



New South Wales

# Explosives Regulation 2005

under the

Explosives Act 2003

## Status information

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New South Wales

# Explosives Regulation 2005

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## Explosives Regulation 2005

under the

Explosives Act 2003

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Explosives Regulation 2005*.

#### 2 Commencement

This Regulation commences on 1 September 2005.

#### 3 Definitions

(1) In this Regulation:

**ammunition** means a safety cartridge of Classification Code 1.4S for small arms, but does not include a cartridge for an explosive-powered tool.

**amorces** means dots of an explosive substance mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur, the explosive substance being enclosed between 2 pieces of paper or other suitable material and present in a proportion not exceeding 7.5 grams to every thousand dots.

**approved** means approved by the regulatory authority.

**ADG Code** means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, as published by the Australian Government.

**Australian Explosives Code** means the *Australian Code for the Transport of Explosives by Road and Rail*, as published by the Australian Government.

**authorised explosive** means an explosive that is registered as an authorised explosive under clause 8.

**blaster ball** means a solid substrate ball coated with a pyrotechnic composition such that when two balls are struck together there is an ignition at the point of contact resulting in a low level noise.

**bon-bon cracker** means an article containing a snap that when pulled apart results in a low level noise.

**Class** has the same meaning as in the Australian Explosives Code.



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**Classification Code** of an explosive means the code assigned to the explosive under the Australian Explosives Code, comprising a combination of the number of the hazard division of the explosive and the letter of the Compatibility Group of the explosive.

**coal workplace** means a place to which the *Coal Mine Health and Safety Act 2002* applies.

**Compatibility Group** of an explosive means the letter, determined in accordance with the Australian Explosives Code, of an explosive that identifies the kinds of explosive substances and articles that are compatible for transport or storage purposes.

**confetti bomb** means a pyrotechnic device designed to project confetti and to emit a report when an igniting string is pulled and containing an explosive substance with a mass not exceeding 30 milligrams, mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur.

**corresponding law** means any of the following laws:

*Dangerous Goods Act 1985* of Victoria

*Explosives Act 1999* of Queensland

*Explosives Act 1936* of South Australia

*Dangerous Goods Safety Act 2004* of Western Australia

*Dangerous Goods Act 1998* of Tasmania

*Dangerous Goods Act* of the Northern Territory

*Dangerous Substances Act 2004* of the Australian Capital Territory

**detonator** has the same meaning as in the Australian Explosives Code.

**display firework** means a firework (other than a distress signal or a toy firework) consisting of a case or contrivance forming a squib, gerbe, cracker, serpent, mortar shell, lance, wheel, coloured fire, Roman candle or other article specially adapted for the production of a pyrotechnic effect or a sound effect.

**distress signal** means a pyrotechnic device intended for signalling, warning, rescue or like purposes and includes a signal cartridge, marine flare, landing flare, highway flare, highway fusee, line-carrying rocket, anti-hail rocket, cloud seeding rocket, avalanche rocket, smoke generator or bird scarer.

**explosive-powered tool** means a tool or device whereby a stud, pin, dowel, screw, rivet, spike or other object is driven against, into or through a substance by means of an explosive.

**export** means export from the State to another country.

**firework** means an article designed to produce a sound or a pyrotechnic signal or a pyrotechnic effect by the explosion or ignition of an explosive substance, including a display firework or toy firework.

**hazard division**—see clause 12.

**import** means import into the State from another country.

**indoor table bomb** means a pyrotechnic device designed to project streamers or confetti (or both) and to emit a report when an igniting string is pulled and containing an explosive substance with a mass not exceeding 60 milligrams, mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur.

**mining workplace** means a place of work:

- (a) that is a mine within the meaning of the *Mines Inspection Act 1901* or the *Mine Health and Safety Act 2004* (whichever is in force), or
- (b) at which activities under the *Petroleum (Onshore) Act 1991* or the *Petroleum (Submerged Lands) Act 1982* are carried out.

**mobile processing unit** means a vehicle or mobile unit used for the manufacture of explosives.

**model rocket propellant device** means an article that:

- (a) consists of a case in which there is a substance or substances that burn rapidly when ignited, and
- (b) with or without other articles, is intended to be part of the propulsion system of a model rocket.

**NEQ** means the net explosive quantity (expressed as a mass) of an explosive, exclusive of any non-explosive components.

**package** means the complete product of the packing of any goods for transport, and consists of the goods and their packaging

**packaging** means the container into which goods are received or held for transport, and includes anything that enables the container to receive or hold the goods or to be closed.

**possess** includes right to possess.

**power device cartridge** means a power device cartridge for use with an explosive-powered tool, but does not include cartridges used for rock breaking or demolition.

**prohibited explosive** means an explosive that is registered as a prohibited explosive under clause 8.

**Proper Shipping Name** has the same meaning as in the Australian Explosives Code.

**secure store**, in relation to explosives or explosive precursors, means a physically secure place where the explosives or explosive precursors are kept secure by lock or constant surveillance and where procedures for the following are in place:

- (a) control of access,

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- (b) control of keys (if any),
  - (c) documenting the movement into and out of the secure store of explosives or explosive precursors.

**security sensitive ammonium nitrate** means any of the following:

- (a) ammonium nitrate that is not a dangerous good of Class 1,
- (b) ammonium nitrate emulsions, suspensions or gels containing greater than 45% ammonium nitrate,
- (c) ammonium nitrate mixtures containing greater than 45% ammonium nitrate,

but does not include ammonium nitrate solutions.

**security sensitive dangerous substance** means any security sensitive ammonium nitrate.

**Note.** Other dangerous substances, apart from security sensitive ammonium nitrate, may be included as security sensitive dangerous substances in the future.

**sparkler** means a firework consisting of a wire or stick coated with a metallic powder in admixture with an oxidising composition.

**starting pistol caps** means dots of an explosive substance mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus and antimony sulfide, the explosive substance being applied to sheets of paper or other suitable material and present in a quantity not exceeding 0.5 grams per dot.

**streamer cone** means a pyrotechnic device designed to project streamers and to emit a report when an igniting string is pulled, and containing an explosive substance with a mass not exceeding 30 milligrams and mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur.

**supply** includes sell.

**the Act** means the *Explosives Act 2003*.

**to store**, in relation to explosives or explosive precursors, does not include to place or keep the explosives or explosive precursors concerned in or on a vehicle or vessel.

**toy firework** means amorce, blaster ball, confetti bomb, bon-bon cracker, sparkler, streamer cone, toy pistol cap, starting pistol cap and indoor table bomb.

**toy pistol cap** has the same meaning as amorce.

**unauthorised explosive** means an explosive that is not registered as an authorised explosive under clause 8 (and includes prohibited explosives).

***unsupervised access***, in relation to an explosive or explosive precursor, means access to an explosive or explosive precursor in circumstances where no other person who is authorised under a licence to store or handle the explosive or explosive precursor is present, and includes:

- (a) access to a secure store of the explosive or explosive precursor, and
- (b) access to the keys to a secure store of the explosive or explosive precursor, and
- (c) access to the explosive or explosive precursor while the explosive or explosive precursor is being transported.

***UN Number*** or ***United Nations Number*** or ***UN*** followed by a number, in relation to dangerous goods, means the identification number shown in the ADG Code in relation to those goods.

***vehicle*** means:

- (a) a motor vehicle within the meaning of the *Road Transport (General) Act 2005*, and
  - (b) a unit of rolling stock.
- (2) Notes included in this Regulation do not form part of this Regulation.

#### **4 Prescription of explosives**

The following are prescribed as explosives for the purposes of the Act:

- (a) dangerous goods of Class 1 within the meaning of the ADG Code,
- (b) goods too dangerous to be transported (within the meaning of the ADG Code) that can produce an explosive or pyrotechnic effect,
- (c) articles or substances that when manufactured, mixed or assembled can produce an explosive or pyrotechnic effect.

#### **5 Prescription of explosive precursors**

Security sensitive dangerous substances are prescribed for the purposes of the Act as an explosive precursor.

#### **6 Director-General of Department of Industry and Investment is regulatory authority for coal workplaces and mining workplaces**

- (1) For the purposes of section 4 of the Act, the Director-General of the Department of Industry and Investment is declared to be the regulatory authority for coal workplaces and mining workplaces, but only in relation to the following:
  - (a) the examination and inspection of explosives or explosive precursors,

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- (b) notification of loss of explosives or explosive precursors,
  - (c) notification of serious incidents,
  - (d) the investigation of breaches of the Act, this Regulation and licences under the Act,
  - (e) the appointment of inspectors under the Act in relation to coal workplaces and mining workplaces.
- (2) (Repealed)

#### **7 Persons to co-operate to discharge duties**

If more than one person has a duty or responsibility with respect to a particular matter under this Regulation:

- (a) each such person retains the duty and responsibility for the matter, and
- (b) the duty or responsibility is to be discharged in a co-ordinated manner.

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## Part 2 Authorised and prohibited explosives

### 8 Authorised explosives

- (1) The regulatory authority may register an explosive as an authorised explosive or a prohibited explosive and must establish and maintain a register of:
  - (a) authorised explosives, and
  - (b) prohibited explosives.
- (2) The regulatory authority must not register an explosive both as an authorised explosive and a prohibited explosive.
- (3) The regulatory authority is to record in the register in relation to each authorised explosive details that describe the explosive including the applicant name and commercial name of the explosive and the explosive's UN Number, Proper Shipping Name and Classification Code.
- (4) The regulatory authority must from time to time, but at intervals of not less than one year, publish a copy of the register in the Gazette.
- (5) The regulatory authority may alter the registration of an explosive.

### 9 Handling unauthorised explosives prohibited

A person must not handle any unauthorised explosive.

**Note.** Unauthorised explosives include prohibited explosives—see clause 3.

Maximum penalty: 250 penalty units.

### 10 Falsely representing explosives as authorised

A person must not falsely represent an unauthorised explosive as being an authorised explosive.

Maximum penalty: 250 penalty units.

### 11 Application to have explosives registered as authorised

- (1) A person may apply to the regulatory authority to have an explosive registered as an authorised explosive.
- (2) The application must be accompanied by the approved fee.
- (3) The application must be made in writing and contain particulars of:
  - (a) the commercial name, UN Number, Proper Shipping Name and Classification Code of the explosive, and
  - (b) the nature and composition of the explosive to which it relates, including the percentage by mass or volume that each ingredient bears to the whole, and

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- (c) the results of any testing of the explosive, and
  - (d) any substance or substances desired to be approved as a substitute, or as substitutes, for a specified ingredient, and
  - (e) the method of use of the explosive.
- (4) An application is taken to have been refused if the regulatory authority has not registered the explosive within 3 months of its receipt of the application.
  - (5) An applicant must furnish to the regulatory authority such additional information in relation to the explosive as it may request.
  - (6) An applicant must supply to the regulatory authority, without charge, such sample or samples of the explosive as it may require for the purpose of testing.

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## Part 3 Classification of explosives

### 12 Hazard divisions

- (1) In this Regulation, *hazard division* of an explosive means:
  - (a) the hazard division of the explosive under the Australian Explosives Code, or
  - (b) if the explosive is stored or transported with an explosive of a different hazard division under this clause—the precedence of hazard division determined in accordance with clause 78.
- (2) The hazard divisions of explosives under the Australian Explosives Code are as follows:
  - (a) hazard division 1.1—explosives that have a mass explosion hazard,
  - (b) hazard division 1.2—explosives that have a projection hazard, but not a mass explosion hazard,
  - (c) hazard division 1.3—explosives that have a fire hazard and either a minor blast hazard or a minor projection hazard, or both, but not a mass explosion hazard,
  - (d) hazard division 1.4—explosive substances and articles that present no significant hazard,
  - (e) hazard division 1.5—very insensitive explosive substances that have a mass explosion hazard,
  - (f) hazard division 1.6—extremely insensitive explosive articles that do not have a mass explosion hazard.

### 13 Detonators of Classification Code 1.4

All detonators of Classification Code 1.4B or 1.4S are of Classification Code 1.1B if they are not in a package that has been manufactured for the purpose of holding such detonators.

### 14 Classification of articles

For the purposes of this Regulation, if an explosive substance is contained within an explosive article:

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



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## Part 4 Licences

### Division 1 Activities requiring licences

#### 15 Activities requiring licences

- (1) The handling of an explosive or explosive precursor is required to be authorised by a licence under the Act.

**Note.** Section 6 (1) of the Act provides that it is an offence for a person to handle an explosive or explosive precursor if:

- (a) the regulations require the handling to be authorised by a licence under the Act, and
- (b) the person is not authorised to do so by a licence under the Act.

- (2) For the avoidance of doubt, if an explosive or explosive precursor is stored at a mine (whether by a mine operator or another person), the mine operator is taken to be storing the explosive or explosive precursor and is required to be authorised by a licence under the Act to do so.

**Note 1.** Mine operators and contractors may also have duties relating to explosives under the *Coal Mine Health and Safety Act 2002* and the *Mines Inspection Act 1901* or the *Mine Health and Safety Act 2004* (whichever is in force).

**Note 2.** The regulatory authority in relation to coal workplaces and mining workplaces is the Director-General of the Department of Industry and Investment: see clause 6.

- (3) Despite subclause (1), a person is not required to be authorised by a licence under the Act to handle an explosive or explosive precursor if:

- (a) the person is under the direction or control of a licensee (for example, as an employee or contractor of a licensee) who is authorised by a licence to handle the explosive or explosive precursor in the manner concerned, and
- (b) the person is handling the explosive or explosive precursor under that direction or control (for example, in the course of that employment or in accordance with the contract concerned), and
- (c) the person is supervised in the handling of the explosive or explosive precursor by a natural person who is authorised by a licence to handle the explosive or explosive precursor in the manner concerned.

- (4) Despite subclause (1), a person is not required to be authorised by a licence under the Act to handle an explosive precursor before 1 January 2006.

**Note.** Subclause (4) is a savings and transitional provision to allow a four month transition period before the requirement to hold a licence under the Act to handle explosive precursors (such as security sensitive ammonium nitrate) comes into force. See also clause 5 of Schedule 1 to this Regulation relating to

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transitional controls on the supply of security sensitive ammonium nitrate during this period.

## **Division 2      Types of licences**

### **16    Types of licences**

The regulatory authority may grant the following types of licences:

- (a) licence to manufacture,
- (b) licence to import,
- (c) licence to supply,
- (d) licence to transport by vehicle,
- (e) licence to transport by vessel,
- (f) licence to store,
- (g) blasting explosives learner's licence,
- (h) blasting explosives user's licence,
- (i) pyrotechnician's licence,
- (j) fireworks (single use) licence,
- (k) licence to use security sensitive dangerous substances,
- (l) unsupervised handling licence.

### **17    Licence to manufacture**

A licence to manufacture authorises the licensee to carry out the following activities:

- (a) if the licence relates to a mobile processing unit—manufacturing and transporting the explosives or explosive precursors specified in the licence in the mobile processing unit,
- (b) if the licence does not relate to a mobile processing unit—manufacturing, at the premises specified in the licence, the explosives or explosive precursors specified in the licence,
- (c) supplying (including exporting), at the premises (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (d) possessing explosives or explosive precursors for the purpose of the manufacture of other explosives or explosive precursors under the licence,
- (e) possessing explosives or explosive precursors manufactured under the licence,

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- (f) possessing explosives or explosive precursors for the purpose of the disposal of the explosives or explosive precursors under the licence,
  - (g) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

#### **18 Licence to import**

A licence to import authorises the licensee to carry out the following activities:

- (a) importing the explosives or explosive precursors specified in the licence into the State from another country,
- (b) supplying (including exporting), at the premises (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (c) possessing the explosives or explosive precursors for the purpose of bringing them into the State from another country,
- (d) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

#### **19 Licence to supply**

A licence to supply authorises the licensee to carry out the following activities:

- (a) supplying (including exporting), at the premises (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (b) possessing explosives or explosive precursors for the purpose of supplying them under the licence,
- (c) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

#### **20 Licence to transport by vehicle**

A licence to transport by vehicle authorises the licensee to carry out the following activities:

- (a) transporting, by means of a motor vehicle, the explosives or explosive precursors specified in the licence,
- (b) storing, at the premises and for the period specified in the licence (if any), the explosives or explosive precursors specified in the licence,
- (c) possessing explosives or explosive precursors for the purpose of transporting them under the licence.

**21 Licence to transport by vessel**

A licence to transport by vessel authorises the licensee to carry out the following activities:

- (a) transporting, using a vessel, the explosives or explosive precursors specified in the licence,
- (b) storing, at the premises and for the period specified in the licence (if any), the explosives or explosive precursors specified in the licence,
- (c) possessing explosives or explosive precursors for the purpose of transporting them under the licence.

**22 Licence to store**

A licence to store explosives authorises the licensee to carry out the following activities:

- (a) storing, at the premises and for the period specified in the licence, the explosives or explosive precursors specified in the licence,
- (b) possessing explosives or explosive precursors for the purpose of storing them under the licence.

**23 Blasting explosives learner's licence**

A blasting explosives learner's licence authorises the licensee to possess and use explosives as part of an explosives training course, but only if the licensee is under the instruction and supervision of a person who is authorised under this Act to possess and use those explosives.

**24 Blasting explosives user's licence**

A blasting explosives user's licence authorises the licensee to carry out the following activities:

- (a) using, at the premises or location (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (b) manufacturing explosives for immediate use (if that activity is specified in the licence),
- (c) possessing explosives or explosive precursors for the purpose of using them under the licence,
- (d) transporting explosives or explosive precursors for the purpose of using them under the licence,
- (e) possessing explosives or explosive precursors for the purpose of the disposal of the explosives or explosive precursors under the licence,

- (f) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

## **25 Pyrotechnician's licence and fireworks (single use) licence**

A pyrotechnician's licence and a fireworks (single use) licence authorises the licensee to carry out the following activities:

- (a) possessing, using, storing and transporting display fireworks,
- (b) possessing, using, storing and transporting a distress signal (otherwise than for the purpose of a distress signal),
- (c) possessing, using, storing and transporting a model rocket propellant device containing an ignitable substance or ignitable substances exceeding 62.5 grams in mass.

## **26 Licence to use security sensitive dangerous substances**

A licence to use security sensitive dangerous substances authorises the licensee to possess, use, store, transport and dispose of security sensitive dangerous substances for the purpose specified in the licence.

## **27 Unsupervised handling licence**

An unsupervised handling licence authorises the licensee to handle explosives or explosive precursors but only in circumstances where:

- (a) the holder of the unsupervised handling licence is under the direction or control (for example, as an employee or contractor) of another person who holds another licence under the Act (*the supervising licensee*) (not being a blasting explosives learner's licence, a fireworks (single use) licence or an unsupervised handling licence), and
- (b) the handling of the explosives or explosive precursors is of a type and manner that is authorised under the supervising licensee's licence,
- (c) the holder of the unsupervised handling licence complies with any conditions that apply to the supervising licensee's licence.

**Note.** An unsupervised handling licence could allow (according to its terms and conditions) an employee of a person who holds a licence to store to have unsupervised access to handle explosives or explosive precursors stored under the authority of that licence to store. An unlicensed employee would be otherwise prohibited from unsupervised handling of their employer's explosives or explosive precursors. See also the provisions relating to security plans.

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### **Division 3      Licence provisions**

#### **28    Licence to specify type and class of explosive or explosive precursor authorised to be handled and may specify other matters**

- (1) A licence may specify the explosive or explosive precursor or the type or types or the class or classes of explosive or explosive precursor that is or are authorised to be handled under the licence.
- (2) A licence may specify the maximum quantity of explosive or explosive precursor that is authorised to be handled under the licence.
- (3) A licence may specify premises or a location at which the explosives or explosive precursors that are authorised to be handled under the licence must be handled.

### **Division 4      Applications for licences**

#### **29    Applications for licences**

- (1) An application for a licence is to be:
  - (a) made in the approved form, and
  - (b) accompanied by any other documents (including photographs) specified in the approved form.
- (2) Each applicant for a licence must, if required to do so by the regulatory authority, submit a security plan in relation to the explosives or explosive precursors that are to be handled under the licence.
- (3) A security plan submitted in accordance with subclause (2) must contain the following:
  - (a) details of the facilities, systems and procedures in place for the safe and secure handling of the explosives or explosive precursors concerned,
  - (b) a list of nominated persons who hold unsupervised handling licences and are to have unsupervised access to the explosives or explosive precursors concerned,
  - (c) a list detailing any vehicles that may carry the explosives or explosive precursors concerned,
  - (d) such other information as required by the regulatory authority.
- (4) The regulatory authority may require an applicant to amend and re-submit a security plan.

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## **Division 5      Requirements for obtaining licences**

### **30      General requirements for obtaining a licence under the Act**

- (1) Before a licence is granted, the regulatory authority must be satisfied that:
  - (a) the applicant, and if the applicant is a corporation, at least one person engaged in the management of the corporation:
    - (i) is of or above the age of 18 years, and
    - (ii) is a fit and proper person to hold the licence and is otherwise of good character, and
    - (iii) has the qualifications, experience and knowledge necessary to hold the licence, and
  - (b) in relation to a licence other than a fireworks (single use) licence—a report relating to the applicant under section 13 of the Act has been furnished to the regulatory authority, and
  - (c) if the applicant has been required to submit a security plan, the plan is appropriate for the safe and secure handling of the explosives or explosive precursors concerned, and
  - (d) in relation to a licence other than a blasting explosives learner's licence or an unsupervised handling licence—the applicant has appropriate facilities, systems and procedures in place for the safe and secure handling of the explosives or explosive precursors concerned, and
  - (e) the approved fee for the licence has been paid.
- (2) Without limiting any other reason that the regulatory authority may refuse to grant a licence to an applicant, the regulatory authority must refuse to grant a licence if a report relating to the applicant under section 13 of the Act contains a recommendation from the Commissioner of Police that the applicant should not be granted the licence on the basis of criminal or security intelligence or other information available to the Commissioner.

**Note.** Additional requirements for obtaining specific licences are set out in this Division.

### **31      Additional requirements for obtaining licence to transport by vehicle**

- (1) Before a licence to transport by vehicle that relates to the transport of explosives or explosive precursors by a motor vehicle or motor vehicles is granted, the regulatory authority must be satisfied that each individual authorised by the licence to drive the motor vehicle or motor vehicles concerned:
  - (a) is of or above the age of 21 years, and

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- (b) has held the appropriate driver licence in relation to the type of vehicle or vehicles to be specified in the licence for at least 12 months, and
  - (c) has at least 12 months experience driving vehicles of the type to be specified in the licence, and
  - (d) has demonstrated an adequate knowledge of:
    - (i) the nature and hazardous properties of explosives or explosive precursors of the type that is to be transported under the authority of the licence, and
    - (ii) the precautions to be taken to ensure the prevention of accidents in the transport and associated handling of explosives and explosive precursors of that type, and
    - (iii) the actions to be taken in the event of an emergency involving explosives or explosive precursors, and
  - (e) has been examined by a medical practitioner and been found not to have any medical or physical condition that would impair the individual's ability to perform the duties of a driver of a vehicle that transports explosives or explosive precursors.
- (2) For the purpose of determining whether it is satisfied as to the matters set out in subclause (1) (d) and (e), the regulatory authority may have regard to whether the applicant is the holder of a Dangerous Goods Bulk Transport Licence under the *Road and Rail Transport (Dangerous Goods) Act 1997*.

### **32 Additional requirements for obtaining blasting explosives user's licence**

Before a blasting explosives user's licence is granted, the regulatory authority must be satisfied that the applicant is a natural person and the applicant:

- (a) has such qualifications, or has passed such examinations or practical tests, or both, as the regulatory authority determines to be necessary to enable the applicant to do the work for which the licence is required, and
- (b) has been examined by a medical practitioner and been found not to have any medical or physical condition that would impair the individual's ability to perform the duties of a blasting explosives user.

### **33 Additional requirements for obtaining blasting explosives learner's licence**

Before a blasting explosives learner's licence is granted, the regulatory authority must be satisfied that the applicant:

- (a) is a natural person, and



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- (b) has been examined by a medical practitioner and been found not to have any medical or physical condition that would impair the individual's ability to perform the duties of a blasting explosives user.

**34 Additional requirements for obtaining pyrotechnician's licence**

- (1) Before a pyrotechnician's licence is granted, the regulatory authority must be satisfied that the applicant:
  - (a) is a natural person, and
  - (b) has completed a training course or attained a level of competence in the safe use of display fireworks that is recognised by the regulatory authority for the purposes of obtaining the licence, and
  - (c) has a legitimate reason for obtaining the licence.
- (2) A ***legitimate reason*** for obtaining a pyrotechnician's licence includes obtaining the licence for the purposes of any of the following:
  - (a) an organised public display (for example, a community event open to the public, whether or not for fee, organised by a community or private organisation, such as a show, fete, carnival, cultural, religious or sporting event),
  - (b) a theatrical display (for example, a film or TV special effect, an indoor or outdoor theatrical event such as a concert or another performing arts event),
  - (c) a technical non-display purpose (for example, an industrial or agricultural purpose, such as the purpose of a chimney testing device or a bird disturbing device).

**35 Additional requirements for obtaining fireworks (single use) licence**

- (1) Before a fireworks (single use) licence is granted, the regulatory authority must be satisfied that the applicant:
  - (a) is a natural person, and
  - (b) has a legitimate reason for obtaining the licence.
- (2) A ***legitimate reason*** for obtaining a fireworks (single use) licence includes obtaining the licence for the purposes of an organised public display (for example, a community event open to the public, whether or not for fee, organised by a community or private organisation, such as a show, fete, carnival, cultural, religious or sporting event).

**36 Additional requirements for licences relating to security sensitive dangerous substances**

- (1) Before any licence relating to the handling of security sensitive dangerous substances is granted, the regulatory authority must be

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satisfied that the applicant has a legitimate reason for obtaining the licence.

**Note.** This provision applies to all licences that authorise a person to handle security sensitive dangerous substances, not merely the licence to use security sensitive dangerous substances as referred to in clause 16 (k).

- (2) A **legitimate reason** for obtaining a licence that authorises a person to handle security sensitive dangerous substances includes obtaining the licence for the purpose of:
- (a) use in commercial production processes, mining, quarrying, agricultural blasting, construction, civil engineering, seismic work or tunnelling, or
  - (b) the commercial manufacture of fertiliser or explosives, or
  - (c) education, research or analysis, or
  - (d) commercial agricultural use by primary producers, or
  - (e) transporting or supplying security sensitive dangerous substances for any purpose listed above,
- but does not include obtaining the licence for the purpose of:
- (f) household domestic use, or
  - (g) use as a fertiliser on outdoor recreation facilities (such as parks, golf courses, sports fields and the like).

### **37 Additional requirements for obtaining unsupervised handling licence**

Before an unsupervised handling licence is granted, the regulatory authority must be satisfied that the applicant is a natural person.

## **Division 6 Licence conditions**

### **38 Licensee to remain at all times eligible to be granted a licence**

It is a condition of each licence that the licensee must at all times remain a person who, if applying for that licence for the first time, would be eligible to be granted that licence by the regulatory authority.

**Note.** This clause provides that the licensee is in breach of a licence condition if circumstances relating to the licensee change in such a respect that the licensee would not be granted a licence if applying for the first time (for example, if a qualification were revoked or the person ceased to be able to satisfy the regulatory authority that they were a fit and proper person to hold a licence or otherwise of good character). Breach of any condition may lead to suspension or cancellation of the licence under sections 20 and 21 of the Act.

### **39 Loss or theft of explosives or explosive precursors to be reported**

- (1) It is a condition of each licence that if any explosive or explosive precursor in the possession, custody or control of the licensee is lost or stolen or is the subject of an attempted theft or any other suspicious

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incident that threatens the security of the explosive or explosive precursor, the licensee must immediately notify the regulatory authority and a police officer of the loss, theft or incident.

- (2) If the explosive or explosive precursor concerned was located at a coal workplace or a mining workplace, the licensee must also immediately notify the WorkCover Authority in addition to notifying the Director-General of the Department of Industry and Investment (being the regulatory authority in relation to coal workplaces and mining workplaces).

#### **40 Licence to manufacture**

It is a condition of each licence to manufacture that the explosives or explosive precursors concerned must be manufactured, or disposed of, only in or on:

- (a) the premises specified in the licence, or
- (b) a mobile processing unit to which the licence relates,

#### **41 Notification of importation of explosives or explosive precursors**

- (1) It is a condition of each licence to import that the licensee must give the regulatory authority notice, in accordance with this clause, and pay the notification fee fixed by the regulatory authority, on each occasion of the licensee's intention to import explosives or explosive precursors.
- (2) The notice must be given no later than 5 business days before the day on which the explosives or explosive precursors are intended to arrive in the State.
- (3) The notice must include the following information:
  - (a) the name and licence number of the licensee,
  - (b) the intended date of import of the explosives or explosive precursors,
  - (c) the identity of the vessel or aircraft in which the explosives or explosive precursors are to be imported,
  - (d) the port, facility or airport where the explosives or explosive precursors are to be received,
  - (e) the name of, and the classification assigned to, the explosives or explosive precursors,
  - (f) details of the kind and quantity of explosives or explosive precursors to be imported,
  - (g) the name of the consignee (if not the licensee) and the consignor of the explosives or explosive precursors,

- (h) the address of the place where the explosives or explosive precursors are to be stored in the State.
- (4) If the licensee becomes aware that any of the information given in such a notice is no longer accurate, it is a condition of the licence that the licensee must give the regulatory authority notice of the relevant change of information.
- (5) The importer, the importer's agent and the consignee of the explosives or explosive precursors referred to in the notice must not transport the explosives or explosive precursors, or cause or permit the explosives or explosive precursors to be transported from the port, facility or airport where they were received to premises specified in a licence for the storage or handling of explosives unless the regulatory authority has given notice (either written or electronic) that the explosives or explosive precursors may be transported to those premises.  
Maximum penalty (subclause (5)): 250 penalty units.
- (6) A notice under this clause may be given in writing or electronically.

#### **42 Notification of export of explosives or explosive precursors**

- (1) It is a condition of each licence to supply that the licensee must give the regulatory authority notice, in accordance with this clause, on each occasion of the licensee's intention to export explosives or explosive precursors.
- (2) The notice must be given no later than 5 business days before the day on which the explosives or explosive precursors are intended to be exported from the State.
- (3) The notice must include the following information:
  - (a) the name and licence number of the licensee,
  - (b) the intended date of export of the explosives or explosive precursors,
  - (c) the port, facility or airport from where the explosives or explosive precursors are to be exported,
  - (d) the name of, and classification assigned to, the explosives or explosive precursors,
  - (e) details of the kind and quantity of explosives or explosive precursors to be exported,
  - (f) the name of the consignee and the consignor (if not the licensee) of the explosives or explosive precursors.
- (4) If the licensee becomes aware that any of the information given in such a notice is no longer accurate, it is a condition of the licence that the

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licensee must give the regulatory authority notice of the relevant change of information.

- (5) A notice under this clause may be given in writing or electronically.

**43 Licensed suppliers to supply only to authorised persons**

- (1) It is a condition of each licence to supply that each person authorised under the licence (*the authorised supplier*) must not supply explosives or explosive precursors to another person (*the receiver*) unless the receiver produces to the authorised supplier:
- (a) proof of identity of the receiver (such as a passport or a motor vehicle driver licence issued in Australia that displays a photograph of the person), and
  - (b) evidence that:
    - (i) the receiver is authorised by a licence under the Act (other than an unsupervised handling licence) or otherwise authorised under a corresponding law to possess the explosives or explosive precursors, or
    - (ii) the receiver is not required to be authorised by a licence to possess the explosives or explosives precursors (for example, by virtue of clause 59), or
    - (iii) the explosives or explosive precursors are to be supplied to the receiver outside Australia.
- (2) It is a condition of each licence to supply that the licensee must keep a record, in accordance with this clause, of each supply of explosives or explosive precursors.
- (3) The record must include the following information:
- (a) the date of supply,
  - (b) the name, address and telephone number of the person to whom the explosive or explosive precursor is supplied,
  - (c) details of the licence produced to the supplier or the receiver's authority under a corresponding law to possess the explosives or explosive precursors (if required),
  - (d) the name, address and telephone number of the licensee in whose premises the explosives or explosive precursors are to be stored,
  - (e) the kind and quantity of the explosives or explosive precursors supplied.
- (4) The licensee must, whether or not the licence continues in force, keep for at least 5 years after each supply the record made in relation to a particular supply of an explosive or explosive precursor.
- Maximum penalty: 100 penalty units.

- (5) The licensee must make all supply records made under this clause available for examination at the direction of an inspector or police officer. The records must be made available as soon as is reasonably practicable but no later than 7 days after the direction is given.

Maximum penalty: 100 penalty units.

#### **44 Display and advertising**

- (1) It is a condition of each licence to supply that the licensee must not:
- (a) display for sale any explosive on any shelf or counter or in any window or other place that is visible to the public, or
  - (b) sell any explosive:
    - (i) on a road or a road related area, or
    - (ii) at a market, fair or agricultural or other show, or
    - (iii) in any other public place.
- (2) Subclause (1) does not apply to the following:
- (a) power device cartridges,
  - (b) distress signals,
  - (c) ammunition (but only if the licensee is a licensed firearms dealer under the *Firearms Act 1996*),
  - (d) life-saving appliances, including air bag inflators and seat belt pretensioners,
  - (e) toy fireworks.

#### **45 Consignment of explosives and explosive precursors**

It is a condition of each licence under the Act that the licensee must not send or cause to be sent to any other person (in this clause referred to as the *consignee*) a consignment of explosives or explosive precursors unless:

- (a) the licensee is satisfied that the consignee is authorised under the Act to possess the explosives or explosive precursors, and
- (b) the licensee has given to the consignee a notice of his or her intention to send the consignment and has set out in the notice the description and quantity of the explosives or explosive precursors proposed to be sent, and
- (c) licensee has been informed by the consignee that the consignee will be prepared to receive the explosives or explosive precursors on a specified day or within a specified period, and
- (d) the explosives or explosive precursors are sent at such a time and by such means that in the ordinary course of transport the

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consignee will receive them on the specified day or within the specified period.

**46 Licence to transport by vehicle**

It is a condition of each licence to transport by vehicle that the licensee must transport explosives and explosive precursors in accordance with:

- (a) in relation to explosives—the applicable requirements of the Australian Explosives Code, and
- (b) in relation to explosive precursors—the applicable requirements of the ADG Code.

**47 Blasting explosives user's licence**

It is a condition of each blasting explosives user's licence that the licensee must ensure that any security sensitive dangerous substances possessed by the licensee are stored in a safe and secure manner.

**48 Pyrotechnician's licence**

- (1) It is a condition of each pyrotechnician's licence, that the licensee notify the following authorities, by the time specified in relation to the authority concerned, of an intention to use any fireworks, distress signal or model rocket propellant device:
  - (a) the regulatory authority—at least 7 working days before the fireworks, signal or device is to be used,
  - (b) the relevant local council—at least 7 working days before the fireworks, signal or device is to be used,
  - (c) Local Area Commander of Police—at least 2 working days before the fireworks, signal or device is to be used,
  - (d) NSW Fire Brigades or the NSW Rural Fire Service, whichever is appropriate—at least 2 working days before the fireworks, signal or device is to be used.

**Note.** The local council, Police and Fire Brigades may have other specific controls in place relating to firework displays.

- (2) It is a condition of each pyrotechnician's licence, that if the licensee is not authorised to store any fireworks, distress signals or model rocket propellant devices under the licence, the licensee must not possess a quantity of fireworks, signals or devices greater than the quantity necessary for use at an event that has been notified to the regulatory authority under subclause (1) (a).

**49 Fireworks (single use) licence**

It is a condition of each fireworks (single use) licence, that the licensee notify the following authorities, by the time specified in relation to the

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authority concerned, of an intention to use any fireworks, distress signal or model rocket propellant device:

- (a) the regulatory authority—at least 7 working days before the fireworks, signal or device is to be used,
- (b) the relevant local council—at least 7 working days before the fireworks, signal or device is to be used,
- (c) the Local Area Commander of Police—at least 2 working days before the fireworks, signal or device is to be used,
- (d) NSW Fire Brigades or the NSW Rural Fire Service, whichever is appropriate—at least 2 working days before the fireworks, signal or device is to be used.

**Note.** The local council, Police and Fire Brigades may have other specific controls in place relating to firework displays.

## **Division 7      Exceptions from requirement to hold licence**

### **50      General exceptions**

- (1) A person is not required to be authorised by a licence in order to possess, store, use, sell or supply the following explosives:
  - (a) power device cartridges,
  - (b) distress signals,
  - (c) life-saving appliances, including air bag inflators and seat belt pretensioners,
  - (d) toy fireworks.
- (2) Despite subclause (1), a person is required to be authorised by a licence in order to possess or store explosives or explosive precursors specified in the Table to this clause if the quantity possessed or stored exceeds the quantity specified in that Table.

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Type of explosive</b>	<b>Quantity</b>
Power device cartridges	10,000 in number
Distress signals	10 kg



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Column 1	Column 2
Type of explosive	Quantity
Life-saving appliances (including air bag inflators, air bag modules and seat belt pretensioners of hazard division 1.4) that are:	10 kg
(a) not installed in vehicles, or	
(b) not in complete vehicle components.	
Explosives of hazard division 1.4 (not being detonators or safety cartridges of Class 1.4S, percussion caps of Class 1.4S for firearms, or fireworks)	10 kg
Toy fireworks	1 tonne (including packaging)

#### 51 Certain exceptions for ammunition

- (1) A person who is a licensed firearms dealer under the *Firearms Act 1996* is not required to be authorised by a licence in order to possess, store, sell or supply ammunition.
- (2) A person who holds a licence or a permit under the *Firearms Act 1996* (other than a firearms collector licence) that authorises the person to possess or use a firearm is not required to be authorised by a licence in order to possess, use or store:
  - (a) ammunition for that firearm, or
  - (b) percussion caps, or not more than 10kg of propellant powder for reloading purposes, for that firearm.
- (3) A person who holds an ammunition collection permit under the *Firearms Act 1996* is not required to be authorised by a licence in order to possess or store ammunition that is authorised to be possessed under the permit.

#### 52 Licence to import—exceptions

A person is not required to be authorised by a licence to import in order to import the following explosives:

- (a) life-saving appliances, including air bag inflators, air bag modules and seat belt pretensioners,
- (b) distress signals that are part of the safety system of a vessel or aircraft.

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**53 Possession and storage of certain explosives—emergency service**

- (1) An emergency service is not required to be authorised by a licence in order to possess or store explosives or explosive precursors that have come into the possession of a member of the emergency service in an emergency situation (for example, ammunition or explosives that have been confiscated and stored by a police officer).
- (2) In this clause, *emergency service* includes any of the following:
  - (a) the Ambulance Service of New South Wales,
  - (b) New South Wales Fire Brigades,
  - (c) the NSW Rural Fire Service,
  - (d) the NSW Police Force,
  - (e) the State Emergency Service,
  - (f) the New South Wales Volunteer Rescue Association Incorporated,
  - (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
  - (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

**54 Inspectors**

An inspector is not required to be authorised by a licence to handle any explosives or explosive precursors in the course of the inspector's duties under the Act.

**55 Police bomb disposal**

A police bomb disposal technician is not required to be authorised by a licence in order to:

- (a) possess, use or transport explosives in the course of the technician's duties, or
- (b) possess explosives or explosive precursors (for the purpose of disposing or destroying them), or
- (c) dispose or destroy explosives or explosive precursors.

**56 Licence to transport by vehicle or vessel—exceptions**

An inspector or a police officer is not required to be authorised by a licence to transport by vehicle or vessel in order to transport any explosives or explosive precursors that have been confiscated or received by, and are under the immediate supervision of, the inspector or the police officer.

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**57 Licence to transport by vehicle—exceptions**

A person is not required to be authorised by a licence to transport by vehicle in order to transport any explosives or explosive precursors if the vehicle concerned is travelling on a private road.

**Note.** A person may still be required to hold a licence that authorises the person to possess the explosive or explosive precursor concerned.

**58 Licence to transport by vessel—exceptions**

A person is not required to be authorised by a licence to transport by vessel in order to transport any explosives or explosive precursors if the vessel concerned is proceeding on an overseas voyage or an inter-State voyage.

**59 Licence to use security sensitive dangerous substances—exception**

A person is not required to be authorised by a licence to use security sensitive dangerous substances in order:

- (a) to use security sensitive ammonium nitrate for educational, research or analytical purposes at a school or at a commercial laboratory, university or other research institution if the amount of security sensitive dangerous substances used does not exceed 3 kg, or
- (b) to otherwise handle security sensitive ammonium nitrate for the purposes of that use.

**Division 8 Miscellaneous****60 Training blasting explosives learners**

A person (*the trainer*) must not use explosives in the course of training another person (*the trainee*) in the use of explosives unless the trainer has sighted the trainee's blasting explosives learner's licence.

Maximum penalty: 250 penalty units.

**61 Licences under corresponding laws**

The regulatory authority, when determining whether to grant or refuse an application for a licence under this Act is to have regard to whether the applicant holds a licence under a corresponding law.

**62 Licence fees**

The fee payable for a licence is the fee fixed for the time being by the regulatory authority to cover expenses in connection with the regulation of licences.

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**63 Evidence of licence to be produced**

- (1) A licensee must, on demand made by a police officer or an inspector at any time:
- (a) if the licensee has the licence in his or her immediate possession—produce the licence for inspection by the police officer or inspector, or
  - (b) if the person does not have the licence in his or her immediate possession—produce it as soon as practicable (but not more than 6 hours) after the demand is made to the police officer or inspector who made the demand or to another police officer or inspector nominated by the original police officer or inspector.

Maximum penalty: 5 penalty units.

- (2) A person who is in immediate possession of an explosive or explosive precursor must, unless the person has a reasonable excuse, carry the licence, or a copy of the licence, that authorises that possession and must produce the licence, or copy, on demand being made by a police officer or an inspector.

Maximum penalty: 5 penalty units.

- (3) The onus of proving a reasonable excuse for the purposes of this clause is on the licensee.

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## **Part 5 Specific control measures**

### **Division 1 General**

#### **64 Security plan**

- (1) If a security plan has been submitted to the regulatory authority as part of an application for a licence, the licensee must ensure that:
  - (a) the requirements of, and procedures specified in, the security plan are observed, and
  - (b) all activities under the licence are undertaken in accordance with that security plan.

Maximum penalty: 250 penalty units.

#### **65 No unsupervised access to explosives or explosive precursors by unauthorised persons**

- (1) If a security plan has been submitted to the regulatory authority as part of an application for a licence and the security plan provides that only specified persons whose names are listed in the plan are to have unsupervised access to the explosives or explosive precursors concerned, a person must not handle, or gain unsupervised access to, the explosives or explosive precursor unless the person's name is listed in the plan.
- (2) A person must not allow another person to have unsupervised access to an explosive or explosive precursor unless that other person is authorised to handle the explosive or explosive precursor concerned by a licence under the Act.
- (3) If a security plan has been submitted to the regulatory authority in relation to a licence, the licensee must not allow any other person to have unsupervised access to an explosive or explosive precursor in the possession or under the control of the licensee unless that person:
  - (a) is the holder of a licence that authorises the person to handle explosive or explosive precursor concerned, and
  - (b) is listed on the security plan as a person authorised to have unsupervised access to the explosive or explosive precursor.

Maximum penalty: 250 penalty units.

#### **66 Emergency plan**

- (1) If more than 50 kg of explosives or more than 50 tonnes of security sensitive dangerous substances, or both, are stored on premises in accordance with a licence, the licensee must ensure that a written plan for dealing with any emergency associated with the storage and

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handling of the explosives or security sensitive dangerous substances, or both, on those premises (***an emergency plan***) is:

- (a) developed, implemented and maintained, and
- (b) communicated to:
  - (i) persons who are engaged to work at the premises and who may be exposed to risk as a result of an emergency, and
  - (ii) persons in adjacent premises, if persons or property on the adjacent premises may be exposed to risk as a result of an emergency.
- (2) In developing or reviewing the emergency plan, the licensee must:
  - (a) provide a draft of the emergency plan to the Commissioner of the New South Wales Fire Brigades, and
  - (b) have regard to any written advice received from the Commissioner of the New South Wales Fire Brigades.
- (3) The licensee must provide a copy of the emergency plan to:
  - (a) if the premises to which this clause applies are within a rural fire district within the meaning of the *Rural Fires Act 1997*—the NSW Rural Fire Service, or
  - (b) in any other case—the Commissioner of the New South Wales Fire Brigades.
- (4) The licensee must:
  - (a) review the emergency plan:
    - (i) if there is a change in circumstances at the premises such as to raise the possibility of an emergency of a kind that is not dealt with by the plan, and
    - (ii) at intervals of not more than 5 years from the date on which the plan was developed or last reviewed.
  - (b) communicate the revised plan to the persons specified in subclause (1) (b).
- (5) This clause does not have effect until 1 September 2006. However, a person who was a licensee immediately before 1 September 2006 must develop the emergency plan before, and ensure that it is implemented on, that date.

Maximum penalty: 250 penalty units.

**67 Responsibility of persons possessing explosives or explosive precursors**

- (1) A person who has received explosives or explosive precursors under the authority of a licence must:

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- (a) place and store them in a secure store inaccessible to persons not authorised under a licence to possess those explosives or explosive precursors, or
    - (b) place and store them under his or her immediate supervision or cause them to be placed and stored by, and under the immediate supervision of, a person authorised to possess those explosives or explosive precursors under a licence.
  - (2) A person who removes for use any explosives or explosive precursors from a secure store referred to in subclause (1) (a), must:
    - (a) until they are used, or placed in a secure store:
      - (i) keep them under his or her immediate supervision, or
      - (ii) cause them to be kept by, and under the immediate supervision of, another person who is authorised to possess those explosives or explosive precursors under a licence, and
    - (b) immediately after the use of any of the explosives or explosive precursors place, or cause to be placed, in a secure store, any of the explosives or explosive precursors that were not used.

Maximum penalty: 250 penalty units.

#### **68 Misuse of explosives and explosive precursors**

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

Maximum penalty: 250 penalty units.
- (2) This clause does not apply to a person who is appropriately qualified or experienced in the use of those explosives or explosive precursors, if the person is conducting research at a commercial laboratory or university or other research institution.

#### **69 Interference with signs and labels**

A person must not wilfully pull down, erase, mutilate or otherwise interfere with a sign, label or marking erected, fixed or made in relation to the control or regulation of explosives or explosive precursors.

Maximum penalty: 250 penalty units.

#### **70 Handling of explosives and explosive precursors in certain work**

- (1) A person who carries out an activity to which any of the following standards or codes applies must ensure the activity is carried out in compliance with that standard or code:

- (a) in relation to explosives:
    - (i) AS 2187, *Explosives—Storage, transport and use*, as in force from time to time,
    - (ii) the Australian Explosives Code, and
  - (b) in relation to explosive precursors—the ADG Code.
- Maximum penalty: 250 penalty units.
- (2) A provision of this Regulation prevails over any inconsistent provision of a standard or code.

**71 Fire hazards—general**

A person must not:

- (a) take any substance or article or thing liable to spontaneous ignition or liable to cause fire or explosion into, or within 10 metres of, a place where explosives are stored, or
- (b) smoke or conduct any other activity that may generate an ignition source in, or within 10 metres of, a place where explosives are stored.

Maximum penalty: 250 penalty units.

**72 Entry to a place specified in a licence to manufacture or licence to store explosives or explosive precursors**

- (1) A person must not enter, or remain in or on, a place authorised under a licence to manufacture or store explosives or explosive precursors, or any part of, or any building in or on, such a place unless he or she is authorised to do so by the licensee or by or under an Act or a regulation.
- Maximum penalty: 250 penalty units.
- (2) If a person enters, or remains in or on, any place or part of a place, or any building contrary to subclause (1), any of the following persons may request him or her to leave the place or part of the place or the building and, if he or she fails to do so immediately after being so requested, may remove him or her by the use of such reasonable force as is necessary for the purpose:
    - (a) the licensee,
    - (b) an employee of the licensee,
    - (c) a person acting with the authority of the licensee,
    - (d) an inspector,
    - (e) a police officer.



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**73 Unauthorised use of distress signals**

A person must not use a distress signal other than as a distress signal unless the person is authorised to do so by a pyrotechnician's licence or a fireworks (single use) licence.

Maximum penalty: 250 penalty units.

**74 Prohibition on retail sale of distress signals, power device cartridges or ammunition**

- (1) A person must not sell a distress signal, power device cartridge or ammunition by retail unless the person is satisfied the purchaser is over the age of 18 years and is a bona fide user of distress signals, power device cartridges or ammunition.

Maximum penalty: 250 penalty units.

- (2) In this clause:

***bona fide user of distress signals*** means a person who:

- (a) is seeking to purchase the distress signals for use as a safety device on a vessel, or
- (b) holds a pyrotechnician's licence or a fireworks (single use) licence.

***bona fide user of power device cartridges*** means a person who is seeking to purchase the power device cartridges for use with an explosive-powered tool.

***bona fide user of ammunition*** means a person who holds a firearms licence under the *Firearms Act 1996*.

**75 Serious incidents involving explosives**

- (1) In this clause, ***serious incident*** means:

- (a) an uncontrolled explosion or fire, or
- (b) an incident resulting in the death of, or serious injury to, a person or in substantial damage to property, or
- (c) any other incident involving risk of an uncontrolled explosion or fire or of any such death, injury or damage.

- (2) If there is a serious incident involving or related to the handling of any explosives or explosive precursors to which a licence relates, the licensee must give the regulatory authority notice of the incident and give full particulars of the incident including, if it has resulted in the death of or serious injury to a person or substantial damage to property, particulars of that death, injury or damage.

**Note.** The regulatory authority in relation to coal workplaces and mining workplaces is the Director-General of the Department of Industry and Investment: see clause 6.

- (3) The notice must be given as soon as practical after the licensee becomes aware of the incident.
- (4) Notice required to be given under this clause must be given in any of the following ways:
  - (a) by electronic communication (using a mode of electronic communication approved by the regulatory authority),
  - (b) by telephone to the regulatory authority, giving such information as may be requested of the caller.
- (5) The licensee concerned must take measures to ensure that the following areas are not used, interfered with or disturbed after the serious incident:
  - (a) the area within a radius of 4 metres of the place where the serious incident occurred, and
  - (b) the area within a radius of 4 metres of a place affected by the serious incident.
- (6) Subclause (5) does not prevent any action:
  - (a) to help or remove a trapped or injured person or to remove a body, or
  - (b) to avoid injury to a person or damage to property, or
  - (c) for the purposes of any police investigation, or
  - (d) in accordance with a direction or permission of an inspector.
- (7) The requirements of subclause (5) in relation to any particular serious incident apply only for the period ending 36 hours after notice of the incident is given.
- (8) Subclause (2) does not apply to a serious incident or dangerous occurrence that has been notified under the *Occupational Health and Safety Regulation 2001*.  
Maximum penalty: 250 penalty units.

**76 Explosives to be manufactured only in purpose designed and constructed buildings and areas**

A person who is a holder of a licence to manufacture must not manufacture explosives, or prepare for the manufacture of explosives, in any building or any area that has not been designed and constructed to minimise the consequences of an accidental explosion.

Maximum penalty: 250 penalty units.

**77 Storage of certain detonators**

A person must store detonators of Classification Code 1.4 only in a package that has been manufactured for the purpose of holding such detonators.

Maximum penalty: 250 penalty units.

**78 Storage or transport of explosives of more than one hazard division together**

- (1) A person who stores or transports an explosive of one hazard division with an explosive of another hazard division must determine the precedence of hazard division of the explosives in accordance with subclauses (2), (3) and (4).

Maximum penalty: 250 penalty units.

- (2) The precedence of hazard division of explosives of two different hazard divisions is the hazard division determined by taking the hazard division of one explosive in the vertical hazard division column of the Table to this subclause, and the hazard division of the other explosive in the horizontal hazard division column of the Table, and reaching the place in the Table that the two columns intersect.

**Table—Determination of precedence of hazard division**

<b>Hazard division</b>	<b>1.1</b>	<b>1.2</b>	<b>1.3</b>	<b>1.4</b>	<b>1.5</b>	<b>1.6</b>
<b>1.1</b>	1.1	1.1	1.1	1.1	1.1	1.1
<b>1.2</b>	1.1	1.2	1.1	1.2	1.1	1.2
<b>1.3</b>	1.1	1.1	1.3	1.3	1.1	1.3
<b>1.4</b>	1.1	1.2	1.3	1.4	1.5	1.6
<b>1.5</b>	1.1	1.1	1.1	1.5	1.5	1.5
<b>1.6</b>	1.1	1.2	1.3	1.6	1.5	1.6

- (3) If explosives of more than two hazard divisions are present together, the precedence of hazard division of those explosives is determined by taking any two of those hazard divisions and determining their precedence of hazard division in accordance with subclause (2), then taking that collective hazard division and another of the hazard divisions and determining their precedence of hazard division in accordance with subclause (2) and then continuing this process until all hazard divisions present have been considered.
- (4) Different types of articles of hazard division 1.6:

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- (a) if it is proved by testing or analogy that there is no additional risk of sympathetic detonation between the articles—are to be stored or transported together as hazard division 1.6 only, or
  - (b) in all other cases—are to be treated as hazard division 1.1.

**79 Explosives to be packaged and marked in accordance with the Australian Explosives Code**

- (1) A person licensed to manufacture explosives must ensure that, before any explosives are supplied or used, they are packaged and marked in accordance with the applicable requirements of the Australian Explosives Code.  
Maximum penalty: 250 penalty units.
- (2) A person must not import, supply, store or transport any explosive unless the explosive is packaged and marked in accordance with the applicable requirements of the Australian Explosives Code.  
Maximum penalty: 250 penalty units.
- (3) The markings referred to in subclauses (1) and (2) must be in the English language.
- (4) Subclauses (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 or place where they are being manufactured, or
  - (b) for use at, and are not to be transported beyond the boundaries of, the premises or place where they were manufactured, but only if the containers are clearly and conspicuously marked with the name of the contents, or
  - (c) blasting explosives that are manufactured at the place at which they are about to be used, or
  - (d) bulk explosives being transported in compliance with the provisions of the Australian Explosives Code, or
  - (e) distress signals, power device cartridges or ammunition that do not exceed 5 kg and are to be or are being stored or transported by a person for that person's own use.
- (5) Subclause (2) does not prevent explosives that have been imported from being transported from an airport or a wharf to a place specified in a licence for the purposes of packaging and marking in accordance with the applicable requirements of the Australian Explosives Code.
- (6) In this clause, *marking* includes labelling.

**80 Keeping explosives in magazines**

- (1) A licensee who stores explosives must ensure that:

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- (a) any explosives that are not being prepared for use, used or transported are kept in a magazine, and
  - (b) the method of storage (including the design, construction and location of the magazine) is safe, secure and fit for its purpose, and
  - (c) the provisions of AS 2187.1—1998, *Explosives—Storage, transport and use—Storage* are followed in the design, construction and use of the magazine, and
  - (d) the magazine is marked, maintained and used in a manner that provides for the safety of licensee's employees and contractors and members of the public and of property.
- (2) In this clause, **magazine** means a specially constructed store that is used exclusively for the keeping of explosives.  
Maximum penalty: 250 penalty units.

#### **81 Storage and setting of explosives**

- (1) A licensee must ensure that any explosive that cannot be used, or loaded into blast holes, on the day it is prepared for use is:
  - (a) kept in closed, clean, secure containers, packagings or augers, conspicuously labelled "EXPLOSIVES", and
  - (b) kept in a safe and secure storage facility until the explosive can be used, and
  - (c) used as soon as is practicable.
- (2) A person who has set, or caused to be set, an explosive to explode must not leave the explosive unsupervised until it has exploded or been destroyed or rendered harmless.
- (3) An inspector may direct a person who has set, or caused to be set, an explosive to explode to:
  - (a) explode it, or
  - (b) render it harmless, destroy it or otherwise dispose of it in accordance with this Regulation,and the person so directed must not, without reasonable cause, fail to comply with the direction.
- (4) Subclauses (2) and (3) extend to apply in respect of an explosive that has failed to fire or has misfired.
- (5) Subclause (2) does not apply to or in respect of an explosive that is set to explode at a place in connection with any work to which the *Coal Mine Health and Safety Act 2002*, or the *Mines Inspection Act 1901* or

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the *Mine Health and Safety Act 2004* (whichever is in force), while the explosive remains at that place.

Maximum penalty: 250 penalty units.

## **Division 2 Provisions relating to transport of explosives**

### **82 Compliance with the Australian Explosives Code**

- (1) A person who transports explosives must comply with any applicable provisions of the Australian Explosives Code and this Regulation.
- (2) A person must not enter into a contract, agreement or arrangement with another person by which that other person agrees to transport explosives otherwise than in accordance with this clause.

Maximum penalty: 250 penalty units.

### **83 Compliance with duties in Australian Explosives Code**

- (1) If the Australian Explosives Code imposes a duty or responsibility but does not indicate clearly the person, or class of people, on whom that duty or responsibility falls or lies, the duty or responsibility must be observed or discharged (as the case requires) by the person undertaking the relevant activity.
- (2) If, under the Australian Explosives Code, a duty or some other form of responsibility, is placed on more than one person or class of people, the duty or obligation must be observed or discharged (as the case requires) by each person or each person in that class only in relation to those matters in respect of which the person has management or control and whether or not any other person is also responsible for undertaking the duty.
- (3) A licensee under the Act, and any person who manages or supervises the transport of explosives, must ensure that any person employed, engaged or otherwise involved in the transport of explosives who is employed or engaged by the licensee or the person managing or supervising that transport:
  - (a) is appropriately trained in the relevant requirements of the Australian Explosives Code, and
  - (b) as far as is practicable, complies with the applicable requirements of the Australian Explosives Code.

Maximum penalty: 250 penalty units.

### **84 Avoidance of fire and other risks**

- (1) A person transporting explosives by vehicle must ensure that, while the explosives are being carried in or on the vehicle, they are kept away

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from anything, whether in or on the vehicle or elsewhere, that would be liable to cause them to ignite or explode.

- (2) A person must not smoke in or on, or within 6 metres of, a vehicle in or on which explosives are being carried and on which signs that are required by the Australian Explosives Code to be exhibited are displayed.
- (3) The person in charge of such a vehicle must take all practicable steps to ensure that subclause (2) is not contravened by any other person.

Maximum penalty: 250 penalty units.

#### **85 Stationary vehicles deemed to be transporting explosives**

For the purposes of this Regulation, a stationary vehicle (whether a motor vehicle or a unit of rail rolling stock) that holds, contains or is otherwise loaded with explosives is taken to be transporting explosives and is subject to the applicable requirements of the Australian Explosives Code unless otherwise provided by that Code.

#### **86 Prohibition on transport of explosives by vehicles in certain areas**

- (1) A person must not transport an explosive in or on a motor vehicle in a quantity greater than the maximum load limit for the explosive as set out in the Australian Explosives Code in or on any of the following areas, roads or districts:
  - (a) the area of the State west of the eastern boundary of the Newell Highway,
  - (b) the roads on a more or less direct route from the Newell Highway to the following:
    - (i) the Port of Yamba via Jackadgery,
    - (ii) the Port of Newcastle,
    - (iii) the Hunter Valley via Merriwa,
    - (iv) the Woodlawn Mining District via Hay,
  - (c) the roads on a more or less direct route from the Newell Highway to the following Commonwealth of Australia defence facilities:
    - (i) the Singleton Military Area,
    - (ii) Myambat (being the Defence Establishment facility) via Muswellbrook,
    - (iii) Wallangarra (being the Australian Defence Force Explosive Ordnance Depot Jennings) via Glen Innes and Tenterfield,
    - (iv) Orchard Hills (being the Defence Establishment facility),
    - (v) Williamstown (being a RAAF base),

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- (vi) Nowra (being HMAS Albatross),
  - (vii) Eden (being the Australian Defence Force Explosive Ordinance Depot Twofold Bay).
- (2) A person must not transport more than 10 tonnes of explosives of Class 1.1 or Class 1.2 in or on a vehicle in the area of the State east of the eastern boundary of the Newell Highway, except:
- (a) on the roads referred to in subclause (1) (b) and (c), or
  - (b) with the approval of the regulatory authority.
- (3) A person must not transport explosives of Class 1.1, 1.2 or 1.5 in or on a vehicle in the following districts, on the following bridges or in the following road tunnels except with the approval of the regulatory authority:
- (a) the Central Business Districts of Sydney, North Sydney, Penrith, Newcastle and Wollongong,
  - (b) the Sydney Harbour Bridge, the Anzac Bridge and the Gladesville Bridge,
  - (c) any road tunnels in the Greater Sydney Metropolitan Area.
- (4) The regulatory authority may not grant approval to transport more than 6 tonnes of explosives of Class 1.1 or 1.2 in or on a vehicle in the districts, on the bridges or in the road tunnels referred to in subclause (3).
- (5) A person carrying explosives of Class 1.1, 1.2 or 1.5 in or on a vehicle must bypass the Central Business Districts of Sydney, North Sydney, Penrith, Newcastle and Wollongong and the main shopping areas of any other city or of any town whenever it is practicable and no less safe to do so.
- (6) In this clause:
- Central Business District**, in relation to Sydney, North Sydney, Penrith, Newcastle and Wollongong, means the areas defined by the boundaries of postcodes 2000, 2060, 2750, 2300 and 2500, respectively.
- Greater Sydney Metropolitan Area** means the area constituted by the local government areas of Ashfield, Auburn, Bankstown City, Baulkham Hills, Blacktown City, Botany Bay City, Burwood, Camden, Campbelltown City, Canada Bay, Canterbury City, Fairfield City, Hawkesbury City, Holroyd City, Hornsby, Hunter's Hill, Hurstville City, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool City, Manly, Marrickville, Mosman, North Sydney, Parramatta City, Penrith City, Pittwater, Randwick City, Rockdale City, Ryde City, Strathfield, Sutherland Shire, City of Sydney, Warringah, Waverley, Willoughby City and Woollahra.



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Maximum penalty: 250 penalty units.

**87 Carriage of explosives on public passenger vehicles**

- (1) A person must not:
- (a) carry explosives, or cause explosives to be carried, in or on a public passenger vehicle, or
  - (b) place explosives, or take explosives with him or her, in or on a public passenger vehicle.

Maximum penalty: 250 penalty units.

- (2) This clause does not apply to the following:
- (a) toy fireworks,
  - (b) police officers acting in the course of their functions,
  - (c) a member of staff of a rail authority (within the meaning of the *Transport Administration Act 1988*), in relation to railway track signals.
- (3) In this clause, **public passenger vehicle** means a vehicle or vessel that transports or may transport persons and is available for use by the public.

**88 Requirements for explosives held in rail yards or sidings**

If any units of rail rolling stock containing explosives are held at a rail yard or siding, the person controlling the rail yard or siding must comply with the following requirements:

- (a) the maximum amount of explosive of any hazard division (except hazard division 1.4) per unit must not exceed 40,000 kg NEQ,
- (b) explosives must not be kept in the rail yard or siding:
  - (i) for longer than 2 consecutive days, or
  - (ii) for longer than 4 days if a weekend or public holiday occurs between 2 consecutive working days.

Maximum penalty: 250 penalty units.

**89 Separation distances in Australian Explosives Code applicable to explosives held in rail yards or sidings**

If a rail vehicle containing explosives is held at a rail yard or siding, the person controlling the rail yard 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 in the Australian Explosives Code.

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**Division 3      Disposal of explosives****90   Explosives not to be discarded**

A person must not throw away, bury or discard explosives.

Maximum penalty: 250 penalty units.

**91   Explosives must be disposed of safely**

- (1) A person disposing of explosives must:
  - (a) ensure that the method of disposal used provides the greatest degree of safety possible, and
  - (b) ensure that the method of disposal is appropriate to the type of explosives and the condition of the explosives, and
  - (c) take adequate precautions against causing injury to any person or damage to any property, and
  - (d) if an appropriate and safe method of disposal is not known, seek and act according to the advice of the manufacturer or the regulatory authority.
- (2) A person may render harmless, destroy or otherwise dispose of blasting explosives only in accordance with AS 2187.2—1993, *Explosives—Storage, transport and use—Use of explosives*.  
Maximum penalty: 250 penalty units.

**92   Only licensed people may dispose of certain explosives**

- (1) A person must not dispose of blasting explosives unless the person is licensed to use that type or types of blasting explosives, or the person is under the direct supervision of such a person.
- (2) A person may dispose of fireworks only in accordance with the instructions of the supplier, manufacturer or the regulatory authority.  
Maximum penalty: 250 penalty units.

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## **Part 6 Miscellaneous**

### **Division 1 Exemptions**

#### **93 Exemptions for particular persons on application**

- (1) A person may apply in writing to the regulatory authority for an exemption from any provision of this Regulation.
- (2) On receipt of the application, the regulatory authority:
  - (a) may, by order in writing, exempt the person from a specified provision of this Regulation if it is satisfied that:
    - (i) the person is capable of achieving at least an equivalent level of safety and security as would be achieved if the provision had been complied with, or
    - (ii) the application of the provision to the person is inappropriate or unnecessary in the circumstances, or
  - (b) may dismiss the application.
- (3) An exemption under this clause may be given unconditionally or subject to such conditions as the regulatory authority considers appropriate and specifies in the order.
- (4) Unless withdrawn, an exemption under this clause has effect for such period (not exceeding 5 years) as is specified in the exemption. If no such period is specified, the exemption has effect for a period of 5 years after it is granted.
- (5) The regulatory authority may withdraw an exemption under this clause if it is satisfied that the withdrawal is justified on safety or security grounds.

#### **94 Exemptions for classes of persons or things**

- (1) The regulatory authority may, by order published in the Gazette, exempt any class of persons or things from a specified provision of this Regulation.
- (2) An exemption under this clause may be unconditional or subject to such conditions as the regulatory authority considers appropriate and specifies in the order.
- (3) Unless withdrawn, an exemption under this clause has effect for such period (not exceeding 5 years) as is specified in the exemption. If no such period is specified, the exemption has effect for a period of 5 years after it is granted.

- (4) The regulatory authority may, before granting an exemption under this clause, give notice of the proposed exemption to such persons or bodies as it considers appropriate.
- (5) The regulatory authority may withdraw an exemption under this clause if it is satisfied that the withdrawal is justified on safety or security grounds.

#### **95 Register of exemptions**

- (1) The regulatory authority is required to keep and make available for public inspection a register of all exemptions granted under this Division that are in force.
- (2) The regulatory authority is not required to include in the register confidential personal information about an individual or information relating to manufacturing or commercial secrets or working processes.

#### **96 Phasing out of former exemptions**

Any exemption given, issued or made in relation to explosives under the *Dangerous Goods Act 1975* continues in force but ceases to have effect at the end of the period of 12 months after the commencement of this Regulation.

### **Division 2 General**

#### **97 Activities in port areas do not require a licence**

- (1) Despite clause 15, a person is not required to be authorised by a licence to handle an explosive or explosive precursor in a port operational area under the control of a port authority.
- (2) In this clause:

**port authority** means a body established under Part 2 or 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

**port operational area** means the land and sea, including the fixed facilities and vessels, located in any area defined in Schedule 1 to the *Ports Corporatisation and Waterways Management Regulation 2002* and includes any berths adjacent to such an area.

#### **98 Specific exemption relating to manufacture and research and development involving unauthorised explosives**

Clause 9 does not apply to any holder of a licence to manufacture, and any person employed or engaged by a holder of that licence, in relation to the handling of unauthorised explosives in the course of the manufacture of, or research and development into, explosives.

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**99 Certain powers of inspectors and police officers**

- (1) An inspector or police officer may direct a person to do any of the following:
  - (a) to remove a hazard to an explosive or explosive precursor (such as an ignition source),
  - (b) to dispose of unsafe explosives in a safe manner,
  - (c) to remove a person from premises where that person's presence is contrary to a security plan,
  - (d) to institute immediate interim security arrangements to ensure the security of any premises,
  - (e) to do any other activity or thing that, in the opinion of the inspector or police officer, is necessary to ensure the safety or security of any persons or property arising from the handling of explosives or explosive precursors.
- (2) A person must comply with a direction under this clause.  
Maximum penalty: 250 penalty units.

**100 Savings and transitional provisions**

Schedule 1 has effect.

**101 Penalty notice offences and penalties**

- (1) For the purposes of section 34 of the Act:
  - (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
  - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

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## Schedule 1 Savings and transitional provisions

(Clause 100)

### Part 1 Provisions consequent on enactment of the Act

#### 1 Definition

In this Part, *former Act* means the *Dangerous Goods Act 1975*.

#### 2 Authorised explosives

- (1) An explosive declared under section 16 of the former Act to be an authorised explosive for the purposes of Division 2 of Part 4 of that Act is taken to be an authorised explosive for the purposes of this Regulation.
- (2) The regulatory authority is to record the particulars of all such explosives in the register required to be established and maintained under clause 8 of this Regulation.

#### 3 Inspectors

- (1) A person appointed as an inspector of dangerous goods under section 6 of the former Act and holding office on the repeal of the former Act is taken to have been appointed as an inspector under the Act.
- (2) A written authority issued to the inspector appointed under the former Act as evidence of that appointment is taken to be an identification card issued under this Act until its replacement under the Act, and may be used by the inspector even though it refers to provisions of the former Act.
- (3) Subclauses (1) and (2) do not apply a person who has been appointed as an inspector of dangerous goods under the former Act only in relation to a mine or mines.

#### 4 Deemed refusal of application for licence: section 24 (2)

For the purposes of section 24 (2) of the Act, in relation to any application for the grant of a licence made on or after 1 September 2005 but before 1 January 2006, the application is taken to have been refused if the licence is not granted within 120 days after the application was duly made.

#### 5 Employees and contractors of holders of existing licences and permits

A person who is under the direction or control (for example, as an employee or contractor) of a holder of an existing licence or existing permit (being a licence or permit that continues to operate after the

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commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act) is not required to be authorised by a licence under this Act to handle explosives, but only if:

- (a) the existing licence or existing permit is still in force, and
- (b) the handling of the explosives is under the direction or control (for example, in the course of that employment or in accordance with the contract concerned) of the holder of the existing licence or existing permit.

**6 Transitional provision—supply of security sensitive ammonium nitrate**

- (1) This clause ceases to have effect on 1 January 2006.
- (2) A person (*the supplier*) must not supply any security sensitive ammonium nitrate to another person (*the receiver*) unless:
  - (a) the supplier is satisfied that the receiver has a legitimate reason for receiving the security sensitive ammonium nitrate, and
  - (b) the receiver produces to the supplier proof of identity of the receiver (such as a passport or a motor vehicle driver licence issued in Australia that displays a photograph of the person), and
  - (c) the receiver:
    - (i) is the holder of a shotfirer's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act, or
    - (ii) is the holder of an explosives user's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act (including any certificate of competency as a powderman in force that was taken to be an explosives user's permit), or
    - (iii) has an account with the supplier and payment for the supply is made through the account, or
    - (iv) has been supplied with security sensitive ammonium nitrate by the supplier on more than one occasion in the past.

Maximum penalty: 250 penalty units.

- (3) The supplier must keep a record, in accordance with this clause, of each supply of security sensitive ammonium nitrate.
- (4) The record must include the following information:
  - (a) the date of supply,
  - (b) the name, address and telephone number of the person to whom the security sensitive ammonium nitrate is supplied,

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- (c) details of the matters referred to in subclause (2) (a), (b) and (c),
  - (d) the name, address and telephone number of the person in whose premises the security sensitive ammonium nitrate is to be stored,
  - (e) the kind and quantity of the security sensitive ammonium nitrate supplied.
- (5) The supplier must keep for at least 5 years after each supply the record made in relation to a particular supply of security sensitive ammonium nitrate.  
Maximum penalty (subclauses (3)–(5)): 10 penalty units.
- (6) The supplier must make all supply records made under this clause available for examination at the direction of an inspector or police officer. The records must be made available as soon as is reasonably practicable but no later than 7 days after the direction is given.  
Maximum penalty: 10 penalty units.
- (7) A *legitimate reason* for receiving security sensitive ammonium nitrate includes for the purpose of:
- (a) use in commercial production processes, mining, quarrying, agricultural blasting, construction, civil engineering, seismic work or tunnelling, or
  - (b) the commercial manufacture of fertiliser or explosives, or
  - (c) education, research or analysis, or
  - (d) commercial agricultural use by primary producers, or
  - (e) transporting or supplying security sensitive ammonium nitrate for any purpose listed above,
- but does not include receiving security sensitive ammonium nitrate for the purpose of:
- (f) household domestic use, or
  - (g) use as a fertiliser on outdoor recreation facilities (such as parks, golf courses, sports fields and the like).

**7 Handling of security sensitive ammonium nitrate by certain licence holders**

- (1) This clause ceases to have effect on 1 September 2006.
- (2) A person who holds any of the following permits is not required to be authorised by a licence under the Act to use any amount of security sensitive ammonium nitrate in a day, or to possess and store not more than 50 kg of security sensitive ammonium nitrate overnight, while that permit continues in force:



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- (a) a shotfirer's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act,
  - (b) an explosives user's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act (including any certificate of competency as a powderman in force that was taken to be an explosives user's permit).
- (3) A person who holds an existing licence that authorises the keeping of explosives in a magazine or the keeping of Class 5.1 dangerous goods is not required to be authorised by a licence under the Act to possess or store security sensitive ammonium nitrate while that licence continues in force.
  - (4) A person who holds an existing licence that authorises the manufacture of explosives is not required to be authorised by a licence under the Act to handle security sensitive ammonium nitrate while that licence continues in force.

#### **8 Continuation of shotfirers authorisations**

- (1) This clause ceases to have effect on 1 September 2006.
- (2) A person who, immediately before the commencement of this clause, was authorised under the *Coal Mines Regulation Act 1982* or the *Mines Inspection Act 1901* to carry out the functions of a shotfirer is not required to be authorised by a licence under the Act to handle explosives or explosive precursors while that authorisation continues in force.

## Schedule 2 Penalty notice offences

(Clause 101)

Column 1 Provision	Column 2 Penalty
<b>Offences under the Act</b>	
Section 6—in relation to an offence committed by a corporation	\$2,000
Section 6—in relation to an offence committed by an individual	\$1,000
Section 7—in relation to an offence committed by a corporation	\$2,000
Section 7—in relation to an offence committed by an individual	\$1,000
Section 8—in relation to an offence committed by a corporation	\$2,000
Section 8—in relation to an offence committed by an individual	\$1,000
Section 9	\$1,000
Section 15	\$1,000
Section 18	\$1,000
Section 23	\$200
Section 28—in relation to an offence committed by a corporation	\$2,500
Section 28—in relation to an offence committed by an individual	\$800
Section 35	\$200
<b>Offences under this Regulation</b>	
Clause 9	\$1,000
Clause 10	\$2,000
Clause 41 (5)	\$1,000
Clause 43 (4)	\$1,000
Clause 43 (5)	\$1,000
Clause 60	\$1,000
Clause 63 (1)	\$200
Clause 63 (2)	\$100
Clause 64	\$1,000
Clause 65	\$1,000
Clause 66	\$1,000

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Clause 67	\$1,000
Clause 68	\$1,000
Clause 69	\$1,000
Clause 70	\$1,000
Clause 71	\$500
Clause 72	\$1,000
Clause 73	\$1,000
Clause 74	\$1,000
Clause 75	\$1,000
Clause 76	\$1,000
Clause 77	\$1,000
Clause 78	\$1,000
Clause 79	\$1,000
Clause 80	\$1,000
Clause 81	\$1,000
Clause 82	\$1,000
Clause 83	\$1,000
Clause 84 (1)	\$1,000
Clause 84 (2)	\$500
Clause 84 (3)	\$500
Clause 86	\$1,000
Clause 87	\$1,000
Clause 88	\$1,000
Clause 90	\$1,000
Clause 91	\$1,000
Clause 92	\$1,000
Clause 99	\$1,000

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## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

## Table of amending instruments

Explosives Regulation 2005 (527). GG No 110 of 1.9.2005, p 6764. Date of commencement, 1.9.2005, cl 2. This Regulation has been amended as follows:

<b>2005</b> No 98	Statute Law (Miscellaneous Provisions) Act (No 2) 2005. Assented to 24.11.2005. Date of commencement of Sch 2.24, assent, sec 2 (2).
<b>2006</b> (786)	Explosives Amendment (Coal Operations) Regulation 2006. GG No 189 of 22.12.2006, p 11692. Date of commencement, 23.12.2006, cl 2.
<b>2007</b> No 27	Statute Law (Miscellaneous Provisions) Act 2007. Assented to 4.7.2007. Date of commencement of Sch 4, assent, sec 2 (2).
(536)	Explosives Amendment (Mines) Regulation 2007. GG No 167 of 9.11.2007, p 8322. Date of commencement, on gazettal.
<b>2010</b> No 59	Statute Law (Miscellaneous Provisions) Act 2010. Assented to 28.6.2010. Date of commencement of Sch 2.29, 9.7.2010, sec 2 (2).

## Table of amendments

Cl 3	Am 2007 (536), Sch 1 [1]; 2010 No 59, Sch 2.29 [1].
Cl 6	Am 2006 (786), Sch 1 [1] [2]; 2007 (536), Sch 1 [2] [3]; 2010 No 59, Sch 2.29 [2].
Cl 15	Am 2007 (536), Sch 1 [4]; 2010 No 59, Sch 2.29 [2].
Cl 39	Am 2007 (536), Sch 1 [5]; 2010 No 59, Sch 2.29 [2].
Cl 53	Am 2007 No 27, Sch 4.13.

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Cl 75	Am 2007 (536), Sch 1 [6]; 2010 No 59, Sch 2.29 [2].
Cl 81	Am 2007 (536), Sch 1 [7].
Sch 1	Am 2005 No 98, Sch 2.24.