the explosives are in small scale storage; and
 - (c) the person contravenes this division.

Maximum penalty: 30 penalty units..

- (2) An offence against this regulation is a strict liability offence.

153 General fire precautions

VR 434

- (1) The explosives storer must keep any combustible material, and any source of ignition, at least 2m away from—
- (a) the explosives; and
 - (b) any place where the explosives are stored.
- (2) Subregulation (1) does not apply to safety ammunition that is packaged so that it cannot be affected by a source of ignition less than 2m away.
- (3) In this regulation:

combustible material means material (including flammable liquids and gases and combustible liquids) that can be ignited easily, and burns strongly.

154 Storage in safes and refrigerators prohibited

VR 435

- (1) The explosives storer must not store an explosive in a document safe, money safe or refrigerator.
- (2) Subregulation (1) does not apply to explosives of classification code 1.4S.

155 Storage of explosives of hazard division 1.1, 1.2 and 1.3
VR 436

- (1) The explosives storer must observe the following requirements for the storage of explosives of hazard division 1.1, 1.2, 1.3 or 1.5:
- (a) the explosives must be stored in a receptacle or receptacles;
 - (b) the receptacle must comply with regulation 148;
 - (c) each receptacle must be kept—
 - (i) out of the reach of children; and
 - (ii) in a secure, locked building that is separate from buildings where people live or normally work;
 - (d) the receptacle may only contain explosives of a single compatibility group, subject to this regulation;
 - (e) explosives of compatibility group S may be stored in the same receptacle with explosives of any compatibility group other than group B;
 - (f) blasting explosives of classification code 1.1D or 1.5D may be stored in the same receptacle as the following:
 - (i) propellants;
 - (ii) plastic igniter cord;
 - (iii) fuse lighters;
 - (g) explosives of classification code 1.1B (for example, detonators and capped fuses) must not be stored in the same receptacle as any other kind of explosive;

- (h) if receptacle contains explosives of classification code 1.1B (for example, detonators and capped fuses), the receptacle must be kept at least 1m away from any receptacle containing another kind of explosive;
- (i) if receptacle contains blasting explosives of hazard division 1.2, the receptacle must be kept at least 1m away from any ammonium nitrate.

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This regulation does not apply to the following:
 - (a) fireworks;
 - (b) distress signals;
 - (c) propellants.

156 Storage of propellant VR 437

The explosives storer must observe the following requirements for the storage of a propellant:

- (a) the propellant must be stored in its original container;
- (b) the propellant must be stored in 1 of the following places:
 - (i) a receptacle that complies with regulation 148;
 - (ii) a locked room;
 - (iii) a locked cupboard;
- (c) the propellant must be stored out of reach of children.

157 Storage of fireworks

The explosives storer must observe the following requirements for the storage of fireworks:

- (a) matches must not be stored in a container that contains the fireworks;
- (b) display fireworks must be kept—
 - (i) in a spark-proof container; and
 - (ii) in a secure, locked building that is separate from buildings where people live or normally work.

158 Storage of safety fuse

VR 438

The explosives storer must observe the following requirements for the storage of safety fuse:

- (a) the safety fuse must be stored in—
 - (i) a cool, dry place; or
 - (ii) an appropriate container;
- (b) the safety fuse must be stored away from any substance liable to penetrate the fuse and affect its burning rate (for example, petroleum liquids or solvents).

Note 1 Safety fuse is of hazard division 1.4, so reg 155 does not apply to its storage.

Note 2 An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 2.8 Supplying explosives

Division 2.8.1 Preliminary

159 Application of pt 2.8

VR 501

This part applies to the supply and purchase of explosives.

Note 1 **Supply** includes sale and any other transfer of ownership (see the Act, dict).

Note 2 Chapter 3 includes additional requirements relating to the supply of fireworks.

160 Meaning of *supply licence*

In these regulations:

supply licence, for explosives, means a licence authorising the supply of the explosives stated in the licence.

Division 2.8.2 Supply licence requirements— general

161 Requirement for supply licence

VR 502

- (1) A person must not supply an explosive unless the person holds a supply licence authorising the supply of the explosive.

Note A person who contravenes this provision may commit an offence against the Act, s 76 (Unauthorised supply of certain dangerous substances).

- (2) A licence must state the kind of explosive or explosives authorised by the licence to be supplied.
- (3) Subregulation (1) does not apply to the supply of general use fireworks.

162 Licence conditions

If a person holds a supply licence, a requirement that applies to the licensee under this part in relation to the supply of explosives is a condition of the licence.

Division 2.8.3 Explosives—supply requirements

163 Application to supply licensees

- (1) This division applies to the supply of explosives under the authority of a supply licence.
- (2) However, this division does not apply in relation to the supply of consumer fireworks to members of the public under the authority of a consumer fireworks supply licence.

Note For the supply of consumer fireworks under the authority of a consumer fireworks display licence, see pt 3.3 (Consumer fireworks).

164 Packaging requirements

VR 503

- (1) If the licensee supplies explosives in a packaged form, the licensee must ensure that the package—
 - (a) is appropriate to the kind of explosive; and
 - (b) prevents the explosive from escaping from the package; and

- (c) complies with part 2.3 (Packing and marking explosives).
- (2) The licensee must ensure that an explosive of classification code 1.1D or 1.5D is supplied—
 - (a) as far as is practicable, in its original package; and
 - (b) without cutting its cartridge, or breaking its cartridge for supply.
- (3) A person who sells a blasting explosive, or an explosive in an amount more than 500g, must ensure that when supplied—
 - (a) the explosive is in closed packaging designed to prevent any part of the explosive from escaping; and
 - (b) the outer part of the packaging is marked to clearly identify the kind of explosive enclosed.

165 Place of supply
VR 504

- (1) The licensee must not supply explosives in a public place.

Examples of public places

- 1 roads
- 2 road related areas within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*, dict
- 3 markets and fairs
- 4 agricultural shows and other shows

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Subregulation (1) does not apply to the supply of the following:
- (a) safety cartridges;
 - (b) general use fireworks.

166 Display prohibited at premises
VR 505

- (1) The licensee must not display explosives for supply at premises.

Examples of prohibited places of display at premises

- 1 on shelves
- 2 on counters
- 3 in windows

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Subregulation (1) does not apply to the display of the following:
- (a) safety cartridges;
 - (b) general use fireworks.

167 Supply of fireworks
VR 514

Consumer fireworks or display fireworks must not be supplied to a person under the authority of a supply licence unless the person produces to the supplier a licence or a copy of a licence certified as a true copy by the person to whom the licence is issued that authorises the person to possess the fireworks.

Examples of licences authorising the possession of fireworks

- 1 another supply licence or a carrying licence under which the carrying or supply of the fireworks is authorised
- 2 a consumer fireworks supply licence
- 2 a display operator's licence

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

168 Supply of defective explosives or packages prohibited
VR 506

(1) The licensee must not supply defective explosives, or explosives in defective packages, unless the supply is approved in writing by the chief executive.

(2) In this regulation:

defective explosives, or packages, includes explosives or packages that are—

- (a) in a state of deterioration; or
- (b) damaged; or
- (c) leaking; or
- (d) exuding liquid.

Division 2.8.4 Supply of blasting explosives

169 Application of div 2.8.4

This division applies to the supply of blasting explosives by a person authorised under a supply licence.

170 Supply of blasting explosives to authorised people VR 507

- (1) The licensee may only supply blasting explosives to an authorised person.
- (2) In this regulation:

authorised person means—

- (a) the holder of a storage licence, use licence or supply licence authorising the storage, use or supply of blasting explosives; or
- (b) an employee of the Australian Government who gives the supplier an official order to purchase blasting explosives on behalf of that government; or
- (c) a person who has a special authority to purchase the explosives under division 2.8.5 (Special authorities to purchase blasting explosives); or

171 Supply records VR 508, 509

- (1) The licensee must maintain a supply record book including the following information:
 - (a) for blasting explosives received—

- (i) the kinds and quantities of blasting explosives received by the licensee; and
- (ii) the date of receipt of the explosives;
- (b) for blasting explosives supplied—
 - (i) the date of each supply; and
 - (ii) the name, signature, address and telephone number of each purchaser; and
 - (iii) details of the licence, permit or order mentioned in the regulation 170, definition of *authorised person*, authorising the purchase the explosives; and
 - (iv) if blasting explosives are purchased under regulation 174, the name, address and telephone number of the storage licensee operating the magazine in which the explosives are to be stored; and
 - (v) the kind and quantity of each explosive supplied; and
 - (vi) the signature of the person taking delivery of the explosives and, if that person is not the purchaser, the name, address and telephone number of the person taking delivery.
- (2) The pages of the supply record book must be serially numbered and be bound to prevent the pages from being easily removed.
- (3) The licensee must retain for at least 5 years—
 - (a) the supply record book; and

- (b) documentary proof given to the supplier of any authorisations mentioned in regulation 170, definition of *authorised person*, paragraph (c), (d) or (e).

Maximum penalty: 30 penalty units..

- (4) The licensee must make the supply record book and the documents retained under subregulation (3) (b) available for examination at the direction of an inspector or a police officer.

Maximum penalty: 30 penalty units..

- (5) A person who purchases blasting explosives from the licensee must sign the licensee's supply record book.

Maximum penalty: 30 penalty units..

- (6) An offence against this regulation is a strict liability offence.

172 Delivery of blasting explosives

VR 510

The licensee must observe the following requirements for deliveries of blasting explosives:

- (a) the explosives may only be delivered to—
- (i) an authorised person under regulation 170; or
 - (ii) a person the licensee is satisfied (by the provision of identification or other evidence) is employed by, or acting for, such an authorised person;
- (b) the amount of explosives to be supplied in a single day must not exceed the amount the authorised person is authorised to purchase under the authority;

- (c) the details required by regulation 172 must be recorded in the supply record book before the explosives are delivered; and
- (d) explosives may be delivered only if the licensee is satisfied that they will be carried using a receptacle or vehicle that conforms with the requirements of part 2.6 (Carrying explosives).

Division 2.8.5 Special authorities to purchase blasting explosives

173 Blasting licensees—excess amounts of explosives VR 511

- (1) A person who holds a blasting licence may make a written application to an inspector for special authority to purchase a greater amount of explosives than is stated in the blasting licence.
- (2) An inspector may give the blasting licensee written special authority as sought if satisfied that—
 - (a) the amount and kind of explosives is necessary for completion of blasting operations; and
 - (b) explosives purchased for the blasting operation will be stored in compliance with part 2.7 (Storing explosives).

174 Special authority given by supply licensee VR 512

- (1) This regulation applies if the holder of a storage licence gives the holder of a blasting licence written permission to store authorised kinds and amounts of blasting explosives in an authorised magazine.

(2) The holder of the blasting licence has special authority to purchase blasting explosives for the purpose of such storage.

(3) In this regulation:

authorised means authorised by the storage licence.

175 Police permits to purchase blasting explosives

VR 513

(1) A person may make a written application to an authorised police officer for special authority to purchase blasting explosives.

(2) The officer may grant or refuse to grant the special authority.

(3) The officer may refuse to grant the special authority if the officer—

(a) is not satisfied that the explosives for which the permit is sought will be used for a lawful purpose; or

(b) considers that the explosives are more than, or other than, those required for the applicant's immediate purpose.

(4) In this regulation:

authorised police officer means a police officer authorised for this regulation by another officer of, or above, the rank of inspector.

Note If a form is approved under the Act, s 222 for an application for special authority, the form must be used.

Division 2.8.6 Advertising

176 False or misleading representations about authority to supply

A person commits an offence if—

- (a) the person intentionally makes a representation in connection with—
 - (i) the supply or possible supply of blasting explosives; or
 - (ii) the promotion by any means of the supply or use of blasting explosives; and
- (b) the representation is intentionally made in the course of trade or commerce; and
- (c) the representation is about the availability of the explosives to members of the public; and
- (d) the person knows, or is reckless about whether the representation is true or false.

Maximum penalty: 30 penalty units.

Part 2.9 Using blasting explosives

Division 2.9.1 Preliminary

177 Application of pt 2.9 VR 701, 702

- (1) This part applies to the use of blasting explosives at any place, including a mine or quarry.
- (2) However, this part does not apply to the use of blasting explosives by an inspector or a police officer performing a function under the Act.

178 Definitions for pt 2.9

In these regulations:

blasting licence, for a blasting operation at premises, means a licence authorising the operation at the premises as stated in the blast plan for the licence.

blast plan—see regulation 189.

shotfirer means—

- (a) the holder of a shotfirer's licence; or
- (b) a person who uses a blasting explosive; or
- (c) a person responsible for preparing, charging and firing blasting explosives.

shotfirer's licence, for blasting explosives, means a licence authorising the use of the blasting explosives stated in the licence.

special-purpose blasting licence, for a blasting operation, means a licence authorising the operation for a purpose stated in the licence.

Division 2.9.2 Using explosives—licensing requirements

179 Licensed shotfirers VR 703

- (1) A person must not use a blasting explosive unless the person holds a shotfirer's licence authorising the use of the explosive.

Note A person who contravenes this provision may commit an offence against the Act, s 79 (Unauthorised use of certain dangerous substances).

- (2) Subregulation (1) does not apply to the following people in the circumstances mentioned:
- (a) a person employed by a licensee in relation to the preparation of charges or the loading of explosives into blast holes, if the person—
 - (i) is directly supervised by the licensee; and
 - (ii) does not fire any charge;
 - (b) a primary producer, if the person uses blasting explosives on a rural property owned or occupied by the producer.

180 Transitional—shotfirer's permits under Dangerous Goods Regulations 1978, reg 52

- (1) If, immediately before the commencement of these regulations, a person held a shotfirer's permit under the *Dangerous Goods Regulations 1978*, regulation 52, the person is taken to hold a shotfirer's licence that expires on the expiry date of the permit.
- (2) A licence taken to be held under subregulation (1) authorises the use of blasting explosives subject to any authorisation or condition stated in the permit immediately before the commencement of these regulations.

181 Licensed blasting operations

A person must not use explosives, or authorise their use, for a blasting operation unless the operation is authorised by—

- (a) a blasting licence; or
- (b) a special-purpose blasting licence.

Note A person who contravenes this provision may commit an offence against the Act, s 79 (Unauthorised use of certain dangerous substances).

Division 2.9.3 Shotfirers' licences

182 Shotfirer's licences—criteria for issue
VR 705

- (1) The chief executive may issue a shotfirer's licence only if satisfied that the applicant for the licence has demonstrated an adequate knowledge of—

- (a) safety in the use of blasting explosives by the method of shotfiring stated in the application; and
 - (b) the requirements of these regulations that relate to blasting explosives and that method of shotfiring.
- (2) The applicant satisfies the requirements of subregulation (1) if—
- (a) the applicant passes an examination approved by the chief executive to test the applicant's knowledge of the matters stated in subregulation (1); and
 - (b) the applicant attends a training course approved by the chief executive on the use of explosives, and demonstrates suitable practical experience to the satisfaction of the chief executive.
- (3) Subregulation (2) (b) does not apply if the applicant holds a shotfiring qualification that is approved by the chief executive.

183 What is authorised by a shotfirer's licence?
VR 706, 707

- (1) Subject to regulation 184, a shotfirer's licence only authorises the matters stated in the licence, including the following:
- (a) the use of stated kinds of blasting explosives;
 - (b) the use of stated methods of shotfiring;
 - (c) the undertaking of stated kinds of blasting operations;
 - (d) the manufacture of a stated quantity of no more than 50kg of ANFO at any single time for the personal use of the licensee, if stated to be authorised.

- (2) If the licensee is authorised to manufacture ANFO, the licensee may only manufacture the ANFO using the following components:
- (a) ammonium nitrate as the oxidising agent;
 - (b) clean oil, fuel oil or another oil having a flash point of 60.5°C or higher as the fuel component.

Note A blasting licence is also required for each blasting operation under div 2.9.4.

184 Official field trials of explosives

VR 709

- (1) This regulation applies if the chief executive approves a test or trial by a person who holds a shotfirer's licensee of a blasting explosive that is not authorised under division 2.2.1 (Authorised explosives) if the explosive is manufactured exclusively for use in the test.
- (2) The licence is taken to authorise the use of the explosive by the licensee in accordance with the approval.

185 Licence to be carried

VR 708

The holder of a shotfirer's licence must carry the licence at all times when the licensee is using or carrying blasting explosives.

186 Licence conditions

If a person holds a shotfirer's licence, a requirement that applies to the licensee under this part in relation to the use of blasting explosives is a condition of the licence.

Division 2.9.4 Blasting licences

187 Use of explosives—occupier’s liability

- (1) An occupier of premises must not allow a person to use an explosive at the premises without a blasting permit authorising the use of the explosive.

Maximum penalty: 10 penalty units.

- (2) An occupier of premises must not allow a person to use an explosive at the premises except in accordance with a blasting licence authorising the use of the explosive.

Maximum penalty: 10 penalty units.

- (3) This regulation does not apply to the use of an explosive under the supervision of an inspector.

- (4) An offence against this regulation is a strict liability offence.

188 Information to be given with blasting licence application OHSR 13

- (1) An applicant for a blasting licence for a blasting operation at premises must give the following information to the chief executive with the application:

- (a) the applicant’s name, business address and telephone number;
(b) a blast plan for the operation;

Note Regulation 189 (Blast plans) sets out the information to be included in a blast plan.

- (c) a copy of any documents, including engineering and similar reports, to which the applicant or the responsible shotfirer has access, about—
 - (i) the use of explosives at the premises;
 - (ii) if the proposed use of the explosives is in relation to the demolition of all or part of a building or structure—the demolition of the building or structure; and
 - (d) details of any other information the applicant or the shotfirer knows that is material to the application; and
 - (e) a consent signed by the shotfirer for a police officer to make inquiries about the criminal record of the blaster; and
 - (f) any other information required by a form approved under the Act, section 222.
- (2) If a person fails to comply with subregulation (1) (c) or (d), the person commits an offence.
- Maximum penalty: 10 penalty units.
- (3) An offence against this regulation is a strict liability offence.

189 Blast plans
OHSR 14

For this division, a *blast plan* is a plan for a particular blasting operation at premises stating the following:

- (a) the purpose of the operation;
- (b) details of the premises where it is proposed to use the explosives;

- (c) for the proposed shotfirer—
 - (i) the shotfirer's name, business address and telephone number; and
 - (ii) the shotfirer's qualifications, knowledge and experience relevant to the purpose of the blasting operation;
- (d) the arrangements for the control and supervision of the use of the explosives;
- (e) the relationship of the blast point of the explosives to nearby premises (including public areas);
- (f) details of consultation conducted with persons that may be affected by the detonation of the explosives and the outcome of the consultation;
- (g) arrangements for the giving of notice of the detonation of the explosives to anyone that may be affected by the detonation;
- (h) if it is proposed to demolish all or part of a building or structure—
 - (i) the building or structure's occupancy classification under the building code approved under the *Building Act 1972*, section 24; and
 - (ii) a brief description of its structural support system and the main materials of its construction; and
 - (iii) the method of demolition; and
 - (iv) the sequence of the demolition works;
- (i) the kind and quantity of explosives to be detonated;

- (j) the occasion or occasions on which explosives are to be detonated (including test detonations);
- (k) the procedure for the preparation and placement of the explosives and the detonation sequence of the explosive charges;
- (l) safety measures for the detonation of the explosives, including the security of people and premises, the exclusion zone and the warning procedures;
- (m) the procedure to be followed if explosives misfire;
- (n) the method of disposal of any explosives unused at the completion of the proposed purpose;
- (o) the storage facilities for the explosives at the premises and the proposed procedures for the control and management of the facilities;
- (p) the procedure for the conveyance of the explosives about the workplace;
- (q) anything else required by the chief executive.

190 Pre-application checks and requirements

OHSR 19

- (1) This regulation applies in relation to an application for—
 - (a) the issue of a blasting licence for a blasting operation; or
 - (b) the amendment of a blasting licence under the Act, section 58 (Licence—application to amend by licensee).

- (2) The chief executive may make any investigations or inquiries about the application that the chief executive reasonably believes to be necessary to decide the application.
- (3) The chief executive may, by notice to the applicant, require the applicant to do either or both of the following:
 - (a) give the chief executive stated additional documents or other information the chief executive reasonably believes to be necessary to decide the application;
 - (b) to make stated changes to the blast plan that the chief executive reasonably believes to be necessary to eliminate hazards, or to minimise risks, from hazards resulting from the proposed blasting operation.
- (4) The chief executive may, by notice to the shotfirer stated in the application, require the shotfirer to show by a practical or oral examination the shotfirer's competence to use explosives in accordance with the blast plan.
- (5) A practical examination must be conducted under the supervision of an inspector.

191 Blasting licences—criteria for issue

OHSR 15

The chief executive may issue a blasting licence only if satisfied that—

- (a) the proposed shotfirer holds a shotfirer's licence authorising the use of the explosives stated in the blast plan for the purpose stated in the blast plan; and

- (b) the shotfirer is competent to use the explosives stated in the blast plan for the purpose stated in the blast plan; and
- (c) the use of the explosives in accordance with the blast plan is safe.

192 Blast plan forms part of licence

OHSR 16 (5), 18 (a)

- (1) If a blasting licence is issued, the blast plan forms part of the licence.
- (2) It is a condition of a blasting licence that the blasting operation be conducted in accordance with the blast plan.
- (3) In this regulation:

blast plan means the blast plan accompanying the application for the licence, as changed (if required) under regulation 190 (Pre-application checks and requirements).

193 Evaluation of blasting operations

It is a condition of a blasting licence that the licensee must, after the completion of a blasting operation authorised by the licence—

- (a) make a written evaluation of the operation, including the use of explosives in the operation; and
- (b) if required by written notice from the chief executive—give a copy of the evaluation to the chief executive.

Division 2.9.5 Special-purpose blasting licences

194 Purposes of special-purpose blasting licences

- (1) The chief executive may issue special-purpose blasting licences for purposes stated in the licence.

Examples of purposes

- 1 testing explosives
- 2 research into explosives and blasting techniques

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief executive may refuse an application for a special-purpose blasting licence if, in the opinion of the chief executive, it would be more appropriate for the applicant to apply for a blasting licence.

195 Special-purpose blasting licences—conditions

The conditions subject to which a special-purpose blasting licence may be issued include conditions relating to the following:

- (a) the kind and quantity of explosives to be used;
- (b) the location of blasting operations.

Division 2.9.6 Storage by shotfirers

196 Method of keeping explosives at a blasting site

VR 710

- (1) A shotfirer must ensure that—
- (a) the explosives are stored at the blasting site—

- (i) in accordance with part 2.7 (Storing explosives); or
 - (ii) securely aboard a road or rail vehicle in accordance with part 2.6 (Carrying explosives); or
 - (iii) in a site receptacle under regulation 148, under the immediate control or supervision of the shotfirer; and
- (b) the explosives are transferred at or before the end of the day's work to a place of storage that complies with part 2.7.
- (2) Subregulation (1) does not apply to—
- (a) explosives in blast holes or to explosives in immediate use in the making up of a charge; or
 - (b) the carrying of explosives in their original packages within a mine or a quarry; or
 - (c) pumpable emulsions, watergel slurries or free-flowing explosives that are safely stored and handled in accordance with information supplied by the manufacturer of the product and the operating procedures for that site.

197 Site receptacles

VR 711 (1)

- (1) A receptacle for storing explosives on a blasting site must comply with the following requirements:
- (a) the construction must be sturdy;
 - (b) the inner construction must be made from, or be lined with, plywood or close-joined timber with no exposed iron or steel inside;
 - (c) the receptacle must be sparkproof and painted bright red;

- (d) the receptacle must be fitted with an effective locking system;
 - (e) the interior of the receptacle must be kept clean and free of extraneous materials;
 - (f) the receptacle must be marked with conspicuous lettering in a conspicuous position on the outside as follows:
 - (i) with the word ‘EXPLOSIVES’, unless it is for detonators;
 - (ii) if it is for detonators—with the words ‘EXPLOSIVES DETONATORS’;
 - (g) the receptacle must be legibly marked on the inside with the name and current address of the owner.
- (2) The following requirements must be observed if explosives are kept in a receptacle at a blasting site:
- (a) unless allowed by subregulation (3) or (4)—
 - (i) blasting explosives of compatibility group D must not be kept in the same receptacle as explosives of classification code 1.4G (for example, plastic igniter cord and fuse lighters); and
- Note* An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
- (ii) detonators must not be kept in the same receptacle as any other explosives;
 - (b) except during the preparation of a charge—
 - (i) the receptacle must be locked; and

- (ii) the receptacle containing detonators must be separated by at least 1m from a receptacle containing other blasting explosives.
- (3) However, up to the following amounts of explosives may be kept together in any combination in the same receptacle at a blasting site:
 - (a) 500m of igniter cord;
 - (b) 500g of fuse lighters;
 - (c) 3.5kg. of blasting explosives of Compatibility Group D.
- (4) Also, detonators may be kept together in the same receptacle at a blasting site with any other blasting explosives if—
 - (a) there are no more than 25 detonators and 3.5kg (in total) of other blasting explosives; and
 - (b) the detonators are kept in 1 compartment and any other explosives are kept in another compartment; and
 - (c) the receptacle has an air space or space filled with an inert material capable of preventing communication of an explosion in the detonator compartment to explosives stored in other compartments; and
 - (d) in addition to the labelling required by subregulation (1)—
 - (i) the compartment containing the detonators is labelled ‘MAX 25’; and
 - (ii) the compartment containing the other explosives is labelled ‘MAX 3.5KG’.

198 Ignition sources at blasting sites

VR 712

A person who holds a shotfirer's licence must ensure that a source of ignition is not introduced within 10m of a blasting explosive at a place where the explosive is awaiting use, except a source of ignition necessary to fire a charge.

199 Defective explosives

VR 713

- (1) Defective explosives, or explosives in defective packages—
 - (a) must be disposed of in accordance with part 2.10; and
 - (b) must not be disposed of by being used in, or in connection with, normal blasting operations in a mine or a quarry unless an inspector has authorised the disposal of the particular explosives by that method.
- (2) In this regulation:

defective explosives, or packages of explosives, includes explosives or packages that are—

 - (a) in a state of deterioration; or
 - (b) damaged; or
 - (c) leaking; or
 - (d) exuding liquid.

Division 2.9.7 Equipment for blasting operations

200 Offences for shotfirers and shotfirer's employers

VR 714, 718

- (1) A shotfirer commits an offence if the shotfirer does not ensure that blasting equipment employed in the use of blasting explosives complies, and is used in accordance with, any requirement under this division.

Maximum penalty: 30 penalty units.

- (2) A shotfirer's employer must comply with any reasonable request by the shotfirer about the provision and maintenance of equipment necessary for compliance with these regulations.

Maximum penalty: 30 penalty units.

- (3) An offence against subregulation (2) is a strict liability offence.

201 Condition of blasting equipment

VR 714

Blasting equipment that is, or is to be, employed in the use of blasting explosives must be kept in good repair.

202 Equipment used to initiate explosives

VR 715

- (1) Equipment used to initiate explosives must be designed and constructed in a way that makes it safe to use.
- (2) An exploder, circuit tester, rheostat or other equipment used to initiate explosives charges must comply with—
 - (a) AS 2187.2; or

- (b) if that standard does not apply—a specification approved by the chief executive by instrument.
- (3) An approval under subregulation (2) (b) is a notifiable instrument.
Note A notifiable instrument must be notified under the Legislation Act.
- (4) A storage battery or dry cell must not be used to fire a charge, unless it forms part of an exploder that complies with subregulation (2).
- (5) A firing cable must comply with AS 2187.2.

203 Labelling, identification and testing of exploders
VR 416

- (1) An exploder used or intended to be used for firing an explosive must be labelled with—
 - (a) a distinguishing serial number; and
 - (b) the number of detonators it is capable of satisfactorily firing in a normal series circuit.
- (2) An exploder used or intended to be used for firing an explosive must be tested to assess its proper functioning—
 - (a) at least every 7 days, when in use; and
 - (b) when used for the first time or after a period of non-use exceeding 30 days; and
 - (c) if the person using the exploder suspects a loss of efficiency; and
 - (d) if required by an inspector.

204 Firing switches, short-circuit switches and switch boxes
VR 717

A firing switch, short-circuit switch or switch box used for mains firing in a mine must be of a kind approved by an inspector.

Division 2.9.8 Before and after blasting

205 Shotfirer to take due precautions
VR 720

A shotfirer or another person in charge of a blasting operation or the use of blasting explosives must take all due precautions to prevent any danger to people or damage to property.

206 Blasting warnings—general
VR 721 (1), (2), (5)

- (1) A person intending to fire a blasting explosive must—
 - (a) give a warning that is sufficient and appropriate to people in, or approaching, the vicinity of the firing operation; and
 - (b) take all necessary precautions to—
 - (i) ensure that people within the vicinity of the blasting area are at a safe distance from the blasting area; or
 - (ii) provide appropriate blasting shelters, and ensure that people who may be endangered by the blasting operations use these shelters; and
 - (c) ensure that all means of approach to the area are guarded against entry by the public or vehicular traffic by effective means to prevent entry; and

- (d) except in underground blasting operations—before and after firing, ensure that an effective audible warning signal is given in accordance with the system required by regulation 207 (Audible warning system—general blasting) or regulation 208 (Audible warning system—mines and quarries).

Examples for par (c) of means to prevent entry

- 1 display of warning signs
- 2 posting of guards

Note An example is part of these regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) For subregulation (1) (d), an audible warning must be distinguishable from motor car horns or other audible signalling devices normally used in the area where the firing operation is taking place.

207 Audible warning system—general blasting

For general blasting operations, the following audible warning system must be used:

- (a) 1 minute before firing, an audible signal of 15 seconds duration must be sounded;
- (b) the signal ‘FIRE ON’ must be given immediately before the charge or charges are fired;
- (c) for the ‘all clear’, 3 short audible signals of one second duration each, separated by 1 second must be sounded.

208 Audible warning system—mines and quarries

For blasting in quarries and surface mines the following audible warning system must be used:

- (a) a series of 3 short audible signals must be sounded, followed by a pause of at least 3 minutes, during which time the blasting area must be checked to ensure everyone in the area is in a position of safety;
- (b) 2 short audible signals must be sounded;
- (c) after a 1-minute pause, a continuous audible signal must be sounded;
- (d) the blast must be fired as soon as possible after the continuous audible signal has sounded for 10 seconds, following which the signal must stop;
- (e) the area must be checked and if all dust and toxic gases have dispersed, and in all other respects the area is safe for return, for the ‘all clear’, a continuous audible signal must be sounded for 10 seconds.

209 Control of blasting operations

VR 722

A person at a blasting site must obey the instructions of a shotfirer during the period—

- (a) starting when the charges start being prepared for firing; and
- (b) ending when the ‘all clear’ signal is given.

210 Total fire ban days
VR 723

A person must not use an explosive that may produce a flame above ground in the open during a period for which a warning has been published under the *Bushfire Act 1936*, section 7A (1) (Days of acute fire danger).

211 Firing explosives at night
VR 724

A person who uses blasting explosives at night must ensure that an adequate level of light is provided so that—

- (a) charging operations can be carried out safely; and
- (b) inspections can be done properly after charges are fired; and
- (c) any misfire can be dealt with in accordance with division 2.9.11 (Misfire precautions).

212 Capping fuses and preparing primers

- (1) A person who is capping fuses or preparing primers must ensure that all people who are not involved in that work remain at least 10m away from that work.
- (2) A person who caps fuses or prepares primers must do so in a safe place which is at least 10m away from any place where explosives are stored.
- (3) A person who caps fuses must ensure that any capped fuses not required for immediate use are placed in a receptacle or stored in a magazine.

- (4) A person who prepares primers must—
 - (a) prepare the primers immediately before charging; and
 - (b) ensure that the initiating medium used to form a primer has sufficient strength and sufficient contact with the primer cartridge or cast primer to ensure initiation; and
 - (c) ensure that the initiating medium is attached so that it will not become detached from the primer cartridge during loading.
- (5) A person who lowers a primer into a blast hole by means of the lead wires of a detonator, safety fuse, detonating cord or signal tube must do so in accordance with AS 2187.2.

213 Vibration and noise levels
VR 726

- (1) A person conducting blasting operations near buildings or structures must ensure that ground vibration and air blast overpressure is in accordance with AS 2187.2.
- (2) If, in the opinion of an inspector or police officer, noise or vibration from a blasting operation is likely to cause damage to property or danger or significant nuisance to the public, the inspector or police officer may issue a written direction to the shotfirer to take stated actions to reduce the noise or vibration to an appropriate level.
- (3) The shotfirer must comply with a written direction issued under sub-regulation (2).

214 Approach of a storm
VR 727

- (1) This regulation applies if, before a blasting operation is to start, an electrical storm, thunderstorm or dust storm approaches the site of the operation.
- (2) If time permits before the storm reaches a dangerously close position, the shotfirer must—
 - (a) fire the shot; or
 - (b) make the circuits safe, and collect and return to the magazine all explosives that have not been charged.
- (3) If time permits before the storm reaches a dangerously close position, each person at the site—
 - (a) must withdraw to a safe distance from any explosive; and
 - (b) must not return until the storm has passed.

Example of explosives for par (a)

- 1 explosives contained in a magazine
- 2 explosives contained in a blast hole
- 3 explosives being carried to the site

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) The blasting site must be kept under observation from a safe distance by—
 - (a) the shotfirer; or
 - (b) if the shotfirer is absent—someone authorised by the shotfirer.

- (5) This regulation does not apply to a blasting operation in underground workings, except work in a sinking shaft.

215 Site preparation

VR 730 (1), (3), (6)

- (1) Before charging operations commence, the shotfirer must ensure that all tools, plant and equipment not required for the operation are removed from the area being charged.
- (2) When charges are being prepared and blast holes are being charged, the shotfirer must ensure that no other work is conducted within 10m of the charging operations.
- (3) Before charging blast holes, a person must ensure that—
- (a) the blast holes are thoroughly cleared of all debris, loose materials or any other obstruction; and
 - (b) except in the case of deck charges, care is taken to avoid the presence of any extraneous matter between cartridges.

- (4) In this regulation:

deck charges means charges placed above a base charge at preselected intervals, if the charges are completely separated from the base charge and from each other.

216 Blasting equipment precautions

VR 730 (2)

The shotfirer must ensure that when preparing a charge—

- (a) only tools made from nonferrous materials are used; and

- (b) if a metal spike is used to form a hole in a cartridge explosive, that the spike is not permitted to come into contact with any metal or hard surface as it emerges; and
- (c) if practicable, only whole cartridges are charged into blast holes; and
- (d) any metal implement used to cut blasting explosives does not operate with metal-to-metal contact or come into contact with any hard surface.

217 Blasting preparation
VR 730 (4)

- (1) A person charging blast holes with explosives must—
 - (a) if practicable, be positioned so that no part of the person's body is in line with the direction of the hole; and
 - (b) position the primer in the blast hole to minimise the likelihood of a cut-off in the blasting sequence; and
 - (c) if tamping is required—tamp the explosives gently into blast holes of an appropriate size; and
 - (d) if stemming is required—stem the blast holes by tamping the stemming material lightly, gradually increasing the force until the blast hole is stemmed; and
 - (e) ensure that any lead wires, safety fuse, detonating cord or signal tube are not damaged during stemming and tamping.

- (2) A person charging explosives into a blast hole must use a tamping rod—
 - (a) made of wood or other nonmetallic material without any metal ferrule or tip; and
 - (b) kept free of grit at the ends.
- (3) A shotfirer must ensure that for top-primed blast holes, tamping only begins after at least 150mm of stemming material has been placed in the blast hole.

218 Obstruction in blast hole
VR 730 (8)

- (1) This regulation applies if an obstruction is met in a blast hole after charging has begun.
- (2) The person charging the hole may only remove the obstruction by—
 - (a) a flow of water or water and compressed air; or
 - (b) if a pressure water supply is not available—a flow of air applied through a length of safety tubing that has no ferrous metal fittings, and is advanced gently, without force, into the blast hole.
- (3) If the obstruction cannot be removed, the person charging the hole must—
 - (a) add a primer cartridge to the charge; and
 - (b) continue charging above the obstruction until the stemming height is reached; and
 - (c) after the charge is fired, search for any unexploded explosive.

(4) In this regulation:

safety tube means a semiconductive plastic or rubber hose with an electrical resistance of—

- (a) no less than 15 000Ω per metre; and
- (b) no more than 2MΩ, measured along the length of the hose.

219 Charging blast holes using pumpable or free flowing explosives

VR 731

A person who charges blast holes using pumpable or free-flowing explosives must ensure that—

- (a) the rate of delivery of explosives does not cause overfilling of the blast hole; and
- (b) the explosives are mixed according to the correct formulation; and
- (c) the operator of the delivery and mixing device remains at the control panel or control device, and shuts off the flow when necessary to avoid spillage.

220 Precautions after blast

VR 728

After blasting has been carried out at a blasting site, the shotfirer or, in the shotfirer's absence, someone authorised by the shotfirer, must ensure that—

- (a) no-one enters the blasting site until the shotfirer, or the person authorised by the shotfirer, is satisfied that any fumes and toxic gases created by the explosion are at safe levels; and

- (b) before any further work is carried out at the site, the site is carefully inspected for the presence of unfired or misfired explosives; and
- (c) drilling is not undertaken at the site until—
 - (i) the whole site has been thoroughly washed down, if necessary; and
 - (ii) all butts have been carefully inspected and, if necessary, thoroughly washed and cleaned; and
 - (iii) any misfire has been treated as required by division 2.9.11 (Misfire precautions).

221 Inspection of site at end of shift
VR 729

- (1) After blasting has occurred at any site, at the end of the current working shift, the person in control of the blast site must ensure that work does not begin on the next shift until the site has been inspected and declared safe by a competent person.
- (2) The shotfirer must inform the person responsible for control of the blasting site during the next shift of—
 - (a) the number and position of all blast holes that have been fired during the previous shift; and
 - (b) any suspected misfires.

Division 2.9.9 Electrical firing

222 Use of exploders

VR 732

A shotfirer using exploders must ensure that—

- (a) an exploder used for electrical firing is of a kind suitable for use with the particular kind of detonator and size of firing circuit; and
- (b) the size of the firing circuit does not exceed the capacity of the exploder; and
- (c) the exploder is fitted with a device that, by its removal, renders the exploder inoperable; and
- (d) the device mentioned in paragraph (c) is, while the exploder is not being used to fire explosives—
 - (i) out of the exploder; and
 - (ii) in the shotfirer's possession and control while the shotfirer is on duty; and
- (e) that any exploder, when not in use, is stored in a clean area that is free from moisture, oil and other contaminants.

223 Use of mains firing

VR 733

- (1) A shotfirer using mains firing must ensure that—
 - (a) the mains circuit has adequate electrical capacity to fire the firing circuit; and

- (b) the firing switch is installed between the source of electric power and the firing cable; and
 - (c) the switch is protected by a short-circuit device on the cable side to prevent an electrical current entering the firing cable when the switch is open; and
 - (d) the firing switch and the short-circuit device are placed in switch boxes that are—
 - (i) in a fixed and safe position; and
 - (ii) provided with an effective lock from which the key cannot be removed unless the box is closed and locked; and
 - (iii) so constructed that the box can neither be closed nor locked unless the switch or device is in the open position and the short-circuit device is in place.
- (2) A shotfirer using mains firing must also ensure that—
- (a) a switch box has only one key; and
 - (b) the key is in shotfirer's possession and control while he or she is on duty; and
 - (c) the switch box is locked after a blasting operation.

224 Electrical firing—testing of components
VR 734

- (1) A shotfirer must, in accordance with subregulation (2), test a firing cable to be used for electric firing operations—
- (a) for breaks and internal short-circuits; and

- (b) to determine its electrical resistance.
- (2) Firing cable testing must be carried out—
 - (a) on each day of blasting operations—
 - (i) before the operations start; or
 - (ii) if there is more than 1 shift on the day—before each shift starts; and
 - (b) if damage to the cable is suspected.
- (3) A shotfirer must test each electric detonator to be used in a blasting operation for continuity and resistance using an approved circuit tester.
- (4) The shotfirer must take the following precautions in testing an electric detonator:
 - (a) the detonator must be covered in a way that will prevent injury to any person, or damage to any property, if the detonator accidentally fires;
 - (b) delay detonators must be kept covered like that for at least twice the delay period of the detonator indicated by the delay number or code marked on the detonator or its wires.
- (5) A shotfirer must not use a firing cable or detonator in a blasting operation that is found to be faulty when tested in accordance with this regulation until the fault is rectified.

225 Electrical firing—safe location of firing position

VR 735

- (1) A shotfirer must ensure that the firing position is located at a point outside the range of, or is adequately shielded from, any missile or other blast effect that may be produced by the blast.
- (2) In this regulation:

firing position means the position where the exploder or circuit switch is to be operated to fire the charge.

226 Electrical firing—precautions during charging

VR 736

- (1) A shotfirer must observe the following requirements when charges are to be fired electrically:
 - (a) the lead wires of a detonator must be kept short-circuited until the charge is in position and ready for firing;
 - (b) the joints and other parts in a firing circuit must be covered or placed in a way that will prevent electrical contact to earth or with any other thing that could cause a short-circuit;
 - (c) the firing cable leading to an explosive charge—
 - (i) must be short-circuited, at the end nearer the firing position, while the detonators are being connected; and
 - (ii) must not be connected to an exploder or circuit tester until the requirements of regulation 206 have been complied with (including the sounding of the warning signals);

- (d) the short-circuit in the firing cable may be opened only when the explosive charge is ready for testing or firing;
 - (e) before firing the charge, the firing circuit must be tested for continuity and electrical resistance at—
 - (i) the firing position; or
 - (ii) some other point so distant from the charge that in the event of accidental firing there will be no danger to any person;
 - (f) a circuit that is found to be faulty by a test under paragraph (e) must not be used until all faults in the circuit are rectified;
 - (g) immediately after firing, the shotfirer must—
 - (i) render the exploder inoperable; and
 - (ii) disconnect the firing cable; and
 - (iii) replace the short-circuit on the firing cable.
- (2) In this regulation:

firing position means the position where the exploder or circuit switch is to be operated to fire the charge.

227 Electric firing near source of electric power
VR 737

- (1) A shotfirer must ensure that this regulation is complied with.
- (2) If electric firing is undertaken near a source of electric power or a power or lighting cable, all proper precautions must be taken to prevent the firing cables, connecting wires and detonator lead wires

from coming into contact with, or being affected by, any electrical leakage or induction from the cable or source of electric power.

- (3) Storage batteries and dry cells must be kept at least 10m from—
 - (a) any firing cable; and
 - (b) any part of a firing circuit; and
 - (c) any place where electric detonators or electric fuse lighters are exposed.
- (4) Subregulation (3) does not apply if the batteries or dry cells are adequately covered to prevent any likelihood of them causing the accidental firing of a detonator or fuse lighter;
- (5) Electric firing in a mine or quarry must not be undertaken near any electrified trolley wire, underground power cable or high voltage overhead power line.
- (6) Subregulation (5) does not apply if an inspector gives the shotfirer a written approval for the electric firing.

228 Electric detonators near radio etc
VR 738

- (1) This regulation applies to the use of an electric detonator by a person near any of the following:
 - (a) a radio or television transmitter;
 - (b) a repeater transmission station;
 - (c) another source of electromagnetic radiation.

- (2) The person may use the electric detonator only if the use complies with AS 2187.2 in relation to the safe distance to be maintained between the station (or other source of radiation) and the detonator and firing circuit.

229 Electronic detonator firing
VR 742

If a shotfirer uses an electronic detonator in a blasting operation, the shotfirer must ensure that the operation is carried out safely and in accordance with the manufacturer's instructions and the operating procedures for that site.

Division 2.9.10 Other blasting procedures

230 Safety fuse firing
VR 739

- (1) This regulation applies if a shotfirer uses safety fuse in a blasting operation.
- (2) The shotfirer must ensure that—
- (a) before the fuse is used—
 - (i) a sample of at least 1m is burnt to determine the burning rate of the fuse; and
 - (ii) the burning rate of the sample is between 90 and 120 seconds per metre; and
 - (b) sufficient fuse (of at least 1m) is used to enable the shotfirer to withdraw to a safe place without undue haste after the fuse has been ignited; and

- (c) the end of the fuse to be inserted into the detonator is clean and cut square, and inserted into the detonator by pushing gently without twisting; and
 - (d) detonators are crimped on the fuse with a crimper approved by an inspector; and
 - (e) the fuse is not ignited until—
 - (i) the charge has been fully inserted into the blast hole; and
 - (ii) all necessary stemming and tamping has been completed; and
 - (iii) if applicable—an effective means of screening the blast is in position; and
 - (f) if more than 1 fuse is to be ignited at any single firing—
 - (i) only a safety fuse igniter approved for igniting more than 1 fuse is used; and
 - (ii) not more than 8 fuses are ignited at any single firing location, unless igniter cord or an electrical igniter approved by an inspector is used; and
 - (iii) the firing of charges is arranged to enable the number of explosions to be accurately counted from safe locations.
- (3) If the shotfirer has any doubt about the number of charges that have exploded, the shotfirer must—
- (a) assume that there has been a misfire; and
 - (b) comply with the requirements of division 2.9.11 (Misfire precautions).

- (4) If 2 or more shotfirers fire explosives near each other, the shotfirers must arrange the order of firing to avoid confusion in counting the number of explosions.

231 Use of detonating cord
VR 740

- (1) This regulation applies if a shotfirer uses detonating cord in a blasting operation.
- (2) The shotfirer must ensure that—
- (a) if the detonating cord is used as a down line, the cord is—
 - (i) secured tautly and extends by at least 600mm from the edge of the blast hole; and
 - (ii) cut from the reel; and
 - (b) excessive slack is not left in the branch line connections;
 - (c) the branch line connections are made in accordance with AS 2187.2;
 - (d) if both trunk and branch lines are used—the blast is initiated in a trunk line.
- (3) In this regulation:

branch line means a length of detonating cord running between, and connected to, the trunk line and the primer.

down line means a line of detonating cord, used to initiate an explosive charge, by which a primer is lowered into a blast hole.

trunk line means the main line of detonating cord on the surface.

232 Signal tube firing

VR 741

- (1) This regulation applies if a shotfirer uses a signal tube to initiate a blasting operation.
- (2) The shotfirer must ensure that—
 - (a) all connections are carried out in accordance with the manufacturer's instructions; and
 - (b) all connections are checked before initiating a blast; and
 - (c) if possible, all fired signal tube is cleared from the blast site after the blast has been completed.
- (3) If both trunk and branch lines are used, the blast must be initiated in a trunk line.
- (4) A shotfirer must ensure that the firing position where the shotfirer initiates the signal tube is located outside the range of, or is adequately shielded from, any missile or other blast effect that may be produced by the blast.
- (5) In this regulation:

branch line means a length of signal tube running between, and connected to, the trunk line and the primer.

trunk line means the main line of signal tube on the surface.

233 Use of ANFO
VR 743

- (1) This regulation applies if a shotfirer pneumatically loads ANFO.
- (2) The shotfirer must ensure that—
 - (a) the equipment used for the loading is approved; and
 - (b) the mixture is loaded through a safety tube;
 - (c) when loading the mixture, the pneumatic loader is earthed through a resistance of not more than $1\text{M}\Omega$; and
 - (d) water lines, compressed air lines, wire-covered hoses, rails and permanent electrical earthing systems are not used as a means of earthing the loader; and
 - (e) if electric detonators are used with pneumatic loading—the electric detonators are of the protected kind; and
 - (f) no part of the equipment that may come into contact with ammonium nitrate or ANFO is composed of galvanised iron, galvanised steel, or any zinc, lead, copper or any alloy of those metals.

- (3) In this regulation:

safety tube means a semiconductive plastic or rubber hose with an electrical resistance of—

- (a) no less than $15\,000\Omega$ per metre; and
- (b) no more than $2\text{M}\Omega$, measured along the length of the hose.

234 Dealing with butts

VR 744

- (1) If a butt is found after a charge has been fired, the shotfirer must ensure that no further work is carried out near the butt until the butt is made safe.
- (2) A person drilling a hole near a butt must drill in a way, and at a distance, sufficient to prevent the drill from entering any part of the butt.

235 Bulling charges

VR 745

- (1) This regulation applies to a blast hole in which a bulling charge has been fired.
- (2) The shotfirer must ensure that the blast hole is not reloaded until—
 - (a) the resulting chamber has been filled with water; or
 - (b) the hole has been left to cool to a safe temperature over a sufficient period (which must be a period of at least 1 hour).

Note **Bulling** is also known as *chambering* and *springing*.

236 Charging and firing charges

VR 746

The shotfirer must ensure that—

- (a) charges in all the blast holes that are charged in a single firing location are—
 - (i) fired as a single round; and
 - (ii) fired without undue delay; and

- (b) if a charge is not fired and exploded, it is dealt with as a misfire in accordance with division 2.9.11 (Misfire precautions); and
- (c) a blast hole that is charged is kept under constant and effective supervision until the charge is fired.

Division 2.9.11 Misfire precautions

237 What is a misfire?

VR 747

- (1) In these regulations:

misfire means a charge or part of a charge that, upon firing, has failed to explode or function as intended.

- (2) A misfire is taken to have happened if there are reasonable grounds for suspecting that a misfire has happened.

238 Immediate action after a misfire

VR 748

- (1) If a misfire happens, the shotfirer must ensure that no person enters the blasting area until the end of whichever of the following periods apply, or, if more than 1 period is applicable, until the end of the period that ends latest:
 - (a) if safety fuse was used—30 minutes after use; or
 - (b) if a signal tube was used—5 minutes after use; or
 - (c) if electric detonators were used—5 minutes after the time the firing cables are disconnected and short-circuited.
- (2) Subregulation (1) does not apply to a cut-off or butt.

- (3) The shotfirer must, as soon as possible, tell the person controlling or managing the work site about any misfire.

239 Misfire not to be left unattended

VR 749

- (1) This regulation applies if there is a misfire in surface blasting.
- (2) The misfire must not be left unattended.
- (3) The shotfirer must ensure that barriers are put up facing all access ways to the blasting area with—
- (a) conspicuous red flags; or
 - (b) conspicuous red signs immediately stationed so as to face all access ways to the blasting area, displaying 1 or more of the following messages in white letters:
 - (i) ‘STOP’;
 - (ii) ‘STOP—MISFIRED EXPLOSIVES’;
 - (iii) ‘DANGER—CHARGED BLAST HOLES’.
- (4) While barriers are in place under subregulation (3), a person must not enter the blasting area.
- Maximum penalty: 30 penalty units.
- (5) Subregulation (4) does not apply to a person authorised by the shotfirer to enter the blasting area.
- (6) An offence against this regulation is a strict liability offence.

240 Location of misfire

VR 750

After the end of the period mentioned in regulation 238, the shotfirer must—

- (a) thoroughly examine the blasting site and do any work that is necessary to work out the location of any misfire and its cause; and
- (b) carefully search for, collect, and safely dispose of any unexploded explosive or debris likely to contain explosive that is on the surface; and
- (c) warn all incoming work crews of the possible presence of explosives in any broken ground or rock.

241 Electrical tests for a misfire

VR 751

The shotfirer must not conduct electrical tests on a firing circuit or any part of a firing circuit of a misfired charge unless all people in the blasting area are—

- (a) at a safe distance from the charge; or
- (b) in a blasting shelter approved by an inspector.

242 No removal of cartridge explosive

VR 752 (2)

A person must not remove cartridge explosive from a blast hole containing a misfired charge.

243 Blasting strategy to deal with misfire

VR 752 (3)–(8), 753

- (1) If a charge misfires in a blasting or relieving hole, the shotfirer may deal with the misfire by following whichever of the following procedures applies:
 - (a) if the shotfirer believes on reasonable grounds that there is no likelihood of injury to a person or damage to property if the charge is refired—refire the charge in the same hole;
 - (b) if paragraph (a) does not apply—fire a further charge in the same hole, in accordance with subregulation (2);
 - (c) if it is impractical to fire a further charge in the same hole—subject to subregulation (5), fire a further charge in a relieving hole in accordance with subregulations (3) and (4).
- (2) If subregulation (1) (b) applies, the shotfirer must ensure that—
 - (a) stemming and any water destructible explosives is removed from the hole—
 - (i) with pressurised water, or a combination of pressurised water and compressed air, using a rubber or plastic hose or tube; or
 - (ii) if pressurised water or air is not available, with water and a wooden implement; and
 - (b) the hole is reprimed with a fresh primer.

Note For any further firing, the shotfirer must observe the other requirements of this part relating to blasting operations.

- (3) If subregulation (1) (c) applies, the shotfirer must ensure that the relieving hole is drilled—
 - (a) parallel to the misfired hole as far as possible; and
 - (b) at a distance sufficient to prevent the drill from entering any part of the misfired hole; and
 - (c) for a misfire in a mine or quarry—
 - (i) from a remote or safe location; and
 - (ii) only with the approval of an inspector.
- (4) If subregulation (1) (c) applies, the shotfirer may drill multiple relieving holes to be fired together to deal with the misfire.
- (5) However, a shotfirer must not use a relieving hole (or holes) to deal with the misfire if—
 - (a) the blast hole has been bulled; or
 - (b) it is otherwise unsafe to do so.

244 Misfire when electric detonator used
VR 754

- (1) This regulation applies if there is a misfire after an electric detonator has been used.
- (2) The shotfirer must—
 - (a) short-circuit the firing cable and the lead wires of the detonator before attempting to treat the misfire; and
 - (b) if a procedure under regulation 243 (Blasting strategy to deal with misfire) is to be used—ensure, if practicable, that the lead wires from the detonator in the misfired blast hole are firmly

secured to a fixed object so as to allow the recovery of the detonator.

245 Misfire when signal tube detonator used

VR 755

- (1) This regulation applies if—
 - (a) there is a misfire after a signal tube detonator has been used; and
 - (b) the shotfirer proposes to use a procedure under regulation 243 (Blasting strategy to deal with misfire) to deal with it.
- (2) The shotfirer must ensure, if practicable, that the signal tube from the detonator in the misfired blast hole is firmly secured to a fixed object so as to allow the recovery of the detonator.

246 Work not to recommence until safe

VR 756

If the treatment of a misfire has involved the firing of a charge, the person controlling or managing the work site must ensure that work does not resume on the blasting site until—

- (a) the shotfirer has searched thoroughly for any unexploded explosive; and
- (b) any explosive discovered has been safely disposed of; and
- (c) the shotfirer is satisfied that it is safe to resume.

**247 Misfires that cannot be treated according to requirements
VR 757**

If the person controlling or managing the work site considers that the misfire cannot be dealt with in accordance with this division, the person must—

- (a) immediately take steps to ensure that instructions to deal safely with the misfire are issued; and
- (b) ensure that the instructions are implemented; and
- (c) retain an accurate written record of the instructions for at least 5 years; and
- (d) if the misfire is in a mine or quarry—notify an inspector of the misfire.

Division 2.9.12 Special blasting operations

**248 Blasting underwater
VR 758**

- (1) A person who undertakes blasting underwater must do so in accordance with AS 2187.2.
- (2) A shotfirer who intends to fire a charge underwater must ensure, before firing, that—
 - (a) every person in the water at the blast site, including any diver, is at a safe distance from the charge; and
 - (b) any charges that are not in blast holes are secured against movement; and

- (c) if explosives that may be affected by water are used—the explosives are waterproofed, or are otherwise protected from the effects of water; and
- (d) if detonating cord is used underwater, suitable precautions are taken to ensure that any lines of cord intended to remain apart cannot be brought together by water current or wave action.

249 Hot-material and high-temperature blasting

VR 759

- (1) This regulation applies if blasting is to be carried out in hot material, or at high temperature, within the meaning of AS 2187.2.
- (2) The shotfirer must ensure that the blasting is carried out in accordance with the standard.
- (3) If the requirements of this regulation and any other regulation in this part are inconsistent, the requirements of this regulation prevail.

250 Demolition of buildings and other structures

VR 760

- (1) A person intending to use explosives to demolish a building or structure, or part of a building or structure, must notify the chief executive in writing of the intention no later than 21 days before the intended date of the demolition.
- (2) A shotfirer must ensure that when blasting is used for the demolition of buildings or other structures, all operations are performed in accordance with AS 2187.2.
- (3) If the requirements of this regulation and any other regulation in this part are inconsistent, the requirements of this regulation prevail.

Part 2.10 Disposal of explosives

251 Disposal requirements

VR 903 (1)

- (1) A person may dispose of blasting explosives only if—
 - (a) the person holds a licence authorising the person to handle blasting explosives of that kind (or those kinds); or
 - (b) the person is under the direct supervision of someone who is so licensed.

Note A person who contravenes this regulation may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

- (2) The holder of a consumer fireworks licence must dispose of any fireworks that fail a test under the schedule, part 1.3 (Sampling and testing standards).
- (3) A requirement under this part in relation to the disposal of explosive is a condition of a licence that authorises the handling of the explosive.

Note A person who contravenes a condition of a licence may commit an offence against the Act, s 82 (Unauthorised handling of dangerous substances generally).

252 Prohibition on discarding explosives

VR 901

A person must not discard explosives.

Examples

- 1 throwing away the explosives
- 2 burying the explosives, unless their burial complies with regulation 253 (Safe disposal of explosives)

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

253 Safe disposal of explosives

VR 902

- (1) A person disposing of explosives must—
 - (a) ensure that the method of disposal used provides the greatest degree of safety possible; and
 - (b) ensure that the method of disposal is appropriate to the kind of explosives and the condition of the explosives; and
 - (c) take adequate precautions against causing injury to any person or damage to any property; and
 - (d) if an appropriate and safe method of disposal is not known, seek and act according to any advice given by—
 - (i) the manufacturer; or
 - (ii) an inspector.
- (2) A person may render harmless, destroy or otherwise dispose of blasting explosives only in accordance with AS 2187.2.

254 Disposal of fireworks in accordance with instructions
VR 903 (2)

- (1) A person may dispose of fireworks only in accordance with the instructions of—
 - (a) the supplier; or
 - (b) the manufacturer; or
 - (c) a person who holds a display fireworks licence; or
 - (d) an inspector.
- (2) This regulation does not limit the other regulations in this part.

Chapter 3 Fireworks

Part 3.1 Kinds of fireworks

Note 1 These regulations categorise fireworks as follows:

- general use fireworks (for example, sparklers)—see reg 255 and pt 3.2
- consumer fireworks (for example, roman candles)—see reg 256 and pt 3.3
- display fireworks—for example, aerial shells—see reg 257 and pt 3.4.

Note 2 All other fireworks are prohibited explosives (see reg 258 (Fireworks that are prohibited explosives)).

255 General use fireworks

- (1) For these regulations, fireworks of each of the following kinds are *general use fireworks*:
- (a) an amorce that contains no more than 0.0075g of pyrotechnic substance;
 - (b) caps that contain no more than 0.0075g of pyrotechnic substance;
 - (c) snaps for bon-bons that contain no more than 0.03g of pyrotechnic substance;
 - (d) sparklers that—
 - (i) are designed to be held in the hand; and
 - (ii) are no longer than 450mm; and

- (iii) contain no more than 10g of pyrotechnic substance; and
- (iv) are in packages of sparklers that, together, contain no more than 100g of pyrotechnic substance; and
- (v) do not contain magnesium, chlorate or perchlorate;
- (e) any other fireworks declared by the Minister in writing to be general use fireworks.

Note General use fireworks are exempt explosives, and are taken to be authorised explosives (see div 2.2.1 (Authorised explosives)).

- (2) A declaration under subregulation (2) (e) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

256 Consumer fireworks

For these regulations, fireworks of each of the following kinds are *consumer fireworks*:

- (a) fountains;
- (b) ground spinners;
- (c) snakes containing no more than 2g of pyrotechnic substance;

Note *Snakes* are also known as *glow worms*.

- (d) multishot cakes;
- (e) roman candles;

- (f) wheels.

Note To be supplied to consumers by retail sale, consumer fireworks must be authorised under the regulations (see div 2.2.1 (Authorisation of explosives) and sch 1 (Consumer fireworks—authorisation standards)). For further requirements about the supply of authorised consumer fireworks, see div 3.3.3 (Supply of consumer fireworks).

257 Display fireworks

For these regulations, *display fireworks* are any fireworks that are authorised explosives.

Note 1 The only fireworks that are not *display fireworks* are those that are prohibited explosives (see reg 258 (Fireworks that are prohibited explosives)).

Note 2 A licence or permit is required for the use of display fireworks, and for each fireworks display (see pt 3.4).

258 Fireworks that are prohibited explosives

For these regulations, fireworks of each of the following kinds are prohibited explosives.

- (a) crackers, other than crackers in strings of crackers;
- (b) strings of crackers in which any cracker—
 - (i) is longer than 45mm; or
 - (ii) has an external diameter greater than 10mm;
- (c) strings of crackers containing a roll or rolls of crackers designed to initiate at the same time as each other;

- (d) aerial shells with a diameter greater than 300mm;
- (e) salute shells with a diameter greater than 75mm;

Examples for par (a)

bungers, bangers and matchcrackers

Example for par (c)

a string of Chinese firecrackers with a headroll at the end

Note 1 **Chinese firecrackers** are defined in the dictionary as strings of crackers.

Note 2 An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 3.2 General use fireworks

259 General use fireworks—ch 3 doesn't apply

This chapter, other than this part, does not apply to general use fireworks.

260 Use in accordance with instructions

- (1) If a person uses a general use firework the person must use it in accordance with any instruction written on, or provided with, the firework.

Example of written instruction

An instruction provided with a package of sparklers (which are general use fireworks) that states 'Keep burning end or sparks away from clothing or other flammable material'.

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Maximum penalty: 5 penalty units.

- (2) An offence against this regulation is a strict liability offence.

Part 3.3 Consumer fireworks

Division 3.3.1 Preliminary

261 Consumer fireworks definitions

In these regulations:

consumer—see regulation 263.

consumer fireworks authorised receipt—see regulation 274
(Consumer fireworks authorised receipts).

consumer fireworks licence means a licence authorising the retail supply of consumer fireworks and storage for that purpose.

driver licence means an Australian driver licence or a licence to drive a motor vehicle (however described) issued under the law of an external Territory or a foreign country.

identification papers, for a person, means a document, or a number of documents, taken together, that—

- (a) show the person's age; and
- (b) show a residential address for the person; and
- (c) contain a photograph that could reasonably be taken to be of the person.

Example of identification papers

a proof of age card under the *Liquor Act 1975*, s 175, together with a bank statement showing the card-holder's residential address

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

primary authorised user, of consumer fireworks—see regulation 289 (Authority for using consumer fireworks).

Queen's birthday supply period—see regulation 270.

supplier—see regulation 263.

262 Meaning of *supply* for pt 3.3

In this part:

supply, a consumer firework, means the supply of the firework by retail.

Note See also the Act, dict, def *supply*.

263 Application of pt 3.3

This part applies in relation to—

- (a) anyone who holds a consumer fireworks licence; and
- (b) the supply, or purported supply, of consumer fireworks by a person (a *supplier*) to a member of the public (a *consumer*); and
- (c) the storage of consumer fireworks for the purpose of supply.

Division 3.3.2 Consumer fireworks licences

264 Requirement for consumer fireworks licence

- (1) A person is authorised to supply a consumer firework if—
 - (a) the person holds a consumer fireworks licence in relation to the firework; or
 - (b) the person is engaged (as an employee or contractor) by a person who holds a consumer firework's licence to supply the firework under the licensee's supervision.
- (2) A person may store a consumer firework for supply only if the person is authorised under a consumer fireworks licence to do so.
- (3) A licence that authorises the storage of a consumer firework for supply authorises the storage by—
 - (a) the licensee; and
 - (b) anyone engaged by the licensee (as an employee or contractor) to supply or store the firework under the licensee's supervision.

Note 1 Consumer fireworks licences are issued under the Act, ch 4 (Licences for dangerous substances). Fireworks are dangerous substances, because they are explosives.

Note 2 A person who contravenes this provision may commit an offence against the Act, s 76 (Unauthorised supply of certain dangerous substances) or s 82 (Unauthorised handling of dangerous substances generally).

265 Consumer fireworks licences—authorised fireworks only

A consumer fireworks licence may only be issued authorising the supply or storage of an authorised consumer firework.

Note Division 2.2.1 (Authorised explosives) provides for the authorisation of consumer fireworks.

266 Prescribed licence conditions—compliance with pt 3.3

It is a condition of a consumer fireworks licence that the licensee ensures that this part is complied with in relation to the supply and storage of consumer fireworks and any related activity (for example, the display or advertising of their supply, or record keeping).

Note 1 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

Note 2 An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

267 Term of consumer fireworks licence

A consumer fireworks licence may only be issued for a period of 1 year or less, stated in the licence.

268 Information to be given with consumer fireworks licence application

An applicant for a consumer fireworks licence must give the following information to the chief executive with the application:

- (a) the applicant's name and contact details;

- (b) the address of each premises from which the fireworks are to be supplied;
- (c) details of how consumer fireworks are to be stored and supplied at those premises;
- (d) details of training to be provided to suppliers;
- (e) anything else required by an approved form for this regulation under the Act, s 222 (Approved forms).

Division 3.3.3 Supply of consumer fireworks

269 Training of suppliers

The holder of a consumer fireworks licence must ensure that all suppliers of consumer fireworks under the authority of the licence receive training in the following:

- (a) the law relating to the supply of fireworks, including, but not limited to, the following:
 - (i) restrictions on the people who may be supplied with fireworks;
 - (ii) record-keeping requirements relating to that supply;
- (b) the safe handling of fireworks;
- (c) emergency procedures relating to the handling of fireworks.

270 Supply during Queen's birthday supply period

- (1) A person must not supply consumer fireworks at any time outside the period in each year (the *Queen's birthday supply period*) that—
- (a) starts at 8.00 am on the first Monday in June; and
 - (b) ends at 5.00 pm on the second Monday in June.

Maximum penalty: 20 penalty units.

Note The second Monday in June is an annual public holiday to celebrate the Queen's birthday (see *Holidays Act 1958*, s 3 (1) (a) (viii)).

- (2) An offence against this regulation is a strict liability offence.

271 Advertising—Queen's birthday supply period etc

- (1) A person must not publish an advertisement for the supply of consumer fireworks to the public if—
- (a) the supply, as advertised, is not authorised under a consumer fireworks licence or these regulations; or
 - (b) the advertisement does not clearly state the number of a consumer fireworks licence under which the supply is authorised; or
 - (c) the publication does not take place during the Queen's birthday supply period.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

(3) In this regulation:

advertisement, for the supply of fireworks, means any form of communication to the public that promotes the supply.

Examples of forms of communication to the public

- 1 a newspaper, radio or television advertisement or announcement
- 2 a poster displayed on a billboard in a public place
- 3 a poster displayed in a shop window that may be viewed from a public place
- 4 an announcement published on the internet

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

272 Display of consumer fireworks

- (1) A person must not display consumer fireworks to the public if—
- (a) the supply of the fireworks is not authorised under a consumer fireworks licence or these regulations; or
 - (b) the display does not include a notice clearly stating the number of a consumer fireworks licence under which the supply is authorised; or
 - (c) the display does not take place during the Queen’s birthday supply period.

Maximum penalty: 30 penalty units.

- (2) A person must not display consumer fireworks to the public unless the fireworks are in a display cabinet that—
- (a) is kept locked except when consumer fireworks are put into or removed from the cabinet; and

- (b) is not accessible to anyone except the supplier; and
- (c) does not form part of a window display; and
- (d) is clean; and
- (e) does not contain anything except packaged consumer fireworks.

Maximum penalty: 10 penalty units.

- (3) An offence against this regulation is a strict liability offence.

273 Supply to children and non-ACT residents prohibited

- (1) A supplier must not supply consumer fireworks to a consumer if the consumer does not satisfy the supplier that the consumer is an adult, and lives in the ACT, by showing identification papers.

Maximum penalty: 30 penalty units.

Note An **adult** is an individual who is at least 18 years old (see Legislation Act, dict, pt 1).

- (2) Subregulation (1) does not limit the circumstances in which a supplier may refuse to supply consumer fireworks.
- (3) An offence against this regulation is a strict liability offence.

274 Consumer fireworks authorised receipts

- (1) If consumer fireworks are supplied to a consumer, the supplier must give the consumer a receipt (a ***consumer fireworks authorised receipt***) including the following:
 - (a) the licensee's name and licence number;
 - (b) the date of the sale;

- (c) the consumer's name and residential address in the ACT;
- (d) details of the identification papers shown by the consumer to the supplier;
- (e) details of the kind and quantity of fireworks supplied;
- (f) the location (or locations) in the ACT of the intended use of the fireworks;
- (g) the consumer's signature;
- (h) anything else required by an approved form for this regulation under the Act, section 222 (Approved forms).

Note The supplier must refuse to supply consumer fireworks to a consumer if the consumer does not produce identification papers showing that the consumer is an adult and lives in the ACT (see reg 273).

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

275 Misrepresentation

- (1) A person must not—
 - (a) supply something to a consumer that is not a consumer firework; and
 - (b) represent the thing to be a consumer firework.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

Division 3.3.4 Labelling

276 Requirement to obtain wholesaler's assurance

- (1) The holder of a consumer fireworks licence (a *licensee*) who obtains packaged consumer fireworks from another person for retail supply must obtain a written assurance from a person responsible for packaging the fireworks that each consumer firework packed is labelled in accordance with this division.
- (2) If a licensee is responsible for packaging any consumer fireworks that are to be supplied under the authority of the licence, the licensee must ensure that each consumer firework packed is labelled in accordance with this division.

277 Where labels must be fixed

The label for a consumer firework required by this division must be—

- (a) fixed on the firework itself; or
- (b) if the firework is too small for a legible label to be fixed on it—fixed to the immediate package containing the firework.

278 Information on labels

- (1) A consumer firework must have a label fixed to it including the following information:
 - (a) a short description of the principal effect of the firework after ignition;

- (b) short instructions for use, with warnings appropriate for the particular firework, including for each firework the words ‘light fuse and retreat at least 5 metres’;
 - (c) the words ‘consumer firework’.
- (2) The text of the label must be—
- (a) expressed in plain language; and
 - (b) unambiguous.
- (3) The text, and any graphics, on the label must—
- (a) be legible; and
 - (b) appear against a contrasting background.

Division 3.3.5 Packaging and safety information

279 Sealed packaging

- (1) The holder of a consumer fireworks licence may supply consumer fireworks to consumers only if the fireworks are in sealed packages that comply with this regulation.
- (2) Each package of consumer fireworks must—
 - (a) be sealed so that when the seal is broken, it is plainly evident; and
 - (b) be a bag constructed from flexible plastic sheeting no less than 100µm thick; and
 - (c) be labelled with—
 - (i) a list of the contents of the package; and

- (ii) the licensee's name and licence number; and
- (d) include a notice with the information required by regulation 280 inside the package, so that it is readable without opening the package.

280 Safety information

The safety information to be included in a package of consumer fireworks must include the information indicated by table 280.1.

Table 280.1 Further information to be supplied with consumer fireworks

column 1 item	column 2 activity	column 3 particular information
1	carrying consumer fireworks in vehicles	(a) location within the vehicle (b) securing fireworks within vehicle (c) segregating and separating the fireworks from other substances and things in the vehicle

Chapter 3 Fireworks
Part 3.3 Consumer fireworks
Division 3.3.5 Packaging and safety information

Regulation 280

column 1 item	column 2 activity	column 3 particular information
2	storing consumer fireworks	(a) segregating and separating the fireworks from other substances and things (b) separation from ignition sources (c) keeping the fireworks in a locked container (d) keeping the fireworks away from children (e) keeping the fireworks away from food
3	use of consumer fireworks	(a) safe setting-up procedures (b) safe ignition procedures (c) safe observation distances (d) fire safety precautions (e) misfire procedures (f) disposal procedures for misfired and unused fireworks (g) clean-up procedures segregating and separating the fireworks from other substances and things in the vehicle

EXPOSURE DRAFT

Division 3.3.6 Storage of consumer fireworks

281 Application of div 3.5

A requirement under this division is in addition to any requirement under part 2.7 that applies to the storage of an explosive that is a consumer firework.

282 Place, time and quantity

Consumer fireworks may only be stored under a consumer fireworks licence—

- (a) at premises stated in the licence from which the fireworks are to be supplied; and
- (b) in the period beginning 2 days before the Queen's birthday supply period and ending 1 day after the end of the period; and
- (c) in a maximum quantity, stated in the licence, of no more than 200kg gross weight.

283 Storage premises

- (1) A person must not store consumer fireworks at premises under the authority of a consumer fireworks licence if—
 - (a) explosives are stored at the premises other than consumer fireworks or general use fireworks; or
 - (b) the premises are used for handling flammable substances in bulk.

Example of premises for par (b)

service stations

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

284 Storage requirements

- (1) A supplier of consumer fireworks must store the fireworks—
- (a) away from windows; and
 - (b) away from any source of ignition; and
 - (c) away from any area accessible by the public; and
 - (d) in a cabinet or room that is kept locked at all times except when necessary to take in or remove consumer fireworks.

Maximum penalty: 10 penalty units.

- (2) This regulation does not apply if the consumer fireworks are displayed in a display cabinet that complies with regulation 272 (2) (Display of consumer fireworks).
- (3) An offence against this regulation is a strict liability offence.

Division 3.3.7 Record keeping

285 Delivery receipts

- (1) A person who consigns consumer fireworks for delivery to the holder of a consumer fireworks licence must ensure that the licence-holder is given a delivery receipt showing the following:
 - (a) the date of delivery;
 - (b) kinds and quantities of fireworks delivered.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.
- (3) Compliance with subregulation (1) is a condition of the licence under the authority of which the consumer fireworks are supplied by wholesale.

286 Delivery records

- (1) If the holder of a consumer fireworks licence takes delivery of a consignment of consumer fireworks, the licensee must keep for a period of at least 3 years—
 - (a) the delivery receipt given under regulation 285 (Delivery receipts); or
 - (b) if the receipt is not kept—a record showing the following:
 - (i) the date of the delivery;
 - (ii) the kinds and quantities of fireworks delivered;
 - (iii) an explanation for why the receipt is not kept.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

287 Supply records

- (1) Within 5 business days after the end of the Queen’s birthday supply period, the holder of a consumer fireworks licence must give the Commissioner for Fair Trading—
- (a) a copy of each consumer fireworks authorised receipt issued under the authority of the licence; and
 - (b) a report accounting for all consumer fireworks delivered to the licensee; and
 - (c) all remaining blank forms of consumer fireworks authorised receipts held by the licensee.

Maximum penalty: 30 penalty units.

- (2) The licence-holder must also keep an additional copy of each consumer fireworks authorised receipt issued under the authority of the licence for at least 3 years after the receipt was issued.

Maximum penalty: 30 penalty units.

- (3) An offence against this regulation is a strict liability offence.

Division 3.3.8 Use of consumer fireworks

288 Application of div 3.3.8

- (1) This division does not apply to a person who is authorised to use consumer fireworks under a licence.

Example

A display operator's licence may authorise the use of consumer fireworks.

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Subject to subregulation (1), a person is only authorised to use consumer fireworks in accordance with this division.

289 Authority for using consumer fireworks

- (1) A person (a *primary authorised user*) is authorised to use consumer fireworks if the person—
 - (a) is an adult; and
 - (b) lives in the ACT; and
 - (c) holds a consumer fireworks authorised receipt to use the fireworks.
- (2) A person is also authorised to use consumer fireworks if the person—
 - (a) is an adult; and
 - (b) uses the fireworks in the presence, and under the direct supervision, of someone mentioned in subregulation (1).

290 Use on Queen’s birthday long weekend

- (1) A person must not use consumer fireworks except between 5 pm and 11 pm on the following days:
 - (a) the second Monday in June;
 - (b) the Saturday and Sunday immediately before that Monday.

Note The second Monday in June is an annual public holiday to celebrate the Queen’s birthday (see *Holidays Act 1958*, s 3 (1) (a) (viii)).

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

291 Storing consumer fireworks

- (1) A primary authorised user of consumer fireworks must ensure that before the fireworks are used, they are—
 - (a) kept in the sealed package in which they were supplied; and
 - (b) stored in accordance with the information given by the supplier under division 3.3.5 (Packaging and safety information).

Maximum penalty: 20 penalty units.

- (2) An offence against this regulation is a strict liability offence.

292 How to use consumer fireworks

A primary authorised user of consumer fireworks must ensure that they are used—

- (a) so as not to endanger any person or damage any property; and
- (b) in accordance with the information given by the supplier under division 3.3.5 (Packaging and safety information).

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

Part 3.4 Display fireworks

Division 3.4.1 Definitions

293 Display fireworks definitions

In these regulations:

cultural event—see regulation 243 (2) (d) (Time and place restrictions—outdoor displays).

display operator’s licence means a licence authorising the use of display fireworks during the period stated in the licence.

display permit means—

- (a) a fireworks display permit; or
- (b) a special fireworks display permit.

display site, for a fireworks display authorised by a display permit, means the immediate area of the display and the area under the direct control of the permit-holder, including all of the following:

- (a) the point of launch;
- (b) the fall-out area;
- (c) the area within the largest applicable minimum safety distance (under regulation 319 (Clearance distances)) from all viewing areas and any protected works;

fireworks display means a display of fireworks, whether indoors or outdoors, and includes the testing of display fireworks.

Examples

- 1 an outdoor display of fireworks in association with a public event such as the Canberra Show or an outdoor entertainment such as a game of football at Canberra Outdoor Stadium
- 2 an indoor display of theatrical fireworks for indoor effects at a theatre in association with the performance of a children's pantomime
- 3 an outdoor display of Chinese firecrackers to celebrate Chinese New Year

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

fireworks display permit, for a fireworks display, means a licence authorising the conduct of the display.

operator's authority means—

- (a) a display operator's licence; or
- (b) a special fireworks display permit.

special fireworks display permit, for a particular fireworks display or particular displays, means a licence authorising the use of display fireworks for the conduct of the display or displays.

Examples

- 1 a permit for a limited season of a special outdoor theatrical show
- 2 a permit for the use of Chinese firecrackers at Chinese New Year (this is a *cultural event*—see reg 342 (2) (d) (Applications for displays for cultural events)).

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Division 3.4.2 Fireworks display authorisation requirements

294 Requirement for operator's authority

VR 808

- (1) A person is authorised to use a display firework if—
 - (a) the person holds an operator's authority authorising the use of the firework; or
 - (b) the person is engaged (as an employee or contractor) by a person who holds an operator's authority to use the firework under the authority-holder's direct supervision.
- (2) Subregulation (1) does not apply to the use of a consumer firework in accordance with part 3.3.

Note 1 An *operator's authority* is a display operator's licence or a special fireworks display permit. Both are licences issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this provision may commit an offence against the Act, s 79 (Unauthorised use of certain dangerous substances).

295 Requirement for display permit

- (1) A person is authorised to use a display firework for the conduct of a fireworks display if—
 - (a) the person holds a display permit authorising the conduct of the display; or
 - (b) the person is engaged (as an employee or contractor) by a person who holds a display permit to use the firework for the

conduct of the display under the permit-holder's direct supervision.

- (2) Subregulation (1) does not apply to the use of a consumer firework in accordance with part 3.3.

Note 1 A **display permit** is a fireworks display permit or a special fireworks display permit. Both are licences issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

Note 2 A person who contravenes this provision may commit an offence against the Act, s 79 (Unauthorised use of certain dangerous substances).

296 Authority to be produced VR 805

A person who holds an operator's authority or a display permit must—

- (a) carry the authority or permit at all times when using, or preparing to use, the fireworks authorised to be used by the authority or permit; and
- (b) produce the authority or permit when requested to do so by an inspector, police officer or firefighter.

- (2) In this regulation:

firefighter means—

- (a) a member of the fire brigade, or the fire commissioner; or
- (b) a volunteer who, at or immediately after a fire, has placed his or her services at the disposal of the fire commissioner, while exercising functions under the *Fire Brigade Act 1957*, section 7; or

- (c) a bushfire brigade member, a fire control officer, an emergency volunteer firefighter, or the chief fire control officer, under the *Bushfire Act 1936*; or
- (d) a member of a firefighting organisation established in any area of a State or another Territory, while assisting at or immediately after a fire in the ACT.

297 Prescribed authorisation conditions—compliance with pt 3.4

- (1) It is a condition of an operator’s authority or a fireworks display permit that—
 - (a) the holder of the authority or permit ensures that this part is complied with in relation to the handling of display fireworks, the conduct of firework displays and any activity related to that handling or conduct (for example, record keeping); and

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) anyone else involved in the handling of display fireworks complies with a duty imposed on the person under this part.

Note Operator’s authorities and fireworks display permits are licences under the Act. The holder of an authority or permit who fails to comply with a condition of the authority or permit may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

- (2) If a person holds a display operator's licence and a fireworks display permit, a requirement that applies to the person under this part in either capacity is taken to be a condition of both the licence and the permit.

Note The holder of a fireworks display permit must also hold a display operator's licence (see reg 300).

Division 3.4.3 Display operator's licences

298 Operator qualifications VR 809

- (1) The chief executive may issue a display operator's licence only if satisfied that the applicant for the licence has demonstrated an adequate knowledge of—
- (a) safety in the use of fireworks of the kind and size stated in the application; and
 - (b) the requirements of these regulations that relate to display fireworks.
- (2) In order to be satisfied that the applicant meets the requirements of subregulation (1), the chief executive may require the applicant to meet 1 or more of the following conditions:
- (a) that the applicant pass an examination approved by the chief executive to test the applicant's knowledge of the matters stated in subregulation (1);
 - (b) that the applicant attend a training course approved by the chief executive on the use of the fireworks, and demonstrates suitable practical experience to the satisfaction of the chief executive;

- (c) that the applicant demonstrate suitable practical experience to the satisfaction of the chief executive.
- (3) Subregulation (2) (b) does not apply if the applicant holds a qualification relating to the use of the fireworks issued outside the ACT that is approved by the chief executive.

Note Additional criteria apply to the issue of the licence (see the Act, pt 4.2).

299 Record keeping by licensees

- (1) A person who holds an operator's licence must—
 - (a) make a record of each fireworks display conducted under the authority of the licence; and
 - (b) keep the record for 3 years after the display.

Maximum penalty: 30 penalty units.

- (2) An offence against this regulation is a strict liability offence.

Division 3.4.4 Display permits

Note A *display permit* is either a fireworks display permit or a special fireworks display permit (see reg 293 (Display fireworks definitions)).

300 Fireworks display permits—display operators only

The chief executive may issue a fireworks display permit to an applicant only if—

- (a) the applicant holds a display operator's licence; and
- (b) the licence authorises the use of fireworks in relation to which the permit is issued.

301 Special fireworks display permits—operator qualifications

- (1) The chief executive may issue a special fireworks display permit only if satisfied that the applicant for the permit has demonstrated an adequate knowledge of—
 - (a) safety in the use of fireworks of the kind and size to be used in the display or displays stated in the application; and
 - (b) the requirements of these regulations that relate to display fireworks.
- (2) For subregulation (1), the chief executive must take into account any relevant qualifications held by the applicant.

302 Time and place restrictions—outdoor displays

- (1) This regulation applies to outdoor fireworks displays.
- (2) The chief executive may only issue display permits for displays proposed for the following times:
 - (a) Fridays, Saturdays and public holidays, between 5.00 pm and 10.00 pm;
 - (b) 31 December in any year, between 5.00 pm and 12.00 pm;
 - (c) 1 January in any year, between 12.00 am and 12.30 am;
 - (d) for an event (a *cultural event*) celebrating a cultural, religious or traditional occasion—times and days appropriate for the celebration of the events;
 - (e) for theatrical shows—times and days considered suitable by the chief executive;

- (f) in any other case—a time and day approved by the Minister in writing.

Examples of cultural events for par (d)

- 1 Chinese New Year celebrations
- 2 USA independence day celebrations on 4 July

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An approval under subregulation (2) (f) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (4) The chief executive must not issue a display permit that authorises the use of fireworks on land leased for residential purposes.

303 Special fireworks display permits—testing

The chief executive must not issue a special fireworks display permit authorising the use of display fireworks for testing if the testing is not associated with a particular fireworks display or displays.

304 Crackers not to be used indoors

The chief executive must not issue a display permit authorising the use of crackers or strings of crackers if the crackers are to be used indoors.

Example of prohibited fireworks display

an indoors fireworks display for Chinese New Year using Chinese firecrackers

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

305 Applications for display permits

VR 811 (1)

- (1) The applicant for a display permit must give the following information to the chief executive with the application:
- (a) the applicant's name and the number of—
 - (i) any licence already held by the applicant; and
 - (ii) any authority to use fireworks held by the applicant that is issued under a law of a State or another Territory;
 - (b) the time and date of the display;
 - (c) the name and contact details of the person or organisation sponsoring the display;
 - (d) details of all insurance arrangements in relation to the display, including professional indemnity and public liability insurance arrangements;
 - (e) the location of the display, its potential community impact and its potential impact on the surrounding areas;
 - (f) details of any approval to use unleased national or Territory land that is required under a law of the Commonwealth or the Territory for the conduct of the display;
 - (g) for an outdoor display—neighbouring resident notification arrangements;
 - (h) public notification arrangements;
 - (i) police, fire and emergency services authorities notification arrangements;
 - (j) kind, size and quantity of fireworks to be used;

- (k) fireworks site storage arrangements;
 - (l) site security and public control arrangements during the set-up, operation and dismantling of the display;
 - (m) public safety arrangements and separation distances;
 - (n) details of the applicant's compliance with any licences previously issued for fireworks displays, and other legal requirements for any fireworks displays, whether the displays were conducted in the ACT or elsewhere;
 - (o) any other information required by a form approved under the Act, section 222.
- (2) An application for a fireworks display permit must be made no later than 10 business days before the day of the proposed fireworks display (or the earliest day of the proposed displays, if there are more than 1).

306 Displays for cultural events

VR 812 (1)

If the fireworks display is for a cultural event, the chief executive may issue a display permit only if the event is sponsored or organised by—

- (a) an incorporated association under the *Associations Incorporation Act 1991*; or
- (b) an individual or individuals on behalf of an unincorporated non-profit community organisation; or
- (c) an embassy, high commission or consulate.

307 Amendment of display permits because of weather conditions

VR 813

- (1) This section applies if an event for which a fireworks display is authorised by a display permit is postponed—
 - (a) because any day of the event is during a period for which a warning has been published under the *Bushfire Act 1936*, section 7A (1) (Days of acute fire danger); or
 - (b) because of bad weather conditions.
- (2) The permit-holder may, without paying any fee otherwise payable under the Act for the amendment of the permit, apply under the Act for the amendment of the permit so that it authorises the display on a later day.
- (3) However, the chief executive may amend a permit on an application under subregulation (2) only if the later stated day is no later than a month after the latest day for which the permit was originally issued.

Note Display permits are licences, and are issued under the Act. The Act, pt 4.2 provides for the amendment of licences. A licence may be amended under that part otherwise than as mentioned in this regulation, but a fee may be payable for the application for the amendment (see the Act, s 221).

Division 3.4.5 Notification of fireworks displays

308 Application of div 3.4.5

This division applies if the holder of a display permit proposes to conduct an outdoor fireworks display authorised by the permit.

309 Public notice for outdoor displays

(1) The holder of the display permit must ensure that, within the notification period, there is published in a daily newspaper circulating in the ACT a notice stating the date, time, duration and location of the proposed fireworks display.

(2) In this regulation:

notification period means between 3 and 7 days before the date for the proposed fireworks display.

310 Notification of police, fire and emergency services

(1) The holder of the display permit must, no later than 7 days before the proposed date for the fireworks display, give notice to the police and fire authorities of the following details about the proposed display:

- (a) the date, time, duration and location of the proposed display;
- (b) any other details required to be notified by a form approved under the Act, s 222 for this regulation.

(2) In this regulation:

police and fire authorities means both of the following:

- (a) the chief police officer;
- (b) the fire commissioner or the chief fire control officer, as appropriate.

Division 3.4.6 Management of fireworks displays—general

311 Application of div 3.4.6

- (1) This division applies to a person who holds a display permit in relation to the conduct of any display (whether indoor or outdoor) authorised by the permit.
- (2) The permit-holder must ensure that the display is conducted in accordance with this division.

312 Supervision

A fireworks display authorised by a display permit must be conducted under the direct supervision of the permit-holder.

313 Fire protection

VR 820

- (1) Adequate resources for fire prevention and a suitable means of firefighting must be available at the display site.
- (2) Before the display starts, as far as is practicable, all easily ignitable material at the display site must be—
 - (a) removed from the display site; or
 - (b) reduced; or
 - (c) treated to reduce the risk of fire.

314 Sources of ignition

VR 823

- (1) A person must not bring a source of ignition, or permit a source of ignition to be brought, within 10m of fireworks to be used for a fireworks display authorised by the licence.

Maximum penalty: 30 penalty units.

Example of a source of ignition

smoking a cigarette

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Subregulation (2) does not apply to a source of ignition necessary to discharge the fireworks.
- (3) An offence against this regulation is a strict liability offence.

315 Keys for electrical firing

- (1) If fireworks are to be fired electrically—
- (a) if the firing unit includes a key-operated switch, the key must remain in the control of the holder of the display permit at all times; or
- (b) if the firing unit does not include a key-operated switch—
- (i) the firing unit must be kept in a locked receptacle; and
- (ii) the key for the receptacle must remain in the control of the holder of the display permit at all times.

- (2) When testing electrical firing circuits, the holder of the display permit, or anyone authorised by the permit-holder to operate the circuits, must ensure that no other person is present in the immediate area of the fireworks attached to the electrical firing unit.

Maximum penalty: 30 penalty units.

- (3) An offence against this regulation is a strict liability offence.

316 Display clean-up

VR 806

- (1) After the display—
- (a) the display site must be inspected as soon as possible for any unfired firework; and
 - (b) any unfired firework that is found must be collected and disposed of in accordance with the requirements of part 2.10 (Disposal) ; and
 - (c) all debris resulting from the handling of the fireworks must be cleared away and disposed of, as far as is practicable.
- (2) Anyone not authorised by the holder of the display permit must not enter the display site until subregulation (1) is complied with.

317 Malfunctions

VR 807

If a firework malfunctions and there is risk to the public—

- (a) operations relating to the display must be stopped immediately; and
- (b) the cause of the malfunction must be worked out; and

- (c) those operations must not be resumed until—
 - (i) the cause of the malfunction is determined; and
 - (ii) the malfunction has been rectified; and
 - (iii) it is safe to resume operations.

Division 3.4.7 Management of fireworks displays—outdoors

318 Application of div 3.4.7

- (1) This division applies to a person who holds a display permit in relation to the conduct of any outdoor fireworks display authorised by the permit.
- (2) The permit-holder must ensure that the display is conducted in accordance with this division.

319 Clearance distances

VR 821

- (1) The place from which each kind of firework mentioned in table 319.1, column 1 is discharged for a fireworks display must be no closer than the minimum clearance distance worked out in accordance with the table, column 2 for the kind of firework from—
 - (a) anyone except the holder of a display permit or someone authorised by the permit-holder to handle the firework; and
 - (b) any of the following:
 - (i) a building or structure;
 - (ii) a place where dangerous substances are stored;

- (iii) a route for traffic of any kind (for example, motor vehicle, bicycle or pedestrian traffic);

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (iv) a place where it is proposed that people will assemble to view the display.
- (2) The minimum clearance distances under subregulation (1) must be increased if necessary—
- (a) to adjust for wind-drift; and
- (b) for a firework that is fired from a mortar—to adjust for the angle of the mortar.
- (3) Subregulation (1) is subject to any contrary condition stated in the display permit.

Table 319.1 Minimum clearance distances for display fireworks

column 1 item	column 2 kind of fireworks	column 3 minimum clearance distance
1	lancework	10m
2	fountains— 25mm or less maximum inside diameter	20m
3	fountains— more than 25mm maximum inside diameter	35m

column 1 item	column 2 kind of fireworks	column 3 minimum clearance distance
4	ground level fireworks, unless otherwise provided in this table	the greater of the following: (a) 1m per mm of internal diameter of firework; (b) 35m
5	aerial fireworks, unless otherwise provided in this table	the greater of the following: (a) 1m per mm of diameter of firework; (b) 35m
6	fireworks (ground-level or aerial) that are chain-fused Examples 1 a large multi-shot cake 2 a preloaded aerial barrage	twice the clearance distance worked out under item 4 or 5
7	multi-break aerial shells—less than 200mm diameter	clearance distance worked out under item 4 for an aerial shell that is 25mm larger Example for a 100mm multi-break aerial shell—125m

column 1 item	column 2 kind of fireworks	column 3 minimum clearance distance
8	multi-break aerial shells— 200mm diameter or more	clearance distance worked out under item 5 plus 50% Examples 1 for a 200 mm diameter multi- break aerial shell—300 m 2 for a 400 mm diameter multi- break aerial shell—600 m

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

320 Barriers

VR 822

- (1) Anyone except someone authorised by the holder of a display permit to handle display fireworks must be kept at a safe distance, by the use of an effective barrier or barriers, from—
 - (a) the firing point; and
 - (b) the set-up point, if that is a different place.

Example of different firing point and set-up point

fireworks set-up on a barge in a lake that are fired from a remote firing point

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The barriers must be patrolled and secured to ensure no unauthorised access.

- (3) The barriers for the firing point must not be closer to the firing point than the greatest minimum clearance distance required under regulation 319.
- (4) Conspicuous notices must be displayed, or announcements must be made, warning unauthorised people not to enter the barricaded area.
- (5) In this regulation:
effective barrier means—
 - (a) a fence, cordons or similar device; or
 - (b) a body of water or other natural barrier.

321 Keeping fireworks at site

VR 824

- (1) All fireworks at the site of the display must be kept within the barricaded area mentioned in regulation 320.
- (2) All fireworks at the site of the display must be kept in sturdy spark-proof receptacles within the barricaded area.
- (3) Each receptacle must be—
 - (a) located at least 10m from the edge of the barricaded area; and
 - (b) kept closed except when fireworks are taken out for firing.

322 Firing aerial shells

VR 825

Aerial shells fired for the display must be fired—

- (a) so as not to pass over spectators; and
- (b) so that they break or explode over the display site; and

- (c) so as not to come within 8m of any overhead object; and
- (d) so that any misfired shell will fall within the display site; and
- (e) from mortars that are effectively stabilised to prevent adjacent mortars from being realigned during firing or because of any shell malfunctioning; and
- (f) otherwise in accordance with the requirements of AS 2187.4 for the firing of aerial shells.

323 Mortars for firing aerial shells

VR 826

- (1) If a mortar is used for firing aerial shells—
 - (a) the mortar must be suitable for the purpose; and
 - (b) if the shells are greater than 150mm in diameter, the mortar—
 - (i) must be buried to its full length in the ground, if practicable; or
 - (ii) if it is not practicable to bury the full length of the mortar in the ground—must be surrounded over its full length with bags of sand to a width of at least 1m in all directions; and
 - (c) the mortar must otherwise be used in accordance with the requirements of AS 2187.4.
- (2) If a metal mortar is used for firing a firework other than an aerial shell, the mortar must be fixed in place in accordance with subregulation (1) (b) (i) or (ii).

324 Supporting structures

VR 827

(1) Any ground display fireworks and supporting structures must be securely placed and firmly braced so that they will not fall over when the fireworks are fired.

(2) In this regulation:

ground display fireworks means fireworks that—

- (a) primarily function on the ground; and
- (b) project stars, novelty effects or other effects above the ground.

325 Prevention of cross ignition

VR 828

(1) Any mortars and ground display fireworks must be positioned to prevent fallout or burning particles igniting adjacent fireworks.

(2) In this regulation:

ground display fireworks means fireworks that—

- (a) primarily function on the ground; and
- (b) project stars, novelty effects or other effects above the ground.

Division 3.4.8 Use of display fireworks

326 Application of div 3.4.8

This division applies to a person who holds a display permit in relation to the conduct of any display authorised by the permit.

327 Use of theatrical fireworks

VR 816

- (1) The only kind of fireworks that may be used for theatrical, entertainment or similar purposes are theatrical fireworks.
- (2) A theatrical firework may only be used for theatrical, entertainment or similar purposes.
- (3) A theatrical firework must not be used unless—
 - (a) it is manufactured in accordance with the Act and these regulations; and
 - (b) the use is in accordance with the manufacturer's instructions.
- (4) A person who uses a theatrical firework must ensure that spectators remain at a safe distance.
- (5) In this regulation:

theatrical firework means—

- (a) loose poured flash powder; or
- (b) a firework that is—
 - (i) fitted with, or adapted to, the use of an electrical ignition device; and
 - (ii) designed to be safe for indoor use for theatrical purposes; or
- (c) a firework that has been adapted, and approved by the chief executive, for theatrical use.

328 Use of flash powder

VR 818

- (1) Flash powder used for a fireworks display must not—
 - (a) be mixed with any other substance; or
 - (b) be used in a flash pot that—
 - (i) is made of steel or other ferrous material; or
 - (ii) has an opening the greatest width of which is less than 5 times the depth of the pot; or
 - (c) be subject to vibration; or
 - (d) be initiated by anything other than an electrical firing system.
- (2) A flash pot for the discharge of flash powder for the display must not—
 - (a) if the powder is used indoors—be placed near any entrances, exits or escape routes from the premises where the display is to be conducted; and
 - (b) be placed within 3m of—
 - (i) any flammable materials; and
 - (ii) anyone who is, or who may reasonably be expected to be, present in the vicinity of the display; and
 - (c) be put in place after the powder is initiated (and before it has fired).

- (3) A person using flash powder—
- (a) must, immediately before the powder is to be fired, maintain a clear view of the area in which the flash powder is to be used; and
 - (b) must not fire the flash powder unless, having regard to all the circumstances, it is safe to do so.

Maximum penalty: 30 penalty units.

- (4) An offence against this regulation is a strict liability offence.

329 Use of Chinese firecrackers

VR 815, 816

- (1) Chinese firecrackers must not be fired indoors.
- (2) If long-string Chinese firecrackers are fired—
 - (a) anyone not involved in the firing the firecrackers must be kept back at least 5m in every direction from the firing point by the use of effective barriers; and
 - (b) any unauthorised people must be prevented from entering the display site while the firecrackers are fired; and
 - (c) the firecrackers must be securely attached to a support that suspends the entire string above the ground, and that will not fall over while the firecrackers are fired.

(3) In this regulation:

effective barrier means—

- (a) a fence, cordon or similar device; or
- (b) a body of water or other natural barrier.

long-string Chinese firecrackers means a string of Chinese firecrackers longer than 50cm.

Note *Chinese firecrackers* are strings of crackers (see dict, def *Chinese firecrackers*).

Schedule 1 Consumer fireworks— authorisation standards

(see reg 24 (4) (b))

Part 1.1 Preliminary

1 General

These standards apply to—

- (a) the testing of consumer fireworks for the classification and authorisation of the fireworks under the Act and these regulations; and
- (b) the preparation of the testing report required to accompany a request for authorisation of consumer products for these regulations.

Note 1 **The Act** is the Dangerous Substances Act 2004. **These regulations** are the *Dangerous Substances (Explosives) Regulations 2004*.

Note 2 In these regulations, reg 256 defines **consumer fireworks** as fireworks of each of the following kinds (see detailed definitions of each kind in these regulations, dict.):

- fountains
- ground spinners
- snakes (also known as *glow worms*)
- multishot cakes
- roman candles
- wheels.

Note 3 Any particular kind of consumer firework may only be authorised for supply during the Queen's birthday supply period (the 2 weeks before the Queen's birthday holiday) in each year if it has been tested within 6 months before the beginning of that period.

Part 1.2 Construction and design standards

2 General construction and design standards

A consumer firework must meet the following construction and design standards:

- (a) the firework must be constructed to prevent the escape of any explosive when the firework is handled normally;
- (b) the firework must be designed so that it is not likely to cause personal injury or property damage when used in accordance with the instructions that are to be provided when it is supplied by retail;
- (c) the firework must not contain a mixture of an unstable, toxic or highly sensitive nature that could possibly make it unsafe.

3 Weight standards

Consumer fireworks of the kinds mentioned in table 3.1, column 1 must each not have more than the weight of pyrotechnic substance stated in column 2 for the kind of firework.

Table 3.1 Maximum weight of pyrotechnic substance

column 1 item	column 2 kind of consumer firework	column 3 maximum weight of pyrotechnic substance
1	fountains	60g
2	ground spinners	20g
3	snakes (or <i>glow worms</i>)	2g
4	multishot cakes	(a) no more than 60g in total; and (b) for each tube—10g
5	roman candles	(a) no more than 20g in total; and (b) for each star—5g
6	wheels	(a) no more than 60g in total; and (b) for each driver—20g

4 Composition standards

- (1) Explosives in a consumer firework must not contain any of the following:
- (a) mixtures of chlorates with sulphur, sulphides, phosphorus, acids, metal powders or any ammonium salts;
 - (b) arsenic or arsenic compounds, lead or lead compounds or white phosphorous or mercury compounds;
 - (c) mixtures containing picric acids or salts of picric acids; or

- (d) any other substance or mixture of an unstable, toxic or highly sensitive nature that that could possibly make the firework unsafe.
- (2) The pyrotechnic substance contained in a consumer firework must be 5% or less flash powder.
- (3) If a consumer firework contains flash powder, it must be exclusively for visual effect, and not for aural effect.

5 Ignition standards

A consumer firework must—

- (a) be designed to be ignited by the lighting of a wick, fuse or touch paper; and
- (b) be easy to ignite with an ordinary match; and
- (c) fire initially between 5 and 10 seconds after ignition; and
- (d) for a multishot cake or multi-tube firework—fire with no more than 5 seconds delay between ignition of successive tubes.

6 Firing standards

- (1) A consumer firework must not explode wholly or in part.
- (2) Any aural effect of a consumer firework must be—
 - (a) no greater than is necessary to achieve the visual effect of the firework; and
 - (b) a subsidiary effect only.
- (3) A consumer firework must be stable when resting in position before ignition, and when it is fired.

- (4) A consumer firework must—
- (a) have an area of effect of less than 3m radius; and
 - (b) be able to be observed safely at no more than 5m from where it is fired.
- (5) After firing, a consumer firework must not project itself, or any part of itself, through the air in an erratic or unpredictable way.
- (6) Any particle or debris from firing a consumer firework that is projected laterally more than 3m from where it is fired—
- (a) must not have a mass of more than 5g; and
 - (b) must not be burning or incandescent within 3m of the ground, as indicated by the shaded area in figure 6.1.

Figure 6.1

Burning or incandescent material not allowed in shaded area



Part 1.3 Sampling and testing standards

Note Any firework that fails a test under this part must be disposed of under these regulations, pt 2.10 (Disposal).

7 Sampling standard

- (1) Batches of consumer fireworks from which samples are taken for testing must be the batches which are proposed to be supplied by retail during the next Queen’s birthday supply period.
- (2) Batches of fireworks must contain no fewer than 100 fireworks.
- (3) The minimum number of consumer fireworks in a batch mentioned in table 7.1, column 1 that must be tested under this part in the circumstances stated in columns 2 and 3 for that batch is as set out in columns 2 and 4 for the batch.

Note This sch, cl 12 (Batch identification) sets out the requirements for identifying batches of consumer fireworks that are subject to sampling and testing.

Table 7.1 Sampling requirements

column 1 item	column 2 Quantity of fireworks in batch	column 3 Minimum sample size for initial testing	column 4 Failure rate for initiation of 2nd round of testing	column 5 Minimum sample size for 2nd round of testing
1	100–500	6	1	6
2	501 or more	10	1	10

8 Test 1—weight and composition

- (1) Consumer fireworks must be tested for compliance with the standards in this schedule, clause 3 (Weight standards) and clause 4 (Composition standards).

Note The size of the sample of fireworks to be tested in a batch must be worked out in accordance with table 7.1.

- (2) If fireworks remain from a batch of consumer fireworks tested in a previous year that satisfy the requirements for this test, the results of that test may be submitted to satisfy the requirement for this test.

9 Test 2—ignition and firing

- (1) Consumer fireworks must be tested for compliance with the standards in this schedule, clause 5 (Ignition standards) and clause 6 (Firing standards).

Note The size of the sample of fireworks to be tested in a batch must be worked out in accordance with table 7.1.

- (2) For the test, the fireworks to be tested must be ignited and allowed to fire while the performance of the firework is observed and measured.
- (3) The test must be conducted within 6 months before the beginning of the Queen’s birthday supply period for which supply authorisation is sought.

10 Test 3—labelling and construction

- (1) Consumer fireworks must be tested for compliance with—
 - (a) these regulations, division 3.3.4 (Labelling and information) and division 3.3.5 (Packaging and safety information); and
 - (b) this schedule, clause 2 (General construction and design standards).

- (2) All consumer fireworks in each batch must be visually inspected for this test.

Part 1.4 Classification report

11 Form of report

Subject to this part, the classification report must be prepared in accordance with any form approved for the Act, section 222.

12 Batch identification

The classification report must identify each batch of consumer fireworks to be authorised—

- (a) by the manufacturing batch number; or
- (b) if the manufacturing batch number is unavailable—by the shipment number and date of arrival of the shipment in Australia; or
- (c) if details of the shipment are also unavailable—by the date of the receipt of the fireworks and the name and address of the wholesale supplier.

13 Manufacturer's details

- (1) The classification report must include the manufacturer's product code for each consumer firework that is tested.
- (2) If the firework has been relabelled with a name different to that under which it was originally supplied, the classification report must include the original manufacturer's product code for the firework.
- (3) The classification report must also include the name of the manufacturer of each consumer firework that is tested.

(3) In this clause:

manufacturer's product code, for a consumer firework, means the name and model number used by the manufacturer to identify the firework.

Note Fireworks from different manufacturers often have the same or similar names or appearance, but different performance characteristics.

14 Photographs or catalogue images of fireworks

- (1) The classification report must include, for consumer fireworks of each kind that is tested—
 - (a) a colour photograph; or
 - (b) a catalogue image (whether in colour or black and white).
- (2) The photograph or image must show—
 - (a) the entire firework with its label; and
 - (b) the detail on the label so that it can be read from the photograph or image.

Schedule 2 Safety management systems **VR 307 (1), sch 1**

(see reg 45 (1) (j))

1 Safety policy and safety objectives

- (1) A description of how the operator's safety policy and specific safety objectives are to be communicated to all people who are to participate in the implementation of the safety management system.
- (2) An express commitment to the ongoing improvement of all aspects of the safety management system.

2 Organisational structure and personnel

The identification (according to position, description and location) of the people who are to participate in the implementation of the safety management system, and a description of the command structure in which these people work and of the specific tasks and responsibilities allocated to them.

3 Operational controls

Establishment of operational procedures and instructions including (but not limited to) the following:

- (a) supervision of visitors and contractors in explosives areas;
- (b) maintenance of buildings, plant and equipment, including decontamination;
- (c) restrictions on smoking, alcohol and other similar factors;

- (d) control of chemicals in the factory, including segregation of incompatible materials;
- (e) selection, maintenance and use of personal protective equipment;
- (f) lock-out and tag-out, confined space entry and hot work permits;
- (g) disposal of waste explosives and ingredients, including burning ground procedures;
- (h) modification of process equipment, formulations, materials, packaging or procedures;
- (i) testing of trips, alarms and other protection systems;
- (j) sampling and product testing;
- (j) an emergency response plan, including an evacuation plan, appropriate fire fighting controls, consequence minimisation steps (including control of spills and an appropriate off-site response);
- (k) carrying, storage, security and use of explosives;
- (l) materials handling;
- (m) receipt of explosives and ingredients into site;
- (n) explosives and personnel limits in buildings or locations;
- (o) adverse weather conditions (including lightning);
- (p) restrictions on sources of ignition;
- (q) training and competency evaluation of staff;

- (r) explosives manufacture, including operation of plant and equipment, particularly pumps, for explosives;
- (s) explosives operation or activities with particular emphasis on hazards, housekeeping and accident prevention;
- (t) incident and accident reporting and response;
- (u) non-conforming raw materials and products;
- (v) maintenance of records;
- (x) safety meetings;
- (y) complaints and response;
- (z) self-auditing of systems and procedures.

4 Management of change

Establishment of procedures for planning modifications to the factory (if applicable).

5 Performance monitoring

Necessary performance standards must—

- (a) relate to all aspects of the safety management system; and
- (b) be sufficiently detailed to ensure that the ability of the operator to ensure the effectiveness of all aspects of the safety management system is apparent from the documentation; and
- (c) be measurable; and

- (d) include the following:
- (i) a requirement to report the failure of any control measure, whether or not the failure results in a major incident;
 - (ii) the system for reporting a failure;
 - (iii) other corrective action to be taken if a failure occurs;
 - (iv) steps to be taken to continually improve all aspects of the safety management system, including by testing the effectiveness of control measures.

6 Audit

Provision for the audit of performance against the performance standards, including the methodologies, frequency and results of the audit process.

Dictionary

(see reg 3)

aerial shell means a firework that is designed—

- (a) to be projected from a mortar by a lift charge; and
- (b) to burst high in the air; but
- (c) not to produce a loud report.

amorce means a firework that—

- (a) is a percussion cap; and
- (b) has an envelope of paper or other material containing a dot of impact-sensitive pyrotechnic substance; and
- (c) may form part of a roll; and
- (d) is designed for use in toys.

ANFO means an explosive mixture of ammonium nitrate and fuel oil with or without a dye colouring agent.

application, for a licence—see regulation 17.

AS 2187.0 means Australian Standard 2187.0 *Explosives—Storage, transport and use, part 0: Terminology*.

AS 2187.1 means Australian Standard 2187.1 *Explosives—Storage, transport and use, part 1: Storage*.

AS 2187.2 means Australian Standard 2187.4 *Explosives—Storage, transport and use, part 4: Pyrotechnics—outdoor displays*.

AS 2187.4 means Australian Standard 2187.2 *Explosives—Storage, transport and use, part 2: Use of explosives*.

AS 4326 means Australian Standard 4326 *The storage and handling of oxidising agents*.

Australian Dangerous Goods Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, published by the Commonwealth of Australia.

Australian Explosives Code means the *Australian Code for the Transport of Explosives by Road and Rail*, published by the Commonwealth of Australia.

black powder means an explosive with a UN number of 0027 or 0028.

Note **Black powder** is a kind of gunpowder. It consists generally of potassium nitrate (or sodium nitrate), charcoal and sulphur, and under normal circumstances deflagrates rather than detonates (see AS 2187.0, def **black powder**).

blast hole means a hole made for placing in position explosives which are to be fired.

Note **Blast holes** are also known as **drill holes**.

blasting explosive means an explosive that—

- (a) contributes the majority of force in an explosion; and
- (b) is intended primarily for use in mining, quarrying, construction, demolition and excavation.

Example of kinds of explosives that may be blasting explosives

- 1 detonators
- 2 gunpowder for blasting
- 3 blasting compound
- 4 ANFO

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

blasting licence—see regulation 178.

blast plan—see regulation 189.

bulling means a procedure intended to enlarge a section of a blast hole to accommodate extra explosive.

Note ***Bulling*** is usually used to enlarge the bottom of the hole. This procedure is also known as ***chambering*** and ***springing***.

butt means a portion of a blast hole left after blasting.

capped fuse means a length of safety fuse with a detonator crimped only 1 end.

carrying licence—see regulation 88.

cartridge means a preformed unit of high explosive enclosed in material (for example, paper or plastic) of a predetermined diameter and length.

central mixing point, for an explosive mixture, for—see regulation 37.

Chinese firecrackers means strings of crackers.

class label has the meaning given by the Australian Dangerous Goods Code.

Note The Code, cl 7.1.1 (1) sets out the requirements for ***class labels*** for dangerous goods. Class labels are required to be attached to packages, containers and loads of dangerous goods and are used to identify the class of dangerous goods contained.

classification code—see regulation 16.

collective hazard division—see regulation 9.

compatibility group—see regulation 15.

consumer, for part 3.3 (Consumer fireworks)—see regulation 263.

consumer fireworks—see regulation 263.

consumer fireworks authorised receipt—see regulation 274.

consumer fireworks licence—see regulation 261.

cracker means a firework that is—

- (a) a tube of rolled paper, or other material containing an explosive substance; and
- (b) fitted with a wick or another method of ignition; and
- (c) designed to explode with a sharp report.

Note **Chinese firecrackers** are defined in the dictionary as strings of crackers.

cultural event—see regulation 302 (Time and place restrictions—outdoor displays).

cut-off means a form of misfire in which some explosive is left undetonated as a result of an adjacent explosion.

Example

- 1 separation of charge by ground movement
- 2 severance of the initiating line

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

detonating cord means a flexible cord with a solid core of high explosives.

detonator means a capsule or case containing an explosive of high sensitivity used for initiating other explosives.

Note A **detonator** is also known as a **blasting cap** or a **cap**.

display fireworks—see regulation 257.

display operator's licence—see regulation 293.

display site—see regulation 293.

distress signal means an article containing a pyrotechnic substance intended for signalling, warning, rescue or similar purposes, and includes the following:

- (a) marine flares and signals;
- (b) landing flares;
- (c) highway fuses;
- (d) line-carrying, anti-hail, cloud and avalanche rockets;
- (e) smoke generators.

driver licence—see the *Road Transport (Driver Licence) Act 1999*, dictionary.

electrical firing means—

- (a) firing by exploder; or
- (b) mains firing.

ensure—see regulation 18.

exempt explosive means an explosive that is exempt under division 2.2.2.

exploder means a self-contained portable device designed to produce electric current for firing charges.

explosive—

- (a) for part 2.4 (Manufacturing explosives)—see regulation 38; and
- (b) for the Act—see regulation 7.

explosive mixture—see regulation 37.

explosive mixture controller means a person who controls or manages the process of making an explosive mixture.

explosives driving licence—see regulation 88.

factory—see regulation 37.

filling or capping—see regulation 37.

fire, an explosive, means to initiate the explosive.

firework means an article that—

- (a) is designed for use as a form of entertainment; and
- (b) contains a pyrotechnic substance; and
- (c) may contain 1 or more other explosive substances; and
- (d) burns or explodes (or both) to produce a visual or aural effect (or both).

fireworks display—see regulation 293.

fireworks display permit—see regulation 293.

flash powder means a pyrotechnic substance which is intended to produce a flash of light (whether with or without a report, smoke or sparks).

fountain means a firework that—

- (a) has 1 or more cases or tubes containing pressed or consolidated pyrotechnic substance; and
- (b) is designed, upon ignition, to produce a shower of coloured sparks or smoke.

fuse lighter means a pyrotechnic article that burns with a very hot jetting flame, used to ensure ready ignition of safety fuses.

Note A ***fuse lighter*** is also known as a ***fuse igniter***.

general use firework—see regulation 255.

glow worm—see ***snake***.

ground spinner means a firework designed, upon ignition, to produce a shower of sparks while spinning on the ground.

handle, for an explosive, has the meaning given by the Act, section 10, for ***handling*** a dangerous substance.

hazard division—see regulation 8.

identification papers—see regulation 261.

igniter cord means a thin cord that—

- (a) burns with an external flame faster than a safety fuse; and
- (b) is used to ignite a number of fuses in sequence.

Note ***Igniter cord*** is also known as ***igniter fuse***.

issue, of a licence—see regulation 17.

large scale storage, of explosives—see regulation 113.

mains firing means the firing of charges from power cables connected to a source of electricity other than an exploder.

magazine means a store designed for keeping explosives, and includes a building, receptacle or place.

magazine area, for part 2.7 (Storing explosives)—see regulation 121.

manufacture—see regulation 37.

manufacturing licence—see regulation 37.

medium scale storage, of explosives—see regulation 113.

misfire—see regulation 237.

mobile manufacturing unit, for explosives—see regulation 37.

model rocket means a rocket that—

- (a) is propelled by a model rocket motor; and
- (b) contains a device for returning it to ground in a condition to fly again; and
- (c) is made of paper, wood or breakable plastic, but contains no substantial metal parts; and
- (d) is primarily designed to be used for the purposes of education, recreation and sporting competition.

model rocket motor means a commercially manufactured device that—

- (a) contains less than 62.5g of propellant; and
- (b) has a capacity for generating a total impulse of no more than 80 newtons; and
- (c) is designed to be used for the propulsion of model rockets.

modification, of a factory or safety management system—see regulation 37.

mortar means a plastic, cardboard, steel or other suitable tube for firing aerial shells and some kinds of mine.

multishot cake means a firework with 2 or more tubes—

- (a) on a common base in a common package or bundle, that are fused together; and
- (b) that are designed, upon ignition of a single external fuse, to fire sequentially in a predetermined series.

Note **Multishot cakes** are also known as **multishot box items** and **combinations**.

NEQ means the mass of explosive substance contained in an explosive.

Note **NEQ** stands for ‘net explosive quantity’.

operator’s licence—see regulation 293.

party popper means a firework that—

- (a) is designed to be held in the hand during use and operated by a pull-string; and
- (b) has an abrasive surface in sliding contact with a friction-sensitive pyrotechnic substance; and
- (c) is designed to produce a report while streamers or confetti (or both) are ejected.

percussion cap means a primer for a safety cartridge.

point of application or use, of an explosive—see regulation 37.

primary authorised user, of consumer fireworks—see regulation 289 (Authority for using consumer fireworks).

primer means the cartridge, or that portion of a charge, carrying a detonator or coupled to a detonating cord, by which the remainder of the charge is detonated.

process building means a building used for the manufacture or storage of explosives, other than for immediate use, in which—

- (a) an explosive is manufactured; or
- (b) an ingredient of explosive is used in a manufacturing process.

prohibited explosive means an explosive prohibited under division 2.2.3.

propellant means a deflagrating explosive used for propulsion.

protected works—see AS 2187.0.

pyrotechnic substance means a substance or mixture of substances designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reactions.

quantity, of explosive, means the NEQ of the explosive, unless otherwise stated.

Queen's birthday supply period, for part 3.3 (Consumer fireworks)—see regulation 270.

road—see *Road Transport (Safety and Traffic Management) Act 1999*, dict.

roman candle means a firework—

- (a) with 1 or more heavy cardboard tubes containing pyrotechnic substance and stars; and
- (b) that is designed, upon ignition, to expel the stars into the air.

safety cartridge means ammunition for small arms with UN number UN0012.

safety fuse means a fuse for blasting—

- (a) that is designed to burn at a rate of between 90 and 120 seconds per metre; and
- (b) that does not explode; and
- (c) whose burning is not communicated laterally to itself or similar fuses; and
- (d) that is used to initiate plain detonators and gunpowder.

salute shell means a firework that is designed—

- (a) to be projected from a mortar by a lift charge; and
- (b) to produce a loud report.

shotfirer—see regulation 178.

shotfirer's licence—see regulation 178.

signal tube means a small-bore flexible plastic tube, coated internally with an explosive powder, that can transmit a shock wave along the length of the tube.

small scale storage, of explosives—see regulation 113

snake means a firework that is—

- (a) a small pressed pellet of pyrotechnic substance; and
- (b) less than 25mm in diameter; and
- (c) designed, upon being placed on the ground and ignited, to produce an expanding snake-like ash.

Note **Snakes** are also known as **glow worms**.

snap for a bon-bon cracker means a firework that—

- (a) has 2 overlapping strips of card, paper or other material, with a friction-sensitive explosive substance in sliding contact with an abrasive surface; and
- (b) is designed to produce a report when the strips are pulled apart.

sparkler means a firework that—

- (a) has a rigid wire or stick partially coated with a slow-burning pyrotechnic substance; and
- (b) is designed to emit sparks with no report.

special fireworks display permit—see regulation 293.

special-purpose blasting licence—see regulation 178.

star means a firework that is—

- (a) a pressed or consolidated pellet of pyrotechnic substance; and
- (b) designed, upon ignition, to be fired into the air and to produce a display of colour and light; and
- (c) not designed to produce a report.

stem means to place sand or other inert material in a blast hole, either above explosives, or between decks of explosives, so that the effect of the explosives is maximised.

storage licence—see regulation 113

storage quantity table—see regulation 114

supplier, for part 3.3 (Consumer fireworks)—see regulation 263.

tamping means consolidating stemming material, or pressing explosive cartridge, in a drill hole.

UN number, of an explosive, means the number listed for the explosive in the Australian Explosives Code, appendix 2.

UN Test Manual means the *Recommendations on the transport of dangerous goods: Manual of tests and criteria, published by the United Nations*.

vehicle—see *Road Transport (General) Act 1999*, dictionary.

vulnerable facility—see AS 2187.0.

wheel means a firework that—

- (a) has 1 or more drivers; and
- (b) is designed, upon ignition, to rotate around a fixed point and produce a shower of coloured sparks.

Endnotes

1 Notification

Notified under the Legislation Act on 2003.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
