

Authorised Version No. 001
Drugs, Poisons and Controlled Substances
(Volatile Substances) Regulations 2024

S.R. No. 41/2024

Authorised Version as at
15 June 2024

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S.R. No. 41/2024

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1 Objective

The objective of these Regulations is to prescribe for the purposes of Part IV of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) the manner in which searches without warrant are to be conducted; and
- (b) the particulars to be included in records of those searches; and
- (c) the particulars to be included in records of receipt of any volatile substance or item used to inhale a volatile substance seized as a result of those searches; and
- (d) the particulars to be included in records of apprehension and detention; and
- (e) the particulars to be included in records of the disposal or making safe of any volatile substance or item used to inhale a volatile substance received or seized.

2 Authorising provisions

These Regulations are made under sections 60T and 132 of the **Drugs, Poisons and Controlled Substances Act 1981**.

3 Commencement

These Regulations come into operation on 15 June 2024.

4 Revocation

The Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2014¹ are **revoked**.

5 Definition

In these Regulations—

the Act means the **Drugs, Poisons and Controlled Substances Act 1981**.

6 Manner of conducting searches

- (1) A police officer who conducts a search of a person under section 60E or 60F of the Act must do so in one or more of the following ways—
 - (a) passing an electronic metal detection device over or in close proximity to the person's outer clothing;
 - (b) running their hands over the person's outer clothing;
 - (c) requesting the person to remove the person's outer clothing and gloves, shoes and headgear so that the officer may—
 - (i) pass an electronic metal detection device over or in close proximity to the person's clothing that was immediately under their outer clothing; or
 - (ii) run the officer's hands over the person's clothing that was immediately under their outer clothing; or
 - (iii) search the person's outer clothing and gloves, shoes and headgear.
- (2) A police officer who conducts a search of a vehicle, package or thing under section 60E or 60F of the Act must do so in one or more of the following ways—

- (a) examining the exterior and interior of the vehicle, package or thing;
 - (b) passing an electronic metal detection device over or in close proximity to the vehicle, package or thing.
- (3) A police officer must conduct a search of a person or the person's outer clothing, gloves, shoes or headgear—
- (a) in a manner that affords reasonable privacy to the person being searched; and
 - (b) as quickly as is reasonably practicable.
- (4) A search under subregulation (1)(b) or (1)(c)(ii) must, if reasonably practicable, be conducted by a police officer who is of the same gender as the gender the person to be searched identifies as.

7 Searching on private premises

If a police officer conducts a search under section 60E or 60F of the Act of a person on private premises who the police officer suspects on reasonable grounds is under 18 years of age, the police officer must—

- (a) if reasonably practicable, advise the person that the person may nominate an adult who is on the private premises to be present during the conduct of the search; and
- (b) if the person nominates an adult, take reasonable steps to ensure the adult is present during the conduct of the search.

8 Search records

- (1) For the purposes of section 60Q(1) and (2) of the Act, the prescribed particulars are—
- (a) the date of the search; and
 - (b) the time of the search; and

- (c) the place where the search took place; and
 - (d) the name, rank and registered number of the police officer who conducted the search; and
 - (e) the name of the person searched and, if applicable, a description of any vehicle, package or thing searched; and
 - (f) if applicable, the name of the nominated adult present during the search of the person on private premises; and
 - (g) the grounds relied on for conducting the search; and
 - (h) a description of any volatile substance or item used to inhale a volatile substance that is found during the search.
- (2) If the police officer who conducts a search is unable to obtain the name of the person searched, the officer must include in the particulars a description of that person.

Note

A person searched under section 60E or 60F of the Act is under no obligation to provide the person's name.

9 Records of receipt or seizure

- (1) For the purposes of section 60Q(3) and (4) of the Act, the prescribed particulars are—
- (a) the date of the receipt or seizure; and
 - (b) the time of the receipt or seizure; and
 - (c) the place where the receipt or seizure took place; and
 - (d) the name, rank and registered number of the police officer who received or seized the volatile substance or item used to inhale a volatile substance; and

- (e) the name of the person from whom the volatile substance or item used to inhale a volatile substance was received or seized; and
 - (f) the explanation, if any, that the person gave for carrying or possessing the volatile substance or item used to inhale a volatile substance; and
 - (g) if applicable, the name of the nominated adult present on private premises when the volatile substance or item used to inhale a volatile substance was received or seized from the person; and
 - (h) the grounds relied on for receiving or seizing the volatile substance or item used to inhale a volatile substance; and
 - (i) a description of the volatile substance or item used to inhale a volatile substance received or seized.
- (2) If the police officer who receives or seizes a volatile substance or an item used to inhale a volatile substance is unable to obtain the name of the person from whom the substance or item is received or seized, the officer must include in the particulars a description of that person.

Note

A person from whom a volatile substance or an item used to inhale a volatile substance is received under section 60H(1)(b) of the Act or seized under section 60J or 60K of the Act is under no obligation to provide the person's name.

- (3) Any particular set out in subregulation (1) or (2) is not required to be included in the record under this regulation if—
- (a) the particular has been recorded in a record under regulation 8; and

- (b) the particulars set out in regulation 8 and subregulations (1) and (2) are recorded in the same record.

10 Record of apprehension and detention

- (1) For the purposes of section 60Q(5) of the Act, the prescribed particulars are—
- (a) the date of the apprehension and detention; and
 - (b) the time of the apprehension and detention; and
 - (c) the place or places where the person was apprehended and detained; and
 - (d) the name, rank and registered number of the police officer who apprehended and detained the person; and
 - (e) the name of the person apprehended and detained; and
 - (f) the grounds relied on for the person's apprehension and detention; and
 - (g) the time of the release of the person; and
 - (h) if applicable, the name of the suitable person into whose care the detained person was released.
- (2) If the police officer who apprehends and detains a person is unable to obtain the name of the person apprehended and detained, the officer must include in the particulars a description of that person.

Note

A person apprehended and detained under section 60L of the Act is under no obligation to provide the person's name.

- (3) Any particular set out in subregulation (1) or (2) is not required to be included in the record under this regulation if—
- (a) the particulars have been recorded in a record under regulation 8 or 9; and
 - (b) the particulars set out in regulation 8 or 9 and subregulations (1) and (2) are recorded in the same record.

11 Record of disposal or making safe

- (1) For the purposes of section 60Q(6) of the Act, the prescribed particulars are—
- (a) the name of the person, if known, from whom the volatile substance or item used to inhale a volatile substance was received or seized; and
 - (b) a description of the volatile substance or item used to inhale a volatile substance to be disposed of or made safe; and
 - (c) the date on which the volatile substance or item used to inhale a volatile substance was disposed of or made safe; and
 - (d) the time at which the volatile substance or item used to inhale a volatile substance was disposed of or made safe; and
 - (e) the place at which the volatile substance or item used to inhale a volatile substance was disposed of or made safe; and
 - (f) the reason for the belief that the disposal or making safe of the volatile substance or item used to inhale a volatile substance was necessary; and

- (g) the name, rank and registered number of the police officer who believed that the disposal or making safe of the volatile substance or item used to inhale a volatile substance was necessary.
- (2) Any particular set out in subregulation (1) is not required to be included in the record under this regulation if—
 - (a) the particulars have been recorded in a record under regulation 8 or 9; and
 - (b) the prescribed particulars under regulation 8 or 9 and subregulation (1) are recorded in the same record.

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Endnotes

1 General information

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

The Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2024, S.R. No. 41/2024 were made on 4 June 2024 by the Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, under sections 60T and 132 of the **Drugs, Poisons and Controlled Substances Act 1981**, No. 9719/1981 and came into operation on 15 June 2024: regulation 3.

The Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2024 will sunset 10 years after the day of making on 4 June 2034 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

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

References to ILA s. 39B

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

Interpretation

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

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

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

- **Punctuation**

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

- **Provision numbers**

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

- **Location of "legislative items"**

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

- **Other material**

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

2 Table of Amendments

There are no amendments made to the Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2024 by statutory rules, subordinate instruments and Acts.

3 Explanatory details

¹ Reg. 4: S.R. No. 59/2014 as amended by S.R. No. 59/2014.