



Queensland

Explosives Amendment Regulation (No. 1) 2010

Subordinate Legislation 2010 No. 47

made under the

Explosives Act 1999

Contents

		Page
1	Short title	4
2	Regulation amended	4
3	Replacement of s 4 (References to class, division and compatibility group of explosive)	4
4	References to classifying an explosive.	4
4	Amendment of s 6 (Substances declared to be explosives).	4
5	Amendment of s 12 (Classification of authorised explosive)	5
6	Amendment of s 22 (What licence to import explosives and licence to export explosives authorise).	5
7	Amendment of s 23 (What permit to import explosives and permit to export explosives authorise)	5
8	Amendment of s 24 (What licence to manufacture explosives authorises)	6
9	Amendment of s 25 (What licence to sell explosives authorises)	6
10	Amendment of s 26 (What licence to store explosives authorises)	6
11	Amendment of s 28 (What licence to transport explosives authorises)	7
12	Amendment of s 29 (What licence to use explosives authorises)	7
13	Amendment of s 30 (What shotfirer licence authorises).	7

Contents

14	Amendment of s 31 (What fireworks contractor licence authorises)	7
15	Amendment of s 32 (What fireworks operator licence authorises)	8
16	Amendment of s 33 (What licence to collect ammunition authorises)	8
17	Amendment of s 34 (Information that must accompany application for renewal of particular licences).	8
18	Amendment of s 35 (Shotfirer licence)	8
19	Amendment of s 36 (Fireworks contractor licence)	9
20	Amendment of s 37 (Fireworks operator licence).	9
21	Amendment of s 39 (Employees of particular authority holders taken to be holders of authority).	10
22	Amendment of s 44 (Possession of explosives to which s 34 of Act does not apply).	10
23	Amendment of s 45 (Children prohibited from possessing particular explosives)	11
24	Amendment of s 49 (Condition of explosives)	11
25	Amendment of s 58 (Application of div 4).	11
26	Amendment of s 60 (Requirements for ports handling explosives)	11
27	Amendment of s 72 (Documents to kept)	12
28	Amendment of s 75 (Authorised persons to whom explosives may be sold).	12
29	Amendment of s 78C (Restriction on holder of licence selling security sensitive explosive to existing client).	12
30	Amendment of s 79B (Security plan obligations of holder of licence to sell explosives)	12
31	Amendment of s 86 (Requirements for storing small arms ammunition and power device cartridges)	13
32	Amendment of s 87 (Requirements for storing distress signals in shop)	13
33	Amendment of s 89 (Requirements for storing propellant powder)	13
34	Amendment of s 92 (Requirements for storage of explosives). . .	14
35	Amendment of s 100 (Requirements for manager of government magazine).	14
36	Amendment of s 103 (Request to store explosive etc. at government magazine).	14
37	Amendment of s 105 (Requirements for explosives stored at government magazine).	15

38	Amendment of section 106 (Requirements for activities carried out at government magazine)	15
39	Amendment of s 107 (Chief inspector may charge fee for services provided at government magazine)	15
40	Amendment of s 109 (Requirements for chief inspector exercising powers)	16
41	Amendment of s 114 (General requirements for transporting explosives)	16
42	Amendment of s 116 (Explosives that may be transported under s 50(3) of Act)	16
43	Amendment of s 117 (Requirements for explosives transported under s 50(3) of Act)	16
44	Amendment of s 119 (Rules of conduct for employees of holder of licence to transport explosives)	17
45	Amendment of s 120 (Explosives for which authority to use not required)	17
46	Amendment of s 122 (Definitions for div 2)	17
47	Amendment of s 123 (Particular blasting explosives prescribed for s 53(2) of Act)	18
48	Amendment of s 124 (Persons who may be appointed as shotfirer for a mine)	18
49	Amendment of s 125 (Persons who may use blasting explosives under supervision)	19
50	Amendment of s 126 (Use of blasting explosives)	19
51	Amendment of s 131 (Fireworks contractors)	19
52	Insertion on new pt 10B	19
	Part 10B Insurance	
	146H Duties of licence holders transporting particular explosives	19
53	Amendment of s 152 (False or misleading information in application for authority)	20
54	Insertion of new s 152A	21
	152A False or misleading information about authority	21
55	Amendment of s 153 (Prohibition on altering authority)	22
56	Amendment of sch 2 (Fees)	22
57	Amendment of sch 3 (Matters to be included in safety management system)	23
58	Amendment of sch 4 (Explosives exempt from section 44 of Act)	23
59	Amendment of sch 5 (Explosives prescribed for section 50(3) of the Act)	24
60	Amendment of sch 7 (Dictionary)	24

1 Short title

This regulation may be cited as the *Explosives Amendment Regulation (No. 1) 2010*.

2 Regulation amended

This regulation amends the *Explosives Regulation 2003*.

3 Replacement of s 4 (References to class, division and compatibility group of explosive)

Section 4—

omit, insert—

‘4 References to classifying an explosive

‘In this regulation, a reference to classifying an explosive is a reference to—

- (a) for an explosive to which the UN model regulations apply—
 - (i) assigning the class, division and compatibility group of the explosive under the UN model regulations; or
 - (ii) assigning the class, division and packing group of the explosive under the UN model regulations; or
- (b) for an explosive rejected or otherwise refused classification under the UN model regulations—assigning the explosive a classification under a classification system approved by the chief inspector; or
- (c) for an explosive to which the UN model regulations do not apply—assigning the explosive a classification under a classification system approved by the chief inspector.’.

4 Amendment of s 6 (Substances declared to be explosives)

Section 6—

insert—

- ‘(3) For subsection (1)(b), ammunition does not include inert components of small arms ammunition.

Examples of inert components of small arms ammunition—

cartridge cases or projectiles’.

5 Amendment of s 12 (Classification of authorised explosive)

Section 12, from ‘according to’—

omit, insert—

‘according to—

- (a) the explosive’s class, division and compatibility group;
or
- (b) the explosive’s class, division and packing group; or
- (c) another classification system approved by the chief inspector.’.

6 Amendment of s 22 (What licence to import explosives and licence to export explosives authorise)

Section 22—

insert—

- ‘(3) A licence to import explosives or export explosives does not authorise the licence holder to purchase or sell explosives.’.

7 Amendment of s 23 (What permit to import explosives and permit to export explosives authorise)

Section 23—

insert—

- ‘(3) A permit to import explosives or export explosives does not authorise the authority holder to purchase or sell explosives.’.

8 Amendment of s 24 (What licence to manufacture explosives authorises)

(1) Section 24—

insert—

‘(ba) possess explosives used in the manufacture of the explosive stated in the licence; and

(bb) purchase explosives used in the manufacture of the explosive stated in the licence; and’.

(2) Section 24(d), ‘, other than an unauthorised or prohibited explosive,’

omit, insert—

‘manufactured under the licence, or used in the manufacture of the explosive stated in the licence,’.

(3) Section 24(ba) to (d)—

renumber as section 24(c) to (f).

9 Amendment of s 25 (What licence to sell explosives authorises)

(1) Section 25—

insert—

‘(ba) purchase the explosives for the purpose of selling the explosives under the licence; and’.

(2) Section 25(ba) and (c)—

renumber as section 25(c) and (d).

10 Amendment of s 26 (What licence to store explosives authorises)

Section 26—

insert—

‘(c) purchase the explosives for the purpose of storing them under the licence.’.

11 Amendment of s 28 (What licence to transport explosives authorises)

Section 28—

insert—

- ‘(2) A licence to transport explosives does not authorise the holder of the licence to purchase explosives.’.

12 Amendment of s 29 (What licence to use explosives authorises)

- (1) Section 29—

insert—

‘(ba) purchase the explosives for the purpose of using them under the licence; and’

- (2) Section 29(ba) and (c)—

renumber as section 29(c) and (d).

13 Amendment of s 30 (What shotfirer licence authorises)

- (1) Section 30—

insert—

‘(ba) purchase the explosives for the purpose of using them under the licence; and’.

- (2) Section 30(ba) and (c)—

renumber as section 30(c) and (d).

14 Amendment of s 31 (What fireworks contractor licence authorises)

- (1) Section 31—

insert—

‘(ba) purchase fireworks for use in a fireworks display organised by the fireworks contractor; and’.

- (2) Section 31(ba) to (d)—
renumber as section 31(c) to (e).

15 Amendment of s 32 (What fireworks operator licence authorises)

Section 32, after ‘display’—
insert—
‘organised by a fireworks contractor’.

16 Amendment of s 33 (What licence to collect ammunition authorises)

Section 33(c), before ‘sell’—
insert—
‘purchase,’.

17 Amendment of s 34 (Information that must accompany application for renewal of particular licences)

Section 34(1), ‘previous’—
omit, insert—
‘the’.

18 Amendment of s 35 (Shotfirer licence)

Section 35(1)(c)(i) to (iii)—
omit, insert—
‘(i) has, within the 3 year period ending on the day the application is made, been assessed by a registered training organisation as having attained the specific competencies in the use of blasting explosives contained in the industry training packages as approved by the chief inspector; or

Editor's note—

Information identifying the specific competencies and the training packages they are contained in can be accessed on the department's website at <www.deedi.qld.gov.au>.

- (ii) otherwise demonstrates the skill, knowledge and experience required to carry out blasting activities to a standard considered by the chief inspector to be necessary for the safety and health of persons; and'.

19 Amendment of s 36 (Fireworks contractor licence)

Section 36(1)(d)(i) and (ii)—

omit, insert—

- '(i) has, within the 2 year period ending on the day the licence application is made, been assessed by a registered training organisation as having attained the specific competencies in organising fireworks displays contained in the industry training packages as approved by the chief inspector; or

Editor's note—

Information identifying the specific competencies and the training packages they are contained in can be accessed on the department's website at <www.deedi.qld.gov.au>.

- (ii) otherwise demonstrates the skill, knowledge and experience required to organise fireworks displays to a standard considered by the chief inspector to be necessary for the safety and health of persons; and'.

20 Amendment of s 37 (Fireworks operator licence)

Section 37(1)(c)(i) to (iii)—

omit, insert—

- '(i) has, within the 2 year period ending on the day the licence application is made, been assessed by a registered training organisation as having attained

the specific competencies in the use of fireworks in fireworks displays contained in the industry training packages as approved by the chief inspector; or

Editor's note—

Information identifying the specific competencies and the training packages they are contained in can be accessed on the department's website at <www.deedi.qld.gov.au>.

- (ii) otherwise demonstrates the skill, knowledge and experience required to use fireworks to a standard considered by the chief inspector to be necessary for the safety and health of persons; and'

21 Amendment of s 39 (Employees of particular authority holders taken to be holders of authority)

Section 39(3)—

insert—

'(k) a licence or permit issued under the *Weapons Act 1990*.'

22 Amendment of s 44 (Possession of explosives to which s 34 of Act does not apply)

- (1) Section 44(1)(g), 'ingredient'—

omit, insert—

'explosive ingredient'.

- (2) Section 44(1)—

insert—

'(l) an explosive that—

- (i) is stored in a secured area at a laboratory at an industrial facility, educational institution or a research facility for use at the laboratory; and
- (ii) if the explosive is a security sensitive ammonium nitrates explosive—is not more than 3kg; and

- (iii) if the explosive is other than an explosive mentioned in subparagraph (ii)—is not more than 100g.’.

(3) Section 44(2)—

insert—

‘**secured area** means a secured area under section 84.’.

23 Amendment of s 45 (Children prohibited from possessing particular explosives)

Section 45(2)(c), after ‘small arms ammunition’—

insert—

‘and an explosive ingredient of small arms ammunition’.

24 Amendment of s 49 (Condition of explosives)

Section 49(e), ‘and labelled as required under the Australian explosives code’—

omit, insert—

‘, marked and labelled as required under—

- (i) the Australian explosives code; or
- (ii) the Australian dangerous goods code’.

25 Amendment of s 58 (Application of div 4)

Section 58—

insert—

‘(c) for a precursor—more than 25t;

(d) for explosives other than explosives mentioned in paragraphs (a) to (c)—more than 400t.’.

26 Amendment of s 60 (Requirements for ports handling explosives)

Section 60(2), ‘(1998)’—

omit, insert—

‘(2005)’.

27 Amendment of s 72 (Documents to kept)

Section 72, heading, after ‘to’—

insert—

‘be’.

28 Amendment of s 75 (Authorised persons to whom explosives may be sold)

Section 75(c), after ‘who’—

insert—

‘is an adult and’.

29 Amendment of s 78C (Restriction on holder of licence selling security sensitive explosive to existing client)

Section 78C(3), after paragraph (b)—

insert—

‘(c) the client holds a licence different from the licence under which the seller previously sold the client explosives; or

(d) the client’s licence mentioned in section 78B(3)(b)(ii) has been renewed since the seller previously sold the client explosives;’.

30 Amendment of s 79B (Security plan obligations of holder of licence to sell explosives)

(1) Section 79B(4), ‘or revising the security plan, give the chief inspector a copy of the plan or revised plan’—

omit, insert—

‘the security plan, give the chief inspector a copy of the plan’.

(2) Section 79B—

insert—

‘(4A) If the holder revises the security plan, the holder must give the chief inspector a copy of the revised security plan as soon as practicable after the chief inspector asks for a copy of the plan.

Maximum penalty—20 penalty units.’.

(3) Section 79B(4A) and (5)—

renumber as section 79(5) and (6).

31 Amendment of s 86 (Requirements for storing small arms ammunition and power device cartridges)

Section 86(1)(a), after ‘packaging’—

insert—

‘or in packaging or containers designed to protect the explosives individually’.

32 Amendment of s 87 (Requirements for storing distress signals in shop)

Section 87(b)—

omit, insert—

‘(b) must store the explosive in a secured area.’.

33 Amendment of s 89 (Requirements for storing propellant powder)

Section 89(b)(i) and (ii)—

omit, insert—

‘(i) stating the word ‘Explosives’ or the words ‘Propellant powders’; and

(ii) stating the words ‘Keep fire away’ or otherwise indicating that sources of ignition are prohibited in or near the secured area; and’.

34 Amendment of s 92 (Requirements for storage of explosives)

Section 92(a) and (b)—

omit, insert—

- ‘(a) for a class 1 explosive—AS 2187, part 1; or
- (b) for a precursor—the precursor code; or
- (c) for security sensitive ammonium nitrates—‘Explosives information bulletin number 53—Storage requirements for security sensitive ammonium nitrate (SSAN)’, published by the chief inspector; or

Editor’s note—

Explosives information bulletins can be accessed on the department’s website at <www.deedi.qld.gov.au>.

- (d) an alternative safety measure for paragraph (a), (b) or (c); or
- (e) for an explosive other than an explosive mentioned in paragraph (a), (b) or (c)—a safety measure approved by the chief inspector for the explosive.’.

35 Amendment of s 100 (Requirements for manager of government magazine)

Section 100(d) and (f), ‘an inspector’—

omit, insert—

‘the chief inspector’.

36 Amendment of s 103 (Request to store explosive etc. at government magazine)

Section 103(2), ‘may’—

omit, insert—

‘must’.

37 Amendment of s 105 (Requirements for explosives stored at government magazine)

- (1) Section 105(1)(c)(i), ‘and labelled as required under the Australian explosives code’—

omit, insert—

‘, marked and labelled as required under the Australian explosives code or the Australian dangerous goods code’.

- (2) Section 105(1)(c)(ii), after ‘storage’—

insert—

‘, handling’.

- (3) Section 105(3), ‘Subsection (1) does’—

omit, insert—

‘Subsections (1)(a) and (b) do’.

38 Amendment of section 106 (Requirements for activities carried out at government magazine)

Section 106(1), ‘for the applicant’—

omit.

39 Amendment of s 107 (Chief inspector may charge fee for services provided at government magazine)

- (1) Section 107(1)(b), ‘, by the person for whom the explosive is stored’—

omit.

- (2) Section 107(3)—

insert—

‘(c) the applicant who has asked to carry out an activity at the government magazine and who has agreed to pay a fee under section 106(1)(c).’.

40 Amendment of s 109 (Requirements for chief inspector exercising powers)

Section 109(2)(c), ‘14’—

omit, insert—

‘28’.

41 Amendment of s 114 (General requirements for transporting explosives)

Section 114(2)—

omit, insert—

- ‘(2) However, a person transporting an explosive in a mobile manufacturing unit must comply with the mobile manufacturing code.’.

42 Amendment of s 116 (Explosives that may be transported under s 50(3) of Act)

- (1) Section 116(1)(b)—

omit, insert—

‘(b) for an explosive, other than an excluded explosive, transported by a person who is authorised to use the explosive—

- (i) if a condition of the authority states a maximum amount that may be transported under the authority—the maximum amount; or

- (ii) otherwise—250kg;’.

- (2) Section 116(2), definition *excluded explosive*, ‘an explosive other than’—

omit.

43 Amendment of s 117 (Requirements for explosives transported under s 50(3) of Act)

- (1) Section 117(1), ‘114(1)(a) or (b)’—

omit, insert—

‘114(1)(a), (b) or (c)’.

- (2) Section 117(2)(a), ‘or (b)’—

omit, insert—

‘, (b) or (c)’.

- (3) Section 117(3), after ‘vehicle’—

insert—

‘or boat’.

44 Amendment of s 119 (Rules of conduct for employees of holder of licence to transport explosives)

Section 119(3), after ‘vehicle’—

insert—

‘or boat’.

45 Amendment of s 120 (Explosives for which authority to use not required)

- (1) Section 120(1)(d), ‘or parachute;’—

omit, insert—

‘, parachute or another safety device listed in a register of safety devices kept by the chief inspector;

Editor’s note—

The register of safety devices may be inspected at the department’s office at 61 Mary Street, Brisbane.’.

- (2) Section 120(2), ‘Subsection (1)(a) to (f)’—

omit, insert—

‘Subsection (1)’.

46 Amendment of s 122 (Definitions for div 2)

- (1) Section 122, definition *prescribed shotfirer*, paragraph (b), after ‘executive’—

insert—

‘or underground mine manager’.

(2) Section 122—

insert—

‘underground mine means—

- (a) for a coal mine within the meaning of the *Coal Mining Safety and Health Act 1999*—has the meaning given by schedule 3 of that Act; or
- (b) for another mine, including a quarry—has the meaning given by the *Mining and Quarrying Safety and Health Act 1999*, schedule 2.

underground mine manager, of an underground mine, means a person appointed by the site senior executive of the mine to control and manage the mine.’.

47 Amendment of s 123 (Particular blasting explosives prescribed for s 53(2) of Act)

Section 123(a), after ‘executive’—

insert—

‘or underground mine manager’.

48 Amendment of s 124 (Persons who may be appointed as shotfirer for a mine)

Section 124, ‘A site senior executive of a mine must not appoint a person as a shotfirer for the mine unless the site senior executive’—

omit, insert—

‘The site senior executive or an underground mine manager of a mine must not appoint a person as a shotfirer for the mine unless the site senior executive or underground mine manager’.

49 Amendment of s 125 (Persons who may use blasting explosives under supervision)

Section 125(3), definition *prescribed person*, paragraph (b), after ‘executive’—

insert—

‘or underground mine manager’.

50 Amendment of s 126 (Use of blasting explosives)

Section 126(1)(b)—

insert—

‘(iv) ensure the security of an explosive used in blasting activities; and’.

51 Amendment of s 131 (Fireworks contractors)

Section 131(2)(c), ‘contractors’—

omit, insert—

‘operators’.

52 Insertion on new pt 10B

After section 146G—

insert—

‘Part 10B Insurance

‘146H Duties of licence holders transporting particular explosives

- ‘(1) The chief inspector may, by written notice, require a person who holds a licence to transport explosives to produce written evidence that a vehicle or boat used, or that an inspector reasonably believes may be used, to transport a category 2 load, a category 3 load or a placard load is covered by a policy of insurance.

‘(2) A ***policy of insurance*** is a policy of insurance or other form of indemnity for at least the prescribed sum for the matters mentioned in the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*, section 221(1)(a)(i) and (ii) (the ***relevant provisions***).

‘(3) For subsection (2), a reference to dangerous goods in the relevant provisions is taken to be a reference to an explosive.

‘(4) The person must produce the evidence to the chief inspector within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

‘(5) In this section—

category 2 load means a load of explosives of risk category 2, defined under the Australian explosives code, table 2.1.

category 3 load means a load of explosives of risk category 3, defined under the Australian explosives code, table 2.1.

placard load means a load of explosives that must be placarded under the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*, section 83.

prescribed sum means—

(a) for a category 2 load—\$2.5m; or

(b) for a category 3 load or placard load—\$5m.’.

53 Amendment of s 152 (False or misleading information in application for authority)

Section 152(2)—

omit, insert—

‘(2) It is enough for a complaint against a person for an offence against subsection (1) to state the information given to the chief inspector was false or misleading to the person’s knowledge without specifying whether it was false or whether it was misleading.’.

54 Insertion of new s 152A

After section 152—

insert—

‘152A False or misleading information about authority

- ‘(1) A person (an ***acquirer***) must not give information or make a representation to another person from whom the acquirer is acquiring an explosive, other than by purchasing the explosive, that the acquirer knows is false or misleading in a material particular about—
- (a) the type of authority held by the acquirer and the activities allowed under the authority; or
 - (b) the type of explosive the acquirer is authorised to deal with under the authority; or
 - (c) a condition on the authority; or
 - (d) the name or identity of the person to whom the authority is issued; or
 - (e) the name or identity of the acquirer.

Examples of acquiring an explosive other than by purchasing the explosive—

- a person taking possession of an explosive to transport or store the explosive
- a person taking possession of fireworks for the purpose of conducting a fireworks display

Maximum penalty—20 penalty units.

- ‘(2) A person (a ***service provider***) must not give information or make a representation to another person who employs, or otherwise engages, the service provider to provide a service related to an explosive that the service provider knows is false or misleading in a material particular about—
- (a) the type of authority held by the service provider and the activities allowed under the authority; or
 - (b) the type of explosive the service provider is authorised to deal with under the authority; or
 - (c) a condition on the authority; or

- (d) the name or identity of the person to whom the authority is issued; or
- (e) the name or identity of the service provider.

Examples—

- an employee tells the employee's employer that the employee holds an authority to manufacture explosives when the employee does not hold the authority
- an employee holds a fireworks operator licence but tells the employee's employer that the employee holds a shotfirer licence
- a fireworks operator contracted by a fireworks contractor tells the fireworks contractor that the fireworks operator is authorised to purchase fireworks

Maximum penalty—20 penalty units.

- ‘(3) It is enough for a complaint against a person for an offence against subsection (1) or (2) to state the information given or the representation made by the person was false or misleading to the person's knowledge without specifying whether it was false or whether it was misleading.’.

55 Amendment of s 153 (Prohibition on altering authority)

Section 153—

insert—

- ‘(2) A person, other than the chief inspector, must not alter an authority issued to someone else.

Maximum penalty—20 penalty units.’.

56 Amendment of sch 2 (Fees)

Schedule 2, item 5(b), after ‘vehicle’—

insert—

‘or boat’.

57 Amendment of sch 3 (Matters to be included in safety management system)

- (1) Schedule 3, part 1, item 1—

omit, insert—

‘1 Establishing and maintaining an explosives safety management system to deal with hazard identification, risk assessment and risk control.’.

- (2) Schedule 3, part 1—

insert—

‘9 Establishing and maintaining an explosives security management system to deal with identifying, assessing and controlling security risks.’

- (3) Schedule 3, part 2, item 8, after ‘authority’—

insert—

‘, including security provisions and procedures’.

- (4) Schedule 3, part 2, item 9—

omit, insert—

‘9 Storing and handling explosives under the authority, including security provisions and procedures.’.

- (5) Schedule 3, part 2, item 13, after ‘authority’—

insert—

‘, including security provisions and procedures’.

58 Amendment of sch 4 (Explosives exempt from section 44 of Act)

Schedule 4, item 1, ‘holds a licence’—

omit, insert—

‘is licensed or otherwise authorised’.

59 Amendment of sch 5 (Explosives prescribed for section 50(3) of the Act)

Schedule 5, item 8—

insert—

‘(c) with classification code 1.4S.’.

60 Amendment of sch 7 (Dictionary)

- (1) Schedule 7, definitions *Australian explosives code*, *classification code*, *classification sign*, *firework*, *mobile manufacturing code*, *supply* and *UN model regulations*—
omit.

- (2) Schedule 7—

insert—

‘**AS 2187, part 1** means AS 2187—‘Explosives—storage, transport and use’, part 1 ‘Storage’ (1998).

Australian dangerous goods code means the seventh edition of the ‘Australian code for the transport of dangerous goods by road and rail’, approved by the Australian Transport Council.

Editor’s note—

At the commencement of this definition, the Australian dangerous goods code could be accessed on the National Transport Commission Australia’s website at <www.ntc.gov.au>.

Australian explosives code means the third edition of the ‘Australian code for the transport of explosives by road and rail’, approved by the Workplace Relations Ministers’ Council.

Editor’s note—

At the commencement of this definition, the Australian explosives code could be accessed on the Commonwealth Department of Education, Employment and Workplace Relations’ website at <www.deewr.gov.au>.

class 1 explosive means an explosive that has been classified, under the UN model regulations, as being in class 1.

class 2 to 9 explosive means an explosive that has been classified, under the UN model regulations, as being in one of classes 2 to 9.

classification code, of an explosive, means—

- (a) for an explosive to which the UN model regulations apply—
- (i) the class, division and compatibility group to which the explosive is assigned under the UN model regulations; or

Example—

An explosive with the classification code of class 1, division 1.1, compatibility group D is an explosive that has been assigned to the following class, division and compatibility group under the UN model regulations—

- class 1 (Explosives);
- division 1.1 (Substances and articles which have a mass explosion hazard);
- compatibility group D (Secondary detonating explosive substance or black powder or article containing a secondary detonating explosive substance, in each case without means of initiation and without a propelling charge, or article containing a primary explosive substance and containing 2 or more effective protective features).

- (ii) the class, division and packing group to which the explosive is assigned under the UN model regulations; or

Example—

An explosive with the classification code of class 5, division 5.1, packing group III is an explosive that has been assigned to the following class, division and packing group under the UN model regulations—

- class 5 (Oxidising substances and organic peroxides);
- division 5.1 (Oxidising substances);
- packing group III (When packed in accordance with this group the substance presents low danger).

- (b) for an explosive to which the UN model regulations do not apply—the class to which the explosive is assigned under another classification system approved by the chief inspector.

classification sign means—

- (a) for a class 1 explosive—the sign shown in the Australian explosives code, chapter 3, showing the classification code for the explosive; or
- (b) for a class 2 to 9 explosive—the sign shown in the Australian dangerous goods code, chapter 5, showing the classification code for the explosive.

firework has the meaning given under AS 2187, part 0.

mobile manufacturing code means version 1.2 of the ‘Code of practice—mobile processing units’ (2005), published by the Australian Explosives Industry and Safety Group.

Editor’s note—

The mobile manufacturing code can be accessed on the department’s website at <www.deedi.qld.gov.au>.

packing group has the meaning given under the Australian dangerous goods code.

registered training organisation has the meaning given under the *Vocational Education, Training and Employment Act 2000*, section 19.

supply—

- (a) means supply in trade or commerce or under an agreement; and
- (b) includes barter, give or swap.

underground mine see section 122.

underground mine manager, of an underground mine, see section 122.

UN model regulations means the 16th revised edition of the ‘Recommendations on the transport of dangerous goods—model regulations’, published by the United Nations, New York and Geneva, 2009.

Editor's note—

At the commencement of this definition, the UN model regulations could be accessed on the United Nations Economic Commission for Europe's website at <www.unece.org>.¹

ENDNOTES

- 1 Made by the Governor in Council on 25 March 2010.
- 2 Notified in the gazette on 26 March 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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