



New South Wales

Paintball Regulation 2024

under the

Paintball Act 2018

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Paintball Act 2018*.

ANOULACK CHANTHIVONG, MP
Minister for Better Regulation and Fair Trading

Explanatory note

The object of this regulation is to remake, with amendments, the *Paintball Regulation 2019*, which will be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation provides for the following—

- (a) matters to be included in an application for use of a paintball marker other than at an authorised paintball venue including—
 - (i) the application fee, and
 - (ii) the considerations the Secretary must take into account in deciding the application,
- (b) paintball marker sharing arrangements,
- (c) conditions on paintball venue permits including in relation to supervision of the use of paintball markers,
- (d) the information in relation to paintball markers that must be provided to the Secretary for inclusion in the register of paintball markers,
- (e) requirements for the disposal of paintball markers by authorised suppliers,
- (f) miscellaneous matters in relation to the refusal of permits,
- (g) recognised equivalent authorisations in relation to permits under the *Paintball Act 2018 (the Act)*,
- (h) penalties for offences against the Act and this regulation.

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Paintball Regulation 2024*.

2 Commencement

This regulation commences on 1 September 2024.

Note— This regulation replaces the *Paintball Regulation 2019*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

In this regulation—

fee unit—see Schedule 1, Part 2, section 2.

firearm has the same meaning as in the *Firearms Act 1996*.

the Act means the *Paintball Act 2018*.

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

Part 2 Use of paintball markers other than at authorised paintball venues—the Act, s 5(3)

4 Applications for use of paintball marker other than at authorised paintball venue

- (1) The holder of a paintball marker permit may apply to the Secretary for an authorisation to use a paintball marker at a place other than an authorised venue (the *nominated venue*).
- (2) The application must—
 - (a) be made to the Secretary in the approved form, and
 - (b) be accompanied by any other information required by the Secretary to assess the application, and
 - (c) be accompanied by the fee specified in Schedule 1.

5 Deciding applications

The Secretary may decide an application for an authorisation by—

- (a) granting the authorisation, with or without conditions, or
- (b) refusing to grant the authorisation.

6 Considerations for deciding applications

In deciding whether to grant or refuse an authorisation, the Secretary must take into account the following—

- (a) information provided by the applicant under section 4(2)(b),
- (b) any disciplinary action taken against the applicant under the Act, section 44(1),
- (c) whether the applicant's proposed use of a paintball marker can be reasonably accommodated by an authorised paintball venue,
- (d) whether the nominated venue is suitable for the proposed use,
- (e) the impact of the following factors on the suitability of the nominated venue for the proposed use—
 - (i) the size of the venue,
 - (ii) the location of the venue,
 - (iii) the geography of the venue's location,
 - (iv) the proximity of the venue to facilities used for community, educational, recreational or cultural activities,
- (f) whether the applicant's proposed use of the nominated venue would pose a risk to public safety,
- (g) the public interest.

7 Review of decisions on application

An applicant may apply to the Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of a decision by the Secretary under section 5.

Part 3 Permits

8 Supply of paintball marker under paintball marker sharing arrangement—the Act, s 11(1)(d)

- (1) A supplier must not supply a paintball marker to the recipient under a paintball marker sharing arrangement for more than 14 consecutive days.
- (2) For the Act, section 79(1), a supplier is exempt from the Act, section 66(1) in relation to the supply of a paintball marker under a paintball marker sharing arrangement if the paintball marker is returned within 14 days.
- (3) If a paintball marker is supplied under a paintball marker sharing arrangement and the paintball marker is not returned within 14 days, the period for notifying the Secretary of the supply is, for the Act, section 66(1), 21 days after the paintball marker is supplied.
- (4) For the Act, section 66(4), the supplier and the recipient must keep in a form suitable for inspection, and retain for 7 years, a written record specifying the following in relation to each supply of a paintball marker under a paintball marker sharing arrangement—
 - (a) the name, address and paintball venue permit number of the supplier and the recipient,
 - (b) if the paintball marker has a serial number—the serial number of the paintball marker,
 - (c) if the paintball marker does not have a serial number—information that is reasonably sufficient to enable the paintball marker to be readily identified,
Examples of information— the maker of the marker, the colour or unique marking on the marker or the model of the marker
 - (d) the date on which the supply occurred,
 - (e) if the paintball marker was returned within 14 days—the date the paintball marker was returned,
 - (f) if the paintball marker was not returned within 14 days—confirmation the paintball marker was not returned.

Maximum penalty—50 penalty units.

- (5) In this section—

paintball marker sharing arrangement means an arrangement referred to in the Act, section 11(1)(d) between a supplier and a recipient for the supply of paintball markers in accordance with this part.

recipient means the holder of a paintball venue permit who receives a paintball marker from a supplier under a paintball marker sharing arrangement.

supplier means the holder of a paintball venue permit who provides a paintball marker to another holder of a paintball venue permit under a paintball marker sharing arrangement.

9 Supply of paintball markers at authorised paintball venues—the Act, section 11(1)(e)

The Secretary may authorise the holder of a paintball venue permit to supply a paintball marker to the holder of a paintball marker permit at an authorised paintball venue.

10 Suitability to hold a paintball marker permit—the Act, s 14(1)(e)

The course of training prescribed for a paintball marker permit is a course of training that—

- (a) addresses the safe use of paintball markers and the safe conduct of activities associated with paintball markers, and
- (b) is approved by the Secretary, and
- (c) is provided—
 - (i) by or on behalf of the Secretary, or
 - (ii) by an approved entity.

Part 4 Conditions of paintball venue permits

11 Protective clothing and equipment—the Act, s 37(3)(a)

- (1) The following protective clothing and equipment are prescribed for a person to be permitted to enter a paintball game area when there is a paintball marker in the paintball game area—
 - (a) protective covering for the person's eyes and face,
Example of protective covering— a paintball helmet or mask
 - (b) enclosed shoes,
 - (c) other clothing or equipment that covers as much of the person as is reasonable in the circumstances.
- (2) The clothing and equipment referred to in subsection (1) must be appropriate for the person and the conditions.

12 Supervision of use of paintball markers—the Act, s 41(1)

An employee of the holder of a paintball venue permit who does not hold a paintball marker permit must satisfactorily complete a course of training that—

- (a) addresses the safe use of paintball markers and the safe conduct of activities associated with paintball markers, and
- (b) is approved by the Secretary, and
- (c) is provided—
 - (i) by or on behalf of the Secretary, or
 - (ii) by an approved entity.

Part 5 Register of paintball markers

13 Register of paintball markers—the Act, s 65(6)

The following information must be included in the Register—

- (a) if the paintball marker does not have a serial number—information that is reasonably sufficient to enable the paintball marker to be readily identified,
Examples of information— the maker of the marker, the colour or unique marking on the marker or the model of the marker
- (b) for each paintball marker—
 - (i) the address of the person who holds the permit for the paintball marker (the *permit holder*), and
 - (ii) if the paintball marker is stored at a different address—the address at which the paintball marker is stored,
- (c) for each permit holder and former permit holder—
 - (i) details of the cancellation or suspension of any permit held, or previously held, by the person, and
 - (ii) details of any disciplinary action taken against the person, and
 - (iii) details of convictions for a relevant offence.

14 Provision of information to Secretary about supply or disposal of paintball markers

- (1) For the Act, section 66(1) and (3), the period of 7 days is prescribed.
- (2) For the Act, section 66(4), the information must be provided in a form approved by the Secretary.

Part 6 Disposal of paintball markers

15 Process for disposal of paintball markers—the Act, s 35

An authorised supplier must dispose of a paintball marker as follows—

- (a) the chassis of the marker must be severed to make the marker permanently inoperable,
- (b) if the paintball marker has a serial number—the serial number must be destroyed,
- (c) the remaining parts of the inoperable marker must be disposed of—
 - (i) in a safe way, and
 - (ii) with care taken against causing injury to persons or property.

Maximum penalty—50 penalty units.

Part 7 Refusal of permits

16 Refusal of paintball venue permits—the Act, section 17(2)(b)

The Secretary may refuse a paintball venue permit if the applicant for the paintball venue permit has not provided information demonstrating that an approval under the *Environmental Planning and Assessment Act 1979* required to use the premises as a paintball venue is in force.

17 Prescribed period for deemed refusal of permits—the Act, s 17(5)

- (1) The Secretary is taken to have refused a permit if the Secretary fails to give an applicant for a permit notice of a decision to grant or refuse the permit within 28 days after the application is received.
- (2) If the Secretary requires information from another agency to assess an application, the period from when the Secretary requests the information until the information is provided is not to be included in calculating the period of 28 days.

Part 8 Miscellaneous

18 Relevant offences

For the Act, section 3(1), definition of *relevant offence*, paragraph (e), an offence against the following Acts is prescribed—

- (a) the *Fair Trading Act 1987*,
- (b) the *Australian Consumer Law (NSW)*.

19 Recognition of equivalent authorisations

(1) For the Act, section 3(1), definition of *equivalent authorisation*, the following licences are equivalent to a paintball marker permit if the licence was issued in relation to a paintball marker, however described—

- (a) an adult firearms licence issued in the category of paintball marker under the *Firearms Act 1996* of the Australian Capital Territory,
- (b) a licence for a category A weapon within the meaning of the *Weapons Act 1990* of Queensland,
- (c) a licence for a category A firearm within the meaning of the *Firearms Act 2015* of South Australia,
- (d) a Category A firearms licence within the meaning of the *Firearms Act 1996* of Tasmania,
- (e) a paintball marker licence within the meaning of the *Firearms Act 1996* of Victoria,
- (f) a licence for a sub-category E5 firearm issued under the *Firearms Act 1973* of Western Australia.

(2) An equivalent authorisation referred to in subsection (1) ceases to be taken to be a paintball marker permit if the holder of the licence has resided in New South Wales for a continuous period of more than 3 months.

20 Fees—the Act, s 80(1A)(a)

The fees set out in Schedule 1, Part 1 are prescribed.

21 Secretary's power to waive, reduce, postpone or refund fees—the Act, s 80(1A)(b)

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

- (a) the person who must pay or has paid the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example of special circumstances— circumstances involving a natural disaster or recovery from a natural disaster

22 Savings

An act, matter or thing that, immediately before the repeal of the *Paintball Regulation 2019*, had effect under that regulation continues to have effect under this regulation.

Schedule 1 Fees

section 20

Part 1 Fees payable

Item	Type of fee	Fee units
1	Application for a paintball venue permit	5
2	Application for a paintball marker permit	0.75
3	Application for an international paintball competitor permit	0.75
4	Application for a variation of a permit	0.34
5	Application for a replacement permit	0.34
6	Application for an authorisation to use a paintball marker at a place other than an authorised paintball venue	0.95

Part 2 Adjustment of fees for inflation

1 Definitions

In this part—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of the index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for regulation

(1) For this regulation, a **fee unit** is—

- (a) in the financial year 2024–25—\$119.64, and
- (b) in each later financial year—the amount calculated as follows—

$$\$119.64 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2024.

- (2) The amount of a fee unit must be rounded to the nearest cent, and an amount of 0.5 cent must be rounded down.
- (3) However, if the amount of a fee unit calculated for a financial year is less than the amount that applied for the previous financial year, the amount for the previous financial year applies instead.

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit, including the amount of a component of a fee, must be rounded to the nearest dollar, and an amount of 50 cents must be rounded down.

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Bureau of Statistics, the Secretary must—
 - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of the amount may be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this part.
- (2) This part operates to change an amount of a fee calculated by reference to a fee unit and the change is not dependent on the notification or other notice required by this section.

Schedule 2 Penalty notice offences

1 Application of schedule

- (1) For the Act, section 74—
 - (a) each offence specified in this schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) the limited kind of offence, or
 - (b) an offence committed in the limited circumstances.

Provision	Penalty— corporations	Penalty— individuals
Offences under the Act		
Section 28(1) for a contravention of the condition set out in—		
(a) the Act, section 36A	\$220	\$220
(b) the Act, section 36B	\$2,200	\$2,200
(c) the Act, section 37(1)	\$3,600	\$720
(d) the Act, section 37(2)	\$4,800	\$1,200
(e) the Act, section 37(3)	\$4,800	\$1,200
(f) the Act, section 38(1)	\$6,000	\$1,200
(g) the Act, section 38(2)	\$4,800	\$1,200
(h) the Act, section 39(1)	\$3,000	\$600
(i) the Act, section 39(2)	\$3,000	\$600
(j) the Act, section 39(3)	\$4,800	\$1,200
(k) the Act, section 41(1)	\$3,600	\$720
Section 30(1)	\$4,800	\$1,200
Section 33(2)	\$4,800	\$1,200
Section 34(3)	\$3,000	\$600
Section 63	\$3,600	\$720
Section 64	\$3,000	\$600
Section 66(1)	\$3,000	\$600
Section 66(3)	\$3,000	\$600
Offences under this regulation		
Section 8(4)	\$3,000	\$600
Section 15(a) or (b)	\$3,000	\$600