



New South Wales

Explosives Regulation 2024

under the

Explosives Act 2003

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Explosives Act 2003*.

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Minister for Work Health and Safety

Explanatory note

The object of this regulation is to remake, with a range of amendments, the *Explosives Regulation 2013*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation provides for the following—

- (a) eligibility criteria for specific licences,
- (b) the activities that may be carried out under each type of licence,
- (c) administrative matters for the issue, renewal, suspension and cancellation of licences and security clearances,
- (d) exemptions from the requirement to hold a security clearance or licence,
- (e) storage and transport of explosives and explosive precursors,
- (f) the secure and safe handling of explosives and explosive precursors, including record keeping and compliance with codes and standards,
- (g) matters concerning the administration and enforcement of the *Explosives Act 2003* and this regulation including prescribing offences as penalty notice offences.

This regulation is made under the *Explosives Act 2003*, including section 36, the general regulation-making power.

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Explosives Regulation 2024

under the

Explosives Act 2003

Part 1 Preliminary

1 Name of regulation

This regulation is the *Explosives Regulation 2024*.

2 Commencement

This regulation commences on 1 September 2024.

Note— This regulation replaces the *Explosives Regulation 2013*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Interpretation

The dictionary in Schedule 5 defines words used in this regulation.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

4 Regulatory authority for mining workplaces—the Act s 4

For the Act, section 4(2), the mining workplace regulator is declared to be the regulatory authority for mining workplaces, but only for the following—

- (a) examination and inspection of explosives or explosive precursors,
- (b) notification under sections 81 and 82,
- (c) appointment of inspectors,
- (d) investigation of the breach of—
 - (i) the Act, or
 - (ii) this regulation, or
 - (iii) a licence condition.

5 Persons to cooperate to discharge duties—the Act, s 36

For the Act, section 36(1), if more than 1 person has a duty in relation to the same matter each person with the duty must, so far as is reasonably practicable, consult, cooperate and coordinate activities with each other person with the duty.

Part 2 Authorised explosives

6 Register of explosives—the Act, s 9D

The register of explosives must, on and from 1 July 2025, be published on the regulatory authority's website.

7 Notice of cancellation of registration—the Act, s 9F(2)(a)

Notice of the cancellation of the registration of an explosive must be published on the website of the regulatory authority for a minimum of 12 months.

8 Unauthorised explosives not to be handled—the Act, s 36(2)(iab)

- (1) A person must not handle an explosive that is not an authorised explosive.
Maximum penalty—250 penalty units.
- (2) A person must not falsely represent an explosive as being a authorised explosive.
Maximum penalty—250 penalty units.

9 Use and modification of authorised explosives for unauthorised purposes—the Act, s 36(2)(i)

- (1) A person must not use, modify, or attempt to use or modify, an explosive to produce an explosive effect for which the explosive was not designed.
Maximum penalty—350 penalty units.
- (2) A person who handles, uses or modifies an explosive does not commit an offence under this section or section 8 if the person—
 - (a) is authorised to handle the explosive by a licence to manufacture, and
 - (b) handles, uses or modifies the explosive—
 - (i) during a research and development project during the permitted period of the project, and
 - (ii) in accordance with the requirements applying under hazard division 1.1, and approved by the regulatory authority for the project, and
 - (c) intends to apply for authorisation for the new or modified explosive resulting from the research and development project.
- (3) Subsection (2) does not apply to explosives that are goods too dangerous to be transported, within the meaning of the ADG Code or the Australian Explosives Code.
- (4) To avoid doubt, a person who develops or modifies an explosive in accordance with this section—
 - (a) may handle a new or modified explosive resulting from the research and development project, and
 - (b) must not supply the new or modified explosive to another person.
- (5) In this section—

permitted period, for a research and development project, means—
 - (a) a period of 6 months, or
 - (b) a longer period approved by the regulatory authority for the project.

research and development project means a project carried out for the purpose of testing and developing an explosive that is a new explosive, or a modified version of an existing explosive.

Part 3 Security clearances and licences

Note— The Act, section 12 applies the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2, except section 10, to an application for a licence.

Division 1 Preliminary

10 Circumstances in which security clearance must be held—the Act, s 6A

An individual who handles explosives or explosive precursors must, unless exempted under the Act or this regulation, Part 4, hold a security clearance that is in force.

11 Circumstances in which licence must be held—the Act, s 6

A person who handles explosives or explosive precursors must, unless exempted under the Act or this regulation, Part 4, hold a licence authorising the person to handle the explosives or explosive precursors.

12 Explosives and explosive precursors covered by licence—the Act, s 6

- (1) A licence authorises the handling of the explosives or explosive precursors specified in the licence.
- (2) If the licence specifies the maximum quantity of an explosive or explosive precursor that may be handled under the licence, a person acting under the authority of the licence must not handle more than the specified maximum quantity.
Maximum penalty—250 penalty units.

13 Premises covered by licence—the Act, s 6

A licence expressed to apply to specific premises authorises the handling of explosives or explosive precursors only at, or in connection with, the specified premises.

14 Activities permitted by licence—the Act, s 19

The activities that may be authorised to be carried out under each type of licence are the activities specified in Schedule 1 for the type of licence.

Division 2 Additional eligibility requirements for specific licences—the Act, s 16AC

15 Blasting explosives user's licence

- (1) An applicant for a blasting explosives user's licence must—
 - (a) be an individual, and
 - (b) have the qualifications and have passed the examinations and practical tests the regulatory authority considers to be necessary for the applicant to safely undertake the work for which the licence is required, and
 - (c) have been examined by a medical practitioner and certified to not have a medical or physical condition that impairs the applicant's ability to safely undertake the work for which the licence is required.
- (2) A medical examination for subsection (1)(c) must occur—
 - (a) within 6 months before the applicant first applies for a licence, and
 - (b) at least once every 5 years after the previous examination.

16 Fireworks, single use, licence

An applicant for a fireworks, single use, licence must—

- (a) be an individual, and
- (b) have completed training, or otherwise demonstrated competence in the use of display fireworks, that the regulatory authority considers to be satisfactory for the applicant to safely use the fireworks, and
- (c) be a fit and proper person.

17 Licence to use security sensitive dangerous substances

- (1) An applicant for a licence to use security sensitive dangerous substances must satisfy the regulatory authority that the applicant intends to use security sensitive dangerous substances for legitimate purposes.
- (2) Legitimate purposes for the use of security sensitive ammonium nitrate include the following—
 - (a) commercial production processes, including production of fertiliser or explosives,
 - (b) mining, quarrying and agricultural blasting,
 - (c) construction,
 - (d) civil engineering,
 - (e) seismic work,
 - (f) tunnelling,
 - (g) commercial agricultural use by primary producers,
 - (h) education, research or analysis.
- (3) The following are not legitimate purposes for the use of security sensitive ammonium nitrate—
 - (a) household domestic use,
 - (b) use as a fertiliser on recreation facilities including on parks, golf courses and sports fields.

18 Pyrotechnician's licence

An applicant for a pyrotechnician's licence must—

- (a) be an individual, and
- (b) have completed training, or otherwise demonstrated competence in the use of display fireworks, that the regulatory authority considers to be satisfactory for the applicant to safely use the fireworks.

Division 3 Suspension and cancellation

19 Suspension generally—the Act, ss 19 and 19A

Suspension of a security clearance or a licence takes effect on—

- (a) the day the regulatory authority gives written notice of the suspension to the holder of the security clearance or licence, or
- (b) the later date specified in the notice.

20 Additional grounds to suspend or cancel security clearance or licence—the Act, ss 20(1)(b) and 21(c)

The regulatory authority may suspend or cancel a security clearance or licence if the holder of the security clearance or licence becomes a person who is no longer eligible to be granted the security clearance or licence.

21 Suspension while investigating cancellation—the Act, ss 19 and 19A

- (1) The regulatory authority may suspend a security clearance or a licence while conducting an investigation to determine if the security clearance or the licence should be cancelled.
- (2) Suspension under this section—
 - (a) applies for the period, not longer than 28 days, specified in the notice under section 19, and
 - (b) may be renewed one or more times by written notice given to the holder of the security clearance or licence.

22 Cancellation—the Act, ss 19 and 19A

- (1) Cancellation of a security clearance or a licence takes effect on the day the regulatory authority gives written notice of the cancellation to the holder of the security clearance or licence or a later date specified in the notice.
- (2) The regulatory authority may direct the holder of a cancelled licence or security clearance to return the licence document or security clearance document to the regulatory authority within a specified period.
- (3) A person must not, without reasonable excuse, fail to comply with a direction given under subsection (2).
Maximum penalty—100 penalty units.

23 Notification of suspension or cancellation of security clearance—the Act, s 23A

- (1) If the regulatory authority suspends or cancels a security clearance, the regulatory authority must, if practicable, notify the supervising licence holder for the security clearance of the cancellation or suspension.
- (2) Notice under this section must be given—
 - (a) in writing, and
 - (b) within 7 days after the suspension or cancellation.
- (3) In this section—
supervising licence holder, for a security clearance, means a licence holder who employs or engages the person whose security clearance has been suspended or cancelled.

Division 4 Miscellaneous

24 Conditions of licence granted to a corporation—the Act, s 16AF

A licence granted to a corporation is subject to the following conditions—

- (a) there must at all times be at least 1 responsible person for the corporation,
- (b) a responsible person must be reasonably available to assist and advise persons handling explosives or explosive precursors under the licence,

- (c) a responsible person must be reasonably available to assist the regulator with any inquiries relating to the handling of explosives or explosive precursors under the licence,
- (d) within 30 days after a responsible person nominated for the corporation ceases to be involved in the management of the corporation, the corporation must notify the regulatory authority of that matter.

25 Nomination of responsible person

For the Act, definition of *responsible person*, the nomination of a person as a responsible person must include the following—

- (a) a copy of the person's security clearance,
- (b) evidence, satisfactory to the regulatory authority, that the person has the relevant knowledge, experience and qualifications to supervise the activities authorised by the licence,
- (c) evidence the person is involved in the management of the corporation,
- (d) evidence the person consents to the nomination.

26 Security plan—the Act, s 16AA

A security plan must—

- (a) be made in a form approved by the regulatory authority, and
- (b) identify security risks relating to explosives and explosive precursors, and
- (c) specify processes to address identified security risks and ensure the following—
 - (i) explosives and explosive precursors are kept securely,
 - (ii) explosives and explosive precursors can only be accessed by a person authorised by the security plan to have access,
 - (iii) the licence holder can identify when explosives or explosive precursors have been accessed and can identify unauthorised access to explosives or explosive precursors,
 - (iv) the receiver of explosives or explosive precursors from the licence holder can be identified and is authorised to receive the explosives or explosive precursor,
 - (v) sufficient records are kept to allow an inspector to assess whether the plan has been complied with, and
- (d) contain the following—
 - (i) a description of explosives and explosive precursors handled under the licence,
 - (ii) a list of the persons who are allowed unsupervised access to the explosives or explosive precursors handled under the licence,
 - (iii) details of the action that will be taken to ensure the explosives or explosive precursors cannot be accessed at or removed from the place in which they are being handled or stored without the permission of the licence holder,
 - (iv) for a licence authorising transport of explosives or explosive precursors by vehicle—a list of the vehicles that may be used to transport the explosives or explosive precursors and the persons approved to drive those vehicles.

27 Safety management plan—the Act, s 16AA

A safety management plan must—

- (a) be made in a form approved by the regulatory authority, and
- (b) contain the following—
 - (i) a description of how the applicant proposes to handle the explosives or explosive precursors,
 - (ii) an assessment of the safety risks that may arise from handling the explosives or explosive precursors and the measures that are being implemented to manage those risks.

28 Restoration of licence—prescribed fee

For the Act, section 16A(4)(b), the prescribed fee for the restoration of a licence is—

- (a) for a blasting explosives user's licence—\$341, or
- (b) for a licence to import—\$3,208, or
- (c) for a licence to manufacture—\$3,413, or
- (d) for a licence to store—\$349, or
- (e) for a licence to supply—\$819, or
- (f) for a licence to transport by vehicle—\$2,524, or
- (g) for a licence to transport by vessel—\$2,524, or
- (h) for a licence to use security sensitive dangerous substances—\$136, or
- (i) for a pyrotechnician's licence—\$341.

Part 4 Exemptions

29 Staff of licence holders—the Act, s 24B

- (1) An employee of a licence holder is not required to hold a licence to handle explosives or explosive precursors if—
 - (a) the employee holds a security clearance that is in force, or
 - (b) the employee is acting under the immediate supervision of another employee of the licence holder who holds a security clearance that is in force.
- (2) An individual engaged by a licence holder, other than an employee, is not required to hold a licence to handle explosives or explosive precursors if—
 - (a) the individual is acting under the immediate supervision of an employee of the licence holder who is responsible for supervising the handling of explosives or explosive precursors (the *supervisor*), and
 - (b) either the individual or the supervisor holds a security clearance that is in force.

30 Police—the Act, ss 24B and 24C

- (1) A member of the NSW Police Force is not required to hold a licence or security clearance to store, at a police station, 10kg NEQ or less of explosives or explosive precursors—
 - (a) in connection with the prosecution of one or more offences, or
 - (b) in other circumstances where storage is—
 - (i) in the public interest, and
 - (ii) in anticipation of the explosive or explosive precursor product being transported to the NSW Police Rescue and Bomb Disposal Unit for disposal.
- (2) On and from 1 July 2025, an explosive stored at a police station must be stored in a secure magazine.

31 Exemptions for certain explosives—the Act, ss 24B and 24C

- (1) A person is not required to be authorised by a licence, or to hold a security clearance, to purchase, possess, transport, store, use, sell or supply the following explosives—
 - (a) cartridges for explosive-powered tools, in a total quantity of 10,000 units or less,
 - (b) distress signals, in a total quantity of 10kg NEQ or less,
 - (c) life-saving appliances of hazard division 1.4, in a total quantity of 10kg NEQ or less,
 - (d) toy fireworks, in a total quantity of 1 tonne or less, inclusive of packaging.
- (2) A person may import life-saving appliances without a licence to import.
- (3) Subsection (1) does not apply to the handling of an explosive for a use that is not a use for which the explosive was designed.

32 Ammunition—the Act, ss 24B and 24C

- (1) A person who is a licensed firearms dealer under the *Firearms Act 1996* is not required to be authorised by a licence, or to hold a security clearance, to purchase, possess, store, transport, sell or supply the following—
 - (a) ammunition,

- (b) percussion caps,
 - (c) 12kg or less of propellant powder.
- (2) A person who holds a licence or a permit under the *Firearms Act 1996* that authorises the person to possess or use a firearm is not required to be authorised by a licence to purchase, possess, use, store or transport the following—
- (a) ammunition,
 - (b) percussion caps,
 - (c) 12kg or less of propellant powder.
- (3) Subsection (2) does not apply to a person who only holds one or both of the following—
- (a) a firearms collector licence,
 - (b) an heirloom permit.
- (4) A person who holds an ammunition collection permit under the *Firearms Act 1996* is not required to be authorised by a licence to purchase, possess or store ammunition that is authorised to be possessed by the permit.

33 Transport of ammunition and percussion caps by carriers—the Act, ss 24B and 24C

- (1) This section applies to a person who is—
- (a) operating the business of a carrier, or
 - (b) acting in the ordinary course of the person's duties in the business of a carrier.
- (2) A person to whom this section applies is not required to be authorised by a licence, or to hold a security clearance, to—
- (a) transport ammunition or percussion caps by vehicle, and
 - (b) possess and store ammunition and percussion caps for the purpose of and incidental to transporting the ammunition or percussion caps.

34 Transport of explosives by private road—the Act, ss 24B and 24C

A person is not required to hold a licence to transport by vehicle to transport an explosive or explosive precursor by motor vehicle if—

- (a) the motor vehicle is travelling on a private road within an explosives site, and
- (b) the person is authorised under this regulation to possess the explosive or explosive precursor.

35 Voyages outside the State—the Act, ss 24B and 24C

A person is not required to be authorised by a licence to transport by vessel, or to hold a security clearance, to transport an explosive or explosive precursor by a vessel that is proceeding on an overseas or interstate voyage.

36 Activities in port operational areas—the Act, ss 24B and 24C

- (1) A person is not required to be authorised by a licence, or to hold a security clearance, to handle an explosive or explosive precursor in a port operational area under the control of a port authority.
- (2) In this section—
- port authority** means the following—
- (a) the Port Authority of New South Wales established under the *Ports and Maritime Administration Act 1995*, Part 2,
 - (b) Transport for NSW constituted under the *Transport Administration Act 1988*.

port operational area means the following—

- (a) the waters of a port,
- (b) a ship in a port,
- (c) a port facility,
- (d) property in a port that is used for the handling of dangerous goods that are being moved to or from a ship.

37 Use of small quantities of security sensitive ammonium nitrate—the Act, ss 24B and 24C

A person is not required to be authorised by a licence to use security sensitive dangerous substances, or to hold a security clearance, to—

- (a) transport 20kg or less of security sensitive ammonium nitrate, or
- (b) handle and use security sensitive ammonium nitrate if—
 - (i) the handling or use is for educational, research or analytical purposes, and
 - (ii) the handling or use is carried out at a commercial laboratory, school, university or other research institution, and
 - (iii) the amount of security sensitive ammonium nitrate handled or used is 3kg or less.

38 Register of exemptions—the Act, s 24F

The register of exemptions granted under the Act, section 24D must include the following—

- (a) the provision of the Act and this regulation to which the exemption applies,
- (b) the period for which the exemption applies.

Part 5 Storage and transport of explosives and explosive precursors—the Act, s 36(2)

Division 1 Preliminary

39 Storage or transport of different hazard division explosives together

A person who stores or transports different hazard division explosives together must, for the combination of hazard divisions, comply with the storage or transport requirements determined under—

- (a) for storage—AS 2187, or
- (b) for transport—the Australian Explosives Code.

Maximum penalty—250 penalty units.

Division 2 Storage

40 Storage of explosives

- (1) A person must not store explosives unless—
 - (a) the person holds a licence authorising the storage, and
 - (b) the storage is in a secure magazine at premises approved for the licence, and
 - (c) the storage is for no longer than the maximum period, if any, specified in the licence for the type of explosive and the premises.

Maximum penalty—250 penalty units.

- (2) Additional requirements for the storage of explosives may be imposed by licence condition.
- (3) This section does not apply to a person who—
 - (a) holds a firearm licence, other than a person who only holds a firearm collector licence or an heirloom permit, for the storage of the following—
 - (i) ammunition,
 - (ii) percussion caps,
 - (iii) 12kg or less of propellant powder, or
 - (b) is, under this regulation, authorised to store the explosives without a licence.

41 Storage of explosive precursors

- (1) A person must not store explosive precursors unless—
 - (a) the person holds a licence authorising the storage, and
 - (b) the storage is in a secure store, and
 - (c) the storage is for no longer than the maximum period, if any, specified in the licence for the type of explosive precursor.

Maximum penalty—250 penalty units.

- (2) Additional requirements for the storage of explosive precursors may be imposed by licence condition.

42 Emergency management plans for storage

- (1) A licence holder must have a written plan for responding to accidents and emergencies if the licence holder stores—
 - (a) more than 50kg NEQ of explosives, or

- (b) more than 50 tonnes of explosive precursors.
Maximum penalty—250 penalty units.
- (2) The plan must be reviewed and updated—
 - (a) whenever there is a significant change in—
 - (i) the licence holder’s operations, or
 - (ii) the physical environment in which the licence holder operates, and
 - (b) at least once every 5 years.
Maximum penalty—250 penalty units.
- (3) When developing or reviewing the plan the licence holder must—
 - (a) consult the Commissioner of Fire and Rescue NSW and the regulatory authority, and
 - (b) consider written advice received from the Commissioner or the regulatory authority, and
 - (c) implement, so far as reasonably practicable, recommendations in advice from the Commissioner or the regulatory authority.
Maximum penalty—250 penalty units.
- (4) The licence holder must ensure the following persons are aware of the details of the plan—
 - (a) persons who work at the premises, at which the explosives or explosive precursors are stored, and who may be exposed to risk as a result of an accident or emergency,
 - (b) persons in neighbouring premises who may be exposed to risk as a result of an accident or emergency.
Maximum penalty—250 penalty units.
- (5) The licence holder must give a copy of the plan, including changes to the plan, to—
 - (a) the regulatory authority, and
 - (b) the following emergency services—
 - (i) in the case of premises in a rural fire district within the meaning of the *Rural Fires Act 1997*—the Commissioner of the NSW Rural Fire Service,
 - (ii) otherwise—the Commissioner of Fire and Rescue NSW.
Maximum penalty—250 penalty units.

43 Supervision of explosives or explosive precursors removed from storage

- (1) A licence holder must ensure that explosives removed from a secure magazine are, until used or returned to a secure magazine, kept under the direct supervision of a person who holds a security clearance that is in force.
Maximum penalty—250 penalty units.
- (2) A licence holder must ensure that explosive precursors removed from a secure store are, until used or returned to a secure store, kept under the direct supervision of a person who holds a security clearance that is in force.
Maximum penalty—250 penalty units.

Division 3 Temporary holding in vehicles

44 Holding explosives in vehicle

- (1) The person in control of a vehicle being used to transport explosives must ensure the explosives are unloaded from the vehicle and stored in a secure magazine if the vehicle remains at premises for longer than—
 - (a) 2 consecutive business days, or
 - (b) if the business days are separated by a day that is not a business day—4 days.Maximum penalty—250 penalty units.
- (2) To avoid doubt, a vehicle that holds explosives—
 - (a) is taken to be transporting the explosives, and
 - (b) is subject to the relevant requirements of the Australian Explosives Code.

45 Holding explosives in rail yards and sidings

- (1) The person in control of a rail yard or siding in which there are one or more units of rolling stock that are being used to transport explosives, must ensure the quantity of explosives held in the rolling stock at any time does not exceed 40 tonnes NEQ.
Maximum penalty—250 penalty units.
- (2) Explosives kept in rolling stock in a rail yard or siding must not be kept for longer than—
 - (a) 2 consecutive business days, or
 - (b) if the business days are separated by a day that is not a business day—4 days.Maximum penalty—250 penalty units.
- (3) This section does not apply to hazard division 1.4 explosives.
- (4) In this section—
rolling stock has the same meaning as in the *Rail Safety National Law (NSW)*.
siding has the same meaning as in the *Rail Safety National Law (NSW)*.

Division 4 Transport

Subdivision 1 Transport of explosives

46 Definition

In this subdivision—

controlled explosives means hazard division 1.1, 1.2 or 1.5 explosives.

47 Transport of explosives generally

- (1) A person must not transport an explosive by vehicle in a quantity greater than the maximum load limit set for the explosive by the Australian Explosives Code.
Maximum penalty—250 penalty units.
- (2) A person must not enter into a contract, agreement or arrangement with another person by which that other person agrees to transport explosives otherwise than in accordance with the Australian Explosives Code.
Maximum penalty—250 penalty units.

48 Transport of explosives by public passenger vehicle

- (1) A person must not transport explosives by public passenger vehicle.

Maximum penalty—350 penalty units.

- (2) This section does not apply to the following—
- (a) the transport of explosives by a police officer acting in the course of the officer's duties,
 - (b) the transport of railway track signals by an officer or member of staff of a rail authority acting in the course of the officer's or staff member's duties, if the track signals are carried in an area of the vehicle not accessible to members of the public,
 - (c) the transport of ammunition by a person authorised to possess the ammunition under the *Firearms Act 1996*, section 65,
 - (d) toy fireworks.
- (3) In this section—
- public passenger vehicle** means a vehicle or vessel used to transport members of the public.
- rail authority** has the same meaning as in the *Transport Administration Act 1988*, Part 9.

49 Transport of explosives in road tunnels and on bridges

- (1) In a prohibited area or on a regulated bridge, a person must not, except with the approval of the regulatory authority, use a vehicle to transport the following—
- (a) a controlled explosive,
 - (b) a quantity of a hazard division 1.3, 1.4 or 1.6 explosive that is a placard load.
- Maximum penalty—250 penalty units.
- (2) In this section—
- placard load** means goods in or on a motor vehicle, trailer or tanker that are required to be identified with a placard or sign under the Australian Explosives Code.
- prohibited area** has the same meaning as in the *Road Rules 2014*, rule 300–2.
- regulated bridge** means the following—
- (a) Anzac Bridge,
 - (b) Gladesville Bridge,
 - (c) Sydney Harbour Bridge.

50 Transport of explosives east of the Newell Highway

In the area of the State east of the Newell Highway, a person must not transport more than 10 tonnes of controlled explosives by road unless the person is authorised by licence to transport the explosive, and—

- (a) transport is on a direct route from the Newell Highway to the following—
- (i) the Hunter Valley via Merriwa,
 - (ii) the Port of Newcastle,
 - (iii) the Port of Yamba via Jackadgery,
 - (iv) the Woodlawn Mining District via Hay,
 - (v) Defence Establishment Orchard Hills,
 - (vi) Explosive Ordnance Depot Twofold Bay,
 - (vii) HMAS Albatross,
 - (viii) Jennings Ordnance Depot via Glen Innes and Tenterfield,
 - (ix) Myambat Explosive Ordnance Depot via Musswellbrook,

- (x) RAAF Base Williamtown,
 - (xi) Singleton Military Area, or
 - (b) the regulatory authority has given approval.
- Maximum penalty—250 penalty units.

51 Transport in central business districts

- (1) A person using a vehicle to transport controlled explosives—
- (a) must not, except with the approval of the regulatory authority, take the vehicle into a relevant central business district, and
 - (b) must take all reasonably practicable steps to bypass all other central business districts and major shopping centres.
 - (i) central business districts, and
 - (ii) major shopping areas.
- Maximum penalty—250 penalty units.

- (2) In this section—
- relevant central business district*** means a central business district in the following local government areas—
- (a) City of Newcastle,
 - (b) City of Penrith,
 - (c) City of Sydney,
 - (d) City of Wollongong,
 - (e) North Sydney.

Subdivision 2 Hazard management

52 Person transporting explosives to avoid hazards

A person transporting an explosive by vehicle must ensure that, while the explosive is in or on the vehicle, the explosive is kept away from anything, whether in the vehicle or elsewhere, that might cause the explosive to ignite or explode.

Maximum penalty—250 penalty units.

53 Smoking prohibited on or near vehicles used to transport explosives

- (1) A person must not smoke within 6m of a vehicle that—
- (a) contains an explosive, and
 - (b) displays the signs required by the Australian Explosives Code.
- Maximum penalty—250 penalty units.
- (2) The person in charge of a vehicle carrying an explosive must take all practicable steps to ensure that no person smokes within 6m of the vehicle.
- Maximum penalty—250 penalty units.

54 Additional requirements—licence to transport by vehicle

- (1) The holder of a licence to transport by vehicle must ensure that each individual who is authorised by the licence holder to drive a vehicle containing an explosive or explosive precursor—
- (a) complies with the requirements of the Australian Explosives Code, and
 - (b) is at least 21 years of age, and

- (c) has sufficient training and experience to drive the vehicle, and
- (d) has been examined by a medical practitioner and found not to have a medical or physical condition that impairs or is likely to impair the individual's ability to safely control the vehicle.

Maximum penalty—250 penalty units.

- (2) A medical examination for subsection (1)(d) must occur—
 - (a) within the 6 months before the first occasion on which the driver is authorised by the licence holder to drive a vehicle containing an explosive or an explosive precursor, and
 - (b) at least once every 5 years after the previous examination.

Part 6 Safety and security

Division 1 Compliance with codes and standards—the Act, s 36(2)(a)(iia)

55 Definition

In this division—

relevant standard or code means—

- (a) for an activity in relation to an explosive—
 - (i) AS 2187, and
 - (ii) the Australian Explosives Code, and
- (b) for an activity in relation to an explosive precursor—
 - (i) Australian Standard AS 4326–2008, *The storage and handling of oxidizing agents*, as in force from time to time, and
 - (ii) the ADG Code.

56 Duty to comply with certain standards or codes

- (1) A person who carries out an activity covered by a relevant standard or code must carry out the activity in accordance with the relevant standard or code.
Maximum penalty—250 penalty units.
- (2) In this section—
carry out an activity includes agreeing or arranging for another person to carry out the activity.

57 Application of standards or codes

- (1) If a relevant standard or code imposes a duty but does not clearly indicate the person, or class of persons, responsible for the duty, the duty must be observed or discharged by the person undertaking the activity.
- (2) If a duty is placed on more than 1 person, or on a class of persons, the duty must be observed or discharged by each person, or each person in the class—
 - (a) only in relation to the matters for which the person has management or control, and
 - (b) whether or not another person is also responsible for undertaking the duty.
- (3) A provision of this regulation prevails over an inconsistent provision of a relevant standard or code.

58 Duty to ensure others comply with Australian Explosives Code

- (1) A licence holder or transport supervisor must ensure that a person who is employed by, engaged by or otherwise involved in the transport of an explosive for the licence holder or transport supervisor—
 - (a) is trained in the relevant requirements of the Australian Explosives Code, and
 - (b) as far as is practicable, complies with the Australian Explosives Code.Maximum penalty—250 penalty units.
- (2) In this section—
transport supervisor means a person who, in accordance with an exemption under the Act or this regulation, manages or supervises the transport of explosives.

Division 2 Compliance with security plan and safety management plan—the Act, s 36(2)(a)(ia)

59 Compliance with security plan

A licence holder must ensure that—

- (a) the requirements of, and procedures specified in, the licence holder's security plan are observed, and
- (b) activities under the licence are undertaken in accordance with the security plan.

Maximum penalty—250 penalty units.

60 Access to explosives only in accordance with security plan

- (1) An individual must not access an explosive or explosive precursor under a licence for which a licence holder has submitted a security plan unless—
 - (a) the individual holds a licence that authorises the individual to handle the explosive or explosive precursor, or
 - (b) the individual—
 - (i) holds a security clearance that is in force, and
 - (ii) is listed on the security plan as a person authorised to have access to the explosive or explosive precursor, or
 - (c) is directly supervised by—
 - (i) the licence holder, or
 - (ii) for a licence held by a corporation—a responsible person for the corporation, or
 - (iii) an employee of the licence holder who holds a security clearance that is in force.

Maximum penalty—250 penalty units.

- (2) For this section, a person has access to an explosive or explosive precursor if the person has access to—
 - (a) the secure magazine or secure store in which the explosives or explosive precursors are stored, or
 - (b) the keys, codes or other devices used to unlock a secure magazine or secure store in which the explosives or explosive precursors are stored.

61 Compliance with safety management plan

A licence holder must ensure that—

- (a) the requirements of, and procedures specified in, the licence holder's safety management plan are observed, and
- (b) activities under the licence are undertaken in accordance with the safety management plan.

Maximum penalty—250 penalty units.

Division 3 Manufacture—the Act, s 36(2)(a)(ia)

62 Packaging and marking

- (1) A person who holds a licence to manufacture must ensure that—

- (a) before an explosive is used by the manufacturer or supplied to another person, it is packaged and marked in accordance with the Australian Explosives Code, and
 - (b) before an explosive precursor is used by the manufacturer or supplied to another person, it is packaged and marked in accordance with the ADG Code.
- Maximum penalty—250 penalty units.
- (2) This section does not apply to—
- (a) a blasting explosive manufactured at the premises or place at which it is about to be used, or
 - (b) another explosive for use at the premises or place where it was manufactured, but only if the containers in which the explosive is kept are clearly and conspicuously marked with the product name and classification code of the explosive, or
 - (c) bulk explosives being transported in compliance with the Australian Explosives Code.

Division 4 Supply generally—the Act, s 36(2)(a)(ia)

63 Definitions

In this division—

corresponding law means a law of another State or Territory serving substantially the same purpose as the Act.

receiver—see section 65(1).

64 Packaging and marking

- (1) A person must not import, supply, store or transport an explosive or explosive precursor unless it is packaged and marked in accordance with—
- (a) for an explosive—the Australian Explosives Code, and
 - (b) for an explosive precursor—the ADG Code.
- Maximum penalty—250 penalty units.
- (2) This section does not apply to explosives or explosive precursors that are—
- (a) bulk explosives being transported in compliance with the Australian Explosives Code, or
 - (b) ammunition, distress signals or cartridges for explosive-powered tools—
 - (i) weighing no more than 5kg in total, and
 - (ii) stored or transported by a person for the person’s own use.
- (3) This section does not prevent the transport of an imported explosive or explosive precursor from an airport or wharf to a place specified in a licence in order to package and mark or label the explosive or explosive precursor in accordance with the Australian Explosives Code or ADG Code.
- (4) This section does not apply to storage or transport of an explosive by the following—
- (a) an inspector or authorised officer carrying out the inspector’s or officer’s duties,
 - (b) a police officer carrying out the officer’s duties,
 - (c) an officer of an emergency service carrying out the officer’s duties.
- (5) In this section—
- emergency service* has the meaning given by the Act, Schedule 2, clause 2.

65 Explosives to be supplied only to persons authorised to receive explosives

- (1) An authorised supplier who supplies an explosive or explosive precursor to another person (the *receiver*) must obtain and keep the following—
- (a) if the receiver is an individual—proof of the receiver’s identity,
 - (b) if the receiver is a corporation—proof of identity of an officer of the corporation who is authorised to handle the explosive or explosive precursor,
 - (c) evidence that—
 - (i) the receiver is authorised by a licence, or otherwise authorised under a corresponding law, to possess the explosive or explosive precursor in the quantity supplied, or
 - (ii) the receiver is not required to be authorised by a licence to possess the explosive or explosive precursor, or
 - (iii) the explosive or explosive precursor is to be delivered to the receiver outside Australia.

Maximum penalty—100 penalty units.

- (2) For subsection (1) proof of identity may be given by—
- (a) the following documents issued in Australia—
 - (i) a driver licence displaying a photograph of the holder,
 - (ii) a passport,
 - (iii) a Photo Card issued under the *Photo Card Act 2005*, or
 - (b) an equivalent document issued by a government authority in another country, or
 - (c) another document approved by the regulatory authority for this section.
- (3) If supply is by consignment, the authorised supplier must also—
- (a) give the receiver a notice setting out a description of, and the quantity of, the explosives or explosive precursors supplied, and
 - (b) have received from the receiver confirmation that the receiver will be prepared to receive the explosives or explosive precursors on a specified day or within a specified period, and
 - (c) send the explosives or explosive precursors at a time and in a way that, in the ordinary course of transport, the receiver will receive them on the specified day or within the specified period, and
 - (d) send the consignment with a person who holds a licence to transport by vehicle.

Maximum penalty—100 penalty units.

- (4) Subsection (3)(d) does not apply to the supply of explosives or explosive precursors of a kind or in a quantity that may, under this regulation, be transported by a person who does not hold a licence to transport by vehicle or a licence to transport by vessel.

66 Supplier to make record of supply

- (1) An authorised supplier must make a record of each supply of an explosive or explosive precursor in accordance with this section.

Maximum penalty—100 penalty units.

- (2) The record must include the following information—
- (a) the date of supply,
 - (b) the type and quantity of the explosive or explosive precursor supplied,

- (c) the name, address and telephone number of the receiver,
- (d) details of—
 - (i) the receiver's licence or authority under the Act or a corresponding law to possess the explosive or explosive precursor, or
 - (ii) the basis on which the receiver is not required to be authorised by licence to possess the explosive or explosive precursor,
- (e) if the explosive or explosive precursor is to be stored by a person other than the receiver—the name, address and telephone number of the person who will store the explosive or explosive precursor.

67 Retention and disclosure of records

- (1) A person required to make a record under section 66 must keep the record for at least 5 years after the record is made.
Maximum penalty—100 penalty units.
- (2) A record must be made available for examination at the direction of an inspector or police officer as soon as practicable, but not more than 7 days, after the direction is given.
Maximum penalty—100 penalty units.

68 Supply of distress signals, explosive-powered tool cartridges or ammunition

- (1) A person must not supply ammunition, a distress signal, a cartridge for an explosive-powered tool or a railway track signal unless the person is satisfied that the receiver is—
 - (a) a legitimate user of the relevant explosive, and
 - (b) if the receiver is an individual—at least 18 years of age.Maximum penalty—250 penalty units.
- (2) In this section—
legitimate user means the following—
 - (a) for ammunition—a firearm licence or permit holder, other than a person who only holds one or both of the following—
 - (i) a firearm collector licence,
 - (ii) an heirloom permit,
 - (b) for a distress signal—a person who—
 - (i) intends to use the distress signal as a safety device on a vessel, or
 - (ii) holds a pyrotechnician's licence and is authorised to use a distress signal under the licence,
 - (c) for a cartridge for an explosive-powered tool—a person who intends to use the cartridge with an explosive-powered tool,
 - (d) for a railway track signal—a person who intends to use the railway track signal as a warning signal in connection with railway work,
 - (e) a person who holds a licence to supply the relevant explosive.

Division 5 Import and export—the Act, s 36(2)(a)(ia)

69 Import of explosives and explosive precursors

- (1) A person who holds a licence authorising the person to import explosives or explosive precursors must not import an explosive or explosive precursor unless the person has given the regulatory authority written notice of the following—

- (a) the licence holder's name and licence number,
- (b) the date the licence holder intends to bring the explosive or explosive precursor into the State,
- (c) the identification of the vessel or aircraft that will be used to bring the explosive or explosive precursor into the State,
- (d) the port, facility or airport at which the explosive or explosive precursor will be brought into the State,
- (e) the following details of the explosive or explosive precursor—
 - (i) name and classification code,
 - (ii) quantity,
- (f) if the explosive or explosive precursor is to be delivered to another person—the other person's name, address and telephone number,
- (g) the address at which the explosive or explosive precursor will be stored.

Maximum penalty—250 penalty units.

- (2) A notice must be given—
 - (a) on each occasion that an explosive or explosive precursor is imported, and
 - (b) no later than 5 business days before the day on which the explosive or explosive precursor is to be imported.
- (3) If the licence holder becomes aware that information given in a notice is no longer accurate, the licence holder must, as soon as practicable, give the regulatory authority notice of the relevant change of information.
Maximum penalty—250 penalty units.

70 Transport of imported explosives or explosive precursors

A person must not transport an explosive or explosive precursor from the port, facility or airport at which it is imported without the written approval of the regulatory authority.

Maximum penalty—250 penalty units.

71 Export of explosives and explosive precursors

- (1) A person who holds a licence authorising the person to export explosives or explosive precursors must not export an explosive or explosive precursor unless the supplier has given the regulatory authority written notice of the following—
 - (a) the person's name and licence number,
 - (b) the intended date of export of the explosive or explosive precursor,
 - (c) the port, facility or airport from which the explosive or explosive precursor is to be exported,
 - (d) the following details of the explosive or explosive precursor—
 - (i) name and classification code,
 - (ii) quantity,
 - (e) the name, address and telephone number of the person to whom the explosive or explosive precursor is being supplied.

Maximum penalty—100 penalty units.
- (2) A notice must be given—
 - (a) on each occasion that an explosive or explosive precursor is exported, and

- (b) no later than 5 business days before the day on which the explosive or explosive precursor is to be exported.
- (3) If the licence holder becomes aware that information given in a notice is no longer accurate, the licence holder must, as soon as practicable, give the regulatory authority notice of the relevant change of information.
Maximum penalty—100 penalty units.

Division 6 Use of explosives—the Act, s 36(2)(a)(ia)

72 Setting of explosives

- (1) A person responsible for setting an explosive to explode must not leave the explosive unsupervised until—
 - (a) it has exploded, or
 - (b) it has otherwise been destroyed or rendered harmless.Maximum penalty—350 penalty units.
- (2) Subsection (1) extends to an explosive that has failed to fire or has misfired.
- (3) This section does not apply to an explosive set to explode at a place in connection with mining operations while the explosive remains at the place.
- (4) In this section—
mining operations has the same meaning as in the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

73 Directions from inspectors relating to explosives that have been set

- (1) An inspector may direct a person responsible for setting an explosive to explode to—
 - (a) cause the explosive to explode, or
 - (b) otherwise destroy, render harmless or dispose of the explosive.
- (2) A direction may only be given to the following—
 - (a) a licence holder,
 - (b) an employee, contractor or other person engaged, or apparently engaged, by a licence holder,
 - (c) a person the inspector reasonably suspects to be engaged in activities regulated under the Act or this regulation.
- (3) This section extends to an explosive that has failed to fire or has misfired.
- (4) A person must not fail to comply with an inspector’s direction.
Maximum penalty—250 penalty units.

74 Storage of explosives prepared for use

- (1) This section applies to the following licences—
 - (a) blasting explosives user’s licence,
 - (b) fireworks, single use, licence,
 - (c) pyrotechnician’s licence.
- (2) A licence holder must ensure that an explosive not used or loaded into a blast hole on the day it is prepared for use is—
 - (a) kept in closed, clean, secure containers or packaging conspicuously labelled “EXPLOSIVES”, and

- (b) stored in a secure magazine, and
 - (c) used as soon as practicable.
- Maximum penalty—250 penalty units.

75 Improper use of distress signal

- (1) A person must not use a distress signal for a purpose other than as a distress signal.
Maximum penalty—250 penalty units.
- (2) Subsection (1) does not apply to the holder of a pyrotechnician's licence if the licence authorises the use of a distress signal for another purpose.

Division 7 Disposal of explosives—the Act, s 30A

76 Disposal under blasting explosives user's licence

- (1) This section applies to disposal of explosives by—
 - (a) the holder of a blasting explosives user's licence, or
 - (b) a person acting under the immediate supervision of the holder of a blasting explosives user's licence.
- (2) An explosive may be disposed of if—
 - (a) the blasting explosives user's licence authorises the use of the explosive being disposed of, and
 - (b) the explosive is surplus stock that was not used on the day it was prepared for use, and
 - (c) the explosive is disposed of in accordance with AS 2187.
- (3) A licence holder must not, under this section, dispose of an explosive for fee or reward.

77 Disposal under licence to manufacture

The holder of a licence to manufacture, or a person employed or engaged by the holder and who is authorised under section 29 to handle the explosive, may dispose of an explosive if—

- (a) the licence authorises the handling of the explosive being disposed of, and
- (b) the explosive is disposed of in accordance with the licence holder's safety management plan.

78 Disposal generally

- (1) A licence holder may dispose of an explosive by returning the explosive to the original supplier, with the consent of the supplier.
- (2) In this section—
original supplier means the holder of a licence to supply from whom the explosive was obtained.

79 Explosives not to be abandoned or discarded

A person must not abandon, bury or otherwise discard an explosive.
Maximum penalty—350 penalty units.

Division 8 Notification of incidents—the Act, s 36(2)(a)(ia)

80 Definitions

In this division—

harbour master means a person appointed or acting as harbour master under the *Marine Safety Act 1998*.

responsible notifier means the following—

- (a) a licence holder,
- (b) the officer in charge of a police station at which explosives are stored under section 30,
- (c) a person who, under section 32, 33 or 37, is not required to be authorised by a licence.

serious incident means an incident resulting in—

- (a) an uncontrolled explosion or fire, or
- (b) the death of, or serious injury to, a person, or
- (c) substantial unintended damage to property, or
- (d) risk of an event referred to in paragraphs (a)–(c).

81 Notification of loss or theft of explosives or explosive precursors

- (1) A responsible notifier must immediately notify each relevant authority of the following events—

- (a) the theft of an explosive or explosive precursor from the responsible notifier,
- (b) an attempt to steal an explosive or explosive precursor from the responsible notifier,
- (c) a suspicious incident that threatens the security of an explosive or explosive precursor in the possession, custody or control of the responsible notifier,
- (d) the loss of an explosive or explosive precursor by the responsible notifier.

Maximum penalty—350 penalty units.

- (2) The harbour master responsible for a port must notify the regulatory authority of the following events occurring in the port—

- (a) the theft or attempted theft of an explosive or explosive precursor,
- (b) a suspicious incident that threatens the security of an explosive or explosive precursor,
- (c) the loss of an explosive or explosive precursor.

Maximum penalty—350 penalty units.

- (3) In this section—

relevant authority means the following—

- (a) the regulatory authority,
- (b) a police officer,
- (c) if the explosive or explosive precursor is located at a mining workplace—the mining workplace regulator.

82 Notification of serious incidents involving explosives or explosive precursors

- (1) A responsible notifier must give notice of a serious incident relating to the handling of an explosive or explosive precursor in the possession, custody or control of the responsible notifier to—

- (a) if the incident occurred at a mining workplace—the mining workplace regulator, or
 - (b) otherwise—the regulatory authority.Maximum penalty—350 penalty units.
- (2) The harbour master responsible for a port must notify the regulatory authority of a serious incident relating to the handling of an explosive or explosive precursor in the port.
Maximum penalty—350 penalty units.
- (3) Notice of a serious incident must—
 - (a) be given immediately after the responsible notifier becomes aware of the incident, and
 - (b) be given—
 - (i) by electronic communication in a way approved by the regulatory authority or the mining workplace regulator, containing full particulars of the incident, including the particulars of a death, injury or unintended damage to property arising from the incident, or
 - (ii) by telephone to the regulatory authority or mining workplace regulator, giving the information requested by the regulatory authority or mining workplace regulator.
- (4) A responsible notifier is not required to give notice under this section if—
 - (a) the incident has been notified as a notifiable incident under the *Work Health and Safety Act 2011*, and
 - (b) that notification is consistent with subsection (2).

83 Preservation of site following serious incident

- (1) The responsible notifier who gives notice of a serious incident under section 82 must ensure that the following areas are not used, interfered with or disturbed for a period of 36 hours after notice is given—
 - (a) the area within a radius of 4m of the place where the serious incident occurred,
 - (b) the area within a radius of 4m of a place affected by the serious incident.Maximum penalty—350 penalty units.
- (2) This section does not prevent taking action—
 - (a) to help or remove a trapped or injured person, or
 - (b) to remove a body, or
 - (c) to avoid injury to a person or damage to property, or
 - (d) for a police investigation, or
 - (e) as authorised or directed by an inspector.
- (3) The *Interpretation Act 1987*, section 36 does not apply to this section.

Division 9 Miscellaneous—the Act, s 36(2)(a)(iia)

84 Access to explosives or explosive precursors by unauthorised persons

- (1) A licence holder must not allow an individual who does not hold a security clearance that is in force to have access to an explosive or explosive precursor unless supervised by—
 - (a) the licence holder, or

- (b) for a licence held by a corporation—a responsible person for the corporation, or
- (c) an employee of the licence holder who holds a security clearance that is in force.

Maximum penalty—250 penalty units.

- (2) For this section, a person has access to an explosive or explosive precursor if the person has access to—
 - (a) the secure magazine or secure store in which the explosive or explosive precursor is stored,
 - (b) the keys, codes or other devices used to unlock a secure magazine or secure store in which the explosive or explosive precursor is stored,
 - (c) the explosive or explosive precursor while it is being transported.

85 Fire hazards

A person must not, within 10m of a place where explosives are handled—

- (a) smoke, or
- (b) have a thing that might spontaneously ignite or cause fire or explosion.

Maximum penalty—250 penalty units.

86 Interference with signs and labels

- (1) A person must not intentionally or recklessly interfere with a sign, label or marking erected, fixed or made in relation to the control or regulation of an explosive or explosive precursor.
Maximum penalty—250 penalty units.
- (2) Subsection (1) does not apply to interference caused by the ordinary use of the explosive or explosive precursor.

87 Restrictions on vacating explosives site

- (1) A person must not vacate an explosives site unless all explosives stored at the site are removed by—
 - (a) lawfully disposing of the explosives, or
 - (b) lawfully transporting the explosives for storage at another place in accordance with a licence.Maximum penalty—350 penalty units.
- (2) A person who fails to remove an explosive from a site does not commit an offence against subsection (1) if the new occupier of the site—
 - (a) knowingly takes possession of the explosive, and
 - (b) is authorised by a licence to possess and store the explosive.

Part 7 Administration and enforcement

88 Destruction of forfeited explosives—the Act s 24N

The regulatory authority may destroy a forfeited explosive, or a portion of a forfeited explosive, that is not required for legal proceedings under the Act.

89 Direction given by inspector or police officer—the Act, s 36(2)

- (1) An inspector or police officer may direct a person to do one or more of the following—
 - (a) remove a thing that is a hazard to an explosive or explosive precursor, such as an ignition source,
 - (b) take specific action to make unsafe explosives safe,
 - (c) dispose of unsafe explosives as provided for in the Act, section 30A,
 - (d) adopt immediate arrangements to ensure the security of premises used to manufacture or store explosives or explosive precursors,
 - (e) do a thing that, in the opinion of the inspector or police officer, is necessary to address a risk to the safety or security of a person or property arising from the handling of explosives or explosive precursors.
- (2) A direction requiring a person to handle explosives may only be given to the following—
 - (a) a licence holder,
 - (b) an employee, contractor or other person engaged, or apparently engaged, by a licence holder,
 - (c) a person the inspector or police officer reasonably suspects to be engaged in activities regulated under the Act or this regulation.
- (3) A person must not fail to comply with a direction given under this section.
Maximum penalty—250 penalty units.

90 Licence or security clearance to be carried and produced—the Act, s 36(2)

- (1) A person who holds a licence or security clearance must, at the request of a police officer or inspector who reasonably suspects the person is handling an explosive or explosive precursor—
 - (a) produce the licence or security clearance for inspection by the police officer or inspector, or
 - (b) if the licence or security clearance is not in the person's immediate possession—produce the licence or security clearance to the police officer or inspector who made the demand or to another police officer or inspector nominated by the original police officer or inspector within 48 hours after the demand is made.

Maximum penalty—50 penalty units.
- (2) A person in possession of an explosive or explosive precursor must—
 - (a) carry the licence, or a copy of the licence, that authorises the possession of the explosive or explosive precursor, and
 - (b) produce the licence, or a copy of the licence, at the request of a police officer or inspector, and
 - (c) if the person holds a security clearance—
 - (i) carry the security clearance, and

- (ii) produce the security clearance, at the request of a police officer or inspector.

Maximum penalty—50 penalty units.

91 Onus of proof concerning reasonable excuse—the Act, s 36(1)

In proceedings for an offence against a provision of this regulation, the onus of proving that a person had a reasonable excuse is on the person asserting it.

92 Penalty notice offences and penalties—the Act, s 34

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

Part 8 Miscellaneous—the Act, s 36(2)

93 Labels and markings to be in English

A document, label or marking required by the Act or this regulation must, unless otherwise provided for by the Act or this regulation, be written in English.

94 Classification of detonators

For this regulation, a detonator has the following classification code—

- (a) if packaged in accordance with the requirements of classification code 1.4B—1.4B,
- (b) if packaged in accordance with the requirements of classification code 1.4S—1.4S,
- (c) otherwise—1.1B.

95 Regulatory authority's power to waive, reduce, postpone or refund fees

The regulatory authority may waive, reduce, postpone or refund, in whole or part, a fee under the Act or this regulation if the regulatory authority is satisfied—

- (a) the person liable for the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example of special circumstances— The person is affected by or recovering from a natural disaster.

96 Savings and transitional provisions

Schedule 4 has effect.

Schedule 1 Activities under each type of licence

section 14

1 Blasting explosives user's licence

- (1) A blasting explosives user's licence authorises the licence holder to do the following—
 - (a) purchase explosives and explosive precursors,
 - (b) possess explosives and explosive precursors,
 - (c) store explosives and explosive precursors,
 - (d) transport explosives and explosive precursors,
 - (e) use explosives and explosive precursors,
 - (f) dispose of explosives and explosive precursors,
 - (g) if specified in the licence—make ANFO for use within 24 hours.
- (2) The regulatory authority may require a licence holder to submit a security plan when the licence holder notifies the regulatory authority of the location of an appropriate storage facility in which explosives or explosive precursors are proposed to be stored.
- (3) The *Interpretation Act 1987*, section 36 does not apply to this section.
- (4) In this section—

ANFO means an explosive—

 - (a) consisting of ammonium nitrate and fuel oil, and
 - (b) manufactured in accordance with AS 2187.

appropriate storage facility means the following—

 - (a) for an explosive—a secure magazine,
 - (b) for an explosive precursor—a secure store.

2 Fireworks, single use, licence

- (1) A fireworks, single use, licence authorises the licence holder to, on a single occasion, do the following—
 - (a) purchase display fireworks,
 - (b) possess display fireworks,
 - (c) store display fireworks,
 - (d) transport display fireworks,
 - (e) use display fireworks.
- (2) The regulatory authority must not grant a fireworks, single use, licence to a person on more than 4 occasions in a 12-month period.

3 Licence to import

- A licence to import authorises the licence holder to do the following—
- (a) import explosives and explosive precursors,
 - (b) export explosives and explosive precursors,
 - (c) possess explosives and explosive precursors,
 - (d) purchase explosives and explosive precursors,
 - (e) store explosives and explosive precursors,

- (f) supply explosives and explosive precursors.

4 Licence to manufacture

- (1) A licence to manufacture authorises the licence holder to do the following—
 - (a) manufacture explosives and explosive precursors,
 - (b) purchase explosives and explosive precursors,
 - (c) possess explosives and explosive precursors,
 - (d) store explosives and explosive precursors,
 - (e) supply explosives and explosive precursors,
 - (f) import explosives and explosive precursors,
 - (g) export explosives and explosive precursors,
 - (h) dispose of explosives and explosive precursors.
- (2) A licence to manufacture relating to a mobile processing unit also authorises the licence holder to use the mobile processing unit to—
 - (a) transport an explosive precursor between the place at which the explosive precursor is stored and the place at which explosives are to be manufactured, and
 - (b) manufacture explosives using the mobile processing unit.
- (3) In this section—
mobile processing unit means a vehicle or mobile unit used to manufacture explosives.

5 Licence to store

A licence to store authorises the licence holder to do the following—

- (a) purchase explosives and explosive precursors,
- (b) possess explosives and explosive precursors,
- (c) store explosives and explosive precursors.

6 Licence to supply

A licence to supply authorises the licence holder to do the following—

- (a) purchase explosives and explosive precursors,
- (b) possess explosives and explosive precursors,
- (c) store explosives and explosive precursors,
- (d) supply explosives and explosive precursors,
- (e) export explosives and explosive precursors.

7 Licence to transport by vehicle

A licence to transport by vehicle authorises the licence holder to do the following—

- (a) possess explosives and explosive precursors,
- (b) store explosives and explosive precursors,
- (c) transport explosives and explosive precursors by vehicle.

8 Licence to transport by vessel

A licence to transport by vessel authorises the licence holder to do the following—

- (a) possess explosives and explosive precursors,

- (b) store explosives and explosive precursors,
- (c) transport explosives and explosive precursors by vessel.

9 Licence to use security sensitive dangerous substances

- (1) A licence to use security sensitive dangerous substances authorises the licence holder to do the following—
 - (a) purchase security sensitive dangerous substances,
 - (b) possess security sensitive dangerous substances,
 - (c) store security sensitive dangerous substances,
 - (d) transport security sensitive dangerous substances,
 - (e) use security sensitive dangerous substances,
 - (f) dispose of security sensitive dangerous substances.
- (2) A licence to use security sensitive dangerous substances may specify the purposes for which a security sensitive dangerous substance may be used.

10 Pyrotechnician's licence

- (1) A pyrotechnician's licence authorises the licence holder to do the following—
 - (a) purchase explosives,
 - (b) possess explosives,
 - (c) store explosives,
 - (d) transport explosives,
 - (e) use explosives.
- (2) A pyrotechnician's licence must not be issued for explosives other than the following—
 - (a) display fireworks,
 - (b) distress signals,
 - (c) model rocket propellant devices containing not more than 62.5g of ignitable substances.
- (3) In this section—
model rocket propellant device means an article that—
 - (a) consists of a case containing 1 or more substances that burn rapidly when ignited, and
 - (b) is designed to be part of the propulsion system of a model rocket.

Schedule 2 Penalty notice offences

section 92

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 6(1)—for an offence committed by a corporation	\$15,000
Section 6(1)—for an offence committed by an individual	\$7,500
Section 6A	\$7,500
Section 7—for an offence committed by a corporation	\$15,000
Section 7—for an offence committed by an individual	\$7,500
Section 8(1)—for an offence committed by a corporation	\$15,000
Section 8(1)—for an offence committed by an individual	\$7,500
Section 9(1)	\$1,500
Section 15	\$1,500
Section 16AG	\$1,000
Section 18(1)–(5)	\$1,500
Section 23	\$300
Section 27A(1)	\$5,000
Section 28—for an offence committed by a corporation	\$23,000
Section 28—for an offence committed by an individual	\$7,000
Section 35(1)	\$150
Offences under this regulation	
Section 8(1) and (2)	\$5,000
Section 9(1)	\$7,500
Section 12(2)	\$5,000
Section 22(3)	\$2,000
Section 39	\$5,000
Section 40(1)	\$5,000
Section 41(1)	\$5,000
Section 42(1)–(5)	\$5,000
Section 43(1) and (2)	\$5,000
Section 44(1)	\$5,000
Section 45(1) and (2)	\$5,000
Section 47(1) and (2)	\$5,000
Section 48(1)	\$7,500
Section 49(1)	\$5,000
Section 50	\$5,000

Column 1	Column 2
Provision	Penalty
Section 51(1)	\$5,000
Section 52	\$5,000
Section 53(1) and (2)	\$5,000
Section 54(1)	\$5,000
Section 56(1)	\$5,000
Section 58(1)	\$5,000
Section 59	\$5,000
Section 60(1)	\$5,000
Section 61	\$5,000
Section 62(1)	\$5,000
Section 64(1)	\$5,000
Section 65(1) and (3)	\$2,000
Section 66(1)	\$2,000
Section 67(1) and (2)	\$2,000
Section 68(1)	\$5,000
Section 69(1) and (3)	\$5,000
Section 70	\$5,000
Section 71(1) and (3)	\$2,000
Section 72(1)	\$7,500
Section 73(4)	\$5,000
Section 74(2)	\$5,000
Section 75(1)	\$5,000
Section 79	\$7,500
Section 81(1) and (2)	\$7,500
Section 82(1) and (2)	\$7,500
Section 83(1)	\$5,000
Section 84(1)	\$5,000
Section 85	\$5,000
Section 86(1)	\$5,000
Section 87(1)	\$7,500
Section 89(3)	\$5,000
Section 90(1) and (2)	\$1,000

Schedule 3 Toy fireworks

Schedule 5, definition of “toy firework”

1 Items that are toy fireworks

The following items are toy fireworks—

- (a) blaster balls,
- (b) bon-bon crackers,
- (c) confetti bombs,
- (d) indoor table bombs,
- (e) sparklers,
- (f) starting pistol caps,
- (g) streamer cones,
- (h) toy pistol caps.

2 Definitions

In this schedule—

blaster ball means a solid substrate ball coated with a pyrotechnic composition that, if struck with another blaster ball, results in an ignition at the point of contact and a low-level noise.

bon-bon cracker means an article containing an item designed to produce a sound resulting from an explosion that occurs when the ends of strips of cardboard, or similar, to which an initiatory explosive is applied in a quantity not more than 2g per 1000 articles, are pulled away from each other.

confetti bomb means a pyrotechnic device containing an explosive substance—

- (a) with a mass not more than 30mg, and
- (b) mainly consisting of one or more relevant substances, and
- (c) designed to emit a report and project confetti when an igniting string is pulled.

indoor table bomb means a pyrotechnic device containing an explosive substance—

- (a) with a mass not more than 60mg, and
- (b) mainly consisting of one or more relevant substances, and
- (c) designed to emit a report and project confetti or streamers when an igniting string is pulled.

relevant substance means the following—

- (a) potassium chlorate,
- (b) amorphous phosphorus,
- (c) antimony sulphide,
- (d) sulphur.

sparkler means a wire or stick coated with a metallic powder mixed with an oxidising compound.

starting pistol cap means a dot of an explosive substance—

- (a) mainly consisting of one or more relevant substances, and
- (b) applied to a sheet of paper or other suitable material, and
- (c) with a mass not more than 0.5g per dot.

streamer cone means a pyrotechnic device—

- (a) containing an explosive substance, mainly consisting of one or more relevant substances, with a mass not more than 30mg, and
- (b) designed to emit a report and project streamers when an igniting string is pulled.

toy pistol cap means a dot of an explosive substance—

- (a) mainly consisting of one or more relevant substances, and
- (b) enclosed between 2 pieces of paper or other suitable material, and
- (c) with a mass not more than 7.5g per 1,000 dots.

Schedule 4 Savings and transitional provisions

section 96

1 Definition

In this Schedule—

repeal means the repeal of the *Explosives Regulation 2013* by the *Subordinate Legislation Act 1989*, section 10(2).

2 Licences

A licence of a kind referred to in the *Explosives Regulation 2013*, clause 21 that was in force immediately before the repeal is taken to be a licence of a corresponding kind referred to in the Act, section 16AB.

3 Registered explosives

An explosive that was, immediately before the repeal, an authorised explosive under that regulation, Part 4, Division 2, is taken to be an authorised explosive under the Act, Part 2A.

4 Applications made but not dealt with before repeal of Explosives Regulation 2013

- (1) An application for a licence that was made under the *Explosives Regulation 2013* but not finally dealt with before the repeal must be dealt with and determined under this regulation.
- (2) An application for a security clearance that was made under the *Explosives Regulation 2013* but not finally dealt with before the repeal must be dealt with under this regulation.

5 Savings

An act, matter or thing that, immediately before the repeal of the *Explosives Regulation 2013*, had effect under that regulation continues to have effect under this regulation.

Schedule 5 Dictionary

section 3

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

AS 2187 means Australian Standard AS 2187, *Explosives—Storage, transport and use*, as in force from time to time.

authorised supplier means the holder of a licence that authorises the holder to supply an explosive or explosive precursor.

business day means a day that is not—

- (a) a Saturday or Sunday, or
- (b) a public holiday.

controlled explosives, for Part 5, Division 4, Subdivision 1—see section 46.

corresponding law, for Part 6, Division 4—see section 63.

display fireworks means fireworks, other than toy fireworks or distress signals, consisting of a case or device forming a squib, gerb, cracker, serpent, mortar shell, lance, wheel, coloured fire, Roman candle or other article specially adapted for the production of a pyrotechnic effect or sound effect.

distress signal—

- (a) means a pyrotechnic device intended for signalling, warning, rescue or similar purposes, and
- (b) includes a signal cartridge, marine flare, landing flare, highway flare, highway fusee, line-carrying rocket, anti-hail rocket, cloud seeding rocket, avalanche rocket, smoke generator, railway track signal and bird scarer.

explosive-powered tool means a tool that uses an explosive to drive a stud, pin, dowel, screw, rivet, spike or other similar object against, into or through a substance.

explosives site means land on which explosives are lawfully stored.

export means export from the State to another country.

harbour master, for Part 6, Division 8—see section 80.

hazard division, for an explosive, means the hazard division assigned to the explosive under the Australian Explosives Code.

import means bring explosives or explosive precursors into the State from another country.

life-saving appliance means a safety device for use in a motor vehicle, vessel or aircraft including the following—

- (a) a seat-belt pretensioner,
- (b) an airbag,
- (c) an escape slide,
- (d) a life raft,
- (e) a personal flotation device.

mining workplace means a workplace—

- (a) to which the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* applies, or
- (b) at which activities under the *Petroleum (Offshore) Act 1982* are carried out.

mining workplace regulator means the Secretary of the Department of Primary Industries and Regional Development.

NEQ means the net explosive quantity of an explosive, excluding packaging, casings and other non-explosive components, expressed as a mass.

percussion cap means an article of classification code 1.4S—

- (a) consisting of a metallic or plastic cap or cup containing a small amount of primary explosive mixture, and
- (b) used as the ignition element in ammunition.

propellant powder means the following—

- (a) black powder,
- (b) smokeless powder.

receiver, for Part 6, Division 4—see section 63.

relevant standard or code, for Part 6, Division 1—see section 55.

responsible notifier, for Part 6, Division 8—see section 80.

secure magazine means a store—

- (a) used exclusively for keeping explosives, and
- (b) designed, constructed, located, marked, labelled and used in accordance with AS 2187.

secure store means a place for the storage of explosive precursors kept secure by—

- (a) lock or constant surveillance, and
- (b) procedures governing the following—
 - (i) access,
 - (ii) if the store is secured by lock—access to keys, codes or other devices used to unlock the store,
 - (iii) documentation of movement of persons into and out of the store.

serious incident, for Part 6, Division 8—see section 80.

the Act means the *Explosives Act 2003*.

toy firework—see Schedule 3.