



Australian Capital Territory

Occupational Health and Safety Regulations Amendment

Subordinate Law 1999 No 21

The Australian Capital Territory Executive makes the following regulations
under the *Occupational Health and Safety Act 1989*.

Dated 28 August 1999.

BRENDAN SMYTH
Minister

GARY HUMPHRIES
Minister



Australian Capital Territory

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1 Commencement

These regulations commence on the day they are notified in the *Gazette*.

2 Regulations amended

These regulations amend the *Occupational Health and Safety Regulations*.

3 Substitution

Regulation 1 is repealed and the following regulation substituted:

“1 Name of regulations

These regulations are the *Occupational Health and Safety Regulations 1991*.”.

4 Definitions

Regulation 2 is amended by inserting the following definitions:

“ ***blaster***, in relation to an application for a permit, or to a permit, means the person who will supervise and control the use of the explosives described in the blast plan applicable to the application or the permit.

blast plan means a blast plan referred to in regulation 14.

Dangerous Goods Regulation means the *Dangerous Goods Regulation 1978* of the State of New South Wales in its application in the Territory.

explosive—see regulation 2AA.

firework means a firework within the meaning of subclause 4 (1) of the Dangerous Goods Regulation.

permit means a permit to use explosives in force under regulation 16 or the permit as varied under regulation 17.

use, in relation to explosives, means any of the following:

- (a) the preparation of explosives for detonation, including the testing or test firing of fuses, primers, boosters, detonation circuits and other equipment used to detonate explosives;
- (b) the placement of explosives for detonation;
- (c) the detonation of explosives.”.

5 Insertion

After regulation 2 the following regulation is inserted:

“2AA Meaning of explosives

- “(1) A thing or substance is an explosive if it is—
- (a) designated as a class 1 dangerous good in Schedule 1 to the Dangerous Goods Regulation, as in force from time to time; or
 - (b) a dangerous good that is assigned to class 1 within the meaning of subregulation 2.3 (2) of the *Road Transport Reform (Dangerous Goods) Regulations* of the Commonwealth, as in force from time to time.
- “(2) However, each of the following is not an explosive:
- (a) a firework;
 - (b) ammunition, within the meaning of the *Firearms Act 1996*, for a firearm within the meaning of that Act;
 - (c) an explosive-powered tool or projectile within the meaning of Part 9A of the regulations under the *Scaffolding and Lifts Act 1912* of the State of New South Wales in their application to the Territory.”.

6 Insertion of heading

After regulation 2AA (as inserted by the preceding provision) the following heading is inserted:

“PART 1A—DANGEROUS OCCURRENCES”.

7 Addition

The following Part is added at the end of the regulations:

“PART 4—USE OF EXPLOSIVES

“Division 1—Permit to use explosives

“11 Use of explosives at workplaces

- “(1) A person must not use an explosive at a workplace without a permit to use the explosive.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(2) A person must not use an explosive at a workplace in contravention of the terms and conditions of a permit to use the explosive.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(3) This regulation does not apply to the use of an explosive under the supervision of the registrar under subregulation 19 (4).

“12 **Use of explosives—obligations of employer and occupier**

“(1) An employer must not allow an employee to use an explosive at a workplace without a permit to use the explosive.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(2) An employer must not allow an employee to use an explosive at a workplace in contravention of the terms and conditions of a permit to use the explosive.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(3) An occupier of a workplace must not allow a person to use an explosive at the workplace without a permit to use the explosive.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(4) An occupier of a workplace must not allow a person to use an explosive at the workplace in contravention of the terms and conditions of a permit to use the explosive.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(5) This regulation does not apply to the use of an explosive under the supervision of the registrar under subregulation 19 (4).

“Division 2—Application for a permit

“13 **Application for a permit to use explosives**

“(1) An application for a permit to use explosives at a workplace must—
(a) be made in writing to the registrar; and

- (b) state the applicant's name and business address and telephone number; and
 - (c) state the name and business address and telephone number of the blaster; and
 - (d) be accompanied by the determined fee.
- “(2) The applicant must supply with the application—
- (a) a blast plan substantially complying with regulation 14; and
 - (b) a copy of a document (including an engineering or similar report) obtained by the applicant or the blaster, or in the possession or control of the applicant or the blaster, about—
 - (i) the use of explosives at the workplace; and
 - (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 that building or structure; and
 - (c) details of any other information the applicant or the blaster knows and that is material to the application; and
 - (d) a consent signed by the blaster for a police officer to make inquiries about any criminal record of the blaster.
- “(3) If a person fails to comply with paragraph (2) (b) or (c), the person commits an offence.

Maximum penalty (for contravention of subregulation (3)): 10 penalty units for an individual, and 50 penalty units for a corporation.

“14 **Requirements of a blast plan**

- “(1) The registrar may, from time to time, state the matters to be included in a blast plan.
- “(2) A blast plan must include each of the following:
- (a) the purpose for which it is proposed to use explosives;
 - (b) the workplace where it is proposed to use the explosives;
 - (c) for the person it is proposed will supervise and control the use of the explosives—
 - (i) the person's name and business address and telephone number; and
 - (ii) the person's qualifications, knowledge and experience relevant to the purpose for which it is proposed the explosives be used;

- (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) the consultation conducted with persons that may be affected by the detonation of the explosives and the outcome of the consultation;
- (g) the arrangements for the giving of notice of the detonation of the explosives to persons that may be affected by the detonation;
- (h) if the purpose for which it is proposed to use the explosives is in relation to the demolition of all or part of a building or structure—
 - (i) its occupancy classification under the building code approved under section 24 of the *Building Act 1972*; 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 type and quantity of explosives to be detonated;
- (j) the occasion or occasions the explosives will be detonated (including test detonations);
- (k) the procedure for the preparation and placement of the explosives and the detonation sequence of the explosive charges (as the case requires);
- (l) the safety measures for the detonation of the explosives, including the security of persons 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 workplace and the proposed procedures for the control and management of the facilities;
- (p) the procedure for the conveyance of the explosives about the workplace.

“15 Eligibility for a permit

The registrar may issue or vary a permit only if—

- (a) the blaster holds a shotfirer’s permit under clause 52 of the Dangerous Goods Regulation; and
- (b) the registrar is satisfied that the blaster is competent to use the explosives described in the applicable blast plan for the purpose stated in the blast plan; and
- (c) the registrar is satisfied that the use of the explosives in accordance with the applicable blast plan is safe.

“16 Permit to use explosives

“(1) The registrar may, in relation to an application for a permit to use explosives at a workplace—

- (a) issue a permit; or
- (b) issue a permit with conditions the registrar considers necessary or desirable for—
 - (i) the appropriate use of the explosives; or
 - (ii) the safety of persons or premises at or near the workplace; or
- (c) refuse to issue a permit.

“(2) The registrar may, on a ground mentioned in subregulation 21 (1), refuse to issue a permit.

“(3) The registrar must inform the applicant in writing of the decision on the application.

“(4) A permit must be in writing and include each of the following:

- (a) the name and address of the person to whom the permit is given;
- (b) the purpose for which explosives may be used;
- (c) the workplace where the explosives may be used;
- (d) the name and address of the blaster;
- (e) a short description of the applicable blast plan;
- (f) the conditions (including the conditions mentioned in regulation 18 (Statutory conditions of a permit)) to which the permit is subject);
- (g) the period for which it is in force.

“(5) The applicable blast plan is taken to be part of the permit.

“17 Variation of a permit

“(1) A person to whom a permit has been issued may apply to the registrar for the variation of the permit.

“(2) The registrar may—

- (a) vary the permit; or
- (b) vary the permit with conditions the registrar considers necessary or desirable for—
 - (i) the appropriate use of the explosives; or
 - (ii) the safety of persons or premises at or near the workplace;or
- (c) refuse to vary the permit.

“(3) The registrar may, on a ground mentioned in subregulation 21 (1), refuse to vary a permit.

“(4) The registrar must inform the applicant in writing of the decision on the application.

“18 Statutory conditions of a permit

Each of the following conditions applies to a permit:

- (a) the explosives must only be used in accordance with the permit (including the applicable blast plan and any conditions included in the permit by the registrar);
- (b) the blaster must—
 - (i) supervise and control the use of the explosives under the permit; and
 - (ii) make a written evaluation of the use of the explosives; and
 - (iii) if asked by the registrar—give a copy of the evaluation to the registrar.

“19 Registrar may require further information etc

“(1) The registrar may make any investigations or inquiries about an application for a permit or an application for the variation of a permit as the registrar reasonably believes are necessary to decide the application.

“(2) The registrar may, by notice to the applicant, require the applicant to supply such additional documents or other information as the registrar reasonably needs to decide the application.

“(3) The registrar may, by notice to the blaster, require the blaster to show by a practical or oral examination his or her competence to use explosives in accordance with the applicable blast plan.

“(4) A practical examination must be conducted under the supervision of the registrar or a person nominated by the registrar.

“(5) A person may do an examination mentioned in subregulation (3) only if the determined fee has been paid.

“20 **Provision of false or misleading information to registrar**

A person must not, in connection with an application for a permit or an application for the variation of a permit, knowingly or recklessly give to the registrar any document or other information that is false or misleading in a material particular.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“21 **Suspension or revocation of a permit**

“(1) The registrar may suspend or revoke a permit—

- (a) if the blaster is convicted, or within 10 years before the application for a permit was made was convicted, in the Territory or elsewhere of an offence—
 - (i) involving actual or threatened violence; or
 - (ii) involving the possession or use of a firearm within the meaning of the *Firearms Act 1996*; or
 - (iii) involving the possession or use of explosives or fireworks; or
 - (iv) against the Act, these regulations or the Dangerous Goods Regulation; or
- (b) if the blaster is subject to a firearms prohibition order within the meaning of the *Firearms Act 1996* or an order under a law of a State or another Territory having substantially the same effect as a firearms prohibition order; or
- (c) if the registrar believes, on reasonable grounds that—
 - (i) the applicant or the blaster has supplied false or misleading information in, or in connection with, an application for a permit or an application for the variation of a permit; or

- (ii) the applicant or the blaster has contravened any condition of a permit.

“(2) The registrar must give written notice of the suspension or revocation of the permit to the applicant and the blaster.

“(3) The suspension or revocation of the permit takes effect—

- (a) on the day the notice is given to the applicant and the blaster; or
- (b) if a later day is stated in the notice—on the later day.

“22 **Review of registrar’s decisions**

“(1) Application may be made to the Administrative Appeals Tribunal for the review of a decision of the registrar under—

- (a) paragraph 16 (1) (b) issuing a permit with conditions; or
- (b) paragraph 16 (1) (c) refusing to issue a permit; or
- (c) paragraph 17 (2) (b) varying a permit with conditions; or
- (d) paragraph 17 (2) (c) refusing to vary a permit; or
- (e) subregulation 21 (1) suspending or revoking a permit.

“(2) A notice under subregulation (1) must be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.”.

Endnotes

Regulations amended

1 Republished as in force on 30 November 1996.

Notification

2 Notified in the *Gazette* on 30 September 1999.

Penalty units

3 Section 33AA of the *Interpretation Act 1967* (as applied by section 9 of the *Subordinate Laws Act 1989*) deals with the meaning of offence penalties that are expressed in penalty units.

Change to regulation heading

4 The following change to a regulation heading is made on the commencement of these regulations:

Regulation	Change
2A	Omit the heading, substitute the following heading: Matters that are a dangerous occurrence
