



*Explosives Act 1999*

# **Explosives Regulation 2017**

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Queensland

# Explosives Regulation 2017

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# Explosives Regulation 2017

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Explosives Regulation 2017*.

### 2 Commencement

This regulation commences on 1 September 2017.

### 3 Definitions

The dictionary in schedule 7 defines particular words used in this regulation.

### 4 References to classifying 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 explosive to a class, division and compatibility group under the UN model regulations; or
  - (ii) assigning the explosive to a class, division and packing group under the UN model regulations; or
- (b) for an explosive to which the UN model regulations do not apply—
  - (i) classifying the explosive as an explosive too dangerous to transport; or
  - (ii) classifying the explosive as non-dangerous goods.

## 5 References to mass of explosive

In this regulation, a reference to the mass of an explosive is, unless stated to be a reference to the gross weight of the explosive, a reference to the mass of explosive material contained in the explosive.

*Example—*

The gross weight of a box of distress signals might be 25kg, but the distress signals in the box might contain 2kg of explosive material. If this regulation stated a maximum amount for distress signals of 5kg, the box of distress signals would be less than the maximum amount.

## 6 Substances declared to be explosives

- (1) For schedule 2, definition *explosive*, paragraph (b) of the Act, each of the following is declared to be an explosive—
  - (a) a precursor;
  - (b) ammunition that does not contain explosives;
  - (c) security sensitive ammonium nitrate.
- (2) However, subsection (1)(b) does not apply for section 38 of the Act.
- (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, projectiles

## 7 Explosives exempt from Act

- (1) An explosive is exempt from the Act if—
  - (a) the explosive is an ingredient in a mixture prepared for a use that does not include initiating the mixture; and  
*Examples of an ingredient for paragraph (a)—*
    - nitroglycerine contained in a tablet
    - nitrocellulose contained in paint or nail polish
  - (b) the mixture is not—

- (i) a class 1 explosive; or
  - (ii) an authorised explosive.
- (2) A person who possesses an explosive mentioned in subsection (1) must not use or modify the explosive to produce an explosive effect.

Maximum penalty—200 penalty units.

## **8 Government entities exempt from Act**

- (1) The following entities are exempt from part 4, divisions 2, 7 and 8 of the Act—
- (a) a police officer, special constable or police recruit of the Queensland Police Service who is acting in the course of the person’s official duties;
  - (b) a person mentioned in paragraph (a) who is not on duty as a member of the Queensland Police Service, in relation to the possession of—
    - (i) small arms ammunition; or
    - (ii) an explosive that is an exhibit in a court proceeding;
  - (c) an officer of another State’s police service who is acting in the course of the officer’s official duties in Queensland for the Queensland Police Service;
  - (d) a corrective services officer who is acting in the course of the officer’s official duties.
- (2) However, subsection (1)(b) applies only if the person is acting in accordance with any directions of the commissioner of the police service given in relation to the off-duty possession of ammunition or an explosive that is an exhibit.
- (3) An inspector who is acting in the course of the inspector’s official duties is exempt from part 4, divisions 2 and 6 to 8 of the Act.
- (4) In this section—

*police recruit* see the *Police Service Administration Act 1990*, section 1.4.

*special constable* see the *Police Service Administration Act 1990*, section 1.4.

## **8A Security sensitive explosives—Act, sch 2**

- (1) For schedule 2 of the Act, definition *security sensitive explosive*, paragraph (c), an unrestricted firework is prescribed.
- (2) For schedule 2 of the Act, definition *security sensitive explosive*, paragraph (f), security sensitive ammonium nitrate is prescribed.

## **9 Alternative safety and security measures**

- (1) This section applies if this regulation states that a person may use alternative safety and security measures for any of the following (each a *stated provision*)—
  - (a) an Australian Standard;
  - (b) a code of practice;
  - (c) a provision of this regulation.
- (2) The person may use systems, methods or procedures (*alternative safety and security measures*) that do not comply with the stated provision if—
  - (a) the alternative safety and security measures achieve a level of risk (the *required level of risk*) that is equal to or less than the level of risk achieved by the systems, methods or procedures provided for under the stated provision; and
  - (b) the person records the alternative safety and security measures in writing.
- (3) The person must, on the request of an inspector, give the inspector a copy of the document recording the alternative safety and security measures.

- 
- (4) The inspector may, if the inspector reasonably suspects the alternative safety and security measures do not achieve the required level of risk, give the person a remedial action notice under section 102 of the Act.
  - (5) The notice must state, in addition to the matters mentioned in section 102(3) of the Act, that the alternative safety and security measures do not achieve the required level of risk.

## 10 **Inconsistency with Australian Standards, codes of practice etc.**

- (1) This section applies if there is an inconsistency between this regulation and any of the following documents—
  - (a) an Australian Standard mentioned in this regulation;
  - (b) a code of practice mentioned in this regulation;
  - (c) the UN model regulations;
  - (d) the UN tests and criteria.
- (2) This regulation prevails to the extent of the inconsistency.

# Part 2 **Authorised explosives, prohibited explosives and explosives trial approvals**

## Division 1 **Preliminary**

### 11 **Definitions for part**

In this part—

*prescribed information*, for a request that an explosive be declared to be an authorised explosive or an application for an explosives trial approval, means each of the following—

- (a) a description of the explosive, including—

- (i) the name of the explosive; and
  - (ii) the design, composition and formulation of the explosive, including the mass of the explosive; and
  - (iii) the intended use of the explosive and how it functions; and
  - (iv) the classification code and the United Nations number, within the meaning of the UN model regulations, for the explosive; and
  - (v) the shelf life recommended for the explosive by its manufacturer;
- (b) details of all possible uses of the explosive and the purpose of the applicant's intended use or uses of the explosive;
- (c) for an explosive suitable for use in an underground coal mine—details of the explosive's suitability for the use, including the results of any tests carried out to decide the explosive's suitability;
- (d) information relevant to classifying the explosive, including—
- (i) the results of any tests carried out, under the UN tests and criteria, to classify the explosive; and
  - (ii) any classification code for the explosive decided by the Commonwealth, another State or a foreign country;
- (e) details of the manufacture of the explosive, including—
- (i) the name of the explosive's manufacturer; and
  - (ii) the country in which the explosive has been manufactured by the manufacturer; and
  - (iii) the period for which the explosive has been manufactured by the manufacturer; and
  - (iv) any information in the applicant's possession about the safety history of the explosive's use, whether in Australia or elsewhere;

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- (f) if the explosive is packaged, details of the packaging, including—
    - (i) markings on the package; and
    - (ii) the number of explosives contained in the package; and
    - (iii) if the packaging has been tested under the Australian explosives code or the Australian dangerous goods code—the results of the testing and the approval number assigned to the packaging;
  - (g) a safety data sheet for the explosive;
  - (h) a written statement, prepared by the supplier of the explosive, of the supplier's directions for the safe use and disposal of the explosive.

*trial*, for an explosives trial approval, means the trial, experiment or examination for which an unauthorised explosive or prohibited explosive will be manufactured, possessed, sold, stored, transported or used.

## Division 2                      **Authorised explosives**

### 12            **Classification of authorised explosives—Act, s 8**

For section 8(2)(b) of the Act, an explosive must be classified—

- (a) for an explosive to which the UN model regulations apply—
  - (i) according to the explosive's class, division and compatibility group under the UN model regulations; or
  - (ii) according to the explosive's class, division and packing group under the UN model regulations; or
- (b) for an explosive to which the UN model regulations do not apply—

- (i) if the explosive is mentioned in the Australian explosives code, appendix 9—as an explosive too dangerous to transport; or
- (ii) if the explosive is a substance declared to be an explosive under section 6—as non-dangerous goods.

### **13 Request for declaration of authorised explosive**

- (1) A person may ask the chief inspector to declare an explosive to be an authorised explosive.
- (2) The request must—
  - (a) be in the approved form; and
  - (b) include or be accompanied by the prescribed information; and
  - (c) be accompanied by the fee stated in schedule 2, part 1 for the request.
- (3) The chief inspector may ask the person to give, within the period stated by the chief inspector but at least 28 days after the date of the request, any further relevant information or evidence the chief inspector requires to decide whether to make the declaration.
- (4) Without limiting subsection (3), the chief inspector may ask the person to give a sample of the explosive.
- (5) The person must give the chief inspector the further information or evidence requested.
- (6) The person is taken to have withdrawn the request if the person fails to provide the further information or evidence requested within the period stated by the chief inspector.

### **14 Advice of chief inspector's decision**

- (1) This section applies if the chief inspector receives a request under section 13 that the chief inspector declare an explosive to be an authorised explosive.

- (2) The chief inspector must, as soon as practicable after deciding whether to make the declaration, give the person—
  - (a) if the chief inspector decides to make the declaration—notice of the declaration; or
  - (b) if the chief inspector decides not to make the declaration—an information notice for the decision.

## **Division 3                    Prohibited explosives**

### **15            Declaration of prohibited explosive—Act, s 10**

For section 10 of the Act, an explosive mentioned in schedule 1, part 1 is a prohibited explosive.

## **Division 4                    Explosives trial approvals**

### **16            Application for explosives trial approval**

- (1) A person may apply to the chief inspector for an explosives trial approval.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) include or be accompanied by as much of the prescribed information for the application as the applicant can reasonably obtain; and
  - (c) be accompanied by the fee stated in schedule 2, part 1 for the application.
- (3) The approved form must provide for the inclusion of the following information—
  - (a) the reason for, or purpose of, the trial;
  - (b) the date the trial will start and the estimated completion date;
  - (c) where the trial will be carried out;

- (d) the estimated amount of explosive that will be used for the trial;
  - (e) the name of the person who will supervise the trial.
- (4) The chief inspector may ask the person to give, within the period stated by the chief inspector but at least 28 days after the date of the request, any further relevant information or evidence the chief inspector requires to decide whether to issue the approval.
  - (5) Without limiting subsection (4), the chief inspector may ask the person to give a sample of an explosive that will be used for the trial.
  - (6) The person must give the chief inspector the further information or evidence requested.
  - (7) The person is taken to have withdrawn the application if the person fails to provide the further information or evidence requested within the period stated by the chief inspector.

## **17 How chief inspector must deal with application**

- (1) The chief inspector must consider an application for an explosives trial approval and decide to—
  - (a) issue the approval with—
    - (i) the conditions stated in section 18; and
    - (ii) any other conditions imposed by the chief inspector that are consistent with the conditions stated in section 18; or
  - (b) refuse to issue the approval.
- (2) If the chief inspector decides to issue the explosives trial approval, the chief inspector must, as soon as practicable, give the applicant—
  - (a) the approval; and
  - (b) if the chief inspector decides to impose conditions on the approval under subsection (1)(a)(ii)—an information notice for the decision.

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- (3) If the chief inspector decides not to issue the explosives trial approval, the chief inspector must, as soon as practicable, give the applicant an information notice for the decision.

## **18 Conditions of explosives trial approval**

- (1) An explosives trial approval is subject to the following conditions—
- (a) the trial must not take place without the written consent of the owner or occupier of the place where the trial is carried out;
  - (b) the holder of the approval must ensure the trial is carried out in accordance in all material respects with the information given to the chief inspector with the application for the approval;
  - (c) the holder of the approval must give the chief inspector a written report about the trial as soon as practicable after the trial is completed.
- (2) For subsection (1)(c), the report must state—
- (a) the results of the trial; and
  - (b) any action the holder of the approval proposes to take in relation to the explosive.

## **Part 2A Obligations of employers generally**

### **18A Age of employees—Act, s 33**

- (1) For section 33(1)(a) of the Act, the following ages are prescribed—
- (a) for an employee who is employed to drive a vehicle that is transporting explosives—21 years or more;
  - (b) otherwise—18 years or more.

[s 18B]

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- (2) This section does not apply in relation to an employee who is employed to work at a mine.

## **Part 3                      Authorities and security clearances**

### **Division 1AA            Security clearances**

#### **18B    Notification requirements for security clearance holders**

- (1) This section applies if any of the following events (each a *notifiable event*) happens during the term of a security clearance—
- (a) the holder of the security clearance is, in Queensland or elsewhere, convicted of or charged with a relevant offence;
  - (b) the holder of the security clearance is named as the respondent in a domestic violence order or police protection notice;
  - (c) release conditions are imposed on the holder of the security clearance under the *Domestic and Family Violence Protection Act 2012*, section 125;
  - (d) the holder of the security clearance becomes aware of another change in circumstances that affects the holder's suitability to continue to hold the security clearance;  
*Example for paragraph (d)—*
    - a change in the holder's mental health
  - (e) the name or address of the holder of the security clearance changes.
- (2) The holder of the security clearance must, as soon as practicable after the holder becomes aware the notifiable event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.

Maximum penalty—

- (a) for a notifiable event mentioned in subsection (1)(d)—50 penalty units; or
- (b) for a notifiable event mentioned in subsection (1)(e)—20 penalty units; or
- (c) otherwise—200 penalty units.

### **18C Persons to be notified if security clearance suspended, cancelled or surrendered**

- (1) If a security clearance is suspended, the holder of the security clearance must, as soon as practicable after becoming aware of the suspension, take all reasonable steps to give notice of the suspension to each notifiable person for the holder, unless the holder has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) If a security clearance is cancelled, the former holder of the security clearance must, as soon as practicable after becoming aware of the cancellation, take all reasonable steps to give notice of the cancellation to each notifiable person for the former holder, unless the former holder has a reasonable excuse.

Maximum penalty—200 penalty units.

- (3) If a security clearance is surrendered, the former holder of the security clearance must, as soon as practicable after the surrender takes effect, take all reasonable steps to give notice of the surrender to each notifiable person for the former holder, unless the former holder has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) In this section—

***notifiable person***, for the holder or former holder of a security clearance, means—

- (a) if the holder or former holder is an employee of an employer who holds a security sensitive authority—the employer; or

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- (b) if the holder or former holder is a responsible person for a listed corporation that holds a security sensitive authority—each executive officer of the corporation; or
- (c) if the holder or former holder is an executive officer of a corporation, other than a listed corporation, that holds a security sensitive authority—each other executive officer of the corporation; or
- (d) if the holder or former holder is a partner in a partnership that holds a security sensitive authority—each other partner.

## **18D Fees for security clearance**

The fees payable under the Act for a security clearance are stated in schedule 2, part 1.

## **Division 1 Types of authorities and related matters**

### **19 Authorities that may be issued—Act, s 13**

For section 13 of the Act, the following authorities may be issued—

- licence to import explosives
- licence to export explosives
- permit to import explosives
- permit to export explosives
- licence to manufacture explosives
- licence to sell explosives
- licence to store explosives
- permit to store explosives
- licence to transport explosives
- explosives driver licence

- licence to use explosives
- shotfirer licence
- fireworks contractor licence
- fireworks operator licence
- licence to collect ammunition.

## **20 Term of authority—Act, s 19**

For section 19(1) of the Act, the maximum term of an authority is—

- (a) for a fireworks contractor licence or a fireworks operator licence—3 years; or
- (b) for another authority—5 years.

## **21 Fees for authority**

The fees payable under the Act for an authority are stated in schedule 2, part 1.

## **22 Working out fee for authority**

The prescribed fee for an authority is—

- (a) for the issue of a licence—the application fee and the licence fee for the licence; or
- (b) for the renewal of a licence—the licence fee for the licence; or
- (c) for the amendment of a licence—the application fee for the licence; or
- (d) for the issue of a permit—the application fee for the permit.

## **23 Refund of fee if licence surrendered**

- (1) All or part of a licence fee paid may be refunded if—

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- (a) the licence is issued for a term longer than 1 year; and
  - (b) the licence is surrendered during the term.
- (2) For subsection (1), the amount that may be refunded is the licence fee for each whole year of the unexpired term of the licence.

### **23A Occupational authorities—Act, sch 2**

For schedule 2 of the Act, definition *occupational authority*, each of the following authorities is prescribed—

- (a) an explosives driver licence;
- (b) a fireworks operator licence;
- (c) a shotfirer licence;
- (d) a licence to use explosives;
- (e) a licence to collect ammunition.

## **Division 2 Matters authorised by authorities**

### **24 Application of division**

- (1) For section 13 of the Act, this division prescribes the matters authorised by each type of authority.
- (2) However, each authorisation of a matter under this division is subject to any relevant restrictions or prohibitions under this regulation or a condition or other provision of the authority.

### **25 Licence to import explosives and licence to export explosives**

- (1) A licence to import explosives authorises the holder of the licence to—
  - (a) bring the explosives stated in the licence into the State from another country; and

- (b) possess the explosives for the purpose of bringing them, under the licence, into the State.
- (2) A licence to export explosives authorises the holder of the licence to—
  - (a) send the explosives stated in the licence from the State to another country; and
  - (b) possess the explosives for the purpose of sending them, under the licence, to another country.
- (3) A licence to import explosives or licence to export explosives does not authorise the holder of the licence to purchase or sell explosives.

## **26 Permit to import explosives and permit to export explosives**

- (1) A permit to import explosives authorises the holder of the permit to—
  - (a) bring into the State from another country, on the day and in the way stated in the permit, the explosives stated in the permit; and
  - (b) possess the explosives for the purpose of bringing them, under the permit, into the State.
- (2) A permit to export explosives authorises the holder of the permit to—
  - (a) send from the State to another country, on the day and in the way stated in the permit, the explosives stated in the permit; and
  - (b) possess the explosives for the purpose of sending them, under the permit, to another country.
- (3) A permit to import explosives or permit to export explosives does not authorise the holder of the permit to purchase or sell explosives.

## **27 Licence to manufacture explosives**

A licence to manufacture explosives authorises the holder of the licence to—

- (a) manufacture, at the place, if any, stated in the licence, the explosives stated in the licence; and
- (b) possess explosives manufactured under the licence; and
- (c) possess explosives used in the manufacture of the explosives stated in the licence; and
- (d) purchase explosives used in the manufacture of the explosives stated in the licence; and
- (e) if a place is stated in the licence—store the explosives at the place as required under part 8; and
- (f) if the licence is for a mobile manufacturing unit—transport explosives manufactured under the licence, or used in the manufacture of the explosives stated in the licence, in the mobile manufacturing unit.

## **28 Licence to sell explosives**

A licence to sell explosives authorises the holder of the licence to—

- (a) sell, at a place, if any, stated in the licence, the explosives stated in the licence; and
- (b) possess the explosives for the purpose of selling them under the licence; and
- (c) purchase the explosives for the purpose of selling them under the licence; and
- (d) if a place is stated in the licence—store the explosives at the place as required under part 8 for the purpose of selling them under the licence.

## **29 Licence to store explosives**

A licence to store explosives authorises the holder of the licence to—

- (a) store, at a place stated in the licence, the explosives stated in the licence; and
- (b) possess the explosives for the purpose of storing them under the licence; and
- (c) purchase the explosives for the purpose of storing them under the licence.

## **30 Permit to store explosives**

A permit to store explosives authorises the holder of the permit to—

- (a) store, at a place and for the period stated in the permit, the explosives stated in the permit; and
- (b) possess the explosives, for the period stated in the permit, for the purpose of storing them under the permit.

## **31 Licence to transport explosives**

(1) A licence to transport explosives authorises the holder of the licence to—

- (a) operate a business of transporting the explosives stated in the licence in the way stated in the licence; and
- (b) possess the explosives for the purpose of operating a business of transporting the explosives under the licence.

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

## **31A Explosives driver licence**

An explosives driver licence authorises the holder of the licence to transport explosives by driving a vehicle that, under

a licence to transport explosives, is a vehicle in which explosives of that class may be transported.

### **32 Licence to use explosives**

A licence to use explosives authorises the holder of the licence to—

- (a) use the explosives stated in the licence for the purpose stated in the licence; and
- (b) possess the explosives for the purpose of using them under the licence; and
- (c) purchase the explosives for the purpose of using them under the licence; and
- (d) store and transport the explosives, as required under parts 8 and 9, for the purpose of using them under the licence.

### **33 Shotfirer licence**

(1) A shotfirer licence authorises the holder of the licence to—

- (a) use the blasting explosives stated in the licence; and
- (b) possess the blasting explosives for the purpose of using them under the licence; and
- (c) purchase the blasting explosives for the purpose of using them under the licence; and
- (d) store the blasting explosives, as required under part 8, for the purpose of using them under the licence; and
- (e) transport the blasting explosives, as required under part 9, for the purpose of using them under the licence.

(2) However, a shotfirer licence authorises the holder of the licence to do a thing mentioned in subsection (1)(a), (c) or (e) only if the holder has a current competency assessment in relation to the doing of the thing.

(3) In this section—

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***current competency assessment***, in relation to the doing of a thing mentioned in subsection (1)(a), (c) or (e) by the holder of a shotfirer licence, means an assessment by a registered training organisation—

- (a) that the holder has attained the specific competencies, approved by the chief inspector and published on a Queensland Government website, in the use of blasting explosives contained in an industry training package; and
- (b) that was performed within 5 years before the day the thing is done.

### **34 Fireworks contractor licence**

A fireworks contractor licence authorises the holder of the licence to—

- (a) organise, or agree to organise, a fireworks display for the display host for a fireworks display; and
- (b) possess fireworks for the purpose of supplying them to a fireworks operator; and
- (c) purchase fireworks for use in a fireworks display organised by the fireworks contractor; and
- (d) supply fireworks to a fireworks operator for use by the fireworks operator in a fireworks display organised by the fireworks contractor; and
- (e) store and transport fireworks, as required under parts 8 and 9, for the purpose of supplying them to a fireworks operator.

### **35 Fireworks operator licence**

(1) A fireworks operator licence authorises the holder of the licence to—

- (a) use fireworks for the purpose of a fireworks display organised by a fireworks contractor; and

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- (b) possess fireworks for the purpose of using them in a fireworks display organised by a fireworks contractor; and
  - (c) store and transport the fireworks, as required under parts 8 and 9, for the purpose of using them in a fireworks display organised by a fireworks contractor.
- (2) A fireworks operator licence does not authorise the holder of the licence to purchase fireworks.

### **36 Licence to collect ammunition**

A licence to collect ammunition authorises the holder of the licence to—

- (a) bring collectors' ammunition into the State from another country; and
- (b) send collectors' ammunition from the State to another country; and
- (c) purchase, sell and possess collectors' ammunition; and
- (d) store and transport collectors' ammunition as required under parts 8 and 9.

## **Division 3                      Appropriate persons for issue of authorities**

### **36A Explosives driver licence**

- (1) A person is an appropriate person for the issue of an explosives driver licence if—
- (a) the person—
    - (i) is 21 years or more; and
    - (ii) holds a valid driver licence; and
    - (iii) has, within the 3-year period ending on the day the application for the licence is made, been assessed by a registered training organisation as having

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attained the specific competencies, approved by the chief inspector and published on a Queensland Government website, in the transporting of explosives contained in an industry training package; and

- (b) the chief inspector is reasonably satisfied the person—
  - (i) is physically able to drive a vehicle transporting explosives; and
  - (ii) is suitable having regard to the person's driving history; and
  - (iii) is, in all the circumstances, an appropriate person for the issue of an explosives driver licence.

(2) In this section—

*valid*, in relation to a driver licence, means—

- (a) the licence has not expired; and
- (b) the licence has not been cancelled or suspended; and
- (c) the person is not disqualified, by order of an Australian court, from holding or obtaining a driver licence.

### **37 Shotfirer licence**

- (1) A person is an appropriate person for the issue of a shotfirer licence if the chief inspector is reasonably satisfied the person—
  - (a) is an adult; and
  - (b) is physically able to carry out blasting activities; and
  - (c) has, within the 5-year period ending on the day the application for the licence is made, been assessed by a registered training organisation as having attained the specific competencies, approved by the chief inspector and published on a Queensland Government website, in the use of blasting explosives contained in an industry training package; and
  - (d) has satisfactory knowledge of the following matters—

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- (i) the requirements under the Act about the storage, transport, manufacture, sale and use of blasting explosives;
  - (ii) the hazards associated with each type of blasting explosive stated in the licence, its blasting characteristics, and the procedures and methods for safely and securely handling the explosive;
  - (iii) the potential environmental consequences of blasting and methods for minimising the adverse effects of blasting; and
- (e) is proficient in the following—
- (i) designing, loading and initiating blasts;
  - (ii) handling misfires;
  - (iii) disposing of blasting explosives; and
- (f) is, in all the circumstances, an appropriate person for the issue of a shotfirer licence.
- (2) For subsection (1)(d) and (e), the chief inspector may require the person to take a written, oral or practical examination.

### **38 Fireworks contractor licence**

- (1) A person is an appropriate person for the issue of a fireworks contractor licence if the chief inspector is reasonably satisfied the person or, if the person is a corporation, an executive officer or employee of the corporation—
- (a) is 21 years or more; and
  - (b) holds a fireworks operator licence or an equivalent authority; and
  - (c) has held a fireworks operator licence or an equivalent authority for 3 years or more; and
  - (d) either—
    - (i) has, within the 3-year period ending on the day the application for the licence is made, been assessed by a registered training organisation as having

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attained the specific competencies, approved by the chief inspector and published on a Queensland Government website, in organising fireworks displays contained in an industry training package;  
or

(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

(e) is, in all the circumstances, an appropriate person for the issue of a fireworks contractor licence.

(2) For subsection (1)(d)(ii), the chief inspector may require the person to take a written, oral or practical examination.

(3) In this section—

*equivalent authority* means a licence issued under the law of another State authorising the person to use fireworks.

### 39 Fireworks operator licence

(1) A person is an appropriate person for the issue of a fireworks operator licence if the chief inspector is reasonably satisfied the person—

(a) is an adult; and

(b) is physically able to use fireworks in a fireworks display; and

(c) either—

(i) has, within the 3-year period ending on the day the application for the licence is made, been assessed by a registered training organisation as having attained the specific competencies, approved by the chief inspector and published on a Queensland Government website, in the use of fireworks in fireworks displays contained in an industry training package; or

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- (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
  - (d) has satisfactory knowledge of the following matters—
    - (i) the requirements under the Act about the storage, transport, manufacture, sale and use of fireworks;
    - (ii) the hazards associated with each type of firework stated in the licence, and the procedures and methods for safely and securely handling the firework;
    - (iii) the requirements under the Queensland fireworks code; and
  - (e) is, in all the circumstances, an appropriate person for the issue of a fireworks operator licence.
- (2) For subsection (1)(c)(ii) and (d), the chief inspector may require the person to take a written, oral or practical examination.

#### **40 Other authorities**

- (1) A person is an appropriate person for the issue of an authority, other than an authority mentioned in sections 36A to 39, if the chief inspector is reasonably satisfied the person or, if the person is a corporation, an executive officer of the corporation—
- (a) is an adult; and
  - (b) is physically able to handle explosives under the authority; and
  - (c) has satisfactory knowledge of—
    - (i) the requirements under the Act applicable to holders of the authority; and
    - (ii) the hazards associated with the explosives to which the authority would apply; and

- (d) is, in all the circumstances, an appropriate person for the issue of the authority.
- (2) For subsection (1)(c), the chief inspector may require the person to take a written, oral or practical examination.

## **Division 4                    Applications for licences to transport explosives**

### **41            Additional requirement for applicant for licence**

- (1) This section applies in relation to an applicant for a licence to transport explosives.
- (2) The chief inspector may, by notice given to the applicant, ask the applicant to produce written evidence that a vehicle the applicant proposes to use to transport a category 2 load, a category 3 load or a placard load under the licence, if granted, is covered by a policy of insurance, or other form of indemnity, described in section 144.
- (3) The applicant is taken to have withdrawn the application if the applicant fails to produce the evidence requested within 14 days after the day the notice is given.

## **Division 5                    General provisions for authority holders**

### **42            Employee of particular authority holder taken to be holder of authority**

- (1) This section applies to an employee of the holder of a prescribed authority who is—
  - (a) acting within the scope of the employee’s employment; and
  - (b) if the prescribed authority is a licence to use explosives, a shotfirer licence or a fireworks operator

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licence—acting in the presence and under the direct supervision of the holder of the prescribed authority.

(2) The employee is taken to be a holder of the prescribed authority.

(3) In this section—

***prescribed authority*** means any of the following—

- (a) a licence to import explosives;
- (b) a licence to export explosives;
- (c) a licence to manufacture explosives;
- (d) a licence to sell explosives;
- (e) a licence to store explosives;
- (f) a permit to store explosives;
- (g) a licence to transport explosives;
- (h) a licence to use explosives;
- (i) a shotfirer licence;
- (j) a fireworks contractor licence;
- (k) a fireworks operator licence;
- (l) a licence or permit issued under the *Weapons Act 1990*.

### **43 Notification requirements for all authority holders**

(1) This section applies if any of the following events (each a ***prescribed event***) happens during the term of an authority—

- (a) the holder of the authority becomes aware of a change in circumstances that prevents the holder complying with the Act or a condition of the authority;

*Example for paragraph (a)—*

a change in the holder's physical health

- (b) if the holder of the authority is an individual—
  - (i) the holder's name changes; or

- (ii) the holder's address changes; or
    - (iii) the holder becomes an insolvent under administration;
  - (c) if the holder of the authority is a corporation—
    - (i) there is a change to the corporation's executive officers; or
    - (ii) the corporation becomes an externally administered corporation;
  - (d) if the holder of the authority is a corporation other than a listed corporation—there is a change to the corporation's shareholders;
  - (e) if the authority is not a security sensitive authority or the holder of the authority is a corporation—the holder is, in Queensland or elsewhere, convicted of or charged with an offence involving a prescribed activity.
- (2) The holder of the authority must, as soon as practicable after the holder becomes aware the prescribed event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.

Maximum penalty—

- (a) for a prescribed event mentioned in subsection (1)(b)(i) or (ii)—20 penalty units; or
  - (b) otherwise—200 penalty units.
- (3) In this section—

***externally administered corporation*** means a Chapter 5 body corporate within the meaning of the Corporations Act, section 9.

***insolvent under administration*** see the Corporations Act, section 9.

### **43A Notification requirements for holders of security sensitive authorities**

- (1) This section applies if any of the following events (each a *prescribed event*) happens during the term of a security sensitive authority—
  - (a) if the holder of the authority is a listed corporation—
    - (i) the responsible person for the corporation stops being employed or engaged by the corporation; or
    - (ii) the responsible person for the corporation is, in Queensland or elsewhere, convicted of or charged with a relevant offence; or
    - (iii) the responsible person for the corporation is named as the respondent in a domestic violence order or police protection notice; or
    - (iv) release conditions are imposed on the responsible person for the corporation under the *Domestic and Family Violence Protection Act 2012*, section 125;
  - (b) if the holder of the authority is a corporation other than a listed corporation—
    - (i) an executive officer of the corporation is, in Queensland or elsewhere, convicted of or charged with a relevant offence; or
    - (ii) an executive officer of the corporation is named as the respondent in a domestic violence order or police protection notice; or
    - (iii) release conditions are imposed on an executive officer of the corporation under the *Domestic and Family Violence Protection Act 2012*, section 125.
- (2) The holder of the security sensitive authority must, as soon as practicable after the holder becomes aware the prescribed event has happened, give the chief inspector a notice about the event, unless the holder has a reasonable excuse.

Maximum penalty—200 penalty units.

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#### **44 Notification requirements for particular authority holders**

- (1) This section applies if, during the term of a prescribed authority, the holder of the authority proposes to do any of the following things—
  - (a) change the construction or location of a building stated in the authority as a place where activities may be carried out under the authority;
  - (b) construct a new building in which activities are proposed to be carried out under the authority;
  - (c) use new equipment or vehicles, or change the location of equipment used when the authority was issued, in connection with carrying out activities under the authority.
- (2) The holder must, before doing the thing, give the chief inspector notice of the proposal unless the holder has a reasonable excuse.

Maximum penalty—50 penalty units.

- (3) In this section—

*new equipment or vehicles*, in relation to a prescribed authority, means equipment or vehicles not proposed to be used in connection with carrying out activities under the authority when the holder applied for the authority.

*prescribed authority* means any of the following—

- (a) a licence to manufacture explosives;
- (b) a licence to store explosives;
- (c) a licence to transport explosives.

#### **45 Record keeping relating to disposal of explosives**

- (1) This section applies if, during the term of a prescribed authority, the holder of the authority disposes of an explosive.
- (2) The holder must make a record under subsection (3) of each explosive disposed of under the prescribed authority.

Maximum penalty—100 penalty units.

- (3) The record must include—
- (a) the amount and type of explosive disposed of; and
  - (b) the date of disposal; and
  - (c) details of where the explosive was disposed of.

- (4) In this section—

*prescribed authority* means any of the following authorities—

- (a) a licence to import explosives;
- (b) a licence to export explosives;
- (c) a licence to manufacture explosives;
- (d) a licence to sell explosives;
- (e) a licence to store explosives;
- (f) a licence to transport explosives;
- (g) a licence to use explosives;
- (h) a shotfirer licence;
- (i) a fireworks contractor licence.

## **Division 5A            Safety and security requirements**

### **46        Definitions for division**

In this division—

*emergency event* includes the following—

- (a) an explosion;
- (b) a fire;
- (c) a security breach at a place at which an activity is carried out under a prescribed authority;
- (d) an event that requires a response to a security threat;

*Examples of an event for paragraph (d)—*

a security lockdown or an attack relating to national security

- (e) a flood;
- (f) a cyclone.

***national counter terrorism alert level*** means the current level of alert for Australia of a terrorist act being carried out as published by the Commonwealth Government.

***prescribed authority*** means the following—

- (a) a licence to import explosives;
- (b) a licence to export explosives;
- (c) a licence to manufacture explosives;
- (d) a licence to sell explosives;
- (e) a licence to store explosives;
- (f) a licence to transport explosives;
- (g) a licence to use explosives;
- (h) a shotfirer licence;
- (i) a fireworks contractor licence.

***safety and security management system*** means a document that sets out a system that incorporates risk management elements and practices to—

- (a) protect the safety and health of persons who may be affected by activities carried out under a prescribed authority; and
- (b) ensure explosives handled under the authority are kept securely so that the explosives cannot be accessed by persons who should not have access.

#### **46A Requirement for safety and security management system**

- (1) This section applies to the holder of a prescribed authority if 1 or more employees of the holder carry out activities under the authority.

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- (2) The holder of the authority must have and give effect to a safety and security management system that complies with subsections (3) and (4).

Maximum penalty—100 penalty units.

- (3) For subsection (2), the safety and security management system is to relate to—

- (a) if a place is stated in the prescribed authority as a place at which an activity may be carried out under the authority—the place; or

*Examples of a place for paragraph (a)—*

- an explosives factory
- premises where explosives are stored

- (b) if an activity is carried out under the prescribed authority other than at a place mentioned in paragraph (a)—the activity.

*Examples of an activity for paragraph (b)—*

- blasting activities carried out under a prescribed authority at various locations
- transporting explosives

- (4) The safety and security management system must include the following—

- (a) a description of the holder's safety and security policy;
- (b) details of the organisational structure of the holder's operations, including details of the personnel responsible for performing all the functions provided for under the system;
- (c) a system procedure for each matter stated in schedule 3, part 1;
- (d) an operational procedure for each matter stated in schedule 3, part 2 that applies to the place or activity to which the system applies;
- (e) a security plan that complies with section 46C;

- (f) an emergency response plan to manage risk to the safety and health of persons and the security of explosives in an emergency event;
- (g) a process for ongoing consultation with employees and contractors of the holder who are engaged in carrying out activities under the prescribed authority, at least once in each month, about safety and security in relation to the activities.

#### **46B Safety and security requirements under other legislation**

To remove any doubt, it is declared that the safety and security management system may be part of a safety and security management system (however called) required under another Act.

*Example—*

The safety and security management system may be part of a safety and health management system for a coal mine required under the *Coal Mining Safety and Health Act 1999*.

#### **46C Contents of security plan**

A security plan must—

- (a) identify security risks for explosives that may affect an individual, property and information kept by the holder of a prescribed authority about explosives; and
- (b) adopt processes that deal with identified security risks for explosives activities, that ensure—
  - (i) the explosives are kept securely; and
  - (ii) records are kept that are sufficient to allow the inspector to assess whether the plan has been complied with; and
  - (iii) methods are used that identify when explosives have been accessed and identify access to explosives by a person who should not have access to explosives; and

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- (iv) the chain of possession of the explosives can be traced from the holder of the authority to the holder of another prescribed authority; and
- (v) the explosives are delivered to a person authorised in the security plan to have access to the explosives and to receive the explosives; and
- (vi) records are kept that identify the persons who, in the scope of their employment, are allowed unsupervised access to explosives.

#### **46D Requirement to review security plan**

The holder of the prescribed authority must review the security plan—

- (a) annually; and
- (b) if any of the following happens—
  - (i) a change in the national counter terrorism alert level or level of risk;
  - (ii) there is a loss of explosives;
  - (iii) there is unauthorised entry, or attempted unauthorised entry, to the place where the explosives are stored;
  - (iv) an explosives stock discrepancy cannot be reconciled with records kept by the holder;
  - (v) an explosive has been stolen;
  - (vi) an explosive has been fraudulently obtained;
  - (vii) an explosive or an explosive facility has been intentionally damaged;
  - (viii) information kept by the holder in relation to explosives has been lost or stolen;
  - (ix) an explosive has been accessed by a person who should not have access to the explosive;

- (x) an explosive has been sold and has not been delivered by the expected delivery day.

Maximum penalty—100 penalty units.

## **Division 6                      Applications for renewal of particular authorities**

### **47            Information that must accompany application**

- (1) This section applies to an application to renew—
  - (a) a licence to use explosives; or
  - (b) a shotfirer licence; or
  - (c) a fireworks operator licence.
- (2) The application must be accompanied by a record of the explosives used under the licence by the holder of the licence during the term of the licence.

## **Division 7                      Register of authorities and security clearances**

### **47A        Register to be kept by chief inspector**

- (1) The chief inspector must keep a register of—
  - (a) each authority issued by the chief inspector; and
  - (b) each security clearance given by the chief inspector.
- (2) The register must include the following information for each authority or security clearance—
  - (a) the name and contact details of the holder of the authority or security clearance;
  - (b) details of the authority or security clearance;
  - (c) the day the authority or security clearance expires;

- (d) the status of the authority or security clearance, including, if it has been suspended, cancelled or surrendered, details of the suspension, cancellation or surrender;
  - (e) any other information the chief inspector considers appropriate for inclusion in the register.
- (3) The chief inspector may disclose information in the register, other than the following information, to any person—
- (a) the contact details of an individual;
  - (b) the circumstances surrounding the suspension, cancellation or surrender of an authority or security clearance.
- (4) The chief inspector may publish information in the register, other than the information mentioned in subsection (3)(a) or (b), in the way the chief inspector considers appropriate.

*Example for subsection (4)—*

The chief inspector may publish information in the register on the internet in the form of a database that allows any person to obtain details about the holder of an authority or security clearance to check the validity of the holder's authority or security clearance.

## **Part 4 Possessing explosives**

### **48 Explosives to which s 34(1) of Act does not apply**

- (1) For section 34(2) of the Act, the following explosives are prescribed—
- (a) an unrestricted firework;
  - (b) a distress signal;
  - (c) an explosive designed to activate an airbag, seatbelt, fire extinguisher or parachute;
  - (d) an electric match;
  - (e) a safety fuse or igniter;

- (f) a power device cartridge;
- (g) small arms ammunition, and an explosive ingredient of small arms ammunition, that is possessed by a person who is licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm;
- (h) an explosive manufactured as mentioned in section 38(2)(a) of the Act that is possessed by the person who manufactured the explosive;
- (i) an explosive stored at a government magazine;
- (j) an explosive possessed by a person who is transporting the explosive and who holds an authority under a corresponding law to transport the explosive;
- (k) collectors' ammunition possessed by a prescribed ammunition collector;
- (l) an explosive that is stored in a secured area at a laboratory at an industrial facility, educational institution or research facility for use at the laboratory and is not more than—
  - (i) if the explosive is security sensitive ammonium nitrate—3kg; or
  - (ii) if the explosive is other than security sensitive ammonium nitrate—100g.

(2) In this section—

*corresponding law* see section 50(6) of the Act.

*secured area* see section 97.

#### **49 Children prohibited from possessing particular explosives**

(1) A person must not possess an explosive mentioned in section 48(1) unless the person is an adult.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply in relation to the following explosives—

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- (a) an unrestricted firework;
- (b) a distress signal on board a vehicle;
- (c) small arms ammunition that is possessed by a person who is licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm that uses the ammunition.

## **50 Possession and initiation of particular explosives in public place prohibited**

- (1) A person must not, unless the person is authorised to do so under the Act or has a reasonable excuse, possess an explosive, other than an unrestricted firework, in a public place.

Maximum penalty—50 penalty units.

- (2) A person must not, unless the person is authorised to do so under the Act or has a reasonable excuse, initiate an explosive, other than an unrestricted firework, in a public place.

Maximum penalty—200 penalty units.

# **Part 5 Importing and exporting explosives**

## **Division 1 Exemptions**

### **51 Explosives exempt from s 36 of Act**

- (1) An explosive is exempt from section 36 of the Act if the explosive is—
- (a) part of the operational equipment of a prescribed vehicle; or
  - (b) a distress signal on board a prescribed vehicle.

*Examples—*

- an airbag in a vehicle
  - a distress signal on board a boat as part of the boat's safety equipment
- (2) Also, small arms ammunition is exempt from section 36 of the Act if the ammunition is sent out of the State, or brought into the State—
- (a) by a person who is licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm that uses the ammunition; and
  - (b) only for the person's personal use for sports or target shooting or recreational shooting.
- (3) In this section—

*prescribed vehicle* means a vehicle entering the State from another country or leaving the State for another country.

## **52 Explosives exempt from s 37 of Act**

An explosive is exempt from section 37 of the Act if the explosive is collectors' ammunition.

## **Division 2 Requirements for holders of licences to import explosives and licences to export explosives**

### **53 Definition for division**

In this division—

*relevant licence* means—

- (a) a licence to import explosives; or
- (b) a licence to export explosives.

## **54 Condition of explosives**

The holder of a relevant licence must not bring an import explosive into the State from another country, or send an export explosive from the State to another country, unless—

- (a) the holder is reasonably satisfied the explosive is in a safe and secure condition for transport; and
- (b) the explosive has been classified; and
- (c) the packaging of the explosive is marked with the correct classification code for the explosive; and
- (d) the explosive is an authorised explosive; and
- (e) the explosive is packaged, marked and labelled as required under—
  - (i) the Australian explosives code; or
  - (ii) the Australian dangerous goods code; and
- (f) the holder can provide, on the request of an inspector, a safety data sheet for the explosive; and
- (g) the holder has taken reasonable steps to ensure the explosive will function as it was designed to function.

Maximum penalty—50 penalty units.

## **55 Ensuring explosive complies with notice under s 37 of Act**

- (1) This section applies to the holder of a relevant licence who is required under section 37 of the Act to give the chief inspector notice for an import explosive brought into the State or an export explosive sent to another country.
- (2) The holder must ensure the explosive complies in all material respects with the details stated in the notice.

Maximum penalty—50 penalty units.

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## **56 Record keeping**

- (1) The holder of a relevant licence must keep a record under subsection (2) of each import explosive brought into the State from another country, and each export explosive sent from the State to another country, under the licence.

Maximum penalty—50 penalty units.

- (2) The record must include the following—
- (a) the name of the explosive;
  - (b) the amount of the explosive;
  - (c) the date the explosive was brought into the State or sent to the country;
  - (d) the name of the consignee and consignor of the explosive.

## **57 Ensuring particular persons are aware of obligations**

The holder of a relevant licence must take reasonable steps to ensure an employee or contractor of the holder is aware of, and complies with, the requirements under the Act about bringing import explosives into the State from another country or sending export explosives from the State to another country.

Maximum penalty—50 penalty units.

## **58 Making explosive available for inspection**

The holder of a relevant licence must, on the request of an inspector, make an explosive brought into the State, or proposed to be sent to another country, under the licence available for inspection by the inspector at a time and place reasonably required by the inspector.

Maximum penalty—50 penalty units.

## **59 Handling of explosive at port**

The holder of a relevant licence must not send an export explosive from the State, or bring an import explosive into the State, at a port that does not have approved explosives limits.

Maximum penalty—100 penalty units.

## **Division 3 Requirements for holders of permits to import explosives and permits to export explosives**

### **60 Definition for division**

In this division—

*relevant permit* means—

- (a) a permit to import explosives; or
- (b) a permit to export explosives.

### **61 Ensuring particular persons are aware of obligations**

The holder of a relevant permit must take reasonable steps to ensure an employee or contractor of the holder is aware of, and complies with, the requirements under the Act about bringing import explosives into the State from another country or sending export explosives from the State to another country.

Maximum penalty—50 penalty units.

### **62 Making explosive available for inspection**

The holder of a relevant permit must, on the request of an inspector, make an explosive brought into the State, or proposed to be sent to another country, under the permit available for inspection by the inspector at a time and place reasonably required by the inspector.

Maximum penalty—50 penalty units.

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## Division 4 Handling of explosives at port

### 63 Application of division

This division applies in relation to a port at which the following amounts of explosives are, or are proposed to be, handled at one time—

- (a) for class 1, divisions 1.1, 1.2, 1.5 and 1.6 explosives—more than 250kg;
- (b) for class 1, division 1.3 explosives—more than 2,000kg;
- (c) for a precursor—more than 25t;
- (d) for explosives other than explosives mentioned in paragraphs (a) to (c)—more than 400t.

### 64 Definitions for division

In this division—

*explosives limit* see section 66(a).

*explosives limits document* see section 66.

*risk assessment process* means a process for measuring the consequences and likelihood of a risk.

### 65 Requirements for handling explosives at port

- (1) The port authority or port operator responsible for a port must ensure—
  - (a) explosives are not handled at the port unless there are approved explosives limits for the port; and
  - (b) explosives are handled at the port as required under—
    - (i) the port's approved explosives limits; and
    - (ii) AS 3846 or alternative safety and security measures for the standard.

Maximum penalty—100 penalty units.

(2) In this section—

**AS 3846** means AS 3846—2005 (The handling and transport of dangerous cargoes in port areas).

## **66 Port authority or port operator to prepare explosives limits document**

The port authority or port operator responsible for a port may prepare, and give the chief inspector for approval, a written document (an *explosives limits document*) for the port stating—

- (a) for each class and division of explosives handled at the port—the maximum amount (the *explosives limit*), worked out using a risk assessment process, of explosives that may be handled safely and securely at a berth within the port at one time; and
- (b) details of the risk assessment process used.

## **67 How chief inspector must deal with explosives limits document**

- (1) The chief inspector must, as soon as practicable after receiving an explosives limits document from a port authority or port operator, decide to—
  - (a) approve, with or without changes or conditions, the explosives limits for the port stated in the document; or
  - (b) refuse to approve the explosives limits for the port stated in the document.
- (2) If the chief inspector decides to approve the explosives limits stated in the explosives limits document, the chief inspector must, as soon as practicable after making the decision, give the port authority or port operator—
  - (a) notice of the explosives limits approved for the port; and
  - (b) if the chief inspector decides to approve the explosives limits with changes or conditions—an information notice for the decision.

- (3) If the chief inspector decides to refuse to approve the explosives limits stated in the explosives limits document, the chief inspector must give the port authority or port operator an information notice for the decision.

## **68 Changing approved explosives limits**

- (1) This section applies to the port authority or port operator responsible for a port for which explosives limits have been approved by the chief inspector under section 67.
- (2) The port authority or port operator may prepare, and give the chief inspector for approval, a new explosives limits document stating different explosives limits for the port.
- (3) The chief inspector must deal with the new explosives limits document under section 67.

## **69 Chief inspector may impose interim explosives limits**

- (1) This section applies if—
  - (a) there are approved explosives limits for a port; and
  - (b) the chief inspector is reasonably satisfied the approved explosives limits are no longer appropriate for the port.
- (2) The chief inspector may decide to impose interim explosives limits for the port.
- (3) If the chief inspector decides to impose interim explosives limits for the port, the chief inspector must give the port authority or port operator responsible for the port an information notice for the decision.
- (4) Interim explosives limits for a port may be changed by the approval, under section 67, of explosives limits for the port.

## **Part 6                      Manufacturing explosives**

### **Division 1                Prescribed matters**

#### **71            Prescribed explosives and conditions—Act, s 38**

- (1) For section 38(3) of the Act, each of the following explosives is prescribed—
  - (a) an explosive that—
    - (i) consists of a mixture of ammonium nitrate and fuel oil in a proportion that achieves blasting; and
    - (ii) may include a dye colouring agent;
  - (b) a pyrotechnic substance.
- (2) For section 38(3) of the Act, each of the following conditions is prescribed—
  - (a) the holder of the authority to use the explosive must be an individual;
  - (b) for an explosive mentioned in subsection (1)(a)—the explosive must be manufactured as required under AS 2187, part 2 or alternative safety and security measures for the standard;
  - (c) for a pyrotechnic substance—
    - (i) the substance must be manufactured for immediate use by the holder as a special effect for film, theatrical or other entertainment purposes; and
    - (ii) the holder must be authorised to use the substance.

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## **Division 2                      Requirements for holders of licences to manufacture explosives**

### **72        Definition for division**

In this division—

*relevant licence* means a licence to manufacture explosives.

### **73        Manufacturing explosives**

The holder of a relevant licence must—

- (a) ensure an explosive manufactured under the licence is manufactured in a safe condition; and
- (b) ensure the explosive is correctly classified; and
- (c) ensure the packaging of the explosive is marked with the correct classification code for the explosive; and
- (d) take reasonable steps to ensure the explosive will function as it was designed to function; and
- (e) for an explosive that is a mixture of ammonium nitrate and fuel oil, with or without other substances—
  - (i) add a colouring agent that is soluble in the fuel oil before mixing the ammonium nitrate and fuel oil; and
  - (ii) ensure the explosive is manufactured as required under AS 2187, part 2 or alternative safety and security measures for the standard; and
- (f) for an explosive that is or includes precursors—ensure the explosive is manufactured as required under the precursor code or alternative safety and security measures for the code; and
- (g) for an explosive manufactured in a mobile manufacturing unit—ensure the explosive is manufactured as required under the mobile

manufacturing code or alternative safety and security measures for the code.

Maximum penalty—50 penalty units.

#### **74 Storing explosives manufactured**

The holder of a relevant licence must ensure explosives manufactured under the licence are stored in a secure way that—

- (a) prevents the loss or theft of the explosives; and
- (b) enables missing explosives to be identified.

Maximum penalty—50 penalty units.

#### **75 Signage at explosives factory**

- (1) This section applies to the holder of a relevant licence if the licence states a place, other than a mobile manufacturing unit, where explosives may be manufactured under the licence.
- (2) The holder must display each of the following signs at every entrance to the explosives factory, so the sign is clearly visible by a person approaching the entrance—
  - (a) a sign displaying the word ‘HAZCHEM’ legibly in red letters at least 100mm high;
  - (b) a classification sign for each explosive in the factory.

Maximum penalty—20 penalty units.

- (3) The holder must display, at every entrance to a building within the factory, so the sign is clearly visible by a person approaching the entrance, a classification sign for each explosive in the building.

Maximum penalty—20 penalty units.

- (4) However, the holder need not comply with subsection (3) for an explosive if—
  - (a) the explosive is stored in a tank inside the building; and

- (b) the holder displays a classification sign for the explosive adjacent to, or on the exterior surface of, the tank.

## 76 Persons to whom explosives may be supplied

The holder of a relevant licence must ensure an explosive manufactured under the licence is supplied only to a person who is authorised to possess the explosive.

Maximum penalty—100 penalty units.

## 77 Documents to be kept

The holder of a relevant licence must ensure—

- (a) a safety data sheet for an explosive manufactured under the licence is kept at the place where the explosive is manufactured; and
- (b) if the licence states a place, including a mobile manufacturing unit, where explosives may be manufactured under the licence—the licence, or a copy of the licence, is kept at the place.

Maximum penalty—20 penalty units.

## Division 3 Rules of conduct for persons at explosives factories

### 78 Definition for division

In this division—

*relevant holder*, in relation to an explosives factory, means the holder of a licence to manufacture explosives in which the factory is stated as a place where explosives may be manufactured under the licence.

## **79 Person must comply with instructions and procedures**

A person at an explosives factory must comply with—

- (a) the lawful instructions of the relevant holder; and
- (b) the procedures under the relevant holder's safety and security management system for the factory to the extent the procedures apply to the person.

Maximum penalty—50 penalty units.

## **80 Person must report particular matters**

(1) This section applies if a person at an explosives factory becomes aware of any of the following matters—

- (a) a dangerous situation at the factory that involves an imminent risk of death or injury to a person;
- (b) a circumstance that has the potential to adversely affect the person's ability to comply with instructions or procedures mentioned in section 79;
- (c) an explosives incident happening at the factory.

(2) Immediately after becoming aware of the matter, the person must report the matter to the relevant holder, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

## **81 Prohibited conduct**

A person at an explosives factory must not, without reasonable excuse—

- (a) wilfully remove, obscure or interfere with—
  - (i) a sign, notice or other written information about safely and securely handling explosives displayed or made available at the factory by the relevant holder; or
  - (ii) a label or marking on an explosive or its packaging; or

- 
- (b) act in a wilful or careless way that injures, or has the potential to injure, a person at the factory; or
  - (c) handle an explosive at the factory unless the person is authorised by the relevant holder to handle the explosive.

Maximum penalty—50 penalty units.

## Part 7 Selling explosives

### 82 Explosives exempt from s 41 of Act

The following explosives are exempt from section 41 of the Act—

- (a) an unrestricted firework;
- (b) a distress signal;
- (c) an explosive designed to activate an airbag, seatbelt, fire extinguisher or parachute;
- (d) a power device cartridge;
- (e) small arms ammunition sold by a person who holds a dealer's licence under the *Weapons Act 1990* if the person sells the ammunition at a place approved under the person's licence;
- (f) an explosive sold by a person (a *service provider*) authorised to use the explosive if—
  - (i) the service provider uses the explosive in the course of providing a service to another person; and
  - (ii) the person to whom the explosive is sold does not possess the explosive at any time;

*Examples—*

- a blasting explosive used by the holder of a shotfirer licence in providing a blasting service to another person

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- a firework used by a fireworks operator who is employed by the fireworks contractor for a fireworks display to use the firework in the fireworks display that is organised by the contractor for the display host for the display
- (g) an explosive sold by the chief inspector under section 125;
- (h) collectors' ammunition sold by a prescribed ammunition collector.

### 83 Persons to whom explosives may be sold

For section 42(d) of the Act, each of the following persons is authorised as a person to whom an explosive may be sold—

- (a) for an explosive mentioned in section 82(a) to (d)—any person;
- (b) for small arms ammunition—
- (i) a prescribed ammunition collector; or
  - (ii) a person who is licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm;
- (c) for a propellant powder used to reload small arms ammunition—a person who is an adult and is licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm;
- (d) for an explosive used as an ingredient for manufacturing another explosive (the *explosive product*)—a person who is authorised to manufacture the explosive product;
- (e) a fireworks contractor to whom the explosive may be sold under the conditions of the fireworks contractor licence;
- (f) an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosive.

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## **84 Requirements about condition of explosives sold**

- (1) A person who sells an explosive, other than an unrestricted firework or small arms ammunition, must—
- (a) package the explosive in—
    - (i) its original packaging; or
    - (ii) a package sufficiently durable to prevent the spillage of, or damage to, the explosive; and
  - (b) ensure the package is labelled with the correct classification code for the explosive.

Maximum penalty—50 penalty units.

- (2) A person must not sell an explosive unless—
- (a) the person is reasonably satisfied the explosive is in a safe condition for transport and use; and
  - (b) the explosive is sold—
    - (i) before the expiry of the manufacturer's recommended shelf life for the explosive; or
    - (ii) after the expiry of the manufacturer's recommended shelf life for the explosive and with the written consent of the chief inspector; and
  - (c) the person has taken reasonable steps to ensure the explosive will function as it was designed to function.

Maximum penalty—100 penalty units.

## **85 Exposing explosives for sale in shop window prohibited**

- (1) A person must not expose an explosive for sale in a shop window.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply in relation to an explosive mentioned in section 82(a) to (e).

**87 Requirement to report suspect or unusual request to purchase security sensitive explosive**

- (1) This section applies if—
- (a) the holder of a licence to sell explosives receives a request from another person to purchase a security sensitive explosive, whether or not the other person is identified; and
  - (b) the request could reasonably give rise to a suspicion that—
    - (i) the proposed purchase, or the use of the explosive after the proposed purchase, may not comply with the Act; or
    - (ii) the proposed purchase is unusual.

- (2) The holder must immediately give the chief inspector notice of all details the holder has of the request and the other person.

Maximum penalty—200 penalty units.

- (3) For subsection (1)(b), the circumstances that could reasonably give rise to a suspicion mentioned in that subsection include, but are not limited to, the following—
- (a) a request for a cash sale;
  - (b) the amount of the explosive is unusual, having regard to relevant industry conventions;
  - (c) the stated proposed use of the explosive is unusual;

*Example—*

using blasting explosives for special effects like blowing up a car, outside relevant industry conventions

- (d) the stated proposed location of the proposed use is unusual;

*Examples—*

- a proposed use of a large amount of a security sensitive explosive in a major commercial area
- a proposed use of a security sensitive explosive to blow up a car in a shopping centre

- (e) the other person holds a licence of a particular type and the request is to purchase a security sensitive explosive for a purpose and use not allowed under that type of licence;
- (f) the request shows an absence by the other person of a detailed knowledge of security sensitive explosives or the use of particular security sensitive explosives.

## **88 Restriction on holder of licence selling security sensitive explosive to new client**

- (1) This section applies if the holder of a licence to sell explosives (the *seller*) proposes to—
  - (a) sell a security sensitive explosive to a person (the *new client*) to whom the seller has not previously sold a security sensitive explosive; or
  - (b) supply a security sensitive explosive to an employee mentioned in section 42(1)(a) (also the *new client*) if the seller has not previously sold a security sensitive explosive to the new client's employer.
- (2) The seller must not sell or supply the explosive to the new client unless subsections (3) to (6) have been complied with.  
Maximum penalty—200 penalty units.
- (3) The seller must—
  - (a) obtain each of the following—
    - (i) the new client's name and address (the *personal details*);
    - (ii) the new client's telephone number or other electronic contact details;
    - (iii) a document that bears the new client's signature signed in the seller's presence or a certified copy of a document bearing the new client's signature;
    - (iv) a signed statement by the new client about how the new client proposes to use the explosive (the *proposed use*);

- (v) if the new client is an employee mentioned in section 42(1)(a)—
  - (A) written evidence of the matters mentioned in section 42(1)(a); and
  - (B) the telephone number or other electronic contact details of the new client’s employer (also the *personal details*); and
- (b) obtain a certified copy of—
  - (i) documentary evidence confirming the personal details; and  
*Example of documentary evidence that may confirm the personal details—*
    - a current driver licence held by the new client
  - (ii) the licence under the Act or the *Weapons Act 1990* held by the new client that authorises the new client to purchase the explosive from the seller (the *client’s licence*); and
- (c) make a written record (the *client record*) of—
  - (i) the personal details; and
  - (ii) the telephone number or other electronic contact details obtained; and
  - (iii) the following details for each document obtained under paragraph (b)(i)—
    - (A) a description of its nature or type;  
*Example—*
      - ‘driver licence’
    - (B) any identifying number;
    - (C) any date of its issue;
    - (D) details that allow the person who apparently issued it to be identified; and
  - (iv) the type of the client’s licence and any expiry date stated on it.

- 
- (4) The documentary evidence obtained under subsection (3)(b)(i)—
    - (a) must not appear to have been forged or tampered with; and
    - (b) must include—
      - (i) a name and address that matches the name and address given by the new client; and
      - (ii) a signature that appears to match the signature mentioned in subsection (3)(a)(iii); and
      - (iii) a photo of the new client.
  - (5) After complying with subsection (3), the seller must give the chief inspector—
    - (a) a request in the approved form asking the chief inspector to validate the new client's identity and the client's licence; and
    - (b) copies of the documents required to be obtained under subsection (3) and of the client record.
  - (6) The seller must not proceed with the proposed sale or supply unless the chief inspector gives the seller notice that the chief inspector has validated the new client's identity and the client's licence.
  - (7) Subsections (5) and (6) do not apply if the explosive is propellant powder and the client's licence is a licence under the *Weapons Act 1990* that authorises the proposed use.
  - (8) This section does not apply if the person to whom the explosives are proposed to be sold is an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosives.

## **89 Restriction on holder of licence selling security sensitive explosive to existing client**

- (1) This section applies if the holder of a licence to sell explosives (the *seller*) proposes to—

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- (a) sell a security sensitive explosive to another person (the **client**) to whom the seller has previously sold a security sensitive explosive; or
  - (b) supply a security sensitive explosive to an employee mentioned in section 42(1)(a) (also the **client**) if the seller has previously sold a security sensitive explosive to the client's employer.
- (2) The seller must not sell or supply the explosive to the client unless the seller has previously complied with section 88(2) for the client, as a new client under that section.

Maximum penalty—200 penalty units.

- (3) Also, if any of the following circumstances applies, the seller must not sell or supply the explosive to the client unless subsections (4) to (6) have been complied with—
- (a) the client's licence mentioned in section 88(3)(b)(ii) expires;
  - (b) the chief inspector gives the seller a notice that the client's licence mentioned in section 88(3)(b)(ii) has been cancelled or suspended;
  - (c) the client holds a different licence from the licence under which the seller previously sold the client explosives;
  - (d) the client's licence mentioned in section 88(3)(b)(ii) has been renewed since the seller previously sold the client explosives.

Maximum penalty—200 penalty units.

- (4) The seller must—
- (a) obtain a certified copy of the licence under the Act or the *Weapons Act 1990* held by the client that authorises the client to purchase the explosive from the seller (the **new licence**); and
  - (b) update the client record for the client made under section 88(3)(c) to include details of the new licence and any expiry date stated on it.

- 
- (5) After complying with subsection (4), the seller must give the chief inspector—
    - (a) a request in the approved form asking the chief inspector to validate the new licence; and
    - (b) a copy of the certified copy of the new licence.
  - (6) The seller must not proceed with the proposed sale or supply unless the chief inspector gives the seller notice that the chief inspector has validated the new licence.
  - (7) Subsections (5) and (6) do not apply if the explosive is propellant powder and the new licence is a licence under the *Weapons Act 1990* that authorises the proposed use obtained under section 88(3)(a)(iv) for the client, as a new client under that section.
  - (8) This section does not apply if the person to whom the explosives are proposed to be sold is an inspector to whom a direction has been given by the chief inspector under section 105B of the Act to purchase the explosives.

## **90 Requirements for holder of licence to sell explosives**

- (1) The holder of a licence to sell explosives must—
  - (a) make a record under subsection (2) of each explosive sold under the licence; and
  - (b) ensure the licence, or a copy of the licence, is kept at a place where explosives are sold under the licence.

Maximum penalty—50 penalty units.
- (2) The record must include the following—
  - (a) the purchaser's name;
  - (b) the amount and type of explosive sold;
  - (c) the date of sale;
  - (d) details of evidence produced by the purchaser to establish the purchaser's authority to purchase the explosive;

- (e) details of when and where the explosive was given to the purchaser.
- (3) However, subsection (1)(a) does not apply in relation to—
  - (a) an unrestricted firework; or
  - (b) small arms ammunition.

### **91 Record keeping**

- (1) This section applies to a person who holds a licence to sell explosives.
- (2) The person must keep each record required to be made under section 88(3)(c) or 90(1)(a) or updated under section 89(4)(b) for 5 years from the day the record is made or updated.

Maximum penalty—200 penalty units.

- (3) Subsection (2) continues to apply to the person even if the licence ends.

### **93 Offences about purchasing explosives**

- (1) A person purchasing an explosive must not knowingly make, to the person selling the explosive, a false or misleading statement about the person's identity or authority to purchase the explosive.

Maximum penalty—50 penalty units.

- (2) A person must not, without reasonable excuse, purchase an explosive if the person knows, or ought reasonably to know, the explosive may not lawfully be sold to the person.

Maximum penalty—20 penalty units.

- (3) A person purchasing a security sensitive explosive must, as soon as practicable after receiving it, give the seller notice of its receipt.

Maximum penalty—200 penalty units.

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## Part 8                      Storing explosives

### Division 1                  Preliminary

#### 94            Definition for part

In this part—

*schedule 4 explosive* means an explosive mentioned in schedule 4.

#### 95            Explosives exempt from s 44 of Act

The following explosives are exempt from section 44 of the Act—

- (a) a schedule 4 explosive;
- (b) collectors' ammunition stored by a prescribed ammunition collector;
- (c) an explosive stored at a government magazine.

### Division 2                  Requirements for storing schedule 4 explosives

#### 96            Application of division

This division does not apply in relation to an explosive stored at a government magazine.

#### 97            Definitions for division

In this division—

*required places*, for a secured area, means—

- (a) if the secured area is a drawer—on the outward facing surface of the drawer; or

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- (b) if the secured area is a cabinet—on the exterior surface of the cabinet; or
- (c) if the secured area is a cupboard, room or other enclosure—at each entrance to the enclosure.

***secure container*** means a spark-proof container that is kept closed at all times except when explosives are put into, or taken out of, the container.

***secured area*** means any of the following places that is kept locked at all times when the place is not attended by a person—

- (a) a drawer or cabinet;
- (b) a cupboard, room or other enclosure.

## **98 General requirements for storing schedule 4 explosives**

- (1) A person storing a schedule 4 explosive must take reasonable care in storing the explosive to—
  - (a) prevent access to the explosive by a person who is not authorised to possess the explosive; and
  - (b) store the explosive in a place that best minimises the potential consequences of an explosives incident involving the explosive.

Maximum penalty—50 penalty units.

- (2) However, subsection (1) does not apply to the person to the extent a requirement under the subsection is inconsistent with a requirement applying to the person under sections 99 to 103.

## **99 Requirements for storing small arms ammunition and power device cartridges**

- (1) This section applies to—
  - (a) a person storing small arms ammunition, if the small arms ammunition is an explosive mentioned in schedule 4, item 1; or

- 
- (b) a person storing a power device cartridge.
- (2) The person—
- (a) must store the explosive—
- (i) in its original packaging or in packaging or containers designed to protect the explosives individually; and
  - (ii) **in a secure container**, or on a shelf that is inaccessible to a person who is not authorised to possess the explosive; and
  - (iii) in a secured area; and
- (b) must not store the explosive in a secured area in which a firearm is stored unless—
- (i) the explosive and the firearm are stored in different parts of the secured area; and
  - (ii) the key to unlock the part of the secured area in which the firearm is stored is different from the key to unlock the part of the secured area in which the explosive is stored; and

*Examples—*

- 1 A firearm and small arms ammunition are stored in a locked room in separate safes. The safes have different combination locks.
  - 2 A firearm and small arms ammunition are stored in a locked room. The firearm is stored in a safe with a combination lock. The small arms ammunition is stored in a box in the same safe, but the box can only be opened with a padlock and key.
- (c) if the person stores more than 10,000 safety cartridges or power device cartridges in a secured area—must display, in the required places for the secured area, a classification sign for the cartridges stored in the secured area.

Maximum penalty—20 penalty units.

- (3) In this section—

*key* includes an electronic key.

*safety cartridge* has the meaning given under AS 2187, part 0.

## **100 Requirements for storing distress signals in shop**

- (1) This section applies to a person storing distress signals in a shop if the distress signals are schedule 4 explosives.
- (2) The person must store the distress signals—
  - (a) in their original packaging; and
  - (b) in a secure container; and
  - (c) in a secured area.

Maximum penalty—20 penalty units.

## **101 Requirements for storing particular fireworks**

- (1) This section applies to a person storing fireworks in a place if the fireworks are fireworks mentioned in schedule 4, item 8.
- (2) The person—
  - (a) must store the fireworks—
    - (i) in their original packaging; and
    - (ii) in a secure container; and
    - (iii) in a secured area that is not, and is not part of, a building used wholly or partly as a dwelling or shop; and
  - (b) must not store the fireworks in an area accessible to persons who are not authorised to possess the fireworks; and
  - (c) if the person stores more than 5kg (gross weight) of fireworks in the secured area, must display, in the required places for the secured area—
    - (i) a sign stating the word ‘Fireworks’ or ‘Explosives’, or a classification sign for the fireworks stored in the secured area; and

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

Maximum penalty—50 penalty units.

- (3) However, the person does not commit an offence against subsection (2) only by failing to comply with subsection (2)(a)(iii) if the chief inspector has given written approval for the fireworks to be stored in the building.

## **102 Requirements for storing propellant powder**

- (1) This section applies to a person storing propellant powder in a place if the propellant powder is a schedule 4 explosive.
- (2) The person—
  - (a) must store the propellant powder—
    - (i) in its original packaging; and
    - (ii) in a secured area; and
  - (b) must display, in the required places for the secured area—
    - (i) a sign stating the word ‘Explosives’ or the words ‘Propellant powders’; and
    - (ii) a sign stating the words ‘Keep fire away’ or otherwise indicating that sources of ignition are prohibited in or near the secured area; and
  - (c) if the person stores more than 15kg of propellant powder in the secured area—must display, in the required places for the secured area, a classification sign for the powder.

Maximum penalty—50 penalty units.

## **103 Requirements for storing blasting explosives**

- (1) This section applies to a person storing blasting explosives in a place if the blasting explosives are schedule 4 explosives.
- (2) The person—

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- (a) must store the blasting explosives in a secured area; and
- (b) must display, in the required places for the secured area—
  - (i) a sign stating the word ‘Explosives’; or
  - (ii) a classification sign for the explosive.

Maximum penalty—50 penalty units.

### **Division 3                      Requirements for holders of licences to store explosives and permits to store explosives**

#### **104      Definition for division**

In this division—

*relevant authority* means—

- (a) a licence to store explosives; or
- (b) a permit to store explosives.

#### **105      Requirements for storing explosives**

- (1) The holder of a relevant authority must store an explosive, other than a schedule 4 explosive, as required under—
  - (a) for a class 1 explosive—AS 2187, part 1; or
  - (b) for a precursor—the precursor code; or
  - (c) for security sensitive ammonium nitrate—the document called ‘Explosives information bulletin number 53—Storage requirements for security sensitive ammonium nitrate (SSAN)’, and published by the chief inspector on a Queensland Government website; or
  - (d) an alternative safety or security 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.

Maximum penalty—50 penalty units.

- (2) In this section—

*AS 2187, part 1* means AS 2187.1—1998 (Explosives—Storage, transport and use, Part 1: Storage).

### **106 Authority must be kept at storage facility**

The holder of a relevant authority must keep the authority, or a copy of the authority, at each storage facility for the authority.

Maximum penalty—20 penalty units.

### **107 Explosives to be supplied only to authorised persons**

The holder of a relevant authority must ensure an explosive supplied from a storage facility for the authority is supplied only to a person who is authorised to possess the explosive.

Maximum penalty—50 penalty units.

### **108 Inspection of storage facility**

- (1) The holder of a relevant authority must ensure each of the following is inspected, at periods of not more than 3 months, for compliance with the Act—
- (a) a storage facility for the authority;
  - (b) the premises where the storage facility is located;
  - (c) the explosives stored in the storage facility.

Maximum penalty—50 penalty units.

- (2) The holder of a relevant authority must keep a record of the inspections made under subsection (1), stating the date of each inspection and any observations made.

Maximum penalty—50 penalty units.

## **109 Record keeping**

- (1) The holder of a relevant authority must keep a record under subsection (2) of an explosive received at, or supplied to a person from, a storage facility for the authority.

Maximum penalty—50 penalty units.

- (2) The record must include each of the following details—
- (a) the type and amount of explosive received or supplied;
  - (b) the date and time of the receipt or supply;
  - (c) for an explosive supplied to a person from a storage facility for the authority—
    - (i) the name of the person to whom the explosive is supplied; and
    - (ii) details of the person's authority to possess the explosive;
  - (d) the amount of explosives stored in the storage facility immediately after the receipt or supply.
- (3) The holder of a relevant authority must ensure regular stocktakes of explosives stored in a storage facility for the authority are carried out to identify discrepancies in the records kept by the holder under subsection (1).

Maximum penalty—50 penalty units.

- (4) If a stocktake carried out under subsection (3) identifies a discrepancy in the records kept under subsection (1) by the holder of a relevant authority, the holder must—
- (a) ensure the discrepancy is properly investigated; and
  - (b) give the chief inspector a written report stating the following—
    - (i) the discrepancy identified;
    - (ii) the findings of the investigation;
    - (iii) the measures taken to prevent the discrepancy happening again.

Maximum penalty—50 penalty units.

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**110 Notification of change to risk associated with storage facility**

- (1) This section applies if the holder of a relevant authority knows, or ought reasonably to know, that a material change to a storage facility for the authority, or the surrounding area of the facility, increases the risk associated with the facility.
- (2) The holder must, as soon as practicable after the change happens, give the chief inspector notice of the change.

Maximum penalty—50 penalty units.

**Division 4 Government magazines**

**Subdivision 1 Preliminary**

**111 Definitions for division**

*account* includes a written demand.

*applicant* see section 117(1).

*magazine employee* means a person employed to work at a government magazine.

*relevant supervisor*, in relation to an activity carried out at a government magazine, means—

- (a) the manager of the magazine; or
- (b) a magazine employee; or
- (c) an inspector.

## **Subdivision 2      Managers of government magazines**

### **112      Appointment**

The chief inspector may appoint a person to be the manager of a government magazine.

### **113      Functions**

The manager of a government magazine has the following functions—

- (a) receiving explosives at the magazine;
- (b) storing explosives at the magazine;
- (c) inspecting and sampling explosives stored at the magazine;
- (d) repackaging explosives stored at the magazine;
- (e) supplying explosives from the magazine to persons;
- (f) destroying explosives at the magazine.

### **114      Duties**

The manager of a government magazine must—

- (a) comply with a direction given to the manager by the chief inspector; and
- (b) keep a record of each activity mentioned in section 113; and
- (c) ensure each of the following is properly maintained and in a safe condition—
  - (i) the magazine;
  - (ii) the building in which the magazine is located and the premises of the building;

- (iii) any equipment and tools in the building in which the magazine is located; and
- (d) ensure explosives at the magazine are secure from access by a person who should not have access to the explosives; and
- (e) be personally present at the magazine at all times during normal working hours, unless another person, approved by the chief inspector for this paragraph, is present at the magazine for the manager; and
- (f) take reasonable steps to ensure a magazine employee, or another person present at the magazine, complies with the Act; and
- (g) immediately report to the chief inspector—
  - (i) an explosives incident happening at the magazine; or
  - (ii) another incident happening at the magazine that injures, or has the potential to injure, a person.

## **115 Powers to inspect, take samples of and repackage explosives**

- (1) The manager of a government magazine may deal with an explosive stored at the magazine as provided under this section.
- (2) The manager may inspect and take samples of the explosive to decide whether the explosive—
  - (a) is an authorised explosive; or
  - (b) is packaged and labelled as required under the Australian explosives code; or
  - (c) is in a safe condition for storage and transport.
- (3) The manager may inspect the explosive to decide whether the explosive is in a secure condition for storage and transport.
- (4) The manager may repackage the explosive if—

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- (a) the person for whom the explosive is stored consents to it being repackaged; and
- (b) the manager reasonably believes that repackaging is necessary for the explosive—
  - (i) to be packaged and labelled as required under the Australian explosives code; or
  - (ii) to be in a safe and secure condition for storage and transport.

### **115A Manager may authorise magazine employees to give instructions**

- (1) The manager of a government magazine may, by notice given to a magazine employee, authorise the employee to give instructions to other persons at the magazine, including other magazine employees, that are necessary to ensure compliance with the Act.
- (2) The notice must state—
  - (a) the name of the magazine employee to whom the authorisation is given; and
  - (b) the day the authorisation is given; and
  - (c) any conditions to which the authorisation is subject.
- (3) The manager of the government magazine may authorise the magazine employee to give instructions under subsection (1) only if the manager is satisfied the employee is appropriately qualified to give the instructions.

## **Subdivision 3 Entry**

### **116 Entry to government magazines**

For schedule 2 of the Act, definition *unlawfully enter*, paragraph (a)(iii), the following persons are prescribed—

- (a) the manager of the magazine;

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- (b) an inspector.

### **116A Entry to areas within government magazines**

- (1) The manager of a government magazine or an inspector may direct a person not to enter an area within a government magazine if the manager or inspector considers the direction is reasonably necessary to ensure—
- (a) the safety of the person or another person; or
  - (b) the security of an explosive at the magazine from access by a person who should not have access to the explosive.
- (2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty—50 penalty units.

- (3) The manager of a government magazine or an inspector may take reasonable steps to remove a person from an area within a government magazine if the person entered the area in contravention of a direction given to the person under subsection (1).

## **Subdivision 4 Storage of explosives and carrying out activities in relation to explosives**

### **117 Request to store explosive or carry out activity**

- (1) This section applies to a person (an *applicant*), other than the manager of a government magazine or an inspector, who wishes to—
- (a) have an explosive stored at the government magazine; or
  - (b) enter the government magazine to carry out an activity at the magazine in relation to an explosive.

*Examples of activities—*

checking, sampling, relabelling and repackaging explosives

- (2) The applicant must give the manager of the government magazine a notice requesting that the explosive be stored, or the activity be carried out, at the government magazine.

## **118 How manager must deal with request**

- (1) If the manager of a government magazine receives a request under section 117, the manager must, as soon as practicable after receiving the request—
  - (a) decide whether to approve the request, with or without conditions; and
  - (b) give the applicant a notice under subsection (2) or (3).
- (2) If the manager decides to approve the request, the notice must state each of the following—
  - (a) that the request is approved;
  - (b) any conditions of the approval to carry out the activity;
  - (c) that an explosive stored at the government magazine may be inspected and sampled by—
    - (i) the manager of the magazine under section 115; or
    - (ii) an inspector under the Act;
  - (d) that the applicant may carry out an activity at the government magazine in relation to the explosive only with the chief inspector's consent;
  - (e) that the chief inspector may require, as a condition of consenting to the activity being carried out, that the activity be carried out under the supervision of a relevant supervisor;
  - (f) that before the explosive is stored, or the activity is carried out, at the government magazine, the applicant must agree to pay, within 30 days after receiving an account for the fee, any fee charged by the chief inspector under section 122 for storing the explosive or supervising the activity;

- (g) for a request to store an explosive, that the explosive must, unless an exemption is given by the chief inspector for section 119(1)(d)—
    - (i) be properly classified, packaged, marked and labelled as required under the Australian explosives code or the Australian dangerous goods code; and
    - (ii) be in a safe and secure condition for storage, handling and transport;
  - (h) the powers of the chief inspector under subdivision 5 if a fee mentioned in paragraph (f) is not paid.
- (3) If the manager decides not to approve the request, the notice must state—
- (a) that the request is not approved; and
  - (b) the reasons for the decision.
- (4) The manager may decide to approve a request to store an explosive at the government magazine only if the manager is reasonably satisfied the explosive may be safely and securely stored at the magazine.

## **119 Requirements for storing explosive**

- (1) An explosive may be stored for an applicant at a government magazine only if—
- (a) the manager of the magazine has approved a request to store the explosive; and
  - (b) the applicant agrees to pay, within 30 days after receiving an account for the fee, any fee charged by the chief inspector under section 122 for storing the explosive; and
  - (c) the explosive is—
    - (i) an authorised explosive; or
    - (ii) an unauthorised explosive or a prohibited explosive for which the chief inspector has issued to the

applicant an explosives trial approval for the storage of the explosive; and

- (d) the explosive—
  - (i) is properly classified, packaged, marked and labelled as required under the Australian explosives code or the Australian dangerous goods code; and
  - (ii) is in a safe and secure condition for storage, handling and transport.
- (2) However, subsection (1)(d) does not apply if the chief inspector gives an exemption for the subsection.

## **120 Requirements for carrying out activity**

An applicant must not carry out an activity at a government magazine in relation to an explosive unless—

- (a) the manager of the magazine has approved the applicant's request to carry out the activity at the magazine; and
- (b) the chief inspector has consented to the activity being carried out; and
- (c) the applicant has agreed to pay, within 30 days after receiving an account for the fee, any fee charged by the chief inspector under section 122 for supervising the activity; and
- (d) if the approval is subject to a condition—the condition is met; and
- (e) if the chief inspector requires, as a condition of consenting to the activity being carried out, that the activity must be carried out under the supervision of a relevant supervisor—the activity is supervised by the relevant supervisor; and
- (f) the applicant has not been given a notice under section 124(1)(a) advising that the manager has been

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given a direction under section 123(2)(b) to stop the activity.

Maximum penalty—20 penalty units.

## **Subdivision 5      Charging and recovery of fees for services provided at government magazines**

### **121      Meaning of *relevant person***

- (1) A *relevant person*, for payment of a fee charged under section 122, means the person who asked that—
  - (a) the explosive for which the fee is charged be stored at the government magazine; or
  - (b) the activity for which the fee is charged be carried out at the government magazine.
- (2) However, if a notice for the explosive is given under subdivision 6 after the request is made, the *relevant person*, for payment of the fee, is the person named in the notice as the person to whom the explosive has been sold or transferred.

### **122      Chief inspector may charge fee**

- (1) The chief inspector may charge a fee for the following services—
  - (a) the storage of an explosive at a government magazine;
  - (b) the supervision, by a relevant supervisor, of an activity carried out at the government magazine.
- (2) The fee must not be more than the reasonable cost of storing the explosive or supervising the activity.
- (3) A liability to pay the fee is enforceable jointly and severally against each of the following persons—

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- (a) the person who asked to have the explosive stored at the government magazine and who has agreed to pay a fee as mentioned in section 119(1)(b);
- (b) the person who asked to carry out the activity at the government magazine and who has agreed to pay a fee as mentioned in section 120(1)(c);
- (c) a person who becomes the owner of the explosive before the fee is paid;
- (d) the person for whom the explosive is stored at the government magazine when the fee becomes payable.

### **123 Powers of chief inspector if fee not paid**

- (1) This section applies if a fee charged under section 122 is not paid within 60 days after the relevant person for payment of the fee receives an account for the fee.
- (2) The chief inspector may do any of the following—
  - (a) direct the manager of the government magazine at which the explosive is stored not to release the explosive from the magazine until the earlier of the following—
    - (i) the relevant person pays the fee;
    - (ii) the explosive is sold by the chief inspector under section 125;
  - (b) if the fee is for supervising an activity—direct the manager of the government magazine at which the activity is being carried out that the activity must stop immediately and not resume unless the relevant person pays the fee;
  - (c) if the fee is for storing an explosive—sell the explosive under section 125 to recover the costs of storing the explosive at the magazine;
  - (d) dispose of the explosive.

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## **124 Requirements for chief inspector exercising powers**

- (1) If the chief inspector acts under section 123(2)(a) or (b), the chief inspector must, as soon as practicable after acting, give the relevant person for payment of the fee a notice stating—
  - (a) the action taken and the reasons for taking the action; and
  - (b) the amount the person must pay for the explosive to be released from the magazine or the activity to resume.
- (2) If the chief inspector decides to act under section 123(2)(c) or (d), the chief inspector must, before taking the action, give the relevant person for payment of the fee an information notice stating—
  - (a) the action the chief inspector proposes to take; and
  - (b) the amount the relevant person must pay to prevent the action being taken; and
  - (c) the date, not being earlier than 28 days after the notice is given to the relevant person, after which the action may be taken if the amount is not paid.
- (3) Subsection (2) does not limit the QCAT Act, section 157(2).

## **125 Sale or disposal of explosive**

- (1) The chief inspector may sell or dispose of an explosive stored at a government magazine if—
  - (a) a fee charged under section 122 for storing the explosive has not been paid; and
  - (b) the chief inspector has given an information notice, as required under section 124(2), to the relevant person for payment of the fee stating that the chief inspector proposes to sell or dispose of the explosive; and
  - (c) the period allowed for an external review of the decision to sell or dispose of the explosive has ended or the external review has been decided in favour of the chief inspector.

- (2) However, an explosive may not be sold or disposed of under this section if—
  - (a) after an information notice is given under section 124(2), the chief inspector or the manager of the government magazine receives notice, under subdivision 6, of the sale or transfer of the explosive; and
  - (b) the person to whom the explosive has been sold or transferred is not the person to whom the information notice was given under section 124(2).
- (3) The proceeds of the sale of an explosive under this section must be applied as follows—
  - (a) firstly, in payment of the expenses of the sale;
  - (b) secondly, in payment of the costs of storing the explosive;
  - (c) thirdly, in payment to the relevant person.

## **Subdivision 6      Notice of transfer of ownership of explosives stored at government magazines**

### **126      Notice of transfer of ownership of explosive**

- (1) This section applies to a person—
  - (a) for whom an explosive is stored at a government magazine; and
  - (b) who sells or otherwise transfers the explosive, wholly or partly, to another person.
- (2) The person must, immediately following the sale or transfer, give notice under subsection (3) of the sale or transfer to—
  - (a) the chief inspector; or
  - (b) the manager of the government magazine.

Maximum penalty—20 penalty units.

- (3) The notice must include the name and contact details of the person to whom the explosive has been sold or transferred.

## **Division 5                      Rules of conduct for persons at storage facilities and government magazines**

### **127      Application of division**

This division applies to a person at a storage facility for a relevant authority or a government magazine, including a person employed to work at the facility or magazine.

### **128      Definitions for division**

In this division—

*prescribed person* means—

- (a) in relation to a government magazine—
  - (i) the manager of the government magazine; or
  - (ii) an inspector; or
- (b) in relation to a storage facility—the holder of the relevant authority.

*relevant authority* means—

- (a) a licence to store explosives; or
- (b) a permit to store explosives.

### **129      Person must comply with instructions and procedures**

- (1) The person must comply with—
- (a) the lawful instructions of—
    - (i) a prescribed person; or

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- (ii) for a government magazine—a person authorised under section 115A to give instructions to another person at the government magazine; and
- (b) for a storage facility—the procedures under the safety and security management system of the holder of the relevant authority for the facility to the extent the procedures apply to the person; and
- (c) for a government magazine—the procedures in relation to explosives approved by the chief inspector for the magazine to the extent—
  - (i) the procedures apply to the person; and
  - (ii) the person has been made aware the procedures apply to the person.

Maximum penalty—50 penalty units.

- (2) For subsection (1)(a), a lawful instruction does not include a direction given to a person under section 116A(1).

### **130 Person must report particular matters**

- (1) This section applies if the person becomes aware of any of the following matters—
  - (a) a dangerous situation at the storage facility or government magazine that involves an imminent risk of death or injury to a person;
  - (b) a circumstance that has the potential to adversely affect the person’s ability to comply with instructions or procedures mentioned in section 129;
  - (c) an explosives incident happening at the storage facility or government magazine.
- (2) Immediately after becoming aware of the matter, the person must report the matter to a prescribed person, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

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**131 Prohibited conduct**

The person must not, without reasonable excuse—

- (a) wilfully remove, obscure or interfere with—
  - (i) a sign, notice or other written information about safely and securely storing explosives displayed or made available at the storage facility or government magazine by a prescribed person; or
  - (ii) a label or marking on an explosive or its packaging; or
- (b) act in a wilful or careless way that injures, or has the potential to injure, a person at the storage facility or government magazine; or
- (c) handle an explosive at the storage facility or government magazine unless the person is authorised by a prescribed person to handle the explosive.

Maximum penalty—50 penalty units.

## **Part 9 Transporting explosives**

### **Division 1 Explosives too dangerous to transport**

#### **132 Explosives declared to be too dangerous to transport**

For section 51 of the Act, an explosive mentioned in the Australian explosives code, appendix 9 is declared to be too dangerous to transport.

## Division 2 Exemptions and related matters

### 133 Explosives exempt from s 50(1) of Act

The following explosives are exempt from section 50(1) of the Act—

- (a) an explosive that is part of the operational equipment of a vehicle;
- (b) a distress signal on board a vehicle;

*Examples—*

- an airbag in a vehicle
  - a distress signal on board a boat that is part of the boat's safety equipment
  - a fire suppression system that uses an explosive
- (c) an explosive on board a boat, the owner or master of which is subject to the *Transport Operations (Marine Safety) Regulation 2016*, section 88(1) or (2), for the explosive.

### 134 Requirements for consignors and consignees of particular explosives

- (1) This section applies to a person who is the consignor or consignee of a class 1 explosive, or a class 2 to 9 explosive, that is transported by vehicle.
- (2) The person must comply with—
  - (a) for a class 1 explosive—the Australian explosives code; or
  - (b) for a class 2 to 9 explosive—the Australian dangerous goods code.

Maximum penalty—50 penalty units.

- (3) However, the person is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—

- 
- (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
  - (b) the person complies with the determination.

### **135 Amounts of explosives—Act, s 50**

- (1) For section 50(2)(a)(i) of the Act, the following amounts are prescribed—
  - (a) for an explosive mentioned in schedule 5—
    - (i) the maximum amount stated for the explosive in the schedule; or
    - (ii) if no maximum amount is stated for the explosive in the schedule—any amount;
  - (b) for an explosive, other than an excluded explosive, transported by a person who holds an authority authorising the use of 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;
  - (c) for an explosive, other than an excluded explosive, transported in a place that is not a public place by a person who holds an authority authorising the possession of the explosive—any amount;
  - (d) for collectors' ammunition transported by a prescribed ammunition collector—any amount.
- (2) In this section—

***excluded explosive*** means—

  - (a) an unauthorised explosive or a prohibited explosive; or
  - (b) an explosive mentioned in schedule 5.

**136 Conditions for transporting explosives—Act, s 50**

- (1) For section 50(2)(a)(ii) of the Act, the conditions stated in subsections (2) and (3) are prescribed.
- (2) A person transporting an explosive mentioned in section 135(1)(a) or (b) must comply with—
  - (a) for a class 1 explosive—the Australian explosives code; or
  - (b) for a class 2 to 9 explosive—the Australian dangerous goods code.
- (3) A person transporting an explosive mentioned in section 135(1)(c) must comply with—
  - (a) for a class 1 explosive—the Australian explosives code or alternative safety and security measures for the code; or
  - (b) for a class 2 to 9 explosive—the Australian dangerous goods code or alternative safety and security measures for the code.
- (4) However, a person mentioned in subsection (2) or (3) is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—
  - (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
  - (b) the person complies with the determination.
- (5) For subsection (3), the person's alternative safety and security measures must provide for the following matters—
  - (a) the packaging of an explosive for transport;
  - (b) the design of a vehicle, including a compartment in the vehicle, used to transport explosives;
  - (c) the marking of—
    - (i) an explosive being transported; and

- (ii) a vehicle, including a compartment in a vehicle, used to transport explosives;
- (d) the storage and security of explosives during transport, including the separation of different types of explosives;
- (e) limits on the amount of explosives that may be transported in a vehicle;
- (f) procedures to minimise the probability and consequences of an explosives incident happening while explosives are transported, including requirements about the following—
  - (i) the required competence for the driver of a vehicle transporting explosives;
  - (ii) the required response of the driver if an explosives incident happens;
  - (iii) areas where explosives can not be safely and securely stored for transport;
  - (iv) temporary storage or holding areas for explosives before or after transportation.

### **136A Transport of explosives by persons employed at mines—Act, s 50**

For section 50(2)(b) of the Act, section 50(1) of the Act does not apply to a person transporting an explosive by driving a vehicle if the person—

- (a) is employed to work at a mine; and
- (b) is transporting the explosive at the mine and in the course of the person's employment.

## **Division 3                      General requirements**

### **137      General requirements for transporting explosives**

- (1) For section 50(3)(a) of the Act, a person transporting an explosive in a vehicle must comply with—
  - (a) for a class 1 explosive—the Australian explosives code; or
  - (b) for a class 2 to 9 explosive—the Australian dangerous goods code; or
  - (c) for another explosive—any conditions of the person’s licence to transport explosives.
- (2) However, a person transporting an explosive in a mobile manufacturing unit must comply with the mobile manufacturing code.
- (3) Also, a person mentioned in subsection (1) is not required to comply with a provision of the Australian dangerous goods code, or the Australian explosives code, if—
  - (a) a determination applying to the person states that the determination applies for this section instead of the provision; and
  - (b) the person complies with the determination.

### **138      Authority must be kept in vehicle**

The holder of a licence to transport explosives must keep the licence, or a copy of the licence, in a vehicle in which explosives are transported under the licence.

Maximum penalty—20 penalty units.

### **138A    Licence must be available for inspection**

The holder of an explosives driver licence must, unless the holder has a reasonable excuse—

- (a) have the licence available for inspection when driving a vehicle to transport explosives; and
- (b) if asked by an inspector, produce the licence for inspection by the inspector.

Maximum penalty—20 penalty units.

## **Division 4                    Rules of conduct for employees of holders of licences to transport explosives**

### **139    Application of division**

This division applies to a person who is employed by the holder of a licence to transport explosives.

### **140    Person must comply with instructions, notices and procedures**

The person must comply with—

- (a) the lawful instructions or notices given to the person by the holder; and
- (b) the procedures under the holder's safety and security management system to the extent the procedures apply to the person.

Maximum penalty—50 penalty units.

### **141    Person must report particular matters**

(1) This section applies if the person becomes aware of any of the following matters—

- (a) a dangerous situation in connection with the transportation of explosives that involves an imminent risk of death or injury to a person;

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- (b) a circumstance that has the potential to adversely affect the person's ability to comply with instructions, notices or procedures mentioned in section 140;
  - (c) an explosives incident happening in connection with the transportation of explosives.
- (2) Immediately after becoming aware of the matter, the person must report the matter to the holder, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

## **142 Prohibited conduct**

The person must not, without reasonable excuse—

- (a) wilfully remove, obscure or interfere with—
  - (i) a sign about safely and securely handling explosives displayed on a vehicle used for transporting explosives; or
  - (ii) a label or marking on an explosive or its packaging; or
  - (iii) other information about safety and security in relation to transporting explosives provided to a person by the holder; or
- (b) act in a wilful or careless way that injures, or has the potential to injure, a person in or near a vehicle carrying explosives; or
- (c) handle an explosive unless the person is authorised by the holder to handle the explosive.

Maximum penalty—50 penalty units.

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## Division 5 Insurance

### 143 Application of division

This division applies in relation to the holder of an authority, other than an explosives driver licence, that authorises the transport of explosives.

### 144 Insurance requirements

- (1) The holder of the authority must not use a vehicle to transport a category 2 load, a category 3 load or a placard load unless the use of the vehicle is covered by a policy of insurance or other form of indemnity, for at least the prescribed sum, for—
  - (a) personal injury, death, property damage and other damage (other than consequential economic loss) arising out of a relevant event; and
  - (b) costs incurred by or for a Commonwealth or State government entity, including, for example, RSHQ, in a clean-up resulting from a relevant event.

Maximum penalty—60 penalty units.

- (2) In this section—

*prescribed sum* means—

- (a) for a category 2 load—\$2.5m; or
- (b) for a category 3 load or placard load—\$5m.

*relevant event*, in relation to a vehicle, means a fire, explosion, leakage or spillage of an explosive in, on or from the vehicle or any packaging transported in or on the vehicle.

### 145 Chief inspector may require production of evidence of insurance

- (1) This section applies if the holder of the authority has used, or an inspector reasonably believes the holder may use, a vehicle

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to transport a category 2 load, a category 3 load or a placard load.

- (2) The chief inspector may, by notice, require the holder to produce written evidence that the vehicle is covered by a policy of insurance or other form of indemnity mentioned in section 144.
- (3) The holder must produce the evidence to the chief inspector within 14 days after the day the notice is given.

Maximum penalty—20 penalty units.

## **Division 6                      Competent authority**

### **145A Chief inspector is competent authority—Act, s 51A**

For section 51A(1)(a) of the Act, the chief inspector is the competent authority for this part.

## **Division 7                      Determinations**

### **Subdivision 1                Making and effect of determinations**

#### **145B Competent authority may make determinations—Act, s 51A**

- (1) For section 51A(1)(b) of the Act, the competent authority may make a determination about the safe and secure transport of an explosive.
- (2) A determination under subsection (1) must be made by notice.

*Note—*

A notice under subsection (2) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2012*, section 2(3) and schedule 1.

- (3) Subsection (2) does not apply to an administrative determination.

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## **145C Offences relating to determinations**

- (1) If a determination permits the doing of something subject to a condition, a person to whom the determination applies must, if the person does the thing, comply with the condition.

Maximum penalty—40 penalty units.

- (2) If a determination prohibits the doing of something, a person to whom the determination applies must not do the thing.

Maximum penalty—100 penalty units.

- (3) If a determination requires the doing of something, a person to whom the determination applies must do the thing.

Maximum penalty—100 penalty units.

- (4) It is a defence to a prosecution for an offence against this section that the person did not know, and could not reasonably have been expected to know, of the determination, or that the determination applied to the person.

## **Subdivision 2 Administrative determinations**

### **145D Applications for administrative determinations or amendments**

- (1) A person may apply to the competent authority for—
  - (a) an administrative determination; or
  - (b) an amendment of an administrative determination.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) if the application is for an amendment of an administrative determination—be accompanied by the determination.
- (3) The competent authority may, by notice given to the applicant, ask the applicant to give to the competent authority the additional information reasonably necessary to decide the application.

### **145E Deciding applications**

- (1) The competent authority must, after considering the application, decide—
  - (a) to make the administrative determination, or amendment, with or without conditions; or
  - (b) to refuse to make the administrative determination or amendment.
- (2) The competent authority must not make the administrative determination or amendment unless satisfied the determination or amendment ensures the safe and secure transport of the explosive the subject of the determination.

### **145F Notice of decision**

- (1) If the competent authority decides to make an administrative determination or amendment, the competent authority must give the administrative determination or amended administrative determination to—
  - (a) the applicant; and
  - (b) any other person to whom the determination applies.
- (2) If the competent authority refuses to make the administrative determination or amendment, or makes the administrative determination or amendment subject to conditions, the competent authority must give an information notice for the decision to—
  - (a) the applicant; and
  - (b) any other person—
    - (i) to whom the determination applies; or
    - (ii) who is named in the application as a person to whom the determination is to apply.

### **145G Form and term of administrative determinations**

- (1) An administrative determination must—

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- (a) be in writing; and
  - (b) state—
    - (i) the person to whom the administrative determination applies; and
    - (ii) the explosive to which the administrative determination relates; and
    - (iii) the provisions of this part, and of the Australian dangerous goods code or the Australian explosives code, to which the administrative determination relates; and
    - (iv) any conditions to which the administrative determination is subject; and
    - (v) the term of the administrative determination.
- (2) At the end of the stated term, the administrative determination expires.

#### **145H Replacement administrative determinations**

The competent authority must give the holder of an administrative determination a replacement administrative determination if—

- (a) the administrative determination is amended under section 145K; or
- (b) the competent authority is satisfied the determination has been defaced, destroyed, lost or stolen.

#### **145I Grounds for amending, suspending or cancelling administrative determinations**

Each of the following is a ground for amending, suspending or cancelling an administrative determination—

- (a) the administrative determination was made because of incorrect or misleading information;
- (b) the holder of the administrative determination—

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- (i) contravenes a condition of the determination; or
- (ii) is convicted of or charged with an offence against the Act or an Act of another State about explosives or another offence involving the use of explosives;
- (c) public safety has been endangered, or is likely to be endangered, because of the administrative determination;
- (d) a change in circumstances happened after the administrative determination was made and, had the changed circumstances existed when the determination was made, the determination would not have been made;
- (e) the amendment, suspension or cancellation is otherwise necessary in the public interest.

#### **145J Notice of proposed action**

- (1) This section applies if the competent authority considers there is a ground to amend, suspend or cancel an administrative determination (the *proposed action*).
- (2) Before taking the proposed action, the competent authority must give the holder of the administrative determination a notice that states—
  - (a) the proposed action; and
  - (b) the grounds for the proposed action; and
  - (c) if the proposed action is to amend the administrative determination—the proposed amendment; and
  - (d) if the proposed action is to suspend the administrative determination—the proposed period of the suspension; and
  - (e) that the holder may show, within a stated reasonable period (the *submission period*) of at least 28 days after the notice is given to the holder, why the proposed action should not be taken.
- (3) This section does not apply in relation to—

- (a) the amendment or cancellation of an administrative determination asked for by the holder of the determination; or
- (b) the amendment of an administrative determination—
  - (i) for a formal or clerical reason; or
  - (ii) in another way that does not adversely affect the interests of the holder of the determination.

### **145K Amending, suspending or cancelling administrative determinations generally**

- (1) If, after considering any written representations made within the submission period, the competent authority still considers a ground exists to take the proposed action, the competent authority may—
  - (a) if the proposed action was to amend the administrative determination—amend the determination; or
  - (b) if the proposed action was to suspend the administrative determination for a stated period—suspend the determination for no longer than the stated period; or
  - (c) if the proposed action was to cancel the administrative determination—
    - (i) amend the administrative determination; or
    - (ii) suspend the administrative determination for a period; or
    - (iii) cancel the administrative determination.
- (2) The competent authority must give the holder of the administrative determination a notice about the decision (a *decision notice*).
- (3) If the competent authority decides to amend, suspend or cancel the administrative determination, the decision notice must be an information notice for the decision.

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- (4) The decision takes effect on the day the decision notice is given to the holder or, if a later day is stated in the notice, the later day.

### **145L Suspension on conditions**

- (1) This section applies if—
  - (a) an administrative determination is suspended under section 145K(1)(c)(ii); and
  - (b) the grounds for taking action under that section are capable of being remedied by the holder of the administrative determination.
- (2) The suspension may be on condition that—
  - (a) the holder remedy the grounds to the competent authority's reasonable satisfaction within a reasonable time before the period of the suspension ends; and
  - (b) if the holder does not remedy the grounds under paragraph (a), the competent authority may cancel the administrative determination under section 145M.
- (3) If a condition is imposed under subsection (2), the decision notice must state that the administrative determination may be cancelled under section 145M if the holder does not comply with the condition.

### **145M Cancellation for failure to take remedial action**

- (1) This section applies if the competent authority—
  - (a) suspends an administrative determination on the condition mentioned in section 145L(2); and
  - (b) reasonably believes the holder of the administrative determination has not complied with the condition.
- (2) The competent authority may, by information notice given to the holder, cancel the administrative determination.

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- (3) The cancellation takes effect on the day the information notice is given to the holder or, if a later day is stated in the notice, the later day.

### **145N Immediate suspension of administrative determinations**

- (1) This section applies if the competent authority considers it necessary in the public interest to immediately suspend an administrative determination.
- (2) The competent authority may immediately suspend the administrative determination without giving notice of the proposed suspension under section 145J(2).
- (3) However, the competent authority must immediately inform the holder of the administrative determination about the decision by giving the holder an information notice for the decision.
- (4) The suspension—
  - (a) takes effect on the day the information notice is given to the holder of the administrative determination or, if a later day is stated in the notice, the later day; and
  - (b) ends on the earlier of the following—
    - (i) the day the competent authority, after complying with sections 145J(2) and 145K(1), gives the holder a decision notice;
    - (ii) the day that is 56 days after the day the information notice is given to the holder under subsection (3).

## **Subdivision 3 Register of determinations**

### **145O Register of determinations—Act, s 51A**

- (1) For section 51A(2)(d) of the Act, the competent authority must keep a register of determinations.
- (2) The register must include the following information for each determination—

- (a) the day the determination was made;
  - (b) the explosive the subject of the determination;
  - (c) the provisions of this part, and of the Australian dangerous goods code or the Australian explosives code, to which the determination relates;
  - (d) whether the determination is an administrative determination and, if so, the provisions of the determination;
  - (e) if the determination is amended—the day the amendment was made and details of the amendment;
  - (f) if the determination is suspended—the period of the suspension;
  - (g) if the determination is cancelled—the day it was cancelled.
- (3) The register must be kept in the way decided by the competent authority.
- (4) The competent authority must ensure the register is available for inspection by the public, including, for example, by ensuring there is reasonable access to—
- (a) copies of information in the register; or
  - (b) a computer terminal to inspect the register.

## **Part 10                      Using explosives**

### **Division 1                      General**

#### **146      Explosives to which s 53(1) of Act does not apply**

- (1) For section 53(2) of the Act, the following explosives are prescribed—
- (a) an unrestricted firework;

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- (b) small arms ammunition used by a person licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm;
  - (c) a power device cartridge;
  - (d) an explosive designed to activate an airbag, seatbelt, fire extinguisher, parachute or another safety device used for preserving life;
  - (e) an electric match;
  - (f) a safety fuse or igniter;
  - (g) black powder used as a propellant for a firearm by a person licensed or otherwise authorised under the *Weapons Act 1990* to use a firearm;  
*Example of use of black powder as a propellant—*  
black powder used in a cannon
  - (h) a distress signal used in an emergency situation;
  - (i) an explosive manufactured as mentioned in section 38(2)(a) of the Act.
- (2) Subsection (1) applies only if the explosive is used for the purpose for which it was manufactured.

## **147 Employer's obligations about employees engaged in using explosives**

- (1) This section applies to the holder of a prescribed licence who employs another person to assist the holder in carrying out activities under the licence.  
*Example—*  
a fireworks contractor who employs a person to assist the fireworks contractor in organising fireworks displays
- (2) For section 33(2) of the Act, the holder must be reasonably satisfied the employee—
- (a) has received adequate training in the hazards associated with handling prescribed explosives; and

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- (b) has satisfactory knowledge of the requirements under the Act about handling prescribed explosives; and
  - (c) is competent to assist the holder in carrying out the activities; and
- (3) In this section—
- prescribed explosives*** means—
- (a) if the holder of the prescribed licence is a fireworks contractor or a fireworks operator—fireworks; or
  - (b) otherwise—explosives.
- prescribed licence*** means—
- (a) a licence to use explosives; or
  - (b) a fireworks contractor licence; or
  - (c) a fireworks operator licence.

## **Division 2            Use of blasting explosives**

### **Subdivision 1        Preliminary**

#### **148    Definitions for division**

In this division—

***prescribed shotfirer*** means—

- (a) the holder of a shotfirer licence; or
- (b) a person appointed as a shotfirer by—
  - (i) for an underground mine—the underground mine manager of the mine; or
  - (ii) for another mine, including a quarry—the site senior executive for the mine.

***site senior executive***—

- (a) for a coal mine—see the *Coal Mining Safety and Health Act 1999*, section 25; or
- (b) for another mine, including a quarry—see the *Mining and Quarrying Safety and Health Act 1999*, section 22.

***underground mine***—

- (a) in relation to a coal mine—see the *Coal Mining Safety and Health Act 1999*, schedule 3; or
- (b) in relation to another mine, including a quarry—see 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 for the mine to control and manage the mine.

## **149 Explosives to which s 53(1) of the Act does not apply**

For section 53(2) of the Act, a blasting explosive used by either of the following persons is prescribed—

- (a) a person who is appointed as a shotfirer by—
  - (i) for an underground mine—the underground mine manager of the mine; or
  - (ii) for another mine, including a quarry—the site senior executive for the mine;
- (b) a person who is in the presence, and under the direct supervision, of a prescribed shotfirer.

## **Subdivision 2 Requirements about appropriate persons**

### **150 Restriction on appointing shotfirer**

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

reasonably satisfied the person meets the criteria stated in section 37(1)(a) to (e).

Maximum penalty—50 penalty units.

### **151 Restriction on allowing supervised person to use blasting explosives**

- (1) A responsible person must not allow a person (a *supervised person*) who does not hold an authority authorising the person to use blasting explosives to use a blasting explosive in the presence, and under the direct supervision, of a prescribed shotfirer unless the responsible person is satisfied the supervised person—
- (a) is an adult; and
  - (b) is physically able to carry out blasting activities; and
  - (c) has satisfactory knowledge of—
    - (i) the requirements under the Act in relation to the blasting activities being carried out; and
    - (ii) the hazards associated with the blasting activities.

Maximum penalty—50 penalty units.

- (2) For subsection (1), the *responsible person* is—
- (a) if the prescribed shotfirer is the holder of a shotfirer licence—the holder; or
  - (b) if the prescribed shotfirer is a person appointed as a shotfirer for a mine—the site senior executive for the mine or the underground mine manager of the underground mine.

## **Subdivision 3 Requirements for shotfirers**

### **152 Use of blasting explosives**

A prescribed shotfirer—

- (a) must use a blasting explosive as required under—
  - (i) AS 2187, part 2; or
  - (ii) alternative safety and security measures for the standard; and
- (b) must take all reasonable steps to—
  - (i) prevent misfires; and
  - (ii) minimise the risk associated with material projected by a blast; and
  - (iii) minimise the adverse effects of ground vibration and shock waves caused by a blast; and
  - (iv) ensure the security of an explosive used in blasting activities; and
- (c) must not use an explosive after the expiry of the manufacturer's recommended shelf life for the explosive unless the explosive was sold to the shotfirer after the expiry as mentioned in section 84(2)(b)(ii).

Maximum penalty—100 penalty units.

### **153 Record keeping**

A prescribed shotfirer must keep—

- (a) a record of the amount and type of explosives purchased and used by the shotfirer; and
- (b) a record of each blast carried out by the shotfirer, as required under AS 2187, part 2.

Maximum penalty—50 penalty units.

### **154 Notice of proposed blasting**

- (1) The holder of a shotfirer licence must give an inspector notice under subsection (2) of a proposed blasting, other than a blasting at a mine or an explosives factory.

Maximum penalty—50 penalty units.

- (2) The notice—
- (a) must be given at least 7 days before the proposed blasting is carried out; and
  - (b) must include the following—
    - (i) the holder's name and licence number;
    - (ii) the location of the proposed blasting, including the approximate distance to any protected works, within the meaning of AS 2187, part 0, within 1km of the location;  
*Examples of protected works—*  
houses, buildings, roads, railway tracks
    - (iii) the day or days on which the proposed blasting will be carried out;
    - (iv) a copy of any written authority for the blasting issued by the local government in whose local government area the proposed blasting will be carried out.

## **Subdivision 4 Requirements for holders of licences to use blasting explosives**

### **155 Notice of proposed blasting**

- (1) The holder of a licence to use explosives must give an inspector notice under subsection (2) of a proposed blasting that is likely to pose a risk to public safety.

Maximum penalty—50 penalty units.

- (2) The notice—
- (a) must be given at least 7 days before the proposed blasting is carried out; and
  - (b) must include the following—
    - (i) the holder's name and licence number;

- (ii) the location of the proposed blasting, including the approximate distance to any protected works, within the meaning of AS 2187, part 0, within 1km of the location;

*Examples of protected works—*

houses, buildings, roads, railway tracks

- (iii) the day or days on which the proposed blasting will be carried out;
- (iv) a copy of any written authority for the blasting issued by the local government in whose local government area the proposed blasting will be carried out.

## **Division 3            Use of fireworks**

### **Subdivision 1        Preliminary**

#### **156    Application of division**

- (1) This division applies in relation to an indoor or outdoor display of fireworks (a *fireworks display*) staged for entertainment.
- (2) However, this division does not apply if only unrestricted fireworks are used in the display.

#### **157    Meaning of *display host***

The *display host*, for a fireworks display, is the person who employs or otherwise engages a fireworks contractor to organise the fireworks display for the person.

*Note—*

See subdivision 3 for the requirements that apply to display hosts.

### **158 Meaning of *fireworks contractor***

The *fireworks contractor*, for a fireworks display, is the person who—

- (a) holds a fireworks contractor licence; and
- (b) is employed or otherwise engaged by the display host for the fireworks display to organise the display.

*Note—*

See subdivision 4 for the requirements that apply to fireworks contractors.

### **159 Meaning of *fireworks operator***

A *fireworks operator*, for a fireworks display, is a person employed or otherwise engaged by the fireworks contractor for the fireworks display to use fireworks in the display.

*Note—*

See subdivision 5 for the requirements that apply to fireworks operators.

### **160 Meaning of *organise fireworks display***

A person *organises* a fireworks display if the person does any of the following—

- (a) plans and designs the fireworks display for the display host for the fireworks display;
- (b) advises the display host for the fireworks display about safety and security requirements for the display;
- (c) employs or otherwise engages 1 or more fireworks operators to use fireworks in the fireworks display;
- (d) purchases or otherwise obtains fireworks for use in the fireworks display, and supplies the fireworks to the fireworks operators for the fireworks display;
- (e) directs the fireworks operators about using fireworks in the fireworks display.

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**161 Meaning of *use* fireworks in fireworks display**

A person *uses* fireworks in a fireworks display if the person does any of the following—

- (a) assembles the fireworks and equipment to be used in the fireworks display;
- (b) discharges the fireworks during the fireworks display;
- (c) disassembles the equipment after the fireworks display.

**162 Meaning of *safety and security requirements* for fireworks display**

The *safety and security requirements*, for a fireworks display, are—

- (a) for an outdoor fireworks display—
  - (i) the requirements stated in the Queensland fireworks code; or
  - (ii) alternative safety and security measures for the code; or
- (b) for another fireworks display, any condition of—
  - (i) the fireworks contractor licence of the fireworks contractor for the fireworks display; or
  - (ii) the fireworks operator licence of a fireworks operator for the fireworks display.

**Subdivision 2 General provisions**

**163 Prohibition on organising fireworks display**

A person must not organise a fireworks display unless the person is a fireworks contractor.

Maximum penalty—100 penalty units.

**164 False representations about holding fireworks contractor licence**

A person must not intentionally or recklessly falsely represent that the person holds a fireworks contractor licence.

Maximum penalty—100 penalty units.

**165 Prohibition on using fireworks in fireworks displays**

A person must not use a firework, other than an unrestricted firework, in a fireworks display unless the person is a fireworks operator who is authorised to use the firework.

Maximum penalty—100 penalty units.

**Subdivision 3 Requirements for display hosts**

**166 Display hosts' obligations about safety and security of fireworks displays**

The display host for a fireworks display must not allow the fireworks display to be staged if the display host knows, or ought reasonably to know, the display will not comply with the safety and security requirements for the display.

Maximum penalty—200 penalty units.

**Subdivision 4 Requirements for fireworks contractors**

**167 Public risk insurance**

- (1) The fireworks contractor for a fireworks display must maintain public risk insurance providing coverage, of at least \$5,000,000, for amounts the fireworks contractor becomes liable to pay as a result of the display for—

- (a) compensation for death or bodily injury; or

(b) damage to property.

Maximum penalty—50 penalty units.

- (2) However, the fireworks contractor need not comply with subsection (1) if the display host for the fireworks display maintains public risk insurance that—
- (a) provides coverage for amounts the display host becomes liable to pay as a result of the fireworks display; and
  - (b) otherwise complies with subsection (1).

### **168 Fireworks contractor's obligations about safety and security of fireworks display**

- (1) The fireworks contractor for a fireworks display must, before the fireworks display is staged, give the display host for the fireworks display a notice that states that—
- (a) the fireworks contractor must ensure the fireworks display meets the safety and security requirements for the display; and
  - (b) the display host commits an offence if the display host—
    - (i) allows the fireworks display to be staged; and
    - (ii) knows, or ought reasonably to know, the fireworks display does not comply with the safety and security requirements for the display.

Maximum penalty—50 penalty units.

- (2) The fireworks contractor must ensure the fireworks display meets the safety and security requirements for the display.

Maximum penalty—200 penalty units.

### **169 Notice of fireworks display to be given to inspector**

- (1) The fireworks contractor for a fireworks display must give an inspector notice, in the approved form, at least 7 days before the display is staged.

Maximum penalty—50 penalty units.

- (2) The approved form must provide for the inclusion of the following—
- (a) the proposed day, time and duration of the fireworks display;
  - (b) details of the place from which the fireworks display is to be staged;
  - (c) details of the fireworks to be used in the fireworks display;  
*Examples of details of fireworks—*
    - the size of the fireworks
    - whether the fireworks are ground level fireworks or aerial fireworks
    - whether the fireworks are close proximity fireworks
  - (d) the name of the person from whom the fireworks contractor has obtained, or will obtain, the fireworks;
  - (e) for each fireworks operator for the fireworks display—
    - (i) the operator's name; and
    - (ii) the licence number of the operator's fireworks operator licence;
  - (f) details of the public risk insurance held for the fireworks display, including—
    - (i) the name of the insurer; and
    - (ii) the name of the insured party; and
    - (iii) the policy number.
- (3) The fireworks contractor must ensure the fireworks display is staged in accordance with the details stated in the notice.

Maximum penalty—200 penalty units.

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**170 Notice of fireworks display to be given to emergency services etc.**

The fireworks contractor for a fireworks display must, before the fireworks display is staged, give notice of the fireworks display to—

- (a) the Queensland Fire and Emergency Service; and
- (b) any other person to whom notice of the fireworks display must be given under the Queensland fireworks code.

*Examples of other persons—*

the harbour master, air traffic control, the police

Maximum penalty—50 penalty units.

**171 Notice to be given to inspector after fireworks display**

- (1) The fireworks contractor for a fireworks display must, within 7 days after the day the fireworks display is staged, give an inspector a notice about the fireworks display under subsection (2).

Maximum penalty—50 penalty units.

- (2) The notice must—
  - (a) be in the approved form; and
  - (b) include details of—
    - (i) any malfunction of a firework during the fireworks display; and
    - (ii) any explosives incident, or other unusual incident involving a firework, happening in connection with the fireworks display.

**172 Safety of fireworks supplied to fireworks operator**

The fireworks contractor for a fireworks display must not supply a firework to a fireworks operator for use in the display unless the fireworks contractor has taken reasonable steps to

ensure the firework will function as it was designed to function.

Maximum penalty—100 penalty units.

### **173 Keeping records**

- (1) A fireworks contractor must—
- (a) keep a record of each fireworks display organised by the fireworks contractor, as required under the Queensland fireworks code; and
  - (b) keep a record, in a way mentioned in subsection (2), of each firework—
    - (i) purchased or otherwise obtained by the fireworks contractor; or
    - (ii) supplied by the fireworks contractor to a fireworks operator for use by the fireworks operator in a fireworks display organised by the fireworks contractor.

Maximum penalty—20 penalty units.

- (2) For subsection (1)(b), a record must be kept in a way that ensures—
- (a) the amount and type of fireworks in the fireworks contractor's possession at a particular time can be worked out; and
  - (b) a loss or theft of fireworks by or from the fireworks contractor can be identified.

## **Subdivision 5 Requirements for fireworks operators**

### **174 Use of firework**

- (1) A fireworks operator must not use a firework in a fireworks display unless—

- (a) the fireworks display is organised by a fireworks contractor; and
- (b) the firework is supplied to the fireworks operator by the fireworks contractor; and
- (c) the fireworks operator has taken reasonable steps to ensure the firework will function as it was designed to function.

Maximum penalty—50 penalty units.

- (2) The fireworks operator must—
- (a) use a firework as required under the Queensland fireworks code; and
  - (b) comply with a lawful instruction given to the fireworks operator by the fireworks contractor; and
  - (c) take reasonable steps to ensure a person employed by the fireworks operator, or a person otherwise engaged in using fireworks on behalf of the fireworks operator, complies with the Act and the conditions of the fireworks operator's licence.

Maximum penalty—50 penalty units.

## Part 11 Collectors of ammunition

### 175 Collectors must be able to demonstrate particular ammunition is free from explosive material

A prescribed ammunition collector or the holder of a licence to collect ammunition must, on the request of an inspector, demonstrate to the inspector's reasonable satisfaction that collectors' ammunition, other than small arms ammunition, possessed by the person is free from explosive material.

Maximum penalty—20 penalty units.

## **176 Approved collectors associations**

- (1) An association may apply to the chief inspector for approval of the association as an approved collectors association.
- (2) The chief inspector may approve the association if reasonably satisfied the association—
  - (a) keeps a record of the name and address of each member of the association; and
  - (b) sends written correspondence to all its members at least once each year; and
  - (c) will, with the consent of the association's members, make the names and addresses of its members available to the chief inspector on request.
- (3) The chief inspector must, as soon as practicable after deciding whether to approve the association, give the association—
  - (a) if the chief inspector decides to approve the association—notice of the decision and the reasons for the decision; or
  - (b) if the chief inspector decides not to approve the association—an information notice for the decision.

# **Part 12 Safety and health fee**

## **177 Definitions for part**

In this part—

***reporting period***, for an authority, means—

- (a) if the holder of the authority chooses under section 179A(2) to give a safety and health census for the authority for a financial year—the financial year; or
- (b) otherwise—each quarter.

***safety and health census*** see section 179(1).

***safety and health fee*** see section 178(1).

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## 178 Payment of safety and health fee

- (1) The holder of an authority must pay a fee (a *safety and health fee*) for each reporting period to cover the cost of activities carried out for the purposes of safety and health for explosives.
- (2) The amount of the safety and health fee for a reporting period for an authority is stated in schedule 2, part 2.
- (3) The amount of the safety and health fee for a reporting period for an authority must be worked out using information included in the safety and health census given to the CEO by the holder of the authority under section 179 for the reporting period.
- (4) The CEO must give the holder of the authority an invoice for the amount of the safety and health fee for a reporting period for the authority within 40 days after receiving the safety and health census for the reporting period.
- (5) The invoice must state a day for payment that is at least 30 days after the day the CEO gives the holder of the authority the invoice.
- (6) The holder of the authority must pay the safety and health fee for the reporting period on or before the day for payment stated in the invoice.

Maximum penalty—100 penalty units.

- (7) Subsection (4) does not apply if the CEO reasonably believes, based on information available to the CEO, that—
  - (a) a safety and health census received—
    - (i) contains information that is incorrect; or
    - (ii) is incomplete; or

*Note—*

See section 180.

- (b) no safety and health fee for the reporting period for the authority is payable under schedule 2, part 2.

**179 Holder must give safety and health census after end of each reporting period**

- (1) The holder of an authority must give the CEO, within 20 days after the end of each reporting period, a notice in the approved form (a *safety and health census*) stating the number of explosives workers working under the authority during the reporting period.

Maximum penalty—100 penalty units.

- (2) However, the holder of an authority does not commit an offence against subsection (1) by failing to give the CEO a safety and health census within the 20-day period required under that subsection if, before the period ends—
  - (a) the holder applies to the CEO in writing to extend the period for giving the safety and health census; and
  - (b) the CEO gives the holder a notice stating that the period for giving the safety and health census is extended to a day stated in the notice.
- (3) If the holder of an authority is given a notice under subsection (2)(b), the holder must give the CEO the safety and health census before the end of the day stated in the notice for giving the census.

Maximum penalty—100 penalty units.

**179A Reporting period for authority with 5 or fewer workers**

- (1) This section applies if the number of explosives workers working under an authority is 5 or fewer.
- (2) Subject to subsection (6), the holder of the authority may choose to give a safety and health census for the authority for a financial year, rather than for each quarter of a financial year.
- (3) The holder of the authority may choose to give a safety and health census for a financial year regardless of whether the holder has already given a safety and health census for the authority for an earlier quarter of the financial year.

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- (4) Subsection (5) applies if the holder of the authority—
    - (a) chooses to give a safety and health census for the authority for a financial year; and
    - (b) has already paid a safety and health fee for the authority for an earlier quarter of the financial year.
  - (5) The CEO must credit the amount of the fee already paid to the amount of the safety and health fee payable for the authority using the safety and health census for the financial year.
  - (6) The CEO may, by written notice to the holder of the authority, require the holder to give a safety and health census for the authority for each quarter of the current financial year and subsequent financial years.
  - (7) The CEO may cancel the requirement under subsection (6) by subsequent written notice given to the holder of the authority.

### **179B Effect of notice or increase in worker numbers**

- (1) This section applies if—
  - (a) the holder of an authority has chosen to give a safety and health census for the authority for a financial year under section 179A(2); and
  - (b) during the financial year—
    - (i) the CEO gives the holder a notice under section 179A(6) requiring a safety and health census for the authority for each quarter of the financial year; or
    - (ii) the number of explosives workers working under the authority increases to more than 5.
- (2) Despite section 177, definition *reporting period*, the reporting period for the authority is each quarter of the financial year.
- (3) The holder must give the CEO a safety and health census for the authority for the current quarter and each earlier quarter of the financial year, not previously given to the CEO, on or before the required day.

[s 179C]

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- (4) Section 179 applies in relation to a safety and health census mentioned in subsection (3)—
  - (a) as if the reference in section 179(1) to within 20 days after the end of each reporting period were a reference to on or before the required day; and
  - (b) with any other necessary changes.
- (5) Section 181 applies in relation to a safety and health census mentioned in subsection (3)—
  - (a) as if the reference in section 181(1)(b) to the day that is 20 days after the end of the reporting period were a reference to the required day; and
  - (b) with any other necessary changes.
- (6) Subsection (2) stops applying if the requirement mentioned in subsection (1)(b)(i) is cancelled under section 179A(7).
- (7) If subsection (1)(b)(ii) applies, the holder of the authority may not choose under section 179A(2) to give a safety and health census for the authority for the financial year, even if the number of explosives workers decreases to 5 or fewer.
- (8) In this section—

*required day* means—

  - (a) if the CEO has stated a day by which a safety and health census must be given in a notice under section 179A(6)—the day stated in the notice; or
  - (b) otherwise—the day that is 20 days after the end of the current quarter.

### **179C Records of information included in safety and health census**

- (1) This section applies to a holder of an authority who is required to give the CEO a safety and health census.
- (2) The holder must keep records enabling the accuracy of the information required to be included in the safety and health census to be verified.

Maximum penalty—100 penalty units.

- (3) Without limiting subsection (2), the holder must keep records enabling the accuracy of the following information required to be included in the safety and health census to be verified—
  - (a) the number of explosives workers working under the authority;
  - (b) the number of full-time explosives workers, and non full-time explosives workers, working under the authority;
  - (c) the number of hours worked by explosives workers working under the authority.
- (4) The holder must keep the records in a way that—
  - (a) enables the holder to give the CEO the records within 14 days after the CEO asks for the records; and
  - (b) enables the CEO to easily verify the accuracy of the information included in the safety and health census.

Maximum penalty—100 penalty units.

- (5) If the CEO asks the holder to give the CEO the records, the holder must give the CEO the records—
  - (a) within 14 days after the CEO asks for the records; or
  - (b) if the CEO agrees in writing with the holder to another period—within the other period.

Maximum penalty—100 penalty units.

- (6) The holder must keep the records for 7 years after the day the holder is required to give the CEO the safety and health census.

Maximum penalty—100 penalty units.

**180 Notice may be given if safety and health census not given or is inadequate**

- (1) This section applies if the CEO reasonably believes, based on information available to the CEO, that the holder of an authority—
  - (a) has not given a safety and health census under section 179; or
  - (b) has given a safety and health census that—
    - (i) contains information that is incorrect; or
    - (ii) is incomplete.
- (2) The CEO may give the holder of the authority a notice that—
  - (a) states each of the following—
    - (i) the ground mentioned in subsection (1)(a) or (b) the CEO reasonably believes applies in relation to the holder;
    - (ii) if the ground is the ground mentioned in subsection (1)(b)(i)—the information the CEO reasonably believes is incorrect;
    - (iii) the amount of the safety and health fee the CEO reasonably believes is payable by the holder;
    - (iv) the facts and circumstances forming the basis for the beliefs mentioned in subparagraphs (i) to (iii); and
  - (b) invites the holder to give the CEO, within the reasonable period stated in the notice, a submission as to why the holder should not be invoiced for the amount mentioned in paragraph (a)(iii).
- (3) The CEO must consider any submissions given by the holder of the authority within the period stated in the notice.
- (4) If, after complying with subsection (3), the CEO is satisfied an amount of a safety and health fee is payable by the holder of the authority, the CEO may give the holder an invoice for the fee.

- (5) Subsection (4) applies even if the holder of the authority has already been given an invoice for, or paid, a different amount for the fee.
- (6) The holder of the authority must pay the amount of the safety and health fee stated in the invoice within 30 days after receiving the invoice.

### **181 Fee for late safety and health census**

- (1) This section applies if the holder of an authority does not give a safety and health census for a reporting period on or before—
  - (a) if the CEO has given the holder a notice mentioned in section 179(2)(b)—the day stated in the notice for giving the safety and health census; or
  - (b) otherwise—the day that is 20 days after the end of the reporting period.
- (2) The obligation under section 179 to give the safety and health census continues to apply until the holder complies with that section.
- (3) The holder must pay the late fee stated in schedule 2, part 2.
- (4) The late fee is payable in addition to any penalty imposed on the holder under section 179(1) or (3).

### **182 Unpaid fees**

- (1) This section applies if the holder of an authority does not pay an amount of a safety and health fee under section 178 or 180.
- (2) The holder must pay interest on the unpaid amount at the rate of 15%.
- (3) The interest must be calculated as simple interest.
- (4) The unpaid amount, and any interest payable on the unpaid amount, may be recovered by the CEO as a debt.

### **183 Refund of overpayment of safety and health fee**

- (1) If a safety and health fee is overpaid by the holder of an authority, the CEO must refund the amount of the overpayment to the holder.
- (2) No interest is payable on the amount refunded.

## **Part 13 Miscellaneous provisions**

### **Division 1 External reviews by QCAT**

#### **184 Application for external review**

- (1) A person who is given an information notice for a reviewable decision may apply, as provided under the QCAT Act, for an external review of the decision.
- (2) In this section—

*reviewable decision* means any of the following decisions of the chief inspector—

- (a) a decision under section 14(2)(b) not to make a declaration that an explosive is an authorised explosive;
- (b) a decision under section 17(2)(b) to impose conditions on an explosives trial approval;
- (c) a decision under section 67(2)(b) to approve explosives limits for a port with changes or conditions;
- (d) a decision under section 67(3) to refuse to approve explosives limits for a port;
- (e) a decision under section 69(2) to impose interim explosives limits for a port;
- (f) a decision to act under section 123(2)(c) or (d);
- (g) a decision under section 145E to refuse to make or amend an administrative determination;

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- (h) a decision under section 145E to make or amend an administrative determination subject to conditions;
  - (i) a decision under section 145K, 145M or 145N to amend, suspend or cancel an administrative determination;
  - (j) a decision under section 176(3)(b) not to approve an association as an approved collectors association.

## **Division 2            Other provisions**

### **185    Period for keeping records**

A person who is required under this regulation, or a safety and security management system, to keep a record must keep it for at least 5 years after the record was made or obtained.

### **186    Person not relieved of obligation merely because other person has same obligation**

- (1) This section applies if this regulation—
  - (a) imposes an obligation on a person (the *relevant person*); and
  - (b) imposes the same obligation on 1 or more other persons.
- (2) To remove any doubt, it is declared that the imposition of the obligation on the other persons does not relieve the relevant person of the obligation imposed on that person.

### **187    Prohibition on giving explosives to unauthorised person**

A person must not, without reasonable excuse, give or hand over an explosive to another person who is not authorised to possess the explosive.

Maximum penalty—

- (a) if the explosive is a security sensitive explosive—200 penalty units; or

- (b) otherwise—50 penalty units.

## **188 False or misleading information in application for authority or security clearance**

A person must not—

- (a) state anything in an application for the issue of an authority or security clearance the person knows is false or misleading in a material particular; or
- (b) omit from an application for the issue of an authority or security clearance anything without which the application is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units.

## **189 Acquirer must not give false or misleading information**

- (1) This section applies to a person (an *acquirer*) who is acquiring an explosive from another person, other than by purchasing the explosive.

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

- taking possession of an explosive to transport or store the explosive
  - taking possession of fireworks for the purpose of conducting a fireworks display
- (2) The acquirer must not give information, or make a representation, to the other person that the acquirer knows is false or misleading in a material particular about any of the following matters—
- (a) the type of authority held by the acquirer and the activities allowed under the authority;
- (b) the type of explosive the acquirer is authorised to deal with under the authority;
- (c) a condition of the authority;

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

Maximum penalty—100 penalty units.

## **190 Service provider must not give false or misleading information**

- (1) This section applies to a person (a *service provider*) who is employed or otherwise engaged by another person to provide a service related to an explosive.
- (2) The service provider must not give information, or make a representation, to the other person that the service provider knows is false or misleading in a material particular about any of the following matters—
  - (a) the type of authority held by the service provider and the activities allowed under the authority;
  - (b) the type of explosive the service provider is authorised to deal with under the authority;
  - (c) a condition of the authority;
  - (d) the name or identity of the person to whom the authority is issued;
  - (e) the name or identity of the service provider.

*Examples of making a false representation—*

- 1 An employee tells the employee's employer that the employee holds an authority to manufacture explosives when the employee does not hold the authority.
- 2 A fireworks operator contracted by a fireworks contractor tells the fireworks contractor that the fireworks operator is authorised to purchase fireworks.

Maximum penalty—100 penalty units.

## **191 Prohibition on altering authority**

- (1) A person must not alter an authority issued to the person.

Maximum penalty—50 penalty units.

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

Maximum penalty—100 penalty units.

## **192 Labels etc. to be written in English**

A label, document, record or notice required under the Act must be written in English.

# **Part 14 Transitional provisions**

## **Division 1 Transitional provisions for SL No. 150 of 2017**

### **193 Definitions for division**

In this division—

*2003 regulation* means the expired *Explosives Regulation 2003*.

*corresponding provision*, in relation to a provision of the 2003 regulation, means the provision of this regulation dealing with the same subject matter as the provision of the 2003 regulation.

*former*, for a provision, means the provision of that number of the 2003 regulation.

### **194 Remedial action notice given under former s 9**

- (1) This section applies if, before the commencement—
- (a) an inspector gave a remedial action notice under former section 9(5); and
  - (b) the notice had not been complied with.

- (2) The notice is taken to have been given by the inspector under section 9(4).

### **195 Notice given under former s 13**

- (1) This section applies if, before the commencement—
  - (a) a person gave the chief inspector a notice under former section 13(1); and
  - (b) the chief inspector had not decided whether to make the declaration.
- (2) The notice is taken to have been given under section 13(1).
- (3) Anything done in relation to the notice under the 2003 regulation is taken to have been done in relation to the notice under this regulation.

### **196 Application made under former s 16**

- (1) This section applies if, before the commencement—
  - (a) a person applied to the chief inspector under former section 16 for an explosives trial approval; and
  - (b) the chief inspector had not decided the application.
- (2) The application is taken to have been made under section 16.
- (3) Anything done in relation to the application under the 2003 regulation is taken to have been done in relation to the application under this regulation.

### **197 Approvals and consents by chief inspector under 2003 regulation**

- (1) This section applies to each of the following approvals and consents by the chief inspector if the approval was in force immediately before the commencement—
  - (a) an explosives trial approval issued under former section 17(1)(a);

[s 198]

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- (b) an approval under former section 62(1)(a) of explosives limits, or new explosives limits, for a port;
  - (c) an approval under former section 88(2) for a firework to be stored in a particular building;
  - (d) an approval under former section 92(e) of a safety measure for an explosive;
  - (e) an approval under former section 100(d) of a person to be present at a government magazine;
  - (f) a consent mentioned in section 106(1)(a) for an activity to be carried out at a government magazine;
  - (g) an approval under former section 148(2) of an association as an approved collectors association.
- (2) From the commencement, the approval or consent is taken to be an approval under the corresponding provision of this regulation.

**198 Explosives limits documents given under former s 61 or 63**

- (1) This section applies if, before the commencement—
- (a) a port authority or port operator gave the chief inspector—
    - (i) an explosives limits document under former section 61; or
    - (ii) a new explosives limits document under former section 63; and
  - (b) the chief inspector had not dealt with the document under former section 62.
- (2) The explosives limits document is taken to have been given under section 66.
- (3) The new explosives limits document is taken to have been given under section 68.
- (4) Anything done in relation to the explosives limits document, or new explosives limits document, under the 2003 regulation

is taken to have been done in relation to the document under this regulation.

### **199 Interim explosives limit imposed under former s 64(2)**

- (1) This section applies if, immediately before the commencement, interim explosives limits for a port were in force under former section 64(2).
- (2) From the commencement, the interim explosives limits for the port are taken to be interim explosives limits imposed under section 69(2).

### **200 Client record and proposed use under former s 78B**

From the commencement—

- (a) a proposed use obtained for a new client under former section 78B(3)(a)(iv) is taken to be a proposed use for the client obtained under section 88(3)(a)(iv); and
- (b) a client record made under former section 78B(3)(c) is taken to be a client record made under section 88(3)(c).

### **201 Requirement to keep record continues**

- (1) This section applies if, immediately before the commencement, a person was required to keep a record under former section 79A(2) or former section 149.
- (2) The requirement to keep the record continues as if the 2003 regulation had not expired.

### **202 Appointment of manager of government magazine continues**

- (1) This section applies to a person who, immediately before the commencement, held an appointment as the manager of a government magazine under former section 99.
- (2) The person continues to hold office as a manager of a government magazine under this regulation on the same

conditions until the person's appointment as a manager ends under this regulation.

### **203 Request made under former s 103**

- (1) This section applies if, before the commencement—
  - (a) a person gave the manager of a government magazine a notice making a request under former section 103; and
  - (b) the manager had not decided the request.
- (2) The notice is taken to have been given under section 117.
- (3) Anything done in relation to the notice under the 2003 regulation is taken to have been done in relation to the notice under this regulation.

### **204 Approval under former s 104**

- (1) This section applies to an approval under former section 104 by the manager of a government magazine if the approval was in force immediately before the commencement.
- (2) From the commencement, the approval is taken to be an approval given under section 118.

### **205 Continuation of entitlement to take action for failure to pay fee**

- (1) This section applies if, before the commencement, the chief inspector charged a fee under former section 107.
- (2) If the fee is not paid as mentioned in former section 108(1), whether before or after the commencement, the chief inspector may act, or continue to act, under former sections 108 to 110 in relation to the unpaid fee as if the 2003 regulation had not expired.

### **206 Continuation of entitlement to recover amount as debt**

- (1) This section applies if, before the commencement—

- (a) the holder of an authority was required to pay, but had not paid, an amount under former section 146B or former section 146D; and
  - (b) the chief executive had not recovered, under former section 146F, the unpaid amount or any interest payable on the unpaid amount.
- (2) If a proceeding for recovery of the unpaid amount or any interest payable on the unpaid amount was started before the commencement, the proceeding may continue under former part 10A as if the 2003 regulation had not expired.
  - (3) If a proceeding for recovery of the unpaid amount or any interest payable on the unpaid amount was not started before the commencement, the chief executive may recover the unpaid amount or interest under part 12, as if the liability to pay the amount and interest on the amount arose under that part.

## **207 Requirement to give notice continues**

- (1) This section applies if, before the commencement, a person was required to give, but had not given, a notice about a matter under a former provision.
- (2) The requirement to give the notice is taken to apply under the corresponding provision of this regulation.
- (3) In this section—  
*notice* includes a receipt.

## **208 Notice taken to have been given**

- (1) This section applies if, before the commencement, a person was required to give, and had given, a notice about a matter under a former provision.
- (2) The notice is taken to have been given under the corresponding provision of this regulation.

## **209 References to 2003 regulation**

In a document—

- (a) a reference to the 2003 regulation may, if the context permits, be taken to be a reference to this regulation; and
- (b) a reference to a provision of the 2003 regulation may, if the context permits, be taken to be a reference to the corresponding provision of this regulation.

## **Division 2 Transitional provisions for Land, Explosives and Other Legislation Amendment Act 2019**

### **210 Existing licence to transport explosives**

- (1) This section applies to a licence to transport explosives in force immediately before the commencement.
- (2) From the commencement—
  - (a) the licence is taken to authorise the authority holder to operate a business of transporting the explosives stated in the licence in the vehicles stated in the licence; and
  - (b) the licence does not authorise the authority holder to drive a vehicle to transport explosives.

### **211 Employees of holder of licence to transport explosives**

- (1) This section applies to a person who—
  - (a) on the commencement, is an employee of the holder of a licence to transport explosives; and
  - (b) is employed to drive a vehicle, stated in the licence as a vehicle to transport explosives, to transport explosives.
- (2) From the commencement, the person is taken to be the holder of an explosives driver licence.
- (3) However, this section does not apply to a person who—

- (a) is employed to work at a mine; and
  - (b) is transporting the explosives at the mine and in the course of the person's employment.
- (4) This section stops having effect on the day that is 1 year after the commencement.

**Division 3**                      **Transitional provision for Natural Resources, Mines and Energy Legislation (Safety and Health) Amendment Regulation 2020**

**212 Requirement to keep records of information included in safety and health census**

The requirements under section 179C relating to the keeping of records of information included in a safety and health census apply only if the safety and health census is for a reporting period that starts after the commencement.

## **Schedule 1      Prohibited explosives**

section 15

### **Part 1                      Prohibited explosives**

- 1 Small arms ammunition with a bullet or projectile containing an incendiary, tracer, explosive, lachrymatory or noxious composition, other than small arms ammunition—
  - (a) used as a distress signal or wildlife control device; or
  - (b) manufactured, brought into the State from another country, stored, transported or sold for use, or used by—
    - (i) an officer or member of a State police service in the course of the officer's or member's official duties; or
    - (ii) a corrective services officer in the course of the officer's official duties; or
  - (c) stored, sold, transported or possessed by a prescribed ammunition collector or the holder of a licence to collect ammunition.
- 2 Ammunition that contains explosives, other than—
  - (a) small arms ammunition; or
  - (b) ammunition manufactured, brought into the State from another country, stored, transported or sold for use, or used by—
    - (i) an officer or member of a State police service in the course of the officer's or member's official duties; or
    - (ii) a corrective services officer in the course of the officer's official duties.
- 3 An explosive containing a chlorate mixed with an ammonium salt.

- 
- 4 Any of the following fireworks—
- (a) a firework from which explosive material may escape;
  - (b) a firework, all or part of which explodes, containing aluminium or magnesium mixed with potassium chlorate or another chlorate, whether or not the firework contains another substance;
  - (c) a firework, other than an unrestricted firework or a distress signal, containing a chlorate mixed with sulphur, a sulphide or phosphorus, whether or not the firework contains another substance;
  - (d) a firework, other than an unrestricted firework or a distress signal, that contains, or is attached to, a thing capable of initiating the firework by friction or percussion;
  - (e) a firework—
    - (i) all or part of which is projected through the air on initiation; and
    - (ii) that has the potential to injure a person outside the recommended spectator distance under the Queensland fireworks code;

*Example—*  
a sky rocket
  - (f) a cracker, other than a cracker that is a component in a string of crackers;  

*Examples—*  
bungers, bangers, matchcrackers
  - (g) a salute with a diameter or length greater than 75mm;
  - (h) a candle with an internal diameter greater than 50mm;
  - (i) a fountain with an internal diameter greater than 125mm;
  - (j) a candle with an internal diameter greater than 25mm containing a pyrotechnic unit composed wholly or predominantly of flash powder;

- (k) a multishot box item and another assembly consisting of tubes greater than 30mm in diameter fastened together in a vertical or near vertical array, other than—
  - (i) an item consisting of tubes with an internal diameter of 10mm or less that does not have more than 1,000 tubes or 1,000 pyrotechnic units; or
  - (ii) an item consisting of tubes with an internal diameter greater than 10mm, but not greater than 25mm, that does not have more than 200 tubes or 200 pyrotechnic units; or
  - (iii) an item consisting of tubes with an internal diameter greater than 25mm, but not greater than 38mm, that—
    - (A) does not have more than 200 tubes or 200 pyrotechnic units; and
    - (B) does not contain flash powder; or
  - (iv) an item consisting of tubes with an internal diameter greater than 38mm, but not greater than 50mm, that—
    - (A) does not have more than 52 tubes or 52 pyrotechnic units; and
    - (B) does not contain flash powder;
- (l) a string of crackers—
  - (i) in which any cracker is greater than 45mm in length or has an external diameter greater than 10mm; or
  - (ii) containing a roll of crackers designed to initiate at the same time, including, for example, a headroll.

## **Part 2**                      **Interpretation**

In this schedule, a term that is not defined under the Act or this regulation, but is defined under AS 2187, part 0, has the meaning given to it under the standard.

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## Schedule 2      Fees

sections 13(2)(c), 16(2)(c), 18D, 21, 178(2) and 181(3)

### Part 1                      Fees for security clearance, authorities and declaration

	\$
1 Security clearance—	
(a) application for security clearance	200.00
(b) application for renewal of security clearance	160.00
2 Licence to import explosives or licence to export explosives—	
(a) for blasting explosives—	
(i) application for licence	nil
(ii) licence for 1 year	746.00
(b) for propellant powders and ammunition—	
(i) application for licence	nil
(ii) licence for 1 year	495.30
(c) for fireworks—	
(i) application for licence	nil
(ii) licence for 1 year	365.10
(d) for distress signals—	
(i) application for licence	nil
(ii) licence for 1 year	111.60
(e) for an explosive not mentioned in paragraphs (a) to (d)—	
(i) application for licence	nil

	\$
(ii) licence for 1 year	365.10
3 Licence to manufacture explosives—	
(a) for an explosives factory other than a mobile manufacturing unit—	
(i) application for licence	nil
(ii) licence for 1 year	462.30
(b) for a mobile manufacturing unit—	
(i) application for licence	nil
(ii) licence for 1 year	212.70
(c) for manufacture of explosives at a place that is not an explosives factory—	
(i) application for licence	nil
(ii) licence for 1 year	107.20
4 Licence to sell explosives—	
(a) for blasting explosives—	
(i) application for licence	nil
(ii) licence for 1 year	90.20
(b) for propellant powders—	
(i) application for licence	nil
(ii) licence for 1 year	90.20
(c) for fireworks—	
(i) application for licence	nil
(ii) licence for 1 year	90.20
(d) for ammunition—	
(i) application for licence	nil
(ii) licence for 1 year	16.65
(e) for an explosive not mentioned in paragraphs (a) to (d)—	

## Schedule 2

	\$
(i) application for licence	nil
(ii) licence for 1 year	90.20
5 Licence to store explosives—	
(a) for blasting explosives up to 100kg—	
(i) application for licence	nil
(ii) licence for 1 year	118.30
(b) for blasting explosives greater than 100kg—	
(i) application for licence	nil
(ii) licence for 1 year	462.30
(c) for propellant powders up to 100kg—	
(i) application for licence	nil
(ii) licence for 1 year	44.45
(d) for propellant powders greater than 100kg but not greater than 250kg—	
(i) application for licence	nil
(ii) licence for 1 year	118.30
(e) for propellant powders greater than 250kg—	
(i) application for licence	nil
(ii) licence for 1 year	462.30
(f) for fireworks up to 100kg (gross weight)—	
(i) application for licence	nil
(ii) licence for 1 year	44.45
(g) for fireworks greater than 100kg (gross weight)—	
(i) application for licence	nil
(ii) licence for 1 year	462.30
(h) for an explosive not mentioned in paragraphs (a) to (g), up to 100kg—	
(i) application for licence	nil

	\$
(ii) licence for 1 year	44.45
(i) for an explosive not mentioned in paragraphs (a) to (g), greater than 100kg—	
(i) application for licence	nil
(ii) licence for 1 year	462.30
6 Licence to transport explosives—	
(a) application for licence	nil
(b) licence for 1 year for each vehicle stated in the licence	118.30
7 Explosives driver licence—	
(a) application for licence	nil
(b) licence for 1 year	63.95
8 Licence to use explosives—	
(a) application for licence	nil
(b) licence for 1 year	63.95
9 Shotfirer licence—	
(a) application for licence	nil
(b) licence for 1 year	63.95
10 Fireworks contractor licence—	
(a) application for licence	nil
(b) licence for 1 year	425.10
11 Fireworks operator licence—	
(a) application for licence	nil
(b) licence for 1 year	135.70
12 Licence to collect ammunition—	
(a) application for licence	nil
(b) licence for 1 year	16.65
13 Application for permit to import explosives	nil

## Schedule 2

	\$
14 Application for permit to export explosives	nil
15 Application for permit to store explosives	nil
16 Application for explosives trial approval (s 16(2)(c))	nil
17 Request for declaration that explosive is an authorised explosive (s 13(2)(c))	153.00
18 Transfer of licence other than a licence to use an explosive	46.50
19 Copy of licence or security clearance	46.50

## Part 2 Safety and health fee

	\$
1 Safety and health fee for a reporting period that is a quarter (s 178(2))—	
(a) if the number of explosives workers working under an authority during the quarter is more than 5 but not more than 10—for each explosives worker working under the authority during the quarter	29.85
(b) if the number of explosives workers working under an authority during the quarter is more than 10—for each explosives worker working under the authority during the quarter	236.90
2 Safety and health fee for a reporting period that is a financial year (s 178(2))—	
(a) if the number of explosives workers working under an authority during the financial year is more than 5 but not more than 10—for each explosives worker working under the authority during the financial year	119.40

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	\$
(b) if the number of explosives workers working under an authority during the financial year is more than 10—for each explosives worker working under the authority during the financial year	948.00
3 Fee for late safety and health census (s 181(3))	119.40

## **Schedule 3**      **Matters to be included in safety and security management system**

section 46A(4)

### **Part 1**                      **Matters to be provided for in system procedures**

- 1 Establishing and maintaining an explosives safety and security management system to deal with hazard and risk identification, risk assessment and risk control.
- 2 The provision of information, education and training to—
  - (a) employees and contractors of the authority holder; and
  - (b) if the system is for a place—visitors to the place.
- 3 Reporting and investigating explosives incidents.
- 4 Internal auditing of the system.
- 5 Collecting information about the system to monitor its effectiveness.
- 6 Keeping records of the system, including records of the following—
  - (a) internal audits and statistics;
  - (b) risk assessments undertaken;
  - (c) training of personnel;
  - (d) reports and investigations of explosives incidents;
  - (e) reviews of operational procedures;
  - (f) consultations with employees and contractors about safety;
  - (g) explosives manufactured or stored under the authority;



affecting the risk associated with the activities carried out under the authority.

- 4 Selecting, maintaining and using personal protective equipment, including, for example, clothing, equipment or devices designed to protect a person from harm.

*Examples of personal protective equipment—*

gloves, safety glasses, hard hat, safety shoes

- 5 Identifying and disposing of waste explosives and ingredients for manufacturing explosives, and separating waste materials that are not compatible, including, for example, procedures for burning waste.
- 6 Testing safety shut-off systems and alarms.
- 7 If the activities include manufacturing or bringing explosives into the State from another country—sampling and testing the explosives.
- 8 Transporting explosives under the authority, including security provisions and procedures.
- 9 Storing and handling explosives under the authority, including security provisions and procedures.
- 10 Handling chemicals and keeping—
  - (a) a register of chemicals stored or used for the activities; and
  - (b) a safety data sheet for each chemical.
- 11 Receiving explosives at a place where the activities are carried out.
- 12 Limiting the amount of explosives in, and the number of persons in, buildings and other places where the activities are carried out.
- 13 Using explosives under the authority, including security provisions and procedures.
- 14 Responding to adverse weather conditions, including, for example, lightning.
- 15 Restricting sources of ignition in buildings and other places where the activities are carried out.

- 16 Separating materials that are not compatible.
- 17 Manufacturing explosives under the authority, including storing and mixing ingredients used to manufacture explosives.
- 18 Cleaning and tidying areas where explosives are handled under the authority.
- 19 Handling misfires.
- 20 Operating plant and equipment used in the activities, including, for example, a pump.
- 21 Preparing for and responding to emergencies, including the preparation of an evacuation plan and testing of the procedures.

*Examples—*

- procedures for controlling spills
  - the provision of fire fighting equipment
  - the availability of first aid
- 22 Changing operational processes, the composition of the explosives used for the activities, the ingredients used to manufacture explosives and the packaging of explosives.
  - 23 The competencies and training required for personnel who carry out the activities.
  - 24 Recording and handling complaints about the activities.

## **Schedule 4 Particular explosives exempt from section 44 of the Act**

section 94, definition *schedule 4 explosive*

- 1 Small arms ammunition stored by a person who—
  - (a) holds a licence under the *Weapons Act 1990*; or
  - (b) has been granted an exemption under the *Weapons Act 1990*, for section 2(1)(m) of that Act.
- 2 Power device cartridges.
- 3 Safety fuses or igniters.
- 4 Electric matches.
- 5 Unrestricted fireworks.
- 6 Explosives designed to activate airbags, seatbelts, fire extinguishers and parachutes.
- 7 Distress signals—
  - (a) with classification code 1.3G—maximum amount 15kg (gross weight); or
  - (b) with classification code 1.4G—maximum amount 250kg (gross weight); or
  - (c) with classification code 1.4S—any amount.
- 8 Fireworks, other than unrestricted fireworks or prohibited fireworks, stored by a person licensed to use the fireworks—
  - (a) with classification code 1.1G, 1.2G or 1.3G—maximum amount 50kg (gross weight); or
  - (b) with classification code 1.4G—maximum amount 250kg (gross weight).
- 9 Propellant powders stored by a person who holds a licence under the *Weapons Act 1990*—
  - (a) if the powders are stored on a property larger than 2ha—maximum amount 30kg; or

- (b) otherwise—maximum amount 15kg.
- 10 Propellant powders stored by a person licensed to sell the powders—maximum amount 100kg.
  - 11 Blasting explosives stored by a person licensed to use the explosives—
    - (a) if the explosives are stored on a property larger than 2ha—maximum amount 30kg; or
    - (b) otherwise—maximum amount 10kg.

## **Schedule 5      Explosives prescribed for section 50 of the Act**

section 135

- 1 Small arms ammunition.
- 2 Power device cartridges.
- 3 Safety fuses or igniters.
- 4 Electric matches.
- 5 Unrestricted fireworks.
- 6 Propellant powders, other than black powder—maximum amount 50kg.
- 7 Black powder—maximum amount 25kg.
- 8 Distress signals—
  - (a) with classification code 1.1G, 1.2G or 1.3G—maximum amount 50kg; or
  - (b) with classification code 1.4G—maximum amount 250kg; or
  - (c) with classification code 1.4S.
- 9 Explosives designed to activate airbags, seatbelts, fire extinguishers or parachutes.
- 10 Explosives other than explosives mentioned in item 8—
  - (a) with classification code 1.3C or 1.3G—maximum amount 50kg; or
  - (b) with classification code 1.4C or 1.4G—maximum amount 250kg.

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## Schedule 6      Unrestricted fireworks

schedule 7, definition *unrestricted firework*

- 1 Amorces and caps for toy pistols.
- 2 Indoor table bombs.
- 3 Model rocket motors with—
  - (a) maximum weight 62.5g; and
  - (b) maximum total impulse of 160 newton seconds.
- 4 Snaps for bon bon crackers.
- 5 Sparklers.
- 6 Starting pistol caps.
- 7 Streamer cones.
- 8 Indoor decorative fountains.

## Schedule 7 Dictionary

### section 3

**account**, for part 8, division 4, see section 111.

**administrative determination** see section 51A(3) of the Act.

**alternative safety and security measures** see section 9(2).

**applicant**, for part 8, division 4, see section 117(1).

**approved explosives limits**, for a port, means—

- (a) explosives limits approved for the port under section 67;  
or
- (b) if the chief inspector has imposed interim explosives limits for the port—the interim explosives limits for the port.

**AS 2187, part 0** means AS 2187.0—1998 (Explosives—Storage, transport and use, Part 0: Terminology).

**AS 2187, part 2** means AS 2187.2—2006 (Explosives—Storage and use, Part 2: Use of explosives).

**Australian dangerous goods code** means the document called ‘Australian Code for the Transport of Dangerous Goods by Road and Rail’, seventh edition, approved by the Australian Transport Council.

*Editor’s note—*

The Australian dangerous goods code can be accessed on the National Transport Commission’s website.

**Australian explosives code** means the document called ‘Australian Code for the Transport of Explosives by Road and Rail’, third edition, approved by the Workplace Relations Ministers’ Council.

*Editor’s note—*

The Australian explosives code can be accessed on Safe Work Australia’s website.

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***blasting activities*** means preparing a blasting explosive for use or using a blasting explosive.

*Examples of blasting activities—*

- agricultural and small-scale blasting
- quarrying and open-cut mining
- tunnelling and underground mining
- submarine blasting

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

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

***certified copy***, of a document, means a copy of the document certified by any of the following to be a true copy of the document—

- (a) a lawyer;
- (b) a notary public;
- (c) a commissioner for declarations;
- (d) a justice of the peace.

***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***, for 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 of too dangerous to transport or non-dangerous goods to which the explosive is assigned.

***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.

***coal mine*** see the *Coal Mining Safety and Health Act 1999*, section 9.

***collectors' ammunition*** means—

- (a) small arms ammunition, other than small arms ammunition containing a high explosive; or

(b) other ammunition that does not contain explosives.

**compatible**, in relation to 2 or more materials, means the materials will not react together to cause a fire, explosion or harmful reaction or the production of flammable, toxic or corrosive vapours.

**corrective services officer** see the *Corrective Services Act 2006*, schedule 4.

**decision notice** see section 145K(2).

**display host**, for a fireworks display, see section 157.

**distress signal**—

- (a) means a packaged pyrotechnic substance used for signalling, warning, rescue or a similar purpose; and
- (b) includes a marine flare and signal, landing flare, highway fusee, line-carrying rocket and smoke generator, and a distress signal designed to be placed on a railway track.

**electric match** means a match containing a pyrotechnic substance that is initiated electrically.

*Examples of electric matches—*

electric match heads, squibs, electric fuses

**emergency event**, for part 3, division 5A, see section 46.

**explosives limit**, for part 5, division 4, see section 66(a).

**explosives limits document**, for part 5, division 4, see section 66.

**explosives worker** means any of the following persons—

- (a) an individual who is the holder of an authority;
- (b) an individual who is a partner in a partnership that is the holder of an authority;
- (c) an employee of, or a contractor engaged by, the holder of an authority;
- (d) an employee of a contractor who is engaged by the holder of an authority.

***fireworks contractor***—

- (a) generally—means the holder of a fireworks contractor licence; or
- (b) for a fireworks display—see section 158.

***fireworks display*** see section 156(1).

***fireworks operator***—

- (a) generally—means the holder of a fireworks operator licence; or
- (b) for a fireworks display—see section 159.

***hazard*** means a thing or situation with potential to cause harm to a person, property or the environment, including, for example, the loss or theft of explosives.

***holder***, of an administrative determination, means a person to whom the determination applies.

***initiate***, an explosive, means fire, explode or ignite the explosive.

***interim explosives limits***, for a port, means explosives limits imposed for the port by the chief inspector under section 69.

***magazine employee***, for part 8, division 4, see section 111.

***manager***, of a government magazine, means the person appointed as the manager of the magazine under section 112.

***mine*** means—

- (a) a coal mine; or
- (b) another mine, including, for example, a quarry, to which the *Mining and Quarrying Safety and Health Act 1999* applies.

***misfire*** means the failure of a charge, or part of a charge, to explode or ignite.

***mobile manufacturing code*** means the document called ‘Code of Practice—Mobile Processing Units’ edition 3 (2014), published by the Australian Explosives Industry and Safety Group Inc.

*Editor's note—*

The mobile manufacturing code can be accessed on a Queensland Government website.

***mobile manufacturing unit*** means a mobile unit, including, for example, a mobile processing unit or vehicle, used for manufacturing explosives.

***museum*** means a non-profit institution—

- (a) owned or administered by the State; and
- (b) having, as a function, the preservation of information in any branch of the natural sciences about animals.

***national counter terrorism alert level***, for part 3, division 5A, see section 46.

***notice*** means written notice.

***organise***, a fireworks display, see section 160.

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

***placard load*** means a load of explosives that must be placarded under the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018*, section 83.

***port*** see the *Transport Infrastructure Act 1994*, schedule 6.

***port authority*** see the *Transport Infrastructure Act 1994*, schedule 6.

***port operator*** see the *Transport Infrastructure Act 1994*, section 267.

***power device cartridge*** has the meaning given under AS 2187, part 0.

***precursor*** means a liquid mixture of water, an oxidising agent (including, for example, ammonium nitrate), a fuel and an emulsifier, with or without other chemicals, that—

- (a) is manufactured with a view to producing an explosive; and
- (b) is not a class 1 explosive.

***precursor code*** means the document called the ‘Code of Practice—storage and handling of UN3375’, fourth edition (2017), published by the Australian Explosives Industry and Safety Group Inc.

***prescribed ammunition collector*** means—

- (a) a museum; or
- (b) the Returned & Services League of Australia, (Queensland Branch); or
- (c) a sub-branch of the Returned & Services League of Australia (Queensland Branch); or
- (d) a person who is a member of an association approved by the chief inspector as an approved collectors association under section 176.

***prescribed authority***, for part 3, division 5A, see section 46.

***prescribed information***, for a request that an explosive be declared to be an authorised explosive or an application for an explosives trial approval, for part 2, see section 11.

***prescribed person***, for part 8, division 5, see section 128.

***prescribed shotfirer***, for part 10, division 2, see section 148.

***proposed action*** see section 145J(1).

***quarter*** means a 3 month period ending on 30 September, 31 December, 31 March or 30 June.

***Queensland fireworks code*** means the document called ‘Queensland code of practice, Control of outdoor fireworks displays’, first edition (2003), published on a Queensland Government website.

***Queensland Government website*** means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

***registered training organisation*** see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

***relevant authority***—

(a) for part 8, division 3—see section 104; or

(b) for part 8, division 5—see section 128.

**relevant holder**, in relation to an explosives factory, for part 6, division 3, see section 78.

**relevant licence**—

(a) for part 5, division 2—see section 53; or

(b) for part 6, division 2—see section 72.

**relevant offence** see section 23A(3) of the Act.

**relevant permit**, for part 5, division 3, see section 60.

**relevant person**, for payment of a fee charged under section 122, see section 121.

**relevant supervisor**, in relation to an activity carried out at a government magazine, for part 8, division 4, see section 111.

**reporting period**, for an authority, for part 12, see section 177.

**required places**, for part 8, division 2, see section 97.

**risk** means the risk, measured in terms of consequences and likelihood, of harm to a person, property or the environment arising out of a hazard.

**risk assessment process**, for part 5, division 4, see section 64.

**safety and health census**, for part 12, see section 179(1).

**safety and health fee**, for part 12, see section 178(1).

**safety and security management system**, for part 3, division 5A, see section 46.

**safety and security requirements**, for a fireworks display, see section 162.

**safety data sheet** see the *Work Health and Safety Regulation 2011*, schedule 19.

**safety fuse or igniter** means any of the following within the meaning of AS 2187, part 0—

(a) a safety fuse;

(b) a signal tube;

- (c) an igniter cord;
- (d) an igniter cord connector;
- (e) a fuse igniter.

***schedule 4 explosive***, for part 8, see section 94.

***secure container***, for part 8, division 2, see section 97.

***secured area***, for part 8, division 2, see section 97.

***security sensitive ammonium nitrate*** means—

- (a) ammonium nitrate; or
- (b) a solid substance that—
  - (i) consists of a mixture of ammonium nitrate and another substance if the mixture contains more than 45% ammonium nitrate by mass; and
  - (ii) is not classified as a class 1 explosive.

***site senior executive***, for part 10, division 2, see section 148.

***source of ignition*** has the meaning given under AS 2187, part 2.

***storage facility***, for a licence to store explosives or a permit to store explosives, means a magazine or other place where explosives may be stored under the authority.

***submission period*** see section 145J(2)(e).

***supply***—

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

***trial***, for an explosives approval trial, for part 2, see section 11.

***underground mine***, for part 10, division 2, see section 148.

***underground mine manager***, of an underground mine, for part 10, division 2, see section 148.

***UN model regulations*** means the document called ‘Recommendations on the Transport of Dangerous

Goods—Model Regulations’, 20th revised edition (2017), published by the United Nations, New York and Geneva.

*Editor’s note—*

The UN model regulations can be accessed on the United Nations Economic Commission for Europe’s website.

***unrestricted firework*** means a firework mentioned in schedule 6.

***UN tests and criteria*** means the document called ‘Recommendations on the Transport of Dangerous Goods—Manual of Tests and Criteria’, sixth revised edition (2015), published by the United Nations, New York and Geneva.

*Editor’s note—*

The UN tests and criteria can be accessed on the United Nations Economic Commission for Europe’s website.

***use—***

(a) an explosive—includes prepare the explosive for use; or

*Example—*

assemble an explosive with 1 or more other explosives for initiation

(b) fireworks, in a fireworks display—see section 161.