



Australian Capital Territory

# **Dangerous Substances (Explosives) Regulation 2004**

**SL2004-10**

made under the

**Dangerous Substances Act 2004**

**Republication No 5**

**Effective: 31 March 2005 – 5 April 2005**

Republication date: 31 March 2005

Last amendment made by SL2004-56

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Dangerous Substances (Explosives) Regulation 2004*, made under the *Dangerous Substances Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 31 March 2005. It also includes any amendment, repeal or expiry affecting the republished law to 31 March 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Dangerous Substances (Explosives) Regulation 2004

made under the

**Dangerous Substances Act 2004**

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R5  
31/03/05

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Australian Capital Territory

# **Dangerous Substances (Explosives) Regulation 2004**

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made under the

**Dangerous Substances Act 2004**

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## Chapter 1      General

### Part 1.1      Preliminary

#### 1      Name of regulation

This regulation is the *Dangerous Substances (Explosives) Regulation 2004*.

#### 3      Dictionary

The dictionary at the end of this regulation is part of this regulation.

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

For example, the signpost definition '*road*—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.' means that the term '*road*' is defined in that dictionary and the definition applies to this regulation.

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

#### 4      Notes

A note included in this regulation is explanatory and is not part of this regulation.

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

#### 5      Incorporated documents

- (1) If a provision of an incorporated document that applies to this regulation is inconsistent with a provision of this regulation, the

provision of this regulation prevails to the extent of the inconsistency.

- (2) For this regulation, a reference to an incorporated document (in this regulation or in another incorporated document) is a reference to—
- (a) if the document is properly notified—the document as in effect at the commencement of this section; and
  - (b) if the document is amended after the commencement of this section, and the amendment is properly 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 of this section, and the replacement document is properly notified—the replacement document; and
  - (d) if a replacement document mentioned in paragraph (c) is amended, and the amendment is properly notified—the replacement document as amended.

**Example of replacement document**

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

*Note 1* If a document, amendment or replacement document is not properly notified, as described in s (4), the document, amendment or replacement document has no effect (see Act, s 220 (4)).

*Note 2* An example is part of the regulation, 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) If this regulation requires compliance (however expressed) with an incorporated document, and a provision of the document is expressed in advisory terms only (for example, as a recommendation rather than a requirement), this regulation is taken to require compliance with the provision unless the provision cannot reasonably be interpreted in that way.

(4) In this section:

***incorporated document*** means any of the following:

- (a) *Assessing Fitness to Drive*, published by Austroads Inc.
- (b) AS 2187.0;
- (c) AS 2187.1;
- (d) AS 2187.2;
- (e) AS 2187.4;
- (f) the UN Test Manual;
- (g) any other document a provision of which is incorporated, applied or adopted by a document mentioned in paragraphs (a) to (f).

***properly notified***—a document, amendment or replacement document mentioned in subsection (2) is ***properly notified*** if—

- (a) an incorporated document notice under the Act, section 220 is notified in relation to the document, amendment or replacement document; or
- (b) the document, amendment or replacement document is notified under the Legislation Act, section 47 (6).

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

## **6 Offences against regulation—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (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                      Important concepts

### Division 1.2.1              Explosives and dangerous substances

#### 7                      Meaning of *explosive*—Act, s 73

- (1) In the Act (including this regulation):

*explosive* means a dangerous substance that is—

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

*Note*      **Dangerous substance** is defined in the Act, s 10. See also s 8, which expands that definition.

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

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

- (3) In subsection (1), definition of *explosive*, paragraph (a):

*explosive article* means an article containing 1 or more explosive substances.



*explosive substance*—

- (a) means a solid or liquid substance, or a mixture of substances, that 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 Meaning of *dangerous substance*—Act, s 10 (1) (h)**

In the Act (including this regulation):

*dangerous substance* includes an unstable explosive article or substance.

**9 Unstable explosives**

- (1) In this regulation:

*unstable explosive article or substance* means an explosive article or explosive substance 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.

- (2) In this section:

*explosive article*—see section 7 (3).

*explosive substance*—see section 7 (3).

**Division 1.2.2 Classification of explosives**

**10 Hazard divisions**

- (1) In this regulation:

*hazard division*, of an explosive, means—

- (a) the hazard division of the explosive under this section; or

- (b) if the explosive is stored or carried with an explosive of a different hazard division under this section—the collective hazard division worked out under section 16.
- (2) Explosives may be 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 only a small hazard if ignited or initiated, with the effects largely confined to the package, and no expected projection of fragments of appreciable size or range;
  - (e) hazard division 1.5—very insensitive explosive substances that have a mass explosion hazard;
  - (f) hazard division 1.6—very insensitive explosive articles that do not have a mass explosion hazard.

## 11      **Compatibility group**

In this regulation:

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

*Note*      The explosives that can and cannot be safely carried or stored together may be worked out by reference to their ***compatibility group***.

## 12 Classification code

In this regulation:

*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 1.1. The article's compatibility group is D. Its classification code is 1.1D.

*Note* An example is part of the regulation, 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).

## 13 Method of classification of explosives

- (1) Subject to section 14 (Default classification of explosives), the classification of an explosive must be worked out by an independently verified test carried out in accordance with the UN Test Manual.
- (2) If the classification of an explosive for this regulation is worked out by a test under subsection (1), the classification only applies when the explosive—
  - (a) is packaged (or not packaged) as it was when tested; and
  - (b) is in the form it was in when tested.

## 14 Default classification of explosives

- (1) This section 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 classification of the explosive is taken to be hazard division 1.1, unless the explosive is a firework to which subsection (3) applies.

- (3) If the Minister determines, in writing, criteria for working out the classification of a firework for this section the hazard division of the firework is taken to be the hazard division worked out in accordance with the criteria.
- (4) A determination by the Minister under subsection (3) is a disallowable instrument.

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

- (5) This section does not apply to an unstable explosive article or substance.

## **15      Detonators, classification 1.4**

For this regulation, a detonator that would otherwise be 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.

## **16      Collective hazard divisions—explosives stored or carried together**

- (1) For this regulation, and for any incorporated document within the meaning of section 5 (Incorporated documents), if explosives of 2 or more different hazard divisions are stored or carried together, the hazard division of the explosives (the *collective hazard division*) must be worked out in accordance with this section.
- (2) The collective hazard division of explosives of 2 different hazard divisions (*primary hazard divisions*) is the hazard division shown in table 16 at the intersection of the row and column corresponding to the primary hazard divisions of each of the explosives.

**Table 16**    **Collective hazard divisions**

<b>column 1 item</b>	<b>column 2 primary hazard division</b>	<b>column 3 1.1</b>	<b>column 4 1.2</b>	<b>column 5 1.3</b>	<b>column 6 1.4</b>	<b>column 7 1.5</b>	<b>column 8 1.6</b>
1	<b>1.1</b>	1.1	1.1	1.1	1.1	1.1	1.1
2	<b>1.2</b>	1.1	1.2	1.1	1.2	1.1	1.2
3	<b>1.3</b>	1.1	1.1	1.3	1.3	1.1	1.3
4	<b>1.4</b>	1.1	1.2	1.3	1.4	1.5	1.6
5	<b>1.5</b>	1.1	1.1	1.1	1.5	1.5	1.5
6	<b>1.6</b>	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 subsection (2);
  - (b) step 2—work out the collective hazard division (the *subsequent collective hazard division*) of a 3rd different primary hazard division and the initial collective hazard division, in accordance with subsection (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.

## 17      **Hazard division 1.6**

- (1) For this regulation, 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 subsection (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 in that way establishes that it is proved by testing or analogy that there is no additional risk of sympathetic detonation between the articles.

## 18      **Classification of articles**

For this regulation, 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.

### **Division 1.2.3 Other concepts**

#### **19 Licensing—meaning of *application* and *issue***

In this regulation:

***application***, for a licence authorising the handling of explosives, includes an application for the amendment of the licence to give the applicant a new 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 (including an explosive) means to deal with the substance in a wide variety of ways (see Act, s 11)
- ***handling authority*** is a kind of handling of a dangerous substance that is authorised by a licence (see Act, s 56 (1) (d))
- ***licence*** is a licence issued under the Act (see Act, dict).

#### **20 Meaning of *ensure***

- (1) This section applies if a provision of this regulation requires a person to ***ensure*** that something is or is not done in relation to an explosive.
- (2) The requirement is satisfied if the person takes reasonable steps to eliminate the hazards, and eliminate or minimise the risks, that might result if the requirement were not met.

- (3) Subsection (2) does not limit the ways in which the requirement may be satisfied.

*Note*      The following terms are defined in the Act:

- **hazard** (see s 15 (1))
- **risk** (see s 15 (2))
- **reasonable steps** (see s 16).

## **21      References to quantities of explosives**

- (1) In this regulation, a reference to a quantity of explosive by weight is a reference to the gross quantity of the explosive (including the packaging), unless the NEQ of the explosive is expressly referred to.

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

- (2) In the following standards, as applied by this regulation, a reference to the **NEQ** of an explosive is taken to be a reference to the gross quantity of the explosive (including the packaging):
- (a) AS 2187.0;
  - (b) AS 2187.1;
  - (c) AS 2187.2;
  - (d) AS 2187.4.

## **22      Reports to chief officer (fire brigade) and chief officer (rural fire service)**

- (1) This section applies if this regulation is expressed to require information (including a notice or report) to be given to the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate.
- (2) If the information relates to explosives that may present a hazard or risk in a built-up area, the information must be given to the chief officer (fire brigade).



- (3) If the information relates to explosives that may present a hazard or risk in a rural area, the information must be given to the chief officer (rural fire service).
- (4) If the information relates to explosives that may present a hazard or risk in both a built-up area and a rural area, the information must be given to both the chief officer (fire brigade) and the chief officer (rural fire service).
- (5) In this section:  
*built-up area*—see the *Emergencies Act 2004*, dictionary.  
*rural area*—see the *Emergencies Act 2004*, section 65 (4).

**U** 22A       **Security definitions**

## **Chapter 2 Explosives generally**

### **Part 2.1 General duties**

#### **23 Misuse of explosives**

- (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 can produce an explosive effect; and
  - (b) the explosive was not designed to produce that explosive effect.

Maximum penalty: 30 penalty units.

- (2) In a prosecution for an offence against subsection (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 section does not apply if the person is authorised under a licence or this regulation to use or modify the explosive in the way mentioned in subsection (1) (a).
- (4) An offence against this section is a strict liability offence.

#### **24 Explosives incidents—reporting damage or injury**

- (1) If someone is injured or dies, 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 firing of fireworks) a responsible person for the explosives must—

- (a) if there is a fire, immediately notify the incident to the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate; and
- (b) without delay, tell the chief executive and a police officer about the incident; and
- (c) if asked by 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.

*Note* **Responsible person**, for a dangerous substance (including an explosive) is defined in the Act, s 18.

- (2) If there are 2 or more responsible people for the explosives, compliance by any 1 or more of them with subsection (1) is taken to be sufficient compliance with this section.
- (3) An offence against this section is a strict liability offence.

## **25 Loss or theft of explosives—reporting**

- (1) A responsible person for an explosive, on becoming aware of an incident of theft or loss at premises where the explosive is stored, must—
  - (a) without delay, tell the chief executive and a police officer about the incident; and

- (b) as soon as practicable, give a written report to the chief executive setting out the details of the incident and describing the kind and amount of any explosives lost or stolen.

Maximum penalty: 30 penalty units.

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

*Note 2* **Responsible person**, for a dangerous substance (including an explosive) is defined in the Act, s 18.

- (2) This section does not apply to—
- (a) explosives that are general use fireworks;
  - (b) an incident of theft or loss in relation to a person responsible for explosives that are consumer fireworks, if the consumer fireworks were supplied to the person by retail.

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

- (4) In this section:

***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).

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## Part 2.2 Authorisation of explosives

### Division 2.2.1 Preliminary

#### 26 **Authorised explosives—Act, s 73**

- (1) In this regulation—
- authorised explosive* means—
- (a) an explosive declared by the Minister or the chief executive under this part to be authorised; or
  - (b) a general use firework; or
  - (c) ANFO, if it is manufactured under a shot-firer licence, in accordance with the prescribed condition of the licence mentioned in section 187 (1) (c).
- (2) An authorised explosive is a *controlled dangerous substance* for the Act.

#### 27 **Prohibited explosives—Act, s 73**

- (1) The following explosives are *prohibited explosives* for the Act:
- (a) an explosive declared by the Minister in writing;
  - (b) any other explosive that is not an authorised explosive.
- (2) A declaration by the Minister for subsection (1) (a) is a disallowable instrument.

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

*Note 2* A prohibited explosive is a *prohibited dangerous substance* for the Act (see Act, s 73, def *prohibited dangerous substance*, par (a)).

*Note 3* A *prohibited firework* cannot be an authorised explosive (see s 29 (2) and s 31. Prohibited fireworks are those mentioned in s 262.

## 28 Meaning of *Queen's birthday supply*

In this regulation:

*Queen's birthday supply*, of a consumer firework registered (or proposed to be registered) under division 2.2.4, means the retail supply of the firework during the Queen's birthday supply period following the date of registration.

*Note* The *Queen's birthday supply period* is the period that begins 7 days before the 2nd Monday in June and ends at 5 pm on that Monday (see s 274).

## Division 2.2.2 Ministerial declarations—Act, s 314 (3) (a)

### 29 Authorisation—Ministerial declarations

- (1) The Minister may declare an explosive to be authorised.
- (2) However, the Minister must not declare a prohibited firework to be authorised.
- (3) A declaration for an explosive must not mention the composition, quality or character of the explosive.
- (4) 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* The chief executive may also declare an explosive to be authorised (see s 31).

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## **Division 2.2.3      Chief executive declarations—Act, s 314 (3) (a)**

### **30      Authorisation requests**

- (1) A person may ask the chief executive, in writing, to authorise an explosive.

*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 section.

- (2) The following information and documents must accompany the request:

- (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, NEQ and (for a firework) pyrotechnic composition;
  - (iii) the explosive's UN number and classification code, if known and unless it is an unstable explosive article or substance;
  - (iv) for explosive articles—a diagram showing the construction of the explosive (for example, a cutaway drawing showing each component);

*Note* An example is part of the regulation, 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).

- (c) the use for which the explosive is intended;

- (d) 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 of the manufacturer and the name, address and ABN number of the importer who is to supply the explosive;
  - (e) details of any performance and testing of the explosive, in accordance with the UN Test Manual;
  - (f) 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;
  - (g) a copy of a safety data sheet for the explosive, or equivalent information if no safety data sheet is available;
  - (h) any other information or documents required by a form for the request approved under the Act, section 222.
- (3) However, if the request is for temporary authorisation of an explosive for manufacture and field trials, the request—
- (a) must be accompanied by a statement of—
    - (i) the reason for seeking temporary authorisation; and



- (ii) the period for which temporary authorisation is sought;  
and
- (b) may omit any information or documents otherwise required by subsection (2) if they cannot be included because of the nature of the request.

*Note* If the UN number and classification code, and details of any performance and testing of the explosive in accordance with the UN Test Manual, is unavailable for an explosive for which authorisation is sought, the explosive will be assigned a default classification under s 14.

- (3) The chief executive may exercise the same powers in relation to a request for the authorisation of an explosive as the chief executive may exercise in relation to an application for a licence under the Act, section 51 (Power to ask for information from applicants, licensees and others).

### **31 Authorisation—chief executive declarations**

- (1) On a request under section 30, the chief executive may declare an explosive to be authorised.

*Note* The Minister may also declare an explosive to be authorised (see s 29).

- (2) A declaration for an explosive must not mention the composition, quality or character of the explosive.

### **32 Authorisation decision-making**

- (1) Before making a declaration under section 31, 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 article or substance.

*Note 1* Section 13 (Method of classification of explosives) and s 14 (Default classification of explosives) deal with the method of classification to be applied here.

- (2) The chief executive may refuse a request for authorisation if any required information, or any required document, is not given with the request.
- (3) The chief executive must not authorise an explosive if—
- (a) the explosive is a prohibited firework; or
  - (b) for any explosive—
    - (i) the explosive is declared by the Minister to be a prohibited explosive for the Act, under section 27; or
    - (ii) the chief executive is satisfied that the authorisation of the explosive would be inconsistent with the purpose stated in the Act, section 6 (1); or
    - (iii) the explosive does not meet any criteria determined by the Minister by notice.

*Note* The Act, s 6 (1) states that the purpose of the Act is to protect the health and safety of people, and to protect property and the environment from damage, from the hazards associated with dangerous substances. Explosives are dangerous substances (see s 7).

- (4) A determination by the Minister for subsection (3) (b) (iii) is a disallowable instrument.

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

### **33 AAT review of decision to refuse authorisation**

- (1) A decision of the chief executive to refuse a request for authorisation is a reviewable decision for the Act, section 186.

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

*Note* The effect of this section is to make the decision reviewable by the AAT. See the Act, ch 9 for the relevant procedures.

### **34 Register of authorised explosives**

- (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, if identifiable;
  - (c) its composition, quality and character;
  - (d) a description of its explosive effect;
  - (e) its UN number and classification code, unless it is an unstable explosive article or substance;
  - (f) if it is an unstable explosive article or substance—the nature of its instability;
  - (g) if it is a consumer firework—whether it is registered under division 2.2.4 for Queen’s birthday supply;
  - (h) if the authorisation is temporary—the period of authorisation;
  - (i) a unique authorisation number.
- (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—
- (a) must not mention the composition, quality or character of the explosives listed; but
  - (b) for a consumer firework—must indicate whether the firework is registered for Queen’s birthday supply.

### **35 End of authorisation**

- (1) The authorisation of an explosive ends—
- (a) for a temporary authorisation—at the end of the period of authorisation; or
  - (b) for any explosive—if it is revoked under this section.
- (2) The chief executive may revoke the authorisation of an explosive—
- (a) at the written request of the person at whose request the explosive was authorised; or
  - (b) at the written request of a manufacturer of the explosive; or
  - (c) if satisfied that the explosive, as currently handled in the ACT, no longer has the composition, quality or character registered for the explosive under section 34.
- (3) A decision of the chief executive to revoke the authorisation of an explosive is a reviewable decision for the Act, section 186.
- Note* The effect of this subsection is to make the decision reviewable by the AAT. See the Act, ch 9 for the relevant procedures.
- (4) The person at whose request the explosive was authorised is prescribed for the Act, section 187 (Notice of reviewable decisions).
- (5) As soon as practicable after the end of the authorisation of an explosive, the chief executive must amend the register accordingly.

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**36 Disposal of explosives 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 (a *notice of revocation*) stating that the person is required to dispose of the explosive on or before the intended date of revocation by—
  - (a) destroying the explosive; or
  - (b) removing it from the ACT.
- (2) If a person fails to comply with the notice of revocation, 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 subsection (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 of revocation is given must comply with the notice.

Maximum penalty: 30 penalty units.

- (5) A person to whom a notice of revocation is given must ensure that the explosive that is the subject of the notice is not—
  - (a) used; or
  - (b) supplied to anyone else, unless the supply is for the purpose of removing the explosive from the ACT.

Maximum penalty: 30 penalty units.

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

## **Division 2.2.4 Registration of consumer fireworks for Queen's birthday supply— Act, s 314 (3) (a)**

### **37 Queen's birthday supply registration requests**

- (1) A person may ask the chief executive in writing to register a consumer firework for Queen's birthday supply during the next Queen's birthday supply period after the request is made.

*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 section.

- (2) The following information and documents must accompany the request:
- (a) the person's name and contact details;
  - (b) if the firework is authorised—the firework's authorisation number;
  - (c) if there is a pending request for authorisation of the consumer firework under division 2.2.3, but the consumer firework has not yet been authorised—details of the request;
  - (d) a classification report in relation to the testing of the firework as required by the consumer fireworks standards in schedule 1;
  - (e) any other information or documents required by a form for the request approved under the Act, section 222.
- (3) The chief executive may exercise the same powers in relation to a request for the registration of a consumer firework for Queen's birthday supply as the chief executive may exercise in relation to an application for a licence under the Act, section 51 (Power to ask for information from applicants, licensees and others).

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**38 Queen's birthday supply registration**

On a request under section 37 for registration of a consumer firework for Queen's birthday supply, the chief executive may register the firework for Queen's birthday supply.

**39 Queen's birthday supply registration—decision-making**

- (1) The chief executive may refuse a request for registration of a consumer firework for Queen's birthday supply if any required information, or any required document, is not given with the request.
- (2) The chief executive must not register a consumer firework for Queen's birthday supply unless—
  - (a) the firework is an authorised explosive; and
  - (b) the chief executive is satisfied that the firework meets the consumer fireworks standards in schedule 1.
- (3) A decision of the chief executive to refuse a request to register a consumer firework for Queen's birthday supply is a reviewable decision for the Act, section 186.
- (4) The person requesting registration is prescribed for the Act, section 187 (Notice of reviewable decisions).

*Note* The effect of this section is to make the decision reviewable by the AAT. See the Act, ch 9 for the relevant procedures.

**40 End of registration for Queen's birthday supply**

- (1) The registration of a consumer firework for Queen's birthday supply ends at 5 pm on the second Monday in June after the date of its registration.

*Note* The 2nd Monday in June is an annual public holiday to celebrate the Queen's birthday (see *Holidays Act 1958*, s 3 (1) (a) (viii)).

- (2) The registration of a consumer firework for Queen's birthday supply also ends if the authorisation of the firework ends under section 35.
- (3) On the day after the end of registration of a consumer firework for Queen's birthday supply, or as soon as practicable after that, the chief executive must amend the register accordingly.

## **U Part 2.2A General licence requirements**



## Part 2.3                      Packing, labelling and placarding explosives

### 41                      Application of pt 2.3

This part applies to the following:

- (a) the packing of explosives;
- (b) the labelling or placarding of packages, unit loads and intermediate bulk containers of explosives.

### 42                      Interpretation for pt 2.3

- (1) A term used in this part has the same meaning as in the Australian Explosives Code.
- (2) However, in the Australian Explosives Code as applied by this part—
  - (a) a *marking* on an explosive (or a package of an explosive) is a placard or label; and
  - (b) an explosive (or a package of an explosive) is *marked* if it is placarded or labelled.

### 43                      Correct packing, labelling and placarding—Act, s 14

Subject to section 45, for the Act, section 14, an explosive is *correctly* packed, labelled or placarded if—

- (a) it is packed, labelled or placarded in accordance with the Australian Explosives Code; and
- (b) in relation to the packing or labelling of a consumer firework— it is packed and labelled in accordance with division 3.3.5

(Labelling—consumer fireworks) and division 3.3.6 (Packaging and safety instructions—consumer fireworks); and

- (c) in relation to the packing of any explosive—the packaging is clean and free from grit.

*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* A manufacturer, importer or supplier of an explosive may commit an offence against the Act, s 26, 27 or 28 if the explosive is not correctly packed, labelled or placarded as provided by this section.

#### **44 Correct packing for supply—Act, s 14**

If an explosive is supplied in a packaged form, for the Act, section 14, it is not *correctly* packed unless—

- (a) the package is appropriate for the kind of explosive; and
- (b) the package prevents the explosive from escaping from the package; and
- (c) for an explosive of classification code 1.1D or 1.5D—the explosive is supplied—
- (i) as far as practicable, in its original package; and
- (ii) without cutting or breaking its cartridge.

#### **45 Exceptions—labelling and placarding**

However, section 43 does not apply to the labelling or placarding of explosives in the following circumstances:

- (a) for explosives that are within the boundaries of premises where they are being manufactured, if the explosives are—
- (i) in the process of being manufactured, or are semifinished;  
or

- (ii) in containers clearly and conspicuously marked with the name of the contents, and are intended for use at the premises;
- (b) for an explosive that is at a place where it is intended to be used for a blasting operations—
  - (i) if section 76 (Storage of unused explosive mixtures) and section 196 (Temporary on-site storage) are complied with; or
  - (ii) if the explosive is manufactured at that place;
- (c) for any of the following explosives, if they are in a quantity of not more than 5kg, and are stored or carried by an individual for the individual's personal use:
  - (i) safety cartridges;
  - (ii) distress signals;
  - (iii) general use fireworks.

## Part 2.4 Manufacturing explosives

### Division 2.4.1 Definitions about manufacturing explosives

#### 46 Manufacturing definitions

(1) In this regulation:

*central mixing point*, for an explosive mixture, means a structure or place at a mine, quarry, construction or other site where the mixture is prepared for use at or near the site, 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.

*Note* For the meaning of *fuel component* and *oxidising agent*, see s (2).

*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 1* **Manufacture** (a dangerous substance) is also defined in the Act, dict. Explosives are dangerous substances. This definition qualifies the definition in the Act.

*Note 2* Div 2.4.9 imposes obligations on individuals filling or capping safety cartridges for non-commercial purposes.

**manufacturing licence**, for explosives, means a licence issued for this part authorising the manufacture of explosives.

*Note* Licences are issued under the Act (see Act, dict, def **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 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 a new plant process; 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 substances present or likely to be present, including the introduction of a new dangerous substance; 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 subsection (1), definition of *explosive mixture*:

*fuel component*—

(a) means—

(i) a combustible granular solid; or

(ii) a clean oil, fuel oil or other oil that has a closed-cup flashpoint 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.

## **47 Meaning of explosive for pt 2.4**

In this part:

*explosive* includes a substance or a mixture of substances that is manufactured with the intention of producing an explosive as defined in section 7.

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## **Division 2.4.2      Manufacturing licences**

### **48      Authority to manufacture explosives**

A person is authorised to manufacture an explosive if the person—

- (a) holds a manufacturing licence authorising the manufacture of the explosive; or
- (b) is an individual engaged (as an employee or contractor) to manufacture the explosive under the supervision of a person who holds a manufacturing licence.

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

*Note 2* A person who manufactures an explosive without authorisation may commit an offence against the Act, s 74 (Unauthorised manufacture of certain dangerous substances).

### **49      *Person in control of manufacture—Act, s 17 (1) (e)***

For the Act, the holder of a manufacturing licence is a *person in control* of all of the following in relation to the manufacture of an explosive under the licence:

- (a) the handling of the explosive;
- (b) the premises where the explosive is manufactured;
- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

**50 Reasonable steps for manufacture—Act, s 16 (2) (e)**

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the manufacture of an explosive, consideration must be given to whether the requirements under this part have been complied with in relation to the manufacture.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

**U 51 Manufacturing licence applications for Act, s 50 (2)—general**

An application for a manufacturing licence must include the following information and documents:

- (a) the name and address of the applicant;
- (b) the address of premises where the explosives are stored or are to be stored;
- (c) documentation describing a safety management system for the proposed manufacturing activity;
- (d) the maximum number of people likely to be present in—
  - (i) the explosives manufacturing area; and
  - (ii) other areas of the premises;
- (e) details of the fire protection proposed to be used;
- (f) any other information required by a form for the application approved under the Act, section 222.



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**U 51A      Manufacturing licence applications—security plans**

**52      Manufacturing licence applications for Act, s 50 (2)—  
factory manufacture**

An application for a manufacturing licence authorising the manufacture of explosives at a factory must include the following information and documents in addition to what is required under section 51:

- (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 separation 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, and classification code 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 stored 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 that 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.

**53 Manufacturing licence applications for Act, s 50 (2)—  
central mixing points and mobile manufacturing units**

- (1) An application for a manufacturing licence authorising the manufacture of explosives at a central mixing point must include the information and documents mentioned in section 52 (a), (c), (d), (e), (g) and (i) in addition to what is required under section 51.
- (2) An application for a manufacturing licence authorising the manufacture of explosives at a mobile manufacturing unit must include the information and documents mentioned in section 52 (c) to (i) in addition to what is required under section 51.

**54 Manufacturing licence applications for Act, s 50 (2)—  
safety cartridges**

An application for a manufacturing licence authorising the manufacture of explosives by filling or capping safety cartridges for commercial purposes must include the information and documents mentioned in section 52 (a), (e) and (g) in addition to what is required under section 51.

**U 55 Manufacturing licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to each manufacturing licence:
- (a) only authorised explosives may be manufactured under the licence;
- (b) anyone who handles an explosive or another dangerous substance under the licence must have the appropriate skills and training for doing so;

- (c) at any person's request, the licensee must provide the person with a safety data sheet for any explosives manufactured under the licence;
- (d) the licensee must—
  - (i) comply with the obligations imposed directly on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the manufacture of explosives under the authority of the licence.

*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).

- (2) Subsection (1) (c) takes effect 12 months after the day this section commences.
- (3) Subsection (2) and this subsection expire 12 months after the day on which this section commences.

**U 55A Manufacturing licences—review of security plans**

**U 56 Manufacture records**

- (1) A person who holds a manufacturing licence must, for each explosive manufactured, make a record of the manufacture that complies with subsection (2).
- (2) The record must include the following information:
  - (a) the type and quantity of explosive;
  - (b) the date of manufacture;

- (c) whether the explosive was manufactured for immediate use or supply, or, if it was stored, details of storage (including the details of any licence under the authority of which it was stored).

*Note* If the explosive is disposed of, the licensee must make a record of the disposal under s 258.

- (3) The licensee must keep the record for at least 3 years after the date it is made, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

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

### **Division 2.4.3 Safety management system**

#### **57 Safety management system requirements**

- (1) The holder of a manufacturing licence must, as soon as practicable after the licence is issued, establish and implement a safety management system to ensure that the manufacture of explosives under the licence 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) how the safety objectives are measured and maintained; and

- (d) includes the information and documents required by schedule 2 or, if the schedule requires information to be 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 safety management system must be prepared in accordance with schedule 2.
- (4) 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 happens that must be reported under section 24 (Explosives incidents—reporting damage or injury); or
    - (iii) whenever a change in the operation of the factory happens; and
  - (c) is reviewed and, if necessary, revised at least every 5 years.

## **58 Information about safety management systems**

- (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, whether or not the licence continues in force for that period.

Maximum penalty: 10 penalty units.

- (2) The licensee must give the chief executive any requested information in relation to the licensee's safety management system—

- (a) as soon as is practicable after the chief executive asks the licensee for the information; but
- (b) no later than 7 days after the day the licensee receives the request.

Maximum penalty: 10 penalty units.

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

## **Division 2.4.4      Factory manufacture**

### **59      Application of div 2.4.4—factory manufacture**

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

### **60      Factory manufacture—notice to fire authorities**

- (1) The licensee must give written notice of the following information to the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate, as soon as practicable after the licence is issued, renewed or amended:
  - (a) a copy of the licence;
  - (b) a site plan showing the location of any buildings containing or likely to contain dangerous substances, including magazines containing or likely to contain explosives;
  - (c) the location of manifests, emergency plans and critical controls and interfaces for fire systems.

Maximum penalty: 20 penalty units.

- (2) If a licence is cancelled or has otherwise ceased to be in force, the person who held the licence must tell the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate, of the cancellation or cessation, in writing, within 14 days after—

- (a) the day of the cessation; or
- (b) if the licence is cancelled—the day the licensee is told about the cancellation.

Maximum penalty: 20 penalty units.

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

## **61 Separation distances for factories**

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

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

*Note* In applying AS 2187.1:

- s 16 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
- a reference to the NEQ of an explosive is taken to be a reference to the gross quantity of the explosive (including packaging)—see s 21.

## **62 Factory modifications**

Before making any modification to the factory, the licensee must—

- (a) tell the chief executive, in writing, about the proposed modification; and
- (b) give the chief executive an assessment of the effect of the modification.



## **Division 2.4.5 Central mixing points**

### **63 Application of div 2.4.5**

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

### **64 Meaning of *explosive mixture controller* for div 2.4.5**

In this division:

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

### **65 General restrictions**

- (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 can cause a dust explosion at the place where the mixture is manufactured.
- (3) No more than the quantity of explosive mixtures that can be used or loaded into blast holes on the day of manufacture may be manufactured under the licence, unless the excess is stored under section 76.

### **66 Premises and equipment requirements**

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.

**67 Components to be kept in marked containers**

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

**68 Warning notice**

An explosive mixture controller must ensure that when the mixture is being made a notice showing the words set out in table 68, 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 68 Text of notice**

DANGER  
EXPLOSIVES  
NO SMOKING OR FLAME

**69 Other people to keep clear**

- (1) An explosive mixture controller must ensure that no-one enters or stays within 10m of the place where the explosive mixture is being made except a person involved in making the mixture.
- (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 subsection (1).

Maximum penalty: 30 penalty units.

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

- (4) In this section:

*person involved*, in making an explosive mixture, includes a person making, carrying or using the mixture.

## **70 Other explosives to be kept away**

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 stored in a securely closed receptacle at least 10m away from the central mixing point.

## **71 Fire sources to be kept away**

- (1) An authorised person must not introduce, or allow someone else 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) Subsection (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) Subsection (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 subsection (1):
- authorised person* means any of the following:
- (a) a licensee;
  - (b) an explosive mixture controller;
  - (c) a person making the explosive mixture;

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

## **72 Fire precautions at central mixing point**

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

## **73 Disposal of spills and packaging**

An explosive mixture controller must ensure that—

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

## **74 Cleaning of equipment—general**

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.

## **75 Cleaning of equipment before repairs**

- (1) This section applies if a repair or alteration is to be made to—
  - (a) any equipment (for example, mixers, receptacles and tools) that has come into contact with an explosive mixture; or
  - (b) any premises where an explosive mixture is or has been stored.

*Note* An example is part of the regulation, 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 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 section:

*explosive mixture* includes a component of an explosive mixture.

## **76 Storage of unused explosive mixtures**

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

- (a) put in containers or packages that are—
  - (i) constructed of material that is compatible with the mixture;
  - (ii) closed, clean, nonmetallic and leakproof; and
  - (iii) 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 practicable.

## **77 Separation distances for central mixing points**

- (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:

- s 16 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
  - a reference to NEQ of an explosive is taken to be a reference to the gross quantity of the explosive (including packaging)—see s 21.
- (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 quantity 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 total 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 quantity is the total of the maximum quantity of explosive mixture that can be

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present, and half of the maximum quantity of ammonium nitrate that can be present, at the central mixing point.

## **Division 2.4.6 ANFO manufacture**

### **78 Application of div 2.4.6**

- (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 this regulation.
- (3) However, if a requirement under this division is inconsistent with another requirement under this regulation, the requirement under this division prevails.

### **79 Compliance with AS 2187.2**

ANFO must be manufactured in accordance with AS 2187.2.

### **80 Separation distances for ammonium nitrate stores**

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

*Note* In applying AS 2187.1:

- s 16 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
- a reference to NEQ of an explosive is taken to be a reference to the gross quantity of the explosive (including packaging)—see s 21.

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

### **Division 2.4.7 Mobile manufacturing units**

#### **81 Application of div 2.4.7**

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

#### **82 Requirements for mobile manufacturing units**

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

#### **83 Operator to stop system**

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



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**Division 2.4.8      Filling or capping safety cartridges  
other than at a factory—commercial  
purposes**

**84      Application of div 2.4.8**

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.

**85      Commercial filling or capping**

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 near to 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 source 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 a source 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 combustible materials must be isolated, as far as 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 2.4.9 Filling or capping safety cartridges—non-commercial purposes**

#### **86 Application of div 2.4.9**

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

#### **87 Only authorised explosives to be used**

- (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 section is a strict liability offence.

#### **88 Application of commercial filling or capping requirements**

- (1) The individual must not cap or fill safety cartridges other than in accordance with the requirements stated in section 85 (a) to (h).

Maximum penalty: 30 penalty units.

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

## **Part 2.5                    Importing explosives**

### **Division 2.5.1            Interpretation**

#### **89            Meaning of *import licence***

In this regulation:

*import licence* means a licence issued for this part authorising the import of explosives.

*Note 1* Licences are issued under the Act (see Act, dict, def *licence*).

*Note 2* *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**

#### **90            Authority to import explosives**

A person is authorised to import an explosive if—

- (a) the person holds an import licence authorising the import of the explosive; or
- (b) section 91 applies to the import.

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

*Note 2* A person who imports an explosive without authorisation may commit an offence against the Act, pt 5.1.

#### **91            Explosives for which no import licence required**

- (1) This section only applies to authorised explosives.

- (2) The import of the following explosives is authorised for section 90 (b):
- (a) distress signals, if they are imported as part of the necessary safety equipment of a vehicle;
  - (b) safety cartridges;
  - (c) safety fuse;
  - (d) starting pistol caps;
  - (e) general use fireworks;
  - (f) any other explosive declared, in writing, by the Minister.
- (3) Also, the import of black powder is authorised for section 90 (b) if—
- (a) the importer is an individual; and
  - (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 1kg.

- (4) A declaration under subsection (2) (f) is a disallowable instrument.

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

- (5) In this section:

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

**92** ***Person in control of import—Act, s 17 (1) (e)***

For the Act, the holder of an import licence is a ***person in control*** of all of the following in relation to the import of an explosive under the licence:

- (a) the handling of the explosive;
- (b) any premises where the explosive is stored by the licensee after import;
- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a ***person in control*** of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

**93** ***Reasonable steps for import—Act, s 16 (2) (e)***

For the Act, in working out whether ***reasonable steps*** have been taken in relation to a risk that may arise directly or indirectly from the import of an explosive, consideration must be given to whether the requirements under this part have been complied with in relation to the import.

*Note 1* ***Risk*** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (***Hazard*** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

## **94 Import licence applications—Act, s 50 (2)**

An application for an import licence must include the following information and documents:

- (a) the name and address of, and copies of identification papers for—
  - (i) the applicant; and
  - (ii) anyone who is to be a responsible person for the explosives;
- (b) if the applicant is a corporation—the corporation’s ACN;
- (c) the address of premises where the imported explosives are to be stored;
- (d) documentation describing a safety management system for the import, including, for example, safe handling, emergency and security procedures for the explosives;
- (e) the purpose of the import, including the earliest proposed date for the import of explosives under the licence;
- (f) for each kind of explosive to be imported—
  - (i) the product name, UN number and packing group; or
  - (ii) the authorisation number;

- (g) any other information or documents required by a form for the application approved under the Act, section 222.

*Note* An example is part of the regulation, 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).

**U 95** **Import licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to each import licence:
- (a) only authorised explosives may be imported under the licence;
  - (b) the licensee must establish and maintain a safety management system for the import of explosives under the licence;
  - (c) at any person's request, the licensee must provide the person with a safety data sheet for any explosives imported under the licence;
  - (d) the licensee must—
    - (i) comply with the obligations imposed directly on the licensee under this part; and
    - (ii) ensure that this part is complied with in relation to the import of explosives under the licence.

*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).

- (2) Subsection (1) (c) takes effect 12 months after the day this section commences.
- (3) Subsection (2) and this subsection expire 12 months after the day this section commences.

## **Division 2.5.3 Import conditions**

### **96 Notice of import**

- (1) The holder of an import licence must give the chief executive notice of the licensee's intention to import explosives.
- (2) However, notice need not be given for the import of an explosive—
  - (a) mentioned in table 96, column 2 for an amount less than the quantity stated in column 3; or
  - (b) if the explosive is imported by a shot-firer who—
    - (i) operates in the ACT; and
    - (ii) had taken the explosives out of the ACT for use in a blasting operation; and
    - (iii) is importing the explosives not used in the operation.
- (3) The notice must be given no later than 2 business days before the day when the explosives are to arrive in the ACT.
- (4) The notice must include the following:
  - (a) the name and licence number of the licensee;
  - (b) the intended date of import of the explosives;
  - (c) how the explosives are to be carried into the ACT;
  - (d) the name and authorisation number of the explosives and the classification code assigned on authorisation;
  - (e) the details of each 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 quantity of the explosive;



- (iii) if the import is in a package containing different kinds of explosive—the quantity of each kind of explosives (by weight or numbers of articles, or both);
- (f) contact and licence details for the person who is to receive the imported explosives;
- (g) the address of the place where the explosives are to be stored in the ACT;
- (h) the name and licence details of the person who is to carry the explosives into the ACT;
- (i) any information or documents required by a form for the notice approved under the Act, section 222.

**Table 96**

**Notifiable imports**

<b>column 1 item</b>	<b>column 2 explosive</b>	<b>column 3 minimum amount requiring notice</b>
1	propellant gunpowder of classification code 1.1D	5kg
2	propellants of classification code 1.3C	20kg
3	distress signals of classification code 1.3G	5kg
4	distress signals of classification code 1.4G	10kg
5	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
6	fuse lighters of classification code 1.4G	10kg
7	primers or percussion caps of classification code 1.4S	10 000 in number

<b>column 1 item</b>	<b>column 2 explosive</b>	<b>column 3 minimum amount requiring notice</b>
8	airbag inflators, airbag modules, or seatbelt pretensioners, of hazard division 1.4 that are not installed in vehicles or in completed vehicle components.	10kg

**97 Import records**

- (1) The holder of an import licence must make a record of all explosives imported into the ACT under the licence.
- (2) The licensee must keep each record for at least 3 years after the day of the import, whether or not the licence continues in force for that period.

Maximum penalty: 20 penalty units.

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

## Part 2.6 Carrying explosives

*Note* If this regulation require an explosive to be carried in a particular way, and a person carrying the explosive does not comply with that requirement, the person may commit an offence against the Act, s 80 (Unauthorised carrying of certain dangerous substances).

### Division 2.6.1 Preliminary

#### 98 Application of pt 2.6

- (1) This part applies to the carrying of explosives by road or rail.
- (2) However, this part does not apply to the carrying of an explosive by an inspector or police officer exercising a function under the Act.
- (3) Until 12 months after the day this section commences—
  - (a) a requirement under this part that a person must hold an explosives driving licence or interstate explosives driving authority does not apply; and
  - (b) despite anything in this part, a person is taken to be authorised under section 107 to drive a vehicle carrying an explosive by road (in the ACT) whether or not the person holds an explosives driving licence or interstate explosives driving authority to drive the vehicle.
- (4) Subsection (3) and this subsection expire 12 months after the day this section commences.

#### 99 Carrying explosives—definitions

In this regulation:

***carrying licence*** means a licence issued for this part authorising the carrying of explosives by road or rail.

*Note 1* Licences are issued under the Act (see Act, dict, def ***licence***).

*Note 2* **Carry** (a dangerous substance) is defined in the Act, dict to mean the moving of the substance by any means. Explosives are dangerous substances.

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

**exempt carrier**—see section 100.

**explosives driving licence** means a licence issued for this part authorising the driving of a vehicle to carry explosives.

*Note* Licences are issued under the Act (see Act, dict, def **licence**).

**interstate explosives carrying authority**, in relation to an explosive carried by road or rail, means a written authority (however called—for example a licence or permit) issued under a corresponding law that authorises the authority-holder to carry the explosive by road or rail.

**interstate explosives driving authority**, in relation to an explosive carried by road, means a written authority (however called—for example, a permit, or registration certificate) issued under a corresponding law that authorises the authority-holder to drive a vehicle carrying the explosive by road.

*Note* An example is part of the regulation, 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 2.6.2 Carrying licences**

### **100 Authority to carry explosives by road**

- (1) A person must not carry an explosive by road (in the ACT) unless—
  - (a) the person is authorised to carry the explosive by road (in the ACT) under a carrying licence; or

- 
- (b) the person holds an interstate explosives carrying authority that authorises the person to carry the explosive by road (in the ACT); or
- (c) the person—
- (i) drives a vehicle carrying the explosive by road (in the ACT); and
  - (ii) is authorised to carry the explosive by road in the vehicle (in the ACT or elsewhere) under an interstate explosives carrying authority; and
  - (iii) holds an explosives driving licence, or an interstate explosives driving authority, authorising the driving of the vehicle carrying the explosive by road (whether in the ACT or elsewhere); or
- (d) the person (an *exempt carrier*)—
- (i) carries a category 1 load of explosives; or
  - (ii) is authorised (otherwise than under a carrying licence) or permitted to handle the explosive under the Act (including this regulation).

**Examples of authority or permission for par (d) (ii)**

- 1 An adult ACT resident who holds a consumer fireworks receipt is authorised under this regulation to possess and use the consumer fireworks mentioned in the receipt (see s 294).
- 2 The handling of general use fireworks is permitted under the Act. There are no restrictions on handling general use fireworks apart from generalised safety duties under the Act relating to dangerous substances.

*Note* An example is part of the regulation, 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 carrying licence that authorises the carrying of an explosive by road (in the ACT) authorises the carrying of the explosive by—

- (a) the licensee; or
- (b) an individual who—
  - (i) is engaged (as an employee or contractor) to carry the explosive by road under the supervision of the licensee; and
  - (ii) holds an explosives driving licence, or an interstate explosives driving authority, authorising the driving of a vehicle carrying the explosive.

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

*Note 2* A person who carries an explosive without authorisation may commit an offence against the Act, pt 5.1.

*Note 3* In addition to the requirements of this section in relation to the carrying (in general) of explosives, anyone driving a vehicle to carry explosives by road must have authority to do so (eg an explosives driving licence or an interstate explosives driving authority)—see s 107.

- (3) In this section:

***category 1 load***, of explosives, means a category 1 load of the explosives under the Australian Explosives Code.

*Note* A category 1 load is a ‘low risk’ load under the code, table 2.1.

## **101 Authority to carry explosives by rail**

- (1) A person must not carry explosives by rail (in the ACT) unless—
  - (a) the person is authorised under a carrying licence to carry the explosives by rail (in the ACT); or
  - (b) the person is authorised under an interstate explosives carrying authority to carry the explosives by rail (in the ACT or elsewhere).
- (2) A carrying licence that authorises the carrying of an explosive by rail (in the ACT) authorises the carrying of the explosive by—

- (a) the licensee; and
- (b) any individual engaged (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 carries an explosive without authorisation may commit an offence against the Act, pt 5.1.

## **102 Engaging someone else to carry explosives**

- (1) A person must not engage someone else to carry an explosive by road or rail.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply if the person whose services are engaged is authorised under section 100 or section 101 to carry the explosive.
- (3) An offence against this section is a strict liability offence.

## **103 *Person in control of carrying explosive—Act, s 17 (1) (e)***

For the Act, the holder of a carrying licence is a *person in control* of all of the following in relation to the carrying of an explosive under the licence:

- (a) the handling of the explosive;
- (b) any premises where the explosive is stored by the licensee for carrying;
- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

**104 Reasonable steps for carrying explosives—Act, s 16 (2) (e)**

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the carrying of an explosive, consideration must be given to whether the requirements under this part have been complied with in relation to carrying the explosive.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

**U 105 Carrying licence applications—Act, s 50 (2)**

An application for a carrying licence must include the following information and documents:

- (a) the name and address of the applicant;
- (b) documentation describing a safety management system (including an emergency plan) for carrying explosives;

**Example of other matters for inclusion in the safety management system**

safe handling and security procedures for carrying explosives

- (c) details of each vehicle to be used for carrying explosives, including the following:
  - (i) make;
  - (ii) model;
  - (iii) year of manufacture;



- (iv) authorisation number;
- (v) engine number;
- (vi) carrying capacity;
- (d) the type of fuel used by each vehicle;
- (e) the category of load each vehicle can carry, and the modifications (or characteristics) of the vehicle that make it suitable for carrying that load;
- (f) the hazard division, and maximum quantity for each division, of each explosive to be carried;
- (g) details of training to be undertaken to comply with section 106 (1) (c);
- (h) any other information or documents required by a form for the application approved under the Act, section 222.

*Note* An example is part of the regulation, 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).

**U 105A Carrying licence applications—security plans**

**U 106 Carrying licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to each carrying licence:
  - (a) only authorised explosives may be carried under the licence;
  - (b) the licensee must establish and maintain a safety management system (including an emergency plan) for the carrying of explosives under the licence;
  - (c) anyone who handles an explosive or another dangerous substance under the licence must have the appropriate skills and training for doing so, including training in the

requirements of the Australian Explosives Code as applied for this part;

- (d) the only vehicles that may be used for carrying explosives under the licence are approved vehicles;
- (e) the licensee must—
  - (i) comply with the obligations imposed directly on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the carrying of explosives under the licence.

*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).

- (2) In this section:

*approved vehicle* means a vehicle stated in the licence, or in an interstate explosives carrying authority, that 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.

## **U 106A Carrying licences—review of security plans**

### **Division 2.6.3 Explosives driving licences**

#### **107 Authority for driving vehicle carrying explosives**

- (1) A person may drive a vehicle carrying an explosive by road (in the ACT) only if—
  - (a) the person—
    - (i) is authorised to do so under a carrying licence or an interstate explosives carrying authority; and

- (ii) holds an explosives driving licence or an interstate explosives driving authority authorising the person to do so; or
- (b) the person—
  - (i) drives the vehicle carrying a category 2 load of explosives; and
  - (ii) is authorised to use the explosives under a blasting permit or a fireworks display permit; or
- (c) the person is an exempt carrier.

*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 drives a vehicle carrying an explosive without authorisation may commit an offence against the Act, pt 5.1.

- (2) In this section:

**category 2 load**, of explosives, means a category 2 load of the explosives under the Australian Explosives Code.

*Note* A category 2 load is a ‘moderate risk’ load under the code, table 2.1.

## **108 Engaging someone else to drive a vehicle carrying explosives**

- (1) A person commits an offence if the person—
- (a) owns or controls a vehicle, and permits someone else (the **driver**) to drive the vehicle to carry an explosive; or
  - (b) engages someone else (the **driver**) to drive a vehicle to carry an explosive.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply if the driver is authorised under section 107 to drive the vehicle carrying the explosive.

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

**109 Person in control of driving vehicle carrying explosives—  
Act, s 17 (1) (e)**

For the Act, the holder of an explosives driving licence is a *person in control* of all of the following in relation to driving a vehicle carrying an explosive under the licence:

- (a) the handling of the explosive;
- (b) the vehicle used for carrying the explosive;
- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

**110 Reasonable steps for driving vehicle carrying an  
explosive—Act, s 16 (2) (e)**

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from driving a vehicle carrying an explosive, consideration must be given to whether the requirements under this part have been complied with in relation to driving the vehicle.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

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**111 Explosives driving licence applications—Act, s 50 (2)**

An application for an explosives driving licence must include the following information and documents:

- (a) the name, address and date of birth of, and copies of identification papers for, the applicant;
- (b) the name and address of, and copies of identification papers for, anyone else who is to be a responsible person for the explosives;
- (c) 2 passport photographs of the applicant;
- (d) a copy of a driver licence the applicant has held for the previous 12 months;
- (e) details of the vehicle or vehicles that the applicant proposes to use to carry explosives;
- (f) evidence that the applicant has had experience within the previous 12 months of driving a vehicle or vehicles of the kind or kinds in which explosives are to be carried under the licence;
- (g) evidence that the applicant has satisfactorily completed a training course approved by the chief executive for a driver of a vehicle carrying explosives by road;
- (h) evidence that the applicant has met the commercial vehicle driver medical standards required by *Assessing Fitness to Drive*, published by Austroads Inc.;
- (i) evidence of the applicant's driving history record as required by a form for the application approved under the Act, section 222;
- (j) any other information or documents required by such a form.

**U 112 Suitable people to hold explosives driving licences—Act, s 49 (1) (i)**

- (1) For the Act, the matters the chief executive must have regard to in deciding whether a person is a *suitable person* to be issued with, or to continue to hold, an explosives driving licence include whether the person—
- (a) is an individual who is at least 21 years old; and
  - (b) has held a driver licence for at least 12 months before the licence is issued; and
  - (c) continues to hold a driver licence after the licence is issued, without the licence being suspended or cancelled; and
  - (d) after the explosives driving licence is issued—is convicted or found guilty in the ACT or elsewhere of an offence involving a dangerous substance; and
  - (e) has been convicted or found guilty within the previous 5 years of a defined driving offence; and
  - (f) has a regular history over the previous 5 years of offences relating to driving vehicles; and
  - (g) has at least 12 months experience driving a vehicle or vehicles of the kind or kinds in which the explosives will be carried; and
  - (h) meets the commercial vehicle driver medical standards required by *Assessing Fitness to Drive*, published by Austroads Inc.; and
  - (i) has demonstrated adequate knowledge of—
    - (i) the requirements of this regulation and the Australian Explosives Code (as applied by this part) 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 if an emergency happens involving explosives.
- (2) A person satisfies the requirements of subsection (1) (i) if the person has completed and passed a training course approved by the chief executive.
- (3) In this section:

*defined driving offence* means an offence against any of the following provisions:

- (a) the *Road Transport (Alcohol and Drugs) Act 1977*, part 3;
- (b) the *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (Negligent driving), section 7 (Furious, reckless or dangerous driving) or section 8 (Menacing driving);
- (c) a provision of a law of the Commonwealth or a State that corresponds to a provision mentioned in paragraph (a) or (b).

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

### **113 Explosives driving licence conditions—Act, s 53 (2) (b)**

It is a condition of each 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).

### **114 Production of driving authority on request**

- (1) A person who drives a vehicle carrying an explosive must—

- (a) carry the required authorisation at all times while driving a vehicle in the ACT carrying explosives; and
- (b) produce the required authorisation for inspection if asked by an inspector or a police officer.

Maximum penalty: 10 penalty units.

- (2) This section does not apply to an exempt carrier.
- (3) An offence against this section is a strict liability offence.
- (4) In this section:

***required authorisation***, for a person to carry and produce under this section, means—

- (a) each of the following:
  - (i) an explosives driving authority, or an interstate explosives driving authority, that authorises the person to drive the vehicle carrying the explosive;
  - (ii) a carrying licence, or an interstate explosives carrying authority, that authorises the carrying of the explosive, or a copy of such a licence or authority certified by the holder of the licence or authority as a true copy of the licence; or
- (b) if the vehicle is carrying a category 2 load of explosives—
  - (i) the documents mentioned in paragraph (a); or
  - (ii) a licence authorising the person to use the explosives under a blasting permit or a fireworks display permit, or a copy of the licence certified by the licensee as a true copy of the licence.



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## Division 2.6.4 Australian Explosives Code—carrying and consignment

### 115 Australian Explosives Code—carrying explosives

- (1) Explosives must be carried in accordance with the Australian Explosives Code.
- (2) For the application of the code to this section, a vehicle carrying any quantity of explosives of classification code 1.1A must comply with the requirements of the code for carrying a category 3 load of explosives.
- (3) The holder of a carrying licence must keep a copy of the shipping documentation required under the code in relation to the delivery of an explosive under the licence for 3 years after the day the explosive is delivered.

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

*category 3 load*, of explosives, means a category 3 load of the explosives within the meaning of the Australian Explosives Code.

*Note* A category 3 load is a ‘high risk’ load under the code, table 2.1.

### 116 Australian Explosives Code—consigning explosives

- (1) A consignor of an explosive must comply with the Australian Explosives Code in relation to the consignment.

#### Examples of required compliance

- 1 The consignor must ensure that the shipping documentation for the explosive required by the code is completed as required (see the code, ch 4).
- 2 The consignor must ensure that the general duties of consignors prescribed by the code are complied with (see the code, s 8.3.2).

- 3 The consignor must ensure that the explosive is correctly packed and marked in accordance with the code before being loaded (see the code, ch 3 and ch 5).
  - 4 The consignor must ensure that the driver of the vehicle that is to carry the explosive is provided with an emergency procedure guide appropriate to the kind of explosive (see the code, s 8.3.7).
- (2) A person who drives a vehicle carrying an explosive consigned by the consignor must carry the shipping documentation required under the code.
- (3) An offence against this section is a strict liability offence.
- (4) In this section:  
*consignor*—see the Australian Explosives Code, section 1.2.

## **Division 2.6.5 Road carrying conditions**

### **117 Route and time restrictions**

- (1) The chief executive may, in writing, determine—
  - (a) routes by which, and the times when, particular quantities or classification codes of explosives may be carried by road in the ACT; or
  - (b) routes by which, and times when, particular quantities or classification codes of explosives must not be carried by road in the ACT.
- (2) A determination 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 makes a determination, explosives may be carried by road only in accordance with the determination.

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## **Division 2.6.6 Rail carrying conditions**

### **118 Explosives held in rail yards or sidings**

If a rail vehicle containing explosives is held at a rail yard or siding—

- (a) the maximum amount of explosive of any hazard division, except hazard division 1.4, per vehicle must not exceed 40 000kg; and
- (b) the 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 or siding—4 days.

### **119 Separation distances for explosives in rail yards or sidings**

If a rail vehicle containing explosives is held at a rail yard or siding, the vehicle must be separated from any other vehicles containing explosives or placarded loads of other dangerous substances by the separation distances for the separation of rail vehicles required under the Australian Explosives Code.

### **120 Sources of ignition**

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

Maximum penalty: 30 penalty units.

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

## Part 2.7 Storing explosives

*Note* If this regulation require an explosive to be stored in a particular way, and a person storing the explosive does not comply with that requirement—

- the explosive is not *correctly* stored for the Act, s 14 (1) (a)
- if the person is in control of the manufacture, import or supply of the explosive, the person may commit an offence against the Act, s 26, s 27 or s 28, which impose safety duties in relation to dangerous substances (including explosives)
- in addition, the person may commit an offence against the Act, pt 5.1.

### Division 2.7.1 Preliminary

#### 121 Application of pt 2.7

- (1) This part applies to the storage of explosives.
- (2) However, this part does not apply to the storage of an explosive by an inspector or police officer exercising a function under the Act.

#### 122 Storage definitions

In this regulation:

*blasting and fireworks storage*—see section 123.

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

*exempt storage*—see section 124.

***licensable storage***, of an explosive, means—

- (a) for an explosive mentioned in table 123 (blasting and fireworks storage)—storage of the explosive other than blasting and fireworks storage or exempt storage; or
- (b) for an explosive mentioned in table 124 (exempt storage)—storage of the explosive other than blasting and fireworks storage or exempt storage; or
- (c) for any other explosive—storage of any quantity of the explosive.

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

***magazine*** means a store used exclusively for keeping explosives, including the following (if used in that way):

- (a) a building or other premises;
- (b) a receptacle, whether or not it is portable or relocatable.

*Note* Adapted from the definition in AS 2187.0, which is the applicable definition for AS 2187.1. Certain aspects of AS 2187.1 are applied by this part (see div 2.7.3).

***magazine area***—see section 132.

***portable magazine*** means an external portable magazine or an internal portable magazine within the meaning of AS 2187.0.

*Note* For the definitions of ***external portable magazine*** and ***internal portable magazine*** in AS 2187.0, see the definition of ***magazine*** in that standard. Those definitions only include portable magazines constructed in accordance with AS 2187.1, s 2.2.

***special portable magazine storage***—see section 157.

*storage licence* means a licence issued for this part authorising the storage of explosives.

*Note* Licences are issued under the Act (see Act, dict, def *licence*).

## 123 Meaning of *blasting and fireworks storage*

In this regulation:

*blasting and fireworks storage*, of an explosive mentioned in table 123, means storage of the explosive, if—

- (a) any storage licence exemption condition mentioned in the table for the explosive applies; and
- (b) the quantity stored is no greater than the quantity mentioned in the table for the explosive.

**Table 123 Blasting and fireworks storage**

column 1 item	column 2 explosives	column 3 storage licence exemption conditions	column 4 maximum quantity
1	explosives of classification code 1.1D or 1.5D (including water gels, emulsions, nitrate mixtures and boosters)	storage authorised by blasting permit	30kg
2	detonating cord of classification code 1.1D	storage authorised by blasting permit	1 000m
3	gunpowder for blasting of classification code 1.1D	storage authorised by blasting permit	20kg

<b>column 1 item</b>	<b>column 2 explosives</b>	<b>column 3 storage licence exemption conditions</b>	<b>column 4 maximum quantity</b>
4	detonators of classification code 1.1B or 1.4B	storage authorised by blasting permit	500 in number
5	fireworks (any kind)	storage authorised by fireworks display permit	maximum quantity permitted under the permit
6	fuse lighters of classification code 1.4G	storage authorised by blasting permit	5kg
7	plastic igniter cord of classification code 1.4G	storage authorised by blasting permit	5 000m
8	consumer fireworks	storage authorised by consumer fireworks licence	200kg
9	consumer fireworks	storage for personal use in accordance with section 296	25kg
10	explosives of hazard division 1.4, if not otherwise mentioned in this table	storage authorised by blasting permit	50kg

column 1 item	column 2 explosives	column 3 storage licence exemption conditions	column 4 maximum quantity
11	explosives of hazard division 1.6	storage authorised by blasting permit	50kg

## 124 Meaning of exempt storage

In this regulation:

*exempt storage*, of an explosive mentioned in table 124, means storage of the explosive if—

- (a) any storage licence exemption condition mentioned in the table for the explosive applies; and
- (b) the quantity stored is no greater than the quantity (if any) mentioned in the table for the explosive.

**Table 124 Exempt storage**

column 1 item	column 2 explosives	column 3 storage licence exemption conditions	column 4 maximum quantity
1	propellant gunpowder of classification code 1.1D	storage for personal use	2kg
2	propellants of classification code 1.3C	storage for personal use	10kg
3	distress signals of classification code 1.3G, if unaccompanied by distress signals of classification code 1.4G	storage for emergency use	2kg



<b>column 1 item</b>	<b>column 2 explosives</b>	<b>column 3 storage licence exemption conditions</b>	<b>column 4 maximum quantity</b>
4	distress signals of classification code 1.4G, if unaccompanied by distress signals of classification code 1.3G, and if stored for emergency use	storage for emergency use	5kg
5	distress signals of classification code 1.4G and 1.3G, stored together, and if stored for emergency use	storage for emergency use	5kg in total, including not more than 2kg of classification code 1.3G
6	safety cartridges of classification code 1.4S, other than ammunition	storage for personal use	10 000 in number
7	primers or percussion caps of classification code 1.4S	storage for personal use	10 000 in number
8	safety fuse of classification code 1.4S	storage for personal use	350m
9	airbag inflators, airbag modules and seatbelt pretensioners, of hazard division 1.4	if incorporated into completed vehicle components	unlimited

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<b>column 1 item</b>	<b>column 2 explosives</b>	<b>column 3 storage licence exemption conditions</b>	<b>column 4 maximum quantity</b>
10	model rocket motors of hazard division 1.4 that each—  (a) contain less than 62.5g of propellant; and  (b) have a capacity for generating a total impulse of no more than 80N	storage for personal use	5kg
11	sparklers	storage for personal use	10kg
12	general use fireworks other than sparklers	storage for personal use	unlimited

## **Division 2.7.2 Storage licences**

### **125 Authority to store explosives**

- (1) A person must not store an explosive unless—
- for a licensable quantity of the explosive—the person is authorised under a storage licence to store the explosive; or
  - the storage is blasting and fireworks storage; or
  - the storage is exempt storage.

*Note* The following sections apply to blasting and fireworks storage otherwise than under a storage licence:

- div 2.9.6 (On-site storage by shot-firers)

- div 3.3.7 (Storage of consumer fireworks under consumer fireworks licence)
- s 296 (User storage of consumer fireworks)
- s 329 (On-site storage—outdoor displays).

- (2) A storage licence authorises the storage of the explosive—
- (a) by the licensee; and
  - (b) by the licensee, on behalf of a person who owns or controls the explosive, with the written permission of the licensee.

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

*Note 2* A person who stores an explosive without authorisation may commit an offence against the Act, pt 5.1.

## **126 Person in control of storing explosives—Act, s 17 (1) (e)**

For the Act, the holder of a storage licence is a *person in control* of all of the following in relation to the storage of an explosive under the licence:

- (a) the handling of the explosive;
- (b) the premises where the explosive is stored;
- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

## **127 Reasonable steps for storage—Act, s 16 (2) (e)**

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the storage of an explosive, consideration must be given to whether

the requirements under this part have been complied with in relation to the storage.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires **reasonable steps** to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

**U 128 Storage licence applications—Act, s 50 (2)**

- (1) An application for a storage licence must include the following information and documents:
  - (a) the name and address of the applicant;
  - (b) the address of the premises where the explosives are to be stored;
  - (c) documentation describing a safety management system (including an emergency plan) for the storage of explosives at the premises;
  - (d) a scale plan of the premises showing the defined details;
  - (e) a description of each magazine to be used to store explosives, including the type of magazine as described in AS 2187.1;
  - (f) drawings and specifications showing construction details of each magazine;
  - (g) details of applicable separation distances enabling compliance with section 135 (Separation distances for magazines) to be established;
  - (h) for each kind of explosive to be stored in each magazine—
    - (i) the product name, UN number and classification code; or

- (ii) the authorisation number;
  - (i) the maximum quantity of each kind of explosive to be stored in each magazine;
  - (j) the purpose of storage;
  - (k) the product name, UN number, classification code, packaging group and maximum quantity for each kind of dangerous substance (other than explosives) to be stored on the premises;
  - (l) for any external magazine (whether portable, relocatable or permanent) details of the following:
    - (i) any mounding;
    - (ii) any lightning protection;
    - (iii) any fencing;
  - (m) details of signage for each magazine and any fencing or building in which the magazine is contained;
  - (n) details of security arrangements;
  - (o) any other information or documents required by a form for the application approved under the Act, section 222.
- (2) In this section:
- defined details***, for a scale plan of the premises where the explosives are to be stored, means the following:
- (a) the boundaries of the premises and the nature of any fencing;
  - (b) 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 there;
  - (c) the location of each magazine or other storage facility for explosives and other dangerous substances;

- (d) details of applicable separation distances for explosives and dangerous substances;
- (e) any protected works within the separation distances;
- (f) the location of services and utilities, including generation or distribution areas, and underground pipes and infrastructure;
- (g) details of all internal roads and points of entry into, and exit from, the premises;
- (h) the locations of all fire protection devices, including any automatic fire sprinkler systems, fire hydrants, fire hose reels and portable fire-extinguishers.

**U 128A Storage licence applications—security plans**

**U 129 Storage licence conditions—Act, s 53 (2) (b)**

The following conditions apply to each storage licence:

- (a) only authorised explosives may be stored under the licence;
- (b) the licensee must establish and maintain a safety management system, including an emergency plan, for the storage of explosives under the licence;
- (c) the licensee must—
  - (i) comply with the obligations imposed directly on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the storage of explosives under the authority of the licence.

*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).

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**U 129A Storage licences—review of security plans**

**U 130 Storage records**

- (1) A person who holds a storage licence must, for each magazine used for storage of explosives under the licence—
- (a) make a record of the storage of an explosive in the magazine that complies with subsection (2); and
  - (b) while explosives are stored in the magazine under the licence—maintain an accurate inventory of the contents of the magazine.
- (2) The record must include the following information, for each explosive:
- (a) either—
    - (i) the product name, UN number and classification code; or
    - (ii) the authorisation number;
  - (b) the date of storage;
  - (c) the name of the person from whom the explosive was received;
  - (d) the number of the licence under the authority of which the person held the explosive;
  - (e) the date the explosive was removed from the magazine;
  - (f) the reason for removal.

**Examples of reasons**

- 1 use
- 2 supply
- 3 disposal

*Note* An example is part of the regulation, 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) The licensee must keep a record made under this section of the storage of an explosive for at least 3 years after the date of storage, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

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

### **Division 2.7.3 Licensable storage—magazines**

#### **131 Application of div 2.7.3**

This division applies to the licensable storage of explosives in a magazine under a storage licence.

#### **132 Meaning of *magazine area***

In this regulation:

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

#### **133 Requirement for storage in magazine**

If an explosive is subject to licensable storage, the explosive must be stored in a magazine in accordance with this division.

#### **134 Licensable storage—notice to fire authorities**

- (1) The licensee must give written notice of the following information to the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate, as soon as practicable after the licence is issued, renewed or amended:
- (a) a copy of the licence;
  - (b) a site plan showing the location of the magazine.
- (2) If the licence is cancelled or otherwise ceases to be in force, the former licensee must give written notice of the cancellation or



cessation to the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate, within 7 days after—

- (a) the day of the cessation; or
- (b) if the licence is cancelled—the day the former licensee is told about the cancellation.

Maximum penalty: 20 penalty units.

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

### **135 Separation distances for magazines**

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

*Note 1* AS 2187.1, table 3.2.3.2 sets out the separation distances that are applied by this regulation.

*Note 2* In applying AS 2187.1:

- s 16 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
- a reference to NEQ of an explosive is taken to be a reference to the gross quantity of the explosive (including packaging)—see s 21.

- (2) In the application of AS 2187.1 under subsection (1), a reference in AS 2187.1 to the **quantity** of an explosive is taken to be a reference to—
  - (a) for a reference to the lowest quantity stated in AS 2187.1—any lesser quantity of the explosive; and

- (b) for a reference to a higher quantity stated in AS 2187.1—a quantity of explosive equal to or greater than the next lowest stated quantity but less than the higher quantity.

**Examples**

The lowest quantity mentioned in AS 2187.1 of an explosive is 50kg. The next 2 higher quantities mentioned are 100kg and 200kg.

- 1 The separation distances set out in AS 2187.1 for explosives of 50kg apply under this section to all quantities of the explosive that are less than 50kg.
- 2 The separation distances set out in the standard for explosives of 100kg apply under this section to all quantities of explosive that are equal to or greater than 50kg but less than 100kg.
- 3 Similarly, the separation distances set out in the standard for explosives of 200kg apply under this section to all quantities of explosive that are equal to or greater than 100kg but less than 200kg.

*Note* An example is part of the regulation, 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) Subsection (1) does not apply—
- (a) to an annexe to the magazine where detonators are stored 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; or
  - (c) to special portable magazine storage under division 2.7.4.

- (4) Despite AS 2187.1, the separation distance for any quantity of explosive of hazard division 1.4 is 25m from process buildings and protected works.

### **136 Construction of magazines**

The magazine must be sited, designed and constructed in accordance with AS 2187.1.

*Note* AS 2187.1 sets out general requirements for magazine siting, design and construction, together with specific requirements for different kinds of magazine, including portable magazines, relocatable magazines and fixed or permanent magazines (above and below ground).

### **137 Mounding for above-ground magazines**

- (1) If mounding is used for an above-ground magazine, the mounding must be constructed in accordance with AS 2187.1.

*Note* See AS 2187.1, s 2.1.1.4 and appendix B.

- (2) However, mounding may be constructed otherwise than in accordance with AS 2187.1, if constructed taking into consideration the following matters:

- (a) the potential blast and fragmentation loading from the magazine;
- (b) the interaction of that loading with the materials of construction of the mound;
- (c) the need to avoid the projection of any resulting fragmentation beyond the applicable separation distances.

### **138 Lightning protection**

An above-ground magazine must be provided with lightning protection in accordance with the requirements of AS 2187.1.

*Note* See AS 2187.1, s 2.1.5.

**139 Security fencing for above-ground magazines**

- (1) This section applies if the explosives are stored in—
  - (a) an above-ground magazine; or
  - (b) 2 or more above-ground magazines in a magazine area.
- (2) The magazine or magazine area must be surrounded by a security fence.
- (3) The security fence must be constructed in accordance with AS 2187.1.

*Note* See AS 2187.1, s 2.1.1.5 and appendix C.
- (4) This section does not apply to an internal portable magazine within the meaning of AS 2187.0.

**140 Magazine markings**

The magazine must be marked in accordance with AS 2187.1.

*Note* See AS 2187.1, s 2.1.3.

**141 Storage of explosives and essential articles only**

- (1) The magazine must not contain anything except explosives and any articles required to be kept by this division.
- (2) So far as necessary, the following articles may be stored in a designated area of the magazine:
  - (a) footwear, tools or implements for work connected with the storage of explosives in the magazine, or with the opening of packages of explosives;
  - (b) materials connected with the making up of loads for packaging explosives.

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**142 Storage of more than single compatibility group**

- (1) 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.
- (2) However—
  - (a) explosives from different compatibility groups may be stored together in accordance with AS 2187.1; and  
*Note* See AS 2187.1, s 3.1.2.
  - (b) explosives that are ammonium nitrate-based must not be stored with chlorate-based explosives.

**143 General operational requirements**

The magazine, and the area (including any mounds) surrounding the magazine, must be managed, operated, and maintained in accordance with AS 2187.1.

**144 Packaging of explosives**

Explosives in the magazine must be—

- (a) for an explosive mixture to which section 76 (Storage of unused explosive mixtures) applies—stored in accordance with that section; or
- (b) in any other case—packed in accordance with part 2.3.

**145 Defective explosives or packages**

- (1) As soon as practicable after the discovery of defective explosives in the magazine, the explosives must be—

- (a) removed from the magazine; and
  - (b) disposed of in accordance with part 2.10 (Disposal of explosives).
- (2) As soon as practicable 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.

#### **146 Requirement for materials handling equipment**

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

*Note* See AS 2187.1, s 4.5.

#### **147 Emergency management**

- (1) If there is an emergency mentioned in AS 2187.1 that affects explosives stored in the magazine—
- (a) the requirements of that standard must be complied with; and
  - (b) the licensee's emergency plan must be complied with, unless it is inconsistent with the requirements of the standard.
- Note* See AS 2187.1, s 5, which deals with emergency procedures in the event of thunderstorm, dust storm, theft and fire.
- (2) However, subsection (1) (b) does not apply if division 2.7.4 (Special portable magazine storage) applies to the storage of the explosives.
- (3) Appropriate firefighting equipment must be—
- (a) provided for the magazine; and
  - (b) maintained in good condition and working order; and
  - (c) available for immediate use.

**148 Additional fire precautions for magazine areas**

- (1) This section applies if the magazine is in a magazine area.
- (2) A person must not bring matches, cigarette lighters or any other source of ignition into the magazine area.

Maximum penalty: 30 penalty units.

- (3) A person must not smoke in the magazine area.

Maximum penalty: 30 penalty units.

- (4) A person must not bring a vehicle into the magazine area except for—

- (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.

Maximum penalty: 30 penalty units.

- (5) The magazine area must be kept free from combustible or flammable materials (including any rubbish).
- (6) Dry grass and other vegetation in the magazine area must be controlled to prevent or minimise the risk of a fire spreading within the area.
- (7) An offence against this section is a strict liability offence.

**149 Security**

- (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) if asked, give the keys to an inspector or police officer exercising a function under the Act.
- (2) A person commits an offence if—
- (a) the keys to a magazine are in the person's custody; and
  - (b) an inspector or police officer exercising a function under the Act asks the person to give the keys to the inspector or officer; and
  - (c) the person fails to give the keys to the inspector or officer.
- Maximum penalty: 30 penalty units.
- (3) A person commits an offence if—
- (a) the person enters a magazine or a magazine area; and
  - (b) the person is not authorised to do so by the licensee or a person controlling or managing the magazine or area; and
  - (c) the person is not an inspector or police officer.
- Maximum penalty: 30 penalty units.
- (4) An offence against this section is a strict liability offence.

## **150 Notices to be posted in magazines**

A notice that states the kinds and quantities of explosives that are licensed to be stored in the magazine and any annexe must be posted on the inside of the entrance to, or lid of, the magazine.

## **151 Number of persons present at a magazine**

The number of people present at the magazine and any annexe at any particular time must be kept to a minimum.



## **152 Night work at magazines**

- (1) Explosives must not be placed in, or removed from, the magazine outside daylight hours unless the magazine is lit by—
  - (a) electric lighting that complies with AS 2187.1; or
  - (b) a hand-held flameproof torch.

*Note* See AS 2187.1, s 2.1.4.
- (2) This section applies to an underground magazine at all times.

## **153 Storage in portable magazines—general requirements**

- (1) Licensable storage in a portable magazine at a licensed storage place must comply with the following requirements:
  - (a) the storage place must be—
    - (i) detached from any building where people live; and
    - (ii) not accessible to the public; and
    - (iii) used exclusively for the storage of explosives; and
    - (iv) 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) explosives of compatibility group B (other than detonators) must be kept in a separate storage place located at least 3m away from any other explosives.

**154 Maintenance on rooms or buildings where explosives are stored**

- (1) If maintenance, renovation, repairs, or reconstruction, (*maintenance work*) is to be carried out on a room or building that is a licensed storage place, all explosives must be removed while the maintenance work is carried out.
- (2) Subsection (1) does not apply if the chief executive gives written approval for the maintenance work to be carried out while the explosives remain in the room or building.
- (3) A decision of the chief executive to refuse a request for approval is a reviewable decision for the Act, section 186.
- (4) The person requesting approval is prescribed for the Act, section 187 (Notice of reviewable decisions).

*Note* The effect of this section is to make the decision reviewable by the AAT. See the Act, ch 9 for the relevant procedures.

**Division 2.7.4 Special portable magazine storage**

**155 Application of div 2.7.4**

- (1) This division applies to the special portable magazine storage of explosives under a storage licence at a licensed storage place on the licensed premises, if—
  - (a) there is special portable magazine storage at no more than 3 portable magazines on the licensed premises; and
  - (b) there are no other magazines on the licensed premises.
- (2) This division applies in addition to the requirements of division 2.7.3, other than section 135 (Separation distances for magazines).

**156 Meaning of *licensed premises* for div 2.7.4**

In this division:

*licensed premises* means premises where the explosives are authorised to be stored under a storage licence.

**157 Meaning of *special portable magazine storage***

In this regulation:

*special portable magazine storage*, of an explosive mentioned in table 157, column 2, means licensable storage of the explosive in a portable magazine in a quantity no greater than that mentioned in column 3 for the explosive.

**Table 157 Special portable magazine storage**

<b>column 1 item</b>	<b>column 2 explosive</b>	<b>column 3 maximum quantity</b>
1	propellant gunpowder of classification code 1.1D	10kg
2	propellants of classification code 1.3C, if correctly packed in packages of capacity of not more than 5kg	50kg
3	distress signals of classification code 1.3G, if unaccompanied by distress signals of classification code 1.4G	15kg
4	distress signals of classification code 1.4G, if unaccompanied by distress signals of classification code 1.3G	30kg

<b>column 1 item</b>	<b>column 2 explosive</b>	<b>column 3 maximum quantity</b>
5	fuse lighters of classification code 1.4G	30kg
6	safety cartridges of classification code 1.4S, other than ammunition	50 000 in number
7	primers or percussion caps of classification code 1.4S	50 000 in number
8	safety fuse of classification code 1.4S	5 000m
9	airbag inflators, airbag modules and seatbelt pretensioners of hazard division 1.4, if not installed in vehicles or in completed vehicle components	50kg
10	model rocket motors of hazard division 1.4	50kg
11	sparklers of hazard division 1.4	50kg

**158 Special portable magazine storage—separation distance**

The separation distance for explosives stored in a portable magazine on the licensed premises is 10m from any place where dangerous substances are stored (including another portable magazine).

**159 Special portable magazine storage—signs for premises**

At the main entrance to the licensed premises, a notice must be displayed showing a class label not less than 100mm square in relation to the kinds of explosive stored in each portable magazine.

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**160 Special portable magazine storage—fire precautions**

Any combustible material must be kept at least 3m away from—

- (a) the explosives; and
- (b) any licensed storage place.

**Division 2.7.5 Exempt storage**

**161 Application of div 2.7.5**

This division applies to the exempt storage of explosives.

*Note* **Exempt storage** is storage of explosives mentioned in table 124 in quantities no greater than those mentioned in the table, subject to conditions mentioned in the table (see s 124).

For example, storage of propellant gunpowder of classification code 1.1D in a quantity of no more than 2kg would be **exempt storage** if the gunpowder is stored for personal use.

**162 Exempt storage—fire precautions**

- (1) A responsible person for the exempt storage of an explosive must ensure that any combustible material, and any source of ignition, is kept at least 2m away from—
  - (a) the explosive; and
  - (b) any place where the explosive stored.

Maximum penalty: 30 penalty units.

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

*Note* **Responsible person** is defined in the Act, s 18.

### **163 Exempt storage requirements—general**

- (1) A responsible person for the exempt storage of an explosive must ensure that the explosive is stored as follows:
  - (a) the explosive must be stored in its original container or in the packaging in which it was supplied;
  - (b) the explosive must be stored in 1 of the following places:
    - (i) a magazine (including a portable magazine), in compliance with division 2.7.3;
    - (ii) a portable magazine, in compliance with division 2.7.4;
    - (iii) a locked room;
    - (iv) a locked receptacle (other than a document safe, money safe or refrigerator);
  - (c) the explosive must be stored out of reach of children.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply to the storage of safety fuse or general use fireworks.
- (3) An offence against this section is a strict liability offence.

*Note* **Responsible person** is defined in the Act, s 18.

### **164 Storage of safety fuse**

- (1) A responsible person for the exempt storage of safety fuse must ensure that the safety fuse is stored as follows:
  - (a) the safety fuse must be stored in a cool, dry place.
  - (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);

- (c) the safety fuse must be stored in 1 of the following places:
  - (i) a magazine (including a portable magazine), in compliance with division 2.7.3;
  - (ii) a portable magazine, in compliance with division 2.7.4;
  - (iii) a locked receptacle (other than a document safe, money safe or refrigerator).
- (d) the safety fuse must be stored out of reach of children.

Maximum penalty: 30 penalty units.

*Note* An example is part of the regulation, 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) An offence against this section is a strict liability offence.

*Note* **Responsible person** is defined in the Act, s 18.

## Part 2.8 Supplying explosives

### Division 2.8.1 Interpretation

#### 165 Meaning of *supply licence*

In this regulation:

*supply licence* means a licence issued for this part authorising the supply of explosives.

*Note 1* Licences are issued under the Act (see Act, dict, def *licence*).

*Note 2* *Supply* (of a dangerous substance) is defined in the Act, dict, to include sale and any other transfer of ownership. Explosives are dangerous substances.

### Division 2.8.2 Supply licences

#### 166 Authority to supply explosives

A person is authorised to supply an explosive if—

- (a) the person holds a supply licence authorising the supply of the explosive; or
- (b) for the retail supply of an explosive that is a consumer firework—the person is authorised under a consumer fireworks licence to supply the explosive; or
- (c) the explosive is a general use firework.

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

*Note 2* A person who supplies an explosive without authorisation may commit an offence against the Act, pt 5.1.



**167**      ***Person in control of supply—Act, s 17 (1) (e)***

For the Act, the holder of a supply licence is a *person in control* of all of the following in relation to the supply of an explosive under the licence:

- (a) the handling of the explosive;
- (b) the premises from which the explosive is supplied;
- (c) any associated plant or system;
- (d) any associated activity.

*Note*      The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

**168**      ***Reasonable steps for supply—Act, s 16 (2) (e)***

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the supply of an explosive, consideration must be given to whether the requirements under this part have been complied with in relation to the supply.

*Note 1*      *Risk* is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (*Hazard* is defined in the Act, s 15 (1)).

*Note 2*      The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

**169 Supply licence applications—Act, s 50 (2)**

An application for a supply licence must include the following information and documents:

- (a) the name and address of, and copies of identification papers for—
  - (i) the applicant; and
  - (ii) anyone who is to be a responsible person for the explosives;
- (b) if the applicant is a corporation—the corporation’s ACN;
- (c) the purpose of the supply;
- (d) details of any licence authorising the storage of the explosives at the premises from which the explosives are to be supplied;
- (e) documentation describing a safety management system for the supply of explosives under the licence;
- (f) for each kind of explosive to be supplied;
  - (i) the product name, UN number and classification code; or
  - (ii) the authorisation number;
- (g) procedures to ensure that explosives are only supplied to people authorised to receive them;
- (h) record-keeping procedures to be adopted to ensure compliance with the Act;
- (i) any other information or documents required by a form for the application approved under the Act, section 222.

**U 170 Supply licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to each supply licence:
  - (a) only authorised explosives may be supplied under the licence;
  - (b) explosives may be supplied under the licence only from premises where the explosives are authorised to be stored under a licence;
  - (c) the licensee must establish and maintain a safety management system for the supply of explosives under the licence;
  - (d) at any person's request, the licensee must provide the person with a safety data sheet for any explosives supplied under the licence;
  - (e) the licensee must—
    - (i) comply with the obligations imposed directly on the licensee under this part; and
    - (ii) ensure that this part is complied with in relation to the supply of explosives under the authority of the licence.
- (2) Subsection (1) (d) takes effect 12 months after the day this section commences.
- (3) Subsection (2) and this subsection expire 12 months after the day this section commences.

*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 2.8.3 Explosives—supply requirements**

**171 Application of div 2.8.3—fireworks**

This division does not apply in relation to—

- (a) the supply of general use fireworks; or
- (b) the retail supply of consumer fireworks under a consumer fireworks licence.

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

## **172 Place of supply**

An explosive must not be supplied 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 regulation, 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).

## **173 Display prohibited**

An explosive must not be displayed for supply at any premises.

### **Examples of prohibited display at premises**

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

*Note* An example is part of the regulation, 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).

## **174 Supply only to authorised people**

- (1) An explosive must not be delivered under the authority of a supply licence to a person unless—

- (a) the person shows the supplier a licence authorising the person to possess the explosive, or a certified copy of the licence; or
- (b) possession of the explosive is otherwise authorised under this regulation; or
- (c) the person shows the supplier a written authority (however described) under a corresponding law that authorises possession of the explosive, or a certified copy of the authority.

**Example of authorised possession for par (b)**

exempt storage of explosives

*Note* An example is part of the regulation, 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) However, an explosive for use in a blasting operation must not be delivered to a person under the authority of a supply licence unless—
  - (a) subsection (1) (a), (b) or (c) applies; or
  - (b) the person shows the supplier an official order to purchase the explosive (or explosives of the type requested) on behalf of the Commonwealth; or
  - (c) the person shows the supplier a special authority to purchase the explosive under division 2.9.5, or a certified copy of the authority.
- (3) The following requirements must be complied with for the delivery to a person of explosives for use in a blasting operation:
  - (a) the amount of explosives to be supplied in a single day must not exceed the amount the person is authorised to purchase under the relevant licence or authority;
  - (b) the information required by section 176 must be recorded in the supply record book before the explosives are delivered; and

(c) explosives may be delivered only if the licensee is satisfied that they will be carried using a receptacle or vehicle that complies with the requirements of part 2.6 (Carrying explosives).

(4) In this section:

*certified copy*, of a licence or authority, means a copy of the licence or authority certified by the licensee or authority-holder to be a true copy.

### **175 Supply of defective explosives or packages**

- (1) The holder of a supply licence must not supply defective explosives, or explosives in defective packages, unless the supply is approved in writing by the chief executive.
- (2) A decision of the chief executive to refuse a request for approval is a reviewable decision for the Act, section 186.
- (3) The person requesting approval is prescribed for the Act, section 187 (Notice of reviewable decisions).

*Note* The effect of this section is to make the decision reviewable by the AAT. See the Act, ch 9 for the relevant procedures.

### **176 Supply records**

- (1) The holder of a supply licence must, for each explosive supplied under the licence, make a record of the supply that complies with subsection (2) in a supply record book.
- (2) The record must include the following:
  - (a) the date of supply;
  - (b) the name, address and telephone number of the person for whom the explosive is supplied;
  - (c) licence details, or details of any other authority, shown to the supplier for section 174;

- (d) the name and classification code of the explosive;
- (e) the quantity of the explosive and how it is packaged;

**Examples**

- 1 30kg supplied in 3 bags of 10kg
- 2 30kg supplied in 1 bag of 30kg
- 3 20L supplied in the customer's own container

- (f) the signature of the person taking delivery of the explosive and, if that person is not the person for whom the explosive is supplied, the name, address and telephone number of the person taking delivery;
- (g) the proposed use of the explosive;
- (h) any information or documents required by a form for the record approved under the Act, section 222.

*Note* An example is part of the regulation, 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) The pages of the supply record book must be serially numbered and be bound to prevent the pages from being easily removed.
- (4) The licensee must, whether or not the licence continues in force, keep for at least 5 years after each entry is made in the supply record book in relation to a particular supply of an explosive—
  - (a) the supply record book; and
  - (b) any documentary proof given to the supplier of any licence or authority given to the supplier for section 174 in relation to the supply.

Maximum penalty: 10 penalty units.

- (5) The licensee must make the supply record book and any documents kept under subsection (4) (b) available for examination at the direction of an inspector or police officer.

Maximum penalty: 10 penalty units.

- (6) A person who takes delivery of an explosive from the licensee must sign the licensee's supply record book.

Maximum penalty: 10 penalty units.

- (7) An offence against this section is a strict liability offence.

## **Division 2.8.4 Advertising—supply of explosives**

### **177 False or misleading statements about authority to supply explosives**

- (1) A person commits an offence if—
- (a) the person makes a statement (whether orally, in a document or in any other way); and
  - (b) the statement is about—
    - (i) the supply or possible supply of explosives; or
    - (ii) the promotion in any way of the supply or use of explosives; and
  - (c) the statement is about the availability of the explosives to members of the public; and
  - (d) the statement is false or misleading; and
  - (e) the person is reckless about whether the statement—
    - (i) is false or misleading; or
    - (ii) omits anything without which the statement is false or misleading; and



(f) the statement is made in the course of trade or commerce.

Maximum penalty: 30 penalty units.

- (2) Absolute liability applies to subsection (1) (f).
- (3) Subsection (1) (d) and (e) (i) do not apply if the statement is not false or misleading in a material particular.
- (4) Subsection (1) (d) and (e) (ii) do not apply if the omission does not make the statement misleading in a material particular.

## Part 2.9 Using explosives

### Division 2.9.1 Preliminary

#### 178 Application of pt 2.9

- (1) This part applies to the use of explosives.
- (2) However, this part does not apply in any of the following circumstances:
  - (a) use of an explosive by an inspector or police officer exercising a function under the Act; or
  - (b) use of any of the following explosives:
    - (i) a general use firework;
    - (ii) model rocket motor;
    - (iii) a safety cartridge;
    - (iv) an explosive power tool cartridge;
  - (c) use of a firework other than a general use firework under a fireworks display permit or as authorised under section 294 (Authority for using consumer fireworks);
  - (d) use of a distress signal in an emergency or for a test to prepare for an emergency.

#### 179 Using explosives—definitions

In this regulation:

***blasting permit***, for a blasting operation at premises, means a licence issued for this part authorising the operation at the premises as stated in the blast plan for the licence.

***blast plan***, for division 2.9.4 (Blasting permits)—see section 189.

*Note* A blast plan forms part of the safety management system for a blasting operation authorised by a blasting permit (see s 188 (b)).

***shot-firer*** means a person who holds a shot-firer licence.

***shot-firer licence***, for explosives, means a licence issued for this part authorising the use of the explosives stated in the licence.

## **Division 2.9.2 Using explosives—general**

### **180 Authority to use explosives**

- (1) A person is authorised to use an explosive, or to manufacture ANFO for immediate use, if the person—
  - (a) holds a shot-firer licence authorising that use or manufacture;  
or
  - (b) is an individual engaged (as an employee or contractor) to use the explosive, or to manufacture the ANFO, under the direct supervision of a person who holds a shot-firer licence.
- (2) However, a person is authorised to use an explosive only if its use is for a blasting operation in accordance with this regulation that is authorised by a blasting permit.

*Note 1* Shot-firer licences and blasting permits are ***licences*** issued under the Act, ch 4 (Licences for dangerous substances). Explosives are dangerous substances.

*Note 2* A person who uses an explosive without authorisation may commit an offence against the Act, pt 5.1.

### **181 Licence or permit to be produced**

A person who holds a shot-firer licence or a blasting permit must—

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

**182 Use of explosives—responsibilities of person in control**

- (1) A person in control of premises must ensure that an explosive is used at the premises only—
  - (a) by a person authorised to use the explosive under this part; and
  - (b) in accordance with a blasting permit for the explosive.

Maximum penalty: 10 penalty units.

- (2) This section does not apply to the use of an explosive under the supervision of an inspector or police officer exercising a function under the Act.
- (3) An offence against this section is a strict liability offence.

**183 *Person in control of using explosives—Act, s 17 (1) (e)***

- (1) For the Act, the holder of a shot-firer licence is a *person in control* of all of the following in relation to the use of an explosive under the licence:
  - (a) the handling of the explosive;
  - (b) the premises where the explosive is used;
  - (c) any associated plant or system;
  - (d) any associated activity.

- (2) For the Act, the holder of a blasting permit is a *person in control* of all of the following in relation to a blasting operation carried out under the permit:
- (a) the handling of explosives for the operation;
  - (b) the premises where the operation takes place;
  - (c) any associated plant or system;
  - (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

#### 184 **Reasonable steps for handling explosives for blasting operations—Act, s 16 (2) (e)**

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the handling of explosives for a blasting operation, consideration must be given to whether the requirements under this part have been complied with in relation to the operation.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

## **Division 2.9.3 Shot-firer licences**

### **185 Shot-firer licence applications—Act, s 50 (2)**

An application for a shot-firer licence must include the following information and documents:

- (a) the name and address of, and copies of identification papers for—
  - (i) the applicant; and
  - (ii) anyone who is to be a responsible person for the explosives;
- (b) 2 passport-sized photographs of the applicant;
- (c) the purpose of the use;
- (d) where the explosive is to be stored;
- (e) documentation describing a safety management system for the use of explosives under the licence;
- (f) for each kind of explosive to be used—
  - (i) the product name, UN number and classification code; or
  - (ii) the authorisation number;
- (g) details of any training course approved for section 186 (2) (b) that the applicant has attended in the use of explosives, and evidence that the applicant passed the course, or met an applicable standard of competency because of the course;
- (h) evidence that the applicant has suitable practical experience in the use of the explosives intended to be used under the licence;
- (i) any other information or documents required by a form for the application approved under the Act, section 222.

**U 186      Suitable people to hold shotfirer licences—Act, s 49 (1) (i)**

- (1) For the Act, the matters the chief executive must have regard to in deciding whether a person is a *suitable person* to be issued with, or to continue to hold, a shot-firer licence include the following:
  - (a) whether the person is an individual;
  - (b) whether the person has demonstrated adequate knowledge and experience of the following matters (the *licence criteria*):
    - (i) safety in the use of explosives by the method stated in the application; and
    - (ii) the requirements of this regulation that relate to explosives and that method of use.
- (2) For subsection (1) (b), a person is taken to have demonstrated adequate knowledge and experience of the licence criteria if the applicant meets 1 or more of the following conditions:
  - (a) the applicant has passed an examination approved in writing by the chief executive to test the applicant's knowledge and experience of the licence criteria;
  - (b) the person has—
    - (i) attended a training course approved in writing by the chief executive on the use of explosives for blasting operations; and
    - (ii) passed the course, or met an applicable standard of competency to the satisfaction of the chief executive because of the course; and
    - (iii) demonstrated suitable practical experience in the use of the explosives intended to be used under the licence, to the satisfaction of the chief executive;

(c) the person has demonstrated suitable practical experience in the use of the explosives intended to be used under the licence, to the satisfaction of the chief executive.

(3) A person is also taken to have demonstrated adequate knowledge and experience of the licence criteria if the applicant holds a qualification relating to the use of explosives for blasting operations issued outside the ACT that is approved in writing by the chief executive.

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

(4) An approval under this section is a notifiable instrument.

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

**U 187 Prescribed shot-firer licence conditions—Act, s 53 (2) (b)**

(1) The following conditions apply to each shot-firer licence:

- (a) only authorised explosives may be used under the licence;
- (b) the licensee must establish and maintain a safety management system for the use of explosives under the licence;
- (c) if the licence authorises the manufacture of ANFO for the personal use of the licensee—
  - (i) the quantity authorised to be manufactured must be no more than 50kg at any single time; and
  - (ii) the ANFO may only be manufactured using the defined components; and
  - (iii) a colouring agent must be used to differentiate mixed ANFO from unmixed components;
- (d) the licensee must—
  - (i) comply with the obligations imposed directly on the licensee under this part; and



- (ii) ensure that this part is complied with in relation to the use of explosives under the authority of the licence.

(2) In this section:

*defined components*, of ANFO, means—

- (a) ammonium nitrate as the oxidising agent; and  
(b) clean oil, fuel oil or another oil having a flashpoint of 60.5°C or higher as the fuel component.

*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).

**U** 187A      **Use records**

**Division 2.9.4      Blasting permits**

**188      Blasting permit applications—Act, s 50 (2)**

An application for a blasting permit for a blasting operation to be carried out by a shot-firer at premises must include the following information and documents:

- (a) the name, business address and telephone number of the applicant;  
(b) documentation describing a safety management system (including a blast plan) for the blasting operation;

*Note* Section 189 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 shot-firer has access, about—

- (i) the use of explosives at the premises; 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 the building or structure;
- (d) details of any other information the applicant or the shot-firer knows that is material to the application;
- (e) a consent signed by the shot-firer for—
  - (i) a police officer to make inquiries about the shot-firer's criminal record; and
  - (ii) for the shot-firer to be examined, if necessary, under section 190;
- (f) any other information or documents required by a form for the application approved under the Act, section 222.

## **189 Blast plans**

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 shot-firer—
  - (i) the shot-firer's name, business address, telephone number and shot-firer licence number; and
  - (ii) the shot-firer'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 (*affected areas*);

**Examples of affected areas**

- 1 public areas
- 2 facilities for water, gas, electricity and telecommunication services
- 3 public transport and emergency transport routes

*Note* An example is part of the regulation, 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).

- (f) whether the permission of people in control of affected areas has been obtained;
- (g) details (including the outcome) of consultation conducted with anyone who could be affected by the detonation of the explosives, including the public, about the following:
  - (i) the blasting proposal and any possible dangers arising from it;
  - (ii) any disruptions to the use of affected areas;
- (h) arrangements for the giving of notice of the detonation of the explosives to anyone that may be affected by the detonation, including the public;
- (i) 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 2004*; 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;
- (j) the kind and quantity of explosives to be detonated;

- (k) the occasion or occasions when explosives are to be detonated (including test detonations);
- (l) the procedure for the preparation and placement of the explosives and the detonation sequence of the explosive charges;
- (m) safety measures for the detonation of the explosives, including the security of people and premises, the exclusion zone and the warning procedures;
- (n) the procedure to be followed if explosives misfire;
- (o) the method of disposal of any explosives unused at the completion of the proposed purpose;
- (p) the storage facilities for the explosives at the premises and the proposed procedures for the control and management of the facilities;
- (q) the procedure for carrying the explosives about the workplace;
- (r) any other information or documents required by the form for a blast plan approved under the Act, section 222.
- (s) any other information required by the chief executive.

**U** 190 **Suitable people to hold blasting permits—Act, s 49 (1) (i)**

- (1) This section applies in relation to working out whether an applicant for either of the following is a *suitable person* to hold a blasting permit or an amended blasting permit:
  - (a) the issue of a blasting permit for a blasting operation;
  - (b) the amendment of a blasting permit under the Act, section 58 (Licence—application to amend by licensee).

- (2) In deciding the application, the chief executive must have regard to matters including the following in deciding whether the applicant is a *suitable person*:
- (a) whether the shot-firer for the operation has demonstrated practical experience in the use of explosives as proposed in the application;
  - (b) whether the applicant's safety management system (including the blast plan) for any relevant blasting operation is suitable for the operation.
- (3) The chief executive may, by written notice to the applicant, require the shot-firer for the operation to show by a practical or oral examination the shot-firer's competence to use explosives in accordance with the blast plan.
- (4) A practical examination must be conducted under the supervision of an inspector.

**191      Blasting permit conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to each blasting permit:
- (a) only authorised explosives may be used for a blasting operation authorised by the permit;
  - (b) the permit-holder must establish and maintain a safety management system (including a blast plan) for the blasting operation authorised by the permit;
  - (c) the shot-firer for the operation must hold a shot-firer licence authorising the use of the explosives stated in the blast plan for the purpose stated in the blast plan;
  - (d) the exclusion zone as set out in the blast plan must be maintained for the blasting site;
  - (e) the permit-holder must—

- (i) comply with the obligations imposed directly on the permit-holder under this part; and
- (ii) ensure that this part is complied with in relation to the use of explosives for any blasting operation conducted under the authority of the permit.

*Note 1* A blasting permit is a licence under the Act (see s 179, def **blasting permit**). A blasting permit is also subject to any conditions included in the permit by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* The holder of a blasting permit who fails to comply with a condition of the permit may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

- (2) If a person holds a shot-firer licence as well as a blasting permit, an obligation that applies to the person under this part in either capacity is taken to be a condition of both the licence and the permit.

## **192 Evaluation of blasting operations**

- (1) After the completion of a blasting operation authorised by a blasting permit, the permit-holder must—
  - (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.

Maximum penalty: 10 penalty units.

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

## **Division 2.9.5 Purchase of additional explosives for blasting operations**

### **193 Application for special purchase authority**

For division 2.8.3 (Explosives—supply requirements), a shot-firer may make a written application to the chief executive for special

authority as required by that division to be supplied with a greater amount of explosives than is stated in the shot-firer licence or any blasting permit that authorises the shot-firer to conduct a blasting operation.

#### **194 Issue of special purchase authority**

- (1) On an application under section 193, the chief executive may issue the shot-firer with the special authority sought, in writing, if satisfied that—
  - (a) the amount and kind of explosives is necessary for completion of a blasting operation; and
  - (b) explosives purchased for the blasting operation will be stored in compliance with part 2.7 (Storing explosives).
- (2) A decision of the chief executive to refuse to issue a special purchase authority is a reviewable decision for the Act, section 186.
- (3) The applicant for the special authority is prescribed for the Act, section 187 (Notice of reviewable decisions).

*Note* The effect of this section is to make the decision reviewable by the AAT. See the Act, ch 9 for the relevant procedures.

### **Division 2.9.6 On-site storage by shot-firers**

#### **195 Method of storing explosives at a blasting site**

- (1) Explosives must be stored at a blasting site—
  - (a) in accordance with part 2.7 (Storing explosives); or
  - (b) securely aboard a road or rail vehicle in accordance with part 2.6 (Carrying explosives); or
  - (c) in a portable magazine under section 196.
- (2) This section does not apply to—

- (a) explosives in blast holes; or
- (b) explosives in immediate use in the making up of a charge; or
- (c) the carrying of explosives in their original packages within a mine or a quarry; or
- (d) 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 the blasting site.

## **196 Temporary on-site storage**

- (1) For section 195 (1) (c), the following requirements must be complied with if explosives are kept in a portable magazine at a blasting site:

- (a) unless allowed by subsection (2) or (3)—
  - (i) explosives of compatibility group D must not be kept in the same magazine as explosives of classification code 1.4G (for example, plastic igniter cord and fuse lighters); and
  - (ii) detonators must not be kept in the same magazine as any other explosives;

*Note* An example is part of the regulation, 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) except during the preparation of a charge—
  - (i) the magazine must be locked; and
  - (ii) the magazine containing detonators must be separated by at least 1m from a magazine containing other explosives.



- (2) However, up to the following amounts of explosives may be kept together in any combination in the same magazine at a blasting site:
- (a) 500m of igniter cord;
  - (b) 500g of fuse lighters;
  - (c) 3.5kg of explosives of Compatibility Group D.
- (3) Also, detonators may be kept together in the same magazine at a blasting site with any other explosives if—
- (a) there are no more than 25 detonators and 3.5kg (in total) of other explosives; and
  - (b) the detonators are kept in 1 compartment and any other explosives are kept in another compartment; and
  - (c) the magazine has an airspace 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) the compartment containing the detonators is labelled ‘MAX 25’; and
  - (e) the compartment containing the other explosives is labelled ‘MAX 3.5KG’.
- (4) Explosives at a blasting site, whether stored aboard a road or rail vehicle, or in a portable magazine under this section, must be transferred at or before the end of work for the day to a place of storage that complies with part 2.7.

## **197 Ignition sources at blasting sites**

A source of ignition must not be introduced within 10m of an explosive at a place where the explosive is awaiting use, unless the source of ignition is necessary to fire a charge.

**198 Defective explosives**

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 for normal blasting operations in a mine or a quarry unless an inspector has authorised the disposal of the particular explosives by that method.

**Division 2.9.7 Equipment for blasting operations**

**199 Requirement to provide equipment**

The holder of a blasting permit must comply with any reasonable request by the shot-firer for the blasting operation authorised by the permit about the provision and maintenance of equipment necessary for compliance with this regulation.

**200 Condition of blasting equipment**

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

**201 Equipment used to initiate explosives**

- (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, in writing, by the chief executive.

- (3) An approval under subsection (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 subsection (2).
- (5) A firing cable must comply with AS 2187.2.

## **202 Labelling, identification and testing of exploders**

- (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 that can satisfactorily fire 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 of longer than 30 days; and
  - (c) if the person using the exploder suspects a loss of efficiency; and
  - (d) if required by an inspector.

## **203 Firing switches, short-circuit switches and switchboxes**

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

## **Division 2.9.8 Before and after blasting**

### **204 Shot-firer to take due precautions**

- (1) A shot-firer must take all precautions that are necessary and reasonable to prevent any danger to people or damage to property from the use of explosives by the shot-firer in the course of a blasting operation.
- (2) If a person other than the shot-firer is in charge of a blasting operation, the person must take all precautions that are necessary and reasonable to prevent any danger to people or damage to property from the use of explosives in the course of the operation.

Maximum penalty: 30 penalty units.

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

### **205 Blasting warnings—general**

- (1) A person intending to fire an explosive for a blasting operation must—
  - (a) give a warning that is sufficient and appropriate to people near the firing operation; and
  - (b) take all necessary precautions to—
    - (i) ensure that people near 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 secured against entry by the public or vehicles; and

- (d) except in underground blasting operations—before and after firing, ensure that an effective audible warning signal is given in accordance with—
- (i) the system required by section 206 or section 207; or
  - (ii) any alternative or additional requirements stated in the blasting permit.

**Examples for par (c) of means to prevent entry**

- 1 display of warning signs
- 2 posting of guards

*Note* An example is part of this regulation, 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 subsection (1) (d), an audible warning must be distinguishable from motor vehicle horns or other audible signalling devices normally used in the area where the firing operation is taking place.

**206 Audible warning system—general blasting**

This is the audible warning system for use in above-ground blasting operations other than in a mine or quarry:

- (a) 1 minute before firing, an audible signal must be sounded for 15 seconds;
- (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 must be sounded for 1 second each, separated by 1 second.

**207 Audible warning system—mines and quarries**

This is the audible warning system for use in above-ground blasting operations in a mine or quarry:

- (a) a series of 3 short audible signals must be sounded, followed by a pause of at least 3 minutes, during which 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 practicable after the continuous audible signal has sounded for 10 seconds, after 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.

**208 Control of blasting operations**

- (1) A person at a blasting site must obey any reasonable instruction given by a shot-firer during the period—
  - (a) starting when the charges start being prepared for firing; and
  - (b) ending when the 'all clear' signal is given.

Maximum penalty: 30 penalty units.

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

**209 Total fire ban days**

A person must not use an explosive that may produce a flame above the ground in the open during a period for which a total fire ban is in force under the *Emergencies Act 2004*.

**210 Firing explosives at night**

A person who uses an explosive for a blasting operation 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).

**211 Capping fuses and preparing primers**

- (1) A person who caps fuses or prepares primers at a place must ensure that everyone who is not involved in doing so remains at least 10m away from the place.
- (2) A person who caps fuses or prepares primers must do so in a safe place that 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.

## **212 Lowering primers into blast holes**

A person who lowers a primer into a blast hole using the lead wires of a detonator, safety fuse, detonating cord or signal tube must do so in accordance with AS 2187.2.

## **213 Approach of a storm**

- (1) This section 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 shot-firer 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, a person at the site—
- (a) must withdraw to a safe distance from any explosive; and
  - (b) must not return until the storm has passed.

Maximum penalty: 30 penalty units.

### **Examples 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 regulation, 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 shot-firer; or
  - (b) if the shot-firer is absent—someone authorised by the shot-firer.
- (5) This section does not apply to a blasting operation in underground workings, other than work in a sinking shaft.
- (6) An offence against this section is a strict liability offence.

#### **214 Site preparation**

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

*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.

#### **215 Blasting equipment precautions**

When a charge is prepared—

- (a) only tools made from non-ferrous materials may be used; and
- (b) if a metal spike is used to form a hole in a cartridge explosive, the spike must not come into contact with any metal or hard surface as it emerges; and
- (c) if practicable, only whole cartridges may be charged into blast holes; and
- (d) any metal implement used to cut explosives used for blasting operations must not operate with metal-to-metal contact or come into contact with any hard surface.

## **216 Blasting preparation**

- (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) For top-primed blast holes, tamping may only begin after at least 150mm of stemming material has been placed in the blast hole.

## **217 Obstruction in blast hole**

- (1) This section 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 section:

*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.

## **218 Charging blast holes using pumpable or free-flowing explosives**

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.

### **219 Precautions after blast**

After blasting has been carried out at a blasting site—

- (a) no-one may enter the blasting site until the shot-firer, or a person authorised by the shot-firer, 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 must be carefully inspected for the presence of unfired or misfired explosives; and
- (c) drilling must not be 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).

### **220 Inspection of site at end of shift**

- (1) If blasting has been carried out at a blasting site during a working shift, work must not begin on the next working shift until the site has been inspected and declared safe by a shot-firer authorised to use explosives under the blasting permit for the operation.

- (2) The shot-firer must tell 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**

### **221      Use of exploders**

A shot-firer 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 shot-firer's possession and control while the shot-firer 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.

### **222      Use of mains firing**

- (1) A shot-firer 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 switchboxes 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 shot-firer using mains firing must also ensure that—
- (a) a switchbox has only a single key; and
  - (b) the key is in shot-firer's possession and control while he or she is on duty; and
  - (c) the switchbox is locked after a blasting operation.

## **223 Electrical firing—testing of components**

- (1) A shot-firer must, in accordance with subsection (2), test a firing cable to be used for electric firing operations—
  - (a) for breaks and internal short-circuits; and
  - (b) to work out 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 shot-firer must test each electric detonator to be used in a blasting operation for continuity and resistance using a circuit tester.
- (4) The shot-firer must take the following precautions in testing an electric detonator:
  - (a) the detonator must be covered in a way that will prevent injury to anyone, 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 shot-firer must not use a firing cable or detonator in a blasting operation that is found to be faulty when tested in accordance with this section until the fault is rectified.

## **224 Electrical firing—safe location of firing position**

- (1) A shot-firer 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 section:  
*firing position* means the position where the exploder or circuit switch is to be operated to fire the charge.

**225 Electrical firing—precautions during charging**

- (1) A shot-firer must comply with 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 section 205 (Blasting warnings—general) 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 if there is 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 shot-firer 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 section:

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

## **226 Electric firing near source of electric power**

- (1) If electric firing is carried out 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.
- (2) 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.
- (3) Subsection (2) 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.
- (4) Electric firing in a mine or quarry must not be undertaken near any electrified trolley wire, underground power cable or high-voltage overhead powerline.
- (5) Subsection (4) does not apply if an inspector gives the shot-firer written approval for the electric firing.

## **227 Electric detonators near radiation source**

- (1) This section applies to the use of an electric detonator near any of the following:
  - (a) a radio or television transmitter;

- (b) a repeater transmission station;
  - (c) another source of electromagnetic radiation.
- (2) The electric detonator may be used 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.

## **228 Electronic detonator firing**

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

## **Division 2.9.10 Other blasting procedures**

### **229 Safety fuse firing**

- (1) This section applies if a shot-firer uses safety fuse in a blasting operation.
- (2) The shot-firer must ensure that—
  - (a) before the fuse is used—
    - (i) a sample of at least 1m is burnt to work out 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 shot-firer 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; 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) no 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 shot-firer has any doubt about the number of charges that have exploded, the shot-firer 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 shot-firers fire explosives near each other, the shot-firers must arrange the order of firing to avoid confusion in counting the number of explosions.

## **230 Use of detonating cord**

- (1) This section applies if a shot-firer uses detonating cord in a blasting operation.
- (2) The shot-firer 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; and
  - (c) the branch line connections are made in accordance with AS 2187.2; and
  - (d) if both trunk and branch lines are used—the blast is initiated in a trunk line.
- (3) In this section:

**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.

### **231 Signal tube firing**

- (1) This section applies if a shot-firer uses a signal tube to initiate a blasting operation.
- (2) The shot-firer 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 shot-firer must ensure that the firing position where the shot-firer 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 section:
- 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.

## **232 Use of ANFO**

- (1) This section applies if a shot-firer pneumatically loads ANFO.
- (2) The shot-firer must ensure that—
- (a) the equipment used for the loading is approved; and
  - (b) the mixture is loaded through a safety tube; and
  - (c) when loading the mixture, the pneumatic loader is earthed through a resistance of not more than 1M $\Omega$ ; 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 section:

*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.

### **233 Dealing with butts**

- (1) If a butt is found after a charge has been fired, the shot-firer 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.

### **234 Bulling charges**

- (1) This section applies to a blast hole in which a bulling charge has been fired.
- (2) The shot-firer 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 for at least 1 hour.

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

### **235 Charging and firing charges**

The shot-firer 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 excessive 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**

#### **236 Meaning of *misfire***

- (1) In this regulation:  
*misfire* means a charge or part of a charge that, on 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.

#### **237 Immediate action after a misfire**

- (1) If there is a misfire, the shot-firer 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 applies, until the end of whichever of the following periods ends last:
  - (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) Subsection (1) does not apply to a cut-off or butt.
- (3) The shot-firer must, as soon as possible, tell the person controlling or managing the blasting site about any misfire.

**238 Misfire not to be left unattended**

- (1) This section applies if there is a misfire in surface blasting.
- (2) The misfire must not be left unattended.
- (3) The shot-firer 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 subsection (3), a person must not enter the blasting area.

Maximum penalty: 30 penalty units.
- (5) Subsection (4) does not apply to the shot-firer or a person authorised by the shot-firer to enter the blasting area.
- (6) An offence against this section is a strict liability offence.

**239 Location of misfire**

After the end of the period that applies under section 237, the shot-firer 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.

**240 Electrical tests for misfire**

The shot-firer 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.

**241 No removal of cartridged explosive**

- (1) A person must not remove cartridged explosive from a blast hole containing a misfired charge.

Maximum penalty: 30 penalty units.

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

**242 Blasting strategy to deal with misfire**

- (1) This section applies if—
  - (a) a charge misfires in a blasting or relieving hole; and
  - (b) the shot-firer proposes to deal with the misfire by refiring the charge in the same hole or firing a further charge in the same hole or a relieving hole.

- (2) The shot-firer may deal with the misfire by following whichever of the following procedures applies:
- (a) if the shot-firer believes on reasonable grounds that there is no likelihood of injury to a person or damage to property if the charge is refired—by refiring the charge in the same hole;
  - (b) if paragraph (a) does not apply—by firing a further charge in the same hole, in accordance with subsection (3);
  - (c) if it is impractical to fire a further charge in the same hole—subject to subsection (6), by firing a further charge in a relieving hole in accordance with subregulations (4) and (5).
- (3) If subsection (2) (b) applies, the shot-firer must ensure that—
- (a) stemming and any water destructible explosives are 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 shot-firer must comply with the other requirements of this part relating to blasting operations.
- (4) If subsection (2) (c) applies, the shot-firer 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.
- (5) If subsection (2) (c) applies, the shot-firer may drill multiple relieving holes to be fired together to deal with the misfire.
- (6) However, a shot-firer 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.

#### **243 Misfire when electric detonator used**

- (1) This section applies if there is a misfire after an electric detonator has been used.
- (2) The shot-firer must—
  - (a) short-circuit the firing cable and the lead wires of the detonator before attempting to treat the misfire; and
  - (b) if the shot-firer proposes to use a procedure under section 242—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.

#### **244 Misfire when signal tube detonator used**

- (1) This section applies if—
  - (a) there is a misfire after a signal tube detonator has been used; and
  - (b) the shot-firer proposes to use a procedure under section 242 (Blasting strategy to deal with misfire) to deal with it.
- (2) The shot-firer 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.

**245 Work not to restart until safe**

- (1) If the treatment of a misfire has involved the firing of a charge, the person controlling or managing the blasting site must ensure that work does not restart on the blasting site until—
  - (a) the shot-firer has searched thoroughly for any unexploded explosive; and
  - (b) any explosive discovered has been safely disposed of; and
  - (c) the shot-firer is satisfied that it is safe to resume.

Maximum penalty: 30 penalty units.

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

**246 Misfires that cannot be treated according to requirements**

- (1) This section applies if the person controlling or managing the blasting site (the *controller or manager*) considers that the misfire cannot be dealt with in accordance with this division.
- (2) The controller or manager must—
  - (a) immediately take steps to ensure that instructions to deal safely with the misfire are issued; and
  - (b) ensure that the instructions are carried out; and
  - (c) make an accurate written record of the instructions; and
  - (d) if the misfire is in a mine or quarry—tell an inspector in writing about the misfire as soon as possible after the misfire.

Maximum penalty: 20 penalty units.

- (3) The controller or manager must keep the record made for subsection (2) (c) for at least 5 years after the misfire.

Maximum penalty: 20 penalty units.

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

## **Division 2.9.12 Special blasting operations**

### **247 Blasting underwater**

- (1) Blasting underwater must be undertaken in accordance with AS 2187.2.
- (2) A shot-firer who intends to fire a charge underwater must ensure, before firing, that—
  - (a) everyone 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.

### **248 Hot-material and high-temperature blasting**

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

### **249 Demolition of buildings and other structures**

- (1) A shot-firer must ensure that when blasting is used for the demolition of buildings or other structures, all operations are performed in accordance with—

- (a) any conditions in the blasting permit; and
  - (b) if not inconsistent with any conditions in the blasting permit—  
AS 2187.2.
- (2) If the requirements of this section and any other section in this part are inconsistent, the requirements of this section prevail.

## Part 2.10 Disposal of explosives

*Note* If this regulation requires an explosive to be disposed of in a particular way, and a person disposing of the explosive does not comply with that requirement, the person may commit an offence under the Act, s 81 (Unauthorised disposal of dangerous substances, plant and systems).

### 250 Meaning of *dispose*

In this part:

*dispose* does not include supply.

*Note* *Dispose* and *supply* are defined in the Act, dict. Those definitions apply to this regulation. However, the definition in this section qualifies the definition in the Act.

### 251 Application of pt 2.10

- (1) This part applies to the disposal of explosives other than defined general use fireworks.
- (2) However, this part does not apply to the disposal of explosives by an inspector or police officer exercising a function under the Act.
- (3) In this section:

*defined general use fireworks* means general use fireworks other than a quantity of more than 10kg of sparklers.

*Note* Sparklers are general use fireworks (see s 259).

### 252 Authority to dispose of explosives

- (1) A person must not dispose of an explosive unless the person is authorised under a licence to handle the explosives.

- (2) A licence that authorises the handling of an explosive authorises the disposal of the explosive by—
- (a) the licensee; and
  - (b) any individual engaged (as an employee or contractor) to handle the explosive under the supervision of the licensee.

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

*Note 2* A person who disposes of an explosive without authorisation may commit an offence against the Act, pt 5.1.

### **253 Conditions for disposal of explosives—Act, s 53 (2) (b)**

It is a condition of a licence that authorises the handling of an explosive that the licensee must—

- (a) comply with the obligations imposed directly on the licensee under this part; and
- (b) ensure that this part is complied with in relation to the disposal of explosives under the authority of the licence.

*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).

### **254 Discarding explosives**

- (1) A person must not discard explosives.

Maximum penalty: 30 penalty units.

#### **Examples of discarding**

- 1 throwing away the explosives
- 2 burying the explosives, unless their burial complies with s 255 or s 256

*Note* An example is part of the regulation, 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) An offence against this section is a strict liability offence.

**255 Safe disposal of explosives—AS 2187.2**

Explosives may only be disposed of in accordance with AS 2187.2, subject to section 256 and 257.

*Note* See AS 2187.2, s 9.

**256 Safe disposal of explosives—general rules**

A person disposing of an explosive must—

- (a) ensure that the method of disposal used provides the greatest degree of safety and security possible; and
- (b) ensure that the method of disposal is appropriate to the kind and condition of the explosive; and
- (c) take adequate precautions against causing injury to anyone or damage to any property.

**257 Safe disposal of explosives—inspector's instructions**

Despite section 255 and section 256, if an inspector tells (orally or in writing) a person who is authorised to handle an explosive under a licence to dispose of the explosive in a particular way, the person must ensure that the direction is complied with.

**258 Disposal records**

- (1) The holder of a licence under which an explosive is disposed of must make a record of the disposal that complies with subsection (2).
- (2) The record must include the following:
  - (a) the name and licence details of the owner of the explosive;
  - (b) the name and classification code of the explosive, and the quantity disposed of;

- (c) the date of disposal;
  - (d) the method of disposal;
  - (e) the reason for disposal;
  - (f) any information or documents required by a form for the record approved under the Act, section 222.
- (3) The holder of a licence must keep a record made under this section of the disposal of an explosive for at least 3 years after the day of disposal, whether or not the licence continues in force.
- Maximum penalty: 20 penalty units.
- (4) An offence against this section is a strict liability offence.

## Chapter 3            Fireworks

### Part 3.1            Kinds of fireworks

*Note*            This regulation categorise fireworks as follows:

- general use fireworks (eg sparklers)—see s 259 and pt 3.2
- consumer fireworks (eg ground spinners)—see s 260 and pt 3.3.
- prohibited fireworks (eg large crackers or large aerial shells)—see s 261.

#### 259            General use fireworks

- (1) For this regulation, each of the fireworks mentioned in table 259, column 2 is a *general use firework*—
- (a) if the quantity of pyrotechnic substance in the firework is no more than the quantity mentioned in column 3 for the firework; and
- (b) if any other condition mentioned in column 3 for the firework is met.

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

- (2) A declaration under table 259, item 6 is a disallowable instrument.

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

**Table 259**    **General use fireworks**

<b>column 1</b> item	<b>column 2</b> kind of firework	<b>column 3</b> maximum quantity of pyrotechnic substance etc
1	amorce	0.0075g
2	cap	0.0075g
3	party popper	0.03g
4	snap for a bonbon	0.03g
5	sparkler	(a) 10g pyrotechnic substance for any individual sparkler; and (b) 100g total pyrotechnic substance for all sparklers in same package; and (c) 450mm in length; and (d) designed to be held in the hand; and (e) does not contain magnesium, chlorate or perchlorate
6	any other kind of firework declared by the Minister in writing to be a general use firework	any conditions stated by the Minister in the declaration (for example, fixing a maximum quantity of pyrotechnic substance)

## 260 Consumer fireworks

For this regulation, each of the fireworks mentioned in table 260, column 2 is a *consumer firework* if the quantity of pyrotechnic substance in the firework, or in a part of the firework, is no more than the quantity mentioned in column 3 for the firework or part.

*Note* To be supplied by retail to consumers during the Queen's birthday supply period, consumer fireworks must be authorised under the regulation (see div 2.2.1) and registered for Queen's birthday supply under div 2.2.4. For further requirements about the supply and use of consumer fireworks, see pt 3.3.

**Table 260 Consumer fireworks**

column 1 item	column 2 kind of firework	column 3 maximum quantity of pyrotechnic substance
1	fountain	60g
2	ground spinner	20g
3	helicopter	20g
	<i>Note Helicopters</i> are also known as <i>fliers</i> and <i>aerial spinners</i> .	
4	mine	(a) 60g in total; and (b) for lift charge—20g; and (c) for each star—5g
5	multishot cake	(a) 60g in total; and (b) for each tube—10g
6	novelty	5g

Section 261

column 1 item	column 2 kind of firework	column 3 maximum quantity of pyrotechnic substance
7	snake <i>Note Snakes are also known as glow worms.</i>	2g
8	wheel	(a) 60g in total; and (b) for each driver—20g

**261 Prohibited fireworks**

For this regulation, each of the fireworks mentioned in table 261, column 2 is a *prohibited firework*—

- (a) if any dimensions of the firework are greater than those stated for the firework in column 3; or
- (b) if any other condition mentioned in column 3 for the firework is met.

*Note 1* Prohibited fireworks cannot be authorised (see s 29 (2) and s 32 (3) (a)).

*Note 2* Any firework (whether or not it is a prohibited firework) that is not authorised is a prohibited explosive (see s 27 (1)).

**Table 261 Prohibited fireworks**

column 1 item	column 2 kind of firework	column 3 dimension etc
1	any individual cracker, whether or not in a string	(a) length—45mm; and (b) external diameter—10mm

column 1 item	column 2 kind of firework	column 3 dimension etc
2	any individual cracker, whether or not in a string	if the cracker is designed to be ignited by striking part of the cracker against another surface (for example, match crackers and strike bungers)  <i>Note</i> An example is part of the regulation, 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	string of crackers	if the crackers contain a roll or rolls of crackers designed to initiate simultaneously
4	aerial shell, other than a salute shell	diameter—300mm
5	salute shell	diameter—75mm

## Part 3.2 General use fireworks

### 262 General use fireworks—ch 3 does not apply

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

### 263 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.

Maximum penalty: 5 penalty units.

#### 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 regulation, 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) An offence against this section is a strict liability offence.



## Part 3.3 Consumer fireworks

### Division 3.3.1 Preliminary

#### 264 Consumer fireworks definitions

In this regulation:

*consumer*, for this part—see section 266.

*consumer fireworks authorised receipt*—see section 278.

*consumer fireworks licence* means a licence issued for this part authorising the retail supply of consumer fireworks and storage of consumer fireworks for retail supply.

*primary authorised user*, of consumer fireworks—see section 294 (Authority for using consumer fireworks).

*Queen's birthday supply*—see section 28.

*Queen's birthday supply period*—see section 274.

*Queen's birthday weekend use period*—see section 295.

*supplier*, for this part—see section 266.

*supply*, for this part—see section 265.

#### 265 Meaning of *supply* for pt 3.3

In this part:

*supply*, of consumer fireworks, means the retail supply of the fireworks.

*Note* This restricts the ambit of the Act, dict, def *supply*, for this part, but does not exclude the Act definition.

**266 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; and
- (d) the use of consumer fireworks by consumers.

**Division 3.3.2 Consumer fireworks supply and storage—general**

**267 Authority to supply and store consumer fireworks**

- (1) A person is authorised to supply a consumer firework if the person—
  - (a) holds a consumer fireworks licence authorising the supply of the firework; or
  - (b) is an individual engaged (as an employee or contractor) to supply the firework under the supervision of a person who holds a consumer fireworks licence.
- (2) A person is authorised to 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) any individual engaged (as an employee or contractor) to supply or store the firework under the supervision of a person who holds a consumer fireworks licence.

*Note 1* 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 supplies or stores a consumer firework without authorisation may commit an offence against the Act, pt 5.1.

**268**      ***Reasonable steps for supplying and storing consumer fireworks—Act, s 16 (2) (e)***

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the supply or storage of consumer fireworks, consideration must be given to whether the requirements under this part have been complied with in relation to the supply or storage.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

**269**      ***Person in control of supplying and storing consumer fireworks—Act, s 17 (1) (e)***

For the Act, the holder of a consumer fireworks licence is a *person in control* of all of the following in relation to the supply and storage of an explosive under the licence:

- (a) the handling of the explosive;
- (b) the premises from where the explosive is supplied, and where it is stored;

- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plant, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.

### **Division 3.3.3 Consumer fireworks licences**

#### **270 Consumer fireworks licence applications—Act, s 50 (2)**

An application for a consumer fireworks licence must include the following information and documents:

- (a) the name and address of the applicant;
- (b) the address of each premises from which the fireworks are to be supplied;
- (c) documentation describing a safety management system for the supply and storage of consumer fireworks under the authority of the licence;
- (d) details of how consumer fireworks are to be stored and supplied at those premises;
- (e) details of training to be provided to suppliers;
- (f) any other information or documents required by a form for the application approved under the Act, section 222.

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**271 Consumer fireworks licence conditions—s 53 (2) (b)**

The following conditions apply to each consumer fireworks licence in relation to the Queen's birthday supply period for which the licence is issued:

- (a) only consumer fireworks (*registered consumer fireworks*) that are registered under division 2.2.4 for Queen's birthday supply during that period may be supplied under the licence;
- (b) only fireworks that are registered consumer fireworks during that period may be stored under the licence;
- (c) the licensee must establish and maintain a safety management system for the supply and storage of consumer fireworks under the licence;
- (d) the licensee must—
  - (i) comply with the obligations imposed directly on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the supply and storage of consumer fireworks under the authority of the licence.

*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* Consumer fireworks are registered for Queen's birthday supply only during the Queen's birthday supply period. Registration ends, as does the supply period, at 5 pm on the last day of the supply period. See s 40.

*Note 3* Section 286 prohibits storage of consumer fireworks under a consumer fireworks licence outside the period beginning 2 days before the Queen's birthday supply period and ending at 5 pm on the 2nd day after the end of the Queen's birthday supply period.

**272 Term of consumer fireworks licence—Act, s 54 (2)**

A consumer fireworks licence may not be issued for longer than 1 year.

**Division 3.3.4 Supply of consumer fireworks**

**273 Training for suppliers of consumer fireworks**

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 about the supply of fireworks;
- (b) the safe handling of fireworks;
- (c) emergency procedures relating to the handling of fireworks.

**Examples for par (a)**

- 1 restrictions on who may be supplied with consumer fireworks
- 2 the requirement to give authorised receipts to consumers to whom consumer fireworks are supplied
- 3 record-keeping requirements

*Note* An example is part of the regulation, 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).

**274 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 am on the first Monday in June; and
  - (b) ends at 5 pm on the second Monday in June.

Maximum penalty: 20 penalty units.

*Note* The 2nd Monday in June is an annual public holiday for the Queen's birthday (see *Holidays Act 1958*, s 3 (1) (a) (viii)).

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

**275 Advertising—Queen’s birthday supply period etc**

- (1) This section applies if a person (an *advertiser*) places an advertisement with someone else (a *publisher*) for the supply of consumer fireworks in a particular year.
- (2) The publisher must not publish the advertisement—
- (a) unless the advertiser produces to the publisher—
    - (i) a consumer fireworks licence authorising the supply of the consumer fireworks as advertised; or
    - (ii) a copy of such a licence certified by the licensee to be genuine; or
  - (b) if the publication takes place more than 7 days before the start, or any time after the end, of the Queen’s birthday supply period in that year; or
  - (c) the advertisement does not comply with subsection (3).

Maximum penalty: 30 penalty units.

- (3) The advertisement must include all of the following information in a written or oral statement:
- (a) the number of the consumer fireworks licence under which the fireworks are to be supplied;
  - (b) the dates, days and times of the Queen’s birthday supply period for that year;
  - (c) a statement that it is illegal for unauthorised members of the public to supply consumer fireworks to anyone in that year before the start of the Queen’s birthday supply period;
  - (d) a statement that it is illegal to use consumer fireworks in that year except during the Queen’s birthday weekend use period;

- (e) a statement that it is illegal to supply consumer fireworks to anyone who is not an adult ACT resident.
- (4) An offence against this section is a strict liability offence.
- (5) In this section:

*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 regulation, 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).

**276 Display of consumer fireworks for supply**

- (1) A person must not display consumer fireworks to the public for supply if—
  - (a) the supply of the fireworks is not authorised under a consumer fireworks licence or this regulation; 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 fireworks are displayed outside the Queen’s birthday supply period.

Maximum penalty: 30 penalty units.

- (2) A person must not display consumer fireworks to the public for supply unless the fireworks are in a display cabinet that—
  - (a) is kept locked while the cabinet is unattended; 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 section is a strict liability offence.

**277 Supply to children and non-ACT residents of consumer fireworks 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) Subsection (1) does not limit the circumstances in which a supplier may refuse to supply consumer fireworks.
- (3) An offence against this section is a strict liability offence.

**278 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) any other information or documents required by the form for a receipt approved under the Act, section 222.

*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 s 277).

Maximum penalty: 30 penalty units.

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

## **279 Misrepresentation about fireworks**

- (1) A person must not, during a Queen's birthday supply period—
  - (a) supply something to a consumer that is not—
    - (i) a consumer firework; and
    - (ii) authorised for supply under a consumer fireworks licence; and
  - (b) represent the thing to be—
    - (i) a consumer firework; or
    - (ii) authorised for supply under a consumer fireworks licence.

Maximum penalty: 30 penalty units.

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

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## **Division 3.3.5      Labelling—consumer fireworks**

### **280      Requirement to obtain wholesaler's assurance for consumer fireworks etc**

- (1) The holder of a consumer fireworks licence (a *licensee*) who obtains packaged consumer fireworks from someone else for supply must obtain a written assurance given by the importer or wholesale supplier of 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.

### **281      Where consumer fireworks 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 package containing the firework, or, if the firework is contained in 2 or more packages, to the inner package.

### **282      Information on consumer fireworks labels**

- (1) A consumer firework must have a label fixed to it that includes 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 3.3.6 Packaging and safety instructions— consumer fireworks**

#### **283 Sealed packaging for consumer fireworks**

- (1) A supplier may supply consumer fireworks to consumers only if the fireworks are in sealed packages that comply with this section.
- (2) Each package of consumer fireworks must—
  - (a) be sealed so that it is plainly evident when the seal is broken; 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 instructions required by section 284 inside the package, so that the safety instructions for the matters mentioned in table 284, items 1 and 2 are readable without opening the package.

**284 Safety instructions for consumer fireworks**

The safety instructions to be included in a package of consumer fireworks must include safety instructions for the matters mentioned in table 284, column 3 for each activity mentioned in column 2.

**Table 284 Further information to be supplied with consumer fireworks**

<b>column 1 item</b>	<b>column 2 activity</b>	<b>column 3 safety instructions</b>
1	carrying consumer fireworks in vehicles	(a) safe location within the vehicle (b) safe securing fireworks within vehicle (c) safe segregation and separation of the fireworks from other substances and things in the vehicle
2	storing consumer fireworks	(a) safe segregation and separation of the fireworks from other substances and things (b) safe 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

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<b>column 1 item</b>	<b>column 2 activity</b>	<b>column 3 safety instructions</b>
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

### **Division 3.3.7 Storage of consumer fireworks**

#### **285 Application of div 3.3.7**

This division applies to the storage of consumer fireworks under a consumer fireworks licence.

*Note* The following provisions of the section apply to the storage of consumer fireworks otherwise than under a consumer fireworks licence:

- s 296 (User storage of consumer fireworks)—storage for personal use
- s 329 (On-site storage—outdoor displays)—storage under a fireworks display permit
- pt 2.7 (Storing explosives)—storage under a storage licence, or exempt storage

#### **286 Consumer fireworks storage—place, time and quantity**

A consumer firework may be stored under the licence only —

- (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 2 days after the end of the period; and
- (c) in a quantity, stated in the licence, of no more than 200kg.

*Note* Consumer fireworks may not be supplied by retail, or displayed to the public for retail supply, at any time outside the Queen's birthday supply period (see s 276).

## **287 Consumer fireworks storage—premises**

- (1) A person must not store a consumer firework under the licence at premises 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.

Maximum penalty: 30 penalty units.

### **Example of premises for par (b)**

service stations

*Note* An example is part of the regulation, 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) An offence against this section is a strict liability offence.

**288 Consumer fireworks—storage and packaging**

- (1) A person must not store a consumer firework under the licence otherwise than in a sealed package that complies with section 283 (Sealed packaging for consumer fireworks).

Maximum penalty: 30 penalty units.

- (2) A person must not do any of the following while a consumer firework is stored under the licence:

- (a) open a sealed package containing the firework;
- (b) pack or repack the firework.

Maximum penalty: 30 penalty units.

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

**289 Consumer fireworks—place of storage**

- (1) A person must store a consumer firework under the licence—

- (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 section does not apply if the consumer firework is stored in a display cabinet that complies with section 276 (2) (Display of consumer fireworks for supply).

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



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## **Division 3.3.8 Consumer fireworks records**

### **290 Delivery receipts—consumer fireworks**

- (1) A person who consigns consumer fireworks for delivery to the holder of a consumer fireworks licence must ensure that the licensee is given a delivery receipt showing the following:

- (a) the date of delivery;
- (b) the kinds and quantities of fireworks delivered.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) Compliance with subsection (1) is a condition of the licence under the authority of which the consumer fireworks are imported for or otherwise supplied to the holder of the consumer fireworks licence.

### **291 Delivery records—consumer fireworks**

- (1) If the holder of a consumer fireworks licence takes delivery of a consignment of consumer fireworks, the licensee must, whether or not the licence continues in force, keep for at least 3 years—

- (a) the delivery receipt given under section 290; 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 of why the receipt is not kept.

Maximum penalty: 20 penalty units.

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

## **292 Supply records—consumer fireworks**

- (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 chief executive—
  - (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: 20 penalty units.

- (2) The licensee must keep an additional copy of each consumer fireworks authorised receipt issued under the licence for at least 3 years after the day the receipt is issued, whether or not the licence continues in force.

Maximum penalty: 10 penalty units.

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

## **Division 3.3.9 Use of consumer fireworks**

### **293 Application of div 3.3.9**

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

*Note* A display operator’s licence or a fireworks display permit (which is a licence for the Act and this regulation) may authorise the use of consumer fireworks.

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**294 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 for the fireworks.
- (2) A person is also authorised to use consumer fireworks if the person uses the fireworks under the direct supervision of a primary authorised user.

*Note 1* Fireworks are dangerous substances because they are explosives.

*Note 2* A person who uses a consumer firework without authorisation may commit an offence against the Act, s 79 (Unauthorised use of certain dangerous substances).

**295 Consumer fireworks use on Queen’s birthday weekend**

- (1) A person must not use consumer fireworks except between 5 pm and 10 pm on the following days (the *Queen’s birthday weekend use period*):
- (a) the 2nd Monday in June;
  - (b) the Saturday and Sunday immediately before that Monday.

Maximum penalty: 30 penalty units.

*Note* The 2nd Monday in June is an annual public holiday for the Queen’s birthday (see *Holidays Act 1958*, s 3 (1) (a) (viii)).

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

**296 User storage of 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 instructions given by the supplier under division 3.3.6 (Packaging and safety instructions—consumer fireworks).

Maximum penalty: 20 penalty units.

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

**297 How to use consumer fireworks**

- (1) 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 3.3.6 (Packaging and safety instructions—consumer fireworks).

Maximum penalty: 20 penalty units.

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

## Part 3.4 Fireworks displays

### Division 3.4.1 Preliminary

#### 298 Application of pt 3.4

- (1) This part applies to the use of fireworks for fireworks displays.
- (2) However, this part does not apply in any of the following circumstances:
  - (a) use of a firework by an inspector or police officer exercising a function under the Act;
  - (b) use of a consumer firework authorised under section 294.

*Note* This part also does not apply to the use of general use fireworks (see s 262).

#### 299 Fireworks display definitions

In this regulation:

*display operator licence* means a licence issued for this part authorising the use of fireworks for fireworks displays.

*display site*, for a fireworks display authorised by a fireworks 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 ignition;
- (b) the fall-out area;
- (c) the area within the largest applicable minimum distance (under section 327 (Separation distances for fireworks displays)) from all viewing areas and any protected works.

*effective barrier* means—

- (a) a fence, cordon or similar device; or
- (b) a body of water or other natural barrier; or
- (c) any other way stated in a fireworks display permit of ensuring that separation distances are complied with for the use of fireworks under the permit.

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

**Examples**

- 1 an outdoor display of fireworks in association with a public event such as the Canberra Show or an outdoor entertainment (eg a game of football at Canberra Outdoor Stadium)
- 2 use of theatrical fireworks indoors at a theatre for 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 regulation, 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 issued for this part authorising the conduct of the display.

*ground display fireworks* means fireworks that—

- (a) primarily function on the ground; and
- (b) project stars, novelty effects or other effects above the ground.

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## Division 3.4.2 Using fireworks for fireworks displays—general

### 300 Authority to use fireworks for fireworks displays

- (1) A person is authorised to use a firework for a fireworks display if the person—
- (a) holds a display operator licence authorising the use of the firework for fireworks displays; or
  - (b) holds a fireworks display permit authorising the use of the firework for the display; or
  - (c) is an individual engaged (as an employee or contractor) to use the firework for the display under the supervision of a person who holds a display operator licence or a fireworks display permit authorising the use of the firework for a fireworks display.

*Note* A person who uses a firework without authorisation may commit an offence against the Act, pt 5.1.

- (2) However, a person is authorised to use a firework for a fireworks display only if its use is for a display in accordance with this regulation that is authorised by a fireworks display permit.

*Note* Div 3.4.4 (Fireworks display permits) includes a number of restrictions on the times, places and types of fireworks displays that may be conducted under fireworks display permits.

### 301 Operator licence or display permit to be produced

A person who holds a display operator licence or a fireworks display permit must—

- (a) carry the licence or permit at all times when using, or preparing to use, the fireworks authorised to be used under the licence or permit; and

- (b) produce the licence or permit when asked to do so by an inspector, police officer or firefighter.

**302 Reasonable steps for supplying and storing consumer fireworks—Act, s 16 (2) (e)**

For the Act, in working out whether *reasonable steps* have been taken in relation to a risk that may arise directly or indirectly from the handling of fireworks for a fireworks display, consideration must be given to whether the requirements under this part have been complied with in relation to the supply or storage.

*Note 1* **Risk** is defined (in the Act, s 15 (2)) as the likelihood of death or harm to a person, or damage to property or the environment, from a hazard (**Hazard** is defined in the Act, s 15 (1)).

*Note 2* The Act requires *reasonable steps* to be taken in relation to risks in a number of different contexts (eg throughout pt 3.1 (Safety duties)). The Act, s 16 (2) (a) to (d) lists a number of criteria for working out whether reasonable steps have been taken in relation to a risk. The Act, s 16 (2) (e) enables regulations to be made to add to the list.

**303 Person in control of fireworks displays—Act, s 17 (1) (e)**

For the Act, the holder of a display operator licence or a fireworks display permit is a *person in control* of all of the following in relation to the handling of a firework under the licence or permit for a fireworks display:

- (a) the handling of the firework;
- (b) the display site;
- (c) any associated plant or system;
- (d) any associated activity.

*Note* The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a *person in control* of activities, plants, systems and premises relating to the handling of dangerous substances. An explosive is a dangerous substance.



### **Division 3.4.3      Display operator licences**

#### **304      Display operator licence applications—Act, s 50 (2)**

An application for a display operator licence must include the following information and documents:

- (a) the name, address and date of birth of the applicant;
- (b) 2 passport photographs of the applicant;
- (c) documentation describing a safety management system for the use of fireworks under the licence for fireworks displays;
- (d) details of any training course that the applicant has attended in the use of fireworks, and evidence that the applicant passed the course, or met an applicable standard of competency because of the course;
- (e) details of the kinds of fireworks the applicant intends to use in fireworks displays, including the maximum size of each kind of firework;
- (f) details of any special effects or procedures using fireworks or pyrotechnic substances that the applicant intends to use in fireworks displays;
- (g) details of the applicant's experience and knowledge in using the kinds and sizes of fireworks that the applicant intends to use in fireworks displays;
- (h) any other information or documents required by a form for an application approved under the Act, section 222.

**U 305 Suitable people to hold display operator licences—  
Act, s 49 (1) (i)**

- (1) For the Act, the matters the chief executive must have regard to in deciding whether a person is a *suitable person* to be issued with, or to continue to hold, a display operator licence include the following:
  - (a) whether the person is an individual;
  - (b) whether the person has demonstrated adequate knowledge and experience of the following matters (the *licence criteria*):
    - (i) safety in the use of fireworks of the kind and size stated in the application;
    - (ii) the requirements of this regulation that relate to fireworks displays.
- (2) For subsection (1), an applicant is taken to have demonstrated adequate knowledge and experience of the licence criteria if the applicant meets 1 or more of the following conditions, required by the chief executive:
  - (a) the person has passed an examination approved in writing by the chief executive to test the applicant's knowledge of the licence criteria;
  - (b) the person has—
    - (i) attended a training course approved in writing by the chief executive on the use of fireworks for fireworks displays; and
    - (ii) passed the course, or met an applicable standard of competency to the satisfaction of the chief executive because of the course; and
    - (iii) demonstrated suitable practical experience in the use for fireworks displays of the fireworks intended to be used

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under the licence, to the satisfaction of the chief executive;

(c) the person has demonstrated suitable practical experience in the use for fireworks displays of the fireworks intended to be used under the licence, to the satisfaction of the chief executive.

(3) A person is also taken to have demonstrated adequate knowledge and experience of the licence criteria if the person holds a qualification relating to the use of fireworks issued outside the ACT that is approved in writing by the chief executive.

(4) An approval under this section is a notifiable instrument.

*Note 1* A notifiable instrument must be notified under the Legislation Act.

*Note 2* Additional criteria apply to the issue of the licence (see Act, pt 4.2).

### **306 Display operator licence conditions—Act, s 53 (2) (b)**

(1) The following conditions apply to each display operator licence:

(a) only authorised fireworks may be used under the licence;

(b) the licensee must establish and maintain a safety management system for the use of fireworks under the licence for fireworks displays;

(c) the licensee must—

(i) comply with the obligations imposed directly on the licensee under this part; and

(ii) ensure that this part is complied with in relation to the use of fireworks under the licence for fireworks displays.

- (2) If a person holds a display operator licence as well as a fireworks display permit, an obligation 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*      Display operator licences and fireworks display permits are all licences under the Act. The holder of a licence or permit who fails to comply with a condition of the licence or permit may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

### **Division 3.4.4      Fireworks display permits**

#### **307      Fireworks display permit applications—Act, s 50 (2)**

- (1) An application for a fireworks display permit must include the following information and documents in relation to the fireworks display for which the permit is sought:
- (a) the name, address and date of birth of the applicant;
  - (b) the number of—
    - (i) the display operator licence (if any) held by the applicant; and
    - (ii) any authority to use fireworks held by the applicant that is issued under a corresponding law;
  - (c) the time and date of the display;
  - (d) if the applicant holds a display operator licence—documentation describing the safety management system established for the licence, adapted, if necessary to show how the system will apply to the display;
  - (e) the name, address and telephone number of the person or organisation sponsoring the display;
  - (f) details of insurance arrangements in relation to the display;

- (g) the location of the display, its potential community impact and its potential impact on the surrounding areas;
  - (h) 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;
  - (i) for an outdoor fireworks display—neighbouring resident notification arrangements;
  - (j) public notification arrangements;
  - (k) police, fire and emergency services authorities notification arrangements;
  - (l) the kind, size and quantity of fireworks to be used;
  - (m) details of any special effects or procedures using fireworks or pyrotechnic substances that the applicant intends to use in the display;
  - (n) fireworks site storage arrangements;
  - (o) site security and public control arrangements during the setting up, operation and dismantling of the display;
  - (p) public safety arrangements and separation distances;
  - (q) if the applicant does not hold a display operator licence—the details required by subsection (2);
  - (r) any other information or documents required by a form for the application approved under the Act, section 222.
- (2) In addition, if the applicant does not hold a display operator licence, the application must include the following information;
- (a) the date of birth of the applicant;
  - (b) 2 passport photographs of the applicant;

- (c) details of any training course that the applicant has attended in the use of fireworks, and evidence that the applicant passed the course, or met an applicable standard of competency because of the course;
- (d) details of the applicant's experience and knowledge in using the kinds and sizes of fireworks that the applicant intends to use in fireworks displays;
- (e) documentation describing a safety management system for the conduct of fireworks displays under the permit.

**U** 308 **Suitable people to hold fireworks display permits—Act, s 49 (1) (i)**

- (1) For the Act, the matters the chief executive must have regard to in deciding whether a person is a *suitable person* to be issued with, or to continue to hold, a fireworks display permit include the following:
  - (a) whether the person holds a display operator licence;
  - (b) if the person does not hold a display operator licence—if the person has demonstrated adequate knowledge and experience of—
    - (i) safety in the use of fireworks of the kind and size to be used in the display or displays for which the permit is sought; and
    - (ii) the requirements of this regulation that relate to fireworks displays.
- (2) For subsection (1), the chief executive must have regard to any relevant qualifications held by the applicant.

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**309 Fireworks display permits—prescribed conditions for Act, s 53 (2) (b)**

- (1) The following conditions apply to each fireworks display permit:
  - (a) only authorised fireworks may be used under the permit;
  - (b) the permit-holder must establish and maintain a safety management system for the use of fireworks under the permit;
  - (c) the permit-holder must—
    - (i) comply with the obligations imposed directly on the permit-holder under this part; and
    - (ii) ensure that this part is complied with in relation to the use of fireworks under the permit for fireworks displays.
- (2) If a person holds a display operator licence as well as a fireworks display permit, an obligation 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* Display operator licences and fireworks display permits are licences under the Act. The holder of a licence or permit who fails to comply with a condition of the licence or permit may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

**310 Insurance requirements**

A fireworks display may not be conducted unless the chief executive is satisfied that there is adequate insurance coverage.

**311 Multiple fireworks displays—general**

A separate fireworks display permit is required for every fireworks display, unless the chief executive approves 2 or more displays under a single permit in accordance with section 312.

**312 Multiple fireworks displays—theatrical events etc**

The chief executive may approve 2 or more fireworks displays under a fireworks display permit if satisfied that—

- (a) the displays are to be conducted as part of the rehearsal and production of a theatrical or similar event; and
- (b) the displays are all to be conducted at the same place; and
- (c) the same types and quantities of fireworks and pyrotechnic effects are to be used for each display; and
- (d) the fireworks and pyrotechnic effects are to be used in the same context in each display.

**313 Time and place restrictions for outdoor displays**

- (1) An outdoor fireworks display must not be conducted unless it is—
  - (a) conducted as permitted under this section; or
  - (b) approved by the chief executive under section 314.

*Note* A person is authorised to use a firework for a fireworks display only if its use is for a display in accordance with the section that is authorised by a fireworks display permit (see s 300 (2)).

- (2) An outdoor fireworks display may be conducted, subject to this part, only on the following days and at the following times:
  - (a) Fridays, Saturdays and public holidays, between 5 pm and 10 pm;
  - (b) 31 December in any year, between 5 pm and 12 pm;
  - (c) 1 January in any year, between 12 am and 12.30 am.
- (3) An outdoor fireworks displays must not be conducted on land leased for residential purposes.



**314 Chief executive approval of fireworks displays—special celebrations**

- (1) The chief executive may approve an outdoor fireworks display for an event at a time, on a day, and at a place, stated in the fireworks display permit for the display, appropriate for the celebration of the event.

**Examples of events**

- 1 Chinese New Year celebrations
- 2 sporting events

*Note* An example is part of the regulation, 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) In deciding whether to approve an outdoor fireworks display under subsection (1), the chief executive must have regard to the noise nuisance to anyone who lives near the place of the display, or who is likely to be nearby at the time of the display.

**Division 3.4.5 Notification of outdoor fireworks displays**

**315 Application of div 3.4.5**

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

**316 Public notice for outdoor displays**

- (1) The permit-holder 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 section:

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

**317      Notification of police, fire and emergency services about outdoor displays**

(1) The permit-holder 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 information or documents required by a form for the notice approved under the Act, section 222.

(2) In this section:

*police and fire authorities* means all of the following:

- (a) the chief police officer and the police officer in charge of the police station closest to the location of the proposed display;
- (b) the chief officer (fire brigade) or the chief officer (rural fire service), whichever is appropriate.

**Division 3.4.6      Management of fireworks displays—general**

**318      Application of div 3.4.6**

This division applies to a person who holds a fireworks display permit in relation to the conduct of any display (whether indoor or outdoor) authorised by the permit.

**319      Supervision—fireworks displays**

A fireworks display authorised by the permit must be conducted under the direct supervision of the permit-holder.

**320 Fire protection—fireworks displays**

- (1) Adequate resources for fire prevention and a suitable means of firefighting must be available at the display site.
- (2) Before the display starts, all easily ignitable material at the display site must, as far as practicable, be—
  - (a) removed from the display site; or
  - (b) reduced; or
  - (c) treated to reduce the risk of fire.

**321 Sources of ignition—fireworks displays**

- (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 permit.

Maximum penalty: 30 penalty units.

**Example of a source of ignition**

a lit cigarette

*Note* An example is part of the regulation, 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) Subsection (1) does not apply to a source of ignition necessary to fire the fireworks.
- (3) An offence against this section is a strict liability offence.

**322 Keys for electrical firing—fireworks displays**

- (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 permit-holder 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, a person authorised under a fireworks display permit to operate the circuits must ensure that no-one else 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 section is a strict liability offence.

### **323 Clean up—fireworks displays**

- (1) After the display—
  - (a) the display site must be inspected as soon as possible for any unfired firework; and
  - (b) all misfired and unexploded fireworks that are found must be disposed of in accordance with part 2.10 (Disposal of explosives); and
  - (c) all debris resulting from the handling of the fireworks must, as far as practicable, be cleared away and disposed of.
- (2) Until subsection (1) is complied with, the permit-holder must ensure that no-one enters the display site except a person authorised by the permit-holder.

### **324 Malfunctions—fireworks displays**

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) the operations must not be resumed until—
  - (i) the cause of the malfunction is worked out; and
  - (ii) the malfunction has been corrected; and
  - (iii) it is safe to restart operations.

### **325 Reporting on displays**

- (1) The permit-holder must give the chief executive a report in accordance with subsection (2) about each display authorised by the permit within 7 days after the date of the last display authorised by the permit.
- (2) The report must include details of the following for each authorised display:
  - (a) any malfunction (including the causes of the malfunction);
  - (b) action taken to deal with any malfunction;
  - (c) any fireworks that did not ignite;
  - (d) any misfired fireworks;
  - (e) any fireworks that did not operate as intended (for example, an aerial shell that launched but did not ignite);
  - (f) any fireworks mentioned in the application for the permit that were not used;
  - (g) any delay or cancellation of the display (including the reason for the delay or cancellation);
  - (h) any variation in the conduct of the display from that described in the permit (including the reason for the variation).

*Note* An example is part of the regulation, 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) The permit-holder must, whether or not the permit continues in force, keep the permit and a copy of the report under this section for a period of 3 years after the date of the fireworks display (or the latest fireworks display) authorised by the permit.

Maximum penalty: 20 penalty units.

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

### **Division 3.4.7 Management of outdoor displays**

#### **326 Application of div 3.4.7**

This division applies to a person who holds a fireworks display permit in relation to the conduct of any outdoor fireworks display authorised by the permit.

#### **327 Separation distances—outdoor displays**

- (1) The place from which each kind of firework mentioned in table 327, column 2 is fired for the display must be no closer than the minimum separation distance worked out in accordance with the table, column 3 for the kind of firework from—
- (a) anyone except the permit-holder 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);

- (iv) a place where it is proposed that people will assemble to view the display.

*Note* An example is part of the regulation, 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) Despite subsection (1), the separation distances between people and property and the place where a firework is fired must be greater than the minimum required by that subsection, if necessary to ensure—
- (a) that the firework effects and any firework debris remain within the minimum stated separation distances; and
- (b) the safety of anyone, or to avoid damage to any property, near the display.

**Examples of increases in the minimum separation distances that may be required**

- 1 increase to adjust for wind-drift
- 2 increase to adjust for the angle of a mortar used to fire the firework

- (3) Subsection (1) is subject to any contrary condition stated in the permit.

**Table 327 Separation distances for firing of fireworks**

column 1 item	column 2 kind of fireworks	column 3 minimum distance
1	lancework	10m
2	fountains— 25mm or less maximum internal diameter	20m
3	fountains— more than 25mm maximum internal diameter	35m

**Chapter 3** Fireworks  
**Part 3.4** Fireworks displays  
**Division 3.4.7** Management of outdoor displays

Section 327

<b>column 1 item</b>	<b>column 2 kind of fireworks</b>	<b>column 3 minimum distance</b>
4	ground display fireworks, unless otherwise provided by this table	the greater of the following: (a) 1m per mm of internal diameter of firework; (b) 35m
5	aerial shells, unless otherwise provided by this table	the greater of the following: (a) 1m per mm of diameter of firework; (b) 35m
6	chain-fused fireworks (ground display or aerial)  <b>Examples</b> 1 a large multishot cake 2 a preloaded aerial barrage	twice the separation distance worked out under item 4 or 5
7	multi-break aerial shells—less than 200mm diameter	separation distance worked out under item 5 for an aerial shell that is 25mm larger  <b>Example</b> for a 100mm multi-break aerial shell—125m
8	multi-break aerial shells—200mm diameter or more	separation distance worked out under item 5 plus 50%  <b>Examples</b> 1 for a 200mm diameter multi-break aerial shell—300m 2 for a 400mm diameter multi-break aerial shell—600m



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**328 Barriers—outdoor displays**

- (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 ignition point; and
  - (b) the set-up point, if that is a different place.

**Example of different ignition point and set-up point**

fireworks set up on a barge which is then towed to the ignition point

*Note* An example is part of the regulation, 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 separation distance required under section 327.
- (4) Conspicuous notices must be displayed, or announcements must be made, warning unauthorised people not to enter the barricaded area.

**329 On-site storage—outdoor displays**

- (1) This section applies to fireworks stored for use by the permit-holder in the conduct of the display, if the fireworks are stored at—
  - (a) the display site; or
  - (b) another place stated in the permit for setting up the display.

**Example for par (b)**

fireworks stored on or near a barge (remote from the display site) where a display is being set up before the barge is towed to the ignition point at the display site

*Note* An example is part of the regulation, 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 section applies during the period, as stated in the permit, required for setting up, conducting and dismantling the display.
- (3) Fireworks must be stored under this section—
- (a) in accordance with part 2.7 (Storing explosives); or
  - (b) securely aboard a road or rail vehicle in accordance with part 2.6 (Carrying explosives); or
  - (c) in a portable magazine.
- (4) If the fireworks are stored in a portable magazine, the magazine must be no closer than the defined minimum separation distance from—
- (a) anyone except the permit-holder 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);
    - (iv) a place where it is proposed that people will assemble to view the display.
- Note* An example is part of the regulation, 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).
- (5) While fireworks are stored under this section, a person authorised under the permit must be present at all times at the place the fireworks are being stored.

(6) In this section:

*defined minimum separation distance*, for fireworks stored under this section, means the greater of the following:

- (a) the greatest applicable separation distance under section 327 (Separation distances—outdoor displays);
- (b) the greatest separation distance required under AS 2187.1 for the storage of fireworks of that kind.

*Note* See AS 2187.1, s 3.

### **330 Firing aerial shells—outdoor displays**

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 falls within the display site; and
- (e) otherwise in accordance with the requirements of AS 2187.4 for the firing of aerial shells.

*Note* See AS 2187.4, s 3.2.2

### **331 Mortar requirements—outdoor displays**

(1) If a mortar is used for firing aerial shells—

- (a) the mortar must be suitable for the purpose; and
- (b) the mortar must be effectively stabilised to prevent adjacent mortars from being realigned during firing or because of any shell malfunctioning; and

- (c) if the shells are greater than 150mm in diameter—
  - (i) the mortar must, if practicable, be buried to at least 2/3 of its length either in the ground, or in a container of sand; or
  - (ii) if it is not practicable to do so—any part of the mortar above ground must be surrounded with bags of sand to a width of at least 0.5m in all directions; and
- (d) the mortar must otherwise be used in accordance with the requirements of AS 2187.4.

*Note* See AS 2187.4, s 4.4.2.

- (2) A mortar must not be reloaded during the conduct of a fireworks display.
- (3) A metal mortar must not be used for firing fireworks.

### **332 Supporting structures—outdoor displays**

Ground display fireworks and any supporting structures must be securely placed and firmly braced so that they will not fall over when the fireworks are fired.

### **333 Prevention of cross ignition—outdoor displays**

Mortars and ground display fireworks must be protected or positioned to prevent fallout or burning particles igniting adjacent fireworks.

## **Division 3.4.8 Miscellaneous**

### **334 Use of theatrical fireworks**

- (1) The only kind of fireworks that may be used for theatrical or similar purposes are theatrical fireworks.
- (2) A theatrical firework may only be used for theatrical or similar purposes.

- (3) A theatrical firework must not be used unless it is—
- (a) manufactured in accordance with the Act (including this regulation); and
  - (b) used 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 section:
- theatrical firework*, for a fireworks display under a fireworks display permit, 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) another firework that has been adapted for theatrical use, if the permit authorises the use of the firework for the display.

### **335 Use of flash powder for fireworks displays**

- (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 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 firing of flash powder for the display must not—
- (a) if the powder is used indoors—be placed near any entrance, exit or escape route from the premises where the display is to be conducted; or
  - (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; or
  - (c) otherwise be placed in a way that would—
    - (i) ignite any flammable materials; or
    - (ii) otherwise present a risk to anyone’s health or safety, or risk damaging property.
- (3) A person using flash powder—
- (a) must, immediately before the powder is to be initiated, maintain a clear view of the area where the flash powder is to be used; and
  - (b) must not initiate 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 section is a strict liability offence.

### **336      Use of Chinese firecrackers**

- (1) Chinese firecrackers must not be fired indoors.
- (2) If long-string Chinese firecrackers are fired—
  - (a) anyone not involved in 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) The separation distance mentioned in subsection (2) (a) is 50m if—
- (a) 2 long-string Chinese firecrackers are ignited so that they are burning simultaneously; and
  - (b) the strings are within 5m of each other.

- (4) In this section:

***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— registration standards

(see s 39 (2) (b))

### Part 1.1              Preliminary

#### 1.1              General

These standards apply to—

- (a) the testing of consumer fireworks for the registration of the fireworks for Queen’s birthday supply; and
- (b) the preparation of the testing report required to accompany a request for registration of the fireworks.

*Note 1*    The Act mentioned is the *Dangerous Substances Act 2004*. These standards are in the *Dangerous Substances (Explosives) Regulation 2004*, schedule 1, which is made under the Act. Provisions of these standards are referred to in this schedule as **clauses**.

*Note 2*    In this regulation, s 260 the following fireworks are defined as **consumer fireworks** if the weight of pyrotechnic substance in each is no more than a prescribed maximum (see detailed definitions of each firework in this regulation, dict):

- fountains
- ground spinners
- helicopters (also known as *fliers* and *aerial spinners*)
- mines
- multishot cakes
- novelties
- snakes (also known as *glow worms*)
- wheels.

*Note 3*    Any particular kind of consumer firework may only be registered for **Queen’s birthday supply** (that is, supply during the **Queen’s birthday supply period**—the week before the Queen’s birthday weekend) in each



year if it has been tested within 6 months before the beginning of the Queen's birthday supply period in that year (see cl 8 (3)).

## **Part 1.2 Construction and design standards**

### **1.2 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;
- (c) the firework must not contain a mixture of an unstable, toxic or highly sensitive nature that could possibly make it unsafe.

### **1.3 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;
  - (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% by weight, or less, flash powder.
- (3) If a consumer firework contains flash powder, it must be exclusively for visual effect, and not for aural effect.

#### **1.4 Ignition standards**

A consumer firework must—

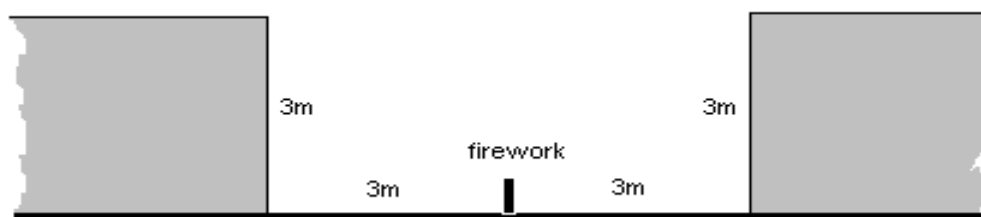
- (a) be designed to be ignited by the lighting of a wick, fuse or touch paper; and
- (b) be easy to ignite with an ordinary match; and
- (c) fire initially between 5 and 10 seconds after ignition; and
- (d) for a multishot cake—fire with no more than 5 seconds delay between ignition of successive tubes; and
- (d) for a multi-tube fountain—fire with no more than 5 seconds delay between the completion of the effect in 1 tube and the initiation of the next tube.

#### **1.5 Firing standards**

- (1) A consumer firework must not explode completely or partly.
- (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 complied with 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 20g; and
  - (b) must not be burning or incandescent within 3m of the ground, as indicated by the shaded area in figure 1.5.1.

**Figure 1.5.1 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 this regulation, pt 2.10 (Disposal of explosives).

### **1.6 Sampling standard**

- (1) Batches of consumer fireworks from which samples are taken for testing must be the batches that 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 1.6.1, column 2 that must be tested under this part in the circumstances stated in columns 3 and 4 for that batch is as set out in columns 3 and 5 for the batch.

*Note* Section 1.11 (Batch identification)] sets out the requirements for identifying batches of consumer fireworks that are subject to sampling and testing.

**Table 1.6.1 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

### 1.7 Test 1—weight and composition

- (1) Consumer fireworks must be tested for compliance with section 260 (Consumer fireworks) and section 1.3 (Composition standards).

*Note* The size of the sample of fireworks to be tested in a batch must be worked out in accordance with table 1.6.1.

- (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.

### 1.8 Test 2—ignition and firing

- (1) Consumer fireworks must be tested for compliance with section 4 (Ignition standards) and section 1.5 (Firing standards).

*Note* The size of the sample of fireworks to be tested in a batch must be worked out in accordance with table 1.6.1.

- (2) For the test, the fireworks to be tested must be ignited and allowed to fire while the performance of the firework is complied with and measured.

- (3) The test must be conducted no earlier than 6 months before the beginning of the Queen's birthday supply period for which Queen's birthday supply registration is sought.

### **1.9 Test 3—labelling and construction**

- (1) Consumer fireworks must be tested for compliance with—
- (a) division 3.3.4 (Labelling—consumer fireworks) and division 3.3.5 (Packaging and safety instructions—consumer fireworks); and
  - (b) section 1.2 (General construction and design standards).
- (2) All consumer fireworks in each batch must be visually inspected for this test.

## **Part 1.4 Classification report**

### **1.10 Form of report**

In addition to the requirements of this part, the classification report required to accompany a request for registration of a consumer firework for Queen's birthday supply must be prepared in accordance with any form for the report approved for the Act, section 222.

### **1.11 Batch identification**

The classification report must identify each batch of consumer fireworks to be registered—

- (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.

### 1.12 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 section:

*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.

### 1.13 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 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

(see s 57 (2) (d) and (3))

*Note* This schedule sets out requirements for safety management systems for the manufacture of explosives. Other requirements in relation to safety management systems are set out in s 57.

### 2.1 Elements of the safety management system

- (1) The safety management system must consist 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 workers, 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 about the safety management system;
  - (g) schedules for the maintenance of plant and equipment and provision to ensure the maintenance happens;
  - (h) procedures to identify and respond to changes affecting the safety management system;
  - (i) procedures that workers and contractors are required to follow in relation to—
    - (i) establishing and implementing the safety management system; and

- (ii) reviewing any procedures for hazard identification and risk assessment control.
- (2) The safety management system must provide for safety consultation with—
  - (a) workers within the workplace; and
  - (b) contractors' agents who enter the workplace.
- (3) In developing or reviewing procedures for the safety management system, the licensee must, if practicable, consult any health and safety representative under the *Occupational Health and Safety Act 1989* for the workers affected by the system.
- (4) The plans for emergency response and preparedness required under subclause (1) (e) must be developed in conjunction with the emergency services commissioner.

## **2.2 Safety policy and safety objectives**

The safety management system must include a description of how the manufacturer's safety policy and specific safety objectives are to be communicated to everyone who is to take part in the implementation of the safety management system.

## **2.3 Organisational structure and personnel**

The safety management system must—

- (a) identify (according to position, description and location) the people who are to take part in the implementation of the safety management system; and
- (b) describe the command structure in which they work and the specific tasks and responsibilities allocated to them.



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## 2.4 Operational controls

The following matters must be dealt with by a safety management system:

- (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 where explosives are manufactured, including segregation of incompatible materials;
- (e) selection, maintenance and use of personal protective equipment;
- (f) lockout 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 firefighting controls and 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 where the explosives are to be manufactured;

- (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 workers and contractors;
- (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) nonconforming raw materials and products;
- (v) maintenance of records;
- (x) safety meetings;
- (y) complaints and response;
- (z) self-auditing of systems and procedures.

## **2.5 Management of change**

The safety management system must include procedures for planning modifications to the factory (if applicable).

## **2.6 Performance monitoring**

Performance standards included in a safety management system must—

- (a) relate to all aspects of the safety management system; and
- (b) be sufficiently detailed to ensure that the ability of the manufacturer 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 happens;
  - (iv) steps to be taken to continually improve all aspects of the safety management system, including by testing the effectiveness of control measures.

## **2.7 Audit**

The safety management system must provide for the audit of performance against the performance standards, including the methodologies, frequency and results of the audit process.

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- chief executive
- chief officer (fire brigade)
- chief officer (rural fire service)
- Commonwealth
- emergency services commissioner
- foreign country
- found guilty
- function
- penalty unit (see s 133)
- police officer
- State.

*Note 3* Terms used in this regulation have the same meaning that they have in the *Dangerous Substances Act 2004* (see Legislation Act, s 148.) For example, the following terms are defined in the *Dangerous Substances Act 2004*, dict (or as indicated):

- Australian Dangerous Goods Code (see s 10 (3))
- Australian Explosives Code (see s 10 (3))
- carry
- correctly (s 14)
- dangerous substance (s 10; see also this reg, s 8)
- decision-maker (s 187)
- dispose (see also this reg, s 230)
- handle (s 11)
- hazard (s 15)
- import
- inspector
- licence

- manufacture (see also this reg, s 46 (1))
- non-commercial (s 12)
- person in control (s 17)
- plant
- premises
- prohibited dangerous substance (s 73)
- reasonable steps (s 16)
- reviewable decision (s 186)
- risk (s 15)
- safety management system (s 19)
- supply (see also this reg, s 265)
- system
- trade or commerce
- vehicle.

***adverse security assessment***—see section 22A (Security definitions).

***aerial shell*** means a firework that is—

- (a) usually a spherical or cylindrical shell that contains stars or other effects; and
- (b) designed—
  - (i) to be projected from a mortar by a lift charge; and
  - (ii) to burst high in the air.

*Note* An aerial shell that is designed to produce a loud report is a ***salute shell*** (see def).

***aerial spinner***—see ***helicopter***.

***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 authorising the handling of explosives—see section 19.

**AS 1768** means Australian Standard 1768(Int) *Lightning protection*.

**AS 2187.0** means Australian Standard 2187.0 *Explosives—Storage, transport and use—Terminology*.

**AS 2187.1** means Australian Standard 2187.1 *Explosives—Storage, transport and use—Storage*.

**AS 2187.2** means Australian Standard 2187.2 *Explosives—Storage, transport and use—Use of explosives*.

**AS 2187.4** means Australian Standard 2187.4 *Explosives—Storage, transport and use—Pyrotechnics—Outdoor displays*.

**AS 4326** means Australian Standard 4326 *The storage and handling of oxidising agents*.

**authorisation number**, of an authorised explosive, means the unique authorisation number assigned to the explosive when it is registered under section 34.

**authorised explosive**—see section 26.

**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 that are to be fired.

*Note* **Blast holes** are also known as **drill holes**.

**blasting and fireworks storage**, of an explosive mentioned in table 123—see section 123.

**blasting permit**—see section 179.

**blast plan**, for division 2.9.4 (Blasting permits)—see section 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 part of a blast hole left after blasting.

**capped fuse** means a length of safety fuse with a detonator crimped at only 1 end.

**carrying licence**—see section 99.

**cartridge** means a preformed unit of high explosive enclosed in material (for example, paper or plastic) of a predecided diameter and length.

*Note* An example is part of the regulation, 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).

**central mixing point**, for an explosive mixture—see section 46.

**Chinese firecrackers** means strings of crackers designed so the individual crackers ignite sequentially.

**classification code**, of an explosive—see section 12.

**class label**—see the Australian Dangerous Goods Code.

*Note* The Code, s 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.

**close associate**, of a person—see the Act, section 48.

**collective hazard division**, of explosives stored or carried together—see section 16.

**combustible material**—see section 122.

**compatibility group**, of an explosive—see section 11.

**consumer**, for part 3.3 (Consumer fireworks)—see section 266.

**consumer firework**—see section 260.

**consumer fireworks authorised receipt**—see section 278.

**consumer fireworks licence**—see section 264.

**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 as strings of crackers.

**cut-off** means a form of misfire in which some explosive is left undetonated after an adjacent explosion.

**Examples**

- 1 separation of charge by ground movement
- 2 severance of the initiating line

*Note* An example is part of the regulation, 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).

**dangerous substance**, for the Act (including this regulation)—see section 8.

**defective** explosive, or package of explosives, includes an explosive or package that—

- (a) is in a state of deterioration; or



- (b) is damaged; or
- (c) is leaking; or
- (d) is exuding liquid; or
- (e) no longer complies with the description or other information for the explosive as registered under section 34.

**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**.

**diameter**, for an aerial shell (including a salute shell) that is not spherical, means—

- (a) if the shell is cylindrical—the longer of the following:
  - (iii) the length of the cylinder;
  - (iv) the diameter of the end of the cylinder; or
- (b) in any other case (for example, if the shell is ovoid)—the longest dimension of the shell.

*Note* An example is part of the regulation, 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).

**direct supervision**—a person undertakes **direct supervision** of an activity being conducted by someone else if—

- (a) the person is present where the activity is conducted; and
- (b) the person is in a position to personally intervene to prevent a contravention of the Act.

**display operator licence**—see section 299.

**display site**—see section 299.

**dispose**, of an explosive, for part 2.10 (Disposal of explosives)—see section 250.

**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 fusees;
- (d) line-carrying, anti-hail, cloud and avalanche rockets;
- (e) smoke generators.

**drive**, a vehicle that is a trailer—see section 99.

**driver licence** means a written authority (however described) to drive a motor vehicle issued under the law of the Territory, the Commonwealth, a State, another Territory or a foreign country.

**effective barrier**—see section 299.

**electrical firing** means—

- (a) firing by exploder; or
- (b) mains firing.

**emergency plan**, for inclusion in a safety management system in relation to the handling of an explosive under a licence, means a plan to manage emergencies that may reasonably be expected to affect the handling of explosives authorised by the licence.

**ensure**—see section 20.

**exempt carrier**—see section 100.

**exploder** means a self-contained portable device designed to produce electric current for firing charges.

***explosive***—

- (a) for the Act (including this regulation)—see section 7; and
- (b) for part 2.4 (Manufacturing explosives)—see section 47.

***explosive mixture***—see section 46.

***explosive mixture controller***, for division 2.4.5 (Central mixing points)—see section 64.

***explosives driving licence***—see section 99.

***factory***—see section 46.

***filling or capping***—see section 46.

***firefighter*** means—

- (a) the chief officer (fire brigade); or
- (b) any other member of the fire brigade; or
- (c) the chief officer (rural fire service); or
- (d) any other member of the rural fire service; or
- (e) a member of an interstate or overseas emergency service (within the meaning of the *Emergencies Act 2004*) assisting at or immediately after a fire in the ACT.

***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 section 299.

***fireworks display permit***—see section 299.

**flash powder** means a pyrotechnic substance that is intended to produce a flash of light (whether or not with a report, smoke or sparks).

**flier**—see *helicopter*.

**fountain** means a firework that—

- (a) has 1 or more cases or tubes containing pressed or consolidated pyrotechnic substance; and
- (b) is designed, on ignition, to produce a shower of coloured sparks or smoke.

**fuse lighter** means a pyrotechnic article that burns with a very hot jetting flame, and is used to ensure ready ignition of safety fuses.

*Note* A **fuse lighter** is also known as a **fuse igniter**.

**general use firework**—see section 259.

**glow worm**—see *snake*.

**ground display fireworks**—see section 299.

**ground spinner** means a firework designed, on ignition, to produce a shower of sparks while spinning on the ground.

**hazard division**, of an explosive—see section 10.

**helicopter** means a firework consisting of a tube containing a pyrotechnic substance—

- (a) with a propeller or blade attached; and
- (b) that is designed, on ignition, to spin rapidly and rise into the air, and to produce a visual effect at or near the height of its flight.

*Note* **Helicopters** are also known as **fliers** and **aerial spinners**.

**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*, section 175, together with a bank statement showing the cardholder's residential address

*Note* An example is part of the regulation, 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).

***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***.

***import licence***—see section 89.

***interstate explosives carrying authority***, in relation to an explosive carried by road or rail—see section 99.

***interstate explosives driving authority***, in relation to an explosive carried by road—see section 99.

***issue***, of a licence giving the licensee a particular kind of handling authority—see section 19.

***licence details***, of a person who handles or is to handle an explosive, means details of a licence authorising the person to handle the explosive.

***licensable storage***, of an explosive—see section 122.

***licensed premises***, for division 2.7.4 (Special portable magazine storage)—see section 156.

***licensed storage place***—see section 122.

***magazine***—see section 122.

**magazine area**—see section 132.

**mains firing** means the firing of charges from power cables connected to a source of electricity other than an exploder.

**manufacture**, of explosives—see section 46.

**manufacturing licence**—see section 46.

**mine** means a single tube firework that—

- (a) is fixed to a solid base; and
- (b) projects ignited stars or other effects into the air.

**misfire**—see section 236.

**mobile manufacturing unit**, for explosives—see section 46.

**model rocket** means a rocket that—

- (a) is propelled by a 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 mainly designed to be used for the purposes of education, recreation and sporting competition.

**model rocket motor** means a commercially manufactured device that is designed to be used for the propulsion of model rockets.

**modification**, of a factory or safety management system—see section 46 (1) (Manufacturing definitions).

**mortar** means a tube that is—

- (a) made of material other than steel (for example plastic, cardboard or filament wound fibreglass composite); and
- (b) closed at 1 end; and

- (c) designed to be used for firing aerial shells and certain kinds of mines.

*Note* An example is part of the regulation, 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).

***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, on ignition of a single external fuse, to fire sequentially in a predecided 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’.

***novelty*** means a firework designed to resemble a toy or small animal that produces a visual effect close to the article.

**Example**

a firework designed to resemble a toy tank, with wheels

*Note* An example is part of the regulation, 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).

***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 section 46.

***portable magazine***—see section 122.

***primary authorised user***, of consumer fireworks—see section 294 (Authority for using consumer fireworks).

***primer*** means the cartridge, or that part 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 firework***—see section 261.

***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 a non-detonative self-sustaining exothermic chemical reaction.

***qualified security assessment***—see section 22A (Security definitions).

***Queen's birthday supply***, of a consumer firework registered (or proposed to be registered) under division 2.2.4—see section 28.

***Queen's birthday supply period***—see section 274.

***Queen's birthday weekend use period***—see section 295.

***register*** means the register of authorised explosives kept under section 34.

***road***—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.



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***safety cartridge*** means ammunition for small arms with UN number UN0012.

***safety data sheet***, for an explosive, means a document including the following information about the explosive and safety measures for dealing with it:

- (a) identification;
- (b) composition and information on ingredients;
- (c) hazards identification;
- (d) first-aid measures;
- (e) firefighting measures;
- (f) spillage and accidental release measures;
- (g) handling and storage measures;
- (h) exposure controls and personal protection;
- (i) physical and chemical properties;
- (j) stability and reactivity;
- (k) toxicological information;
- (l) ecological information;
- (m) disposal information;
- (n) information about carrying the explosive;
- (o) references to relevant laws and standards;
- (p) any other information relevant to the safe handling of the explosive.

***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) the burning of which is not communicated laterally to itself or similar fuses; and
- (d) that is used to initiate plain detonators and gunpowder.

**salute shell** means an aerial shell designed to produce a loud report.

*Note* See def **aerial shell**.

**security cleared responsible person**—see section 22A (Security definitions).

**security plan**, for a licence—see section 22A (Security definitions).

**security risk assessment**—see section 22A (Security definitions).

**shot-firer**—see section 179.

**shot-firer licence**—see section 179.

**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.

**snake** means a firework that is—

- (a) a small pressed pellet of pyrotechnic substance; and
- (b) less than 25 mm in diameter; and
- (c) designed, on 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 bonbon, 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 portable magazine storage**—see section 157.

**star** means a firework that is—

- (a) a pressed or consolidated pellet of pyrotechnic substance; and
- (b) designed, on 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 section 122.

**supplier**, for part 3.3 (Consumer fireworks)—see section 266.

**supply**, of consumer fireworks—

- (a) for the Act (including this regulation, other than part 3.3)—see the Act, dictionary; or
- (b) for part 3.3 (Consumer fireworks)—see section 265.

**supply licence**—see section 165.

**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.

**unstable explosive article or substance**—see section 9.

**unsupervised access**—see section 22A (Security definitions).

***UN Test Manual*** means the *Recommendations on the transport of dangerous goods: Manual of tests and criteria*, published by the United Nations.

***vehicle***—see the *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, on ignition, to rotate around a fixed point and produce a shower of coloured sparks.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This regulation was originally the *Dangerous Substances (Explosives) Regulations 2004*. It was renamed under the *Legislation Act 2001*.

#### **Dangerous Substances (Explosives) Regulation 2004 SL2004-10**

notified LR 2 April 2004

s 1, s 2 commenced 2 April 2004 (LA s 75 (1))

remainder commenced 5 April 2004 (s 2)

as amended by

#### **Emergencies Act 2004 A2004-28 pt 3.8**

notified LR 29 June 2004

s 1, s 2 commenced 29 June 2004 (LA s 75 (1))

pt 3.8 commenced 1 July 2004 (s 2 (1) and CN2004-11)

#### **Dangerous Substances (General) Regulation 2004 SL2004-56 pt 6.5**

notified LR 14 December 2004

s 1, s 2 commenced 14 December 2004 (LA s 75 (1))

s 607, s 679, s 682 commenced 15 December 2004 (s 2 (1))

s 613, s 618, s 620, s 621, s 625, s 633, s 638, s 639, ss 643-646,

s 652, ss 663-665, s 667, s 677, s 678, s 681 commence 30 June 2005

(s 2 (3))

remainder pt 6.5 commenced 31 March 2005 (s 2 (2))

### 4 Amendment history

#### **Name of regulation**

s 1 am R3 LA

#### **Commencement**

s 2 om LA s 89 (4)

#### **Incorporated documents**

s 5 am SL2004-56 s 608, s 609, s 611; pars renum R5 LA (see SL2004-56 s 610)

#### **Meaning of *ensure***

s 20 sub SL2004-56 s 612

#### **Reports to chief officer (fire brigade) and chief officer (rural fire service)**

s 22 sub A2004-28 amdt 3.16

**Security definitions**

- s 22A ins SL2004-56 s 613  
def **adverse security assessment** ins SL2004-56 s 613  
def **close associate** ins SL2004-56 s 613  
def **qualified security assessment** ins SL2004-56 s 613  
def **security cleared responsible person** ins SL2004-56 s 613  
def **security plan** ins SL2004-56 s 613  
def **security risk assessment** ins SL2004-56 s 613  
def **unsupervised access** ins SL2004-56 s 613

**Explosives incidents—reporting damage or injury**

- s 24 am A2004-28 amdt 3.17

**Loss or theft of explosives—reporting**

- s 25 am SL2004-56 s 614, s 615; ss renum R5 LA (see SL2004-56 s 616)

**Authorisation decision-making**

- s 32 am SL2004-56 s 617

**General licence requirements**

- pt 2.2A hdg ins SL2004-56 s 618

**Suitable person to hold licence—Act, s 49 (1) (i)**

- s 40A ins SL2004-56 s 618

**Exceptions—labelling and placarding**

- s 45 am SL2004-56 s 619

**Manufacturing licence applications for Act, s 50 (2)—general**

- s 51 sub SL2004-56 s 620

**Manufacturing licence applications—security plans**

- s 51A ins SL2004-56 s 620

**Manufacturing licence conditions—Act, s 53 (2) (b)**

- s 55 sub SL2004-56 s 621  
(2), (3) exp 5 April 2006 (s 55 (3))

**Manufacturing licences—review of security plans**

- s 55A ins SL2004-56 s 621

**Manufacture records**

- s 56 sub SL2004-56 s 621

**Factory manufacture—notice to fire authorities**

- s 60 am A2004-28 amdt 3.18

**Explosives for which no import licence required**

- s 91 am SL2004-56 s 622

## Endnotes

### 4 Amendment history

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**Import licence applications—Act, s 50 (2)**

s 94 am SL2004-56 s 623; pars renum R5 LA (see SL2004-56 s 624)

**Import licence conditions—Act, s 53 (2) (b)**

s 95 sub SL2004-56 s 625  
(2), (3) exp 5 April 2006 (s 95 (3))

**Notice of import**

s 96 am SL2004-56 s 626

**Application of pt 2.6**

s 98 am SL2004-56 s 627  
(3), (4) exp 5 April 2005 (s 98 (4))

**Authority to carry explosives by road**

s 100 am SL2004-56 s 628, s 629

**Authority to carry explosives by rail**

s 101 hdg sub SL2004-56 s 630  
s 101 am SL2004-56 s 631, s 632

**Carrying licence applications—Act, s 50 (2)**

s 105 sub SL2004-56 s 633

**Carrying licence applications—security plans**

s 105A ins SL2004-56 s 633

**Carrying licence conditions—Act, s 53 (2) (b)**

s 106 sub SL2004-56 s 633

**Carrying licences—review of security plans**

s 106A ins SL2004-56 s 633

**Authority for driving vehicle carrying explosives**

s 107 am SL2004-56 s 634, s 635

**Explosives driving licence applications—Act, s 50 (2)**

s 111 am SL2004-56 s 636; pars renum R5 LA (see SL2004-56 s 637)

**Suitable people to hold explosives driving licences—Act, s 49 (1) (i)**

s 112 am SL2004-56 s 638, s 639

**Production of driving authority on request**

s 114 am SL2004-56 s 640

**Route and time restrictions**

s 117 am SL2004-56 s 641

**Authority to store explosives**

s 125 am SL2004-56 s 642



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- Storage licence applications—Act, s 50 (2)**  
s 128 [am SL2004-56 s 643, s 644](#)
- Storage licence applications—security plans**  
s 128A [ins SL2004-56 s 646](#)
- Storage licence conditions—Act, s 53 (2) (b)**  
s 129 [sub SL2004-56 s 646](#)
- Storage licences—review of security plans**  
s 129A [ins SL2004-56 s 646](#)
- Storage records**  
s 130 [sub SL2004-56 s 646](#)
- Licensable storage—notice to fire authorities**  
s 134 [am A2004-28 amdt 3.19](#)
- Separation distance for magazines**  
s 135 [am SL2004-56 s 647](#)
- Authority to supply explosives**  
s 166 [am SL2004-56 s 648; pars renum R5 LA \(see SL2004-56 s 649\)](#)
- Supply licence applications—Act, s 50 (2)**  
s 169 [am SL2004-56 s 650; pars renum R5 LA \(see SL2004-56 s 651\)](#)
- Supply licence conditions—Act, s 53 (2) (b)**  
s 170 [sub SL2004-56 s 652](#)  
[\(2\), \(3\) exp 5 April 2006 \(s 170 \(3\)\)](#)
- Supply only to authorised people**  
s 174 [am SL2004-56 s 653; ss renum R5 LA \(see SL2004-56 s 654\)](#)
- Supply records**  
s 176 [am SL2004-56 s 655; ss renum R5 LA \(see SL2004-56 s 656\)](#)
- False or misleading statements about authority to supply explosives**  
s 177 [am SL2004-56 s 657, s 658](#)
- Use of explosives—responsibilities of person in control**  
s 182 [sub SL2004-56 s 659](#)
- Shotfirer licence applications—Act, s 50 (2)**  
s 185 [am SL2004-56 s 660; pars renum R5 LA \(see SL2004-56 s 661\)](#)
- Suitable people to hold shotfirer licences—Act, s 49 (1) (i)**  
s 186 hdg [sub SL2004-56 s 662](#)  
s 186 [am SL2004-56 s 663, s 664](#)

## Endnotes

4 Amendment history

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### **Shotfirer licence conditions—Act, s 53 (2) (b)**

s 187 sub SL2004-56 s 665

### **Use records**

s 187A ins SL2004-56 s 665

### **Suitable people to hold blasting permits—Act, s 49 (1) (i)**

s 190 hdg sub SL2004-56 s 666

s 190 am SL2004-56 s 667

### **Blasting permit conditions—Act, s 53 (2) (b)**

s 191 hdg sub SL2004-56 s 668

s 191 am SL2004-56 s 669

### **Total fire ban days**

s 209 sub A2004-28 amdt 3.20

### **Authority to dispose of explosives**

s 252 am SL2004-56 s 670, s 671

### **Safe disposal of explosives—general rules**

s 256 am SL2004-56 s 672

### **Disposal records**

s 258 sub SL2004-56 s 673

### **Consumer fireworks definitions**

s 264 def *identification papers* reloc to dict by SL2004-56 s 674

### **Fireworks display definitions**

s 299 def *display operator licence* am SL2004-56 s 675

### **Suitable people to hold display operator licences—Act, s 49 (1) (i)**

s 305 hdg sub SL2004-56 s 676

s 305 am SL2004-56 s 677, s 678

### **Fireworks display permit applications—Act, s 50 (2)**

s 307 am SL2004-56 s 679

### **Suitable people to hold fireworks display permits—Act, s 49 (1) (i)**

s 308 hdg sub SL2004-56 s 680

s 308 am SL2004-56 s 681

### **Insurance requirements**

s 310 am SL2004-56 s 682

### **Time and place restrictions for outdoor displays**

s 313 am SL2004-56 s 683

### **Notification of police, fire and emergency services about outdoor displays**

s 317 am A2004-28 amdt 3.21

### **Consumer fireworks—registration standards**

sch 1 ss renum R3 LA

**Safety management systems**

sch 2 am A2004-28 amdt 3.22; ss renum R3 LA

**Dictionary**

dict am A2004-28 amdt 3.23; am SL2004-56 s 684  
 def **adverse security assessment** ins SL2004-56 s 685  
 def **aerial shell** am SL2004-56 s 686  
 def **AS 2187.0** sub SL2004-56 s 687  
 def **AS 2187.1** sub SL2004-56 s 687  
 def **AS 2187.2** sub SL2004-56 s 687  
 def **AS 2187.4** sub SL2004-56 s 687  
 def **Australian Dangerous Goods Code** om SL2004-56 s 688  
 def **Australian Explosives Code** om SL2004-56 s 688  
 def **close associate** ins SL2004-56 s 689  
 def **firefighter** sub A2004-28 amdt 3.24  
 def **identification papers** om SL2004-56 s 690  
 reloc from s 264 by SL2004-56 s 674  
 def **licence details** ins SL2004-56 s 691  
 def **qualified security assessment** ins SL2004-56 s 691  
 def **salute shell** sub SL2004-56 s 692  
 def **security cleared responsible person** ins SL2004-56 s 693  
 def **security plan** ins SL2004-56 s 693  
 def **security risk assessment** ins SL2004-56 s 693  
 def **supply** am SL2004-56 s 694  
 def **unsupervised access** ins SL2004-56 s 695

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 5 Apr 2004	5 Apr 2004– 30 June 2004	not amended	new regulation

## Endnotes

6 Uncommenced amendments

Republication No and date	Effective	Last amendment made by	Republication for
R2 1 July 2004	1 July 2004– 3 Nov 2004	A2004-28	amendments by A2004-28
R3 4 Nov 2004	4 Nov 2004– 14 Dec 2004	A2004-28	editorial amendments under Legislation Act
R4 15 Dec 2004	15 Dec 2004– 30 Mar 2005	SL2004-56	amendments by SL2004-56

### 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

**Dangerous Substances (General) Regulation 2004  
SL2004-56 pt 6.5 (in part)**

## Part 6.5 Dangerous Substances (Explosives) Regulation 2004

### 607 Legislation amended—pt 6.4

This part amends the *Dangerous Substances (Explosives) Regulation 2004*.

### 613 New section 22A

*in division 1.2.3, insert*

### 22A Security definitions

In this regulation:

*adverse security assessment*—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

*close associate*, of a person—see the Act, section 48.

*qualified security assessment*—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

*security cleared responsible person*—a person is a *security cleared responsible person* in relation to an explosive if—

- (a) the person is a responsible person for the explosive; and
- (b) the person is an adult; and
- (c) an adverse security assessment or qualified security assessment has not been given in relation to the person or a close associate of the person; and
- (d) the person has not been convicted or found guilty in the ACT or elsewhere within the previous 5 years of an offence involving—
  - (i) a dangerous substance; or
  - (ii) a firearm; or
  - (iii) actual or threatened violence; or
  - (iv) fraud or dishonesty.

*Note* The Act, s 18 defines a *responsible person* for a dangerous substance (including an explosive) as a person in control of the handling of the substance, premises where the substance is handled, or plant or a system for handling the substance.

*security plan*, for a licence, means a security plan for handling an explosive under the licence—

- (a) in the form required to be included in an application for the licence; and
- (b) as amended from time to time under this regulation.

*security risk assessment*, in relation to the handling of an explosive, means a written assessment that identifies and assesses the security

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risks (external and internal) associated with the handling of the explosive.

***unsupervised access***—a person has ***unsupervised access*** to an explosive if the person has access to the explosive when not under the supervision of a person who—

- (a) holds a licence for this regulation; or
- (b) is a security cleared responsible person.

### 618 **New part 2.2A**

*insert*

## **Part 2.2A                      General licence requirements**

### **40A                      Suitable person to hold licence—Act, s 49 (1) (i)**

For the Act, the matters the chief executive must have regard to in deciding whether a person is a suitable person to be issued with, or to continue to hold, a licence to handle an explosive include—

- (a) whether an adverse security assessment or qualified security assessment has been given in relation to—
  - (i) the person or a close associate of the person; or
  - (ii) if the person is a corporation—an officer of the corporation or a close associate of an officer of the corporation; and
- (b) if the person is an individual, whether the person is—
  - (i) an adult; or
  - (ii) for an explosives driving licence—at least 21 years old.

*Note 1* For par (b) (ii), see s 112 (1) (a).

*Note 2* For working out who is a suitable person to be issued with a licence, see also the Act, s 49 (1) (a) to (h), and the following sections of this regulation:

- s 112 (Suitable people to hold explosives driving licences—Act, s 49 (1) (i))
- s 190 (Suitable people to hold blasting permits—Act, s 49 (1) (i))
- s 305 (Suitable people to hold display operator licences—Act, s 49 (1) (i))
- s 308 (Suitable people to hold fireworks display permits—Act, s 49 (1) (i)).

*Note 3* Additional criteria apply to the issue of licences (see Act, pt 4.2).

## **620 Section 51**

*substitute*

### **51 Manufacturing licence applications for Act, s 50 (2)— general**

An application for a manufacturing licence for an explosive must include the following:

- (a) the name and address of, and copies of identification papers for—
  - (i) the applicant; and
  - (ii) anyone who is to be a responsible person for the explosive;
- (b) if the applicant is a corporation—the corporation's ACN;
- (c) the purpose of the manufacture;
- (d) the address of premises where the explosive is to be manufactured and stored;
- (e) documentation describing a safety management system for the proposed manufacture;
- (f) the maximum number of people likely to be present in—

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- (i) the explosives manufacturing area; and
- (ii) other parts of the premises;
- (g) details of the fire protection proposed to be used;
- (h) a security plan prepared in accordance with section 51A;
- (i) any information or documents required by a form for the application approved under the Act, section 222.

### **51A Manufacturing licence applications—security plans**

- (1) A security plan for the manufacture of an explosive must be based on a security risk assessment.
- (2) The security plan must include the following:
  - (a) details of the production process to be used;
  - (b) details of the ingredients to be used and the source of any ingredient that is a dangerous substance;
  - (c) recording and reconciliation protocols;
  - (d) a system for recording—
    - (i) the name and licence details of a person who receives any of the explosive; and
    - (ii) the amount of the explosive taken by the person;
  - (e) procedures for reporting any loss, theft or attempted theft of the explosive;
  - (f) any information or documents required by a form for the security plan approved under the Act, section 222.



**621 Sections 55 and 56**

*substitute*

**55 Manufacturing licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to a manufacturing licence for an explosive:
  - (a) the explosive must be an authorised explosive;
  - (b) anyone who handles the explosive or another dangerous substance under the licence must have the appropriate skills and training;
  - (c) the licensee must provide anyone with a safety data sheet for the explosive on request;
  - (d) the licensee must ensure that the explosive is manufactured only for the purpose stated in the licence;
  - (e) the licensee must ensure that—
    - (i) the security plan for the licence is implemented; and
    - (ii) a copy of the plan is available for inspection at each premises used for manufacturing the explosive under the licence;
  - (f) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
  - (g) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
    - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
    - (ii) change the name stated in the licence of a security cleared responsible person;

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*Note* Licence amendments are made under the Act, s 58.

- (h) the licensee must—
  - (i) comply with the obligations imposed on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the manufacture of the explosive under the licence.

*Note 1* A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* 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) Subsection (1) (c) takes effect on 5 April 2006.
- (3) Subsection (2) and this subsection expire on 5 April 2006.

## **55A Manufacturing licences—review of security plans**

The holder of a manufacturing licence for an explosive must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
  - (i) the date it was prepared; and
  - (ii) if it has been amended—the last date it was amended; and
  - (iii) if it has been reviewed—the last date it was reviewed.

## **56 Manufacture records**

- (1) The holder of a manufacturing licence must, for each explosive manufactured under the licence, make a record of the manufacture that complies with subsection (2).

- (2) The record must include the following:
- (a) the name and classification code of the explosive;
  - (b) the quantity of the explosive manufactured;
  - (c) the date of manufacture;
  - (d) a certificate of analysis for each batch;
  - (e) whether the explosive was manufactured for immediate use or supply;
  - (f) if the explosive is stored, details of storage, including the name and licence details for a person responsible for its storage;
  - (g) any information or documents required by a form for the record approved under the Act, section 222.

*Note* If the substance is disposed of, the licensee must make a record of the disposal under s 258.

- (2) The holder of a manufacturing licence must keep a record made under this section of the manufacture of an explosive for at least 3 years after the day of manufacture, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

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

## **625 Section 95**

*substitute*

### **95 Import licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to an import licence for an explosive:
- (a) the explosive must be an authorised explosive;

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- (b) the licensee must import the explosive only for the purpose stated in the licence;
- (c) the licensee must establish and maintain a safety management system for the import of explosives under the licence;
- (d) the licensee must provide anyone with a safety data sheet for the explosive on request;
- (e) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
- (f) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
  - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
  - (ii) change the name stated in the licence of a security cleared responsible person;

*Note* Licence amendments are made under the Act, s 58.

- (g) the licensee must—
  - (i) comply with the obligations imposed on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the import of the explosive under the licence.

*Note 1* A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* 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) Subsection (1) (d) takes effect on 5 April 2006.
- (3) Subsection (2) and this subsection expire on 5 April 2006.

**633 Sections 105 and 106**

*substitute*

**105 Carrying licence applications—Act, s 50 (2)**

An application for a carrying licence for an explosive must include the following:

- (a) the name and address of, and copies of identification papers for—
  - (i) the applicant; and
  - (ii) anyone who is to be a responsible person for the explosive;
- (b) if the applicant is a corporation—the corporation's ACN;
- (c) the purpose of the carrying;
- (d) documentation describing a safety management system (including an emergency plan) for carrying the explosive;  
**Example of other matters for inclusion in the safety management system**  
safe handling and security procedures for carrying the explosive
- (e) details of each vehicle to be used for carrying the explosive, including the following:
  - (i) make;
  - (ii) model;
  - (iii) year of manufacture;
  - (iv) authorisation number;
  - (v) engine number;
  - (vi) registration number;
  - (vii) carrying capacity;

- (viii) type of fuel;
- (ix) category of load that can be carried;
- (x) any modifications making the vehicle suitable for carrying that category of load;
- (f) the hazard division, of the explosive and the maximum quantity to be carried;
- (g) details of training to be undertaken to comply with section 106 (1) (e);
- (h) a security plan prepared in accordance with section 105A (Carrying licence applications—security plans);
- (i) any information or documents required by a form for the application approved under the Act, section 222.

*Note* An example is part of the regulation, 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).

### **105A Carrying licence applications—security plans**

- (1) A security plan for carrying an explosive must be based on a security risk assessment.
- (2) The security plan must include the following:
  - (a) details of the precautions to be taken to ensure the explosive is secure for the duration of their entire journey;
  - (b) procedures for working out routes for the transport of the explosive;
  - (c) recording and reconciliation protocols;
  - (d) procedures for reporting any loss, theft or attempted theft of the explosive;
  - (e) any information or documents required by a form for the security plan approved under the Act, section 222.

**106 Carrying licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to a carrying licence for an explosive:
- (a) the explosive must be an authorised explosive;
  - (b) the licensee must ensure that the only vehicles used for carrying the explosive under the licence are approved vehicles;
  - (c) the licensee must ensure that the explosive is carried only for the purpose stated in the licence;
  - (d) the licensee must establish and maintain a safety management system (including an emergency plan) for the carrying of the explosive under the licence;
  - (e) anyone who handles the explosive or another dangerous substance under the licence must have the appropriate skills and training, including training in the requirements of the Australian Explosives Code as applied for this part;
  - (f) the licensee must ensure that—
    - (i) the security plan for the licence is implemented; and
    - (ii) a copy of the plan is available for inspection in each vehicle used for carrying the explosive under the licence;
  - (g) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
  - (h) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
    - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or

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- (ii) change the name stated in the licence of a security cleared responsible person;

*Note* Licence amendments are made under the Act, s 58.

- (i) the licensee must—
  - (i) comply with the obligations imposed on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the carrying of the explosive under the licence.

*Note 1* A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* 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) In this section:

***approved vehicle*** means a vehicle stated in the licence, or in an interstate explosives carrying authority, that 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.

## 106A Carrying licences—review of security plans

The holder of a carrying licence for an explosive must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
  - (i) the date it was prepared; and
  - (ii) if it has been amended—the last date it was amended; and
  - (iii) if it has been reviewed—the last date it was reviewed.



**638**      **Suitable people to hold explosives driving licences—Act, s 49 (1) (i)**  
**Section 112 (1), new notes**

*insert*

*Note 1*    For working out who is a suitable person to be issued with a licence, see also s 40A.

*Note 2*    Additional criteria apply to the issue of licences (see Act, pt 4.2).

**639**      **Section 112 (3), note**

*omit*

**643**      **Storage licence applications—Act, s 50 (2)**  
**Section 128 (1) (a)**

*substitute*

- (a) the name and address of, and copies of identification papers for—
  - (i) the applicant; and
  - (ii) anyone who is to be a responsible person for the explosives;
- (aa) if the applicant is a corporation—the corporation’s ACN;
- (ab) the purpose of the storage;

**644**      **Section 128 (1) (n)**

*substitute*

- (n) a security plan prepared in accordance with section 128A (Storage licence applications—security plans);

**645**      **Section 128 (1)**

*renumber paragraphs when regulation next republished under Legislation Act*

**646 Sections 129 and 130**

*substitute*

**128A Storage licence applications—security plans**

- (1) A security plan for carrying an explosive must be based on a security risk assessment.
- (2) The security plan must include the following:
  - (a) details of the precautions to be taken to ensure the premises where the explosive is stored are secure;
  - (b) procedures for controlling access to the premises and to the explosive;
  - (c) recording and reconciliation protocols;
  - (d) procedures for reporting any loss, theft or attempted theft of the explosive;
  - (e) any information or documents required by a form for the security plan approved under the Act, section 222.

**129 Storage licence conditions—Act, s 53 (2) (b)**

The following conditions apply to a storage licence for an explosive:

- (a) the explosive must be an authorised explosive;
- (b) the licensee must store the explosive only for the purpose stated in the licence;
- (c) the licensee must establish and maintain a safety management system, including an emergency plan, for the storage of the explosive under the licence;
- (d) the licensee must ensure that—
  - (i) the security plan for the licence is implemented; and

- (ii) a copy of the plan is available for inspection at each magazine used for storing the explosive under the licence;
- (e) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
- (f) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
  - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
  - (ii) change the name stated in the licence of a security cleared responsible person;

*Note* Licence amendments are made under the Act, s 58.

- (g) the licensee must—
  - (i) comply with the obligations imposed on the licensee under this part; and
  - (ii) ensure that this part is complied with in relation to the storage of the explosive under the licence.

*Note 1* A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* 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).

## **129A Storage licences—review of security plans**

The holder of a storage licence for an explosive must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and

- (c) state on the security plan—
  - (i) the date it was prepared; and
  - (ii) if it has been amended—the last date it was amended; and
  - (iii) if it has been reviewed—the last date it was reviewed.

**130 Storage records**

- (1) The holder of a storage licence must, for each magazine used for storage of explosives under the licence—
  - (a) make a record of the storage of an explosive in the magazine that complies with subsection (2); and
  - (b) while explosives are stored in the magazine under the licence—maintain an accurate inventory of the contents of the magazine.
- (2) The record must include the following:
  - (a) either—
    - (i) the product name, UN number and classification code; or
    - (ii) the authorisation number;
  - (b) the date of receipt;
  - (c) the name and licence details of the person (if any) from whom the explosive was received;
  - (d) the name and licence details of any person on whose behalf the licensee is storing an explosive;
  - (e) the date the explosive is removed from the magazine;
  - (f) the reason for removal;

**Examples of reasons**

- 1 use
- 2 supply

3 disposal

- (g) any information or documents required by a form for the record approved under the Act, section 222.

*Note* An example is part of the regulation, 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) The holder of a storage licence must keep a record made under this section of the storage of an explosive from the day on which it is stored until at least 3 years after the day the explosive is removed from storage, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

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

## **652 Section 170**

*substitute*

### **170 Supply licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to a supply licence for an explosive:
- (a) the explosive must be an authorised explosive;
  - (b) the licensee must supply the explosive only from premises where the explosive is authorised to be stored under a licence;
  - (c) the licensee must supply the explosive only for the purpose stated in the licence;
  - (d) the licensee must establish and maintain a safety management system for the supply of the explosive under the licence;
  - (e) the licensee must provide anyone with a safety data sheet for the explosive on request;
  - (f) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;

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(g) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—

- (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
- (ii) change the name stated in the licence of a security cleared responsible person;

*Note* Licence amendments are made under the Act, s 58.

(h) the licensee must—

- (i) comply with the obligations imposed on the licensee under this part; and
- (ii) ensure that this part is complied with in relation to the supply of the explosive under the licence.

*Note 1* A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* 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) Subsection (1) (e) takes effect on 5 April 2006.

(3) Subsection (2) and this subsection expire on 5 April 2006.

### **663 Section 186 (1), new notes**

*insert*

*Note 1* For working out who is a suitable person to be issued with a licence, see also s 40A.

*Note 2* Additional criteria apply to the issue of licences (see Act, pt 4.2).

### **664 Section 186 (3), note**

*omit*

**665 Section 187**

*substitute*

**187 Shotfirer licence conditions—Act, s 53 (2) (b)**

- (1) The following conditions apply to a shotfirer licence for an explosive:
- (a) the explosive must be an authorised explosive;
  - (b) the licensee must ensure that the explosive is used only for the purpose stated in the licence;
  - (c) the licensee must establish and maintain a safety management system for the use of the explosive under the licence;
  - (d) if the licence authorises the manufacture of ANFO for the personal use of the licensee, the licensee must ensure that—
    - (i) no more than 50kg of ANFO is manufactured at any single time; and
    - (ii) the ANFO is only manufactured using the defined components; and
    - (iii) a colouring agent is used to differentiate mixed ANFO from unmixed components;
  - (e) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
  - (f) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
    - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or

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- (ii) change the name stated in the licence of a security cleared responsible person;

*Note* Licence amendments are made under the Act, s 58.

- (g) the licensee must—

- (i) comply with the obligations imposed on the licensee under this part; and
- (ii) ensure that this part is complied with in relation to the use of the explosive under the licence.

*Note 1* A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

*Note 2* 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) In this section:

***defined components***, of ANFO, means—

- (a) ammonium nitrate as the oxidising agent; and
- (b) clean oil, fuel oil or another oil having a flash point of 60.5°C or higher as the fuel component.

### **187A Use records**

- (1) The holder of a shotfirer's licence must, for each explosive used under the licence, make a record of the use that complies with subsection (2).
- (2) The record must include the following:
  - (a) the name and classification code of the explosive;
  - (b) the quantity of the explosive used;
  - (c) the purpose for which the explosive was used;



- (d) any information or documents required by a form for the record approved under the Act, section 222.
- (2) The holder of a shotfirer's licence must keep a record made under this section of the use of an explosive for at least 3 years after the day of use, whether or not the licence continues in force.
- Maximum penalty: 20 penalty units.
- (3) An offence against this section is a strict liability offence.

**667 Section 190 (1), new notes**

*insert*

*Note 1* A blasting permit is a licence under the Act (see s 179, def ***blasting permit***). For working out who is a suitable person to be issued with a blasting permit, see also s 40A.

*Note 2* Additional criteria apply to the issue of licences (see Act, pt 4.2).

**677 Section 305 (1), new notes**

*insert*

*Note 1* For working out who is a suitable person to be issued with a licence, see also s 40A.

*Note 2* Additional criteria apply to the issue of licences (see Act, pt 4.2).

**678 Section 305 (4), notes**

*substitute*

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

**681 Section 308 (1), new notes**

*insert*

*Note 1* A fireworks display permit is a licence under the Act (see s 299, def ***fireworks display permit***). For working out who is a suitable person to be issued with a fireworks display permit, see also s 40A.

*Note 2* Additional criteria apply to the issue of licences (see Act, pt 4.2).

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