

Authorised Version No. 014
Dangerous Goods (Explosives)
Regulations 2011

S.R. No. 37/2011

Authorised Version incorporating amendments as at
25 October 2018

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Part 1—Preliminary

Division 1—General

1 Objectives

The objectives of these Regulations are—

- (a) to provide for the safety of persons and property in relation to the manufacture, storage, sale, transport, use, disposal and import of explosives; and
- (b) to provide for the management of risks arising out of security concerns associated with explosives; and
- (c) to provide for the safe location of vessels containing explosives while in port; and
- (d) to prohibit the misuse of explosives; and
- (e) to prescribe matters for the purposes of the Act; and
- (f) to revoke the former Regulations; and
- (g) to make statute law revision and other amendments to the Dangerous Goods (Transport by Road and Rail) Regulations 2008.

2 Authorising provision

These Regulations are made under section 52 of, and Schedule 2 to, the **Dangerous Goods Act 1985**.

3 Commencement

These Regulations come into operation on 26 June 2011.

4 Revocation

The Regulations set out in Schedule 1 are **revoked**.

5 Definitions

(1) In these Regulations—

ammonium nitrate explosive mixture means a mixture (which may include a compatible dye or sensitising agent) of an oxidising agent (being ammonium nitrate or an ammonium nitrate-based gel, emulsion or suspension) and a fuel component (being a combustible granular solid or a clean oil which has a closed-cup flash point of 60°C or higher);

ANFO means an explosive mixture consisting of ammonium nitrate and fuel oil that has a flash point of 60°C or higher with or without a compatible dye;

approved means approved by the Authority, unless otherwise stated;

AS 2187 means AS 2187 Explosives – Storage, transport and use and, for the purposes of these Regulations, comprising of—

- (a) 2187.0 – Part 0 Terminology;
- (b) 2187.1 – Part 1 Storage;
- (c) 2187.2 – Part 2 Use of explosives;

(d) 2187.4 – Part 4 Pyrotechnics – Outdoor displays—

as amended from time to time;

AS 3846 means AS 3846 The handling and transport of dangerous cargoes in port areas, as amended from time to time;

Australian Explosives Code or **AEC** means the document known as the Australian Code for the Transport of Explosives by Road and Rail, prepared by the Australian Forum of Explosives Regulators and endorsed by the Workplace Relations Ministers' Council as amended from time to time;

authorised explosive has the same meaning as in section 54(4) of the Act;

berth means any dock, pier, jetty, quay, wharf, marine terminal or similar structure (whether floating or not) at which a vessel may tie up;

blast hole means a hole made for the purpose of placing in position explosives which are to be fired;

blasting explosive means an explosive which—

- (a) contributes the majority of the work in an explosion; and
- (b) is intended primarily for use in blasting in mining, quarrying, construction, demolition and excavations generally.

Examples

A detonator, gunpowder for blasting and any blasting compound.

cartridge ammunition has the same meaning as in the **Firearms Act 1996**;

Class A protected work has the same meaning as in AS 2187.0;

Class B protected work has the same meaning as in AS 2187.0;

charge, as the context requires, means—

- (a) an explosive that is placed in a blast hole or other place of use; or
- (b) the act of placing explosives in a blast hole or other place of use;

Chinese firecrackers means a string of individual crackers (each cracker consisting of a single tube of rolled paper fitted with a wick and filled with an explosive), that is designed to explode with a series of sharp reports;

Class, in relation to dangerous goods, has the same meaning as in the AEC;

Class Label, in relation to a package, container or load that contains dangerous goods to which it is attached, means a label within the meaning of the ADG Code which purports to identify the Class of dangerous goods in the package, container or load;

Classification Code means the code assigned to an explosive, comprising a combination of the number of the Hazard Division to which the explosive belongs followed by the letter of the Compatibility Group to which the explosive belongs, as determined in accordance with the AEC;

Compatibility Group means the letter which follows the Hazard Division number in the Classification Code of an explosive and which is used to identify the kinds of explosive substances and articles that are taken, as a result of testing, to be compatible for transport or storage purposes;

Reg. 5(1) def.
of *Class Label*
amended by
S.R. No.
91/2015
reg. 103.

consumer firework means—

- (a) a firework which contains minute quantities of pyrotechnic substance;

Example

A toy pistol cap, party popper, snap for a bon-bon cracker.

- (b) a sparkler;
- (c) a model rocket motor (containing no more than 62.5 grams of propellant);
- (d) any other firework authorised as a consumer firework under section 54 of the Act;

consumer package means a package that is intended for retail display and sale;

detonator means a capsule or case which contains an explosive of high sensitivity used for initiating other explosives;

display firework means any firework except—

- (a) a sky rocket; or
- (b) a Chinese firecracker; or
- (c) a theatrical firework; or
- (d) a consumer firework; or
- (e) a firework that is not an authorised explosive;

distress signal means a pyrotechnic device designed for signalling, warning, rescue or similar purposes;

Examples

A marine flare and signal, landing flare, highway fusee, line-carrying rocket, anti-hail rocket, cloud rocket, avalanche rocket and a smoke generator.

equivalent legislation means legislation in another Australian jurisdiction relating to the manufacture, import, storage, sale, transport or use of explosives;

exploder means a self-contained portable item of equipment designed to produce electric current for firing charges;

explosive mixture means an authorised explosive that is a mixture of an oxidising agent and a fuel component (being a combustible solid or a clean oil which has a closed-cup flash point of 60° C or higher) and may include a compatible dye or other additive or sensitising agent and includes—

- (a) ANFO; and
- (b) ammonium nitrate explosive mixture;

explosives vehicle licence means a licence for a road vehicle to transport explosives;

factory means any building, or any part of a building, used or intended to be used for the manufacture of any explosive or any purpose incidental to or associated with that manufacture, and includes any land occupied for or in connection with that manufacture;

firearms licence means a licence under the **Firearms Act 1996** which allows a person to possess, carry or use a firearm other than a licence for a licensed firearms dealer;

firework means a pyrotechnic device containing an explosive composition which upon functioning will burn or explode, to produce a visual effect or sound effect, but does not include a distress signal;

firing, in relation to explosives, includes the act of initiation, or attempted initiation, of the explosives;

firing point, in relation to fireworks, means the point of launch of the fireworks;

flash powder means a pyrotechnic substance which is intended to produce a flash of light with or without an audible report, smoke or sparks;

former Regulations means the Dangerous Goods (Explosives) Regulations 2000;

freight container has the same meaning as in regulation 5 of the Dangerous Goods (Transport by Road or Rail) Regulations 2018¹;

Reg. 5(1) def.
of *freight
container*
amended by
S.R. No.
155/2018
reg. 246(1).

ground display firework means a display firework which primarily functions on the ground and which may project stars, novelty and other effects above the ground;

Hazard Division means, when followed by numerals, a "hazard division" determined in accordance with Addendum 1 of Appendix 2 to the AEC;

ignition source means a source of energy sufficient to initiate an explosive;

Examples

A naked flame, lit smoking material (such as a cigarette), exposed incandescent material, an operating electrical welding arc, a mechanical or static spark and any operating electrical or mechanical equipment.

industrial safety cartridge means a cartridge of Classification Code 1.4S which provides the power to an implement used to drive a stud,

pin, dowel, screw, rivet, spike, nail or similar object against, into or through a thing or substance by means of an explosive;

inner packaging means packaging that—

- (a) is capable of performing its containment function without being placed in another packaging; and
- (b) is placed in an outer packaging to form a combination packaging for transport;

licence means a licence required under these Regulations, unless otherwise stated;

Note

Section 21(1) of the Act gives the Authority power to issue licences.

licensed firearms dealer has the same meaning as in the **Firearms Act 1996**;

licensee, depending on the context in each Division, means a person who holds a specified licence that is required under these Regulations;

magazine does not include a receptacle;

mark includes a label;

misfire means a charge or part of a charge which upon firing has failed to function as intended;

mobile manufacturing unit or ***MMU*** means a vehicle or mobile unit used for the manufacture of explosives;

modification means a change 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 process;
- (b) a change to the quantity of explosives present or likely to be present including the introduction of any new explosive;
- (c) a change to the quantity of any other dangerous goods present or likely to be present, including the introduction of any new dangerous goods;
- (d) a change to a relevant safety management system;

net explosive quantity or *NEQ* means the mass of explosives contained in an explosive;

outer packaging means a packaging that forms the outer protection of a composite or combination packaging for transport and includes any absorbent material, cushioning and other components used to contain or protect inner receptacles or inner packaging;

package, in relation to goods to be transported, means the goods and their packaging;

packaging means one or more receptacles and any other components or materials necessary for the receptacles to perform their containment and other safety functions;

plant has the same meaning as in the **Occupational Health and Safety Act 2004**;

port has the same meaning as in the **Port Management Act 1995**;

port manager has the same meaning as in the **Port Management Act 1995**;

primer means a cap type primer consisting of metal or plastic cap containing a small amount of primary explosive mixture that is readily initiated by impact;

Examples

Percussion caps, centrefire primers, shotshell primers.

propellant means an explosive adapted and intended for use as a propelling charge in weapons, and includes such explosives belonging to Classification Codes 1.1C, 1.1D and 1.3C;

Example

Gunpowder when in finely granulated form.

protected work means Class A protected work or Class B protected work;

public holiday means a day appointed as a public holiday under the **Public Holidays Act 1993**;

pyrotechnic substance means a substance or a mixture of substances designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as a result of an exothermic chemical reaction which does not rely on oxygen from external sources to sustain the reaction;

pyrotechnician means a person who holds a licence to use fireworks;

reasonably practicable means reasonably practicable having regard to—

- (a) the likelihood of the hazard or risk concerned eventuating; and

- (b) the degree of harm to persons or property that would result if the hazard or risk concerned eventuated; and
- (c) what the person concerned knows, or ought to know, about the hazard or risk and any ways of eliminating or reducing the hazard or risk; and
- (d) the availability and suitability of ways to eliminate or reduce the hazard or risk; and
- (e) the cost of eliminating or reducing the hazard or risk;

receptacle means a container, including a carry box, used to store or carry explosives, but does not include a facility for the storage of explosives exceeding the prescribed quantities as set out in column 3 of Table 82;

road means a road within the meaning of the **Road Safety Act 1986**;

road related area means a road related area within the meaning of the **Road Safety Act 1986**;

safety cartridge means a cartridge, of Classification Code 1.4S, for a weapon including cartridge ammunition;

safety management system means a safety management system established and implemented under regulation 37;

security assessment means a security assessment furnished by the Australian Security Intelligence Organisation under Part IV of the **Australian Security Intelligence Organisation Act 1979** of the Commonwealth;

shotfirer means a person who holds a licence to use blasting explosives;

signal tube means a small-bore flexible plastic tube coated internally with an explosive powder so that it is capable of transmitting a shock wave along the length of the tube;

sky rocket means a firework within a casing (with an attachment to stabilise flight) which contains a pyrotechnic substance which upon initiation produces a jet of flame to propel the rocket into the air;

supervision in relation to the manufacture, transport, storage, handling or use of explosives, means the supervision by the licensee of a person who is working in the same premises, or is present in an area which is under the control of the licensee;

the Act means the **Dangerous Goods Act 1985**;

theatrical firework means—

- (a) loose poured flash powder; or
- (b) a firework that is—
 - (i) designed to be safe for indoor use for theatrical purposes; and
 - (ii) fitted with, or adapted to, the use of an electrical ignition device;

UN number or ***UN*** has the same meaning as in the ADG Code;

underground magazine means a magazine that is used for the storage of explosives and detonators and is—

- (a) an enclosed cavity formed in underground rock; or
- (b) constructed in accordance with AS 2187.1 for underground use;

use in relation to explosives includes—

- (a) the preparation, charging, discharging or firing of explosives; and
- (b) the handling of explosives;

vessel means a ship or a boat;

vulnerable facility includes—

- (a) a multi-storey building;
- (b) a large glass fronted building;
- (c) a health care or childcare facility or school;
- (d) a public building;
- (e) a structure of major historical significance;
- (f) a facility associated with a major utility, including water, gas and electricity.

- (2) In these Regulations, any reference to a quantity of explosives is a reference to net explosive quantity (NEQ) unless otherwise stated.

Note²

The Act contains a number of definitions of further terms used in these Regulations, and also a number of interpretation provisions. See Endnote 2.

Division 2—Application

6 General exemptions

Reg. 6(1)
substituted by
S. R. No.
125/2013
reg. 4.

- (1) Nothing in these Regulations is intended to apply to safety and emergency systems, equipment and devices (other than distress signals) that are activated by explosives.

Examples

Explosives-activated air bag inflators, air bag modules, seat belt pretensioners, fire sprinkler systems and other fire suppression systems, fire extinguishers, life rafts, parachutes for aircraft or vehicles, and passenger evacuation slides for vessels or aircraft.

- (2) A provision in these Regulations requiring a person to hold a licence does not apply to the Authority, or an employee of the Authority acting in the course of their duties.

7 Detonators of Hazard Division 1.4

All detonators of Classification Code 1.4B or 1.4S are of Classification Code 1.1B if they are not in their original unopened packaging.

Note

Classification Codes are determined by tests conducted when explosives are in packages—the removal of explosives from their packaging may alter their Classification Code.

8 Storage or transport of explosives of more than one Hazard Division together

If a person—

- (a) stores or transports together explosives of more than one Hazard Division; and
- (b) a provision of these Regulations requires that a collective Hazard Division be determined for those explosives—

the person must determine the collective Hazard Division in accordance with table 7.1 of the AEC.

Division 3—Incorporation of external instruments

9 Publication date of amendments to AEC

For the purposes of regulation 10, an amendment to the AEC is *published* either—

- (a) on the date it, or a notice of its making, is published in the Government Gazette of the Commonwealth; or
- (b) on a later date determined by the Authority and specified in a notice published in the Government Gazette by the Authority.

10 Date of effect of amendment to incorporated documents

If the effect of an amendment to any document applied, adopted or incorporated by these Regulations is—

- (a) to prohibit an activity, process or thing the amendment takes effect on the day after it is published, or on any later date specified in the document by which the amendment was made; and
- (b) to impose a new obligation or alter an existing obligation under these Regulations, a person may choose to comply with these Regulations as if the amendment had not been made until the expiry of 6 months after the date the amendment takes effect.

11 Effect of incorporation of Australian Standards

If any part of these Regulations incorporates or adopts by reference the AEC or any Australian Standard, or requires compliance with the requirements of the AEC or any Australian Standard, the incorporation, adoption or required compliance does not include any requirement to obtain any person's approval or to notify any

person of an occurrence unless that is expressly provided for by these Regulations.

12 Inconsistencies between provisions

If a provision of any document incorporated or adopted by reference by these Regulations is inconsistent with any provision of these Regulations, the provision of these Regulations prevails.

Division 4—Exemptions

Note

Contravention of a regulation under this Division may constitute an offence under section 45 of the Act.

13 Quarterly returns of stock-lists not required

All explosives are exempt for the purposes of section 27(1) of the Act.

14 Exemption from provisions of the Regulations

- (1) A person may apply to the Authority for an exemption from compliance with any requirement in these Regulations, except a requirement that a person hold a licence.
- (2) An application for an exemption must—
 - (a) state the provision from which exemption is sought; and
 - (b) explain the method by which the applicant intends to ensure that there is a level of health and safety of persons, and a level of safety of property, that is at least equivalent to that which would be achieved by compliance with the provision.
- (3) The information provided under subregulation (2)(b) must include information relating to any risk associated with noise.

- (4) The Authority may—
 - (a) grant an exemption in whole or in part; or
 - (b) refuse an exemption.
- (5) The Authority must not grant an exemption unless it is satisfied—
 - (a) that the method proposed in subregulation (2)(b) is capable in itself or, if supported by conditions imposed under subregulation (7), of achieving a level of health and safety of persons, and a level of safety of property, that is at least equivalent to the level that would be achieved if the relevant provision had been complied with; or
 - (b) that the provision that is to be the subject of the exemption is an administrative requirement under these Regulations—
 - (i) that is not directly associated with a measure to any eliminate or reduce any risk; and
 - (ii) that is inappropriate or unnecessary in the circumstances.
- (6) An exemption under this regulation must be in writing.
- (7) The Authority may impose conditions on an exemption in relation to any of the following—
 - (a) the commencement and duration of the exemption;
 - (b) the things and activities for which the exemption has been granted;
 - (c) the person or class of persons to whom the exemption has been granted;
 - (d) the premises or class of premises for which the exemption has been granted;

- (e) the provisions of these Regulations for which the exemption has been granted;
 - (f) requirements for the provision of information relevant to the exemption to the Authority, if reasonably requested by the Authority;
 - (g) the monitoring or recording of systems of work or processes used at the premises exempted or by the person exempted;
 - (h) a requirement that the person exempted give notice of the exemption and of the conditions of the exemption to any specified person or body who may be affected;
 - (i) any other conditions that the Authority considers to be appropriate in the circumstances.
- (8) A person to whom an exemption has been granted must comply with each condition imposed on the exemption.

15 Authority may grant class exemptions on its own initiative

- (1) The Authority may on its own initiative grant an exemption from a provision of these Regulations in respect of a class of activities, premises, licensees or other persons.
- (2) The Authority must not grant an exemption under subregulation (1) unless it is satisfied—
 - (a) that a level of health and safety of persons, and a level of safety of property, will be achieved that is at least equivalent to that which would be achieved by compliance with the provision; or
 - (b) that the provision that is to be the subject of the exemption is an administrative requirement under these Regulations—

- (i) that is not directly associated with a measure to eliminate or reduce any risk; and
 - (ii) that is inappropriate or unnecessary in the circumstances.
- (3) An exemption under this regulation must be in writing.
- (4) The Authority may impose any of the conditions specified in regulation 14(7) on an exemption granted under this regulation.
- (5) A person to whom an exemption has been granted must comply with each condition imposed on the exemption.
- (6) If the Authority grants an exemption under this regulation, it must publish a notice in the Government Gazette that—
 - (a) states that the exemption has been granted; and
 - (b) identifies to whom and to what the exemption applies; and
 - (c) identifies the provision or provisions of these Regulations to which the exemption relates; and
 - (d) states when the exemption is to start; and
 - (e) includes any other details that the Authority considers to be appropriate.

16 Power of Authority to amend, suspend or revoke exemptions

- (1) The Authority may, at any time, amend, suspend or revoke an exemption granted under regulation 14 or 15, either on the request of the holder of the exemption or on its own initiative.

- (2) The Authority must not amend, suspend or revoke an exemption on its own initiative unless it has—
 - (a) given written notice to the holder of the exemption—
 - (i) advising that the Authority proposes to amend, suspend or revoke the exemption; and
 - (ii) providing written reasons for that proposed course of action; and
 - (iii) inviting the holder of the exemption to make a submission on the proposed course of action, including a submission on the terms of the amendment (if any) to be made; and
 - (b) considered any submission that is made in response to the notice.
- (3) If the Authority decides to suspend an exemption, it must give the holder of the exemption written notice that sets out—
 - (a) the date and time from which the suspension takes effect; and
 - (b) the date and time at which the suspension ceases to operate.
- (4) If the Authority decides to revoke an exemption, it must give the holder of the exemption written notice that sets out the date and time from which the revocation takes effect.
- (5) If the Authority amends, suspends or revokes an exemption granted under regulation 15, it must publish a notice to this effect in the Government Gazette.

17 Refusal of application or request

The Authority must not refuse to grant an application for an exemption, or a request for an amendment to an exemption, unless it has—

- (a) given written notice to the person making the application or request—
 - (i) stating that on the basis of the information it has available it proposes to refuse to grant, or amend, the exemption; and
 - (ii) providing written reasons for the proposed refusal; and
 - (iii) inviting the person making the application or request to provide a written submission to the Authority on the proposed refusal; and
- (b) considered any submission that is made in response to the notice.

18 Partial grant of application for exemption

If a person applies for an exemption or requests an amendment to an exemption, the Authority must not grant only part of the exemption or amendment unless it has—

- (a) given written notice to the person making the application or request—
 - (i) stating that the Authority proposes to grant or amend the exemption in part on the basis of the information it has available; and
 - (ii) providing written reasons for the proposed course of action; and

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Part 1—Preliminary

- (iii) inviting the person making the application or request to provide a written submission to the Authority on the proposed decision; and
- (b) consider any submission that is made in response to the notice.

Part 2—Duties applicable to all persons

Notes

- 1 Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.
- 2 Section 31 of the Act sets out further duties in relation to explosives.

19 Security of explosives

- (1) A person in possession of explosives must, so far as is reasonably practicable, prevent access to the explosives by persons not authorised by that person to have access.
- (2) Subregulation (1) does not apply to consumer fireworks.

20 Unlawful possession of explosives

A person must not possess explosives unless—

- (a) in the case of any explosive, the person—
 - (i) is authorised to do so under a licence granted under these Regulations; or
 - (ii) has been excluded under these Regulations from the requirement to hold a licence; or
- (b) in the case of unauthorised explosives, the person has the Authority's approval under section 54(5) of the Act.

21 Misuse of explosives prohibited

- (1) A person must not use, modify or attempt to use or modify, or assist another person to use or modify an explosive to produce an explosive effect other than that for which the particular explosive was designed.

- (2) This regulation does not apply to a person who is qualified or experienced in the use of the explosive and conducting research at—
- (a) an approved industrial laboratory; or
 - (b) an approved research institution; or
 - (c) a place approved for the conduct of such activities.

22 General fire precautions—ignition sources

- (1) A person must keep all ignition sources at a distance from explosives (except properly packaged safety cartridges) that is sufficient to avoid a fire, explosion or other dangerous situation.
- (2) A person must not introduce any ignition source—
 - (a) within 10 metres of any point or building where explosives are being handled; or
 - (b) onto a vehicle containing explosives.
- (3) A licensee must not allow a person to introduce any ignition source—
 - (a) within 10 metres of any point or building where explosives are being handled; or
 - (b) onto a vehicle containing explosives.
- (4) Subregulations (2)(a) and (3)(a) do not apply to an ignition source needed to fire an explosive charge.
- (5) Subregulations (2)(b) and (3)(b) do not apply in respect of fuel in the fuel tank of any vehicle that conforms to the applicable provisions of the AEC.

23 Further fire precautions

- (1) A person must keep flammable liquids and gases, combustible liquids and other materials that are capable of being ignited easily and of burning strongly at least 3 metres away from explosives, whether the explosives are exposed or stored.
- (2) Subregulation (1) does not apply to liquids, gases and other materials used in the manufacture of explosives.

Note

Part 4 sets out safety requirements for the manufacture of explosives and explosive mixtures.

24 Adequate lighting required

A person who uses explosives must ensure that an adequate level of light is provided so that operations can be carried out safely.

25 Reporting of injury, property damage and dangerous incidents

- (1) This regulation applies in relation to explosives that are or were involved in an explosion, fire or other incident which directly or indirectly causes—
 - (a) injury to any person or immediate risk to a person's health or safety; or
 - (b) property damage.
- (2) The person in control of explosives under subregulation (1) must notify the Authority of the incident immediately on becoming aware of it unless the person—
 - (a) is required to notify the Authority of the incident under Part 5 of the **Occupational Health and Safety Act 2004**; and
 - (b) complies with that requirement.

- (3) This regulation does not apply to an instance of injury or damage resulting from the use of ammunition in a weapon.
- (4) In this regulation, *person in control of explosives* includes the licensee and the occupier of premises where an incident referred to in subregulation (1) occurs.

26 Reporting of theft, loss or attempted theft

- (1) A licensee, occupier or person in charge of any premises used to manufacture or store explosives, or a vehicle or vessel used to transport explosives, on becoming aware of any occurrence of theft or loss of explosives from, or a breaking into or attempt at breaking into, the premises, vehicle or vessel must immediately notify the Authority and a member of the police force of the occurrence.
- (2) Subregulation (1) does not apply in respect of—
 - (a) consumer fireworks; or
 - (b) cartridge ammunition (or primers for that ammunition) for a person's own lawful use.

27 Restrictions on people under 18 years of age

- (1) A person under 18 years of age must not purchase, store, sell or use any explosives except consumer fireworks.
- (2) Subregulation (1) does not prevent a person under 18 years of age from purchasing or storing for the lawful use of that person, or lawfully using—
 - (a) distress signals; or
 - (b) industrial safety cartridges; or
 - (c) cartridge ammunition or primers for that ammunition.

- (3) Subregulation (1) does not prevent a person under 18 years of age from purchasing, storing, selling or using in the course of their employment—
- (a) distress signals; or
 - (b) industrial safety cartridges; or
 - (c) cartridge ammunition or primers for that ammunition.

28 People under the influence of alcohol or drugs

- (1) A person who is adversely affected by alcohol or drugs must not—
- (a) be in any part of a licensed premises where explosives are manufactured or stored; or
 - (b) make an explosive mixture or handle or use explosives; or
 - (c) be in or on a vehicle while it has explosives aboard.
- (2) A person must leave premises where there are explosives if ordered to do so by a licensee under subregulation (3).
- (3) If a licensee suspects that a person is adversely affected by alcohol or drugs, the licensee—
- (a) must ensure that the affected person does not enter the licensed premises; and
 - (b) if the affected person is on the licensed premises, may order the affected person to leave the premises or to go to a safe area of the premises.
- (4) For the purposes of this regulation, a person is adversely affected by alcohol or drugs if the person's judgment or capacity is impaired to the extent that the person may expose the person's or another person's health or safety to a risk.

- (5) In this regulation, a reference to a licensee includes any person authorised by a licensee to have immediate control of explosives.

29 Placement, visibility and maintenance of signs

A person who is required under these Regulations to display a sign or notice must ensure that—

- (a) the sign or notice is placed in a position so that it is clearly legible by persons approaching the sign or notice; and
- (b) the sign or notice is kept clean and in good order; and
- (c) no other sign, notice or writing which contradicts the sign or notice is placed nearby.

30 Removal of signs

A person who is required under these Regulations to display a sign or notice must ensure that the sign or notice is not displayed when the explosives to which it applies are no longer present.

Part 3—Packaging and marking

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

31 Explosives to be packaged and marked in accordance with the AEC

- (1) A person who manufactures explosives must ensure that, on completion of manufacture, the explosives are packaged and marked in accordance with the requirements of Chapters 3, 5 and 8 of the AEC.
- (2) A person must not import, store, sell or transport any explosive unless the explosive is packaged and marked in accordance with the requirements of Chapters 3, 5 and 8 of the AEC.
- (3) The requirements in subregulation (2) concerning importing and transporting do not apply if the explosives are in a closed freight container that has been imported into Australia, if—
 - (a) no explosives have been removed from or added to the freight container since its arrival in Australia; and
 - (b) the freight container is placarded in accordance with the AEC.
- (4) All markings referred to in subregulations (1) and (2) must be legible and in English and may be in appropriate languages in addition to English.
- (5) Subregulations (1) and (2) do not apply if the explosives are—
 - (a) in the process of being manufactured or are semi-finished goods at the premises where they are being manufactured; or

- (b) for use at, and are not transported beyond the boundaries of, the premises where they were manufactured provided that the containers are clearly and conspicuously marked with the name of the contents; or
- (c) cartridge ammunition, distress signals or consumer fireworks weighing no more than 5 kilograms in total being stored or transported by a person for that person's own lawful use; or
- (d) blasting explosives at a place where they are about to be used and regulation 55 or Part 5, whichever is applicable, is complied with in relation to the containers to be used for the explosives; or
- (e) blasting explosives which are manufactured at premises where they are about to be used; or
- (f) blasting explosives being transported in receptacles by a person for that person's own lawful use and which are within the relevant quantity limits specified in Table 31.

Table 31—Blasting explosives for a person's lawful use

<i>Type of explosives</i>	<i>Quantity</i>
Hazard Division 1.1 (except detonators)	5 kg
Detonators	125 in number
Hazard Division 1.5	25 kg

32 Duties in relation to the AEC

If the AEC imposes a requirement in respect of the packaging and marking of explosives but does not indicate clearly the person, or class of persons, on whom that requirement is imposed, the person undertaking the relevant activity must comply with the requirement.

33 Duties of persons who pack explosives

A person who packs explosives into a package must ensure that—

- (a) the packaging is clean and free from grit before the explosives are packed; and
- (b) that the contents of the package are accurately described by the label on the package.

Part 4—Manufacture

Division 1—Preliminary

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

34 Application

- (1) This Part, other than Division 4, does not apply to the manufacture of cartridge ammunition for his or her own use by a person who holds a firearms licence.
- (2) Division 2 does not apply to the holder of a licence to use blasting explosives if—
 - (a) the licence authorises the licensee to use ANFO; and
 - (b) the licensee makes not more than 50 kilograms of ANFO at a time for his or her own use.
- (3) A person who operates a major hazard facility that is licensed under the Occupational Health and Safety Regulations 2017 is not required to hold a licence to manufacture explosives, but is to be treated in all other respects as the holder of a licence required under this Part and is subject to all the duties, obligations and requirements placed on such a licensee by these Regulations.

Reg. 34(3)
amended by
S.R. No.
22/2017
reg. 561.

35 Definitions

In this Part—

manufacture of safety cartridges includes the following activities—

- (a) filling cartridge cases with powder or projectiles;
- (b) fitting primers to cartridge cases.

Division 2—Licensing and Safety Management

36 Requirement to be licensed

- (1) A person who manufactures any explosive must hold a licence authorising the person to do so, or be otherwise authorised under these Regulations.
- (2) A licence authorising a person to manufacture explosives at a factory may also authorise the licensee—
 - (a) to store the explosives at the site where they are manufactured;
 - (b) to sell explosives;
 - (c) to import explosives.
- (3) Subregulation (1) does not apply to a person—
 - (a) who is employed by a person who holds a licence required by that subregulation and is authorised by that licensee to manufacture, or participate in the manufacture, of an explosive in respect of which the licence was issued; or
 - (b) who holds a licence issued under equivalent legislation by a corresponding Authority authorising that person to make an explosive mixture using an MMU.

Note

Equivalent legislation is defined in regulation 5 and *corresponding Authority* is defined in section 3(1) of the Act.

- (4) For the purpose of this regulation, a licensee may authorise a person to undertake work under the licence only if the licensee is satisfied that the person has the appropriate skills and training to undertake the work.

37 Safety management system

- (1) A person holding a licence authorising the person to manufacture explosives must establish and implement a safety management system to ensure that the manufacture of explosives is carried out as safely as is reasonably practicable.
- (2) The licensee must ensure that the safety management system—
 - (a) is described in a document that is comprehensible to and readily accessible by persons who use it; and
 - (b) provides a comprehensive and integrated management system for all aspects of risk control measures required under this Part; and
 - (c) sets out—
 - (i) the safety objectives of the safety management system; and
 - (ii) the systems and procedures by which those objectives are to be achieved; and
 - (iii) the means by which the licensee will comply with the requirements of this Part; and
 - (d) addresses all the matters specified in Schedule 2, that are relevant to the manufacture of explosives that are within the scope of the licence; and
 - (e) includes an emergency plan covering the matters specified in Schedule 2; and
 - (f) is communicated to all persons who are to participate in the implementation of the safety management system.

- (3) The licensee must ensure that the safety management system—
- (a) is established before commencing to manufacture any explosives; and
 - (b) is reviewed and, if necessary, revised—
 - (i) when a modification is made; or
 - (ii) whenever an incident occurs that must be reported under regulation 25 or 26, section 32(1) of the Act or Part 5 of the **Occupational Health and Safety Act 2004**; and
 - (c) is reviewed and, if necessary, revised at least each 5 years.
- (4) Subregulation (1) does not apply to a person who operates a major hazard facility that is licensed under the Occupational Health and Safety Regulations 2017 if the safety management system in place under those Regulations addresses the risks associated with the presence of explosives on the premises.
- (5) Subregulation (1) does not apply in relation to a person who manufactures an explosive mixture at a site using an MMU if a safety management system in place under this regulation or under the Occupational Health and Safety Regulations 2017 addresses the risks associated with the presence of explosives at the site.

Reg. 37(4)
amended by
S.R. No.
22/2017
reg. 562(1).

Reg. 37(5)
amended by
S.R. No.
22/2017
reg. 562(1)³.

38 Safety management system consultation

- (1) If the premises at which the explosives are manufactured is a permanent location, a safety management system must provide for consultation with employees within the premises and any contractors who enter the premises in relation to—

- (a) implementing a safety management system, including the specific procedures that the employees or contractors are required to follow to assist the licensee to implement the safety management system; and
 - (b) preparing an emergency plan required under regulation 37(2)(e).
- (2) The emergency plan required under regulation 37(2)(e) must be developed in conjunction with the relevant fire fighting authorities.

Note

A licensee who is an employer will also have to observe the consultation requirements of the **Occupational Health and Safety Act 2004** in developing a safety management system.

39 Records of modifications to be kept

A licensee must keep up to date records of all modifications affecting the operation of a safety management system.

40 Authority may require changes to safety management system

- (1) The Authority may, in writing, direct a licensee to rescind, make, remake or vary any part of a safety management system that it believes does not comply with this Part.
- (2) A licensee must comply with a direction within 30 days, or by any later date specified in the direction.
- (3) The Authority must not issue a direction under subregulation (1) unless—
 - (a) it has given the licensee a written notice that—
 - (i) states that the Authority proposes to issue the direction; and

- (ii) sets out the reasons why it proposes to issue the direction; and
 - (iii) invites the licensee to make a written submission about the Authority's proposed direction; and
- (b) it has considered any submission that is made in response to the notice.

41 Licensee to inform relevant fire authority of licences

- (1) A person who holds a licence authorising the person to manufacture explosives must provide the following information to the Chief Fire Officer of the Metropolitan Fire and Emergency Services Board or the Chief Officer of the Country Fire Authority (whichever is appropriate) when the licence is issued, renewed or amended—
- (a) the name and address of the licensee;
 - (b) the address or location of the premises specified in the licence;
 - (c) the class of licence;
 - (d) the types of explosives specified in the licence;
 - (e) the maximum quantities of explosives permitted by the licence to be at the premises;
 - (f) a site plan which includes the location of any building or place on the site, including magazines and manufacturing areas, where—
 - (i) any explosive; or
 - (ii) any ingredient or component for the manufacture of explosives which by itself, or when mixed with any other substance also present in the building or place, has explosive properties or is

capable of forming an explosive mixture or compound—

is present or may be present;

- (g) the location of manifests, emergency plans and critical controls and interfaces for fire systems.
- (2) If a licence authorising the person to manufacture explosives is suspended or revoked or has otherwise ceased to operate, the person who held the licence must notify the Chief Fire Officer of the Metropolitan Fire and Emergency Services Board or the Chief Officer of the Country Fire Authority (whichever is appropriate) within 14 days after the licence has ceased to operate.
- (3) The requirements of this regulation do not apply in respect of a licence to manufacture explosives in an MMU.

42 Separation distances to be maintained

- (1) The holder of a licence authorising the person to manufacture explosives must ensure that the relevant separation distances specified in AS 2187.1 are maintained between any building on the premises containing explosives and—
 - (a) any magazine; and
 - (b) any building on the same site; and
 - (c) any protected works; and
 - (d) any vulnerable facility.
- (2) For the purposes of subregulation (1), if any of the explosives present at the potential explosion site are of more than one Hazard Division, the person must determine the collective Hazard Division in accordance with the AEC.

Division 3—Manufacturing explosive mixtures

43 Authorised person

For the purposes of this Division, an *authorised person* means the holder of a licence authorising the person to manufacture an explosive mixture or a person authorised by the licensee to control or manage the process of manufacturing an explosive mixture.

44 Explosive mixtures

- (1) In manufacturing an explosive mixture, an authorised person must, so far as is reasonably practicable, manufacture the mixture at or near the place where it is to be used.
- (2) An authorised person must not manufacture any explosive mixture that has a combustible component in a powder form that is capable of causing a dust explosion at the place where the mixture is manufactured.

45 Buildings, structures, appliances and associated equipment for mixing an explosive mixture

The holder of a licence authorising the person to manufacture an explosive mixture must ensure—

- (a) that buildings or other structures in or on which an explosive mixture is to be manufactured are constructed in accordance with AS 2187.2; and
- (b) that processing equipment used for the manufacture of an explosive mixture conforms to AS 2187.2.

46 Manufacture of explosive mixtures

An authorised person manufacturing an explosive mixture must do so in accordance with AS 2187.2.

47 Components or ingredients to be kept in marked containers

The holder of a licence authorising the person to manufacture an explosive mixture must ensure that all components or ingredients of an explosive mixture are kept in containers that are clearly and conspicuously marked with the name of their contents.

48 Notice to be displayed

An authorised person manufacturing an explosive mixture must ensure that, when the mixture is being made, a notice showing the words—

DANGER

EXPLOSIVES

NO SMOKING OR FLAME—

in conspicuous red letters on a white background, is prominently displayed—

- (a) if the mixture is manufactured in the open air—at or adjacent to the place where it is being manufactured; or
- (b) if the mixture is manufactured in a building or structure—outside every entrance to the building or structure.

49 Other persons to be kept clear

- (1) An authorised person who manufactures an explosive mixture must ensure that persons who are not engaged in the mixing, carrying, handling or use of the explosive mixture do not come, or remain within, 10 metres of the point where the explosive mixture is being manufactured.
- (2) A person who is not involved in the process of manufacturing an explosive mixture must comply with any reasonable requirement of the authorised person.

50 Other explosives to be kept away

An authorised person manufacturing an explosive mixture must ensure that all detonators, prepared charges, detonating cord and other explosives (except any explosives that must be in a blast hole) are kept in securely closed receptacles at least 10 metres away from the point where the explosive mixture is manufactured.

51 Fire precautions to be observed

- (1) The holder of a licence authorising the person to manufacture an explosive mixture must comply with the requirements of AS 2187.2 in regard to fire precautions.
- (2) For the purposes of subregulation (1), a reference in AS 2187.2 to "close proximity" means not less than 10 metres.

52 Disposal of spills and packaging

An authorised person manufacturing an explosive mixture must ensure that—

- (a) any spillage of an explosive mixture or of an intended component of the mixture is cleaned up promptly and disposed of safely; and
- (b) any waste packaging is removed promptly and disposed of safely.

53 Equipment to be cleaned after use

An authorised person manufacturing an explosive mixture must ensure that, when the process of manufacturing an explosive mixture has been completed, all mixing appliances, receptacles, other equipment and tools used in making the explosive mixture are cleaned so that—

- (a) any residual trace of the mixture cannot initiate or contribute to an explosion; and

- (b) there is no risk to any subsequent user of the equipment or tools.

54 Precautions to be taken before undertaking repairs or alterations

The holder of a licence authorising the person to manufacture explosives must ensure that, if any repair or alteration, intended to be made to a building, structure or processing equipment that contains or has contained an explosive mixture or any component used in the making of the mixture, will require the use of welding, cutting or grinding equipment or other potential source of heat, flame or sparks—

- (a) the mixture or component is removed to a safe place; and
- (b) all residual traces of the mixture or component are thoroughly cleaned away before the repair or alteration begins.

55 Storage of unused explosive mixtures

The holder of a licence authorising the person to manufacture explosives must ensure that any explosive mixture that cannot be used or loaded into blast holes on the day it is manufactured is—

- (a) put in closed, clean, non-metallic, leak proof containers, conspicuously marked "EXPLOSIVE MIXTURE"; and
- (b) stored in accordance with the requirements of Part 5 until the mixture can be used; and
- (c) used as soon as practicable.

56 Location of place of manufacture of an explosive mixture

An authorised person manufacturing an explosive mixture must ensure that the relevant separation distances specified in AS 2187.1 are maintained

between the place where the explosive mixture is being manufactured and any—

- (a) protected works; and
- (b) vulnerable facilities.

57 Authorised person not to leave the manufacture unattended

An authorised person manufacturing an explosive mixture must ensure that the manufacturing process is not left unattended during the operation of the processing equipment.

Division 4—Manufacture of safety cartridges

58 Requirements for the manufacture of safety cartridges

- (1) This regulation applies to the manufacture of—
 - (a) safety cartridges for commercial purposes; and
 - (b) cartridge ammunition for lawful personal use by a person who holds a firearms licence.
- (2) A person who manufactures the cartridges and ammunition specified in subregulation (1) must ensure that—
 - (a) the manufacture is carried out safely; and
 - (b) no other activities that may adversely affect the safety of the manufacturing process are conducted in close proximity to the process; and
 - (c) any propellant stored in the room being used for the manufacturing process is isolated from the operation and any ignition source; and

- (d) any propellant being directly used for the manufacturing process is not exposed unnecessarily and is not exposed to ignition sources; and
- (e) the quantity of propellant present is no greater than is reasonably necessary for the process; and
- (f) every person who takes part in the manufacturing process or the handling of cartridges and ammunition wears clothing and footwear that will not contribute to accidental initiation of explosives used in the process; and
- (g) flammable liquids and gases, combustible liquids and other materials which are capable of being ignited easily and of burning strongly are isolated, so far as is reasonably practicable, from the manufacturing process; and
- (h) when the manufacturing process is completed, the equipment used in the process is cleaned and any spills of propellant are removed and disposed of safely.

Note

The effect of section 54 of the Act is that a person may fill safety cartridges only with an authorised explosive.

Part 5—Storage

Division 1—General provisions

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

59 Application

- (1) This Part does not apply to the storage of cartridge ammunition by a licensed firearms dealer.
- (2) A person operating a major hazard facility that is licensed under the Occupational Health and Safety Regulations 2017 is not required to hold a licence to store explosives, but is to be treated in all other respects as the holder of a licence required under this Part and is subject to all the duties, obligations and requirements placed on such a licensee by these Regulations.
- (3) If there is any inconsistency between the requirements of this Division and Division 2, the requirements of Division 2 are to prevail.

Reg. 59(2)
amended by
S.R. No.
22/2017
reg. 563.

60 Persons storing explosives to comply with requirements

A person who stores explosives must do so in accordance with the requirements of this Part.

61 Licence required to store explosives

- (1) A person must not store explosives, or allow explosives to be stored, at any premises occupied by that person unless that person holds a licence authorising the person to store explosives of that type and quantity.

Note

Section 3 of the Act defines *premises* as including any other place and *place* as including a vehicle, ship or boat. Accordingly, MMUs are covered under this subregulation.

- (2) A licence authorising a person to store explosives may also authorise the licensee to sell or import those explosives.
- (3) Subregulation (1) does not apply to any of the following—
- (a) the storage of—
 - (i) explosives at premises in respect of which a licence has been issued that authorises the manufacture and also the storage of explosives of that type and quantity; or
 - (ii) consumer fireworks in a quantity not more than that specified in Column 2 of Table 82; or
 - (iii) distress signals in a quantity not more than that specified in Column 2 of Table 82; or
 - (iv) industrial safety cartridges in a quantity not more than that specified in Column 2 of Table 82;
 - (b) a person who holds a licence to use blasting explosives if the person is only storing explosives—
 - (i) of the type that he or she is authorised by that licence to use; and
 - (ii) in a quantity not more than that specified in Column 2 of Table 82;
 - (c) a person who holds a licence to sell explosives if the person is only storing explosives—
 - (i) of the type that he or she is authorised by that licence to sell; and
 - (ii) in a quantity not more than that specified in Column 2 of Table 82;

- (d) a pyrotechnician who is only storing fireworks of the type that he or she is authorised by licence to use and in a quantity not more than that specified in Column 2 of Table 82;
- (e) a person who is only storing safety cartridges, primers or propellant in quantities not more than that specified in Column 2 of Table 82;
- (f) a pyrotechnician if the fireworks specified in the licence are stored in accordance with the requirements set out in Division 5 and for not more than 7 days.

Note

This regulation only exempts certain licensees from the requirement to hold a licence to store certain explosives. It does not exempt those licensees from any other requirements under this Part.

Division 2—Provisions applying to all storage

62 Explosives to be in compliant packaging

A person who stores explosives must ensure that the explosives are stored in packaging which complies with the AEC, or if that is not reasonably practicable, in other substantial packaging that will prevent any escape of the contents.

63 Explosives to be kept secure

- (1) A person who stores explosives must ensure that any storage of explosives—
 - (a) is kept securely locked, except when it is required to be open for purposes relating to its use or management; and

- (b) is kept in a secure building or container that is locked, and is separate from buildings in which persons live.
- (2) A person who stores explosives other than consumer fireworks must ensure that any container used to store explosives is kept securely locked, except when it is required to be open for purposes relating to its use or management.
- (3) Subregulation (1) does not apply to the storage of—
 - (a) consumer fireworks;
 - (b) cartridge ammunition by a person who holds a firearms licence;
 - (c) industrial safety cartridges.
- (4) Subregulation (1)(b) does not apply to the storage of distress signals.

64 Persons to keep storages and receptacles clean

A person who stores explosives must ensure, so far as is reasonably practicable, that the following are kept dry, clean and free of incompatible materials and extraneous materials—

- (a) the floor and other parts of the building or room in which the explosives are stored; and
- (b) the interior of any receptacle used for the storage of explosives.

Division 3—Duties on all licensees

65 Damaged or deteriorated explosives or packages—general

A person who stores explosives must ensure that any damaged, leaking, exuding or defective explosives in a storage specified in the licence are removed as soon as possible after discovery of the damage, leak, exuding or defect and are disposed

of safely in accordance with regulation 161 and having regard to—

- (a) any supplier's instructions (where provided);
and
- (b) any operational procedures for that storage and for the type and condition of explosives in that storage.

**66 Damaged or deteriorated explosives or packages—
licence to store**

A person who holds a licence authorising the storage of explosives must ensure that any damaged or defective package of explosives in storage is removed and the explosives are repacked and returned to the storage as soon as possible after discovery of the damage or defect.

Note

Part 11 deals with methods of disposing of explosives that are unsafe or unwanted.

67 Licensee to keep means of access clear

A person who holds a licence authorising the storage of explosives must ensure that the means of entry to buildings, rooms and access to receptacles in which the explosives are stored are kept clear at all times.

68 Licensee to keep persons at storage to a minimum

A person who holds a licence authorising the storage of explosives must ensure that the number of persons who are present at the storage specified in the licence at any one time is kept to a minimum.

69 Explosives not to be stored in safes or refrigerators

A person who stores any explosives, except explosives of Classification Code 1.4S, must not store the explosives in a document safe, money safe or refrigerator.

70 Storage of Hazard Division 1.1, 1.2, 1.3, 1.5 or 1.6 explosives

- (1) A person who stores explosives of Hazard Division 1.1, 1.2, 1.3, 1.5 or 1.6 must—
 - (a) store the explosives in—
 - (i) a receptacle that complies with regulation 73; and
 - (ii) a building that complies with regulation 63(1)(b); and
 - (b) ensure that—
 - (i) explosives of more than one Compatibility Group are not stored in the same receptacle; and
 - (ii) detonators, capped fuses and other explosives of Classification Code 1.1B are not stored in the same receptacle as any other type of explosive.
- (2) Subregulation (1) does not apply to—
 - (a) distress signals stored in a consumer package; or
 - (b) fireworks stored in their original package.

(3) Despite subregulation (1)(b)(i)—

- (a) explosives of Compatibility Group S may be stored with explosives of any other Compatibility Group except Compatibility Group B; and
- (b) blasting explosives of Classification Code 1.1D or 1.5D may be stored with propellants, plastic igniter cord and fuse lighters.

71 No storage of detonators with other explosives

A person who stores detonators—

- (a) must not store them in the storage with any other types of explosives; and
- (b) must, if they are stored in a receptacle, ensure that the receptacle is separated from any other types of explosives in the storage or any other receptacle containing explosives by a partition or an intervening space sufficient to prevent a sympathetic detonation.

72 Storage of safety fuse

A person who stores safety fuse must ensure that it is kept in a container in a cool dry place away from petroleum liquids, solvents and other substances that may penetrate the fuse and affect its burning rate.

73 Requirements for construction of receptacles

A receptacle used for the storage of explosives must be constructed and maintained as follows—

- (a) the construction of the receptacle must be sturdy; and
- (b) the receptacle must have a close fitting closure; and

- (c) the inner construction of the receptacle must—
 - (i) be made from, or be lined with, plywood or close joined timber or another suitable non-sparking material; and
 - (ii) not include exposed iron or steel.

74 Markings on buildings, rooms and receptacles

- (1) This regulation applies to a building, room or receptacle within premises that are used to store explosives, except a building at the main entrance of the premises.
- (2) The outside door of the building or room or the lid of the receptacle—
 - (a) must be marked with a Class Label not less than 100 square millimetres in size;
 - (b) must be marked with the Hazard Division of the explosives stored or, if the explosives are of more than one Hazard Division, their collective Hazard Division determined in accordance with regulation 8;
 - (c) must be marked in conspicuous red letters on a white background with the words "EXPLOSIVES DETONATORS" or "EXPLOSIVES" or "DISTRESS SIGNALS" or "FIREWORKS" or "AMMUNITION" or "PROPELLANT", as appropriate;
 - (d) may also be marked with another term to describe more accurately the explosives in the building, room or receptacle.

75 Markings inside receptacles

A receptacle used to store explosives must be marked on the inside with the name and address of its owner, unless the receptacle is permanently fixed in place.

76 Separation of explosives of different Compatibility Groups

If explosives of more than one Compatibility Group are stored in the same building, room or receptacle, the explosives must be separated by a partition or intervening space sufficient to prevent a sympathetic detonation.

77 Explosives of different Hazard Divisions

If explosives of more than one Hazard Division are stored together, a collective Hazard Division must be determined in accordance with regulation 8.

Division 4—Emergency response

78 Licence holders need emergency management plan

Any person who is required to hold a licence to store explosives under this Part must establish and maintain an appropriate plan to manage emergencies that may reasonably be expected to affect the storage premises.

79 Fire-fighting equipment

- (1) The holder of a licence authorising the person to store explosives must ensure that—
 - (a) fire-fighting equipment is provided; and
 - (b) the equipment is maintained in good condition and working order; and
 - (c) the equipment is available for immediate use.

- (2) The occupier of storage premises specified in a licence authorising the storage of explosives must ensure that—
- (a) fire-fighting equipment is provided; and
 - (b) the equipment is maintained in good condition and working order; and
 - (c) the equipment is available for immediate use.

Division 5—Medium scale storage

80 Application

This Division only applies to medium scale storage as defined in regulation 82.

81 Licensee must comply with Divisions 1 to 5 of this Part

The holder of a licence for medium scale storage must comply with the requirements set out in this Division in addition to the requirements set out in Divisions 1, 2, 3 and 4.

82 Meaning of medium scale storage

For the purposes of this Division, *medium scale storage* means the storage of explosives of a type listed in Column 1 of Table 82 in a quantity that is—

- (a) greater than the corresponding quantity in Column 2; and
- (b) not more than the corresponding quantity specified in Column 3.

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Part 5—Storage

Table 82—Aggregate Maximum Quantity by Type in any Storage

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of Explosive</i>	<i>Maximum quantity for small scale storage</i>	<i>Maximum quantity for medium scale storage</i>
Blasting explosives of Classification Codes 1.1D and 1.5D (including gelignite, water gels, emulsions, nitrate mixtures and boosters) and other explosives of Classification Code 1.1D	3.5 kg	30 kg
Detonating cord of Classification Code 1.1D	350 metres	1000 metres
Gunpowder for blasting of Classification Code 1.1D	5 kg	20 kg
Propellant Gunpowder of Classification Code 1.1D	5 kg	50 kg
Propellants of Classification Code 1.1C and 1.3C	20 kg	100 kg
Detonators of Classification Code 1.1B and 1.4B	125 in number	500 in number
Explosives of Classification Code 1.1B, N.O.S.*	50 grams	1 kg
Display fireworks of Classification Code 1.2G, 1.3G and 1.4G	10 kg Gross	50 kg Gross
Distress Signals of Classification Code 1.3G	5 kg	100 kg
Distress Signals of Classification Code 1.4G	10 kg	200 kg
Distress Signals of Classification Code 1.3G and 1.4G	10 kg in total, not more than 5 kg of which can be Classification Code 1.3G	200 kg in total, not more than 50 kg of which can be Classification Code 1.3G
Explosives of Hazard Division 1.2, N.O.S.*	2.5 kg	10 kg

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of Explosive</i>	<i>Maximum quantity for small scale storage</i>	<i>Maximum quantity for medium scale storage</i>
Explosives of Hazard Division 1.3, N.O.S.*	5 kg	50 kg
Fuse lighters of Classification Code 1.4G	10 kg gross	100 kg gross
Plastic igniter cord of Classification Code 1.4G	500 metres	5000 metres
Safety cartridges of Classification Code 1.4S	40 000 in number	1 000 000 in number
Industrial safety cartridges of Classification Code 1.4S	40 000 in number	1 000 000 in number
Primers of Classification Code 1.4S	10 000 in number	50 000 in number
Safety fuse of Classification Code 1.4S	350 metres	5000 metres
Consumer fireworks of Classification Code 1.4G and 1.4S	30 kg gross	500 kg gross
Air bag inflators, air bag modules and seat belt pretensioners of Hazard Division 1.4, which are not installed in vehicles or in completed vehicle components	10 kg (in total)	50 kg (in total)
Explosives of Classification Code 1.4S, N.O.S.*	50 kg	100 kg
Explosives of Hazard Division 1.4, N.O.S.*	10 kg	50 kg
Explosives of Hazard Division 1.6	10 kg	50 kg

* N.O.S. means not otherwise specified.

83 General requirements for medium scale storage

- (1) A person who holds a licence authorising medium scale storage must store the explosives in accordance with this regulation.
- (2) All explosives stored at premises for medium scale storage must be stored in accordance with the following requirements—
 - (a) the explosives must be stored in a storage building, storage room or receptacle which—
 - (i) is detached from any building in which persons live; and
 - (ii) if required by the Authority, is designed, barricaded or mounded in accordance with AS 2187.1; and
 - (iii) is not accessible to the public; and
 - (iv) is not used for any other purpose than the storage of explosives; and
 - (v) is kept securely locked, except when it is required to be open for purposes relating to its use or management;
 - (b) the explosives must be stored so far as is reasonably practicable from the entry points of the building or room in which they are stored;
 - (c) the means of entry to buildings, rooms and receptacles in which the explosives are stored must be kept clear at all times;
 - (d) the floor and other parts of the building or room in which the explosives are stored must be kept clean and free of extraneous materials;
 - (e) all of the explosives must be in a closed container or packaging that will prevent any escape of the contents;

- (f) detonators and other explosives of Compatibility Group B must be stored in a separate storage building, room or receptacle located at least 3 metres from any other explosives;
 - (g) if explosives of more than one Compatibility Group are stored in the same storage building, room or receptacle, the explosives must be separated by a partition or intervening space which will prevent fire or explosion in those of one Group from communicating with those of another.
- (3) Subregulation (1)(g) does not apply if the explosives comprise only Compatibility Groups C, D and E.

84 Signs for premises

At premises used for medium scale storage, a notice must—

- (a) be displayed at the main entrance with a Class Label not less than 100 mm square; and
- (b) show the Hazard Division of the explosive stored or, if the explosives are of more than one Hazard Division, the collective Hazard Division determined under regulation 8.

85 Requirements for construction of buildings and rooms

- (1) A building or room used for medium scale storage must be constructed and maintained in accordance with the following requirements—
- (a) any steel, brick, stone or concrete on the inside of the building or room must be covered with timber or another suitable non-sparking material;

- (b) the building or room must be fitted with an effective and secure locking system;
 - (c) all explosives must be removed before maintenance, renovation, repair or reconstruction work is performed on the building or room.
- (2) Subregulation (1)(a) does not apply to a building or room in which explosives are all of Classification Code 1.4S.
 - (3) Subregulation (1)(c) does not apply if the Authority has approved the maintenance, renovation, repair or reconstruction work to be performed while the explosives remain in the building or room.

86 General fire precautions

- (1) Flammable liquids and gases, combustible liquids and other materials which are capable of being ignited easily and of burning strongly must be kept at least 3 metres away from explosives and from stores and receptacles in which explosives are stored.
- (2) All sources of ignition must be kept at least 3 metres away from explosives (except properly packaged safety ammunition).

87 Requirements for construction of receptacles

A receptacle used for medium scale storage must be constructed and maintained in accordance with the following requirements—

- (a) the construction of the receptacle must be sturdy; and

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

Division 6—Storage above prescribed quantities

88 Application

- (1) This Division only applies to storage above prescribed quantities as defined in subregulation (3).
- (2) The holder of a licence for storage above prescribed quantities must comply with the requirements set out in this Division in addition to the requirements set out in Divisions 1, 2, 3 and 4.
- (3) For the purposes of this Division, *storage above prescribed quantities* means the storage of explosives of a type listed in Column 1 of Table 82 in a quantity that is greater than the corresponding amount in Column 3.

89 Storage to be in accordance with AS 2187.1

A person who holds a licence authorising storage above prescribed quantities must do so in accordance with the applicable requirements of AS 2187.1.

Note

This means the explosives must be stored in a magazine.

90 Records to be kept

A person who holds a licence authorising storage above prescribed quantities must keep a record, for a period of not less than 5 years, of—

- (a) all explosives received or transferred, including the description of the explosives and their type and quantity; and
- (b) the name, address and number of the licence of the person from whom the explosives were received or to whom they were transferred.

91 Observation of duties in accordance with AS 2187.1

- (1) If AS 2187.1 imposes a requirement in respect of storage above prescribed quantities, but does not clearly indicate the person, or the class of persons, on whom that requirement is imposed, the person undertaking the relevant activity must comply with the requirement.
- (2) The holder of a licence authorising storage above prescribed quantities must ensure that any person employed or engaged or otherwise involved in the storage—
 - (a) is trained in the relevant requirements of AS 2187.1; and
 - (b) complies with the applicable requirements of AS 2187.1.

- (3) The occupier of storage premises specified in a licence authorising storage above prescribed quantities must ensure that any person employed or engaged or otherwise involved in such storage—
- (a) is trained in the relevant requirements of AS 2187.1; and
 - (b) complies with the applicable requirements of AS 2187.1.

92 Lightning protection

The requirements of section 2.1.5 of AS 2187.1 do not apply to a storage used solely to store explosives of Classification Code 1.4S.

93 Security fencing for premises used to store above prescribed quantities

- (1) The holder of a licence authorising storage above prescribed quantities must construct a security fence that surrounds the storage premises or the area in which two or more such storages are sited above ground.
- (2) The fence must be constructed in accordance with the requirements of AS 2187.1.
- (3) Subregulation (1) does not apply to a storage premises used solely to store explosives of Classification Code 1.4S.

94 Separation distances do not apply

The separation distances specified in AS 2187.1 between a building or place used for packing fireworks (the packing annex) and a premises used for storage above prescribed quantities apply only if the total quantity of the fireworks in the packing annex and in the storage together exceeds either—

- (a) the quantity authorised under the licence for the storage; or
- (b) 200 kilograms.

95 Notices to be posted at premises used to store above prescribed quantities

The holder of a licence authorising storage above prescribed quantities must ensure that a notice that states the types and maximum quantities of explosives specified in the licence is posted conspicuously on the inside of the entrance to the storage.

96 Certain licence holders to inform relevant fire authority of licences

- (1) The holder of a licence authorising storage above prescribed quantities must provide the following information to the Chief Fire Officer of the Metropolitan Fire and Emergency Services Board or the Chief Officer of the Country Fire Authority (whichever is appropriate) when the licence is issued, renewed or amended—
 - (a) the name and address of the licensee;
 - (b) the address or location of the storage specified in the licence;
 - (c) the types of explosives specified in the licence;
 - (d) the maximum quantities of explosives permitted by the licence to be at the storage specified in the licence; and
 - (e) a site plan showing the location of the storage.

- (2) If the licence is suspended or revoked or has otherwise ceased to operate, the licensee must notify the Chief Fire Officer of the Metropolitan Fire and Emergency Services Board or the Chief Officer of the Country Fire Authority (whichever is appropriate) within 14 days after the licence was suspended or revoked or otherwise ceased to operate.

97 Portable lighting in a storage must not pose threat of ignition

The holder of a licence authorising storage above prescribed quantities must not use portable lighting in the storage that poses an ignition threat.

Part 6—Sale

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

Division 1—General provisions

Note

Section 3(3) of the Act provides that any reference to the sale of explosives includes a reference to the supply of the explosives whether or not for any consideration.

98 Requirement to be licensed

- (1) A person who sells explosives must hold a licence authorising the person to sell explosives.
- (2) Subregulation (1) does not apply in respect of—
 - (a) the sale of consumer fireworks; or
 - (b) the sale of industrial safety cartridges; or
 - (c) the sale of cartridge ammunition by a licensed firearms dealer.
- (3) A licence authorising a person to sell explosives also authorises the licensee—
 - (a) to store explosives of the type that he or she is authorised to sell provided the quantity being stored is not more than that prescribed for those explosives in Column 2 of Table 82; and
 - (b) to transport those explosives provided the quantity being transported is not more than that prescribed for those explosives in column 2 of Table 107A.
- (4) A licence authorising a person to sell explosives may also authorise the licensee to import explosives of the type that he or she is authorised to sell.

99 Packaging of explosives when sold

- (1) A person who sells explosives must ensure that, so far as is reasonably practicable, the explosives are packaged in accordance with the requirements of the AEC.
- (2) A person who sells explosives in a packaged form, other than in the original packaging as supplied by the manufacturer, must ensure that the explosives are in a package that—
 - (a) complies with these Regulations; and
 - (b) prevents the explosive from escaping from the package.
- (3) A person who sells explosives must not cut or break the explosives for sale.

100 Place of selling

- (1) A person must not sell any explosive—
 - (a) on a road or a road related area; or
 - (b) at a market, fair or agricultural or other show; or
 - (c) in any other public place; or
 - (d) from a vehicle.
- (2) Subregulation (1) does not apply in respect of—
 - (a) cartridge ammunition sold at a place specified in subregulation (1)(b) by a licensed firearms dealer; or
 - (b) consumer fireworks.

101 No display of explosives for sale

- (1) A person must not display explosives for sale on shelves, counters or in windows or other places at premises.

- (2) Subregulation (1) does not apply in respect of—
- (a) cartridge ammunition; or
 - (b) consumer fireworks; or
 - (c) industrial safety cartridges; or
 - (d) distress signals—

that are contained in a consumer package that has a total weight of less than 25 kilograms as supplied by the manufacturer.

102 Damaged or defective explosives not to be sold

A person must not sell explosives that are expired, damaged or defective, are exuding liquid or have otherwise deteriorated.

Note

Part 11 deals with methods of disposing of explosives that are unsafe or unwanted.

Division 2—Sale of explosives

103 Explosives to be sold to authorised persons only

- (1) A person must not sell explosives to a person who does not hold a licence authorising the person to store, use, sell, transport or manufacture explosives of the same type as the explosives being sold.
- (2) A person must not sell explosives to a person unless that person satisfies the seller that the person is able to transport the explosives in accordance with the relevant requirements of Division 1 of Part 7.
- (3) This regulation does not apply to the sale of—
 - (a) distress signals in a consumer package, cartridge ammunition, consumer fireworks or industrial safety cartridges; or

- (b) propellant or primers to a person who holds a firearms licence.

104 Records of purchase, sale of explosives

- (1) The holder of a licence authorising the person to sell explosives must make a written record that contains the following information—
 - (a) for each sale of explosives to the licensee—
 - (i) the date of the sale; and
 - (ii) the name, address and telephone number of the person who sold the explosives; and
 - (iii) the type and quantity of the explosives;
 - (b) for each sale of explosives by the licensee—
 - (i) the date of the sale; and
 - (ii) the name, address and telephone number of the person to whom the explosives were sold; and
 - (iii) details of the licence held by that person authorising the person to store, use, sell, transport or manufacture explosives, or of the authorisation of that person under regulation 100 to purchase blasting explosives; and
 - (iv) the type and quantity of the explosives sold.
 - (2) A licensee who is required to make a written record under subregulation (1) must—
 - (a) retain the record for at least 5 years after the date of the sale which it records; and
 - (b) make the record available for examination by an inspector or member of the police force at the place, or at one of the places, at which sales are made.
-

- (3) Subregulations (1) and (2) do not apply in respect of the sale of cartridge ammunition, consumer fireworks, industrial safety cartridges or distress signals in a consumer package.

105 Duties when purchasing explosives

A person must not give a person who sells explosives any false or misleading information or documentation in connection with the sale of explosives.

106 Purchase under authority issued by the Authority

- (1) A person who holds a licence to use blasting explosives may request the Authority to authorise the purchase by that person of a greater amount of explosives than is specified in the licence.
- (2) The Authority may authorise a purchase referred to in subregulation (1) if the person demonstrates to the satisfaction of the Authority that—
- (a) the amount and type of explosives is necessary for completion of blasting operations; and
 - (b) any explosive purchased for blasting operations will be stored in accordance with Part 5.

Part 7—Transport

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

Division 1—General

107 Application

- (1) This Part does not apply to distress signals kept on a vessel for safety purposes.
- (2) Nothing in this Part requires a licence to transport explosives by road to be obtained in relation to transport that is not on a road or a road related area within the meaning of the **Road Safety Act 1986**.
- (3) Despite subregulation (2), any person who transports explosives on a road that is not a road or a road related area within the meaning of the **Road Safety Act 1986** must still comply with this Part in relation to all obligations other than the requirement to obtain a licence.
- (4) Nothing in this Part requires a person who transports explosives of a kind specified in Column 1 of Table 107A in a quantity not more than the corresponding quantity specified in Column 2 of the Table, to hold a licence under this Part, provided—
 - (a) the person—
 - (i) holds a licence to sell explosives; or
 - (ii) holds a licence to use blasting explosives; or
 - (iii) holds a licence to use fireworks; or
 - (iv) transports consumer fireworks for his or her own use; or

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- (v) transports explosives other than blasting explosives or fireworks for his or her own use; and
- (b) the explosives transported are of the same type or types as specified in that licence (if applicable).

Table 107A—Maximum quantities where person does not hold a licence to transport under Part 7 general requirement, but holds another licence issued under these Regulations

<i>Column 1</i> <i>Kind of Explosive Transported</i>	<i>Column 2</i> <i>Maximum Quantity</i>
Explosives of Hazard Division 1.1 (except detonators and propellants)	100 kg
Detonators of Classification Code 1.1B or 1.4B or both if transported with other explosives	500 in total number
Detonators of Classification Code 1.1B or 1.4B or both if no other explosives are on the vehicle	5000 in total number
Propellant Gunpowder of Classification Code 1.1D	50 kg
Hazard Division 1.2	50 kg
Hazard Division 1.3 other than Distress Signals	100 kg
Hazard Division 1.4 other than 1.4S or 1.4B or Distress Signals	250 kg
Distress Signals of Classification Code 1.3G	100 kg
Distress Signals of Classification Code 1.4G	250 kg

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<i>Column 1</i> <i>Kind of Explosive Transported</i>	<i>Column 2</i> <i>Maximum Quantity</i>
Distress Signals of Classification Code 1.3G and 1.4G	250 kg in total, not more than 50 kg of which can be Classification Code 1.3G
Explosives of Classification Code 1.4S	Unlimited
Explosives of Hazard Division 1.5	100 kg
Hazard Division 1.6	25 kg

- (5) Nothing in this Part requires a person who transports explosives of a kind specified in Column 1 of Table 107B in a quantity not more than the corresponding quantity specified in Column 2 of the Table, to hold a licence under this Part.

Table 107B—Maximum Quantities for Unlicensed Transport

<i>Column 1</i> <i>Kind of Explosive Transported</i>	<i>Column 2</i> <i>Maximum Quantity (when transported by any person)</i>
Propellant Gunpowder of Classification Code 1.1D	5 kg
Hazard Division 1.2	5 kg
Hazard Division 1.3 other than Distress Signals	50 kg
Hazard Division 1.4 other than 1.4S or 1.4B or Distress Signals	250 kg
Distress Signals of Classification Code 1.3G	100 kg
Distress Signals of Classification Code 1.4G	250 kg

<i>Column 1</i> <i>Kind of Explosive Transported</i>	<i>Column 2</i> <i>Maximum Quantity (when transported by any person)</i>
Distress Signals of Classification Code 1.3G and 1.4G	250 kg in total, not more than 50 kg of which can be Classification Code 1.3G
Explosives of Classification Code 1.4S	Unlimited
Hazard Division 1.6	25 kg

108 Vehicles transporting explosives to be licensed

- (1) A person must not transport explosives on a road or road related area unless that person holds—
- (a) an explosives vehicle licence for the vehicle used; or
 - (b) a licence issued under equivalent legislation by a corresponding Authority authorising the vehicle to transport explosives and that vehicle—
 - (i) meets the requirements of that legislation; and
 - (ii) complies with the Australian Explosives Code.

Notes

- 1 Under section 21(2) of the Act it is an offence for a vehicle to be used in the manner referred to in subregulation (1) if the vehicle is not so licensed.
 - 2 *Equivalent legislation* is defined in regulation 5 and *corresponding Authority* is defined in section 3 of the Act.
- (2) A person must not transport explosives by rail unless the person holds a licence for the transport of explosives by rail.

- (3) A person must not engage the services of another person to transport explosives by road or rail unless that other person holds a licence of a type described in subregulation (1) or (2) (as applicable).

109 Vehicle drivers to be licensed

- (1) A person who drives a road vehicle transporting explosives in a quantity greater than that specified in column 2 of Table 107A in relation to an explosive specified in column 1 of the Table must hold—
- (a) an explosives driver licence to do so; or
 - (b) a licence issued under equivalent legislation by a corresponding Authority authorising that person to drive a road vehicle transporting explosives.
- (2) A person must not cause or allow another person to drive a road vehicle transporting explosives if the driver is not licensed to do so.
- (3) Subregulations (1) and (2) do not apply to—
- (a) a person who transports explosives of the following classifications—
 - (i) consumer fireworks of Hazard Division 1.4;
 - (ii) explosives of Hazard Division 1.4S (other than detonators); or
 - (b) an inspector or a member of the police force transporting explosives in the course of his or her duties under the Act.

Note

Under sections 21(2) of the Act it is an offence for a person to drive a vehicle transporting explosives in contravention of subregulation (1) if the person is not so licensed.

110 Transport of explosives of Hazard Division 1.1A

- (1) A person must not transport explosives of Hazard Division 1.1A unless the person—
 - (a) is licensed to do so; and
 - (b) has written approval from the Authority.
- (2) A person who has an approval referred to in subregulation (1)(b) must comply with any condition to which the approval is subject.
- (3) A person must not cause or allow another person to drive a road vehicle to transport explosives of Hazard Division 1.1A unless the driver is licensed to do so.

111 Transport of explosives by boat

- (1) A person intending to transport explosives by boat in a quantity greater than that specified in column 2 of Table 107A in relation to an explosive specified in column 1 of the Table—
 - (a) must notify the Authority in writing at least 21 days before the intended transport and request approval for the transport; and
 - (b) must provide any information that the Authority requires.
- (2) A person must not transport the explosives specified in subregulation (1) without written approval from the Authority and must do so in accordance with any conditions imposed by the Authority.
- (3) This regulation does not apply in respect of a boat used as a firing platform for a fireworks display.

Division 2—Australian Explosives Code

112 Explosives to be transported in accordance with AEC

- (1) A person transporting explosives by road or rail must do so in accordance with the applicable requirements of the AEC.
- (2) Subregulation (1) does not apply to the transport of explosives that have been confiscated or received by, and are under the direct supervision of, an inspector or a member of the police force if it is not practicable for the inspector or member of the police force to comply with the AEC.

113 Who must comply with the AEC?

- (1) If the AEC imposes a requirement in respect of the transport of explosives but does not indicate clearly the person, or class of persons, on whom that requirement is imposed, the person undertaking the relevant activity must comply with the requirement.
- (2) If the AEC imposes a requirement on more than one person (or on more than one class of persons), each such person (or each person in such a class) must comply with the requirement in relation to those matters over which the person has management or control.

114 AEC training

- (1) The holder of a licence authorising the transport of explosives must ensure that any person employed, engaged or otherwise involved in the transport of explosives—
 - (a) is trained in the relevant requirements of the AEC; and
 - (b) so far as is reasonably practicable, complies with the relevant requirements of the AEC.

- (2) A person who manages or supervises the transport of explosives must ensure that any person employed, engaged or otherwise involved in the transport of explosives—
 - (a) is trained in the relevant requirements of the AEC; and
 - (b) so far as is reasonably practicable, complies with the relevant requirements of the AEC.

115 Stationary vehicles taken to be transporting explosives

For the purposes of this Part and the application of the AEC, a stationary vehicle that holds, contains or is otherwise loaded with explosives is taken to be used for the transport of explosives.

Division 3—Determinations by the Authority and restrictions on road transport routes

116 Register of determinations

- (1) The Authority must keep a register of determinations made under this Division.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The Authority must record each determination in the register.
- (4) The Authority must note in the register the revocation of a determination made under this Division.

117 Records of determinations

The record of a determination in the register must include—

- (a) the provisions of the determination; and
- (b) the title of the Government Gazette in which the determination was notified or published and the date of notification or publication; and
- (c) the provisions of these Regulations to which the determination relates.

118 Explosives not to be transported in or through Central Business District

- (1) A person must not transport explosives by road in or through the Central Business District of Melbourne unless otherwise approved by the Authority.
- (2) Subregulation (1) does not apply to the transport of—
 - (a) explosives of Hazard Division 1.4, other than detonators, in any quantity;
 - (b) distress signals in a quantity less than 25 kilograms;
 - (c) propellant in a quantity less than 25 kilograms;
 - (d) display fireworks in a quantity less than 250 kilograms by a pyrotechnician for use at a display site within the Central Business District.
- (3) In this regulation, *Central Business District* means that part of the City of Melbourne described in a determination of the Authority made for the purpose of this regulation and published in the Government Gazette.

119 Restrictions on the transport of certain explosives through designated tunnels and approach roads

- (1) The driver of a road vehicle used to transport explosives of a type or in a quantity which, under this Part, requires the display of a Class Label on that vehicle must ensure that the road vehicle is not used to transport explosives—
 - (a) in or through any tunnel which forms a part of a designated tunnel; or
 - (b) on any carriageway that forms an entrance ramp to such a tunnel; or
 - (c) on that part of any other carriageway described in a determination of the Authority made for the purpose of this subregulation.
- (2) A person must not cause or allow another person to drive a road vehicle to transport explosives of a type or in a quantity which, under this Part, requires the display of a Class Label on that vehicle—
 - (a) in or through any tunnel which forms a part of a designated tunnel; or
 - (b) on any carriageway that forms an entrance ramp to such a tunnel; or
 - (c) on that part of any other carriageway described in a determination of the Authority made for the purpose of this subregulation.

Note

The requirement to display a Class Label is imposed under this Part by regulation 112 and clause 3.4 and paragraph 8.3.6 of the AEC.

- (3) In this regulation, *designated tunnel* means any land described in a determination of the Authority made for the purpose of this regulation and published in the Government Gazette.

120 Transport of explosives in or through Melbourne metropolitan area

- (1) A person must not transport by road or allow another person to transport by road in or through the Melbourne metropolitan area—
- (a) explosives in a quantity greater than that specified in Column 2 of Table 120 in relation to an explosive specified in Column 1 of the Table; or
 - (b) explosives of more than one of the groups of explosives specified in Column 1 of Table 120 at any one time.
- (2) In this regulation, *Melbourne metropolitan area* means the area described in a determination of the Authority made for the purpose of this regulation and published in the Government Gazette but does not include—
- (a) the Central Business District within the meaning of regulation 118; or
 - (b) any approved routes within the Melbourne metropolitan area.

Table 120—Maximum quantities of explosives that may be transported by road within the Melbourne metropolitan area

<i>Type of explosives</i>	<i>Maximum total quantity in any one load</i>
<i>Column 1</i>	<i>Column 2</i>
Group 1:	
Explosives of Classification Code 1.1D or 1.5D;	1250 kg
Propellants of Classification Code 1.1C or 1.3C;	
(in any combination)	

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<i>Type of explosives</i>	<i>Maximum total quantity in any one load</i>
<i>Column 1</i>	<i>Column 2</i>
Detonators of Classification Code 1.1B, 1.4B or 1.4S, if transported with other explosives in Group 1 on a vehicle that is fitted with an effective segregation device	5000 in total number
<u>Group 2:</u>	
Propellants of Classification Code 1.3C	2000 kg
<u>Group 3:</u>	
Display fireworks of Classification Code 1.2G, 1.3G or 1.4G; Distress signals of Classification Code 1.2G, 1.3G or 1.4G; Consumer fireworks of Classification Code 1.4G or 1.4S; Theatrical fireworks of Classification Code 1.3G, 1.4G or 1.4S; Other explosives of Classification Code 1.2G, 1.3G or 1.4G (in any combination)	5000 kg gross mass
<u>Group 4:</u>	
Detonators of Classification Code 1.1B, 1.4B or 1.4S if no other explosives are on the vehicle	250 000 in total number

121 Transport of explosives in or through non-metropolitan areas

- (1) This regulation applies to the transport of explosives of types listed in Column 1 of Table 120, in quantities greater than the corresponding quantities specified in Column 2 of that Table, on a road vehicle through non-metropolitan areas.
- (2) The owner, driver and person in charge of the road vehicle used to transport explosives must so far as is reasonably practicable plan a route that—
 - (a) avoids densely populated areas; and
 - (b) avoids any Class B protected work; and
 - (c) avoids peak traffic periods; and
 - (d) avoids road hazards that might disturb the load of explosives in a way that creates a risk of explosion; and
 - (e) avoids town centres.
- (3) In this regulation *non-metropolitan area* means any area in Victoria that is outside the Central Business district as defined in regulation 118(3) or the Melbourne metropolitan area as defined in regulation 120(2).

122 Maximum vehicle load

Any person licensed to drive a road vehicle transporting explosives must ensure that the maximum quantity of explosives transported on a vehicle being driven by him or her does not exceed the smaller of—

- (a) the quantity specified in Column 2 of Table 122 in relation to an explosive specified in Column 1 of that Table; or

- (b) the quantity which would cause the vehicle to be operated at a mass limit for the vehicle under the Road Safety (Vehicles) Regulations 2009 or the Heavy Vehicle National Law (Victoria) (as applicable).

Reg. 122(b)
substituted by
S.R. No.
125/2013
reg. 5.

Table 122—Maximum Vehicle Loads

<i>Type of explosive</i> <i>Column 1</i>	<i>Quantity</i> <i>Column 2</i>
Explosives of Hazard Division 1.1	25 000 kg
Explosives of Hazard Division 1.2	25 000 kg
Explosives of Hazard Division 1.3	25 000 kg
Explosives of Hazard Division 1.4	unlimited
Explosives of Hazard Division 1.5	40 000 kg
Explosives of Hazard Division 1.6	40 000 kg

Division 4—Additional requirements at rail yards

123 Requirements for explosives in rail yards or sidings

- (1) If rolling stock containing explosives is held at a rail yard or siding, the occupier of the rail yard or siding must ensure that the maximum amount of explosive of any Hazard Division (except Hazard Division 1.4) per vehicle does not exceed 40 000 kilograms.
- (2) A person transporting explosives by road or rail must ensure so far as is reasonably practicable that vehicles containing explosives are not left stationary in a rail yard or siding, whether attended or not, except for the purpose of loading or unloading.
- (3) If vehicles containing explosives are held at a rail yard or siding, the occupier of the rail yard or siding must ensure that explosives are not kept in the rail yard or siding—
 - (a) for longer than 48 hours; or

- (b) for longer than 4 days if a weekend or public holiday occurs between 2 consecutive working days.

Note

The AEC specifies that, if a rail vehicle containing explosives is held at a railyard or siding, the occupier of the railyard or siding must ensure that the vehicle is separated from any other vehicles containing explosives and placarded loads of other dangerous goods by the relevant distances specified for the separation of rail vehicles.

Part 8—Use of blasting explosives

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

Division 1—Preliminary

124 Explosives means blasting explosives

In this Part, except where the context indicates to the contrary, *explosives* means blasting explosives.

125 Licence required for use of blasting explosives

- (1) A person who uses blasting explosives must hold a licence to use blasting explosives.
- (2) A licence authorising a person to use blasting explosives also authorises the licensee to store explosives of the type that he or she is authorised to use provided the quantity being stored is not more than that prescribed for those explosives in column 2 of Table 82.
- (3) A person who does not hold a licence referred to in subregulation (1) must not be employed or engaged in connection with the preparation of charges or the loading of charges into blast holes, unless the person—
 - (a) is under supervision of a person who holds a licence authorising the use of blasting explosives and does not fire any charge; or
 - (b) is operating an MMU.

Division 2—General

126 Method of keeping explosives at a blasting site

- (1) A person in charge of blasting explosives at a blasting site must ensure that—
 - (a) the explosives are stored—
 - (i) in accordance with Part 5; or
 - (ii) securely aboard a vehicle which complies and is operated in accordance with Part 7; or
 - (iii) in a receptacle in accordance with Part 5 which is under the immediate control or supervision of the shotfirer; and
 - (b) the explosives are transferred at or before the end of the day's work to a storage that complies with Part 5.
- (2) Subregulation (1) does not apply to—
 - (a) explosives in blast holes or in immediate use in the making up of a charge; or
 - (b) the transport of explosives in their original packages within a mine or a quarry; or
 - (c) pumpable emulsions, watern gel slurries or free flowing explosives that are safely stored and handled in a manner that takes into account any information supplied by the manufacturer or supplier of the product and any operational procedures for the site.

127 Damaged or defective explosives

Explosives that are damaged or defective or that show signs of deterioration must be disposed of in accordance with Part 11.

Division 3—Equipment for blasting operations

128 Use of equipment to initiate explosives

- (1) A shotfirer who uses equipment to initiate explosives must ensure that the equipment complies with and is maintained in accordance with the relevant requirements of AS 2187.2.
- (2) An exploder, circuit tester, rheostat or other equipment used to initiate explosive charges must not be used by a shotfirer unless it meets the following performance requirements—
 - (a) it is maintained, tested and calibrated having regard to the manufacturer's instructions (where provided); and
 - (b) it is used only for the purpose for which it was designed.

Division 4—Blasting operations

Note

It is an offence under section 37(1) of the Act to negligently or carelessly prepare or use explosives so as to endanger life or property.

129 Use of blasting explosives

- (1) A shotfirer must use explosives only in accordance with the applicable requirements of AS 2187.2.
- (2) If subregulation (1) requires a person to comply with a provision of AS 2187.2 and the provision does not indicate clearly the person, or class of persons, on whom that requirement is imposed, the person undertaking the relevant activity must comply with the requirement.

130 Requirement to have blast management plan

- (1) A shotfirer must not use explosives unless the shotfirer has first prepared a blast management plan in accordance with the applicable requirements of AS 2187.2.
- (2) A blast management plan prepared in accordance with subregulation (1) must—
 - (a) include a plan for dealing with any misfire; and
 - (b) be commensurate with the size, location, nature and complexity of the blasting operation to be undertaken.

131 Total fire ban days

A shotfirer must not use any explosive that may produce a flame above ground in the open in a part of Victoria where and at a time when a declaration of total fire ban under the **Country Fire Authority Act 1958** applies.

132 Preparation of detonators for firing

- (1) A shotfirer, or a person authorised by the shotfirer, who prepares a detonator for firing must comply with subregulation (2).
- (2) The preparation of detonators for firing must be carried out at a distance from any place where explosives are stored that is, so far as reasonably practicable, sufficient to avoid an explosion.

133 Vibration and noise levels

A shotfirer conducting blasting operations near buildings or structures must take all reasonable precautions to ensure that the effects of ground vibration and air blast overpressure are eliminated or reduced so far as is reasonably practicable in order to avoid damage.

134 Conduct of persons at site of blasting operations

- (1) To ensure the safe operation and security of blasting operations, all persons who are on a site where blasting operations are being conducted must comply with the instructions of the shotfirer—
 - (a) during the period in which charges are being prepared and fired; and
 - (b) until the final signals required under this Division are sounded and the "all clear" signal is given.
- (2) If an electrical storm, thunderstorm or dust storm approaches a site where blasting operations are being conducted—
 - (a) all persons must withdraw to a safe distance from any explosive, including those explosives contained in a magazine, blast hole or in the course of transport on the blasting site and must not return until the storm has passed; and
 - (b) the shotfirer or, in the shotfirer's absence, a person authorised by the shotfirer must keep the blasting site under observation from a safe distance.

135 Precautions during charging of blast holes using pumpable or free flowing explosives

A shotfirer, or a person authorised by a shotfirer, who charges blast holes using pumpable or free flowing explosives must comply with the requirements in AS 2187.2 for pumpable explosives.

136 Precautions after blast

After blasting has been carried out at a blasting site, the shotfirer or a person authorised by the shotfirer must ensure that—

- (a) no one enters the blasting site until the shotfirer, or the person authorised by the shotfirer, is satisfied that any fumes and toxic gases created by the explosion are at safe levels; and
- (b) the site is carefully inspected for the presence of unfired explosives or misfires, and the shotfirer, or the person authorised by the shotfirer, is satisfied that no misfires have occurred, before any further work is commenced at the site; and
- (c) drilling is not undertaken at the site until—
 - (i) the whole of the site has been thoroughly washed down (if necessary); and
 - (ii) the shotfirer, or the person authorised by the shotfirer, has treated any misfire as required in the blast management plan.

137 Shotfirer to ensure no means of self detonation

A shotfirer must not place or allow the placement of a second charge into a hole that has already been fired unless the shotfirer has ensured that the charge cannot self-detonate as the result of exposure to heat, percussion or anything else that might cause a detonation.

138 Charging and firing charges

A shotfirer must ensure that—

- (a) all blast holes which are charged in a firing location are—
 - (i) fired as one round; and
 - (ii) fired without undue delay; and
- (b) if a charge is not fired and exploded, it is treated as a misfire in accordance with the blast management plan.

Division 5—Special blasting operations

139 Demolition of buildings and other structures

A person intending to demolish with explosives a building or structure, or part of a building or structure, must give the Authority written notice of that intention no later than 21 days before the intended date of the demolition.

Part 9—Fireworks—Possession and use

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

Division 1—General provisions

140 Definitions

In this Part—

aerial shell means a firework which is designed to burst high in the air and is projected from a mortar by a lifting charge;

display site means the immediate area of a fireworks display and the area under the direct control of the pyrotechnician, including the point of launch, fall-out area and any applicable minimum safety distances from viewing areas and protected works.

141 Seizure of fireworks that are unauthorised explosives

A member of the police force or an inspector may seize any fireworks that are unauthorised explosives.

Note

Under section 54(5) of the Act, it is an offence for a person to import into Victoria, manufacture, sell, transport, store, use or otherwise deal with (including possess) fireworks that are unauthorised explosives.

142 Consumer fireworks

A person using consumer fireworks must have regard to the manufacturer's safety instructions (where provided), including any advice or instructions provided about the minimum age of the user.

143 Licence to be produced

A pyrotechnician must—

- (a) carry his or her licence document at all times when transporting, using, or preparing to use the fireworks authorised to be used by the licence; and
- (b) produce the licence document when requested to do so by an inspector, member of the police force, an officer or member of a Fire Authority or an officer of the municipal council for the municipal district in which the fireworks are to be discharged.

Note

Officer or member and *Fire Authority* are defined in section 3 of the Act.

Division 2—Display fireworks, Chinese firecrackers and theatrical fireworks

144 Who may use display fireworks etc.

- (1) Only pyrotechnicians or persons under the supervision of pyrotechnicians may use—
 - (a) display fireworks;
 - (b) Chinese firecrackers;
 - (c) theatrical fireworks.

Note

Pyrotechnician is defined as a person who holds a licence to use fireworks (see regulation 5(1)).

- (2) A licence authorising a person to use fireworks also authorises the licensee to store fireworks of the type that he or she is authorised to use provided the quantity being stored is not more than that prescribed for those fireworks in column 2 of Table 82.

145 Criteria for use of Chinese firecrackers

A pyrotechnician must not use Chinese firecrackers except—

- (a) on behalf of an association incorporated under the **Associations Incorporation Act 1981** or a community group; and
- (b) in connection with a cultural, religious or traditional occasion or purpose connected with the association or group which requires the discharge of the fireworks.

146 Pyrotechnicians to notify authorities of intended fireworks

- (1) A pyrotechnician must not discharge display fireworks, Chinese firecrackers or theatrical fireworks unless he or she has given written notice (in a form approved by the Authority) to the Authority and the appropriate fire authority at least 7 days before the date of the proposed display.
- (2) A notice under subregulation (1) must include the address of any short-term storage used by the pyrotechnician under regulation 61(3)(f).
- (3) A pyrotechnician must not discharge display fireworks, Chinese firecrackers or theatrical fireworks unless he or she gives the municipal council for the municipal district in which the fireworks are to be discharged written notice (in a form approved by the Authority) at least 7 days before the date of the proposed display.
- (4) Subregulation (3) does not apply if a local law applying in the municipal district requires a person to give the relevant municipal council greater notice of an intention to discharge fireworks.

- (5) A pyrotechnician must—
 - (a) complete a record (in a form approved by the Authority) of each display conducted; and
 - (b) retain that record for at least 2 years.
- (6) A pyrotechnician who intends to discharge fireworks that could be confused with distress signals in or near port waters must give written notice to the body that administers the relevant area of water at least 7 days before the date of the proposed display.
- (7) Compliance with this regulation is a condition of a pyrotechnician's licence.

147 Chinese firecrackers not to be discharged indoors

A pyrotechnician must not discharge Chinese firecrackers indoors.

148 Use of long string Chinese firecrackers

- (1) A pyrotechnician discharging long string Chinese firecrackers must ensure that—
 - (a) all persons not involved in the discharge of the firecrackers are kept at least 5 metres in every direction from the firing point by the use of fences, cordons or similar means; and
 - (b) sufficient security personnel are present to prevent the public and any other unauthorised persons from entering the display site during the discharge of the firecrackers; and
 - (c) the firecrackers are securely attached to a support that suspends the entire string above the ground, and that will not fall over when the firecrackers are discharged.
- (2) In subregulation (1) *long string Chinese firecrackers* means strings of Chinese firecrackers longer than 500 millimetres.

149 Use of theatrical fireworks

- (1) A pyrotechnician must not use fireworks for theatrical purposes unless they are theatrical fireworks or have been adapted and approved for theatrical use.

Note

A pyrotechnician must not manufacture theatrical fireworks unless they hold a licence authorising them to manufacture explosives.

- (2) A pyrotechnician who uses theatrical fireworks must have regard to the manufacturer's instructions (where provided).
- (3) A pyrotechnician who discharges theatrical fireworks must ensure that adequate fire protection and firefighting equipment are available at the place of discharge.

Note

A pyrotechnician is required by section 31(1)(a)(iv) of the Act to take all reasonable precautions for the prevention of any damage to property or danger to the public.

150 Conduct after discharge of fireworks

A pyrotechnician who discharges display fireworks, Chinese firecrackers or theatrical fireworks at a site must not so far as is reasonably practicable relinquish control of the display site until after the pyrotechnician has—

- (a) inspected the site for any unfired or misfired fireworks; and
- (b) cleaned the site; and
- (c) treated any unfired or misfired fireworks in accordance with the relevant requirements of AS 2187.4.

151 Malfunctions

If a firework malfunctions and there is risk to any person, a pyrotechnician must immediately cease all fireworks operations and must not resume those operations until it is safe to do so.

152 Use of flash powder

- (1) A pyrotechnician who uses flash powder must not—
 - (a) mix the flash powder with any other substance; or
 - (b) use a flash pot which has an opening that is less than 5 times the depth of the pot; or
 - (c) subject the flash powder to vibration; or
 - (d) initiate the flash powder by any means other than an electrical firing system.
- (2) A pyrotechnician using a flash pot for the discharge of flash powder must ensure that—
 - (a) the flash pot is not positioned near any entrances, exits or escape routes from the stage of a theatre; and
 - (b) the flash pot is positioned at least 3 metres from—
 - (i) any flammable material; and
 - (ii) all persons.
- (3) A pyrotechnician initiating flash powder must—
 - (a) have a clear view of the area in which the flash powder is to be used; and
 - (b) not initiate the flash powder without first ensuring, so far as is reasonably practicable, that, having regard to all the circumstances, it is safe to do so.

Division 3—Management of firework displays

153 Application

This Division applies only to the use of display fireworks.

154 Fire protection

A pyrotechnician must ensure that—

- (a) fire fighting equipment that complies with the requirements of section 3.4 of AS 2187.4 is available at the firework display site; and
- (b) before the display is commenced, all easily flammable material is removed or reduced in quantity so far as is reasonably practicable, or protected or treated so as to reduce the risk of fire.

155 Separation distances

- (1) A pyrotechnician must ensure that all persons, except persons authorised by the pyrotechnician to use the display fireworks, are at the minimum separation distance from the firing point specified in Table 155A, 155B or 155C for the fireworks being used.
- (2) A pyrotechnician must ensure that the firing point of a fireworks display is no closer to any building, dangerous goods storage, structure, traffic route or place of assembly than the minimum separation distance specified in Table 155A, 155B or 155C (as applicable) for the fireworks being used, unless otherwise approved by the Authority.
- (3) Despite subregulations (1) and (2), if the manufacturer's instructions relating to particular fireworks recommend greater minimum separation distances than those set out in Table 155A, 155B or 155C, those greater

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distances must be observed unless otherwise approved by the Authority.

Table 155A—Aerial shells other than salutes

<i>Nominal shell diameter</i> (mm)	<i>Minimum separation distance</i> (metres)
<75	45
75	55
100	65
125	85
150	100
175	120
200	140
250	170
300	200

Table 155B—Salutes

<i>Nominal shell diameter</i> (mm)	<i>Minimum separation distance</i> (metres)
50	70
75	80

Table 155C—Display fireworks other than aerial shells

<i>Type of firework</i>	<i>Minimum separation distance</i> (metres)
Set pieces—	
Lancework only	10
Incorporating fountains	20
Fountains, revolving fountains and flares	20
Mine bags, multishot box items, roman candles, comets and mines	30

156 Security of display site

A pyrotechnician must ensure that a firework display site is secure in accordance with the requirements of section 4.1.2 of AS 2187.4.

157 Keeping fireworks at display site

A pyrotechnician must ensure that—

- (a) all fireworks at a display site are kept within a barricaded area; and
- (b) all fireworks are kept in sturdy spark-proof receptacles within the barricaded area; and
- (c) the receptacles are located at least 10 metres from the edge of the barricaded area; and
- (d) the receptacles are kept closed except when fireworks are taken out for discharge.

158 Firing of display fireworks

A pyrotechnician who fires display fireworks must ensure that—

- (a) the firing is carried out in accordance with the requirements of sections 3.1 and 4.4 of AS 2187.4; and
- (b) the use of mortars to fire aerial shells accords with the requirements of section 4.4 of AS 2187.4.

159 Misfired fireworks

If a firework misfires, the pyrotechnician must comply with section 5 of AS 2187.4.

Part 10—Distress signals

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

160 Possession and use of distress signals

- (1) A person must not possess a distress signal without a reasonable excuse.
- (2) A distress signal found in the possession of a person without reasonable excuse may be seized by an inspector or a member of the police force.
- (3) A person must not discharge a distress signal without a reasonable excuse.
- (4) In this regulation, *reasonable excuse* includes, but it is not limited to, compliance with a law that requires or permits a person to possess and discharge distress signals.

Note

Distress signals that are old, unsafe or unwanted must be disposed of in accordance with the requirements of Part 11.

Part 11—Disposal, destruction and rendering harmless

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

161 Explosives must be disposed of etc. safely

- (1) A person disposing of or destroying explosives or rendering explosives harmless must take all reasonable precautions to ensure that the method used to dispose of, destroy or render explosives harmless—
 - (a) is safe; and
 - (b) is appropriate for the type of explosives and the condition of the explosives; and
 - (c) causes no injury to any person nor damage to any property.
- (2) A person disposing of or destroying explosives or rendering explosives harmless must—
 - (a) have regard to the manufacturer's instructions (where provided); and
 - (b) in the case of blasting explosives, comply with AS 2187.2; and
 - (c) in the case of fireworks, comply with AS 2187.4.

162 Only licensed persons may dispose of certain explosives

If use of a particular type of explosive requires a person to hold a licence, a person must not dispose of such explosive unless the person is licensed to use that type of explosive, or the person is under the supervision of a person who is so licensed.

163 Distress signals to be disposed of safely

A person disposing of a distress signal because—

- (a) the signal has passed its expiry date; or
- (b) the signal has deteriorated or been damaged;
or
- (c) the person no longer has a reasonable excuse
to possess the signal—

must comply with the requirements of
regulations 161 and 162.

164 Arranged disposal permitted

Despite regulation 162, a person may, by
arrangement with the manufacturer or supplier of
explosives, return unwanted explosives that are in
a safe condition.

165 Disposal to approved destruction facility permitted

Despite regulation 162, a person may dispose of
unwanted explosives to an approved destruction
facility.

Part 12—Import

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

166 Requirement to be licensed

- (1) A person who imports explosives into Victoria from a place outside Australia must hold a licence authorising the person to import explosives.
- (2) This regulation does not apply to a person who holds a firearms licence who imports safety cartridges for his or her own lawful use.

Part 13—Ports

Division 1—Preliminary

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

167 Application

This Part does not apply to distress signals kept on a vessel for safety purposes.

Note

This Part applies to the loading and unloading of explosives onto and from vessels, and the movement of vessels carrying explosives, in Victorian ports.

168 Notification of explosives on board

Before arriving in a Victorian port, the master of a vessel with explosives on board must—

- (a) give advance notification to the port manager as specified in section 3 of AS 3846 of the types and quantities of the explosives; and
- (b) supply any other relevant information that the port manager requires.

169 Restriction on entry into ports

- (1) The relevant port manager must comply with subregulation (3).
- (2) The master of a vessel that carries more than 25 kilograms of explosives must comply with subregulation (3).
- (3) A vessel that carries more than 25 kilograms of explosives must not be allowed to enter the port unless it is moving to a berth which provides the separation distances specified in Table 4.2 "Separation distances from ordinary berths to protected places" in AS 3846.

Division 2—Berths

170 Berths for vessels

- (1) The master of a vessel must comply with subregulations (3) and (5).
- (2) The port manager responsible for the relevant berth must comply with subregulations (3) and (5).
- (3) If explosives are to be loaded onto, or unloaded from, a vessel at a berth, the berth must comply with the relevant requirements of AS 3846 for the transfer and handling of explosives.
- (4) Subregulation (1) does not apply in relation to subregulation (3) if the quantity of explosive transferred onto or from the vessel is not more than 25 kilograms.
- (5) If goods other than explosives are to be loaded onto or unloaded from a vessel at a berth, and that vessel has on board more than 25 kilograms of explosives, the berth must comply with the relevant requirements of AS 3846 for the transfer and handling of explosives.

Division 3—Handling and transport of explosives in port areas

171 Emergency procedures

A port manager who operates a berth and is required by this Part to comply with the relevant requirements of AS 3846 for the transfer and handling of explosives must ensure that—

- (a) an emergency plan is developed in conjunction with the relevant fire authority; and
- (b) the emergency plan complies with section 4 of AS 3846; and

- (c) the emergency plan is developed before any explosives are handled; and
- (d) if more than 100 kilograms of explosives (other than explosives of Hazard Division 1.4 that are not detonators) are loaded or unloaded at the berth, an appropriately trained person is present who, if an incident occurs—
 - (i) is able to provide competent advice; or
 - (ii) has access to such advice.

172 Vessel operations and handling and transport of explosives to proceed with due care

- (1) The master of a vessel must comply with subregulation (3).
- (2) The relevant port manager must comply with subregulation (3).
- (3) If a vessel is transporting, loading or unloading explosives, the requirements for dangerous cargoes of explosives of Class 1 specified in sections 2 (other than section 2.4.3) and 4 of AS 3846 must be complied with.

173 Compatibility and mixed stowage

- (1) The following must comply with subregulation (2)—
 - (a) the master of a vessel; and
 - (b) the relevant port manager.
- (2) Loads of explosives that are of differing Hazard Divisions and Compatibility Groups must be—
 - (a) stowed in a vessel in accordance with the compatibility and mixed stowage requirements of AS 3846; or
 - (b) placed in a vehicle in accordance with the compatibility requirements of the AEC.

Part 14—Licences

Note

Contravention of a regulation under this Part may constitute an offence under section 45 of the Act.

Division 1—Applications for licences

Subdivision 1—General provisions

174 Applying for a licence

- (1) An application for a licence required to be held under these Regulations must—
 - (a) be made to the Authority; and
 - (b) be made in the form and manner required by the Authority; and
 - (c) if required by the Authority, include or be accompanied by a photograph of the applicant or, in the case of a person nominated under this Part, that person, of the size, and in the form, specified by the Authority; and
 - (d) be accompanied by the appropriate fee specified in Part 16; and
 - (e) be accompanied by a declaration stating the matters set out in subregulation (3); and
 - (f) include or be accompanied by any additional information required under this Part.
- (2) An applicant for a licence under these Regulations who is a natural person must be at least 18 years of age.

- (3) The declaration required under subregulation (1)(e) must state—
- (a) whether or not the applicant has ever been found guilty of an offence under any occupational health and safety or dangerous goods legislation (and, in the case of a licence to drive a vehicle transporting explosives and an explosives vehicle licence, road transport legislation) of any Australian jurisdiction and, if so, the details of every such finding, including—
 - (i) when and where the finding was made; and
 - (ii) details of the offence in respect of which the finding was made; and
 - (iii) a brief description of the circumstances of the offence; and
 - (b) whether or not the applicant has ever had a licence or other authorisation suspended or revoked under any occupational health and safety or dangerous goods legislation (and, in the case of a licence to drive a vehicle transporting explosives and an explosives vehicle licence, road transport legislation) of any Australian jurisdiction, and if so, details of the suspension or revocation; and
 - (c) that the information contained in the application is, to the best of the applicant's knowledge, true.

Note

Section 21A of the Act requires an applicant to provide consent and sufficient information for the Authority to obtain known information concerning the applicant to determine whether the applicant has satisfied the requirements for holding a licence to manufacture, transport or store explosives.

- (4) The Authority may, by writing, require an applicant to submit—
- (a) plans, drawings, specifications or calculations; and
 - (b) details of management and operating procedures; and
 - (c) results of hazard or risk studies; and
 - (d) evidence of relevant practical experience; and
 - (e) any other information that the Authority considers necessary to assess the application.

175 Procedure if Authority proposes to refuse licence to an unsuitable applicant

- (1) For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to hold a licence if—
- (a) the Authority is not satisfied as to the identity of the applicant; or
 - (b) the Authority is satisfied that—
 - (i) the application contains information that is false or misleading in a material particular; or
 - (ii) the applicant has failed to disclose to the Authority any significant information that should have been disclosed.
- (2) If the Authority proposes to refuse to issue or renew a licence, it must give the applicant written notice and include in the notice—
- (a) the reasons why it proposes to refuse to issue or renew the licence; and

- (b) an invitation to the applicant to make a submission to the Authority, within a specified period of not less than 14 days (*submission period*), in relation to the proposed refusal.
- (3) After the end of the submission period, the Authority must—
- (a) consider any submission made by, or on behalf of, the applicant; and
 - (b) decide whether it will issue or renew, or refuse to issue or renew, the licence.

Note

Section 21(7) of the Act requires that if the Authority decides to refuse to issue a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

176 Competency standards etc.

- (1) For the purposes of this Part—

competency standard means a standard, for the purposes of required competency evidence under this Part, that is endorsed by the Australian Forum of Explosives Regulators;

RTO means a training organisation registered on the State Register and National Register under Chapter 4 of the **Education and Training Reform Act 2006**;

statement of attainment means a certificate issued by an RTO stating that the person to whom it is issued has achieved—

- (a) a qualification or part of a qualification;
or

- (b) one or more units of competency—
that meets or meet a competency standard,
but does not include a certificate issued by
the RTO after the Authority has made a
determination under subregulation (2) in
respect of the RTO or the class of RTOs to
which the RTO belongs.
- (2) For the purposes of this Division, the Authority
may determine that any certificate issued by a
specified RTO, or a specified class of RTOs,
certifying that a person has achieved a
competency standard, is not a statement of
attainment.

Subdivision 2—Additional provisions in relation to licences to manufacture explosives

177 Additional information to be supplied

An applicant for a licence to manufacture
explosives must provide the following additional
information (if applicable)—

- (a) the primary business address of the
applicant;
- (b) the address of premises at which the
explosives are, or are to be, manufactured
and stored;
- (c) the maximum number of persons likely to be
present—
 - (i) in the explosives manufacturing area;
and
 - (ii) in other areas of the premises;
- (d) the explosives that are to be manufactured;

- (e) a plan of the premises on a scale that adequately shows the following—
- (i) the boundaries of the premises and the nature of fences;
 - (ii) the location of all buildings and structures on the premises and their uses, including details of quantities of explosives and other dangerous goods which may be present in those buildings and structures (and applicable safety distances);
 - (iii) the 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) details of the fire protection proposed to be used, including the location of automatic fire sprinkler systems, fire hydrants, fire hose reels, portable fire extinguishers and other fire protection and fire fighting devices;
 - (vi) the place where the manifest and other emergency information about the dangerous goods 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 vehicles and vessels;
 - (ix) details of all buildings, structures and storage areas on adjacent premises and areas open to the public;

- (f) an identification number or code for each building on the site;
- (g) the correct product name, UN number, and packing group for each type of dangerous goods kept in the manufacturing area;
- (h) the maximum quantity of each type of dangerous goods likely to be kept on site;
- (i) an appropriately detailed description of the process of manufacture, including the nature of any chemical reaction involved and the various operations to which the dangerous goods used in the process will be subjected;
- (j) a preliminary process flow sheet which provides sufficient detail to make an assessment of the risks, and includes information about the temperatures and pressures of materials at each stage;
- (k) a list of the main items of plant, specifying for each item—
 - (i) the capacity, design pressure, upper and lower temperature limits for safe operation; and
 - (ii) any special features of construction; and
 - (iii) details of utility services;
- (l) details of the principal standards and codes to be used in the design of plant;
- (m) a statement of the method by which the manufacturing process will be controlled;
- (n) a description of the location and construction of any control room.

Subdivision 3—Additional provisions in relation to licences to drive a vehicle transporting explosives

178 Additional information to be included in an application for a licence to drive a vehicle transporting explosives

An applicant for a licence to drive a vehicle transporting explosives must provide the following additional information—

- (a) the driver licence evidence required by regulation 179; and
- (b) the competency evidence required by regulation 180; and
- (c) the medical fitness evidence required by regulation 181.

179 Driver licence evidence

- (1) An applicant for a licence to drive a vehicle transporting explosives must provide the following documents—
 - (a) a current certified extract of entries about the applicant in the driver licences register kept by the driver licensing authority in each Australian jurisdiction where the applicant has held a licence to drive;
 - (b) the document mentioned in subregulation (2).
- (2) For the purposes of subregulation (1)(b), the document is a certified copy, dated not more than 6 months before the day the application is made, of the records of the appropriate prosecuting authority of any finding of guilt of the applicant for an offence involving the driving of a road vehicle.

- (3) For the purposes of subregulation (1)(a), a current certified extract is an extract certified by the driver licensing authority not more than 6 months before the day when the application is made.

Note

In addition to the documents required by this regulation, section 21A of the Act requires an applicant to provide consent and sufficient information for the Authority to obtain known information concerning the applicant to determine whether the applicant has satisfied the requirements for holding a licence to drive a vehicle transporting explosives.

180 Required competency evidence

- (1) The Authority must not issue a licence to drive a vehicle transporting explosives to a person unless it is satisfied that the person has demonstrated—
- (a) adequate knowledge of the provisions of these Regulations applicable to the transport of explosives; and
 - (b) adequate knowledge of safety in the transport of explosives.
- (2) A person satisfies the requirements of subregulation (1) if—
- (a) the person submits a statement of attainment issued not more than 6 months before the day the application is made; or
 - (b) the person submits a certificate issued, not more than 6 months before the day the application is made, by a person who conducted an approved test or approved training course stating that the applicant passed the test or completed the course; or

- (c) the person submits other written evidence that the applicant has passed an approved test or completed an approved training course not more than 6 months before the day when the application is made; or
- (d) the person holds a licence or authority to drive a vehicle transporting explosives issued outside Victoria which is acceptable to the Authority; or
- (e) the person satisfactorily completes an examination that the Authority requires to test the applicant in relation to the matters specified in subregulation (1).

181 Medical fitness evidence

- (1) Medical fitness evidence for an application for the issue of a licence to drive a vehicle transporting explosives must be contained in a certificate that—
 - (a) is issued by a registered medical practitioner who has examined the applicant not more than 6 months before the day the application is made; and
 - (b) certifies that the applicant is fit to drive a road vehicle in accordance with the standards set out in *Assessing Fitness to Drive for commercial and private vehicle drivers*, published by Austroads Ltd and the National Transport Commission on 1 October 2016, as amended from time to time, and as in force at the time of the examination.
- (2) The Authority may, with the consent of the applicant, forward the medical fitness evidence to one or more medical practitioners for an opinion as to the medical fitness of the applicant to drive a road vehicle.

Reg. 181(1)(b)
amended by
S.R.
No. 2/2017
reg. 20.

182 Refusal of licence to drive a vehicle transporting explosives—unsuitable applicant

For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to hold a licence to drive a vehicle transporting explosives if—

- (a) in the 5 years before the day the application is made—
 - (i) the applicant has been found guilty by a court in Australia of an offence that, in the opinion of the Authority, makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant's driver licence has been revoked or suspended on a ground that, in the opinion of the Authority, makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
- (b) the applicant is subject to a court order, issued in any Australian jurisdiction, prohibiting the applicant from involvement in the transport of dangerous goods by road; or
- (c) the Authority is not satisfied that the medical fitness of the applicant to drive a road vehicle has been established by the evidence provided or through a medical opinion received under regulation 181(2).

Notes

- 1 Section 21(6)(b) of the Act states that the Authority may refuse to issue a licence if it considers that the applicant is not a suitable person to hold the licence.

- 2 Section 21(7) of the Act requires that if the Authority decides to refuse to issue a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

Subdivision 4—Additional provisions in relation to explosives vehicle licences

183 Meaning of vehicle

In this Subdivision—

vehicle means a road vehicle that is registered in, and operates exclusively or predominantly within, Victoria but does not include—

- (a) a prime mover; or
- (b) a converter dolly (within the meaning of regulation 5 of the Road Safety (Drivers) Regulations 2009⁴).

Note

The Road Safety (Drivers) Regulations 2009 define a *converter dolly* as a trailer with one axle group or single axle and a fifth wheel coupling designed to convert a semi-trailer into a dog trailer.

184 Application for licence

- (1) A person may apply to the Authority for an explosives vehicle licence for a road vehicle—
 - (a) used, or intended to be used, in transporting explosives; and
 - (b) for which the person does not hold a licence to use a road vehicle to transport explosives.
- (2) An application under this regulation must include the following information—
 - (a) the registration number, place of registration, make and type of the road vehicle; and
 - (b) the type of explosives intended to be transported in or on the road vehicle.

- (3) An application may be made for licences for 2 or more road vehicles on the same form.

Note

The prescribed fee is payable for each explosives vehicle licence even if a single application form is used for more than one licence.

185 Inspections

- (1) The Authority may, by written notice, require an applicant for an explosives vehicle licence to make the vehicle available for inspection by the Authority, or by a person nominated by the Authority, at a specified place and time.
- (2) A person who inspects a vehicle for the Authority must give a report of the inspection to the Authority as soon as practicable after the inspection.
- (3) The Authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

186 Refusal of explosives vehicle licence—risk too great

- (1) For the purposes of section 21(6)(a) of the Act, the Authority may believe that the risk of injury to persons or damage to property which may be incurred by an accident involving explosives is too great in the circumstances to justify the issue of an explosives vehicle licence, if the application relates to a road vehicle that is intended to transport explosives in a liquid form using a tank that will form part of the vehicle or be attached to it.
- (2) Subregulation (1) does not apply if the vehicle is suitable to transport explosives in a liquid form using a tank that will form part of the vehicle or be attached to it.

- (3) For the purposes of subregulation (2), a vehicle is suitable only if—
- (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of the AEC applying to road vehicles for use in transporting dangerous goods in the form of a liquid.
- (4) For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to hold an explosives vehicle licence if the applicant is subject to a court order, issued in any Australian jurisdiction, prohibiting the applicant from involvement in the transport of dangerous goods by road.

Note

Section 21(7) of the Act requires that if the Authority decides to refuse to issue a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

Subdivision 5—Additional provisions in relation to licences for pyrotechnicians

187 Refusal of licence for pyrotechnician—unsuitable applicant

- (1) For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to hold a licence to use fireworks if the Authority is not satisfied that the applicant has demonstrated—
- (a) adequate knowledge of the provisions of these Regulations applicable to the use of fireworks; and

- (b) adequate knowledge of and competency in safety in the use of fireworks of the type and size specified in the application.
- (2) An applicant satisfies the requirements of subregulation (1) if—
- (a) the applicant submits a statement of attainment issued not more than 6 months before the day the application is made; or
 - (b) the applicant submits a certificate issued not more than 6 months before the day the application is made, by a person who conducted an approved test or approved training course, stating that the applicant passed the test or completed the course; or
 - (c) the applicant submits other written evidence that the applicant has passed an approved test or completed an approved training course not more than 6 months before the day the application is made; or
 - (d) the applicant holds a qualification to use fireworks issued outside Victoria which is acceptable to the Authority; or
 - (e) the applicant—
 - (i) demonstrates suitable practical experience to the satisfaction of the Authority; or
 - (ii) satisfactorily completes an examination that the Authority requires to test the applicant in relation to the matters specified in subregulation (1).

**Subdivision 6—Additional provisions in relation
to licences to use blasting explosives**

**188 Refusal of licence to use blasting explosives—
unsuitable applicant**

- (1) For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to hold a licence to use blasting explosives if the Authority is not satisfied that the applicant has demonstrated—
 - (a) adequate knowledge of the provisions of these Regulations applicable to the blasting explosives, the methods of shotfiring and the types of blasting operations specified in the application; and
 - (b) adequate knowledge of, and experience and competency in, safety in the use of those blasting explosives by those methods of shotfiring and types of blasting operations.
- (2) An applicant satisfies the requirements of subregulation (1) if—
 - (a) the applicant demonstrates suitable practical experience to the satisfaction of the Authority; and
 - (b) one or more of the following apply to the applicant—
 - (i) the applicant submits a statement of attainment issued not more than 6 months before the day the application is made;
 - (ii) the applicant submits a certificate issued not more than 6 months before the day the application is made, by a person who conducted an approved test or approved training course stating that

the applicant passed the test or completed the course;

(iii) the applicant submits other written evidence that the applicant has passed an approved test or completed an approved training course not more than 6 months before the day the application is made;

(iv) the applicant holds a qualification to use blasting explosives issued outside Victoria which is acceptable to the Authority;

Reg. 188(2)
(b)(v) expired
by force of
S.R. No.
37/2011
reg. 188(3).

* * * * *

Reg. 188(3)
amended by
S.R. No.
72/2013 reg. 4.

(3) Subregulation (2)(b)(v) expires 4 years after the date of commencement of these Regulations.

Division 2—Other provisions about licences

Subdivision 1—General provisions

189 When licences start and end

For the purposes of section 21(4) of the Act—

- (a) a licence takes effect on the day it is issued or renewed or on any later date specified by the Authority in the licence document; and
- (b) a licence, unless suspended or revoked, remains in force for up to 5 years after the day its issue or last renewal takes effect.

190 Licence conditions, limitations and restrictions

- (1) Without limiting section 23(1) of the Act, conditions, limitations and restrictions inserted by the Authority in a licence may include those—
 - (a) specifying the measures to be used to eliminate or reduce risks associated with the activities authorised by the licence, including risks arising out of security concerns associated with explosives; and
 - (b) requiring the provision of information, instruction and training to specified persons or classes of person; and
 - (c) requiring the supervision of the licensee or persons employed by the licensee; and
 - (d) requiring the reporting of information to the Authority, such as information in relation to—
 - (i) any matter included in the licence application; and
 - (ii) the licensee's ongoing suitability or competency to carry out the activities authorised by the licence, including information on any court proceedings related to offences under any occupational health and safety or dangerous goods legislation (and, in the case of a licence to drive a vehicle transporting explosives and an explosives vehicle licence, road transport legislation) in any Australian jurisdiction involving the licensee; and
 - (iii) the results of any required examinations or testing; and

- (e) limiting the activities authorised by the licence, or specifying that only certain activities may be carried out under the licence; and
- (f) requiring that notice be given that the licence has been issued, and of any conditions, limitations or restrictions of the licence, to any person who may be affected by the issue of the licence; and
- (g) imposing time limits on when any action required to be taken under this regulation is to be taken.

Note

Section 23(1) of the Act allows the Authority to insert in a licence any prescribed conditions, limitations and restrictions and such other conditions, limitations and restrictions as the Authority thinks appropriate to ensure safety or compliance with the Act.

- (2) If a licensee contravenes or fails to comply with a condition, limitation or restriction of the licence or any provision of these Regulations, the Authority may vary the conditions, limitations or restrictions of the licence in a manner that it considers appropriate.
- (3) If a licence is varied under subregulation (2), the Authority may restore the original conditions, limitations or restrictions at any time.

191 Licence documents

- (1) After issuing or renewing a licence, the Authority must give the licensee a licence document evidencing the licence that includes—
 - (a) the name of the licensee; and
 - (b) the date on which the licence was issued or renewed and, if the licence specifies a date on which the licence takes effect, the date on which the licence takes effect; and

- (c) the date on which the licence expires; and
- (d) any conditions, limitations or restrictions to which the licence is subject; and
- (e) an identifying number for the licence; and
- (f) the activities authorised by the licence; and
- (g) the explosives to which the licence relates; and
- (h) the maximum quantities (if any) of explosives to which the licence relates; and
- (i) in the case of the storage of explosives, the premises to which the licence relates; and
- (j) in the case of the use of blasting explosives, the specific methods of shotfiring and the types of blasting operations authorised by the licence; and
- (k) in the case of manufacturing explosives, the manufacturing activities authorised and the premises to which the licence relates; and
- (l) in the case of an explosives vehicle licence, the information specified by regulation 184(2) for the vehicle or vehicles to which the licence relates; and
- (m) in the case of a licensee who is a natural person—
 - (i) a photograph of the licensee provided by the licensee, if required under regulation 174; and
 - (ii) the date of birth of the licensee; and
 - (iii) a copy of the signature of the licensee or provision for the signature of the licensee.

- (2) A licensee must—
 - (a) carry the licence document at all times when using or transporting explosives; and
 - (b) produce the licence document for inspection when requested to do so by an inspector or member of the police force.
- (3) If a licence document is lost, stolen or destroyed, the licensee may apply to the Authority for a replacement document.
- (4) The Authority may issue a replacement document if the Authority is satisfied that the licensee's licence document has been lost, stolen or destroyed.
- (5) If the Authority refuses to issue a replacement licence document, it must give the licensee a written notice of refusal that sets out the reasons why it is not satisfied that the licence document has been lost, stolen or destroyed.

192 Duty to ensure persons observe licence conditions etc.

- (1) A licensee must ensure that any person who engages in an activity authorised under the licence—
 - (a) complies with the conditions, limitations and restrictions of the licence; and
 - (b) complies with these Regulations; and
 - (c) receives sufficient and appropriate information, training and supervision from the licensee to be able to do so.
- (2) A person who engages in an activity authorised under a licence must co-operate with the licensee in relation to any direction given, or action taken, by the licensee or any person authorised by the licensee, to comply with subregulation (1).

- (3) For the purposes of this regulation, *person* includes a person at a site at which work is performed under a licence who is—
- (a) employed by the licensee under a contract of employment; or
 - (b) engaged by the licensee under a contract of training; or
 - (c) engaged by the licensee as an independent contractor for a specific task; or
 - (d) authorised by the licensee to enter a site that is managed or occupied by the licensee.

193 Change of circumstances

A licensee must advise the Authority in writing of any change of circumstances that may affect the accuracy of any information given at any time by the licensee to the Authority in relation to the licence as soon as is reasonably possible after the licensee becomes aware that the change has occurred.

Subdivision 2—Additional provisions in relation to licences to manufacture explosives

194 Requirements before modifications to licensed premises permitted

It is a condition of a licence to manufacture explosives that the licensee must, before making any modification to the premises where the explosives are manufactured—

- (a) notify the Authority of the proposed modification; and

- (b) provide the Authority with an assessment of the safety impact of the proposed modification; and
- (c) apply for and obtain any necessary amendment to the licence.

Subdivision 3—Additional provisions in relation to licences to drive a vehicle transporting explosives

195 Licence conditions etc.

Without limiting section 23(1) of the Act, conditions, limitations and restrictions inserted by the Authority in a licence to drive a vehicle transporting explosives may include those in relation to—

- (a) the explosives that may or may not be transported in or on a road vehicle driven by the licensee; and
- (b) the packaging that may or may not be used to transport explosives in or on a road vehicle driven by the licensee; and
- (c) the road vehicles that may be driven by the licensee in transporting explosives; and
- (d) the areas where the licensee may or may not drive a road vehicle transporting explosives or particular explosives; and
- (e) the supervision of the licensee when driving a road vehicle transporting explosives; and
- (f) the provision by the licensee of information as requested by the Authority relating to the licensee's ongoing medical fitness to drive a road vehicle; and
- (g) the provision by the licensee of information as requested by the Authority relating to the licensee's driving record, including the

reporting of any finding of guilt of the licensee for a driving offence in Victoria or elsewhere.

Notes

- 1 Section 23(1) of the Act allows the Authority to insert in a licence such other conditions, limitations and restrictions as the Authority thinks appropriate to ensure safety or compliance with the Act.
- 2 Under section 23(2) of the Act it is an offence to contravene or fail to comply with a condition, limitation or restriction inserted in a licence by the Authority.

196 Additional conditions

- (1) It is a condition of a licence to drive a vehicle transporting explosives that, if the Authority requires the licensee to provide either of the following, the licensee must comply with that requirement in accordance with this regulation—
 - (a) under subregulation (2), a medical certificate;
 - (b) under subregulation (4), the driver licence evidence set out in regulation 179.
- (2) The Authority may, by written notice given to the licensee, require the licensee to produce to the Authority a certificate, issued by a registered medical practitioner who has examined the licensee, stating that the licensee is fit to drive a road vehicle in accordance with the standards set out in *Assessing Fitness to Drive for commercial and private vehicle drivers*, published by Austroads Ltd and the National Transport Commission on 1 October 2016, as amended from time to time, and as in force at the time of the examination.
- (3) A certificate under subregulation (2) must not have been issued earlier than 6 months prior to the date of the written notice from the Authority.

Reg. 196(2)
amended by
S.R.
No. 2/2017
reg. 21.

- (4) The Authority may, by written notice given to the licensee, require the licensee to produce to the Authority the driver licence evidence set out in regulation 179.
- (5) A notice under this regulation must specify a period of at least 2 months after the day when the notice is received by the licensee within which the licensee must provide the information.
- (6) The Authority must not give a notice under this regulation if the period until the licence expires is less than 4 months.

Note

Under section 23(2) of the Act it is an offence to contravene or fail to comply with a condition, limitation or restriction inserted in a licence by the Authority.

Subdivision 4—Additional provisions in relation to explosives vehicle licences

197 Licence conditions etc.

Without limiting section 23(1) of the Act, conditions, limitations and restrictions inserted by the Authority in an explosives vehicle licence may include those in relation to—

- (a) the explosives that may or may not be transported in or on the vehicle; and
- (b) the areas where the vehicle may or may not be used to transport explosives or particular explosives; and
- (c) the inspections of the vehicle (if any) that are required.

Note

Under section 23(2) of the Act it is an offence to contravene or fail to comply with a condition, limitation or restriction inserted in a licence by the Authority.

* * * * *

Reg. 198
revoked by
S.R. No.
155/2018
reg. 246(2).

199 Disposal and transfer of licensed vehicles

- (1) Before transferring registration under the Road Safety (Vehicles) Regulations 2009, or otherwise disposing of a road vehicle to which an explosives vehicle licence relates (other than by way of a business transfer) (the *disposed vehicle*), the licensee must remove the licence label from the disposed vehicle.
- (2) Within 21 days of transferring registration or otherwise disposing of the disposed vehicle (other than by way of a business transfer), the licensee must return the explosives vehicle licence and licence label to the Authority.
- (3) On receipt of an explosives vehicle licence under this regulation, the Authority must—
 - (a) if the licence also relates to another vehicle—
 - (i) amend the licence by omitting reference to the disposed vehicle; and
 - (ii) return the licence to the person who gave the licence to the Authority; or
 - (b) if paragraph (a) does not apply, revoke the licence.
- (4) Within 21 days after the transfer of a vehicle by way of business transfer, the person to whom the vehicle has been transferred must apply to the Authority for the transfer of the licence to that person.

- (5) An application under subregulation (4) must contain the information set out in regulation 184(2) and be accompanied by the licence and the appropriate fee.
- (6) On receipt of the application, the Authority must amend the licence to record the change of licence and reissue the licence.
- (7) Subregulation (6) does not apply if the person to whom the vehicle has been transferred does not hold an explosives vehicle licence or if the Authority is not satisfied that person is a suitable person to hold such a licence.
- (8) In this regulation—

business transfer, in respect of a vehicle, means a transfer of the title to the vehicle as part of a transfer in ownership of the business in which the vehicle is used and is to continue to be used.

Subdivision 5—Additional provisions in relation to licences to use blasting explosives

200 Endorsing licence to allow manufacture of ANFO

- (1) A licence to use blasting explosives may be endorsed by the Authority to allow the licence holder to manufacture a maximum of 50 kilograms of ANFO at any one time for his or her own use.
- (2) A licence that is endorsed under subregulation (1) authorises the manufacture of the explosives as if it were a licence referred to in regulation 36.

Division 3—Security requirements

201 Proof of identity and consent required

- (1) For the purposes of section 21A(3)(b) of the Act (as it is applied to explosives by section 21A(4)), an applicant for a licence, if a body corporate, must give the Authority written notice of the names and contact details of all directors and persons concerned in the management of the body corporate, including one or more who are to be the contact person or persons for dealings with the Authority.

Note

Under section 21A(3)(b)(ii) and (iii) of the Act, the Authority may require directors and persons concerned in the management of the body corporate to provide specified proof of identity and to provide consent and sufficient information for the Authority to obtain known information concerning the director or person to determine whether they have satisfied the prescribed requirements. The prescribed requirements are set out in regulation 196.

- (2) For the purposes of section 21A(3)(c) of the Act (as it is applied to explosives by section 21A(4)), an applicant for a licence must give the Authority written notice of the names and contact details of all persons who are to be responsible for the security of the explosives under the licence.

Note

Under section 21A(3)(c) of the Act, the Authority may require any person who is to be responsible for the security of the explosives under the licence to provide consent and sufficient information for the Authority to obtain known information concerning the person to determine whether the person has satisfied the prescribed requirements. The prescribed requirements are set out in regulation 202.

- (3) A person is not required to undergo a security assessment if the person has previously successfully undergone a security assessment under the same name for the purposes of—

Reg. 201(3)(a)
amended by
S.R. No.
90/2016
reg. 35(1).

- (a) these Regulations or the Dangerous Goods (HCDG) Regulations 2016; or
- (b) equivalent legislation by a corresponding Authority; or
- (c) legislation relating to HCDG in another Australian jurisdiction by a corresponding Authority.

Note

Equivalent legislation is defined in regulation 5 and *corresponding Authority* is defined in section 3(1) of the Act.

202 Security requirements to be satisfied before person can hold a licence

- (1) This regulation sets out the prescribed requirements for the purposes of section 21A(4) of the Act.
- (2) The prescribed requirements are—
 - (a) a security assessment has been received about the person that is not an adverse security assessment within the meaning of the Australian Security Intelligence Organisation Act 1979 of the Commonwealth; and
 - (b) a search of other known information about the person has been made and the Authority is satisfied that the person has not been convicted or found guilty of, and does not have a charge pending for, an offence relating to an act of violence, weapons, terrorism, damage to property, illegal drugs or dishonesty within the last 10 years that in the opinion of the Authority would pose a security risk in relation to that person.

203 Prescribed particulars for security plans

For the purposes of section 21A(2)(b) of the Act, a security plan must contain the particulars set out in Schedule 3.

204 Duty to review and revise security plan

- (1) It is a condition of a licence that, if the Authority requires a licensee to provide a security plan, the licensee must ensure that the security plan is reviewed and, when required by subregulation (2), revised.
- (2) A security plan must be revised if there is evidence to indicate that the security plan no longer complies with Schedule 3.
- (3) The security plan must be made available, on request, to an inspector or a member of the police.

205 Security assessments

The Australian Security Intelligence Organisation is a prescribed body for the purposes of paragraph (c) of the definition of *known information* in section 21A(6) of the Act.

206 Security requirements to be satisfied before persons allowed unsupervised access to explosives

- (1) A licensee must not permit a person to have unsupervised access to explosives unless—
 - (a) the person holds a licence under these Regulations; or
 - (b) the person holds any licence or permit under the Dangerous Goods (HCDG) Regulations 2016; or

Reg. 206(1)(b)
amended by
S.R. No.
90/2016
reg. 35(2).

- (c) the person holds a licence or other authorisation corresponding to that described in paragraph (a) under equivalent legislation; or
- (d) the person holds a licence or other authorisation corresponding to that described in paragraph (b) under legislation relating to HCDG in another Australian jurisdiction; or
- (e) in the case of propellant, the person holds a firearms licence; or
- (f) the requirements of subregulation (2) have been met.

Note

Equivalent legislation is defined in regulation 5 and *corresponding Authority* is defined in section 3(1) of the Act.

- (2) A licensee may permit a person other than a person described in subregulation (1) to have unsupervised access to explosives if the person has satisfied the same security requirements as those prescribed in regulation 202 in relation to an applicant for a licence.
- (3) For the purpose of subregulation (2), a licensee may nominate a person to whom the licensee intends to provide unsupervised access to explosives and may request the Authority to obtain a security assessment concerning the person and known information concerning the person to determine whether the person is suitable to have unsupervised access to explosives.
- (4) The Authority must obtain a security assessment of a person nominated in subregulation (3) if the person—
 - (a) provides the Authority with his or her specified proof of identity; and

- (b) consents to the Authority obtaining, and provides sufficient information to enable the Authority to obtain, known information concerning the person to determine whether the person is suitable to have unsupervised access to explosives; and
 - (c) pays the fees prescribed in regulation 230(2) and (3).
- (5) The Authority must advise the licensee and the nominated person in writing whether the security assessment received about the person is or is not an adverse security assessment and whether or not, on the basis of that assessment and other known information about the person, the Authority is of the opinion that the person poses a security risk.
- (6) Subregulation (1) does not apply to—
- (a) consumer fireworks; or
 - (b) distress signals; or
 - (c) industrial safety cartridges; or
 - (d) cartridge ammunition or primers for that ammunition.

207 Transporting small quantities of explosives on behalf of licensees

A person who, on behalf of a licensee, transports explosives of a type specified in Column 1 of Table 107B in a quantity not more than the corresponding amount specified in Column 2 of that Table does not require a licence or a security assessment.

Division 4—Renewal of licence

208 General requirements

- (1) The Authority may require an applicant for renewal of a licence to satisfy all the requirements for the issue of the licence.
- (2) An application for renewal of a licence must be accompanied by the appropriate fee.
- (3) For the purpose of enabling the Authority to assess whether a licence should be renewed, the requirements of Division 3 of this Part apply to an application for renewal of a licence as if it were an application for the issue of a licence.
- (4) A person is not required to undergo a security assessment if the person has previously successfully undergone a security assessment under the same name for the purposes of—
 - (a) these Regulations or the Dangerous Goods (HCDG) Regulations 2016; or
 - (b) equivalent legislation by a corresponding Authority; or
 - (c) legislation relating to HCDG in another Australian jurisdiction by a corresponding Authority.

Reg. 208(4)(a)
amended by
S.R. No.
90/2016
reg. 35(3).

Note

Equivalent legislation is defined in regulation 5 and *corresponding Authority* is defined in section 3(1) of the Act.

209 Renewal of licences to drive a vehicle transporting explosives

For the purpose of enabling the Authority to assess whether a licence to drive a vehicle transporting explosives should be renewed, the requirements of regulations 178 to 182 apply to an application for renewal of a licence as if it were an application for the issue of a licence.

Division 5—Amendment, suspension or revocation of licences

Note

General provisions concerning the amendment, suspension or revocation of licences are also set out in Part III of the Act.

210 Grounds for amending, suspending or revoking licence

- (1) Any licence may be amended, suspended or revoked if the Authority is satisfied that the licensee is unsuitable to continue to hold the licence.
- (2) Without limiting subregulation (1), the Authority may be satisfied that a licensee is unsuitable to continue to hold the licence if—
 - (a) the licensee has contravened—
 - (i) a provision of the Act or these Regulations; or
 - (ii) a provision of the law in force in another State or Territory corresponding to a provision mentioned in subparagraph (i); or
 - (b) the licensee (and, in the case of a body corporate, any officer of the licensee) has been found guilty of an offence under any occupational health and safety or dangerous

- goods legislation (or, in the case of a licence to transport explosives and an explosives vehicle licence, road transport legislation) of any Australian jurisdiction; or
- (c) the licensee has ever had a licence or other authorisation suspended or revoked under any occupational health and safety or dangerous goods legislation (and, in the case of a licence to drive a vehicle transporting explosives and an explosives vehicle licence, road transport legislation) of any Australian jurisdiction; or
 - (d) the licensee is suffering from a medical condition, or has a physical or mental disability; or
 - (e) the licensee is not, or has not been, safely and competently carrying out the activities to which the licence relates; or
 - (f) the licensee has failed to comply with any of the conditions, limitations or restrictions of the licence; or
 - (g) the licensee—
 - (i) provided, in the application for the licence or the renewal of the licence, information that was false or misleading in a material particular; or
 - (ii) failed to disclose to the Authority any significant information that should have been disclosed to the Authority; or
 - (h) the licensee no longer satisfies the prescribed security requirements set out in regulation 202; or

- (i) the licence was granted on the basis of competency evidence (such as a statement of attainment) that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Note

Any person or body includes the licensee, the RTO who issued the statement of attainment, or the provider of the training course.

211 Matters that may be taken into account

For the purposes of regulation 210, the Authority may have regard to any matter that it considers to be relevant, including—

- (a) whether, since the licence was issued or last renewed, the licensee has had any other licence or registration suspended or revoked by the Authority under the Act or these Regulations; and
- (b) the licensee's record of performance while performing work under the licence (including the number and nature of any complaints made about that work); and
- (c) the licensee's record with respect to any matters arising under dangerous goods or occupational health and safety legislation in an Australian jurisdiction, since the licence was issued or last renewed; and
- (d) the results of any internal review under Part 15 with respect to the licensee.

212 Grounds for amending, suspending or revoking a licence to drive a vehicle transporting explosives

A licence to drive a vehicle transporting explosives may be amended, suspended or revoked, if the licensee's driver licence has been revoked.

213 Grounds for amending, suspending or revoking a licence for road vehicles

An explosives vehicle licence may be amended, suspended or revoked if—

- (a) the road vehicle does not comply with the Act or these Regulations; or
- (b) the licensee has been found guilty by a court in Australia of an offence that makes the licensee unsuitable to be the holder of a licence of a road vehicle used in transporting explosives; or
- (c) the licence was issued on the basis of a tank design approval that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Part 15—Review of decisions

214 What is a reviewable decision?

For the purposes of regulation 216 and section 20(1A) of the Act, the following are reviewable decisions made by the Authority—

- (a) a decision to issue or refuse to issue a licence;
- (b) a decision to impose a condition, limitation or restriction on the issue of a licence;
- (c) a decision to renew or refuse to renew a licence;
- (d) a decision to impose a condition, limitation or restriction on the renewal of a licence;
- (e) a decision to amend, suspend or revoke a licence;
- (f) a decision not to amend a licence;
- (g) a decision to issue or refuse to issue a duplicate licence document or licence label;
- (h) a determination or approval by the Authority or the refusal to make a determination or to grant an approval;
- (i) a decision to grant or refuse to grant an exemption under these Regulations.

215 Who is an eligible person?

For the purposes of regulation 216 and section 20(1A) of the Act, a person whose interests are affected by a reviewable decision prescribed under regulation 214 is an eligible person.

216 Application for internal review

- (1) An eligible person may apply in writing to the Authority for a review of a reviewable decision prescribed under regulation 214.
- (2) An application for a review must be made within—
 - (a) 14 days after the day on which the decision first came to the applicant's notice; or
 - (b) such longer period as the Authority allows.
- (3) If an application is made, the Authority must make a decision—
 - (a) to confirm the reviewable decision either on the basis—
 - (i) that it was made in accordance with the Act and these Regulations; or
 - (ii) that even though it was not made in accordance with the Act or these Regulations, the failure was not reasonably likely to have affected the outcome of the decision; or
 - (b) to set aside or vary the reviewable decision.
- (4) The Authority must give a written notice to the applicant setting out—
 - (a) the Authority's decision and the reasons for the decision; and
 - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based.

- (5) The Authority must give the notice—
 - (a) within 14 days after the application is made;
or
 - (b) with the consent of the applicant, within a further period of up to 14 days.
- (6) If the Authority does not notify an applicant of a decision in accordance with subregulation (5), the Authority is taken to have made a decision to confirm that the reviewable decision was made in accordance with the Act and these Regulations.
- (7) A review under this regulation does not affect the operation of the reviewable decision or prevent the taking of any action to implement it.

Note

Section 20B of the Act provides a right to apply to VCAT for a review of a reviewable decision made by the Authority.

217 Process for new decisions to be started within 7 days

If the Authority sets a decision aside under regulation 216(3)(b), it must start the process to remake the decision within 7 days after it sets the decision aside.

218 Notices of decisions must contain a copy of review rights

- (1) The Authority must ensure that any written notice it gives to an applicant for a licence, or to a licensee, of any reviewable decision it makes includes a copy of this Part (other than this regulation).
- (2) Subregulation (1) does not apply to the following reviewable decisions of the Authority—
 - (a) a decision to issue or renew a licence that is not subject to any conditions, limitations or restrictions;

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Part 15—Review of decisions

- (b) a decision to issue a duplicate licence document or licence label.

Part 16—Fees

Division 1—Preliminary

219 Issue of a duplicate licence or transfer of a licence

The fee for a duplicate licence or for each transfer of a licence is \$50.

220 Renewal of licences

The fee for the renewal of a licence is the same as for the issue of the licence.

221 Amendment of a licence

- (1) Subject to subregulation (2), the fee for the amendment of a licence is 35% of the fee for the issue of the licence.
- (2) Subregulation (1) does not apply—
 - (a) at the time of renewal of the licence; or
 - (b) if one or more additional authorisations are added to the licence.

Note

See regulation 223 for calculating fees if one or more authorisations are added to a licence.

222 Fees non-refundable

- (1) The fee for a licence is not refundable once the work required by the application has been performed.
- (2) The fee for the issue or renewal of a licence is the same irrespective of the duration of the licence.

223 Fees for multiple authorisations on a single licence

Unless indicated otherwise in these Regulations, the fee for 2 or more authorisations on a single licence is the fee for the most expensive authorisation plus 35% of the fee for each other authorisation.

Example

The fee for a licence authorising storage of explosives is \$500. If a licence authorising storage is sought with an additional authorisation for sale, the fee would be \$500 plus 35% of the cost of a licence authorising sale (\$62.50) being \$521.88.

Division 2—Fees for licences

224 Manufacture of explosives

- (1) The fee for the issue of a licence authorising a person to manufacture explosives at a factory is \$5000 for each factory licensed.
- (2) If, under regulation 36(2), there are one or more additional authorisations on a licence authorising a person to manufacture explosives at a factory, there is no extra fee for those authorisations.
- (3) The fee for the issue of a licence authorising a person to manufacture explosives at premises other than a factory is \$312.50 for each premises licensed.

Note

Section 3 of the Act defines *premises* as including any other place and *place* as including a vehicle, ship or boat. Accordingly, MMUs are covered under this subregulation.

225 Storage of explosives

- (1) The fee for the issue of a licence authorising a person to store explosives in medium scale storage is \$250.

- (2) The fee for the issue of a licence authorising storage above prescribed quantities (as defined in regulation 88(3)) is \$500.

226 Sale and import of explosives

The fee for the issue of a licence authorising a person—

- (a) to sell explosives is \$62.50;
(b) to import but not to sell explosives is \$62.50.

Note

The fee for a licence authorising a person to import and sell explosives is calculated under regulation 223. The fee would be calculated as \$62.50 plus (35% of \$62.50) being \$84.38.

227 Transport of explosives

- (1) The fee for the issue of an explosives vehicle licence for a road vehicle is \$62.50 for each vehicle licensed.
(2) The fee for the issue of a licence authorising a person to transport explosives by rail is \$500.
(3) The fee for the issue of a licence authorising a person to drive a road vehicle transporting explosives is \$62.50.

228 Licence to use blasting explosives

- (1) The fee for the issue of a new licence to use blasting explosives is \$62.50.
(2) The fee for the renewal of a licence to use blasting explosives is \$62.50 if it is not necessary for the applicant to undergo an examination.

* * * * *

**Reg. 228(3)
expired by
force of
S.R. No.
37/2011
reg. 228(4).**

Reg. 228(4)
amended by
S.R. No.
72/2013 reg. 5.

- (4) Subregulation (3) expires 4 years after the date of commencement of these Regulations.

229 Licence for pyrotechnician

The fee for the issue of a licence to use fireworks is—

- (a) \$62.50 if it is not necessary to assess the practical experience of the applicant or for the applicant to undergo an examination; or
- (b) \$125 if it is necessary to assess the practical experience of the applicant; or
- (c) \$300 if it is necessary for the applicant to undergo an examination.

230 Additional fee for security assessments and searches

- (1) An applicant for the issue or renewal of an explosives licence must pay an additional fee to enable the Authority to obtain a security assessment or search of other known information in relation to—
 - (a) the applicant; and
 - (b) each person who has consented under regulation 201 or 206 to the Authority obtaining known information about that person.
- (2) The fee for a security assessment is \$20.
- (3) The fee for a search of any other known information about a person is \$40.

Division 3—Other fees

231 Authorisation and classification of explosives

- (1) The fee to test or examine explosives for the registration and definition of an explosive (including any amendment to the register) under section 54 of the Act is \$150.
- (2) The fee to conduct tests for the classification of an explosive under section 54 of the Act is \$150.

232 Determination of applications for exemptions

The fee to be charged for the determination of an application for an exemption from these Regulations is \$300.

Part 17—Savings and transitional provisions

233 Continuing effect of certain regulations

Regulations 613 to 616 of the former Regulations continue to have effect for the purposes of these Regulations until the earlier of—

- (a) the expiry of 12 months following the date of their revocation; or
- (b) the publication of a corresponding determination under regulations 118 to 121.

234 Lawful conduct under former regulations

A person does not contravene these Regulations if, within the period of 12 months after the commencement of these Regulations, the person does anything in relation to explosives that would have been lawful if it had been done under the former Regulations.

235 Continuing effect of certain approvals

- (1) This regulation applies to an approval (however described) that—
 - (a) was given under the former Regulations; and
 - (b) was in force immediately before the commencement of these Regulations.
- (2) The approval has effect for the purposes of these Regulations as if it were an approval given by the Authority under the relevant provision of these Regulations.
- (3) If an approval within the meaning of subregulation (1) relates to the approval of a training course, the approval ceases to have effect after the expiry of 12 months following the commencement of these Regulations.

236 Continuing effect of certain licences

- (1) This regulation applies to a licence (however described) that—
 - (a) was issued under the former Regulations;
and
 - (b) was in force immediately before the commencement of these Regulations.
- (2) The licence has effect for the purposes of these Regulations as if it were a licence issued in accordance with the relevant provisions of these Regulations and expires when it would have expired under the former Regulations.

237 Continuing effect of exemptions

An exemption (however described) granted under the former Regulations has effect for the purposes of these Regulations as if it were an exemption granted in accordance with the relevant provisions of these Regulations and expires when it would have expired under the former Regulations.

238 Treatment of applications for licences made under the former regulations

If an application for a licence or renewal of a licence was made under the former Regulations but the application has not been determined before the commencement of these Regulations, the application is on and from the commencement of these Regulations to be taken to be an application for a corresponding licence or renewal of licence (as the case may be) under these Regulations.

Part 18—Amendments to the Dangerous Goods (Transport by Road or Rail) Regulations 2008

Reg. 239
revoked by
S.R. No.
37/2011
reg. 240.

* * * * *

240 Repeal of amending regulation

Regulation 239 is **revoked** on 1 July 2012.

Note

The repeal of regulation 239 does not affect the continuing operation of the amendments made by it (see section 29(1) of the **Interpretation of Legislation Act 1984**).

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S.R. No. 37/2011
Schedules

Schedules

Schedule 1—Revoked regulations

Regulation 4

<i>S.R. No.</i>	<i>Title</i>
61/2000	Dangerous Goods (Explosives) Regulations 2000
85/2001	Dangerous Goods (Explosives) (Amendment) Regulations 2001
24/2008	Dangerous Goods (Explosives) Amendment Regulations 2008

Schedule 2—Matters to be included in Safety Management System

Regulation 37

1 Safety policy and safety objectives

- (1) A description of the means by which the operator's safety policy and specific safety objectives are to be communicated to all persons who are to participate in the implementation of the Safety Management System.
- (2) An express commitment to the ongoing improvement of all aspects of the Safety Management System.

2 Organisational structure and personnel

The identification (according to position description and location) of the persons who are to participate in the implementation of the Safety Management System, and a description of the command structure in which these persons work and of the specific tasks and responsibilities allocated to them.

3 Operational controls

Procedures and instructions that cover the following matters—

- (a) procedures for ongoing hazard identification, risk assessment and risk control, and for the review of those procedures;
- (b) supervision of employees, visitors and contractors in explosives areas;
- (c) maintenance of buildings, plant and equipment, including decontamination;
- (d) restrictions on smoking, alcohol and other similar behaviour;

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Schedule 2—Matters to be included in Safety Management System

- (e) selection, maintenance and use of personal protective equipment;
- (f) permits to work;
- (g) prevention of unauthorised access;
- (h) disposal of waste explosives and ingredients, including burning ground procedures;
- (i) modification of process equipment, formulations, materials, packaging or procedures;
- (j) testing of trips, alarms and other protection systems;
- (k) sampling and product testing;
- (l) emergency plan, including an evacuation plan, appropriate fire fighting controls, consequence minimisation steps (including control of spills including appropriate off-site response);
- (m) transport, storage and use of explosives;
- (n) materials handling;
- (o) inventory and quality control of raw materials, intermediates and finished products;
- (p) explosives and personnel limit in buildings or locations;
- (q) adverse weather conditions (including lightning);
- (r) control of ignition sources;
- (s) training and competency evaluation of staff;
- (t) operation of plant and equipment associated with the manufacture of explosives;
- (u) incident and accident reporting and response;
- (v) maintenance of records.

4 Performance monitoring

Performance standards which—

- (a) relate to all aspects of the Safety Management System; and
- (b) are sufficiently detailed to ensure that the ability of the operator to ensure the effectiveness of all aspects of the Safety Management System is apparent from the documentation; and
- (c) are measurable; and
- (d) include—
 - (i) the failure of any control measure, whether or not the failure has the potential to harm life or cause significant damage to property; and
 - (ii) the system for reporting any such failure; and
 - (iii) other corrective action to be taken in the event of any such failure; and
 - (iv) steps to be taken to continually improve all aspects of the Safety Management System, including by testing the effectiveness of control measures.

5 Audit

Provision for the audit of performance against the performance standards, including the methodologies, frequency and results of the audit process.

Schedule 3—Particulars for security plans required by the authority

Regulations 203 and 204

- 1 The prescribed particulars to be included in a security plan are—
 - (a) the precautions to ensure explosives are secure at all times; and
 - (b) the names of all persons (including those employed or engaged by the licensee) who are allowed by the licensee to have access to explosives; and
 - (c) the procedures for amending the security plan by the addition of names of new persons having access to explosives or the removal of the names of persons who no longer have access to explosives; and
 - (d) the procedures for instructing persons who are employed or engaged by the licensee and have access to explosives in regard to the security plan; and
 - (e) the details of a person who is designated to be responsible for maintaining the security plan; and
 - (f) the system for recording details of and reconciling incoming, manufactured and outgoing quantities of explosives; and
 - (g) the procedures for reporting to authorities (police and the Authority) any theft, attempted theft or unexplained loss of explosives or any other security incident involving explosives; and
 - (h) the systems or precautions that are in place to ensure that explosives are only received from a person who holds a licence to sell, import or use the explosives and that the explosives are delivered to a person who is licensed under these Regulations.

2 Additional requirements for a licence to transport explosives—

- (a) the precautions in place to ensure that, if explosives are temporarily stored during the loading or transport process, they are kept in a secure storage identified in the security plan; and
- (b) the precautions in place to ensure that explosives are transported at all times in locked containers or under constant surveillance by electronic means or by the licensee; and
- (c) the procedures for undertaking sealing of explosives, if required by the security plan, and for regular assessments of sealing procedures to monitor their effectiveness; and
- (d) the system to monitor the location of the consignment during transportation; and
- (e) the systems and procedures in place to record—
 - (i) persons authorised to drive road vehicles transporting explosives; and
 - (ii) the vehicles used for transporting explosives by road or rail, on which seals can be fitted to detect entry to the vehicle; and
 - (iii) that explosives are only delivered to licensed persons; and
 - (iv) details of consignments by road or rail including—
 - (A) seal numbers and any changes in seals necessary for part deliveries; and
 - (B) accurate weight measurement or other reconciliation (for example, the number of bags) of all explosives at loading and unloading; and

- (C) confirmation on a load-by-load basis of whether the load was delivered with all seals and locks intact; and
 - (D) the system that ensures that both returns of explosives of merchantable quality and spillage recovery are accurately documented and appropriately accounted for; and
- (f) the protocols that are in place to refuse loading of any vehicle that is not included in the record of vehicles under item (e)(ii); and
- (g) when explosives are being transported by road, the procedures in place to ensure that the vehicle is not left unattended unless—
- (i) the vehicle is left at a secure site; and
 - (ii) the explosives are in a locked container; and
 - (iii) the relevant locks are sealed with numbered seals to assist in the detection of theft or attempted theft; and
- (h) when explosives are being transported by rail, the procedures in place to ensure that, unless the explosives are under constant supervision—
- (i) they are transported in locked containers or in locked rail cars; and
 - (ii) all openings of the containers or rail cars are sealed with substantial tamper-proof seals that require forceful breakage to enter the container or rail car; and
 - (iii) consignments have a schedule so that the location of the container or rail car is continually monitored for the duration of the transport; and

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Schedule 3—Particulars for security plans required by the authority

- (i) when explosives are being transported by rail, the procedures in place to ensure that, unless explosives are under constant supervision, a licensed person is present at the dispatch and receipt of explosives and at any time when containers need to be opened before they reach their destination.
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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Dangerous Goods (Explosives) Regulations 2011, S.R. No. 37/2011 were made on 21 June 2011 by the Governor in Council under section 52 of, and Schedule 2 to, the **Dangerous Goods Act 1985**, No. 10189/1985 and came into operation on 26 June 2011: regulation 3.

The Dangerous Goods (Explosives) Regulations 2011 will sunset 10 years after the day of making on 21 June 2021 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule.

This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms.

See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the Dangerous Goods (Explosives) Regulations 2011 by statutory rules, subordinate instruments and Acts.

Dangerous Goods (Explosives) Regulations 2011, S.R. No. 37/2011 (as amended by S.R. No. 72/2013)

Date of Making: 21.6.11
Date of Commencement: Regs 188(3), 228(4), 240 on 26.6.11: reg. 3
Note: Reg. 240 revoked reg. 239 on 1.7.12; reg. 188(3) provided that reg. 188(2)(b)(v) expired on 26.6.15; reg. 228(4) provided that reg. 228(3) expired on 26.6.15

Dangerous Goods (Explosives) Amendment Regulations 2013, S.R. No. 72/2013

Date of Making: 25.6.13
Date of Commencement: 25.6.13: reg. 3

Dangerous Goods (Explosives) and (Transport by Road or Rail) Amendment Regulations 2013, S.R. No. 125/2013

Date of Making: 15.10.13
Date of Commencement: Reg. 4 on 15.10.13: reg. 3(1); reg. 5 on 10.2.14: reg. 3(2)

Dangerous Goods (Transport by Road or Rail) Amendment Regulations 2015, S.R. No. 91/2015

Date of Making: 28.7.15
Date of Commencement: Reg. 103 on 1.9.15: reg. 3

Dangerous Goods (HCDG) Regulations 2016, S.R. No. 90/2016

Date of Making: 26.7.16
Date of Commencement: Reg. 35 on 31.7.16: reg. 3

Dangerous Goods (Transport by Road or Rail) and (Explosives) Amendment Regulations 2017, S.R. No. 2/2017

Date of Making: 21.2.17
Date of Commencement: Regs 20, 21 on 1.3.17: reg. 3

Occupational Health and Safety Regulations 2017, S.R. No. 22/2017

Date of Making: 26.4.17
Date of Commencement: Regs 561–563 on 18.6.17: reg. 3(1)

Dangerous Goods (Transport by Road or Rail) Regulations 2018, S.R. No. 155/2018

Date of Making: 10.10.18
Date of Commencement: Reg. 246 on 25.10.18: reg. 3

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Reg. 5(1), def. of *freight container*: S.R. No. 155/2018.

² Reg. 5 (Note):

At the time these Regulations were made, several terms that are used in these Regulations were defined in the Act, including the following terms—

ADG Code (section 3(1))

Authority (section 3(1))

blasting compound (section 3(1))

boat (section 3(1))

container (section 3(1))

dangerous goods (section 3(1))

explosives (section 3(1))

Fire Authority (section 3(1))

inspector (section 3(1))

known information (section 21A(6))

licence (section 3(1))

magazine (section 3(1))

magazine area (section 3(1))

making (section 3(2))

manifest (section 3(1))

manufacture (section 3(1))

master (section 3(1))

occupier (section 3(1))

officer or member (section 3(1))

owner (section 3(1))

person (section 3(1))

premises (section 3(1))

sell (section 3(1))

ship (section 3(1))

specified proof of identity (section 21A(6))

transfer (section 3(1)).

Other important application provisions in the Act include—

Section 3(2): For the purposes of the interpretation of *manufacture*, *making* includes—

- (a) any process of chemical reaction;
- (b) any process which involves the mixing, separation, concentration, dilution, assembling or blending of substances or articles; and
- (c) the operation of machinery, plant or equipment which is using, treating or processing dangerous goods.

Section 3(3): Any reference in this Act to sell explosives or to the sale of explosives includes a reference to the supply of the explosives whether or not for any consideration.

Section 3(4): For the purposes of this Act, involvement in the transport of dangerous goods includes any of the following—

- (a) importing, or arranging for the importation of, dangerous goods into Australia;
- (b) packing dangerous goods for transport;
- (c) marking or labelling packages containing dangerous goods for transport;
- (d) placarding containers and vehicles in which dangerous goods are transported;
- (e) consigning dangerous goods for transport, including the preparation of transport documentation;
- (f) loading dangerous goods onto a vehicle, or into a container that is to be put on a vehicle, for transport;
- (g) unloading dangerous goods that have been transported;
- (h) driving a vehicle carrying dangerous goods;
- (i) being the consignee of dangerous goods that are transported;
- (j) undertaking, or being responsible for, the transport of dangerous goods, otherwise than as an employee or sub-contractor;
- (k) being involved as a director, secretary or manager of a body corporate, or other person who takes part in the management of the body corporate, that takes part in an activity included in this subsection.

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³ Reg. 37(5): The amendment proposed by regulation 562(2) of the Occupational Health and Safety Regulations 2017, S.R. No. 22/2017 is not included in this publication as the word "MSDS" does not appear in regulation 37(5).

Regulation 562(2) reads as follows:

562 Safety management system

(2) In regulation 37(5) of the Dangerous Goods (Explosives) Regulations 2011, for "MSDS" substitute "SDS".

⁴ Reg. 183: S.R. No. 95/2009 as amended by S.R. Nos 138/2009, 28/2010, 35/2010 and 135/2010.

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 37/2011 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
The following definitions in regulation 5— <i>Australian Explosives Code</i> or <i>AEC</i> <i>Class</i> <i>Classification Code</i> <i>Hazard Division</i> Regulations 8, 9, 11, 22, 31, 32, 42, 62, 99, 112 to 115, 119, 123, 173 and 186	Australian Code for the Transport of Explosives by Road and Rail (AEC), prepared by the Australian Forum of Explosives Regulators and endorsed by the Workplace Relations Ministers' Council, as amended from time to time	The whole

Dangerous Goods (Explosives) Regulations 2011

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Endnotes

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
The following definition in regulation 5— <i>AS 2187</i>	Australian Standard 2187 Explosives—Storage, transport and use, published by Standards Australia, as amended from time to time	The whole
The following definitions in regulation 5— <i>Class A protected work</i> <i>Class B protected work</i>	Australian Standard 2187.0, Explosives—Storage, transport and use—Part 0: Terminology, published by Standards Australia, as amended from time to time	The whole
Regulation 5— Definition of <i>AS 3846</i> Regulations 168 to 173	Australian Standard 3846, The handling and transport of dangerous cargoes in port areas, published by Standards Australia, as amended from time to time	The whole
Regulations 45, 46, 51, 128 to 130, 135 and 161	Australian Standard 2187.2, Explosives—Storage and use—Part 2: Use of Explosives, published by Standards Australia, as amended from time to time	The whole
The following definitions in regulation 5— <i>Class Label</i> <i>UN number</i> or <i>UN</i> Regulation 6	Australian Code for the Transport of Dangerous Goods by Road and Rail, as in force from time to time	The whole
Regulation 5— Definition of <i>underground magazine</i> Regulations 42, 56, 83, 89 and 91 to 94	Australian Standard 2187.1, "Explosives—Storage, transport and use—Part 1: Storage, published by Standards Australia, as amended from time to time	The whole

Dangerous Goods (Explosives) Regulations 2011

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Endnotes

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulations 150, 154, 156, 158, 159 and 161	Australian Standard 2187.4, Explosives—Storage, transport and use—Part 4: Pyrotechnics—Outdoor displays, published by Standards Australia, as amended from time to time	The whole

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 2/2017 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulations 20 and 21 which amend regulations 181(1)(b) and 196(2) of the Dangerous Goods (Explosives) Regulations 2011	<i>Assessing Fitness to Drive for commercial and private vehicle drivers</i> , published by Austroads Ltd and the National Transport Commission on 1 October 2016	The whole