

## Authorised Version

# Dangerous Goods (Explosives) Regulations 2022

S.R. No. 41/2022

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## **Authorised Version**

STATUTORY RULES 2022

S.R. No. 41/2022

*Dangerous Goods Act 1985*

### **Dangerous Goods (Explosives) Regulations 2022**

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: 7 June 2022

Responsible Minister:

INGRID STITT  
Minister for Workplace Safety

ALEXANDRA DEBELJAKOVIC  
Clerk of the Executive Council

## **Part 1—Preliminary**

### **Division 1—General**

#### **1 Objectives**

The objectives of these Regulations are—

- (a) to provide for the safety of persons and property in relation to the manufacture, storage, sale, transport, use, disposal and import of explosives; and
- (b) to provide for the management of risks arising out of security concerns associated with explosives; and
- (c) to provide for the safe location of vessels containing explosives while in port; and
- (d) to prohibit the misuse of explosives; and

(e) to prescribe matters for the purposes of the Act.

## 2 Authorising provision

These Regulations are made under section 52 of the **Dangerous Goods Act 1985**.

## 3 Commencement

These Regulations come into operation on 18 June 2022.

## 4 Revocation

The Dangerous Goods (Explosives) Interim Regulations 2021<sup>1</sup> are **revoked**.

## 5 Definitions

(1) In these Regulations—

***ammonium nitrate explosive mixture*** means an explosive mixture (which may include a compatible dye or sensitising agent) of—

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

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

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

- (a) AS 2187.0—Part 0: Terminology;

- (b) AS 2187.1—Part 1: Storage;
- (c) AS 2187.2—Part 2: Use of explosives;
- (d) AS 2187.4—Part 4: Pyrotechnics—  
Outdoor displays—

as amended from time to time;

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

***Assessing Fitness to Drive Medical Standards*** means the "Assessing Fitness to Drive for commercial and private vehicle drivers, 2016, Medical standards for licensing and clinical management guidelines", published by Austroads Ltd, as amended from time to time;

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

***authorised explosive*** has the meaning given by section 54(4) of the Act;

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

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

***blasting explosive*** means an explosive that—

- (a) contributes the majority of the work in an explosion; and

- (b) is intended primarily for use in blasting in mining, quarrying, construction, demolition and excavations generally;

**Examples**

A detonator, gunpowder for blasting and any blasting compound.

***blasting explosives licence*** means a licence to use blasting explosives required by regulation 126;

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

***charge***, as the context requires, means—

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

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

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

***Class A protected work*** has the meaning given by AS 2187.0;

***Class B protected work*** has the meaning given by AS 2187.0;

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

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

***Compatibility Group*** means the letter that—

- (a) follows the Hazard Division number in the Classification Code of an explosive; and
- (b) is used to identify the kinds of explosive substances and articles that are taken, as a result of testing, to be compatible for transport or storage purposes;

***consumer firework*** means—

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

**Examples**

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

- (b) a sparkler; or
- (c) a model rocket motor (containing no more than 62.5 g of propellant); or
- (d) any other firework that is registered, defined and classified as a consumer firework under section 54 of the Act;

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

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

***display firework*** means any firework except—

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

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

**Examples**

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

***driver licence*** means a licence (other than a provisional or learner licence) issued under a State or Territory law authorising the licensee to drive a road vehicle;

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

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

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

- (a) ANFO; and



(b) ammonium nitrate explosive mixture;

***explosives driver licence*** means a licence to drive a road vehicle transporting explosives required by regulation 109;

***explosives vehicle licence*** means a licence for a road vehicle to transport explosives required by regulation 109;

***factory*** means any building, part of a building or land used or intended to be used for (or occupied for or in connection with)—

- (a) the manufacture of any explosive; or
- (b) any purpose incidental to or associated with that manufacture;

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

***firework*** means a pyrotechnic device (other than a distress signal) containing an explosive composition that, on functioning, burns or explodes to produce a visual or sound effect;

***firing***, in relation to explosives, includes the act of initiating or attempting to initiate the explosives;

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

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

***freight container*** has the same meaning as in regulation 5 of the Dangerous Goods (Transport by Road or Rail) Regulations 2018<sup>2</sup>;

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

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

**Examples**

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

***industrial safety cartridge*** means a cartridge of Classification Code 1.4S that provides the power to an implement used to drive a stud, pin, dowel, screw, rivet, spike, nail or similar object against, into or through a thing or substance by means of an explosive;

***licence to import explosives*** means a licence required by regulation 167;

***licence to manufacture explosives*** means a licence required by regulation 37;

***licence to sell explosives*** means a licence required by regulation 99;

***licence to store explosives*** means a licence required by regulation 62;

***licence to transport explosives by rail*** means a licence required by regulation 110;

***licence to use fireworks*** means a licence required by regulation 142;

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

***mark*** includes a label;

***misfire*** means a charge or part of a charge that, on firing, fails to function as intended;

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

***modification*** means a change that has the effect of creating a new hazard or increasing the risk associated with an existing hazard and includes—

- (a) a change to any plant, building, storage facility or process, including the introduction of a new process; and
- (b) a change to the quantity of explosives present or likely to be present, including the introduction of any new explosive; and
- (c) a change to the quantity of any other dangerous goods present or likely to be present, including the introduction of any new dangerous goods;

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

***package***, in relation to goods, means the complete product of the packing of the goods for transport, consisting of the goods and their packaging;

***packaging*** means one or more receptacles and any other components or materials necessary for the receptacles to store or carry explosives;

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

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

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

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

**Examples**

Percussion caps, centrefire primers, shotshell primers.

***propellant*** means an explosive adapted and intended for use as a propelling charge in weapons, including such explosives belonging to Classification Codes 1.1C, 1.1D, 1.3C and 1.4C;

**Example**

Gunpowder when in finely granulated form.

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

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

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

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

***reasonably practicable*** means reasonably practicable having regard to—

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

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

***receptacle*** means a container, including a carry box, used to store or carry explosives, but does not include a facility for the storage of explosives exceeding the prescribed quantities as set out in Column 3 of Table 83 in regulation 83;

***road*** has the same meaning as in the **Road Safety Act 1986**;

***road related area*** has the same meaning as in the **Road Safety Act 1986**;

***road vehicle*** means any means of transport by land and includes a trailer and a semi-trailer, but does not include a vehicle consisting of a unit or units of rolling stock;

***safety cartridge*** means a cartridge, of Classification Code 1.4S, for a weapon and includes any cartridge ammunition;

***safety management system*** means a safety management system established and implemented under regulation 38;

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

the Australian Security Intelligence  
Organisation Act 1979 of the  
Commonwealth;

*shotfirer* means a person who holds a blasting  
explosives licence;

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

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

*theatrical firework* means—

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

*unauthorised explosive* means an explosive other  
than an authorised explosive;

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

*use*, in relation to explosives, includes the  
preparation, handling, charging, discharging,  
firing and disposal of explosives;

*vessel* means a ship or a boat;

*vulnerable facility* includes—

- (a) a multi-storey building; and
- (b) a large glass-fronted building; and
- (c) a health care facility, childcare facility  
or school; and
- (d) a public building; and

- (e) a structure of major historical significance; and
  - (f) a facility associated with a major utility service, including water, gas and electricity.
- (2) In these Regulations, any reference to a quantity of explosives is a reference to net explosive quantity (NEQ) unless otherwise stated.

## **Division 2—Application**

### **6 General exemptions**

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

#### **Examples**

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

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

### **7 Detonators of Hazard Division 1.4**

For the purposes of these Regulations, all detonators of Classification Code 1.4B or 1.4S are taken to be detonators of Classification Code 1.1B if they are not in their original unopened packaging.

#### **Note**

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

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

If—

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

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

## **Division 3—Incorporation of external documents**

### **9 Publication date of amendments to AEC**

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

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

### **10 Date of effect of amendments to incorporated documents**

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

- (a) to prohibit an activity, process or thing, the amendment takes effect on the day after it is published, or on any later date specified in the document by which the amendment was made; or



- (b) to impose a new obligation or alter an existing obligation under these Regulations, a person may choose to comply with these Regulations as if the amendment had not been made until the expiry of 12 months after the date on which the amendment takes effect.

**11 Effect of incorporation of AEC or Australian Standards**

If any provision of these Regulations incorporates or adopts by reference the AEC or any Australian Standard, or requires compliance with the requirements of the AEC or any Australian Standard, the incorporation, adoption or required compliance does not include any requirement to obtain any person's approval, or to notify any person of an occurrence, unless that is expressly provided for by these Regulations.

**12 Inconsistencies between provisions**

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

**Division 4—Exemptions**

**13 Quarterly returns of stock-lists not required**

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

**14 Exemption from provisions of these Regulations**

- (1) A person may apply to the Authority for an exemption from compliance with any requirement in these Regulations, except a requirement that a person hold a licence.

- (2) An application for an exemption must—
  - (a) state the provisions from which the exemption is sought; and
  - (b) explain the method by which the applicant intends to ensure that there is a level of health and safety of persons, and a level of safety of property, that is at least equivalent to that which would be achieved by compliance with the provisions.
- (3) The information provided for the purposes of subregulation (2)(b) must include information relating to any risk associated with noise.
- (4) On receiving an application for an exemption, the Authority may—
  - (a) grant the exemption in whole or in part; or
  - (b) refuse to grant the exemption.
- (5) The Authority must not grant an exemption under this regulation unless it is satisfied that—
  - (a) the method explained for the purposes of subregulation (2)(b) is capable in itself, or as supported by conditions imposed under subregulation (7), of achieving a level of health and safety of persons, and a level of safety of property, that is at least equivalent to that which would be achieved by compliance with the provisions; or
  - (b) the provisions that are to be the subject of the exemption are requirements under these Regulations that are—
    - (i) not directly associated with a measure to eliminate or reduce any risk; and
    - (ii) inappropriate or unnecessary in the circumstances.

- (6) An exemption under this regulation must be in writing.
- (7) The Authority may impose conditions on an exemption in relation to any of the following—
  - (a) the commencement and duration of the exemption;
  - (b) the things and activities for which the exemption has been granted;
  - (c) the person or class of persons to whom the exemption has been granted;
  - (d) the premises or class of premises for which the exemption has been granted;
  - (e) the provisions of these Regulations from which the exemption has been granted;
  - (f) requirements to provide further information to the Authority, if relevant to the exemption and reasonably requested by the Authority;
  - (g) the monitoring or recording of systems of work or processes used at the premises exempted or by the person exempted;
  - (h) a requirement that the person exempted give notice of the exemption and of the conditions of the exemption to any specified person or body who may be affected;
  - (i) any other matters that the Authority considers to be appropriate in the circumstances.
- (8) A person to whom an exemption has been granted must comply with each condition imposed on the exemption.

**15 Authority may grant class exemptions on its own initiative**

- (1) The Authority may on its own initiative grant an exemption from any provision of these Regulations in respect of a class of activities, premises, licensees or other persons.
- (2) The Authority must not grant an exemption under this regulation unless it is satisfied that—
  - (a) a level of health and safety of persons, and a level of safety of property, will be achieved that is at least equivalent to that which would be achieved by compliance with the provision; or
  - (b) the provision that is to be the subject of the exemption is a requirement under these Regulations that is—
    - (i) not directly associated with a measure to eliminate or reduce any risk; and
    - (ii) inappropriate or unnecessary in the circumstances.
- (3) An exemption under this regulation must be in writing.
- (4) The Authority may impose any of the conditions specified in regulation 14(7) on an exemption granted under this regulation.
- (5) A person to whom an exemption has been granted must comply with each condition imposed on the exemption.
- (6) If the Authority grants an exemption under this regulation, it must publish a notice in the Government Gazette that—
  - (a) states that the exemption has been granted; and

- (b) identifies to whom and to what the exemption applies; and
- (c) identifies the provisions of these Regulations to which the exemption relates; and
- (d) states when the exemption takes effect; and
- (e) includes any other details that the Authority considers to be appropriate.

**16 Power of Authority to amend, suspend or revoke exemptions**

- (1) The Authority may, at any time, amend, suspend or revoke an exemption granted under regulation 14 or 15, either on the request of a person to whom the exemption was granted or on its own initiative.
- (2) The Authority must not amend, suspend or revoke an exemption on its own initiative unless it has—
  - (a) given written notice to any person or class of persons to whom the exemption was granted—
    - (i) advising that the Authority proposes to amend, suspend or revoke the exemption; and
    - (ii) providing written reasons for that proposal; and
    - (iii) inviting the person to make a submission on the proposal, including a submission on the terms of the proposed amendment (if any); and
  - (b) considered any submission that is made in response to the notice.
- (3) If the Authority decides to suspend an exemption, it must give any person or class of persons to whom the exemption was granted written notice that sets out—

- (a) the date and time from which the suspension takes effect; and
  - (b) the date and time at which the suspension ends.
- (4) If the Authority decides to revoke an exemption, it must give any person or class of persons to whom the exemption was granted written notice that sets out the date and time from which the revocation takes effect.
- (5) If the Authority decides to amend, suspend or revoke an exemption granted under regulation 15, it must publish a notice to this effect in the Government Gazette and on a website maintained by the Authority.

#### **17 Refusal of application or request**

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

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

## **18 Partial grant of application or request**

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

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

## **Division 5—Approvals by the Authority**

### **19 Approvals by the Authority**

- (1) On its own initiative or on the application of a person affected by these Regulations, the Authority may approve the following—
  - (a) possession of unauthorised explosives for the purposes of regulation 21(b);
  - (b) industrial laboratories for the purposes of regulation 22(2)(a);
  - (c) research institutions for the purposes of regulation 22(2)(b);
  - (d) places for the use or modification of explosives for the purposes of regulation 22(2)(c);

- (e) maintenance, renovation, repair or reconstruction work for the purposes of regulation 86(3);
  - (f) transport of explosives of Hazard Division 1.1A for the purposes of regulation 111(1)(b);
  - (g) transport of explosives by boat for the purposes of regulation 112(2);
  - (h) transport of explosives by road in or through the Central Business District of Melbourne for the purposes of regulation 119(1);
  - (i) routes within the Melbourne metropolitan area for the purposes of regulation 121(2)(b);
  - (j) forms for the purposes of regulation 147(1), (3) and (5)(a);
  - (k) fireworks for theatrical use for the purposes of regulation 150(1);
  - (l) firing points of fireworks displays for the purposes of regulation 156(2);
  - (m) separation distances for the purposes of regulation 156(3);
  - (n) destruction facilities for the purposes of regulation 166;
  - (o) tests and training courses for the purposes of regulations 182(2)(b) and (c), 189(2)(b) and (c), 190(2)(b)(ii) and (iii) and 192(1)(d)(iii);
  - (p) tanks for the purposes of regulation 188(3)(a);
  - (q) tank designs for the purposes of regulation 216(c).
- (2) An application for an approval referred to in subregulation (1) must be made in writing to the Authority.



- (3) The Authority may require an applicant, by written notice, to give to the Authority any additional information necessary to consider the application.
- (4) The Authority must give written notice of its decision on an application that includes the following—
  - (a) for an approval—
    - (i) the period for which the approval applies; and
    - (ii) any conditions to which the approval is subject;
  - (b) for a refusal of approval, the reasons for that refusal.
- (5) If the Authority approves a matter referred to in subregulation (1) on its own initiative, the Authority must publish notice of the approval on a website maintained by the Authority, unless the approval contains information that is determined by the Authority to be commercially sensitive or otherwise inappropriate to publish.

## **Part 2—Duties applicable to all persons**

### **Notes**

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

### **20 Security of explosives**

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

### **21 Unlawful possession of explosives**

A person must not possess explosives unless—

- (a) in the case of authorised explosives, the person—
  - (i) is authorised to do so under a licence granted under these Regulations; or
  - (ii) is not required by these Regulations to hold a licence; or
- (b) in the case of unauthorised explosives, the person has the Authority's approval.

### **22 Misuse of explosives prohibited**

- (1) A person must not use, modify or attempt to use or modify, or assist another person to use, modify or attempt to use or modify, an explosive to produce an explosive effect other than that for which the particular explosive was designed.
- (2) Subregulation (1) does not apply to a person who is qualified or experienced in the use or modification of the explosive and conducting research at—

- (a) an approved industrial laboratory; or
- (b) an approved research institution; or
- (c) a place approved for the conduct of such activities.

### **23 General fire precautions—ignition sources**

- (1) A person must not place an ignition source, or allow an ignition source to be placed, at a distance from explosives (except properly packaged safety cartridges) that is insufficient to avoid a fire, explosion or other dangerous incident.
- (2) A person must not introduce any ignition source—
  - (a) within 10 m of any point or building where explosives are being handled; or
  - (b) onto a vehicle containing explosives.
- (3) A licensee must not allow a person to introduce any ignition source—
  - (a) within 10 m of any point or building where explosives are being handled; or
  - (b) onto a vehicle containing explosives.
- (4) Subregulations (2)(a) and (3)(a) do not apply to an ignition source needed to fire an explosive charge.
- (5) Subregulations (2)(b) and (3)(b) do not apply in respect of fuel in the fuel tank of any vehicle that complies with the requirements of the AEC.

### **24 Further fire precautions**

- (1) A person must not keep flammable liquids or gases, combustible liquids or other materials that are capable of being ignited easily and of burning strongly within 3 m of exposed or stored explosives.

- (2) Subregulation (1) does not apply in respect of liquids, gases and other materials used in the manufacture of explosives.

**Note**

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

**25 Adequate lighting required**

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

**26 Reporting of injury, property damage and dangerous incidents**

- (1) This regulation applies if—
- (a) explosives are involved in an explosion, fire or other incident that directly or indirectly—
    - (i) causes injury to a person or creates immediate risk to a person's health or safety; or
    - (ii) causes property damage; and
  - (b) any injury or property damage is not due to use of ammunition in a weapon.
- (2) The person in control of the explosives must notify the Authority of the incident immediately on becoming aware of it, unless the person—
- (a) is required to notify the Authority of the incident under Part 5 of the **Occupational Health and Safety Act 2004**; and
  - (b) complies with that requirement.
- (3) In this regulation, *person in control of the explosives* includes the licensee and the occupier of premises where an incident referred to in subregulation (1) occurs.

## **27 Reporting of theft, loss or attempted theft**

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

## **28 Restrictions on people under 18 years of age**

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

## **29 Persons under the influence of alcohol or drugs**

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

### **30 Placement, visibility and maintenance of signs and notices**

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

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

### **31 Removal of signs and notices**

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

## **Part 3—Packaging and marking**

### **Note**

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

### **32 Explosives to be packaged and marked in accordance with the AEC**

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



- (b) for use at, and are not transported from, the premises where they were manufactured, provided that the explosives are in containers that are clearly and conspicuously marked with the name of the contents; or
- (c) cartridge ammunition, distress signals or consumer fireworks, weighing no more than 5 kg in total, being stored or transported by a person for that person's own lawful use; or
- (d) blasting explosives at a place where they are about to be used, provided that regulation 56 is complied with in relation to the containers for the explosives; or
- (e) blasting explosives that are manufactured at premises where they are about to be used; or
- (f) blasting explosives that are being transported in receptacles by a person for that person's own lawful use and are within the relevant quantity limits specified in Table 32.

**Table 32—Blasting explosives for a person's own lawful use**

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

### **33 Duties in relation to the AEC**

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

### **34 Duties of persons who pack explosives**

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

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

## **Part 4—Manufacture**

### **Division 1—Preliminary**

#### **Note**

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

#### **35 Application**

- (1) This Part, other than Division 4, does not apply to the manufacture of cartridge ammunition by a person who—
  - (a) manufactures cartridge ammunition for the person's own use; and
  - (b) holds a firearms licence.
- (2) Division 2 does not apply to the holder of a blasting explosives licence if—
  - (a) the licence authorises the holder to use ANFO; and
  - (b) the holder makes no more than 50 kg of ANFO at a time for the holder's own use.
- (3) A person who operates a major hazard facility that is licensed or registered under the Occupational Health and Safety Regulations 2017<sup>3</sup> is not required to hold a licence to manufacture explosives, but is to be treated in all other respects as holding a licence required under this Part and, unless stated otherwise, is subject to all the duties, obligations and requirements placed on such a licensee by these Regulations.

### **36 Definition**

In this Part—

*manufacture of safety cartridges* includes the following activities—

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

## **Division 2—Licensing and safety management**

### **37 Licence to manufacture explosives**

- (1) A person who manufactures any explosive must hold a licence authorising the person to do so, or be otherwise authorised to do so under these Regulations.
- (2) A licence to manufacture explosives may specify that explosives may be manufactured at—
  - (a) a factory; or
  - (b) a place other than a factory, for the purposes of—
    - (i) making an explosive mixture at or near a place of use; or
    - (ii) making an explosive mixture using an MPU; or
    - (iii) filling and capping safety cartridges for commercial purposes.
- (3) Subregulation (1) does not apply to a person who—
  - (a) is employed by a person who holds a licence required by that subregulation and is authorised by that licensee to undertake work in respect of which the licence was issued; or

- (b) holds a licence, issued under equivalent legislation by a corresponding Authority, authorising that person to make an explosive mixture using an MPU.

**Note**

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

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

**38 Safety management system**

- (1) A licensee authorised to manufacture explosives must establish and implement a safety management system to ensure that the manufacture of explosives is carried out as safely as is reasonably practicable.
- (2) The licensee must ensure that the safety management system—
  - (a) is described in a document that is comprehensible to and readily accessible by persons who may use it; and
  - (b) provides a comprehensive and integrated management system for all aspects of safety measures required under this Part; and
  - (c) sets out—
    - (i) the safety objectives of the safety management system; and
    - (ii) the systems and procedures by which those objectives are to be achieved; and

- (iii) the means by which the licensee will comply with the requirements of this Part; and
  - (d) addresses all the matters specified in Schedule 1 that are relevant to the manufacture of explosives and within the scope of the licence; and
  - (e) includes an emergency plan addressing the matters specified in Schedule 1; and
  - (f) is communicated to all persons who are to participate in the implementation of the safety management system.
- (3) The licensee must ensure that the safety management system is—
- (a) established before the licensee manufactures any explosives; and
  - (b) reviewed and, if necessary, revised—
    - (i) when a modification is made; and
    - (ii) whenever an incident occurs that must be reported under regulation 26 or 27, section 32(1) of the Act or Part 5 of the **Occupational Health and Safety Act 2004**; and
    - (iii) at least once every 5 years.
- (4) Subregulation (1) does not apply to a person who operates a major hazard facility that is licensed or registered under the Occupational Health and Safety Regulations 2017 if a safety management system in place under those Regulations addresses the risks associated with the presence of explosives on the premises.
- (5) Subregulation (1) does not apply to a person who manufactures an explosive mixture at a site using an MPU if a safety management system in place

under the Occupational Health and Safety Regulations 2017 addresses the risks associated with the presence of explosives at the site.

### **39 Safety management system consultation**

- (1) If the premises at which explosives are to be manufactured are a permanent location, a safety management system must provide for consultation with employees at the premises and any contractors who enter the premises in relation to—
  - (a) implementing the safety management system, including the specific procedures that the employees or contractors are required to follow to assist the licensee to implement the safety management system; and
  - (b) the emergency plan required under regulation 38(2)(e).
- (2) The emergency plan required under regulation 38(2)(e) must be developed in consultation with either Fire Rescue Victoria or the Country Fire Authority (whichever is appropriate).

#### **Note**

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

### **40 Records of modifications to be kept**

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

### **41 Authority may require changes to safety management system**

- (1) The Authority may, in writing, direct a licensee to amend any part of a safety management system that it believes does not comply with this Part.

- (2) A licensee must comply with a direction under subregulation (1) within 30 days, or by any later date specified in the direction.
- (3) The Authority must not issue a direction under subregulation (1) unless it has—
  - (a) given the licensee a written notice that—
    - (i) states that the Authority proposes to issue the direction; and
    - (ii) sets out the reasons why it proposes to issue the direction; and
    - (iii) invites the licensee to make a written submission about the Authority's proposed direction; and
  - (b) considered any submission that is made in response to the notice.

**42 Licensees to inform relevant fire authority of licences**

- (1) A licensee authorised to manufacture explosives must provide the following information to the Fire Rescue Commissioner of Fire Rescue Victoria or the Chief Officer of the Country Fire Authority (whichever is appropriate) when the licence is issued, renewed or amended—
  - (a) the name and address of the licensee;
  - (b) the address or location of the premises specified in the licence;
  - (c) the class of the licence;
  - (d) the types of explosives specified in the licence;
  - (e) the maximum quantities of explosives permitted by the licence to be at the premises;



- (f) a site plan of the premises that includes the location of any building or place where—
    - (i) any explosive; or
    - (ii) any ingredient or component for the manufacture of explosives that, by itself or when mixed with any other substance also present in the building or place, has explosive properties or is capable of forming an explosive mixture or compound—  
is present or may be present;
  - (g) the location of manifests, emergency plans and critical controls and interfaces for fire systems.
- (2) If a licence authorising a person to manufacture explosives is suspended or revoked or has otherwise ceased to operate, the person who held the licence must notify the Fire Rescue Commissioner of Fire Rescue Victoria or the Chief Officer of the Country Fire Authority (whichever is appropriate) within 14 days after the licence has ceased to operate.
- (3) This regulation does not apply in respect of a licence to manufacture explosives in an MPU.

#### **43 Separation distances to be maintained**

- (1) A licensee authorised to manufacture explosives must ensure that the relevant separation distances specified in AS 2187.1 are maintained between any building on the premises containing explosives and each of the following—
- (a) any magazine (other than a receptacle);
  - (b) any building on the same site;
  - (c) any protected works;
  - (d) any vulnerable facility.

- (2) For the purposes of subregulation (1), if the explosives in a building on the premises are of more than one Hazard Division, the person must determine the collective Hazard Division in accordance with the AEC.

### **Division 3—Manufacture of explosive mixtures**

#### **44 Authorised person**

For the purposes of this Division, *authorised person* means—

- (a) a licensee authorised to manufacture an explosive mixture; or
- (b) a person authorised by the licensee to control or manage the process of manufacturing an explosive mixture.

#### **45 Explosive mixtures**

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

#### **46 Buildings, structures, appliances and associated equipment for manufacturing explosive mixtures**

A licensee authorised to manufacture an explosive mixture must ensure that—

- (a) buildings or other structures in or on which an explosive mixture is to be manufactured are constructed in accordance with AS 2187.2; and

- (b) processing equipment used for the manufacture of an explosive mixture complies with the requirements of AS 2187.2.

**47 Manufacture of explosive mixtures**

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

**48 Components or ingredients to be kept in marked containers**

A licensee authorised to manufacture an explosive mixture must ensure that all components or ingredients of an explosive mixture are kept in containers that are clearly and conspicuously marked with the name of their contents.

**49 Notice to be displayed**

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

"DANGER"

"EXPLOSIVES"

"NO SMOKING OR FLAME"—

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

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

**50 Other persons to be kept clear**

- (1) An authorised person manufacturing an explosive mixture must ensure that persons who are not engaged in the mixing, carrying, handling or use

of the explosive mixture do not come, or remain within, 10 m of the point where the explosive mixture is being manufactured.

- (2) A person who is not involved in the process of manufacturing an explosive mixture must comply with any reasonable request made by an authorised person for the purpose of subregulation (1).

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

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

### **52 Fire precautions to be observed**

- (1) A licensee authorised to manufacture an explosive mixture must comply with the requirements of AS 2187.2 that relate to fire precautions.
- (2) For the purposes of subregulation (1), a reference in AS 2187.2 to "close proximity" means less than 10 m.

### **53 Disposal of spills and packaging**

An authorised person manufacturing an explosive mixture must ensure that—

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

#### **54 Equipment to be cleaned after use**

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

- (a) any residual trace of the mixture cannot initiate or contribute to an explosion; and
- (b) there is no risk to any subsequent user of the equipment or tools.

#### **55 Precautions to be taken before undertaking repairs or alterations**

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

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

#### **56 Storage of unused explosive mixtures**

A licensee authorised to manufacture explosives must ensure that any explosive mixture that cannot be used or loaded into blast holes on the day it is manufactured is—

- (a) put in closed, clean, non-metallic, leak-proof containers, conspicuously marked "EXPLOSIVE MIXTURE"; and

- (b) stored in accordance with the requirements of Part 5 until the mixture can be used; and
- (c) used as soon as reasonably practicable.

**57 Location of place of manufacture of an explosive mixture**

An authorised person manufacturing an explosive mixture must ensure that the relevant separation distances specified in AS 2187.1 are maintained between the place where the explosive mixture is being manufactured and any—

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

**58 Authorised person not to leave the manufacture unattended**

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

**Division 4—Manufacture of safety cartridges and cartridge ammunition**

**59 Requirements for the manufacture of safety cartridges and cartridge ammunition**

- (1) This regulation applies to the manufacture of—
  - (a) safety cartridges for commercial purposes; and
  - (b) cartridge ammunition for lawful personal use by a person who holds a firearms licence.
- (2) A person who manufactures the cartridges or ammunition specified in subregulation (1) must ensure that—
  - (a) the manufacturing process is carried out safely; and

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

## **Part 5—Storage**

### **Division 1—General provisions**

#### **Note**

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

#### **60 Application**

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

#### **61 Persons storing explosives to comply with requirements**

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

#### **62 Licence to store explosives**

- (1) A person who stores explosives, or allows explosives to be stored, at any premises occupied by that person must hold a licence authorising the person to store explosives of that type and quantity.



**Note**

For the definitions of *premises* and *place*, see section 3(1) of the Act.

- (2) Subregulation (1) does not apply to any of the following—
- (a) the storage of—
    - (i) explosives at premises in respect of which a licence has been issued authorising the manufacture and also the storage of explosives of that type and quantity; or
    - (ii) consumer fireworks in a quantity not more than that specified in Column 2 of Table 83 in regulation 83; or
    - (iii) distress signals in a quantity not more than that specified in Column 2 of Table 83 in regulation 83; or
    - (iv) industrial safety cartridges in a quantity not more than that specified in Column 2 of Table 83 in regulation 83;
  - (b) a person who holds a blasting explosives licence, if the person is only storing explosives—
    - (i) of the type that the person is authorised by that licence to use; and
    - (ii) in a quantity not more than that specified in Column 2 of Table 83 in regulation 83;
  - (c) a person who holds a licence to sell explosives, if the person is only storing explosives—
    - (i) of the type that the person is authorised by that licence to sell; and

- (ii) in a quantity not more than that specified in Column 2 of Table 83 in regulation 83;
- (d) a pyrotechnician, if—
  - (i) the pyrotechnician is only storing fireworks of the type that the pyrotechnician is authorised by licence to use and in a quantity not more than that specified in Column 2 of Table 83 in regulation 83; or
  - (ii) the fireworks specified in the licence are stored in accordance with the requirements set out in Division 5 of this Part and for not more than 7 days;
- (e) a person who is only storing safety cartridges, primers or propellant in quantities not more than that specified in Column 2 of Table 83 in regulation 83.

**Note**

This regulation does not exempt licensees from any other requirements of this Part.

**Division 2—Provisions applying to all storage**

**63 Explosives to be in compliant packaging**

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

#### **64 Explosives to be kept secure**

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

#### **65 Persons to keep storages and receptacles clean**

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

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

**66 Damaged or deteriorated explosives or packages—  
general**

A person who stores explosives must ensure that any damaged, leaking, exuding or defective explosives in a storage specified in the licence are removed as soon as possible after discovery of the damage, leak, exudation or defect and disposed of safely in accordance with regulation 162 and with regard to—

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

**67 Explosives not to be stored in safes or refrigerators**

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

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

- (1) A person who stores explosives of Hazard Division 1.1, 1.2, 1.3, 1.5 or 1.6 must—
  - (a) store the explosives in—
    - (i) a receptacle that complies with regulation 74; and
    - (ii) a building in accordance with regulation 64(1); and
  - (b) ensure that—
    - (i) explosives of more than one Compatibility Group are not stored in the same receptacle; and

- (ii) detonators, capped fuses and other explosives of Classification Code 1.1B are not stored in the same receptacle as any other type of explosive.
- (2) Subregulation (1) does not apply in respect of—
  - (a) distress signals stored in a consumer package; or
  - (b) fireworks stored in their original package.
- (3) Despite subregulation (1)(b)(i)—
  - (a) explosives of Compatibility Group S may be stored with explosives of any other Compatibility Group except Compatibility Group B; and
  - (b) blasting explosives of Classification Code 1.1D or 1.5D may be stored with propellants, plastic igniter cord and fuse lighters.

#### **69 No storage of detonators with other explosives**

A person who stores detonators—

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

#### **70 Storage of safety fuse**

A person who stores safety fuse must ensure that it is kept in a container in a cool and dry place away from petroleum liquids, solvents and other

substances that may penetrate the fuse and affect its burning rate.

### **71 Requirements for construction and maintenance of receptacles**

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

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

### **72 Markings on buildings, rooms and receptacles**

- (1) This regulation applies to a building, room or receptacle within premises that are used to store explosives, except a building at the main entrance of the premises.
- (2) The outside door of the building or room or the lid of the receptacle—
  - (a) must be marked with a Class Label not less than 100 mm<sup>2</sup> in size; and
  - (b) must be marked with the Hazard Division of the explosives stored or, if the explosives are of more than one Hazard Division, their collective Hazard Division determined in accordance with regulation 8; and

- (c) must be marked in conspicuous red letters on a white background with the words "EXPLOSIVES DETONATORS" or "EXPLOSIVES" or "DISTRESS SIGNALS" or "FIREWORKS" or "AMMUNITION" or "PROPELLANT", as appropriate; and
- (d) may also be marked with another term to describe more accurately the explosives in the building, room or receptacle.

### **73 Markings inside receptacles**

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

### **74 Separation of explosives of different Compatibility Groups**

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

### **75 Explosives of different Hazard Divisions**

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

## **Division 3—Duties of all licensees**

### **76 Damaged or deteriorated explosives or packages**

A licensee authorised to store explosives must ensure that—

- (a) any damaged or defective package of explosives in storage is removed; and

- (b) the explosives are repacked and returned to the storage as soon as possible after discovery of the damage or defect.

**Note**

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

**77 Licensee to keep means of access clear**

A licensee authorised to store explosives must ensure that the means of entry to buildings and rooms and access to receptacles in which the explosives are stored are kept clear at all times.

**78 Licensee to keep persons present at storage to a minimum**

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

**Division 4—Emergency response**

**79 Licensees must have an emergency management plan**

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

**80 Firefighting equipment**

- (1) A licensee authorised to store explosives must ensure that firefighting equipment is provided, maintained in good condition and working order and available for immediate use at the storage premises.
- (2) The occupier of storage premises specified in a licence authorising the storage of explosives must ensure that firefighting equipment is provided,



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maintained in good condition and working order and available for immediate use at the storage premises.

### **Division 5—Medium scale storage**

#### **81 Application**

This Division only applies to medium scale storage as defined in regulation 83.

#### **82 Licensees who must comply with this Division**

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

#### **83 Meaning of medium scale storage**

For the purposes of this Division, *medium scale storage* means the storage of explosives of a type listed in Column 1 of Table 83 in a quantity that is—

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

**Table 83—Aggregate maximum quantity by type of explosive in any storage**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of explosive</i>	<i>Maximum quantity for small scale storage</i>	<i>Maximum quantity for medium scale storage</i>
Explosives of Classification Code 1.1D and blasting explosives of Classification Code 1.5D (including gelignite, watergels, emulsions, nitrate mixtures and boosters)	3.5 kg	30 kg

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Part 5—Storage

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of explosive</i>	<i>Maximum quantity for small scale storage</i>	<i>Maximum quantity for medium scale storage</i>
Detonating cord of Classification Code 1.1D	350 m	1000 m
Gunpowder (for blasting) of Classification Code 1.1D	5 kg	20 kg
Propellant gunpowder of Classification Code 1.1D	5 kg	50 kg
Propellants of Classification Code 1.1C, 1.3C and 1.4C	20 kg	100 kg
Detonators of Classification Code 1.1B and 1.4B	125 in number	500 in number
Explosives of Classification Code 1.1B, N.O.S.*	50 g	1 kg
Display fireworks of Classification Code 1.2G, 1.3G and 1.4G	10 kg gross	50 kg gross
Distress signals of Classification Code 1.3G	5 kg	100 kg
Distress signals of Classification Code 1.4G	10 kg	200 kg
Distress signals of Classification Code 1.3G and 1.4G	10 kg in total, not more than 5 kg of which can be Classification Code 1.3G	200 kg in total, not more than 50 kg of which can be Classification Code 1.3G
Explosives of Hazard Division 1.2, N.O.S.*	2.5 kg	10 kg

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

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of explosive</i>	<i>Maximum quantity for small scale storage</i>	<i>Maximum quantity for medium scale storage</i>
Explosives of Hazard Division 1.6	10 kg	50 kg

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

#### **84 General requirements for medium scale storage**

- (1) A person who holds a licence authorising medium scale storage must store the explosives in accordance with this regulation.
- (2) All explosives stored at premises for medium scale storage must be stored in accordance with the following requirements—
  - (a) the explosives must be stored in a building, room or receptacle that—
    - (i) is detached from or outside any building in which persons live; and
    - (ii) if required by the Authority, is designed, barricaded or mounded in accordance with AS 2187.1; and
    - (iii) is not accessible to the public; and
    - (iv) is not used for any purpose other than the storage of explosives; and
    - (v) is kept securely locked, except when it is required to be open for purposes relating to use or management of the explosives;
  - (b) the explosives must be stored as far as is reasonably practicable from the entry points of the building or room in which they are stored;

- (c) the means of entry or access to buildings, rooms and receptacles in which the explosives are stored must be kept clear at all times;
  - (d) the floor and other parts of the building or room in which the explosives are stored must be kept clean and free of extraneous materials;
  - (e) the explosives must be stored in a closed container or packaging that will prevent any escape of the contents;
  - (f) detonators and other explosives of Compatibility Group B must be stored in a separate building, room or receptacle located at least 3 m from any other explosives;
  - (g) if explosives of more than one Compatibility Group are stored in the same building, room or receptacle, the explosives must be separated by a partition or intervening space that will prevent a fire or explosion in the explosives of one Group from communicating with those of another Group.
- (3) Subregulation (2)(g) does not apply if the explosives comprise only Compatibility Groups C, D and E.

### **85 Signs at premises**

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

- (a) be displayed at the main entrance with a Class Label not less than 100 mm<sup>2</sup> in size; and
- (b) show the Hazard Division of the explosives stored or, if the explosives are of more than one Hazard Division, the collective Hazard

Division determined in accordance with regulation 8.

**86 Requirements for construction and maintenance of buildings and rooms**

- (1) A building or room used for medium scale storage must be constructed and maintained in accordance with the following requirements—
  - (a) any steel, brick, stone or concrete on the inside of the building or room must be covered with timber or another suitable non-sparking material;
  - (b) the building or room must be fitted with an effective and secure locking system;
  - (c) all explosives must be removed before maintenance, renovation, repair or reconstruction work is performed on the building or room.
- (2) Subregulation (1)(a) does not apply to a building or room in which the explosives stored are all of Classification Code 1.4S.
- (3) Subregulation (1)(c) does not apply if the Authority has approved the maintenance, renovation, repair or reconstruction work to be performed while the explosives remain in the building or room.

**87 General fire precautions**

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

## **88 Requirements for construction and maintenance of receptacles**

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

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

## **Division 6—Storage above prescribed quantities**

### **89 Application**

- (1) This Division only applies to storage above prescribed quantities as defined in subregulation (3).
- (2) A licensee authorised to store explosives above prescribed quantities must comply with the requirements set out in this Division in addition to the requirements set out in Divisions 1, 2, 3 and 4.
- (3) For the purposes of this Division, *storage above prescribed quantities* means the storage of explosives of a type listed in Column 1 of

Table 83 in regulation 83 in a quantity that is greater than the corresponding quantity in Column 3 of that Table.

**90 Storage to be in accordance with AS 2187.1**

A licensee authorised to store explosives above prescribed quantities must store the explosives in a magazine (other than a receptacle) in accordance with the applicable requirements of AS 2187.1.

**91 Records to be kept**

A licensee authorised to store explosives above prescribed quantities must keep a record, for a period of not less than 5 years, of—

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

**92 Compliance with requirements of AS 2187.1**

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



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

### **93 Lightning protection**

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

### **94 Security fencing for premises used for storage above prescribed quantities**

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

### **95 When separation distances apply**

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

- (a) the quantity authorised under the licence for the storage; or

(b) 200 kg.

**96 Notices to be posted at premises used for storage above prescribed quantities**

A licensee authorised to store explosives above prescribed quantities must ensure that a notice that states the types and maximum quantities of explosives specified in the licence is posted conspicuously on the inside of the entrance to the storage.

**97 Certain licensees to inform relevant fire authority of licences**

- (1) A licensee authorised to store explosives above prescribed quantities must provide the following information to the Fire Rescue Commissioner of Fire Rescue Victoria or the Chief Officer of the Country Fire Authority (whichever is appropriate) when the licence is issued, renewed or amended—
  - (a) the name and address of the licensee;
  - (b) the address or location of the storage specified in the licence;
  - (c) the types of explosives specified in the licence;
  - (d) the maximum quantities of explosives permitted by the licence to be at the storage specified in the licence;
  - (e) a site plan showing the location of the storage.
- (2) If the licence is suspended or revoked or has otherwise ceased to operate, the licensee must notify the Fire Rescue Commissioner of Fire Rescue Victoria or the Chief Officer of the Country Fire Authority (whichever is appropriate) within 14 days after the licence has ceased to operate.

**98 Portable lighting in a storage must not pose threat of ignition**

A licensee authorised to store explosives above prescribed quantities must not use portable lighting in the storage that poses an ignition threat.

## **Part 6—Sale**

### **Note**

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

### **Division 1—General provisions**

#### **99 Licence to sell explosives**

- (1) A person who sells explosives must hold a licence authorising the person to sell explosives.
- (2) Subregulation (1) does not apply in respect of—
  - (a) the sale of consumer fireworks; or
  - (b) the sale of industrial safety cartridges; or
  - (c) the sale of cartridge ammunition by a licensed firearms dealer.

#### **100 Packaging of explosives when sold**

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

#### **101 Place of selling**

- (1) A person must not sell any explosive—
  - (a) on a road or a road related area; or

- (b) at a market, fair or agricultural or other show; or
  - (c) in any other public place; or
  - (d) from a vehicle.
- (2) Subregulation (1) does not apply to a licensee in respect of—
- (a) cartridge ammunition sold at a place specified in subregulation (1)(b) by a licensed firearms dealer; or
  - (b) consumer fireworks.

#### **102 No display of explosives for sale**

- (1) A person must not display explosives for sale on shelves, counters or in windows or other places at premises.
- (2) Subregulation (1) does not apply to a licensee in respect of the following that are contained in a consumer package that has a total weight of less than 25 kg as supplied by the manufacturer—
- (a) cartridge ammunition;
  - (b) consumer fireworks;
  - (c) industrial safety cartridges;
  - (d) distress signals.

#### **103 Damaged or defective explosives not to be sold**

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

### **Division 2—Sale of explosives**

#### **104 Explosives to be sold to authorised persons only**

- (1) A person must not sell explosives to a person who does not hold a licence authorising the person to store, use, sell, transport or manufacture

explosives of the same type as the explosives being sold.

- (2) A person must not sell explosives to a person unless that person satisfies the seller that the person is able to transport the explosives in accordance with the relevant requirements of Division 1 of Part 7.
- (3) This regulation does not apply to a person in respect of the sale of—
  - (a) distress signals in a consumer package, cartridge ammunition, consumer fireworks or industrial safety cartridges; or
  - (b) propellant or primers to a person who holds a firearms licence.

#### **105 Records of purchase or sale of explosives**

- (1) A licensee authorised to sell explosives must make a written record that contains the following information—
  - (a) for each sale of explosives to the licensee—
    - (i) the date of the sale; and
    - (ii) the name, address and telephone number of the person who sold the explosives; and
    - (iii) the type and quantity of the explosives;
  - (b) for each sale of explosives by the licensee—
    - (i) the date of the sale; and
    - (ii) the name, address and telephone number of the person to whom the explosives were sold; and
    - (iii) details of the licence held by that person authorising the person to store, use, sell, transport or manufacture explosives; and

- (iv) the type and quantity of the explosives sold.
- (2) A licensee who is required to make a written record under subregulation (1) must—
  - (a) retain the record for at least 5 years after the date of the sale that it records; and
  - (b) make the record available for examination by an inspector or police officer at the place, or at one of the places, at which sales are made.
- (3) Subregulations (1) and (2) do not apply to a licensee in respect of the sale of cartridge ammunition, consumer fireworks, industrial safety cartridges or distress signals in a consumer package.

#### **106 Duties when purchasing explosives**

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

#### **107 Purchase under authority issued by the Authority**

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

## Part 7—Transport

### Note

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

### Division 1—General

#### 108 Application

- (1) This Part does not apply in respect of distress signals kept on a vessel for safety purposes.
- (2) Nothing in this Part requires an explosives driver licence and explosives vehicle licence to be obtained in relation to transport that is not on a road or a road related area within the meaning of the **Road Safety Act 1986**.
- (3) Despite subregulation (2), any person who transports explosives on a road that is not a road or a road related area within the meaning of the **Road Safety Act 1986** must still comply with this Part in relation to all obligations other than the requirement to obtain those licences.
- (4) Nothing in this Part requires a person who transports explosives of a kind specified in Column 1 of Table 108A, in a quantity not more than the corresponding quantity specified in Column 2 of that Table, to hold a licence under this Part, if—
  - (a) the person—
    - (i) holds a licence to sell explosives; or
    - (ii) holds a blasting explosives licence; or
    - (iii) is a pyrotechnician; or
    - (iv) transports consumer fireworks for the person's own use; or



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

**Table 108A—Maximum quantities where person does not hold a licence to transport by road or rail under Part 7 general requirements, but holds another licence issued under these Regulations**

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

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

- (5) Nothing in this Part requires a person who transports explosives of a kind specified in Column 1 of Table 108B, in a quantity not more than the corresponding quantity specified in Column 2 of that Table, to hold a licence under this Part.

**Table 108B—Maximum quantities for unlicensed transport**

<i>Column 1</i>	<i>Column 2</i>
<i>Kind of explosive transported</i>	<i>Maximum quantity (when transported by any person)</i>
Propellant gunpowder of Classification Code 1.1D	5 kg
Hazard Division 1.2	5 kg
Hazard Division 1.3 other than distress signals	50 kg
Hazard Division 1.4 other than 1.4S or 1.4B or distress signals	250 kg
Distress signals of Classification Code 1.3G	100 kg
Distress signals of Classification Code 1.4G	250 kg

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

### 109 Licences to transport explosives by road

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

**Note**

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

- (2) A person who drives a road vehicle transporting explosives in a quantity greater than that specified in Column 2 of Table 108A in regulation 108 in relation to an explosive specified in Column 1 of that Table must hold—
- (a) an explosives driver licence; or

- (b) a licence issued under equivalent legislation by a corresponding Authority authorising that person to drive a road vehicle transporting explosives.
- (3) A person must not cause or allow another person to drive a road vehicle transporting explosives if the driver is not licensed to do so.
- (4) Subregulations (2) and (3) do not apply to—
  - (a) a person who transports explosives of the following classifications—
    - (i) consumer fireworks of Hazard Division 1.4;
    - (ii) explosives of Hazard Division 1.4S (other than detonators); or
  - (b) an inspector or police officer transporting explosives in the course of the inspector's or officer's duties under the Act.
- (5) A person must not engage the services of another person to transport explosives by road unless that other person holds licences of the type described in subregulations (1) and (2).

#### **110 Licence to transport explosives by rail**

- (1) A person must not transport explosives by rail unless the person holds a licence to transport explosives by rail.
- (2) A person must not engage the services of another person to transport explosives by rail unless that other person holds a licence to transport explosives by rail.

#### **111 Transport of explosives of Hazard Division 1.1A**

- (1) A person must not transport explosives of Hazard Division 1.1A unless the person—
  - (a) is licensed to do so; and

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

#### **112 Transport of explosives by boat**

- (1) A person intending to transport explosives by boat in a quantity greater than that specified in Column 2 of Table 108A in regulation 108 in relation to an explosive specified in Column 1 of that Table—
  - (a) must notify the Authority in writing at least 21 days before the intended transport and request approval for the transport; and
  - (b) must provide any information that the Authority requires.
- (2) A person must not transport the explosives specified in subregulation (1) without written approval from the Authority and must do so in accordance with any conditions imposed by the Authority.
- (3) This regulation does not apply in respect of a boat used as a firing platform for a fireworks display.

### **Division 2—Australian Explosives Code**

#### **113 Explosives to be transported in accordance with AEC**

- (1) A person transporting explosives by road or rail must do so in accordance with the applicable requirements of the AEC.

- (2) Subregulation (1) does not apply to a person who is transporting explosives that have been confiscated or received by, and are under the direct supervision of, an inspector or a police officer if it is not practicable for the inspector or police officer to comply with the AEC.

#### **114 Who must comply with the AEC?**

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

#### **115 AEC training**

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

- (b) so far as is reasonably practicable, complies with the relevant requirements of the AEC.

**116 Stationary vehicles taken to be transporting explosives**

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

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

**117 Register of determinations**

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

**118 Records of determinations**

The record of a determination in the register must include—

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

**119 Explosives not to be transported in or through Central Business District**

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

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

- (1) The driver of a road vehicle used to transport explosives of a type or in a quantity which, under this Part, requires the display of a Class Label on that vehicle must ensure that the road vehicle is not used to transport explosives—
  - (a) in or through any tunnel that forms a part of a designated tunnel; or
  - (b) on any carriageway that forms an entrance ramp to such a tunnel; or



- (c) on that part of any other carriageway described in a determination of the Authority made for the purpose of this subregulation.
- (2) A person must not cause or allow another person to drive a road vehicle to transport explosives of a type or in a quantity which, under this Part, requires the display of a Class Label on that vehicle—
  - (a) in or through any tunnel that forms a part of a designated tunnel; or
  - (b) on any carriageway that forms an entrance ramp to such a tunnel; or
  - (c) on that part of any other carriageway described in a determination of the Authority made for the purpose of this subregulation.
- (3) In this regulation, *designated tunnel* means any land described in a determination of the Authority made for the purpose of this regulation and published in the Government Gazette.

**121 Transport of explosives in or through Melbourne metropolitan area**

- (1) A person must not transport by road or allow another person to transport by road in or through the Melbourne metropolitan area—
  - (a) explosives in a quantity greater than that specified in Column 2 of Table 121 in relation to an explosive specified in Column 1 of that Table; or
  - (b) explosives of more than one of the groups of explosives specified in Column 1 of Table 121 at any one time.
- (2) In this regulation, *Melbourne metropolitan area* means the area described in a determination of the Authority made for the purpose of this regulation

and published in the Government Gazette but does not include—

- (a) the Central Business District within the meaning of regulation 119; or
- (b) any approved routes within the Melbourne metropolitan area.

**Table 121—Maximum quantities of explosives that may be transported by road within the Melbourne metropolitan area**

<i>Column 1</i>	<i>Column 2</i>
<i>Type of explosives</i>	<i>Maximum total quantity in any one load</i>
<b><u>Group 1:</u></b>	
Explosives of Classification Code 1.1D or 1.5D; Propellants of Classification Code 1.1C or 1.3C (in any combination)	1250 kg
Detonators of Classification Code 1.1B, 1.4B or 1.4S, if transported with other explosives in Group 1 on a vehicle that is fitted with an effective segregation device	5000 in total number
<b><u>Group 2:</u></b>	
Propellants of Classification Code 1.3C	2000 kg

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<i>Column 1</i>	<i>Column 2</i>
<i>Type of explosives</i>	<i>Maximum total quantity in any one load</i>
<b>Group 3:</b>	
Display fireworks of Classification Code 1.2G, 1.3G or 1.4G;	
Distress signals of Classification Code 1.2G, 1.3G or 1.4G;	
Consumer fireworks of Classification Code 1.4G or 1.4S;	
Theatrical fireworks of Classification Code 1.3G, 1.4G or 1.4S;	
Other explosives of Classification Code 1.2G, 1.3G or 1.4G (in any combination)	5000 kg gross mass
<b>Group 4:</b>	
Detonators of Classification Code 1.1B, 1.4B or 1.4S if no other explosives are on the vehicle	250 000 in total number

**122 Transport of explosives in or through non-metropolitan areas**

- (1) This regulation applies to the transport of explosives of types listed in Column 1 of Table 121 in regulation 121, in quantities greater than the corresponding quantities specified in Column 2 of that Table, on a road vehicle through non-metropolitan areas.
- (2) The owner, driver and person in charge of the road vehicle used to transport explosives must, so far as is reasonably practicable, plan a route that—
  - (a) avoids densely populated areas; and

- (b) avoids any Class B protected work; and
  - (c) avoids peak traffic periods; and
  - (d) avoids road hazards that might disturb the load of explosives in a way that creates a risk of explosion; and
  - (e) avoids town centres.
- (3) In this regulation, *non-metropolitan area* means any area in Victoria that is outside the Central Business District as defined in regulation 119(3) or the Melbourne metropolitan area as defined in regulation 121(2).

### 123 Maximum vehicle load

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

- (a) the quantity specified in Column 2 of Table 123 in relation to an explosive specified in Column 1 of that Table; or
- (b) the quantity that would cause the vehicle to be operated at a mass limit for the vehicle under the Road Safety (Vehicles) Regulations 2021<sup>4</sup> or the Heavy Vehicle National Law (Victoria) (as applicable).

**Table 123—Maximum vehicle loads**

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

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<i>Column 1</i>	<i>Column 2</i>
<i>Type of explosive</i>	<i>Quantity</i>
Explosives of Hazard Division 1.6	40 000 kg

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## **Division 4—Additional requirements at rail yards**

### **124 Requirements for explosives in rail yards or sidings**

- (1) If rolling stock containing explosives is held at a rail yard or siding, the occupier of the rail yard or siding must ensure that the maximum amount of explosive of any Hazard Division (except Hazard Division 1.4) per vehicle does not exceed 40 000 kg.
- (2) A person transporting explosives by road or rail must ensure, so far as is reasonably practicable, that vehicles containing explosives are not left stationary in a rail yard or siding, whether attended or not, except for the purpose of loading or unloading.
- (3) If vehicles containing explosives are held at a rail yard or siding, the occupier of the rail yard or siding must ensure that explosives are not kept in the rail yard or siding—
  - (a) for longer than 48 hours; or
  - (b) for longer than 4 days if a weekend or public holiday occurs between 2 consecutive working days.

## **Part 8—Use of blasting explosives**

### **Note**

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

### **Division 1—Preliminary**

#### **125 Explosives means blasting explosives**

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

#### **126 Licence to use blasting explosives**

- (1) A person who uses blasting explosives must hold a blasting explosives licence.
- (2) A person who does not hold a licence referred to in subregulation (1) must not be employed or engaged in connection with the preparation of charges or the loading of charges into blast holes, unless the person—
  - (a) is under supervision of a person who holds a blasting explosives licence and only fires a charge under that person's supervision; or
  - (b) is operating an MPU.

### **Division 2—General**

#### **127 Method of keeping explosives at a blasting site**

- (1) A person in charge of blasting explosives at a blasting site must ensure that—
  - (a) the explosives are stored—
    - (i) in accordance with Part 5; or
    - (ii) securely aboard a vehicle that complies with and is operated in accordance with Part 7; or

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

### **128 Damaged or defective explosives**

A shotfirer, or a person under the supervision of a shotfirer, must dispose of explosives that are damaged, defective or showing signs of deterioration in accordance with Part 11.

## **Division 3—Equipment for blasting operations**

### **129 Use of equipment to initiate explosives**

- (1) A shotfirer who uses equipment to initiate explosives must ensure that the equipment complies with and is maintained in accordance with the relevant requirements of AS 2187.2.
- (2) An exploder, circuit tester, rheostat or other equipment used to initiate explosive charges must not be used by a shotfirer unless it meets the following performance requirements—

- (a) it is maintained, tested and calibrated having regard to the manufacturer's instructions (where provided);
- (b) it is used only for the purpose for which it was designed.

#### **Division 4—Blasting operations**

##### **130 Use of blasting explosives**

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

##### **131 Requirement to have blast management plan**

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

##### **132 Total fire ban days**

A shotfirer must not use any explosive that may produce a flame above ground in the open in a part of Victoria where, and at a time when, a



declaration of total fire ban under the **Country Fire Authority Act 1958** applies.

### **133 Preparation of detonators for firing**

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

### **134 Vibration and noise levels**

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

### **135 Conduct of persons at site of blasting operations**

- (1) To ensure the safe operation and security of blasting operations, all persons who are on a site where blasting operations are being conducted must comply with the instructions of the shotfirer—
  - (a) during the period in which charges are being prepared and fired; and
  - (b) until the final signals required under this Division are sounded and the "all clear" signal is given.
- (2) If an electrical storm, thunderstorm or dust storm approaches a site where blasting operations are being conducted—
  - (a) all persons must withdraw to a safe distance from any explosive, including those explosives contained in a magazine (other

than a receptacle) or blast hole or in the course of transport on the blasting site, and must not return until the storm has passed; and

- (b) the shotfirer or, in the shotfirer's absence, a person authorised by the shotfirer must keep the blasting site under observation from a safe distance.

### **136 Precautions during charging of blast holes using pumpable or free flowing explosives**

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

### **137 Precautions after blast**

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

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

- (ii) the shotfirer, or the person authorised by the shotfirer, has treated any misfire as required in the blast management plan.

**138 Shotfirer to ensure no means of self-detonation**

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

**139 Charging and firing charges**

A shotfirer must ensure that—

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

**Division 5—Special blasting operations**

**140 Demolition of buildings and other structures**

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

## **Part 9—Fireworks—Possession and use**

### **Note**

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

### **Division 1—General provisions**

#### **141 Definitions**

In this Part—

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

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

#### **142 Licence to use fireworks**

- (1) A person who uses fireworks must hold a licence to use fireworks.
- (2) Subregulation (1) does not apply to a person who is using any of the following under the supervision of a pyrotechnician—
  - (a) display fireworks;
  - (b) Chinese firecrackers;
  - (c) theatrical fireworks.

#### **143 Licence to be produced**

A pyrotechnician must—

- (a) carry the pyrotechnician's licence document at all times when transporting, using, or preparing to use the fireworks authorised to be used by the licence; and

- (b) produce the licence document when requested to do so by an inspector, a police officer, an officer or member of a Fire Authority or an officer of the municipal council for the municipal district in which the fireworks are to be discharged.

**Note**

*Officer or member* and *Fire Authority* are defined in section 3(1) of the Act.

**144 Seizure of fireworks that are unauthorised explosives**

A police officer or an inspector may seize any fireworks that are unauthorised explosives.

**145 Consumer fireworks**

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

**Division 2—Display fireworks, Chinese firecrackers and theatrical fireworks**

**146 Criteria for use of Chinese firecrackers**

A pyrotechnician must not use Chinese firecrackers except—

- (a) on behalf of an association incorporated under the **Associations Incorporation Reform Act 2012** or a community group; and
- (b) in connection with a cultural, religious or traditional occasion or purpose connected with the association or group that requires the discharge of the firecrackers.

**147 Pyrotechnicians to notify authorities of intended fireworks**

- (1) A pyrotechnician must not discharge display fireworks, Chinese firecrackers or theatrical fireworks unless the pyrotechnician has given written notice (in a form approved by the Authority) to the Authority and the appropriate fire authority at least 7 days before the date of the proposed display.
- (2) A notice under subregulation (1) must include the address of any short-term storage used by the pyrotechnician under regulation 62(2)(d)(ii).
- (3) A pyrotechnician must not discharge display fireworks, Chinese firecrackers or theatrical fireworks unless the pyrotechnician gives the municipal council for the municipal district in which the fireworks are to be discharged written notice (in a form approved by the Authority) at least 7 days before the date of the proposed display.
- (4) Subregulation (3) does not apply if a local law applying in the municipal district requires a person to give the relevant municipal council greater notice of an intention to discharge fireworks.
- (5) A pyrotechnician must—
  - (a) complete a record (in a form approved by the Authority) of each display conducted; and
  - (b) retain that record for at least 2 years.
- (6) A pyrotechnician who intends to discharge fireworks that could be confused with distress signals in or near port waters must give written notice to the body that administers the relevant area of water at least 7 days before the date of the proposed display.

- (7) Compliance with this regulation is a condition of a pyrotechnician's licence.

**148 Chinese firecrackers not to be discharged indoors**

A pyrotechnician must not discharge Chinese firecrackers indoors.

**149 Use of long string Chinese firecrackers**

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

**150 Use of theatrical fireworks**

- (1) A pyrotechnician must not use fireworks for theatrical purposes unless they are theatrical fireworks or have been adapted and approved for theatrical use.
- (2) A pyrotechnician who uses theatrical fireworks must have regard to the manufacturer's instructions (if provided).

- (3) A pyrotechnician who discharges theatrical fireworks must ensure that adequate fire protection and firefighting equipment are available at the place of discharge.

#### **151 Conduct after discharge of fireworks**

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

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

#### **152 Malfunctions**

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

#### **153 Use of flash powder**

- (1) A pyrotechnician who uses flash powder must not—
- (a) mix the flash powder with any other substance; or
  - (b) use a flash pot which has an opening that is less than 5 times the depth of the pot; or
  - (c) subject the flash powder to vibration; or
  - (d) initiate the flash powder by any means other than an electrical firing system.



- (2) A pyrotechnician using a flash pot for the discharge of flash powder must ensure that—
  - (a) the flash pot is not positioned near any entrances, exits or escape routes from the stage of a theatre; and
  - (b) the flash pot is positioned at least 3 m from—
    - (i) any flammable material; and
    - (ii) all persons.
- (3) A pyrotechnician initiating flash powder must—
  - (a) have a clear view of the area in which the flash powder is to be used; and
  - (b) not initiate the flash powder without first ensuring, so far as is reasonably practicable, that, having regard to all the circumstances, it is safe to do so.

### **Division 3—Management of firework displays**

#### **154 Application**

This Division applies only to the use of display fireworks.

#### **155 Fire protection**

A pyrotechnician must ensure that—

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

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## 156 Separation distances

- (1) A pyrotechnician must ensure that all persons, except persons authorised by the pyrotechnician to use the display fireworks, are at the minimum separation distance from the firing point specified in Table 156A, 156B or 156C (as applicable) for the fireworks being used.
- (2) A pyrotechnician must ensure that the firing point of a fireworks display is no closer to any building, dangerous goods storage, structure, traffic route or place of assembly than the minimum separation distance specified in Table 156A, 156B or 156C (as applicable) for the fireworks being used, unless otherwise approved by the Authority.
- (3) Despite subregulations (1) and (2), if the manufacturer's instructions relating to particular fireworks recommend greater minimum separation distances than those set out in Table 156A, 156B or 156C, those greater distances must be observed unless otherwise approved by the Authority.

**Table 156A—Aerial shells other than salutes**

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

**Table 156B—Salutes**

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

**Table 156C—Display fireworks other than aerial shells**

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

### **157 Security of display site**

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

### **158 Keeping fireworks at display site**

A pyrotechnician must ensure that—

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

### **159 Firing of display fireworks**

A pyrotechnician who fires display fireworks must ensure that—

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

### **160 Misfired fireworks**

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

## **Part 10—Distress signals**

### **Note**

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

### **161 Possession and use of distress signals**

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

## **Part 11—Disposal, destruction and rendering harmless**

### **Note**

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

### **162 Explosives must be disposed of etc. safely**

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

### **163 Only licensed persons may dispose of certain explosives**

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

**164 Distress signals to be disposed of safely**

A person disposing of a distress signal because of any of the following reasons must comply with the requirements of regulations 162 and 163—

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

**165 Arranged disposal permitted**

Despite regulation 163, a person, by arrangement with the manufacturer or supplier of explosives, may return unwanted explosives that are in a safe condition.

**166 Disposal at approved destruction facility permitted**

Despite regulation 163, a person may dispose of unwanted explosives at an approved destruction facility.

## **Part 12—Import**

### **Note**

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

### **167 Licence to import explosives**

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



## **Part 13—Ports**

### **Division 1—Preliminary**

#### **Note**

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

#### **168 Application**

This Part does not apply in respect of distress signals kept on a vessel for safety purposes.

#### **169 Notification of explosives on board**

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

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

#### **170 Restriction on entry into ports**

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

## **Division 2—Berths**

### **171 Berths for vessels**

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

## **Division 3—Handling and transport of explosives in port areas**

### **172 Emergency procedures**

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

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

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

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

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

**174 Compatibility and mixed stowage**

- (1) The master of a vessel must comply with subregulation (3).
- (2) The relevant port manager must comply with subregulation (3).
- (3) Loads of explosives that are of differing Hazard Divisions and Compatibility Groups must be—
  - (a) stowed in a vessel in accordance with the compatibility and mixed stowage requirements of AS 3846; or
  - (b) placed in a vehicle in accordance with the compatibility requirements of the AEC.

## **Part 14—Licences**

### **Note**

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

### **Division 1—Applications for licences**

#### **Subdivision 1—General provisions**

#### **175 Applying for a licence**

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

- (3) The declaration required under subregulation (1)(e) must state—
- (a) whether or not the applicant has ever been found guilty of an offence under—
    - (i) any occupational health and safety or dangerous goods legislation of any Australian jurisdiction; and
    - (ii) in the case of an explosives driver licence and an explosives vehicle licence, road transport legislation of any Australian jurisdiction; and
  - (b) if a person has ever been found guilty of an offence referred to in paragraph (a), the details of every finding, including—
    - (i) when and where the finding was made; and
    - (ii) details of the offence in respect of which the finding was made; and
    - (iii) a brief description of the circumstances of the offence; and
  - (c) whether or not the applicant has ever had a licence or other authorisation suspended or revoked under—
    - (i) the **Occupational Health and Safety Act 2004**, the Occupational Health and Safety Regulations 2017, the **Dangerous Goods Act 1985**, the Dangerous Goods (Transport by Road or Rail) Regulations 2018 or equivalent legislation or regulation in other States and Territories; and
    - (ii) in the case of an explosives driver licence and an explosives vehicle licence, road transport legislation of any Australian jurisdiction; and
-

- (d) if a person has had a licence suspended or revoked under legislation referred to in paragraph (c), details of the suspension or revocation; and
- (e) that the information contained in the application is true, to the best of the applicant's knowledge.

**Note**

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

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

**176 Refusal to issue or renew a licence**

- (1) If the Authority proposes to refuse to issue or renew a licence, it must give the applicant written notice and include in the notice—
  - (a) the reasons why it proposes to refuse to issue or renew the licence; and
  - (b) an invitation to the applicant to make a submission to the Authority, within a specified period of not less than 14 days

(*submission period*), in relation to the proposed refusal.

- (2) After the end of the submission period, the Authority must—
- (a) consider any submission made by, or on behalf of, the applicant; and
  - (b) decide whether it will issue or renew, or refuse to issue or renew, the licence.

**Note**

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

**177 Refusal of licence—unsuitable applicant**

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

- (a) the Authority is not satisfied as to the identity of the applicant; or
- (b) the Authority is satisfied that—
  - (i) the application contains information that is false or misleading in a material particular; or
  - (ii) the applicant has failed to disclose to the Authority any significant information that should have been disclosed.

**178 Competency standards for licences**

- (1) For the purposes of this Part—

*Australian Forum of Explosives Regulators*  
means a forum of government authorities responsible for administering explosives safety and security legislation in Australia;

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

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

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

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

## **Subdivision 2—Licence to manufacture explosives**

### **179 Additional information to be supplied**

An applicant for a licence to manufacture explosives must provide the following information (if applicable) in addition to the information required under Subdivision 1—

- (a) the primary business address of the applicant;



- (b) the address of the premises at which the explosives are, or are to be, manufactured and stored;
- (c) the maximum number of persons likely to be present—
  - (i) in the explosives manufacturing area; and
  - (ii) in other areas of the premises;
- (d) the explosives that are to be manufactured;
- (e) a plan of the premises on a scale that adequately shows the following—
  - (i) the boundaries of the premises and the nature of fences;
  - (ii) the location of all buildings and structures on the premises and their uses, including details of quantities of explosives and other dangerous goods that may be present in those buildings and structures and applicable safety distances;
  - (iii) the areas of public access and car parking areas;
  - (iv) details of all internal roads and points of entry into, and exit from, the premises;
  - (v) details of the fire protection proposed to be used, including the location of automatic fire sprinkler systems, fire hydrants, fire hose reels, portable fire extinguishers and other fire protection and firefighting devices;

- (vi) the place where the manifest and other emergency information about the dangerous goods at the premises is kept;
- (vii) the location of gas, steam and electricity generation or distribution areas;
- (viii) details of all loading and unloading areas for vehicles and vessels;
- (ix) details of all buildings, structures and storage areas on adjacent premises and areas open to the public;
- (f) an identification number or code for each building on the site;
- (g) the correct product name, UN number and packing group for each type of dangerous goods kept in the manufacturing area;
- (h) the maximum quantity of each type of dangerous goods likely to be kept on site;
- (i) an appropriately detailed description of the process of manufacture, including the nature of any chemical reaction involved and the various operations to which the dangerous goods used in the process will be subjected;
- (j) a preliminary process flow sheet that provides sufficient detail to make an assessment of the risks and includes information about the temperatures and pressures of materials at each stage;
- (k) a list of the main items of plant, specifying for each item—
  - (i) the capacity, design pressure and upper and lower temperature limits for safe operation; and

- (ii) any special features of construction;  
and
- (iii) details of utility services;
- (l) details of the principal standards and codes to be used in the design of the plant;
- (m) a statement of the method by which the manufacturing process will be controlled;
- (n) a description of the location and construction of any control room.

### **Subdivision 3—Explosives driver licence**

#### **180 Additional information to be provided in an application for an explosives driver licence**

An applicant for an explosives driver licence must provide the following information in addition to the information required under Subdivision 1—

- (a) the driver licence evidence required by regulation 181;
- (b) the competency evidence required by regulation 182;
- (c) the medical fitness evidence required by regulation 183.

#### **181 Driver licence evidence**

- (1) An applicant for an explosives driver licence must provide the following documents—
  - (a) a current certified extract of entries about the applicant in the driver licences register kept by the driver licensing authority in each Australian jurisdiction where the applicant has held a licence to drive;
  - (b) the document specified in subregulation (2).

- (2) For the purposes of subregulation (1)(b), the document is a certified copy, dated not more than 6 months before the day the application is made, of the records of the appropriate prosecuting authority of any finding of guilt of the applicant for an offence involving the driving of a road vehicle.
- (3) For the purposes of subregulation (1)(a), a current certified extract is an extract certified by the driver licensing authority not more than 6 months before the day the application is made.

**Note**

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

**182 Required competency evidence**

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

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

### **183 Medical fitness evidence**

- (1) Medical fitness evidence for an application for the issue of an explosives driver licence must be contained in a certificate that—
  - (a) is issued by a registered medical practitioner who has examined the applicant not more than 6 months before the day the application is made; and
  - (b) certifies that the applicant is fit to drive a road vehicle in accordance with the standards set out in the Assessing Fitness to Drive Medical Standards.
- (2) The Authority, with the consent of the applicant, may forward the medical fitness evidence to one or more registered medical practitioners for an opinion as to the medical fitness of the applicant to drive a road vehicle.

**184 Refusal of an explosives driver licence—unsuitable applicant**

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

- (a) in the 5 years before the date the application is made—
  - (i) the applicant has been found guilty by a court in Australia of an offence that, in the opinion of the Authority, makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
  - (ii) the applicant's driver licence has been revoked or suspended on a ground that, in the opinion of the Authority, makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
- (b) the applicant is subject to a court order issued in any Australian jurisdiction prohibiting the applicant from involvement in the transport of dangerous goods by road; or
- (c) the Authority is not satisfied that the medical fitness of the applicant to drive a road vehicle has been established by the evidence provided under regulation 183(1) or through a medical opinion received under regulation 183(2).

**Notes**

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

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

## **Subdivision 4—Explosives vehicle licences**

### **185 Meaning of vehicle**

In this Subdivision—

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

- (a) a prime mover; or
- (b) a converter dolly (within the meaning of regulation 5 of the Road Safety (Vehicles) Regulations 2021).

#### **Note**

The Road Safety (Vehicles) Regulations 2021 define a *converter dolly* as a trailer with one axle group or single axle and a fifth wheel coupling, designed to convert a semi-trailer into a dog trailer.

### **186 Application for an explosives vehicle licence for a road vehicle**

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

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

**Note**

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

**187 Inspections of vehicles**

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

**188 Refusal of explosives vehicle licence—risk too great**

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



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

**Note**

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

## **Subdivision 5—Licence for pyrotechnicians**

### **189 Refusal of licence for pyrotechnician—unsuitable applicant**

- (1) For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to be a pyrotechnician if the Authority is not satisfied that the applicant has demonstrated—
- (a) adequate knowledge of the provisions of these Regulations applicable to the use of fireworks; and
  - (b) adequate knowledge of and competency in safety in the use of fireworks of the type and size specified in the application.

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

### **Subdivision 6—Blasting explosives licence**

#### **190 Refusal of blasting explosives licence—unsuitable applicant**

- (1) For the purposes of section 21(6)(b) of the Act, the Authority may consider that the applicant is not a suitable person to hold a blasting explosives

licence if the Authority is not satisfied that the applicant has demonstrated—

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

- (iv) the applicant holds a qualification to use blasting explosives issued outside Victoria that is acceptable to the Authority.

## **Division 2—Other provisions about licences**

### **Subdivision 1—General provisions**

#### **191 When licences start and end**

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

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

#### **192 Licence conditions, limitations and restrictions**

- (1) Without limiting section 23(1) of the Act, conditions, limitations and restrictions inserted by the Authority in a licence may include those—
  - (a) specifying the measures to be used to eliminate or reduce risks associated with the activities authorised by the licence, including risks arising out of security concerns associated with explosives; and
  - (b) requiring the provision of information, instruction and training to specified persons or classes of persons; and
  - (c) requiring the supervision of the licensee or persons employed by the licensee; and
  - (d) requiring the reporting of information to the Authority, including but not limited to information in relation to—

- (i) any matter included in the licence application; and
  - (ii) the licensee's ongoing suitability or competency to carry out the activities authorised by the licence, including information on any court proceeding related to offences under any occupational health and safety or dangerous goods legislation (and, in the case of an explosives driver licence and an explosives vehicle licence, road transport legislation) in any Australian jurisdiction involving the licensee; and
  - (iii) the results of any required examinations as requested by the Authority or testing as required by an approved testing provider; and
- (e) limiting the activities authorised by the licence or specifying that only certain activities may be carried out under the licence; and
- (f) requiring that notice be given to any person who may be affected by the issue of the licence—
- (i) that the licence has been issued; and
  - (ii) of any conditions, limitations or restrictions of the licence; and
- (g) imposing time limits on when any action required to be taken is to be taken.

**Note**

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

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

### **193 Additional authorisations for licences**

- (1) A licence to manufacture explosives at a factory may also authorise the licensee to do one or more of the following—
  - (a) store those explosives at the factory;
  - (b) sell explosives;
  - (c) import explosives.
- (2) A licence to store explosives may also authorise the licensee to do one or both of the following—
  - (a) sell those explosives;
  - (b) import those explosives.
- (3) A licence to sell explosives—
  - (a) also authorises the licensee—
    - (i) to store explosives of the type that the licensee is authorised to sell, if the quantity being stored is not more than that prescribed for those explosives in Column 2 of Table 83 in regulation 83; and
    - (ii) to transport those explosives, if the quantity being transported is not more than that prescribed for those explosives in Column 2 of Table 108A in regulation 108; and

- (b) may also authorise the licensee to import explosives of the type that the licensee is authorised to sell.
- (4) A blasting explosives licence also authorises the licensee to store explosives of the type that the licensee is authorised to use, if the quantity being stored is not more than that prescribed for those explosives in Column 2 of Table 83 in regulation 83.
- (5) A licence to use fireworks also authorises the licensee to store fireworks of the type that the licensee is authorised to use, if the quantity being stored is not more than that prescribed for those fireworks in Column 2 of Table 83 in regulation 83.

#### **194 Licence document**

- (1) After issuing or renewing a licence, the Authority must give the licensee a licence document evidencing the licence that includes—
  - (a) the name of the licensee; and
  - (b) the date on which the licence was issued or renewed and, if the licence specifies a date on which the licence takes effect, the date on which the licence takes effect; and
  - (c) the date on which the licence expires; and
  - (d) any conditions, limitations or restrictions to which the licence is subject; and
  - (e) an identifying number for the licence; and
  - (f) the activities authorised by the licence; and
  - (g) the explosives to which the licence relates; and
  - (h) the maximum quantities (if any) of explosives to which the licence relates; and

- (i) in the case of the storage of explosives, the premises to which the licence relates; and
  - (j) in the case of the use of blasting explosives, the specific methods of shotfiring and the types of blasting operations authorised by the licence; and
  - (k) in the case of manufacturing explosives, the manufacturing activities authorised and the premises to which the licence relates; and
  - (l) in the case of an explosives vehicle licence, the information specified by regulation 186(2) for the vehicle or vehicles to which the licence relates; and
  - (m) in the case of a licensee who is a natural person—
    - (i) a photograph of the licensee provided by the licensee, if required under regulation 175; and
    - (ii) the date of birth of the licensee; and
    - (iii) a copy of the signature of the licensee or provision for the signature of the licensee.
- (2) A licensee must—
- (a) carry the licence document at all times when using or transporting explosives; and
  - (b) produce the licence document for inspection when requested to do so by an inspector or police officer.
- (3) If a licence document is lost, stolen or destroyed, the licensee may apply to the Authority for a replacement licence document.



### **195 Replacement licence document**

- (1) The Authority may issue a replacement licence document if the Authority is satisfied that the licensee's licence document has been lost, stolen or destroyed.
- (2) If the Authority refuses to issue a replacement licence document, it must give the licensee a written notice of refusal that sets out the reasons why it is not satisfied that the licence document has been lost, stolen or destroyed.

### **196 Duty to ensure persons observe licence conditions**

- (1) A licensee must ensure that any person who engages in an activity authorised under the licence—
  - (a) complies with the conditions, limitations and restrictions of the licence; and
  - (b) complies with these Regulations; and
  - (c) receives sufficient and appropriate information, training and supervision from the licensee to be able to do so.
- (2) A person who engages in an activity authorised under a licence must co-operate with the licensee in relation to any direction given, or action taken, by the licensee or any person authorised by the licensee, to comply with subregulation (1).
- (3) For the purposes of this regulation, *person* includes a person at a site at which work is performed under a licence who is—
  - (a) employed by the licensee under a contract of employment; or
  - (b) engaged by the licensee under a contract of training; or
  - (c) engaged by the licensee as an independent contractor for a specific task; or

- (d) authorised by the licensee to enter a site that is managed or occupied by the licensee.

### **197 Change of circumstances of licensee**

A licensee must—

- (a) notify the Authority in writing of any change of circumstances that may affect the accuracy of any information previously provided to the Authority by a licensee in relation to a licence; and
- (b) ensure that notification under paragraph (a) is given as soon as reasonably possible after the licensee becomes aware that the change has occurred.

## **Subdivision 2—Licence to manufacture explosives**

### **198 Requirements before modifications to licensed premises permitted**

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

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

### **Subdivision 3—Explosives driver licence**

#### **199 Licence conditions of explosives driver licence**

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

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

#### **Notes**

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

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

**200 Additional licence conditions of explosives driver licence**

- (1) It is a condition of an explosives driver licence that, if the Authority requires the licensee to provide either of the following, the licensee must comply with that requirement in accordance with this regulation—
- (a) a medical certificate required under subregulation (2);
  - (b) the driver licence evidence set out in regulation 181 and required under subregulation (4).
- (2) The Authority, by written notice given to the licensee, may require the licensee to produce to the Authority a certificate issued by a registered medical practitioner who has examined the licensee stating that the licensee is fit to drive a road vehicle in accordance with the standards set out in the Assessing Fitness to Drive Medical Standards.
- (3) A certificate referred to in subregulation (2) must not have been issued earlier than 6 months prior to the date of the written notice from the Authority.
- (4) The Authority, by written notice given to the licensee, may require the licensee to produce to the Authority the driver licence evidence set out in regulation 181.
- (5) A notice under this regulation must specify a period of at least 2 months after the day when the notice is received by the licensee within which the licensee must provide the information.

- (6) The Authority must not give a notice under this regulation if the period until the licence expires is less than 4 months.

**Note**

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

### **Subdivision 4—Explosives vehicle licence**

#### **201 Licence conditions of explosives vehicles licence**

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

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

**Note**

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

#### **202 Disposal and transfer of licensed vehicles**

- (1) Before transferring registration under the Road Safety (Vehicles) Regulations 2021 or otherwise disposing of a road vehicle to which an explosives vehicle licence relates (other than by way of a business transfer) (the *disposed vehicle*), the licensee must remove the licence label from the disposed vehicle.

- (2) Within 21 days of transferring registration or otherwise disposing of the disposed vehicle (other than by way of a business transfer), the licensee must return the explosives vehicle licence and licence label to the Authority.
- (3) On receipt of an explosives vehicle licence under this regulation, the Authority must—
  - (a) if the licence also relates to another vehicle—
    - (i) amend the licence by omitting reference to the disposed vehicle; and
    - (ii) return the licence to the person who gave the licence to the Authority; or
  - (b) if paragraph (a) does not apply, revoke the licence.
- (4) Within 21 days after the transfer of a vehicle by way of business transfer, the person to whom the vehicle has been transferred must apply to the Authority for the transfer of the licence to that person.
- (5) An application for transfer under subregulation (4) must—
  - (a) contain the information set out in regulation 186(2); and
  - (b) be accompanied by the licence and the appropriate fee.
- (6) On receipt of the application, the Authority must—
  - (a) amend the licence to record the change of licence; and
  - (b) reissue the licence.

(7) Subregulation (6) does not apply if—

- (a) the person to whom the vehicle has been transferred does not hold an explosives vehicle licence; or
- (b) the Authority is not satisfied that the person is a suitable person to hold such a licence.

(8) In this regulation—

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

### **Subdivision 5—Blasting explosives licence**

#### **203 Endorsing licence to allow manufacture of ANFO**

- (1) A blasting explosives licence may be endorsed by the Authority to allow the licensee to manufacture a maximum of 50 kg of ANFO at any one time for the licensee's own use.
- (2) A licence that is endorsed under subregulation (1) authorises the manufacture of the explosives as if it were a licence referred to in regulation 37.

### **Division 3—Security requirements**

#### **204 Prescribed particulars for security plans**

For the purposes of section 21A(2)(b) of the Act, the prescribed particulars are those set out in Schedule 2.

#### **205 Proof of identity and consent required**

- (1) For the purposes of section 21A(3)(b) of the Act (as it is applied to explosives by section 21A(4) of the Act), an applicant for a licence that is a body corporate must give the Authority written notice of the names and contact details of all directors

and persons concerned in the management of the body corporate, including one or more who are to be the contact person or persons for dealings with the Authority.

**Note**

Under section 21A(3)(b)(ii) and (iii) of the Act, the Authority may require directors and persons concerned in the management of the body corporate to provide specified proof of identity and to provide consent and sufficient information for the Authority to obtain known information concerning the director or person to determine whether they have satisfied the prescribed requirements. The prescribed requirements are set out in regulation 200.

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

**Note**

Under section 21A(3)(c) of the Act, the Authority may require any person who is to be responsible for the security of the explosives under the licence to provide consent and sufficient information for the Authority to obtain known information concerning the person to determine whether the person has satisfied the prescribed requirements. The prescribed requirements are set out in regulation 206.

**206 Security requirements to be satisfied before person can hold a licence**

- (1) For the purposes of section 21A(3)(e) of the Act, the prescribed requirements are—
- (a) a security assessment has been received about the person that is not an adverse security assessment within the meaning of the Australian Security Intelligence Organisation Act 1979 of the Commonwealth; and



- (b) a search of other known information about the person has been made and the Authority is satisfied that the person has not been convicted or found guilty of, and does not have a charge pending for, an offence relating to an act of violence, weapons, terrorism, damage to property, illegal drugs or dishonesty within the last 10 years that in the opinion of the Authority would pose a security risk in relation to that person.
- (2) A person is not required to undergo a security assessment if the person has previously successfully undergone a security assessment under the same name for the purposes of—
- (a) these Regulations or the Dangerous Goods (HCDG) Regulations 2016<sup>5</sup>; or
  - (b) equivalent legislation by a corresponding Authority; or
  - (c) legislation relating to HCDG in another Australian jurisdiction by a corresponding Authority.

**Note**

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

**207 Duty to review and revise security plan**

- (1) If the Authority requires a licensee to provide a security plan, the licensee must ensure that the security plan—
- (a) is reviewed; and
  - (b) is revised when required by subregulation (2).

- (2) A licensee must revise a security plan if it becomes aware, or ought reasonably to become aware, that the security plan no longer complies with Schedule 2.
- (3) On request, the security plan must be made available to an inspector or a police officer.

#### **208 Security assessments**

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

#### **209 Security requirements to be satisfied before persons allowed unsupervised access to explosives**

- (1) A licensee must not permit a person to have unsupervised access to explosives unless—
  - (a) the person holds a licence under these Regulations; or
  - (b) the person holds any licence or permit under the Dangerous Goods (HCDG) Regulations 2016; or
  - (c) the person holds a licence or other authorisation corresponding to a licence under these Regulations; or
  - (d) the person holds a licence or other authorisation corresponding to that referred to in paragraph (b) under legislation relating to HCDG in another Australian jurisdiction; or
  - (e) in the case of propellant, the person holds a firearms licence; or

- (f) the requirements of subregulation (2) have been met.

**Note**

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

- (2) A licensee may permit a person other than a person referred to in subregulation (1)(a) to (e) to have unsupervised access to explosives if the person has satisfied the same security requirements as those specified in regulation 206 in relation to an applicant for a licence.
- (3) For the purposes of subregulation (2), a licensee—
- (a) may nominate a person to whom the licensee intends to provide unsupervised access to explosives; and
  - (b) may request the Authority to obtain a security assessment concerning the person and known information concerning the person to determine whether the person is suitable to have unsupervised access to explosives.
- (4) The Authority must obtain a security assessment of a person nominated in subregulation (3) if the person—
- (a) provides the Authority with that person's specified proof of identity; and
  - (b) consents to the Authority obtaining, and provides sufficient information to enable the Authority to obtain, known information concerning the person to determine whether the person is suitable to have unsupervised access to explosives; and
  - (c) pays the fees set out in regulation 234(2) and (3).

- (5) The Authority must advise the licensee and the nominated person in writing—
- (a) whether the security assessment received about the person is or is not an adverse security assessment; and
  - (b) whether or not, on the basis of that assessment and other known information about the person, the Authority is of the opinion that the person poses a security risk.
- (6) Subregulation (1) does not apply in respect of—
- (a) consumer fireworks; or
  - (b) distress signals; or
  - (c) industrial safety cartridges; or
  - (d) cartridge ammunition or primers for that ammunition.

**210 Transporting small quantities of explosives on behalf of licensees**

A person who, on behalf of a licensee, transports explosives of a type specified in Column 1 of Table 108B in regulation 108 in a quantity not more than the corresponding amount specified in Column 2 of that Table does not require a licence or a security assessment.

**Division 4—Renewal of licence**

**211 General requirements for licence renewals**

- (1) The Authority may require an applicant for renewal of a licence to satisfy all the requirements for the issue of the licence.
- (2) An application for renewal of a licence must be accompanied by the appropriate fee.

- (3) For the purposes of enabling the Authority to assess whether a licence should be renewed, the applicant for renewal must comply with the following requirements of Division 3 of this Part as if the application for renewal of a licence were an application for the issue of a licence—
- (a) in the case of a natural person—
    - (i) regulation 205(2); and
    - (ii) regulation 206; and
    - (iii) regulation 209(3) to (5);
  - (b) in the case of a body corporate—
    - (i) regulation 205; and
    - (ii) regulation 206; and
    - (iii) regulation 209(3) to (5).
- (4) A person satisfies the requirements of regulation 206(1) as applied by subregulation (3) if the person has previously successfully undergone a security assessment under the same name for the purposes of—
- (a) these Regulations or the Dangerous Goods (HCDG) Regulations 2016; or
  - (b) equivalent legislation by a corresponding Authority; or
  - (c) legislation relating to HCDG in another Australian jurisdiction by a corresponding Authority.

**Note**

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

## **212 Renewal of explosives driver licence**

An application for the renewal of an explosives driver licence must include the following information (if applicable)—

- (a) the information required by regulation 175; and
- (b) the driver licence evidence required by regulation 181; and
- (c) the competency evidence required by regulation 182; and
- (d) the medical fitness evidence required by regulation 183.

## **Division 5—Amendment, suspension or revocation of licences**

### **Note**

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

## **213 Grounds for amending, suspending or revoking licence**

- (1) A licence may be amended, suspended or revoked if the Authority is satisfied that the licensee is unsuitable to continue to hold the licence.
- (2) Without limiting subregulation (1), the Authority may be satisfied that a licensee is unsuitable to continue to hold the licence if—
  - (a) the licensee has contravened—
    - (i) a provision of the Act or these Regulations; or
    - (ii) a provision of the law in force in another State or a Territory corresponding to a provision of the Act or the regulations; or

- (b) the licensee (and, in the case of a body corporate, any officer of the licensee) has been found guilty of an offence under—
  - (i) any occupational health and safety or dangerous goods legislation of any Australian jurisdiction; or
  - (ii) in the case of an explosives driver licence and an explosives vehicle licence, road transport legislation of any Australian jurisdiction; or
- (c) the licensee has ever had a licence or other authorisation suspended or revoked under—
  - (i) any occupational health and safety or dangerous goods legislation of any Australian jurisdiction; or
  - (ii) in the case of an explosives driver licence and an explosives vehicle licence, road transport legislation of any Australian jurisdiction; or
- (d) the licensee is suffering from a medical condition, or has a disability that affects the person's suitability or capacity to hold a licence; or
- (e) the licensee is not, or has not been, safely and competently carrying out the activities to which the licence relates; or
- (f) the licensee has contravened any of the conditions, limitations or restrictions of the licence; or
- (g) the licensee—
  - (i) in the application for the licence or the renewal of the licence, provided information that was false or misleading in a material particular; or

- (ii) failed to disclose to the Authority any significant information that should have been disclosed to the Authority; or
- (h) the licensee no longer satisfies the prescribed security requirements set out in regulation 206; or
- (i) the licence was granted on the basis of competency evidence (such as a statement of attainment) that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

**Note**

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

**214 Matters that may be taken into account when amending, suspending or revoking licences**

For the purposes of regulation 213, the Authority may have regard to any matter that it considers to be relevant, including—

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



- (d) the results of any internal review under Part 15 with respect to the licensee.

**215 Grounds for amending, suspending or revoking an explosives driver licence**

An explosives driver licence may be amended, suspended or revoked if the licensee's driver licence has been revoked.

**216 Grounds for amending, suspending or revoking an explosives vehicle licence**

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

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

## **Part 15—Review of decisions**

### **217 What is a reviewable decision?**

For the purposes of section 20(1A) of the Act, a decision made by the Authority under any of the following provisions is a reviewable decision—

- (a) regulation 14(4)—for a decision to grant or refuse to grant an exemption;
- (b) regulation 14(7)—for a decision to impose a condition on an exemption;
- (c) regulation 16(1)—for a decision to amend, suspend or revoke an exemption;
- (d) regulation 19(1)—for a decision to approve or refuse to approve a matter;
- (e) regulation 41(1)—for a decision to direct a licensee to amend a safety management system;
- (f) regulation 107(2)—for a decision to authorise or refuse to authorise a purchase of a greater amount of explosives;
- (g) regulation 178(2)—for a decision to make a determination relating to a certificate.

### **218 Who is an eligible person?**

For the purposes of section 20(1A) of the Act, a person whose interests are affected by a reviewable decision set out in regulation 217 is an eligible person.

### **219 Application for internal review**

- (1) An eligible person may apply in writing to the Authority for a review of a reviewable decision set out in regulation 217.

- (2) An application for a review must be made within—
  - (a) 14 days after the day on which the decision first came to the applicant's notice; or
  - (b) any longer period that the Authority allows.
- (3) If an application is made, the Authority must make a decision—
  - (a) to confirm the reviewable decision either on the basis—
    - (i) that it was made in accordance with the Act and these Regulations; or
    - (ii) that even though it was not made in accordance with the Act and these Regulations, the failure was not reasonably likely to have affected the outcome of the decision; or
  - (b) to set aside or vary the reviewable decision.
- (4) The Authority must give a written notice to the applicant setting out—
  - (a) the Authority's decision and the reasons for the decision; and
  - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based.
- (5) The Authority must give the notice—
  - (a) within 14 days after the application is made; or
  - (b) with the consent of the applicant, within a further period of up to 14 days.
- (6) If the Authority does not notify an applicant of a decision in accordance with subregulation (5), the Authority is taken to have made a decision to

confirm that the reviewable decision was made in accordance with the Act and these Regulations.

- (7) A review under this regulation does not affect the operation of the reviewable decision or prevent the taking of any action to implement it.

**Note**

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

**220 Process for new decisions to be started within 7 days**

If the Authority sets a decision aside under regulation 219(3)(b), it must start the process to remake the decision within 7 days after it sets the decision aside.

**221 Notice of reviewable decision must contain a copy of this Part**

The Authority must ensure that any written notice of a decision set out in regulation 217 that it is required to provide to an eligible person includes a copy of this Part (other than this regulation).

## **Part 16—Fees**

### **Division 1—Preliminary**

#### **222 Issue of a duplicate licence**

The fee for a duplicate licence is \$50.

#### **223 Issue of a transfer of a licence**

For the purposes of section 26 of the Act, the prescribed transfer fee is \$50.

#### **224 Renewal of licences**

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

#### **225 Amendment of a licence**

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

#### **Note**

See regulation 227 for calculating fees if one or more authorisations are added to a licence.

#### **226 Fees non-refundable**

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

### **227 Fees for multiple authorisations on a single licence**

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

#### **Example**

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

## **Division 2—Fees for licences**

### **228 Manufacture of explosives**

- (1) The fee for the issue of a licence authorising a person to manufacture explosives at a factory is \$5000 for each factory licensed.
- (2) If, under regulation 37(2), there are one or more additional authorisations on a licence authorising a person to manufacture explosives at a factory, there is no extra fee for those authorisations.
- (3) The fee for the issue of a licence authorising a person to manufacture explosives at premises other than a factory is \$312.50 for each premises licensed.

#### **Note**

Section 3(1) of the Act defines *premises* as including any other place and *place* as including a vehicle, ship or boat. Accordingly, MPUs are covered under this subregulation.

### **229 Storage of explosives**

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

- (2) The fee for the issue of a licence authorising storage above prescribed quantities as defined in regulation 89(3) is \$500.

### **230 Sale and import of explosives**

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

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

#### **Note**

The fee for a licence authorising a person to import and sell explosives is calculated under regulation 227. The fee would be calculated as \$62.50 plus (35% of \$62.50) being \$84.38.

### **231 Transport of explosives**

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

### **232 Blasting explosives licence**

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

### **233 Licence for pyrotechnician**

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

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

- (b) \$125 if it is necessary to assess the practical experience of the applicant; or
- (c) \$300 if it is necessary for the applicant to undergo an examination.

**234 Additional fee for security assessments and searches**

- (1) An applicant for the issue or renewal of an explosives licence must pay an additional fee to enable the Authority to obtain a security assessment or make a search of other known information in relation to—
  - (a) the applicant; and
  - (b) each person who has consented under regulation 205 or 209 to the Authority obtaining known information about that person.
- (2) The fee for a security assessment is \$20.
- (3) The fee for a search of any other known information about a person is \$40.

**Division 3—Other fees**

**235 Authorisation and classification of explosives**

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

**236 Determination of applications for exemptions**

The fee to accompany an application for an exemption from these Regulations is \$300.



## **Part 17—Savings and transitional provisions**

### **237 Applications for licences not yet determined**

- (1) On and after the commencement day, an application for a licence or renewal of a licence made under the former Regulations that has not been determined is taken to be an application for the corresponding licence or renewal of a licence under these Regulations and may be determined in accordance with these Regulations.

- (2) In this regulation—

*commencement day* means the day on which these Regulations come into operation;

*former Regulations* means the Dangerous Goods (Explosives) Interim Regulations 2021.

## **Schedule 1—Matters to be included in safety management system**

Regulation 38

### **1 Safety policy and safety objectives**

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

### **2 Organisational structure and personnel**

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

### **3 Operational controls**

Procedures and instructions that cover the following matters—

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

Schedule 1—Matters to be included in safety management system

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

- (u) incident and accident reporting and response;
- (v) maintenance of records.

#### **4 Performance monitoring**

Performance standards that—

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

#### **5 Audit**

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

## **Schedule 2—Particulars for security plans required by the Authority**

Regulations 204 and 207

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

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

Schedule 2—Particulars for security plans required by the Authority

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

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

<sup>1</sup> Reg. 4: S.R. No. 56/2021.

<sup>2</sup> Reg. 5(1) def. of *freight container*: S.R. No. 155/2018 as amended by S.R. No. 27/2021.

<sup>3</sup> Reg. 35(3): S.R. No. 22/2017 as amended by S.R. Nos 71/2018, 176/2018, 71/2019, 84/2020, 106/2020, 141/2020, 8/2021, 88/2021, 112/2021 and 137/2021.

<sup>4</sup> Reg. 123(b): S.R. No. 116/2021.

<sup>5</sup> Reg. 206(2)(a): S.R. No. 90/2016.

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### Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2021 is \$15.03 and for the financial year commencing 1 July 2022 is \$15.29. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

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Endnotes

**Table of Applied, Adopted or Incorporated Matter**

The following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

<b>Statutory rule provision</b>	<b>Title of applied, adopted or incorporated document</b>	<b>Matter in applied, adopted or incorporated document</b>
Regulation 5 (definition of <i>AS 2187</i> )	Australian Standard 2187, Explosives—Storage, transport and use, published by Standards Australia, as amended from time to time	The whole
Regulation 5 (definitions of <i>Class A protected work</i> , <i>Class B protected work</i> )	Australian Standard 2187.0, Explosives—Storage, transport and use—Part 0: Terminology, published by Standards Australia, as amended from time to time	The whole
Regulation 5 (definition of <i>AS 2187</i> ) and regulations 43, 57, 84, 90 and 92–95	Australian Standard 2187.1, Explosives—Storage, transport and use—Part 1: Storage, published by Standards Australia, as amended from time to time	The whole
Regulation 5 (definition of <i>AS 2187</i> ) and regulations 46, 47, 52, 129–131, 136 and 162	Australian Standard 2187.2, Explosives—Storage and use—Part 2: Use of explosives, published by Standards Australia, as amended from time to time	The whole
Regulation 5 (definition of <i>AS 2187</i> ) and regulations 151, 155, 157, 159, 160 and 162	Australian Standard 2187.4, Explosives—Storage, transport and use—Part 4: Pyrotechnics—Outdoor displays, published by Standards Australia, as amended from time to time	The whole

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Endnotes

<b>Statutory rule provision</b>	<b>Title of applied, adopted or incorporated document</b>	<b>Matter in applied, adopted or incorporated document</b>
Regulation 5 (definition of <i>AS 3846</i> ) and regulations 169–174	Australian Standard 3846, The handling and transport of dangerous cargoes in port areas, published by Standards Australia, as amended from time to time	The whole
Regulation 5 (definition of <i>Assessing Fitness to Drive Medical Standards</i> ) and regulations 183 and 200	Assessing Fitness to Drive for commercial and private vehicle drivers, 2016, Medical standards for licensing and clinical management guidelines, published by Austroads Ltd, as amended from time to time	The whole
Regulation 5 (definitions of <i>Australian Explosives Code</i> or <i>AEC, Class, Classification Code, Hazard Division</i> ) and regulations 8, 9, 11, 23, 32, 33, 43, 63, 100, 109, 113–116, 174 and 188	Australian Code for the Transport of Explosives by Road and Rail, prepared by the Australian Forum of Explosives Regulators and endorsed by the Workplace Relations Ministers' Council, as amended from time to time	The whole
Regulation 5 (definitions of <i>Class Label, UN number</i> )	Australian Code for the Transport of Dangerous Goods by Road and Rail, as in force from time to time	The whole