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Explosives Regulations 2022

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TASMANIA

Explosives Regulations 2022

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Explosives Act 2012 .

13 December 2022

B. BAKER

Governor

By Her Excellency's Command,

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Explosives Regulations 2022 .

2. Commencement

These regulations take effect on 26 December 2022.

3. Interpretation

(1) In these regulations –

accredited means accredited by the Secretary under Part 9 ;

Act means the Explosives Act 2012 ;

adult means a natural person who has attained the age of 18 years;

allied Act means any of the following:

(a) the Dangerous Goods (Road and Rail Transport) Act 2010 ;

(b) the Security-sensitive Dangerous Substances Act 2005 ;

(c) the Work Health and Safety Act 2012 ;

AN-based explosive means –

(a) an explosive consisting of a mixture of ammonium nitrate and oil; or

(b) any other explosive that consists mainly of ammonium nitrate and is not packaged in the form of a cartridge, plug or stick;

appropriate safeguards means the safeguards imposed or provided for by or under the Act (including those contained in any approved codes of practice or any codes, standards, guidelines, rules or other documents applied, adopted or incorporated in these regulations);

approved magazine – see regulation 33 ;

AS means a standard published, and as from time to time amended, by –

(a) Standards Australia; or

(b) Standards Australia and Standards New Zealand jointly, with the prefix AS/NZS;

authorised explosive means an explosive that –

(a) is authorised under Part 3 ; or

(b) has, under a corresponding law, equivalent or substantially equivalent authorisation in another Australian jurisdiction;

authorised user, of explosives, means –

(a) a person referred to in regulation 44(1)(a) , (b) or (c) ; or

(b) a person acting in accordance with a permit, under the Security-sensitive Dangerous Substances Act 2005 , in respect of explosives; or

(c) a responsible worker, within the meaning of the Security-sensitive Dangerous Substances Act 2005 , acting in accordance with a permit under that Act in respect of explosives;

category means a category of shot-firing specified in regulation 43 ;

class, in relation to an explosive, means the number assigned to the explosive under the Manual of Tests and Criteria published, and from time to time amended, by the United Nations;

corresponding law means a law of the Commonwealth or another State or a Territory that substantially corresponds to these regulations;

directly handle, in relation to explosives, means to handle the explosives in a way that brings the handler into direct or close personal contact with them;

entitlement means an accreditation, approval, authorisation, permit or recognition under these regulations;

exempt explosive means an explosive specified in Schedule 3 ;

fireworks – see regulation 4 ;

general explosives means explosives other than fireworks;

GHS means the Globally Harmonised System of Classification and Labelling of Chemicals, Seventh revised edition, published by the United Nations, as amended from time to time;

hazardous chemical has the same meaning as it has in the Work Health and Safety Regulations 2022 ;

interstate shot-firing authority means a licence, permit, registration, accreditation or other kind of entitlement (other than interstate recognition) to do shot-firing, under a corresponding law;

major infrastructure includes –

(a) roads; and

- (b) bridges; and
- (c) infrastructure for gas, water, waste disposal, electricity and communications services; and
- (d) railways and railway infrastructure; and
- (e) wharves, jetties and other permanent berthing facilities; and
- (f) aerodromes;

manufacturing includes –

- (a) any formulating, blending, mixing, synthesising, processing or reprocessing associated with manufacturing; and
- (b) any packaging, repackaging or unpacking associated with manufacturing;

mobile processing unit means a vehicle or a portable piece of equipment (commonly referred to as an MPU but sometimes also as a mobile mixing unit or MMU) specifically designed or adapted for use in manufacturing AN-based explosives in the field;

MPU Code means the Code of Practice, Mobile Processing Units, 4th edition, as published by the Australasian Explosives Industry Safety Group (ABN 95 177 668 265) in September 2018, as amended;

person includes a body politic;

prescribed fee, for any matter, means the fee prescribed for that matter in Schedule 1 ;

propellant or **propellant powder** means a propellant or propellant powder within the meaning of AS 2187.0;

protected works means any of the following:

- (a) a residential building;
- (b) a school or other educational institution;
- (c) a hospital or other medical institution;
- (d) a retirement home, aged respite centre or other aged-care facility;
- (e) a church or other place of public worship;
- (f) a cinema, theatre, concert hall or other place of public entertainment;
- (g) a public building, public park or other public facility;
- (h) a building, or open area, in which people are accustomed to assembling;
- (i) a factory, workshop, office, warehouse, shop or other building, located outside an explosives location or a large explosives location, where persons are employed;

qualifications includes expertise, skills, training and experience;

register means the register of authorised explosives kept under regulation 18 ;

Relevant Standards, in relation to a subject or matter, means the standards listed in Schedule 2 for the subject or matter;

right of review, in respect of a decision, means the right to a review of the decision under section 69 of the Act;

safety cartridge means a safety cartridge within the meaning of AS 2187.0;

shot-firing – see regulation 42 ;

shot-firing permit means a permit issued under regulation 45 ;

SSDS permit has the same meaning as in the Security-sensitive Dangerous Substances Act 2005 ;

store includes keep;

terrorism offence means an offence under Part 5.3 of the *Criminal Code* of the Commonwealth;

test includes trial;

unauthorised explosive means any explosive other than an authorised explosive;

UNMR means the Recommendations on the Transport of Dangerous Goods, Model Regulations published, and as from time to time amended, by the United Nations;

valid, in relation to an interstate shot-firing authority, means that the authority is not suspended, or the subject of any disciplinary or offence proceedings, or the subject of any application for administrative or judicial review in relation to proposed suspension or cancellation.

(2) A note in the text of these regulations is for explanatory purposes only and does not form part of these regulations.

4. What are fireworks?

(1) For these regulations –

theatrical fireworks means –

- (a) loose-poured flash powder; or
- (b) fireworks fitted with or adapted to the use of an electrical ignition device and designed to be safe for indoor theatrical use; or
- (c) other fireworks designed or adapted for theatrical use;

Type 1 fireworks means fireworks specified in Schedule 5 (being fireworks that are intended for use inside domestic premises) that are exempt explosives;

Type 2 fireworks means fireworks that –

- (a) are Shopgoods fireworks within the meaning of AS 2187.3; and
- (b) are not Type 1 fireworks;

Type 3 fireworks, also known as professional display or large event fireworks, means fireworks other than Type 1 fireworks or Type 2 fireworks.

(2) For the purposes of these regulations, the Secretary –

- (a) may determine any question or dispute as to whether a firework is a Type 2 firework or Type 3 firework; and
- (b) is to take into account the Australian Explosives Code Default Fireworks Classification Table or any other relevant code or standard when making a determination under this subregulation.

(3) A determination made by the Secretary under subregulation (2) is final.

5. Exempt explosives

Unless otherwise expressly provided, these regulations do not apply to exempt explosives.

Note

Exempt explosives are specified in Schedule 3 .

6. Exempt handling – police officers, defence personnel &c.

(1) In this regulation –

for the State means at the request of or with the approval of the Commissioner of Police, the Secretary, the State Emergency Management Controller or any Minister;

preventative action means an action that is necessary or incidental to averting, eliminating or minimising, within Tasmania, a dangerous situation, an explosives emergency or some other danger involving explosives.

(2) These regulations do not apply to the handling of explosives by –

- (a) an authorised officer or police officer acting in the course of duty; or
- (b) a police officer of the Commonwealth acting in the course of Commonwealth duty; or
- (c) a police officer of another State or the Commonwealth taking a preventative action for the State; or
- (d) a member of the Defence Forces of the Commonwealth acting in the course of Commonwealth duty or taking a preventative action for the State; or
- (e) a member of the Defence Forces of another country taking a preventative action for the State; or
- (f) a civilian employee of the Commonwealth acting in the course of Commonwealth duty or taking a preventative action for the State.

(3) These regulations do not apply to the handling of explosives by persons working for, or on behalf of, the emergency services in so far as the handling relates to the taking of preventative actions.

7. References to weight of explosives

Unless otherwise provided, a reference in these regulations to a quantity of explosives by weight is taken to be a reference to the net explosive quantity of the explosives.

8. Quantity of explosives that makes a place an explosives location or large explosives location

(1) In this regulation –

black powder means propellant powder with classification code 1.1D under the Australian Dangerous Goods Code;

blasting explosive means an explosive of the kind typically used for blasting in connection with mining, quarrying, road construction and building demolition or similar works;

detonator means a detonator, of a classification code 1.1B, within the meaning of the Australian Explosives Code;

distress signal means a flare, rocket or other pyrotechnic device intended for signalling, warning, rescue or similar purposes;

flare includes marine flare, landing flare and railway or highway safety flare (also known as a *fusee*);

special explosive device means a smoke generator, bird scarer or similar device;

specialised rocket means an avalanche rocket, cloud-seeding rocket, anti-hail rocket, line-carrying rocket, scientific research rocket or any similar kind of rocket (other than a distress signal).

(2) For the purposes of section 25(1) of the Act, the prescribed quantity for explosives (considered in aggregate, regardless of class, kind or combination) is 25 kilograms.

(3) For the purposes of section 25(3) of the Act, the prescribed quantity is –

- (a) 200 kilograms of any (or any combination) of the following:
 - (i) blasting explosives;
 - (ii) Type 2 fireworks;

- (iii) Type 3 fireworks; or
- (b) 100 kilograms of any (or any combination) of the following:
 - (i) propellant;
 - (ii) safety cartridges; or
- (c) 5 kilograms of black powder; or
- (d) 125 detonators; or
- (e) 50 kilograms of any (or any combination) of the following:
 - (i) distress signals;
 - (ii) special explosive devices;
 - (iii) specialised rockets.

9. Inconsistencies between codes, &c., and the regulations

If a provision of –

- (a) an approved code of practice; or
- (b) a code, standard, guideline, rule or other document applied, adopted by or incorporated in these regulations –

is inconsistent with a provision of these regulations, the provision of these regulations prevails to the extent of the inconsistency.

PART 2 - Requirements in Respect of Certain Operations

10. Certain codes and standards to be complied with

The occupier of an explosives location must ensure that any approved code of practice or Relevant Standard is complied with at and in respect of the operation of the explosives location.

Penalty: Fine not exceeding 150 penalty units.

11. Safe separation distance to be maintained

(1) In this regulation –

safe separation distance, between the place where an explosive is being stored or used and any protected works, means a distance not less than the applicable separation distance specified in the Relevant Standards.

(2) The occupier of an explosives location must ensure that each explosive at the explosives location is, at all times, separated from protected works by the safe separation distance.

Penalty: Fine not exceeding 150 penalty units.

12. Plans of workplace

(1) If an explosives location, other than a large explosives location, is a workplace in relation to which a manifest is required by regulation 347 of the Work Health and Safety Regulations 2022, the occupier of the explosives location must ensure that the information required by clause 7 of Schedule 12 to those regulations to be contained, in relation to hazardous chemicals, in the scale plan forming part of the manifest, is included, in relation to explosives, in the scale plan.

Penalty: Fine not exceeding 150 penalty units.

(2) If subregulation (1) does not apply in relation to an explosives location that is not a large explosives location, the occupier of the explosives location must ensure that there is a scale plan of the workplace, in accordance with clause 7 of Schedule 12 to the Work Health and Safety Regulations 2022, that includes –

(a) in relation to explosives situated at the explosives location, the information specified in that clause as required in relation to hazardous chemicals situated at the explosives location; and

(b) in relation to hazardous chemicals situated at the explosives location, the information specified in that clause as required in relation to hazardous chemicals situated at the explosives location.

Penalty: Fine not exceeding 150 penalty units.

(3) If a scale plan of the workplace is required under subregulation (1) or (2) in relation to an explosives location, the occupier of the explosives location must ensure that –

(a) the scale plan of the workplace in respect of the explosives location is kept up to date; and

(b) the scale plan of the workplace (or a copy of it) is kept at the explosives location at all times; and

(c) an authorised officer can, on request, consult the scale plan of the workplace (or a copy of it) at the explosives location in the performance of the officer's duties; and

(d) the scale plan of the workplace (or a copy of it) is, on request, made readily available to an officer of any of the emergency services in an explosives emergency.

Penalty: Fine not exceeding 150 penalty units.

13. Manifest required for large explosives location

(1) If a large explosives location is a workplace in relation to which a manifest is required by regulation 347 of the Work Health and Safety Regulations 2022, the occupier of the large explosives location must ensure that the information required by Schedule 12 to those regulations to be contained in the manifest in relation to hazardous chemicals is included, in relation to explosives, in the manifest.

Penalty: Fine not exceeding 150 penalty units.

(2) If subregulation (1) does not apply in relation to a large explosives location, the occupier of the large explosives location must ensure that there is a manifest in respect of the workplace, in accordance with Schedule 12 to the Work Health and Safety Regulations 2022, that includes –

(a) in relation to explosives situated at the large explosives location, the information specified in that Schedule as required in relation to hazardous chemicals situated at the large explosives location; and

(b) in relation to hazardous chemicals situated at the large explosives location, the information specified in that Schedule as required in relation to hazardous chemicals situated at the large explosives location.

Penalty: Fine not exceeding 150 penalty units.

(3) If a manifest is required under subregulation (1) or (2) in relation to a large explosives location, the occupier of the large explosives location must ensure that –

(a) the manifest is kept up to date; and

(b) the manifest (or a copy of it) is kept at the large explosives location at all times; and

(c) an authorised officer can, on request, consult the manifest (or a copy of it) at the large explosives location in the performance of the officer's duties; and

(d) the manifest (or a copy of it) is, on request, made readily available to an officer of any of the emergency services in an explosives emergency.

Penalty: Fine not exceeding 150 penalty units.

14. Explosives not to be supplied to faulty handling system

(1) This regulation applies to a person if the person –

- (a) is engaged in, or about to begin, the process of supplying an explosive to a handling system; and
- (b) becomes aware of a fault in that system, (whether at the point of supply or elsewhere); and
- (c) knows or reasonably ought to know that, because of the fault, it would be unsafe to continue, or begin, to supply the explosive to the handling system.

(2) A person to whom this regulation applies must not continue, or begin, to supply the explosive to the faulty handling system.

Penalty: Fine not exceeding 50 penalty units.

(3) A person to whom this regulation applies must notify each of the following persons of the fault as soon as practicable after becoming aware of it:

- (a) the occupier of the facility at which the handling system is located;
- (b) an authorised officer.

Penalty: Fine not exceeding 10 penalty units.

(4) However –

- (a) subregulation (3)(a) does not apply if it was the occupier who made the person aware of the fault; and
- (b) subregulation (3)(b) does not apply if it was an authorised officer who made the person aware of the fault.

(5) Nothing in this regulation is to be taken as requiring the person to inspect the handling system for faults before supplying it with the explosive.

PART 3 - Authorisation of Explosives

15. Explosives not to be handled unless authorised

Except as permitted under a permit issued under regulation 21 , a person must not handle an explosive that is not an authorised explosive.
Penalty: Fine not exceeding 50 penalty units.

Note

This regulation relates specifically to the scheme for the safe handling of explosives set up under the Act. As such, it is in addition to and not in derogation of other laws of the State governing the possession and use of explosives. Nothing in this regulation exempts a person from the need to comply with such other laws. So, for example, a person handling an authorised explosive may also need to hold a permit under the Security-sensitive Dangerous Substances Act 2005 in respect of that handling.

16. How are explosives authorised?

- (1) The Secretary may authorise an explosive –
 - (a) on the Secretary's own initiative; or
 - (b) on the application of a person in accordance with regulation 112 .
- (2) However, the Secretary may only authorise an explosive if the Secretary is reasonably satisfied that it –
 - (a) has or could have a legitimate use in Tasmania; and
 - (b) should be available for or tested for such use; and
 - (c) can, with appropriate safeguards, be safely handled.
- (3) If the Secretary thinks it necessary to do so for a proper consideration of an application under subregulation (1)(b) , the Secretary may require the applicant to –
 - (a) perform, or arrange, further tests of the explosive; and
 - (b) provide the test results to the Secretary.
- (4) However, a requirement under subregulation (3) does not exempt the applicant or any other person from the other provisions of these regulations as they apply to the testing of the relevant explosive.

17. Determination of applications for authorisations

- (1) After considering an application under regulation 16(1)(b) to have an explosive authorised, the Secretary may –
 - (a) refuse the application; or
 - (b) approve the application.
- (2) If the application is refused, the Secretary is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (3) If the application is approved, the Secretary is to do the following as soon as practicable:
 - (a) determine the date on which the authorisation is to take effect (the *date of authorisation*);
 - (b) notify the applicant of the authorisation and the date of authorisation;
 - (c) make an appropriate entry in the register;
 - (d) publish the authorisation and date of authorisation in the *Gazette* and in any other way that the Secretary may think fit.
- (4) The Secretary is also to take the actions referred to in subregulation (3)(a) , (c) and (d) if authorising an explosive on the Secretary's own initiative under regulation 16(1)(a) .

18. Register of authorised explosives

- (1) In this regulation –

unrestricted part, of the register, means the entries that do not relate to the design, formulation or ingredients of explosives that are subject to the Security-sensitive Dangerous Substances Act 2005 .
- (2) The Secretary is to keep a register of authorised explosives.
- (3) The register is to be kept in the manner that the Secretary determines and, without limiting this –
 - (a) may be kept wholly or partly on computer; and
 - (b) may be linked to or integrated with similar registers kept under corresponding laws.
- (4) The Secretary may publish the unrestricted part of the register as the Secretary thinks fit.
- (5) However, the Secretary is to ensure that a person may inspect the unrestricted part of the register free of charge at the principal places where the public may transact business with the Department during the normal business hours for those principal places.

19. Duration of authorisations

The authorisation of an explosive under this Part remains in force until cancelled by the Secretary.

20. Cancellation of authorisations

- (1) The Secretary may cancel the authorisation of an explosive if the Secretary is reasonably satisfied that –
 - (a) the explosive no longer has a legitimate use in Tasmania; or
 - (b) the explosive cannot be safely handled even with appropriate safeguards; or
 - (c) the explosive is undergoing re-testing or re-evaluation, either in Tasmania or elsewhere; or
 - (d) the explosive is subject to a recall by its manufacturer or importer; or
 - (e) equivalent authorisations have been cancelled or suspended under corresponding laws; or
 - (f) the authorisation was given on the basis of false or questionable information; or
 - (g) there is another compelling justification for the cancellation.
- (2) The cancellation may be effected –
 - (a) on the Secretary's own initiative; or
 - (b) on the application of a person in accordance with regulation 112 .
- (3) In respect of an application under subregulation (2)(b) , the Secretary may –
 - (a) refuse the application; or
 - (b) approve the application.
- (4) If subregulation (3)(a) applies in respect of an application, the Secretary is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (5) If subregulation (3)(b) applies in respect of an application, the Secretary is to do the following as soon as practicable:
 - (a) determine the date on which the cancellation is to take effect;
 - (b) notify the applicant of the cancellation and the date on which the cancellation is to take effect;
 - (c) make a corresponding amendment to the register;
 - (d) publish the cancellation and date of cancellation in the *Gazette* and in any other way that the Secretary thinks fit.
- (6) The Secretary must also take the actions referred to in subregulation (5)(a) , (c) and (d) if cancelling the authorisation of an explosive on the Secretary's own initiative under subregulation (2)(a) .
- (7) An explosive that has had its authorisation cancelled under this regulation is not an authorised explosive.

21. Permits to handle unauthorised explosives

- (1) In this regulation –

reasonable period means a period of at least 7 clear days as specified by the Secretary.
- (2) A person may apply to the Secretary, in accordance with regulation 112 , for a permit to handle an unauthorised explosive.
- (3) The Secretary may –
 - (a) refuse the application; or
 - (b) approve the application on the conditions as to time, place, supervision, safety, security, scope of handling or otherwise that the Secretary thinks fit (the ***permit conditions***).
- (4) An application under subregulation (2) may not be approved unconditionally.
- (5) If the application is refused, the Secretary is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (6) If the application is approved, the following provisions apply:
 - (a) the Secretary is to notify the applicant as soon as practicable of the approval and the proposed permit conditions;
 - (b) if, within a reasonable period, the applicant agrees to the proposed permit conditions (or, failing that, the Secretary and applicant are able to agree on modified conditions), the Secretary is to –
 - (i) issue the applicant with a permit on the proposed (or, if applicable, modified) permit conditions; and
 - (ii) inform such other persons of the matter as the Secretary thinks fit;
 - (c) if, within a reasonable period, the applicant does not agree to the proposed permit conditions (or the Secretary and the applicant are unable to agree on modified conditions), the application is taken to have been refused at the end of that period and the procedure set out in subregulation (5) is to be followed.
- (7) A permit under this regulation –
 - (a) authorises its holder to handle an unauthorised explosive as specified in the permit; and
 - (b) comes into force as soon as it is issued; and

- (c) unless sooner cancelled or surrendered, continues in force until midnight of the expiry date determined by the Secretary and specified in the permit; and
 - (d) may, by notice to its holder, be varied by the Secretary at any time; and
 - (e) may, by notice to the Secretary, be surrendered at any time; and
 - (f) is not renewable or transferable.
- (8) The holder of a permit under this regulation must not contravene a condition of the permit.
Penalty: Fine not exceeding 50 penalty units.
- (9) The Secretary, by notice, may cancel a permit under this regulation at any time if the Secretary believes on reasonable grounds that –
- (a) the holder of the permit no longer requires it or can no longer demonstrate a legitimate need for it; or
 - (b) the unauthorised explosive cannot be safely handled even with appropriate safeguards; or
 - (c) the unauthorised explosive is undergoing re-testing or re-evaluation, either in Tasmania or elsewhere; or
 - (d) the unauthorised explosive is subject to a recall by its manufacturer or importer; or
 - (e) the cancellation is necessary or expedient in the interests of State security or public safety; or
 - (f) having regard to the criteria in Schedule 4 or other matters, the holder of the permit is not a fit and proper person to continue holding such a permit; or
 - (g) there is another compelling justification for cancellation.
- (10) However, the Secretary is not to cancel a permit solely on the ground referred to in subregulation (9)(e) except at the direction or with the express prior approval of the Minister administering either the Police Powers (Public Safety) Act 2005 or the Security-sensitive Dangerous Substances Act 2005 .
- (11) The notice under subregulation (9) is to inform the holder of the permit of –
- (a) the cancellation; and
 - (b) the reason for the cancellation; and
 - (c) when the cancellation takes effect; and
 - (d) the right of review.

PART 4 - Key Handling Obligations

22. Explosives not to be handled contrary to manufacturer's instructions

(1) A person must not handle explosives, including fireworks, contrary to the manufacturer's instructions for the explosives.

Penalty: Fine not exceeding 50 penalty units.

(2) It is a defence in proceedings for an offence under subregulation (1), in so far as the offence involves the manufacture of explosives, if the defendant establishes that –

- (a) the explosives were AN-based explosives; and
- (b) a mobile processing unit was used to manufacture the explosives; and
- (c) there was, at the relevant time, an inconsistency between AS 2187 and the MPU Code; and
- (d) the manufacturing was, to the extent of the inconsistency, done in accordance with the MPU Code.

23. Explosives not to be handled contrary to Relevant Standards

A person must not handle explosives, including fireworks, contrary to the Relevant Standards.

Penalty: Fine not exceeding 50 penalty units.

24. Explosives not to be directly handled near naked flames &c.

(1) Except as provided by subregulation (2), a person must not directly handle explosives, including fireworks, if the person is carrying a naked flame or another kind of exposed live ignition source.

Penalty: Fine not exceeding 50 penalty units.

(2) Subregulation (1) does not apply to a person who is using fireworks or safety fuses lawfully if the person is striking and using matches, or lighting and using tapers or other kinds of live ignition sources, in connection with the immediate firing of those fireworks or safety fuses.

25. Explosives not to be directly handled by smokers

A person must not directly handle explosives, including fireworks, if the person is smoking tobacco or another substance.

Penalty: Fine not exceeding 50 penalty units.

26. Explosives not to be directly handled by intoxicated or incapacitated persons

A person must not directly handle explosives, including fireworks, if the person is –

- (a) consuming or under the influence of intoxicating liquor; or
- (b) consuming or under the influence of an intoxicating drug or medication; or
- (c) by reason of any injury, illness or infirmity of which the person is aware, incapable of handling the explosives safely.

Penalty: Fine not exceeding 50 penalty units.

27. General explosives not to be displayed on retail premises

A person must not display general explosives on retail premises.

Penalty: Fine not exceeding 50 penalty units.

Note 1

General explosives are those explosives other than fireworks.

Note 2

See regulation 98 for retail display restrictions for fireworks.

28. General explosives not to be sold in public places

A person must not sell general explosives in a public place.

Penalty: Fine not exceeding 50 penalty units.

Note 1

General explosives are those explosives other than fireworks.

Note 2

Regulation 100 specifies that a person must not sell fireworks in a public place.

29. Maritime import and export – port controls

(1) In this regulation –

AS 3846 means Australian Standard AS 3846 – The handling and transport of dangerous cargoes in port areas, as from time to time amended;

port explosives limit means –

- (a) for a class 1.1, 1.2, 1.5 or 1.6 explosive, 200 kilograms or such other quantity, if any, set by the relevant port authority in accordance with AS 3846; and
- (b) for a class 1.3 explosive, 2 000 kilograms or such other quantity, if any, set by the relevant port authority in accordance with AS 3846; and
- (c) for a class 1.4 explosive, the quantity, if any, set by the relevant port authority;

recognised port means a port defined in regulation 4 of the Marine and Safety (Pilotage and Navigation) Regulations 2017 .

(2) A person importing or exporting explosives in any form, including fireworks, by sea must ensure that –

- (a) the explosives are imported or exported only through a recognised port; and
- (b) the explosives are handled in accordance with AS 3846.

Penalty: Fine not exceeding 50 penalty units.

(3) The port authority for a recognised port must ensure that –

- (a) explosives imported or exported through the port are handled in accordance with AS 3846; and
- (b) the total quantity of explosives within the precincts of the port does not at any time exceed –
 - (i) the port explosives limit; or
 - (ii) a higher limit, if any, that the Secretary, after consulting the port authority, may have approved.

Penalty: Fine not exceeding 50 penalty units.

(4) To determine whether to give an approval under subregulation (3)(b)(ii) , the Secretary may require a report from the port authority that –

- (a) identifies and assesses the risks, if any, of approving the higher limit; and
- (b) indicates how those risks can be most effectively and prudently managed and, if possible, mitigated; and
- (c) contains such technical data, expert evaluations and other material as the Secretary, by the requirement, may specify.

PART 5 - Manufacture and Storage

30. Mobile processing units used in manufacture of AN-based explosives not to be left unattended

A person using a mobile processing unit to manufacture AN-based explosives must not, without reasonable excuse, leave the controls of the mobile processing unit unattended at any time.

Penalty: Fine not exceeding 50 penalty units.

31. Safety cartridges not to be filled or capped away from manufacturing facility if certain risks present

A person must not fill or cap safety cartridges at any place other than a manufacturing facility if, at the relevant time –

- (a) there is a naked flame or other exposed live ignition source at that place; or
- (b) there are more than 2 kilograms of propellant at that place.

Penalty: Fine not exceeding 50 penalty units.

32. Explosives to be kept in AEC-marked containers

(1) A person who manufactures explosives, including fireworks, at any place must ensure that the explosives are packed and marked in accordance with the Australian Explosives Code.

Penalty: Fine not exceeding 50 penalty units.

(2) It is a defence in proceedings for an offence under subregulation (1) if the defendant establishes that, at the relevant time –

- (a) the relevant explosives had only just been manufactured and were in the process of being packed and marked in accordance with the Australian Explosives Code; or
- (b) the relevant explosives were being subjected to a secondary manufacturing or finishing process; or
- (c) the relevant explosives were in the process of being transferred from one container to another; or
- (d) a hazard, dangerous situation or explosives emergency made it difficult, impracticable or impossible to comply with that subregulation.

33. What is an approved magazine?

(1) In this regulation –

container does not include a container, of the kind commonly known as a "day box", that is used to hold and move explosives at and about the firing site on the day on which the explosives are intended to be used.

(2) For these regulations, an approved magazine is any fixed or portable structure or container that –

- (a) is specifically designed or adapted, in accordance with AS 2187.1, for the safe storage of explosives; and
- (b) has at least one placard clearly bearing the word "EXPLOSIVES" conspicuously displayed on an external surface of the magazine; and
- (c) is constructed and maintained in accordance with AS 2187.1; and
- (d) is secured against unauthorised access; and
- (e) is not sited or placed next to or among any combustible or flammable material; and
- (f) is not used for any purpose other than the safe storage of explosives.

34. Places to be placarded if explosives present

(1) In this regulation –

class label, of an explosive, means its class label within the meaning of the Australian Explosives Code or Australian Dangerous Goods Code;

fireworks does not include Type 2 fireworks that are lawfully purchased and held in readiness for a fireworks display for which a fireworks display permit has been issued under regulation 87 .

Note

These regulations do not apply to Type 1 fireworks as they are exempt explosives.

(2) This regulation applies to a place if there are explosives, including fireworks, at the place.

(3) The occupier of a place to which this regulation applies must ensure that, while the explosives are at the place –

- (a) at least one placard clearly bearing the word "HAZCHEM", and the class label of the explosives, is conspicuously displayed at each public and private entrance to the place; and
- (b) each magazine used in connection with the explosives at the place is placarded and marked in accordance with AS 2187.1.

Penalty: In the case of –

- (a) an offence committed in respect of an explosives location, 150 penalty units; or
- (b) for any other offence, 50 penalty units.

35. Explosives to be secured on day of firing &c.

(1) This regulation applies to a person who takes possession of general explosives on any day in order to fire them on that day (the *firing day*).

Note

General explosives are those explosives other than fireworks.

(2) A person to whom this regulation applies must not leave the explosives unattended on the firing day except to the extent that may be necessary for safety before they are fired.

Penalty: Fine not exceeding 50 penalty units.

(3) If a person to whom this regulation applies decides not to fire all of the explosives on the firing day or is for any reason prevented from doing so, the person must ensure that –

(a) explosives not already fired or placed for firing are transferred to an approved magazine as soon as practicable for overnight storage; and

(b) explosives already placed for firing are, if it is safe and practicable to do so, retrieved and transferred to an approved magazine for overnight storage; and

(c) if it is unsafe or impracticable to retrieve any explosives already placed for firing, the perimeter of the firing site is secured overnight against unauthorised access.

Penalty: Fine not exceeding 50 penalty units.

(4) It is a defence in proceedings for an offence under this regulation if the defendant establishes that, on the relevant day –

(a) the defendant only took possession of the relevant explosives in the capacity of an employee or trainee; and

(b) the act or omission comprising the offence was done at the direction of, or with the express or implied consent of, the defendant's employer or supervisor.

PART 6 - Defective Explosives

36. Sale of defective explosives

(1) A person must not sell explosives, including fireworks, that the person knows, or reasonably ought to know, are defective.

Penalty: Fine not exceeding 50 penalty units.

(2) For subregulation (1), an explosive is taken to be defective if it –

(a) is, either by means of specific notice to the seller or general notice to the Tasmanian or Australian public, subject to a recall by its manufacturer or importer; or

(b) is likely to, in attempted use, fail to detonate; or

(c) failed to detonate on a previous attempt to detonate it; or

(d) forms part of the same batch of explosives as an explosive that, in attempted use, has failed to detonate; or

(e) is (though not in use) leaking, smoking or sweating; or

(f) is incorrectly labelled or packaged; or

(g) has labels that (though seemingly correct) are faded, stained, discoloured, damaged or difficult to read; or

(h) is in any way damaged or contaminated, or forms part of a batch of explosives that is in any way damaged or contaminated.

37. Dealing with defective explosives

(1) In this regulation –

defective, in relation to an explosive, has the same meaning as in regulation 36 .

(2) This regulation applies to a person if the person knows or suspects that any explosives in the person's possession or control, including fireworks, are defective.

(3) A person to whom this regulation applies must –

(a) do whatever can be safely and reasonably done in the circumstances to secure the suspected defective explosive; and

(b) issue warnings and do whatever else can be safely and reasonably done in the circumstances to ensure the immediate safety of persons; and

(c) do whatever can be safely and reasonably done in the circumstances to deal with any hazard and prevent or minimise any risk of material harm or serious harm occurring; and

(d) warn an authorised officer of the defect; and

(e) as soon as practicable, warn the explosives' supplier and manufacturer of the defect.

Penalty: Fine not exceeding 50 penalty units.

PART 7 - Records

38. Import records

(1) In this regulation –

consignor means the person (other than the shipper, freighter or transporter) from whom explosives being imported have been purchased or obtained;

EIR means explosives import record, being a record in an approved form relating to the importation of an explosive.

(2) This regulation applies to all explosives, including fireworks, other than those classified as Class 1.6 under the Australian Dangerous Goods Code.

Note

Class 1.6 explosives under the Australian Dangerous Goods Code are articles that are extremely insensitive and do not have a mass explosion hazard.

(3) A person must not import an explosive to which this regulation applies unless, at least 7 clear days before the explosive arrives in Tasmania, the person has –

- (a) prepared an EIR in respect of the importation; and
- (b) given the Secretary a copy of that EIR.

Penalty: Fine not exceeding 25 penalty units.

(4) A person who prepares an EIR pursuant to subregulation (3) must –

- (a) keep the EIR (or a copy of it) for at least 5 years; and
- (b) during those 5 years, produce the EIR (or a copy of it) on demand for inspection by any authorised officer.

Penalty: Fine not exceeding 25 penalty units.

39. Export records

(1) In this regulation –

consignee means the person taking immediate delivery of explosives following the export of the explosives;

EER means explosives export record, being a record in an approved form relating to the exportation of an explosive.

(2) This regulation applies to all explosives, including fireworks, other than those classified as Class 1.6 under the Australian Dangerous Goods Code.

Note

Class 1.6 explosives under the Australian Dangerous Goods Code are articles that are extremely insensitive and do not have a mass explosion hazard.

(3) A person must not export an explosive to which this regulation applies unless, at least 7 clear days before the explosive leaves Tasmania, the person has –

- (a) prepared an EER in respect of the exportation; and
- (b) given the Secretary a copy of that EER.

Penalty: Fine not exceeding 25 penalty units.

(4) A person who prepares an EER pursuant to subregulation (3) must –

- (a) keep the EER (or a copy of it) for at least 5 years; and
- (b) during those 5 years, produce the EER (or a copy of it) on demand for inspection by any authorised officer.

Penalty: Fine not exceeding 25 penalty units.

40. Purchase records

(1) In this regulation –

intermediary means a carrier, factor, wholesaler or distributor.

(2) A person who purchases explosives, including fireworks, must record, in an approved form, the following particulars about the purchase:

- (a) the date of purchase;
- (b) the date of delivery;
- (c) the name and address of the seller;
- (d) the name and address of each known intermediary (if any);
- (e) the type of explosives;
- (f) the quantity purchased;
- (g) the quantity delivered;
- (h) if applicable, an explanation of any discrepancy between the quantities specified under paragraphs (f) and (g).

Penalty: Fine not exceeding 25 penalty units.

(3) A person who makes a record under subregulation (2) must –

- (a) keep the record (or a copy of it) for –
 - (i) if the purchase is solely of Type 2 fireworks, at least 12 months; or
 - (ii) in the case of any other purchase, at least 5 years; and
- (b) in the relevant period specified in paragraph (a), produce the record (or a copy of it) on demand for inspection by any authorised officer.

Penalty: Fine not exceeding 25 penalty units.

- (4) A person who purchases explosives, including fireworks, must –
 - (a) obtain from the seller a receipt for the purchase; and
 - (b) keep the receipt (or a copy of it) for –
 - (i) if the purchase is solely of Type 2 fireworks, at least 12 months; or
 - (ii) in the case of any other purchase, at least 5 years; and
 - (c) in the relevant period specified in paragraph (b), produce the receipt (or a copy of it) on demand for inspection by any authorised officer.

Penalty: Fine not exceeding 25 penalty units.

- (5) It is a defence in proceedings for an offence under subregulation (4) if the defendant establishes that –
 - (a) the defendant made a reasonable attempt to obtain the required receipt; and
 - (b) despite that attempt, the seller failed to provide the defendant with that receipt.

41. Sales records

- (1) A person who sells explosives, including fireworks, must record the particulars about the sale in an approved form.
Penalty: Fine not exceeding 25 penalty units.

- (2) A person who makes a record pursuant to subregulation (1) must –
 - (a) keep the record (or a copy of it) for –
 - (i) if the sale is solely of Type 2 fireworks, at least 12 months; or
 - (ii) in the case of any other sale, at least 5 years; and
 - (b) in the relevant period specified in paragraph (a), produce the record (or a copy of it) on demand for inspection by any authorised officer.

Penalty: Fine not exceeding 25 penalty units.

- (3) A person who sells explosives, including fireworks, must –
 - (a) issue the purchaser with a receipt for the sale; and
 - (b) keep a copy of the receipt for –
 - (i) if the sale is solely of Type 2 fireworks, at least 12 months; or
 - (ii) in the case of any other sale, at least 5 years; and
 - (c) in the relevant period specified in paragraph (b), produce the copy of the receipt on demand for inspection by any authorised officer.

Penalty: Fine not exceeding 25 penalty units.

PART 8 - Shot-firing

Division 1 - Interpretation

42. What is shot-firing?

For these regulations, shot-firing means doing either or both of the following:

- (a) priming explosives;
- (b) firing explosives.

43. Categories of shot-firing

For these regulations, there are taken to be 8 categories of shot-firing as follows:

- (a) category 1: underground shot-firing (being the shot-firing involved in tunnelling or in underground or undersea mining);
- (b) category 2: surface shot-firing (being the shot-firing involved in above-ground quarrying, road construction and open-cut mining);
- (c) category 3: structural shot-firing (being the shot-firing involved in building construction, building demolition and civil engineering work, but with no underground component beyond open excavations of the kind typically required for such things as building foundations, dam or canal construction or highway sidings or underpasses);
- (d) category 4: pyrotechnical shot-firing (being the shot-firing involved in firing fireworks in fireworks displays);
- (e) category 5: special events shot-firing (being the shot-firing involved in firing cannon or like ordnance at tourism venues or historical re-enactments or musical or theatrical performances);
- (f) category 6: agrarian shot-firing (being the shot-firing involved in land clearing or other agricultural or forestry operations);
- (g) category 7: exploratory shot-firing (being the shot-firing involved in geological exploration or in seismological, paleontological or other scientific research or experimentation);
- (h) category 8: special operations shot-firing (being shot-firing not covered by any other category of shot-firing).

Division 2 - Shot-firers

44. Only certain shot-firers may prime or fire explosives

- (1) A person must not do shot-firing of any category unless –
 - (a) the person holds a shot-firing permit that is endorsed for that category of shot-firing; or
 - (b) the person –
 - (i) holds an interstate shot-firing authority that is valid for that category of shot-firing; and
 - (ii) has complied with regulation 54 in respect of the shot-firing; or
 - (c) the shot-firing is a requirement of an accredited shot-firing course and the person –
 - (i) is undergoing training in that category of shot-firing in that course; and
 - (ii) has approval under regulation 68 to undergo such training.

Penalty: Fine not exceeding 50 penalty units.

(2) Subregulation (1) does not apply to a person who is priming or firing Type 2 fireworks in accordance with a fireworks display permit issued under regulation 87 .

45. Shot-firing permits

- (1) In this regulation –

reasonable period means a period of at least 7 days as specified by the Secretary.
- (2) An adult may apply to the Secretary, in accordance with regulation 112 , for a shot-firing permit.
- (3) In addition to the requirements of regulation 112 , an application under subregulation (2) must specify each category of shot-firing for which endorsement is sought.
- (4) The Secretary may –
 - (a) refuse an application under subregulation (2) ; or
 - (b) approve an application under subregulation (2) on the conditions, if any, that the Secretary thinks fit (the *permit conditions*).
- (5) However, the Secretary must not approve the application unless satisfied that the applicant –
 - (a) has satisfactorily completed an accredited shot-firing course in each category of shot-firing for which endorsement is sought; or
 - (b) has satisfactorily completed, in another State, a course in shot-firing of substantially the same kind and standard as an accredited shot-firing course in each category of shot-firing for which endorsement is sought; or
 - (c) is authorised under a corresponding law to do shot-firing of each category for which endorsement is sought.
- (6) Also, the Secretary must not approve the application unless satisfied that the applicant –
 - (a) is an adult; and

- (b) has legitimate need of the permit; and
 - (c) is, having regard to Schedule 4 and any other matters that the Secretary considers relevant, a fit and proper person to be a shot-firer.
- (7) If the application is refused, the Secretary is to notify the applicant as soon as practicable of –
- (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (8) If the application is approved unconditionally, the Secretary is to issue the applicant with the permit as soon as practicable.
- (9) If the application is approved conditionally, the following provisions apply:
- (a) the Secretary is to notify the applicant as soon as practicable of the approval and the proposed permit conditions;
 - (b) if, within a reasonable period, the applicant agrees to the proposed permit conditions (or, failing that, the Secretary and the applicant are able to agree on modified conditions), the Secretary is to –
 - (i) issue the applicant with the shot-firing permit on the proposed (or, if applicable, amended) permit conditions; and
 - (ii) inform such other persons of the matter as the Secretary thinks fit;
 - (c) if, within a reasonable period, the applicant does not agree to the proposed permit conditions (or the Secretary and the applicant are unable to agree on modified conditions), the application is taken to have been refused at the end of that period and the procedure set out in subregulation (7) is to be followed.

46. Multiple endorsements

- (1) This regulation applies to an application under regulation 45 if –
- (a) the applicant is seeking a shot-firing permit with more than one endorsement; and
 - (b) the Secretary is disposed to approve the application as regards some but not all of those endorsements.
- (2) Before refusing an application to which this regulation applies, the Secretary may ask the applicant whether the applicant agrees to the application being modified so as to exclude those endorsements that are likely to trigger a refusal.
- (3) If the applicant so agrees to the modification of an application to which this regulation applies –
- (a) the Secretary may determine the application under regulation 45 as if it were so modified; but
 - (b) the applicant has no right of review in respect of the endorsements that the applicant has agreed to have excluded from the application.

47. General nature of shot-firing permits

- (1) A shot-firing permit –
- (a) authorises its holder to do, subject to its conditions, shot-firing of each category endorsed on the permit; and
 - (b) comes into force when it is issued; and
 - (c) unless sooner cancelled or surrendered, continues in force for 3 years from the date of its issue or a shorter period from that date agreed by its holder and the Secretary; and
 - (d) is not transferable.
- (2) The holder of a shot-firing permit must not contravene a condition of the permit.
Penalty: Fine not exceeding 50 penalty units.

48. Renewal of permits

- (1) The holder of a shot-firing permit may apply to the Secretary, in accordance with regulation 112, for its renewal.
- (2) An application under subregulation (1) –
- (a) is to be lodged no later than one month (but no sooner than 3 months) before the permit is due to expire; and
 - (b) may be made even if the permit is suspended.
- (3) If the application is lodged after the end of the period specified in subregulation (2)(a), the Secretary in his or her absolute discretion may still accept it if –
- (a) the permit has not expired; and
 - (b) the applicant pays the prescribed late fee.
- (4) The Secretary may –
- (a) refuse the application; or
 - (b) approve the application.
- (5) For the purposes of subregulation (4), the Secretary may have regard to any matter to which the Secretary could or would be required to have regard if the application for renewal were an application under regulation 45.
- (6) If the application is refused, the Secretary is to notify the applicant as soon as practicable of –
- (a) the refusal; and
 - (b) the reason for the refusal; and

- (c) the right of review.
- (7) If the application is approved, the Secretary –
 - (a) is to notify the applicant of the approval as soon as practicable; and
 - (b) may issue the applicant with a new permit document.
- (8) If the application is not determined before the day on which the permit would otherwise expire, the permit is taken to continue in force until whichever of the following first occurs:
 - (a) the 2-month period immediately following that day expires;
 - (b) the permit is renewed or its renewal is refused.

49. Surrender of permits or endorsements

- (1) The holder of a shot-firing permit may, at any time by notice to the Secretary or an authorised officer, surrender the permit or an endorsement on the permit.
- (2) If the surrender is made through an authorised officer, the authorised officer is to notify the Secretary of it as soon as practicable.
- (3) The permit or endorsement has no surrender value.
- (4) If only an endorsement is surrendered, the Secretary may issue the holder of the permit with an amended permit document.
- (5) The surrender of all the endorsements on a shot-firing permit constitutes the surrender of the entire permit.

50. Variation of permits

- (1) The Secretary may vary a shot-firing permit at any time by –
 - (a) adding new conditions; or
 - (b) varying or removing existing conditions.
- (2) The variation may be effected –
 - (a) consequent on an application made by the holder of the permit in accordance with regulation 112 ; or
 - (b) on the Secretary's own initiative, for reasonable cause, after consulting the holder of the permit.
- (3) Without limiting what may be relevant for subregulation (2)(b) , the Secretary may have regard to the scope, rigorousness and practicality of the existing permit conditions by reference to such things as –
 - (a) developments in shot-firing technology or practice; and
 - (b) the field experiences of any shot-firers; and
 - (c) changes in the law, or in any relevant code or standard, having implications for shot-firing; and
 - (d) changes in the State's security environment having implications for shot-firing; and
 - (e) changes in the scope or nature of any relevant category of shot-firing; and
 - (f) workplace safety issues; and
 - (g) permit compliance issues; and
 - (h) matters raised by councils, industry or explosives manufacturers.
- (4) If a person applies for a variation under subregulation (2)(a) and the application is refused, the Secretary is to notify the applicant of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (5) If a person applies for a variation under subregulation (2)(a) and the application is approved, the Secretary is to notify the applicant of the approval, the variation and when the variation is to take effect.
- (6) If subregulation (2)(b) applies to a variation of a permit, the Secretary is to notify the holder of the permit of –
 - (a) the variation; and
 - (b) the reason for the variation; and
 - (c) when the variation is to take effect; and
 - (d) if the variation has the effect of making the permit more restrictive, the right of review.
- (7) The variation of a shot-firing permit under this regulation takes effect –
 - (a) when the holder of the permit is notified of the variation; or
 - (b) at such later time as the Secretary, by the notice, specifies.
- (8) If the conditions of a shot-firing permit are varied, the Secretary may issue the holder of the permit with an amended permit document.
- (9) To avoid doubt, this regulation does not authorise the addition, variation or removal of any endorsement.

51. Additional endorsements

- (1) In this regulation –
 - reasonable period* means a period of at least 7 days as specified by the Secretary.

- (2) The holder of a shot-firing permit may apply to the Secretary for an additional endorsement.
- (3) The provisions of regulation 45(3), (4), (5), (6) and (7) and regulation 46 apply, with the necessary modifications, to the application.
- (4) If the application is approved unconditionally, the Secretary is to issue the applicant with an amended permit with the additional endorsement as soon as practicable.
- (5) If the application is approved conditionally, the following provisions apply:
 - (a) the Secretary is to notify the applicant as soon as practicable of the approval and the proposed permit conditions;
 - (b) if, within a reasonable period, the applicant agrees to the proposed permit conditions (or, failing that, the Secretary and the applicant are able to agree on modified permit conditions), the Secretary is to –
 - (i) issue the applicant with an amended shot-firing permit with the additional endorsement on the proposed (or, if applicable, modified) permit conditions; and
 - (ii) inform such other persons of the matter as the Secretary thinks fit;
 - (c) if, within a reasonable period, the applicant does not agree to the proposed permit conditions (or the Secretary and the applicant are unable to agree on modified permit conditions), the application is taken to have been refused at the end of that period and the procedure set out in regulation 45(7) is to be followed.

52. Cancellation of endorsements

- (1) This regulation applies to a shot-firing permit with more than one endorsement.
- (2) The Secretary, by notice to the holder of a shot-firing permit to which this regulation applies, may cancel any of the endorsements on the permit if the Secretary believes on reasonable grounds that –
 - (a) the holder of the permit no longer requires that specific endorsement or can no longer demonstrate a legitimate need for it; or
 - (b) the conditions of the permit have been contravened in a material or sustained way as regards that specific endorsement; or
 - (c) there is another compelling justification for the cancellation.
- (3) However, the Secretary's power under this regulation is not capable of being exercised so as to cancel every endorsement on a shot-firing permit to which this regulation applies.
- (4) The cancellation of an endorsement on a shot-firing permit under this regulation takes effect –
 - (a) when the holder of the permit is notified of it under subregulation (2); or
 - (b) at a later time specified in the notice.
- (5) A notice under subregulation (2) is to inform the holder of the permit of –
 - (a) the cancellation of the endorsement; and
 - (b) the reason for the cancellation; and
 - (c) when the cancellation takes effect; and
 - (d) the right of review.

53. Cancellation and suspension of permits

- (1) The Secretary, by notice to the holder of a shot-firing permit, must –
 - (a) suspend the shot-firing permit if the holder of the permit is charged with a terrorism offence or a crime; and
 - (b) cancel the shot-firing permit if the holder of the permit is convicted of a terrorism offence or a crime.
- (2) The Secretary, by notice to the holder of a shot-firing permit, may cancel or suspend the shot-firing permit at any time if the Secretary believes on reasonable grounds that –
 - (a) the holder of the permit no longer requires it or can no longer demonstrate a legitimate need for it; or
 - (b) it is necessary or expedient to do so in the interests of State security or public safety; or
 - (c) the conditions of the permit have been contravened in a material or sustained way; or
 - (d) the holder of the permit has done shot-firing of a category not endorsed on the permit; or
 - (e) having regard to the criteria in Schedule 4 or other matters, the holder of the permit is no longer a fit and proper person to hold such a permit; or
 - (f) there is another compelling justification for the cancellation or suspension.
- (3) However, the Secretary is not to cancel a shot-firing permit solely on the ground referred to in subregulation (2)(b) except at the direction or with the express prior approval of the Minister administering either the Police Powers (Public Safety) Act 2005 or the Security-sensitive Dangerous Substances Act 2005.
- (4) In deciding whether cancellation or suspension is the more appropriate course of action in the circumstances, the Secretary is to regard State security and public safety as the paramount considerations rather than the rights and convenience of the holder of the shot-firing permit.
- (5) The cancellation or suspension of a permit under this regulation takes effect –
 - (a) when the holder of the permit is notified of it; or
 - (b) at a later time specified in the notice.
- (6) A notice of cancellation or suspension under subregulation (1) or (2) is to inform the holder of the permit of –

- (a) the cancellation or suspension; and
 - (b) the reason for the cancellation or suspension; and
 - (c) when the cancellation or suspension takes effect; and
 - (d) the right of review; and
 - (e) in the case of suspension, any conditions that must be met before the Secretary will consider revoking the suspension.
- (7) The Secretary, by notice to the holder of a shot-firing permit, may revoke the suspension of the shot-firing permit at any time.
- (8) Except for the purposes of an application for its renewal, a shot-firing permit has no force or effect while it is suspended.
- (9) The cancellation or suspension of a person's shot-firing permit has the automatic effect of cancelling or correspondingly suspending the person's accreditation, if any, as a shot-firing instructor.
- (10) The Secretary may give such persons as the Secretary thinks fit such notice of the cancellation or suspension of a shot-firing permit as the Secretary thinks fit.

54. Recognition of interstate shot-firers

- (1) In this regulation –
- interstate authority*** means a shot-firing authority that –
- (a) is issued by, and is valid in, an interstate jurisdiction; and
 - (b) entitles the holder, in Tasmania, to automatic deemed registration within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth.
- (2) A person who intends to carry out shot-firing under the authority of an interstate authority must notify the Secretary of the following details at least 21 days before the person intends to undertake the shot-firing in Tasmania:
- (a) the person's intention to carry out shot-firing in Tasmania;
 - (b) the details of the shot-firing authority that entitles the person to automatic deemed registration within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;
 - (c) the particulars of the shot-firing jobs that the person intends, or has contracted, to do in Tasmania;
 - (d) if known, the dates or periods, on or during which the applicant intends to do shot-firing in Tasmania.
- (3) A notification under subregulation (2) must –
- (a) be in an approved form; and
 - (b) be accompanied by –
 - (i) a copy of the shot-firing authority to which the notification relates; and
 - (ii) such evidence or information that the Secretary requires, either at the time of notification or subsequently; and
 - (iii) the relevant prescribed fee.
- (4) A person who holds an interstate authority must not carry out shot-firing under the interstate authority unless –
- (a) the interstate authority is valid at the time when the shot-firing is carried out; and
 - (b) the shot-firing is within the scope of the authority of the interstate authority.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 50 penalty units; and
 - (b) a natural person, a fine not exceeding 30 penalty units.
- (5) For the purposes of this regulation, the Secretary may liaise with and report any relevant matters to the authorities responsible, under the relevant corresponding law, for interstate authorities.

PART 9 - Shot-firer Training

55. Interpretation

In this Part –

direct includes –

- (a) cause, order and require; and
- (b) induce by means of any threat or reward;

organise, a shot-firing course, means –

- (a) to establish, maintain or administer the course or any part of it; or
- (b) to pay (otherwise than by means of personal attendance fees or levies) for the establishment, maintenance or administration of the course or any part of it;

shot-firing course means a course of training in a category of shot-firing;

trainee means the natural person who, in a shot-firing course, receives the actual training;

trainer means the natural person who, in a shot-firing course, provides the actual training;

training includes –

- (a) the provision of theoretical instruction; and
- (b) the assessment of trainees.

56. Shot-firing courses to be accredited

(1) A person must not organise a shot-firing course unless the course is accredited.

Penalty: Fine not exceeding –

- (a) for a body corporate, 50 penalty units; or
- (b) for an individual, 30 penalty units.

(2) However, a person does not commit an offence under subregulation (1) merely by –

- (a) planning a shot-firing course; or
- (b) making preliminary arrangements for a shot-firing course for which accreditation has been sought but not yet refused.

(3) A person must not claim that a shot-firing course is accredited if it is not so accredited.

Penalty: Fine not exceeding –

- (a) for a body corporate, 50 penalty units; or
- (b) for an individual, 30 penalty units.

57. Key obligations of persons imposing training requirements

(1) This regulation applies to a person if the person directs anyone to –

- (a) provide training in shot-firing of any category; or
- (b) receive training in shot-firing of any category.

(2) If subregulation (1)(a) applies to a person, the person giving the direction must ensure that –

- (a) the training is provided through an accredited shot-firing course of the relevant category; and
- (b) when the training is provided –
 - (i) the recipient of the direction is an accredited shot-firing instructor of the relevant category; and
 - (ii) the trainee has the necessary approval under regulation 68 .

Penalty: Fine not exceeding –

- (a) for a body corporate, 50 penalty units; or
- (b) for an individual, 30 penalty units.

(3) If subregulation (1)(b) applies to a person, the person giving the direction must ensure that, if the recipient of the direction agrees to the training, the recipient –

- (a) receives the training through an accredited shot-firing course of the relevant category, from a trainer who is an accredited shot-firing instructor of the relevant category; and
- (b) has, when the training is actually received, the necessary approval under regulation 68 .

Penalty: Fine not exceeding –

- (a) for a body corporate, 50 penalty units; or
- (b) for an individual, 30 penalty units.

58. Key personal obligations of shot-firing instructors

A person must not train anyone in shot-firing of any category unless –

- (a) the person is an accredited shot-firing instructor of the relevant category; and
- (b) the person has verified that the trainee has the necessary approval under regulation 68 ; and
- (c) the training is provided through an accredited shot-firing course of the relevant category.

Penalty: Fine not exceeding 30 penalty units.

59. Key personal obligations of shot-firing trainees

- (1) A person must not accept training in shot-firing of any category except –
 - (a) through an accredited shot-firing course of the relevant category; and
 - (b) from an accredited shot-firing instructor of the relevant category.

Penalty: Fine not exceeding 30 penalty units.

Note

The trainee must also comply with regulation 68 .

- (2) It is a defence in any proceedings for an offence under subregulation (1) if the defendant establishes that the defendant made all reasonable enquiries to ensure that the course, and instructor, were accredited for the relevant category.

60. Accreditation

- (1) In this regulation –
 - reasonable period* means a period of at least 7 days as specified by the Secretary.
- (2) A corporation or other person wishing to organise a shot-firing course may apply to the Secretary, in accordance with regulation 112 , for the accreditation of that course.
- (3) A natural person wishing or required to train anyone in shot-firing of any category may apply to the Secretary, in accordance with regulation 112 , for accreditation as a shot-firing instructor.
- (4) The Secretary may –
 - (a) refuse an application under this regulation; or
 - (b) approve an application under this regulation on the conditions, if any, that the Secretary thinks fit (the *accreditation conditions*).
- (5) If an application under this regulation is refused, the Secretary is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (6) If an application under this regulation is approved unconditionally, the Secretary is to do the following as soon as practicable:
 - (a) accredit the shot-firing course or shot-firing instructor;
 - (b) issue the applicant with a certificate of accreditation.
- (7) A certificate of accreditation issued under subregulation (6)(b) or (8)(b)(ii) –
 - (a) is to be in the approved form; and
 - (b) must specify the category of shot-firing for which the accreditation is valid.
- (8) If an application under this regulation is approved conditionally, the following provisions apply:
 - (a) the Secretary is to notify the applicant as soon as practicable of the approval and the proposed accreditation conditions;
 - (b) if, within a reasonable period, the applicant agrees to the proposed accreditation conditions (or, failing that, the Secretary and the applicant are able to agree on modified accreditation conditions), the Secretary is to –
 - (i) accredit the shot-firing course or shot-firing instructor; and
 - (ii) issue the applicant with a certificate of accreditation; and
 - (iii) inform such other persons of the matter as the Secretary thinks fit;
 - (c) if, within a reasonable period, the applicant does not agree to the proposed accreditation conditions (or the Secretary and the applicant are unable to agree on modified accreditation conditions), the application is taken to have been refused at the end of that period and the procedure set out in subregulation (5) is to be followed.

61. Matters relevant to grant of accreditation

- (1) The matters that the Secretary may take into account in deciding whether or not to approve an application, under regulation 60(2) , for the accreditation of a shot-firing course include the following:
 - (a) whether there is legitimate demand or need for the course with particular regard to the immediate and longer-term operational and commercial skill requirements of relevant industries;
 - (b) the aim and scope of the course and the standard of its practical and theoretical content;
 - (c) the standard of course material and protocols, with particular regard to supervision, explosives security, trainee and instructor safety and hazard management;
 - (d) the scale, duration and locale of the course;
 - (e) the impact and likely level of disturbance on or to any person, property or enterprise;

- (f) the availability of suitably qualified shot-firing instructors of the relevant category;
 - (g) the nature and standard of the course assessment process;
 - (h) the provisions of any codes of practice relevant to shot-firing competencies or training of the relevant category;
 - (i) the applicant's safety and compliance record, if any, in relation to shot-firing or other workplace training and occupational health and safety matters;
 - (j) the applicant's record, if any, in complying with the Act and allied Acts.
- (2) The matters that the Secretary may take into account in deciding whether or not to approve an application, under regulation 60(3) , for accreditation as a shot-firing instructor include the following:
- (a) the applicant's qualifications and record in shot-firing and shot-firing training (either generally or as regards any category of shot-firing);
 - (b) the staffing and instructional needs of any shot-firing course of the relevant category that is, or is soon likely to be, accredited;
 - (c) the provisions of any codes of practice relevant to shot-firing competencies or training of the relevant category.
- (3) The Secretary must not accredit a person as a shot-firing instructor for any category of shot-firing if the person is not –
- (a) an adult; and
 - (b) the holder of –
 - (i) a shot-firing permit with an endorsement of the same category; or
 - (ii) a certificate of recognition under regulation 54 , being recognition that is valid for the same category; and
 - (c) in the reasonable opinion of the Secretary having regard to Schedule 4 , a fit and proper person to be a shot-firing instructor.

62. General nature of accreditation

- (1) In the case of a shot-firing course, an accreditation –
- (a) authorises its holder to organise the course in accordance with the conditions, if any, of the accreditation; and
 - (b) to avoid doubt, does not authorise its holder (if a natural person) to provide any of the actual training; and
 - (c) comes into force when it is granted; and
 - (d) unless sooner cancelled or forfeited, continues in force for 3 years from the date of its issue or for such shorter period from that date as its holder and the Secretary may agree; and
 - (e) is renewable from time to time.
- (2) In the case of a shot-firing instructor, an accreditation –
- (a) authorises its holder to provide training in shot-firing of the category specified in the certificate of accreditation (in accredited shot-firing courses) in accordance with the conditions, if any, of the course accreditation; and
 - (b) comes into force when it is granted; and
 - (c) unless sooner cancelled or forfeited, continues in force for 3 years from the date of its issue or for such shorter period from that date as its holder and the Secretary may agree; and
 - (d) is renewable from time to time.
- (3) The holder of an accreditation must not contravene a condition of the accreditation.
- Penalty: Fine not exceeding –
- (a) for a body corporate, 50 penalty units; or
 - (b) for an individual, 30 penalty units.

63. Renewal of accreditation

- (1) A person holding accreditation may apply to the Secretary, in accordance with regulation 112 , for its renewal.
- (2) An application under subregulation (1) –
- (a) is to be lodged no later than 7 days (but no sooner than 3 months) before the accreditation is due to expire; and
 - (b) may be made even if the accreditation is suspended.
- (3) If the application is lodged after the end of the period specified in subregulation (2)(a) , the Secretary in his or her absolute discretion may still accept the application if –
- (a) the accreditation has not expired; and
 - (b) the applicant pays the prescribed late fee.
- (4) The Secretary may –
- (a) refuse the application; or
 - (b) approve the application.
- (5) For the purposes of subregulation (4) , the Secretary may have regard to any matter to which the Secretary may, or must, be required to have regard if the application for renewal were an application under regulation 60 .
- (6) If the application is refused, the Secretary is to notify the applicant as soon as practicable of –
- (a) the refusal; and

- (b) the reason for the refusal; and
 - (c) the right of review.
- (7) If the application is approved, the Secretary –
- (a) is to notify the applicant of the approval as soon as practicable; and
 - (b) may, on the Secretary's own initiative or at the request of the applicant, issue the applicant with a new certificate of accreditation.
- (8) If an application to renew an accreditation is not determined before the day on which it is due to expire, the accreditation is, despite any other provision of these regulations, taken to continue in force on and after that day until whichever of the following first occurs:
- (a) the 3-month period immediately following that day expires;
 - (b) the accreditation is renewed or its renewal is refused.

64. Surrender of accreditation

- (1) A person holding accreditation under this Division may, by notice to the Secretary or an authorised officer, surrender the accreditation at any time.
- (2) If the surrender is made through an authorised officer, the authorised officer is to notify the Secretary of it as soon as practicable.
- (3) The accreditation has no surrender value.

65. Variation of accreditation

- (1) The Secretary may vary the conditions of an accreditation at any time by –
 - (a) adding new conditions; or
 - (b) varying or removing existing conditions.
- (2) The variation may be effected –
 - (a) consequent on an application made by the holder of the accreditation in accordance with regulation 112 ; or
 - (b) on the Secretary's own initiative, for reasonable cause, after consulting the holder of the accreditation.
- (3) Without limiting what may be relevant for subregulation (2)(b) , the Secretary may have regard, when varying a condition under subregulation (1) , to the scope, rigorousness and practicality of the existing accreditation conditions by reference to such things as –
 - (a) developments in shot-firing technology, practices or training; and
 - (b) the experience of a person in respect of the accreditation or similar accreditation; and
 - (c) changes in the law, or in any relevant code or standard, having implications for shot-firing training; and
 - (d) changes in the State's security environment having implications for shot-firing training; and
 - (e) changes in the scope or nature of any activities related to the relevant category of shot-firing; and
 - (f) workplace and training safety issues; and
 - (g) accreditation compliance issues.
- (4) If subregulation (2)(a) applies and the application is refused, the Secretary is to notify the applicant of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (5) If subregulation (2)(a) applies and the application is approved, the Secretary is to notify the applicant of the approval, the variation and when the variation is to take effect.
- (6) If subregulation (2)(b) applies, the Secretary is to notify the holder of the permit of –
 - (a) the variation; and
 - (b) the reason for the variation; and
 - (c) when the variation is to take effect; and
 - (d) if the variation has the effect of making the permit more restrictive, the right of review.
- (7) The variation of the conditions of an accreditation takes effect –
 - (a) when the holder of the accreditation is notified of the approval of variation; or
 - (b) at a later time specified in the notice.
- (8) The Secretary, on varying the conditions of an accreditation, may issue the holder of the accreditation with an amended certificate of accreditation.

66. Transfer of accreditation

- (1) In this regulation –
 - reasonable period* means a period of at least 7 days as specified by the Secretary.
- (2) In the case of the accreditation of a shot-firing instructor, the accreditation is personal and non-transferable.

- (3) In the case of the accreditation of a shot-firing training course, the holder of the accreditation may apply to the Secretary, in accordance with regulation 112 , for approval to transfer the accreditation, either permanently or for a limited period.
- (4) In addition to the requirements of regulation 112 , an application under subregulation (3) must –
- (a) identify the transferee; and
 - (b) specify the proposed date or period of transfer; and
 - (c) contain evidence that the transferee supports the making of the application.
- (5) The Secretary may –
- (a) refuse an application under subregulation (3) ; or
 - (b) approve an application under subregulation (3) on the conditions, if any, that the Secretary thinks fit (the *transfer conditions*).
- (6) A transfer condition may be –
- (a) a condition precedent attaching to the transfer; or
 - (b) a condition attaching to the accreditation itself.
- (7) If an application under subregulation (3) is refused, the Secretary is to notify the applicant as soon as practicable of –
- (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (8) If an application under subregulation (3) is approved unconditionally, the Secretary is to do the following as soon as practicable:
- (a) notify the applicant of the approval;
 - (b) take the administrative measures that may be necessary or expedient to execute the transfer.
- (9) If an application under subregulation (3) is approved conditionally, the following provisions apply:
- (a) the Secretary is to notify the applicant of the approval and the proposed transfer conditions;
 - (b) if, within a reasonable period, the applicant agrees to the proposed transfer conditions (or, failing that, the Secretary and the applicant are able to agree on modified transfer conditions), the Secretary is to –
 - (i) take the administrative measures that may be necessary or expedient to execute the transfer; and
 - (ii) inform such other persons of the matter as the Secretary thinks fit;
 - (c) if, within a reasonable period, the applicant does not agree to the proposed transfer conditions (or the Secretary and the applicant are unable to agree on modified transfer conditions), the application is taken to have been refused at the end of that period and the procedure set out in subregulation (7) is to be followed.
- (10) A transfer of an accreditation –
- (a) is of no effect unless approved by the Secretary; and
 - (b) if approved, takes effect subject to any transfer conditions.
- (11) Despite any other provision of this regulation, the Secretary may, by notice to the parties, suspend or cancel an approval of the transfer of an accreditation under this regulation if –
- (a) a condition precedent attaching to the transfer has not been complied with; and
 - (b) the transfer has not, in the Secretary's reasonable opinion, been completed.

67. Cancellation and suspension of accreditation

- (1) The Secretary, by notice, may cancel or suspend an accreditation at any time if the Secretary believes on reasonable grounds that –
- (a) the holder of the accreditation no longer requires it or can no longer demonstrate a legitimate need for it; or
 - (b) it is necessary or expedient to do so in the interests of State security or public safety; or
 - (c) the conditions of the accreditation, if any, have been contravened in a material or sustained way; or
 - (d) having regard to the criteria in Schedule 4 or other matters, the holder of the accreditation is no longer a fit and proper person to hold such accreditation.
- (2) However, the Secretary is not to cancel the accreditation solely on the ground referred to in subregulation (1)(b) except at the direction or with the express prior approval of the Minister administering either the Police Powers (Public Safety) Act 2005 or the Security-sensitive Dangerous Substances Act 2005 .
- (3) In deciding whether cancellation or suspension is the more appropriate course of action in the circumstances, the Secretary is to regard State security and public safety as the paramount considerations rather than the rights and convenience of the holder of the accreditation.
- (4) A notice under subregulation (1) is to inform the relevant holder of an accreditation of –
- (a) the cancellation or suspension; and
 - (b) the reason for the cancellation or suspension; and
 - (c) when the cancellation or suspension takes effect; and
 - (d) the right of review; and
 - (e) in the case of suspension, any conditions that must be met before the Secretary will consider revoking the suspension.

- (5) The Secretary, by notice, may revoke the suspension of an accreditation at any time.
- (6) Except for the purposes of an application for its renewal, an accreditation has no force or effect while it is suspended.
- (7) The Secretary may give such persons as the Secretary thinks fit such notice of the cancellation or suspension of an accreditation as the Secretary thinks fit.

68. Monitoring of trainees

- (1) A person must not receive training in shot-firing of any category without the Secretary's approval.

Penalty: Fine not exceeding 50 penalty units.

Note

The trainee must also comply with regulation 59 .

- (2) A person who has attained the age of 17 years and 9 months may apply to the Secretary, in accordance with regulation 112 , for such an approval.
- (3) In addition to the requirements of regulation 112 , an application under subregulation (2) must be accompanied by –
 - (a) proof in an approved form of the applicant's age; and
 - (b) proof that the applicant has applied to do an accredited shot-firing course of the relevant category or is required or expected to do such a course for employment or occupational training purposes; and
 - (c) a passport photograph or digital image of the applicant.
- (4) The Secretary may –
 - (a) refuse an application under subregulation (2) ; or
 - (b) approve an application under subregulation (2) .
- (5) The Secretary must not approve an application under subregulation (2) unless satisfied that the applicant –
 - (a) is (or will be by the time the relevant training commences) an adult; and
 - (b) has legitimate need of the training; and
 - (c) having regard to the criteria in Schedule 4 or other matters, is a fit and proper person to receive such training.
- (6) However, if the applicant appears to be a fit and proper person of the requisite age having a legitimate need to receive training in shot-firing of the relevant category in order to gain or retain employment, the Secretary must not unreasonably delay consideration of, or refuse, the application.
- (7) If the application is refused, the Secretary is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the right of review.
- (8) If the application is approved, the Secretary –
 - (a) is to notify the applicant of the approval as soon as practicable; and
 - (b) may notify such other persons of the approval as the Secretary thinks fit.
- (9) The notice of approval is to be in an approved form but it must specify the category of shot-firing for which the approval is valid.
- (10) The approval –
 - (a) authorises its holder to receive (in accredited shot-firing courses) training in shot-firing, of the category specified in the notice of approval, from shot-firing instructors who hold accreditation for the same category of shot-firing; and
 - (b) comes into force as soon as its holder is given notice of it; and
 - (c) unless sooner cancelled or surrendered, continues in force until midnight of the expiry date determined by the Secretary and specified in that notice; and
 - (d) may, by notice to the Secretary, be surrendered at any time; and
 - (e) is not renewable or transferable.

69. Suspension and cancellation of approval to be trained

- (1) The Secretary may, by notice to the holder of an approval granted under regulation 68 , at any time cancel or suspend the approval, if satisfied that –
 - (a) the holder of the approval no longer requires it or can no longer demonstrate a legitimate need for it; or
 - (b) a relevant shot-firing course or shot-firing instructor has ceased for any reason to be accredited; or
 - (c) it is necessary or expedient to do so in the interests of State security or public safety; or
 - (d) having regard to the criteria in Schedule 4 or any other matters, the holder of the approval is not a fit and proper person to continue holding such an approval; or
 - (e) there is another compelling justification for the cancellation or suspension.

- (2) However, the Secretary is not to cancel the approval solely on the ground referred to in subregulation (1)(c) except at the direction or with the express prior approval of the Minister administering either the Police Powers (Public Safety) Act 2005 or the Security-sensitive Dangerous Substances Act 2005 .

- (3) The notice under subregulation (1) is to inform the holder of the approval of –
 - (a) the cancellation or suspension; and
 - (b) the reason for the cancellation or suspension; and
 - (c) when the cancellation or suspension takes effect; and
 - (d) the right of review; and
 - (e) in the case of suspension, any conditions that must be met before the Secretary will consider revoking the suspension.
- (4) The Secretary, by notice to a person whose approval has been suspended, may revoke the suspension at any time.
- (5) The approval has no force or effect while it is suspended.
- (6) The Secretary may give such persons as the Secretary thinks fit such notice of the cancellation or suspension of an approval as the Secretary thinks fit.

PART 10 - Blasting

70. Interpretation

In this Part –

adequate insurance cover, for blasting, means a current policy of insurance that –

- (a) is issued by a corporate insurer lawfully carrying on business in Australia; and
- (b) provides insurance cover of at least \$10 million (or a lesser amount that the Secretary may, in an individual case, approve in writing) against liability for any injury to persons or property or the environment that may occur as a result of a negligent act or omission in connection with the blasting;

blasting means the firing of explosives in order to –

- (a) blast rock, earth or solid material; or
- (b) demolish, destroy, dislodge or damage a structure or other thing, whether on or under land or water;

commission, in relation to blasting, means to cause or direct the blasting to take place;

general blasting means blasting of the kind referred to in regulation 72(5) ;

limited blasting means blasting of the kind referred to in regulation 72(4) ;

responsible person, for blasting, means a person who commissions, supervises or carries out the blasting;

status, of blasting, means its status in terms of whether it is general blasting or limited blasting;

trainee blasting means blasting carried out as part of the requirements of an accredited shot-firing course.

71. Blast insurance

- (1) Blasting may only be carried out if there is adequate insurance cover in relation to the blasting.
- (2) If blasting is carried out without adequate insurance cover, the person who commissioned the blasting and the person who carried it out are each guilty of an offence.
Penalty: Fine not exceeding 50 penalty units.
- (3) This regulation does not apply to blasting done by, or on behalf of, the Crown in right of the State.

72. Blasting plans

- (1) Blasting may only be carried out if there is a valid blasting plan for it.

Note

For the validity of blasting plans – see regulation 74 .

- (2) If blasting is carried out without a valid blasting plan, the person who commissioned the blasting and the person who carried it out are each guilty of an offence.
Penalty: Fine not exceeding 50 penalty units.
- (3) A blasting plan may be –
 - (a) a limited blasting plan; or
 - (b) a general blasting plan.
- (4) A limited blasting plan is appropriate for –
 - (a) one discrete blast; or
 - (b) a set of blasts, in one location, not extending beyond one day; or
 - (c) trainee blasting.
- (5) A general blasting plan is appropriate for the kind of multiple or repetitive blasting (possibly occurring over an extended period) that is typically associated with the operation of a mine, a large commercial quarry or road construction works and where a requirement to prepare blasting plans for each discrete blast would be inefficient and onerous in regulatory and commercial terms.
- (6) However, nothing in this regulation is to be taken as preventing a person from preparing, in respect of blasting that is to be carried out over a period of more than one day, a series of limited blasting plans for each of those days.

73. Preparation of blasting plans

- (1) A blasting plan may be prepared by any of the following persons:
 - (a) the person commissioning the blasting;
 - (b) the shot-firer who is to supervise or carry out the actual blasting;
 - (c) the employer of the shot-firer who is to supervise or carry out the actual blasting (whether the employment is under a contract for services or a contract of services);
 - (d) the person who owns or controls the land on which the blasting is to take place;
 - (e) the person having the control and management of the blasting site;
 - (f) a person approved by the Secretary.
- (2) Without limiting the generality of subregulation (1) , a blasting plan for trainee blasting may also be prepared by –

- (a) the organiser of the relevant shot-firing course; or
- (b) a shot-firer providing any of the training in that course.

74. **Blasting plans only valid if endorsed by shot-firer**

- (1) A blasting plan must be endorsed by –
 - (a) in the case of trainee blasting, the shot-firer who is to supervise the trainee blasting; or
 - (b) in the case of any other kind of blasting, the shot-firer who is to supervise or carry out the actual blasting.
- (2) For subregulation (1), a shot-firer endorses a blasting plan by –
 - (a) signing and dating the plan; and
 - (b) if the plan has been prepared by a person other than the shot-firer, appending the word "agreed", "approved" or "endorsed" to the plan (near the shot-firer's signature).
- (3) A blasting plan that is not endorsed as required under subregulation (1) is void.

75. **Form of blasting plans**

A blasting plan is to be in an approved form.

76. **Content of blasting plans**

- (1) A blasting plan –
 - (a) may contain the information that the person preparing it considers necessary or expedient in the circumstances; but
 - (b) must contain the relevant core information specified in this regulation.
- (2) The core information, for anything other than trainee blasting, is as follows:
 - (a) the identity of the person commissioning the blasting;
 - (b) the purpose of the blasting;
 - (c) particulars, if applicable, of the blast insurance;
 - (d) the identity of the shot-firers supervising or carrying out the blasting;
 - (e) the expected blasting date (or dates) and, if known, the expected blasting time (or times);
 - (f) the location of the blasting site (by reference to a plan, geographical coordinates, land description or any combination thereof);
 - (g) the type of explosives;
 - (h) the initiation method for the blasting;
 - (i) an indication of whether the blasting has any special features or risks and, if so, how these will be managed;
 - (j) the name and contact details of a responsible adult to act as the first contact and liaison point for State and local government.
- (3) The core information for trainee blasting is as follows:
 - (a) particulars of the relevant shot-firing course;
 - (b) the identity of the relevant trainer and trainee;
 - (c) particulars of the blast insurance;
 - (d) the expected blasting date and, if known, the expected blasting time;
 - (e) the location of the blasting site (by reference to a plan, geographical coordinates, land description or any combination thereof);
 - (f) the type of explosives;
 - (g) the initiation method for the blasting.

77. **Secretary may require documents and information**

- (1) The Secretary, by notice to a responsible person, may require the responsible person to give the Secretary, within a specified time –
 - (a) a copy of the blasting plan for any completed, current or prospective blasting; and
 - (b) the information, if any, about the blasting that the Secretary may require and specifies in the notice.
- (2) A person who is given a notice under subregulation (1) must comply with that notice.
Penalty: Fine not exceeding 25 penalty units.
- (3) It is a defence in proceedings for an offence under subregulation (2) if the defendant establishes that the defendant was not a responsible person for the blasting to which the offence relates.

78. **Temporary suspension orders**

- (1) In this regulation –

temporary suspension order means a written order, in an approved form, ordering the suspension of blasting for a period not exceeding 48 hours specified in the order.
- (2) The Secretary may, in respect of blasting, issue the person who has commissioned the blasting with a temporary suspension order if the Secretary is reasonably satisfied that the suspension is necessary to –
 - (a) enable any urgent or unforeseen contingencies or matters arising from the blasting to be assessed or addressed by any person; or

- (b) check on any serious deficiencies or issues that the blasting appears to have brought to light in the blasting plan; or
 - (c) check on any permissions or insurance.
- (3) A person who is issued with a temporary suspension order under subregulation (2) must comply with that temporary suspension order.
Penalty: Fine not exceeding 50 penalty units.
- (4) A temporary suspension order overrides all relevant blasting plans.

79. Emergency exemptions

- (1) The Secretary may exempt a person from all or any of the provisions of this Part if the Secretary is reasonably satisfied that –
- (a) the person needs to carry out unplanned emergency blasting to save or protect life or property; or
 - (b) the person needs to carry out unplanned blasting at short notice to deal with an unforeseen contingency arising from blasting under a blasting plan; or
 - (c) there is another compelling justification for granting the exemption.
- (2) An exemption under this regulation may be applied for, and granted, by such means as the Secretary considers necessary or expedient in the circumstances.

Note

This regulation recognises that there may be occasions when blasting needs to be carried out at short notice – for example, to effect mine rescue, clear a traffic obstruction or deal with misfires – and that to insist on blasting plans or other protocols on such occasions may endanger life or property, disrupt the community or unreasonably stall a commercial enterprise or industrial operation.

80. Compliance with blasting plans and determinations

- (1) A person commissioning blasting must ensure that all persons involved in carrying out the blasting comply with the relevant blasting plan.
Penalty: Fine not exceeding 50 penalty units.
- (2) A person carrying out blasting must comply with the relevant blasting plan.
Penalty: Fine not exceeding 50 penalty units.

PART 11 - Fireworks

Division 1 - Preliminary

81. Interpretation

In this Part –

fireworks display means –

- (a) an event that has, as its sole or a major purpose, the display of Type 2 fireworks or Type 3 fireworks (or any combination thereof); or
- (b) the display of Type 2 fireworks, Type 3 fireworks or theatrical fireworks (or any combination thereof) in an event that involves the incidental use of fireworks; or
- (c) any purely incidental display of Type 2 fireworks, Type 3 fireworks or theatrical fireworks (or any combination thereof);

fireworks display permit means a permit issued under regulation 87 ;

firing, of fireworks, includes the priming, ignition and detonation of the fireworks;

follow-up measures, for a fireworks display, includes –

- (a) checking the site for ignited or smouldering materials or misfires or overlooked fireworks; and
- (b) securing and removing unused fireworks; and
- (c) securing and removing mortars and other shot-firing equipment; and
- (d) extinguishing pyres, bonfires and braziers; and
- (e) generally clearing the site of rubbish, debris and materials;

procure, in relation to fireworks, means to procure the fireworks by means of lawful purchase or exchange or by supplying them from personal stocks;

pyrotechnician – see regulation 83 ;

responsible adult – see regulation 87 ;

total fire ban declaration means a declaration under section 70 of the Fire Service Act 1979 ;

undischarged, in relation to a fireworks display permit, means that the permit is for a fireworks display that is yet to be held;

use, in relation to fireworks, means –

- (a) placing and preparing the fireworks in readiness for firing; and
- (b) placing and preparing firing platforms, mortars and other equipment in connection with that firing; and
- (c) firing the fireworks; and
- (d) the retrieval and safe disposal of the fireworks should they fail or partially fail.

82. Status of Type 3 fireworks stored in magazine in large quantity

(1) In this regulation –

NEQ means net explosive quantity.

(2) This regulation applies to Type 3 fireworks whenever the quantity of Type 3 fireworks stored in a magazine reaches, in aggregate, a quantity exceeding 200 kilograms NEQ.

(3) If Type 3 fireworks, to which this regulation applies, are stored in a magazine –

- (a) those fireworks are taken to be class 1.1G dangerous substances; and
- (b) all of those fireworks must, for so long as the aggregate quantity continues to exceed 200 kilograms NEQ, be handled by all persons in all respects as if they were class 1.1G dangerous substances.

(4) A person who fails to comply with subregulation (3)(b) in handling Type 3 fireworks, to which this regulation applies, is guilty of an offence.

Penalty: Fine not exceeding –

- (a) for a body corporate, 50 penalty units; or
- (b) for an individual, 30 penalty units.

83. What is a pyrotechnician?

(1) For the purposes of this Part, a pyrotechnician is a person who holds a shot-firing permit with a pyrotechnics endorsement.

(2) Also, under this Part, a person is taken to be a pyrotechnician for the purposes of a specific display or other activity involving fireworks if –

- (a) the person holds an interstate shot-firing authority that is valid; and
- (b) the person has complied with regulation 54 in respect of the display; and
- (c) the authority is valid for category 4 shot-firing.

84. Application of Part

- (1) The provisions of this Part are specifically in addition to, and not in derogation of, the other provisions of these regulations as they apply to fireworks.
- (2) Despite subregulation (1), nothing in this Part applies to the use, in accredited shot-firing courses, of Type 2 fireworks or Type 3 fireworks for or in connection with the practical training of persons in category 4 shot-firing.

Division 2 - Use of fireworks**85. Restrictions on use of fireworks**

- (1) A person must not use Type 2 fireworks or theatrical fireworks except as authorised by a fireworks display permit.
Penalty: Fine not exceeding 50 penalty units.

Note 1

As Type 1 fireworks are exempt explosives, the use of such fireworks (which are specified in Schedule 5) is not restricted by these regulations. A person does not have to be a pyrotechnician to use Type 1 fireworks.

Note 2

Also, although Type 2 fireworks are explosives to which these regulations apply, a person does not have to be a pyrotechnician to use such fireworks (though other handling restrictions do apply).

- (2) A person must not use Type 2 fireworks unless the person –
- (a) is a pyrotechnician; or
 - (b) is authorised by a fireworks display permit to use those fireworks as part of a fireworks display for Commonwealth Day.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person must not use Type 3 fireworks unless the person is a pyrotechnician.
Penalty: Fine not exceeding 50 penalty units.

- (4) A pyrotechnician must not use Type 3 fireworks except as authorised by a fireworks display permit.
Penalty: Fine not exceeding 50 penalty units.

Division 3 - Fireworks displays**86. Fireworks displays not to be held without permit**

A person must not hold a fireworks display unless the person holds a fireworks display permit for that display.

Penalty: Fine not exceeding –

- (a) for a body corporate, 50 penalty units; or
- (b) for an individual, 30 penalty units.

Note 1

As Type 1 fireworks are exempt explosives, the display of such fireworks (which are specified in Schedule 5) is not restricted by these regulations.

Note 2

A fireworks display permit merely authorises the holding of a particular fireworks display; it does not authorise persons who are not pyrotechnicians to use Type 3 fireworks.

87. Applications for fireworks display permits

- (1) A person may apply to the Secretary, in accordance with regulation 112, for a fireworks display permit.
- (2) In addition to the requirements of regulation 112, an application under subregulation (1) must –
- (a) state the purpose of the proposed fireworks display; and
 - (b) nominate, if the applicant is a corporation, a responsible adult and an alternative responsible adult; and
 - (c) subject to regulation 95, nominate a pyrotechnician for the proposed fireworks display; and
 - (d) unless the Secretary otherwise agrees, be lodged at least 21 clear days before the date of the proposed fireworks display.
- (3) For the avoidance of doubt, an application under subregulation (1) that is lodged less than 21 clear days before the date of the proposed fireworks display is void unless the Secretary has otherwise agreed to the application being so lodged.
- (4) A responsible adult nominated in accordance with subregulation (2)(b) is to be the person who will, on behalf of the applicant corporation –
- (a) generally oversee and direct the proposed fireworks display; and
 - (b) monitor and ensure, on the ground, compliance with the permit conditions for the permit holder; and
 - (c) act, on the ground, as the first contact and liaison point for the emergency services, police and other officials in respect of the proposed fireworks display.
- (5) The alternative responsible adult nominated in accordance with subregulation (2)(b) is to be the person who will assume the role referred to in subregulation (4) if, for illness or any other reason, the relevant nominated responsible adult is unable to discharge that role.
- (6) The pyrotechnician nominated in accordance with subregulation (2)(c) is to be the pyrotechnician who will be responsible for –
- (a) procuring the fireworks for the proposed display; and

- (b) if applicable, using or supervising the use of Type 2 fireworks, or Type 3 fireworks, in the proposed display.
- (7) In the case of an applicant who is a natural person and also a pyrotechnician, the applicant may also be the pyrotechnician nominated in accordance with subregulation (2)(c) .
- (8) More than one pyrotechnician may be nominated in accordance with subregulation (2)(c) if the procurement, and use, of the fireworks for the proposed display are to be in separate hands.
- (9) The Secretary may –
- (a) refuse an application under subregulation (1) ; or
 - (b) approve an application under subregulation (1) and grant a fireworks display permit on one or more of the following conditions as the Secretary thinks fit:
 - (i) safety;
 - (ii) the maximum gross weight of Type 2 fireworks that may be procured, or used, under the permit;
 - (iii) notification and publicity requirements;
 - (iv) supervision, training, timing or other requirements.

Note

Unless the Secretary otherwise determines, the permit will also be subject to the standard conditions set out in Schedule 7 .

- (10) In a condition under subregulation (9)(b) as to the maximum gross weight of Type 2 fireworks that may be procured or used under a permit that is granted to a person other than a pyrotechnician, the Secretary may only specify, in the permit, a gross weight that does not exceed –
- (a) if there is a determination in force under regulation 88(6) , the gross weight specified in the determination; or
 - (b) in any other case, 20kg; or
- (11) Without limiting the Secretary's discretion under this regulation, the Secretary may refuse the application if not satisfied of the following:
- (a) that the application can be properly considered before the proposed fireworks display;
 - (b) that the applicant is, in the case of a natural person, an adult;
 - (c) that the applicant is, having regard to the criteria in Schedule 4 and any other matters that the Secretary considers relevant, a fit and proper person to hold a fireworks display;
 - (d) that, if applicable, a person nominated as responsible adult or alternative responsible adult –
 - (i) having regard to the criteria in Schedule 4 and any other matters that the Secretary considers relevant, is a fit and proper person to hold a fireworks display; and
 - (ii) is capable of performing the role; and
 - (iii) has agreed to be so nominated for the role;
 - (e) that, if applicable, the nominated pyrotechnician has agreed to be so nominated;
 - (f) that the proposed fireworks display can be safely organised or held;
 - (g) that the proposed fireworks display is for an approved purpose specified in Schedule 6 .
- (12) The Secretary must refuse an application under this regulation if the proposed fireworks display would contravene a total fire ban declaration.
- (13) If an application is refused under this regulation, the Secretary is to notify the applicant as soon as practicable of –
- (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) unless subregulation (12) applies, the right of review.
- (14) If an application is approved under this regulation, the Secretary is to do the following as soon as practicable:
- (a) notify the applicant of the approval;
 - (b) issue the applicant with a fireworks display permit.
- (15) If an application is approved under this regulation, the Secretary may liaise with, and notify, such persons as the Secretary thinks fit, including –
- (a) the Police Service; and
 - (b) the Tasmania Fire Service or other emergency services; and
 - (c) any affected council.

88. What does a fireworks display permit authorise?

- (1) In this regulation –
- allowable quantity**, of Type 2 fireworks for a fireworks display permit, means –
- (a) if no determination is in force under subregulation (6) and no condition as to the maximum gross weight of such fireworks that may be procured or used is specified in the permit under regulation 87(9)(b) , a gross weight of 20kg; or

(b) if a determination is in force under subregulation (6) and no condition as to the maximum gross weight of such fireworks that may be procured or used is specified in the permit under regulation 87(9)(b), the gross weight specified in the determination; or

(c) if a condition as to the maximum gross weight of such fireworks that may be procured or used is specified in the permit under regulation 87(9)(b), the maximum gross weight specified in the permit.

(2) A fireworks display permit authorises its holder to –

(a) hold the single fireworks display specified in the permit; and

(b) do the things as may be reasonably necessary or incidental to the holding of that fireworks display, including necessary follow-up measures.

(3) If the permit authorises the use of Type 2 fireworks, it also –

(a) if a pyrotechnician has been nominated in respect of the permit –

(i) authorises the nominated pyrotechnician to lawfully procure those Type 2 fireworks; and

(ii) authorises the use, in the relevant fireworks display, of those Type 2 fireworks; or

(b) in any other case –

(i) authorises the holder of the permit to lawfully procure up to the allowable quantity of those Type 2 fireworks; and

(ii) authorises the use, in the relevant fireworks display, of those Type 2 fireworks.

(4) If the permit authorises the use of Type 3 fireworks, it also authorises –

(a) the nominated pyrotechnician to lawfully procure those Type 3 fireworks; and

(b) the use, in the relevant fireworks display, of those Type 3 fireworks by –

(i) the nominated pyrotechnician; and

(ii) pyrotechnicians, if any, acting under the direction and supervision of the nominated pyrotechnician.

(5) Nothing in this regulation is to be taken as requiring a person to procure or use the full allowable quantity of fireworks for a fireworks display.

(6) The Secretary may determine, in writing, that the maximum gross weight of Type 2 fireworks that may be procured or used, by a person who is not a pyrotechnician, under fireworks display permits generally is a maximum gross weight, specified in the determination, of less than 20kg.

89. General nature of permits

(1) Unless the Secretary otherwise determines and specifies in the permit, a fireworks display permit –

(a) comes into force when it is issued; and

(b) expires, except for the authority to take necessary follow-up measures, immediately after the fireworks display that it authorises.

(2) A fireworks display permit is not transferable or renewable.

(3) A fireworks display permit is subject to –

(a) the conditions that the Secretary specifies in the permit pursuant to regulation 87(9)(b); and

(b) unless the Secretary specifies otherwise in the permit, the standard conditions in Schedule 7.

Note

The standard conditions are additional to any conditions that the Secretary may impose on a specific permit under regulation 87(9).

(4) The holder of a fireworks display permit must not contravene a condition of the permit.

Penalty: Fine not exceeding –

(a) for a body corporate, 50 penalty units; or

(b) for an individual, 30 penalty units.

90. Surrender of permits

(1) The holder of an undischarged fireworks display permit may, by notice to the Secretary or an authorised officer, surrender the permit at any time.

(2) If the surrender of an undischarged fireworks display permit is made through an authorised officer, the authorised officer is to notify the Secretary as soon as practicable.

(3) The Secretary may notify such persons of the surrender of an undischarged fireworks display permit as the Secretary thinks fit, including –

(a) the Police Service; and

(b) any of the emergency services; and

(c) any affected council.

(4) The permit has no surrender value.

91. Variation of permits

(1) The Secretary, by notice, may vary the conditions of an undischarged fireworks display permit at any time.

(2) A notice of variation under subregulation (1) may be given to the holder of the relevant fireworks display permit or, in the Secretary's discretion in the case of a corporation, the responsible adult for the relevant fireworks display permit.

(3) If a notice under subregulation (1) is given to the responsible adult for the permit, it is also taken to constitute notification to the holder of the permit.

92. Cancellation of permits

(1) The Secretary, by notice to the holder of an undischarged fireworks display permit, may cancel the undischarged permit at any time if the Secretary believes on reasonable grounds that –

- (a) the intended fireworks display would contravene a total fire ban declaration; or
- (b) the relevant event is cancelled or postponed; or
- (c) the cancellation is necessary or expedient in the interests of State security or public safety; or
- (d) having regard to the criteria in Schedule 4 or other matters, the holder of the permit is not a fit and proper person to hold such a permit; or
- (e) there is another compelling justification for the cancellation.

(2) However, the Secretary is not to cancel a permit solely on the ground referred to in subregulation (1)(c) except at the direction or with the express prior approval of the Minister administering either the Police Powers (Public Safety) Act 2005 or the Security-sensitive Dangerous Substances Act 2005 .

(3) A notice under subregulation (1) of the cancellation of an undischarged fireworks display permit is to inform the holder of the permit of –

- (a) the cancellation; and
- (b) the reason for the cancellation; and
- (c) when the cancellation takes effect; and
- (d) the right of review.

93. Substitute pyrotechnicians

(1) This regulation applies if the Secretary is satisfied, in respect of a fireworks display permit, that the nominated pyrotechnician will be unable to perform that role in full or in part.

(2) The Secretary, by notice to the holder of the fireworks display permit, may –

- (a) allow the holder of the permit to nominate a different pyrotechnician; and
- (b) attach the conditions to the new nomination that the Secretary thinks fit in the circumstances and those conditions are taken to be conditions of the permit.

94. Rescheduling of fireworks displays

(1) The Secretary, by notice to the holder of an undischarged fireworks display permit, may allow the holder of the permit to reschedule the relevant fireworks display if satisfied that –

- (a) the date of the display is not critical; and
- (b) the timing of the display needs to be advanced or postponed for a valid reason.

(2) In a notice under subregulation (1) , the Secretary may also specify such conditions to the rescheduling as the Secretary thinks fit in the circumstances and those conditions are taken to be conditions of the permit.

95. Commonwealth Day (Cracker Night) displays

(1) For the purposes of this Part –

- (a) a fireworks display for Commonwealth Day is not capable of being held on any day other than a Saturday; and
- (b) if in any year Commonwealth Day (24 May) does not fall on a Saturday, a fireworks display for Commonwealth Day may only be held on the following Saturday.

(2) Despite regulation 87(2)(c) , an applicant under regulation 87 does not need to nominate a pyrotechnician in respect of a proposed fireworks display if –

- (a) the proposed fireworks display is a fireworks display for Commonwealth Day; and
- (b) no Type 3 fireworks are to be used as part of the proposed fireworks display; and
- (c) the proposed fireworks display is to be –
 - (i) no longer than 45 minutes in duration; and
 - (ii) held either between 7 p.m. and 7.45 p.m., or 7.45 p.m. and 8.30 p.m., as may be specified on the permit.

(3) Regulation 94 does not apply in respect of a fireworks display for Commonwealth Day if there is no nominated pyrotechnician for the display.

Division 4 - Sale and supply

96. Only pyrotechnicians may sell or supply Type 2 or Type 3 fireworks &c.

(1) A person who is not a pyrotechnician must not sell or supply Type 2 fireworks or Type 3 fireworks to any other person.
Penalty: Fine not exceeding 50 penalty units.

- (2) A pyrotechnician must not sell or supply Type 2 fireworks except to –
- (a) another pyrotechnician; or
 - (b) a person who is authorised under a fireworks display permit to use the Type 2 fireworks.

Penalty: Fine not exceeding 50 penalty units.

- (3) A pyrotechnician must not sell or supply Type 3 fireworks except to another pyrotechnician.
Penalty: Fine not exceeding 50 penalty units.

- (4) It is a defence in proceedings for an offence under subregulation (2) or (3) if the defendant establishes that –
- (a) the defendant carried out reasonable checks to ensure that the relevant sale or supply would not contravene that subregulation; and
 - (b) the checks were reasonable in the circumstances and not perfunctory; and
 - (c) the relevant sale or supply was made in the honest but mistaken belief that the purchaser or acquirer of the relevant fireworks was a pyrotechnician at the relevant time.

Note

The sale and supply of Type 1 fireworks (which are specified in Schedule 5) is unrestricted.

97. Who may purchase or acquire Type 2 or Type 3 fireworks

- (1) A person who is not a pyrotechnician must not purchase or acquire Type 3 fireworks.
Penalty: Fine not exceeding 50 penalty units.

- (2) A person must not purchase or acquire Type 2 fireworks unless the person –
- (a) is a pyrotechnician; or
 - (b) is authorised under a fireworks display permit to use the Type 2 fireworks.

Penalty: Fine not exceeding 50 penalty units.

- (3) A pyrotechnician must not purchase or acquire Type 2 fireworks or Type 3 fireworks except from –
- (a) another pyrotechnician; or
 - (b) a person who, under a corresponding law, is authorised to export Type 2 fireworks or Type 3 fireworks to Tasmania.

Penalty: Fine not exceeding 50 penalty units.

- (4) It is a defence in proceedings for an offence under subregulation (3) if the defendant establishes that –
- (a) the defendant carried out reasonable checks to ensure that the relevant purchase or acquisition would not contravene that subregulation; and
 - (b) the checks were reasonable in the circumstances and not perfunctory; and
 - (c) the relevant purchase or acquisition was made in the honest but mistaken belief that the person from whom the relevant fireworks were purchased or acquired was a pyrotechnician at the relevant time.

Note

As Type 1 fireworks are exempt explosives, the purchase and acquisition of such fireworks (which are specified in Schedule 5) is unrestricted.

98. Retail storage and display restrictions

- (1) A person must not cause or allow Type 3 fireworks to be stored on retail premises.
Penalty: Fine not exceeding 50 penalty units.

- (2) A person must not display Type 2 fireworks on retail premises except in an enclosed cabinet, showcase or sales unit that is –
- (a) inaccessible to customers; and
 - (b) kept closed and locked (except as may be reasonably necessary for the immediate purposes of cleaning, stocking or inspection or transacting a sale); and
 - (c) so positioned that the fireworks in the cabinet, showcase or sales unit cannot be seen from outside any external window of the retail premises.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person who displays Type 2 fireworks on retail premises must ensure that all of those fireworks are in sealed unbroken packages and that each package –
- (a) bears a label clearly and accurately identifying the kind of Type 2 fireworks that it contains; and
 - (b) does not weigh more than 2 kilograms.

Penalty: Fine not exceeding 50 penalty units.

99. Retail sales quantum restrictions

- (1) In this regulation –
- gross weight**, in relation to fireworks, means the gross weight of the fireworks inclusive of any inner and outer packaging.
- (2) A person who sells fireworks by way of retail on or from any premises must ensure that the total quantity of Type 2 fireworks on the premises does not at any time exceed 200 kilograms gross weight.
Penalty: Fine not exceeding 50 penalty units.

100. Fireworks not to be sold in public places

A person must not sell fireworks in a public place.

Penalty: Fine not exceeding 50 penalty units.

101. Fireworks retailers to comply with AS 2187.3

(1) This regulation applies to a person engaged in selling any type of fireworks by way of retail (whether as an employer, employee or in any other capacity).

(2) A person to whom this regulation applies must, in handling the fireworks for or in connection with the retail sale of the fireworks, comply with AS 2187.3.

Penalty: Fine not exceeding 50 penalty units.

Division 5 - Miscellaneous handling restrictions**102. Only pyrotechnicians may manufacture, import, export or store Type 2 or Type 3 fireworks**

A person must not do the following things unless the person is a pyrotechnician:

- (a) manufacture Type 2 fireworks or Type 3 fireworks;
- (b) import Type 2 fireworks or Type 3 fireworks;
- (c) export Type 2 fireworks or Type 3 fireworks;
- (d) store Type 3 fireworks.

Penalty: Fine not exceeding 50 penalty units.

103. Type 3 fireworks to be stored only in packages in approved magazines

(1) A person must not store Type 3 fireworks anywhere other than in an approved magazine.

Penalty: Fine not exceeding 50 penalty units.

(2) A person who stores Type 3 fireworks must ensure that all of those fireworks are in sealed unbroken packages and that each of those packages bears a label clearly and accurately identifying the kind of Type 3 fireworks that it contains.

Penalty: Fine not exceeding 50 penalty units.

104. Type 3 fireworks to be secured on day of firing

(1) This regulation applies to a pyrotechnician who takes possession of Type 3 fireworks on any day (the *firing day*) for the purpose of –

- (a) using the Type 3 fireworks on the firing day; or
- (b) having another pyrotechnician use the Type 3 fireworks on the firing day.

(2) In a case to which subregulation (1)(a) applies, a pyrotechnician to which this regulation applies –

- (a) must not leave the Type 3 fireworks unattended at any time (except to the extent necessary for safety after they have been placed and made ready for firing); and
- (b) must transfer the Type 3 fireworks to an approved magazine as soon as practicable if the pyrotechnician decides not to use them on the firing day or discovers that they cannot, for any reason, be used on the firing day.

Penalty: Fine not exceeding 50 penalty units.

(3) In a case to which subregulation (1)(b) applies, the pyrotechnician must ensure that –

- (a) the Type 3 fireworks are not left unattended at any time (except to the extent that may be necessary for safety after they have been placed and made ready for firing); and
- (b) the Type 3 fireworks are transferred to an approved magazine as soon as practicable if the pyrotechnician discovers that they are not, for any reason, to be used on the firing day.

Penalty: Fine not exceeding 50 penalty units.

(4) For the purposes of this regulation in its application to Type 3 fireworks for a New Year's Eve fireworks display, the firing day is taken to extend into New Year's Day.

105. Construction of fireworks mortars

(1) In this regulation –

defective, in relation to a fireworks mortar, means a fireworks mortar with a tube or base made of material that is likely to burn, melt, distort, crack, splinter or fragment from the kinds of detonations and explosions typically involved in the use of such mortars;

fireworks mortar means a mortar for launching fireworks.

(2) A person must not make a defective fireworks mortar.

Penalty: Fine not exceeding 50 penalty units.

(3) A person must not, in respect of a fireworks mortar that the person knows or reasonably ought to know to be defective, do any of the following:

- (a) sell or supply the fireworks mortar to another person;
- (b) use the fireworks mortar;
- (c) cause or allow another person to use the fireworks mortar.

Penalty: Fine not exceeding 50 penalty units.

PART 12 - Documents

106. Interpretation

(1) In this Part –

explosives control document means –

- (a) a permit to handle an unauthorised explosive issued under regulation 21 ; or
- (b) a shot-firing permit issued under regulation 45 ; or
- (c) a certificate of accreditation issued under Part 9 ; or
- (d) a notice of approval issued under regulation 68 ; or
- (e) a fireworks display permit issued under regulation 87 ;

undischarged, in relation to an explosives control document that is a fireworks display permit, means that the permit is for a fireworks display that is yet to be held.

(2) To avoid doubt, a reference in this Part to an explosives control document is taken to be a reference not only to the original of that document but also to any document issued by way of replacement of the original of that document on its renewal or variation or under regulation 108 .

107. Form of explosives control documents

An explosives control document is to be in an approved form that, at a minimum, specifies –

- (a) the name of the person to whom it is issued; and
- (b) its expiry date; and
- (c) its conditions, if any; and
- (d) any particulars required by another provision of these regulations.

108. Loss and replacement of explosives control documents

(1) If an explosives control document is stolen, lost or destroyed, the holder of the explosives control document must notify the Secretary within 7 days of the document being stolen, lost or destroyed.

Penalty: Fine not exceeding 25 penalty units.

(2) The Secretary, on receiving the prescribed fee, may give the holder of an undischarged explosives control document a replacement for the document, if the Secretary is satisfied that the original of the document has been –

- (a) stolen, lost or destroyed; or
- (b) damaged to a degree that renders it unsuitable for use.

109. Explosives control documents not to be lent

The holder of an explosives control document must not lend the document to another person or allow another person to use the document.

Penalty: Fine not exceeding 25 penalty units.

110. Production of explosives control documents

(1) The holder of an explosives control document must immediately produce it for inspection if required to do so by an authorised officer.

Penalty: Fine not exceeding 25 penalty units.

(2) A person must not produce to an authorised officer a document that is, or purports to be, an explosives control document with the intention of falsely representing to the authorised officer that the person is the holder of an explosives control document.

Penalty: Fine not exceeding 25 penalty units.

(3) A person must not, with intention to deceive, produce to an authorised officer an explosives control document that –

- (a) has been altered in a material respect; or
- (b) is a document that resembles, but is not, an explosives control document.

Penalty: Fine not exceeding 25 penalty units.

(4) The holder of an explosives control document must not cause or allow it to be used in a manner calculated to deceive an authorised officer.

Penalty: Fine not exceeding 25 penalty units.

PART 13 - Miscellaneous

111. Instructions to secure explosives on cancellation of entitlement

- (1) If the Secretary cancels an entitlement under these regulations, the Secretary may give the holder of the entitlement, or any other person, instructions for the immediate safety and security of any explosives affected by the cancellation of the entitlement.
- (2) It is a defence in proceedings for an offence under these regulations if the defendant establishes that, at the relevant time, the defendant was complying with an instruction, given by the Secretary under this regulation, that applied to the defendant at that time.

112. Applications to Secretary – standard requirements

An application to the Secretary under these regulations must be –

- (a) in an approved form; and
- (b) supported by the evidence or information that the Secretary requires, either at the time of lodgment or subsequently; and
- (c) accompanied by the prescribed fee, if any.

113. Secretary to avoid excessive or sudden regulatory actions

- (1) In this regulation –
requirement includes a condition of an entitlement.
- (2) In imposing a discretionary requirement on a person in respect of any entitlement or activity, under these regulations, the Secretary, as far as practicable –
 - (a) is to have regard to any mandatory or discretionary requirements that the person must comply with under allied Acts in respect of that or any closely corresponding entitlement or activity; and
 - (b) is not to duplicate those requirements or impose overlapping or incompatible requirements or unduly add to the person's obligations, administrative burdens or costs of compliance in respect of the entitlement or activity under these regulations.
- (3) The Secretary is to give reasonable notice of the cancellation or suspension of any entitlement unless satisfied that there is compelling justification for effecting the cancellation or suspension urgently.

114. Disclosure of certain private information

- (1) In this regulation –
law enforcement agency has the same meaning as in the Personal Information Protection Act 2004 ;
personal information has the same meaning as in the Personal Information Protection Act 2004 .
- (2) The Secretary may disclose to any law enforcement agency of a State or Territory or the Commonwealth any personal information that is provided to, or obtained by or on behalf of, the Secretary in connection with any of the following matters under these regulations:
 - (a) the issue and regulation of shot-firing permits under Part 8 ;
 - (b) the accreditation of shot-firing courses and the oversight and regulation of such accreditations under Part 9 ;
 - (c) the accreditation of shot-firing instructors and the regulation of such accreditations under Part 9 ;
 - (d) the granting and regulation of approvals under regulation 68 to receive shot-firing training.
- (3) In administering these regulations, the Secretary is to ensure that the provisions of subregulation (2) are made known to a person who applies for a permit, accreditation or approval referred to in that subregulation.

115. Infringement notice offences and penalties

For section 68 of the Act –

- (a) an offence under a provision of the Act or these regulations specified in column 1 of Schedule 8 is a prescribed offence; and
- (b) the penalty specified in column 2 of that Schedule for that offence is its prescribed penalty.

SCHEDULE 1 - Prescribed fees

Regulation 3

PART 1 - Interpretation**1.** In this Schedule –

GST has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth.

2. The amount of a fee referred to in a regulation specified in Column 1 of this Schedule is the amount of the fee units specified in Column 3 of this Schedule opposite the regulation.

3. The fees prescribed in this Schedule are exclusive of GST.

PART 2 - Fees

	Column 1 Regulation	Column 2 Description	Column 3 Fee units
1.	Regulation 16	Application for authorisation of explosive	50
2.	Regulation 20	Application for cancellation of authorisation of explosive	50
3.	Regulation 21	Application for permit to handle unauthorised explosive	50
4.	Regulation 45	Application for shot-firing permit	50
5.	Regulation 48	Application for renewal of shot-firing permit	50
6.	Regulation 48	Fee for late application for renewal of shot-firing permit	25
7.	Regulation 54	Notification of intended use of interstate shot-firing authority	50
8.	Regulation 60	Application for accreditation of shot-firing course	50
9.	Regulation 60	Application for accreditation as shot-firing instructor	50
10.	Regulation 63	Application for renewal of accreditation	50
11.	Regulation 63	Fee for late application for renewal of accreditation	25
12.	Regulation 68	Application for approval to receive training in shot-firing	50
13.	Regulation 87	Application for fireworks display permit – (a) for a fireworks display not involving Type 3 fireworks	50
		(b) for a fireworks display involving Type 3 fireworks	100
14.	Regulation 108	Replacement of explosives control document	20

SCHEDULE 2 - Relevant Standards

Regulation 3

Explosive	Standard	Title of standard
<i>Class standards</i>		
Class 1	AS 2187	Explosives – Storage, transport and use
	Australian Explosives Code	The <i>Australian Code for the Transport of Explosives by Road and Rail</i> published by the Commonwealth, as from time to time amended
	MPU Code	Code of Practice, Mobile Processing Units 4th edition, as published by the Australasian Explosives Industry Safety Group (ABN 95 177 668 265) in September 2018, as amended from time to time
	Code of Practice Storage and Handling of UN3375	Code of Practice Storage and Handling of UN3375, 4th edition, as published by the Australasian Explosives Industry Safety Group (ABN 95 177 668 265) in May 2017, as amended from time to time
Class 3	AS 1940	The Storage and Handling of Flammable and Combustible Liquids
<i>Miscellaneous Standards</i>		
Ports	AS 3846	The handling and transport of dangerous cargoes in port areas

SCHEDULE 3 - Exempt Explosives

Regulation 3

PART 1 - Interpretation**1. Interpretation**

In this Schedule –

classification code, in relation to an explosive, means the classification code for the explosive under the Australian Dangerous Goods Code;

gross weight, of explosives, means the gross weight of the explosives inclusive of any inner and outer packaging;

NEQ means net explosive quantity.

PART 2 - Table of exempt explosives

Ammunition and propellants

- 1. Small arms ammunition in the possession of the holder of a licence under the Firearms Act 1996
Propellant powders with classification code 1.3C, up to 5kg NEQ, in the possession of the holder of a licence under the Firearms Act 1996 ,
- 2. being possession solely and directly connected with the loading or reloading of ammunition for the licensee's personal use
Propellant powders with classification code 1.1D (known as black powder), up to 5kg NEQ, in the possession of the holder of a licence under the Firearms Act 1996 ,
- 3. being possession solely and directly connected with the loading or reloading of ammunition for the licensee's personal use

Fireworks

- 4. Type 1 fireworks

Ignition devices

- 5. Electric igniters of classification code 1.4
- 6. Igniter cords of classification code 1.4

Safety and life-saving equipment

- 7. Explosives designed and manufactured

8. expressly to activate fire extinguishers Explosives designed and manufactured expressly to activate parachutes Explosives designed and manufactured
9. expressly to activate (deploy and/or inflate) vehicle passenger/driver air-bags Explosives designed and manufactured
10. expressly to activate (pre-tension) vehicle passenger/driver seat-belts Explosives designed and manufactured
11. expressly to activate (deploy and/or inflate) life rafts, vessel or aircraft passenger evacuation slides or similar life-saving and safety devices Explosives designed and manufactured
12. expressly to activate (in any way) safety or life-saving devices similar to those specified in items 7, 8, 9, 10 and 11 of this table
13. Distress signals –
 (a) with classification code 1.3, up to 15kg gross weight;
 (b) with classification code 1.4, up to 250kg gross weight
- Miscellaneous*
14. Safety fuses

15.

SCHEDULE 4 - Fit and Proper Person Criteria

Regulation 21(9) , regulation 45(6)(c) , regulation 87(11) and regulation 92(1)

1. Interpretation

Expressions that are defined in a Part and used in this Schedule have the same meaning in this Schedule as in that Part.

2. Criteria

In determining whether a person is a fit and proper person to obtain or retain an entitlement, the Secretary may have regard to such of the following matters as the Secretary reasonably considers applicable to the obtaining or retention of that entitlement:

- (a) the person's qualifications in relation to explosives;
- (b) the person's mental fitness;
- (c) the person's conduct as regards –
 - (i) any similar entitlement relating to the handling of explosives or dangerous substances, in this State or elsewhere; or
 - (ii) any attempt to obtain or retain such a similar entitlement;
- (d) whether the person has ever given false or misleading information in or in connection with an application or any other matter under the Act, an allied Act or a corresponding law;
- (e) whether the person has ever contravened the Act, an allied Act or a corresponding law;
- (f) whether the person has, in this State or elsewhere, ever been convicted of an offence involving explosives or other dangerous substances;
- (g) whether the person has ever been convicted of a terrorism offence;
- (h) whether the person has, in this State or elsewhere, ever been convicted of an offence involving –
 - (i) violence or weapons; or
 - (ii) dishonesty; or
 - (iii) the obstruction or intimidation of persons exercising or performing statutory powers or functions;
- (i) the person has, either in this State or elsewhere, been convicted of an offence of another kind that calls into question the person's fitness or competence to obtain, or retain, the entitlement;
- (j) in the case of the retention of an entitlement, whether the conditions of the entitlement have been contravened in any material or sustained way.

3. SSDS permit holders

For the purposes of these regulations, the Secretary is entitled to assume that a person who holds an SSDS permit in relation to a restricted activity under the Security-sensitive Dangerous Substances Act 2005 is prima facie a fit and proper person to hold an entitlement to do the same or any substantially similar activity.

4. Interstate shot-firers

For the purposes of these regulations, the Secretary is entitled to assume that a person who holds a valid interstate shot-firing authority to do shot-firing of a kind that substantially corresponds to a category of shot-firing under these regulations is prima facie a fit and proper person to have that authority recognised under these regulations and for the recognition to be valid for that category of shot-firing.

SCHEDULE 5 - Type 1 Fireworks

Regulation 4(1)

	Type	Description	Main effect	Maximum quantity of pyrotechnic substance
1.	Amorce	Dot of impact-sensitive explosive composition contained in non-metallic envelope	Report	0.0075g
2.	Cap	Dot of impact-sensitive explosive composition contained in non-metallic envelope	Report	0.0075g
3.	Party popper	Hand-held device operated by pull string	Report (with ejection of streamers or confetti)	0.03g
4.	Snap for bonbon	Two overlapping strips of card or paper with friction-sensitive explosive composition in sliding contact with abrasive surface	Report (when device pulled apart)	0.03g
5.	Sparkler	Wire 450mm in length and – (a) partially coated with explosive composition and designed to be free-standing or fixed to a base (b) coated with explosive composition along only one end and designed to be held by hand at other end (being explosive composition containing magnesium, chlorate or perchlorate)	Emission of sparks	10g (per individual sparkler) 100g (in total, per package of sparklers)

SCHEDULE 6 - Approved Purposes of Fireworks Displays

Regulation 87(11)

1. For regulation 87(11)(g) the following are taken to be approved purposes:
 - (a) a New Year's Eve celebration;
 - (b) a Commonwealth Day celebration (24 May – also known as "cracker night");
 - (c) a traditional cultural occasion (such as Chinese New Year, Diwali or Guy Fawkes Night);
 - (d) a finale to a major agricultural show (such as the Royal Hobart Show or Agfest);
 - (e) a finale to a major sporting or recreational event (such as the Royal Hobart Regatta or Launceston Festivale);
 - (f) a school fair;
 - (g) a community fair;
 - (h) the celebration of a major anniversary or milestone of political, historical or other significance to the Commonwealth or the State (such as Australia Day, Tasmania Day or a city centenary);
 - (i) the performance of an artistic work that incorporates or is associated with the use of explosives (such as Handel's *Music for the Royal Fireworks*);
 - (j) a military tattoo;
 - (k) the opening or anniversary of a major commercial enterprise;
 - (l) a purpose that substantially corresponds to one of these purposes.
2. For regulation 87(11)(g), the testing of fireworks, for classification or other purposes, by a fireworks importer, manufacturer or supplier, is also taken to be an approved purpose.

SCHEDULE 7 - Standard Conditions of Fireworks Display Permits

Regulation 89(3)(b)

1. Interpretation

(1) In this Schedule –

checked, in the case of Type 3 fireworks or associated equipment, means checked by a pyrotechnician;

display means the relevant fireworks display;

display equipment includes mortars, stakes and frames;

fireworks means Type 2 fireworks or Type 3 fireworks;

firing area means any area in which fireworks are made ready for firing or from which they are fired;

permit means the relevant fireworks display permit;

site means the immediate site of the display.

(2) Unless the contrary intention appears, if an expression used in this Schedule is defined in regulation 81 it has the same meaning in this Schedule.

2. Supervision and control

(1) The following persons must be on site throughout the display:

(a) the holder of the permit, if the permit is held by a natural person;

(b) the responsible adult, if the permit is held by a body of persons;

(c) the nominated pyrotechnician, if Type 3 fireworks are to be used at any stage of the display.

(2) An authorised officer may cancel or temporarily halt the display if the authorised officer reasonably believes that –

(a) the conditions of the permit have been, are being or are likely to be contravened in a serious way; or

(b) there is a genuine danger to persons or property.

3. Notifications and publicity

(1) The holder of the permit must ensure that the following persons are given at least 7 clear days' notice of the display:

(a) the Tasmania Fire Service;

(b) the Police Service;

(c) the general manager of the municipal area in which the proposed site is located;

(d) the owner or occupier of each property adjoining the proposed site;

(e) the owner or occupier of each property, within a one-kilometre radius of the proposed site, used for commercial livestock operations;

(f) if the proposed site is within one kilometre of any reserved land, within the meaning of the Nature Conservation Act 2002, the Director of National Parks and Wildlife;

(g) if the proposed site is within one kilometre of a permanent timber production zone land, within the meaning of the Forest Management Act 2013, Forestry Tasmania;

(h) if the proposed site is on the seashore and the display will involve any aerial display of fireworks, the Marine and Safety Authority established under the Marine and Safety Authority Act 1997.

(2) A person is taken to have complied with subclause (1) if the person –

(a) gives the required notices individually; or

(b) gives public notice of the display by means of a notice in a daily newspaper published and circulating generally in the region in which the display is to be held.

4. Timing and duration

(1) In this clause –

high winds means winds stronger than force 5 (fresh breeze/17-21 knots wind speed) on the Beaufort scale.

(2) A display must not last, in total, longer than 30 minutes (from the first to the last firing, inclusive of breaks).

(3) Unless the relevant permit provides otherwise, a display must not –

(a) in the case of a New Year's Eve fireworks display, commence before midnight on New Year's Eve or continue after 12.30 a.m. of the following day; or

(b) in the case of any other fireworks display, commence before 6 p.m. or continue after 10 p.m. on the day it is authorised to be held.

(4) Despite any other condition of the relevant permit, a display must not commence or, if it has commenced, proceed –

(a) in contravention of a total fire ban declaration; or

(b) in high winds or a lightning storm or other unsafe weather conditions.

5. Fire-fighting equipment

Adequate fire-fighting equipment, as specified in the relevant permit, must be provided on site throughout the display.

6. Safe firing distances – aerial fireworks

- (1) Fireworks in the form of projectiles designed to attain, or ordinarily capable of attaining, heights greater than 60 metres must not be fired within 5 kilometres of an aerodrome.
- (2) Fireworks consisting of, or including, aerial fireworks must be so placed and fired that the fireworks trajectory is at least 10 metres distant from any –
 - (a) above-ground power lines; or
 - (b) above-ground communications cables; or
 - (c) streetlamp poles or flagpoles; or
 - (d) gantries, cranes or similar high structures; or
 - (e) tall trees.

7. Safe firing distances – protected works &c.

- (1) Fireworks must not be fired within 200 metres of any place where other explosives, or flammable or combustible materials, are stored.
- (2) Fireworks must not be fired within 50 metres of any –
 - (a) protected works (outside the immediate venue for the display); or
 - (b) major infrastructure; or
 - (c) tent, marquee or similar shelter; or
 - (d) motor vehicle.
- (3) Fireworks consisting of a shell or mortar exceeding 75 millimetres in diameter must not be fired within 100 metres of any –
 - (a) protected works; or
 - (b) major infrastructure; or
 - (c) tent, marquee or similar portable shelter; or
 - (d) motor vehicle.
- (4) Despite subclauses (2) and (3), fireworks must not be fired within 500 metres of protected works of the following kind without the approval of the owner of, or an authority responsible for, those protected works:
 - (a) a school or other educational institution;
 - (b) a hospital or other medical institution;
 - (c) a retirement home, aged respite centre or other aged-care facility;
 - (d) a church or other place of public worship.

8. Spectator safety

- (1) In this clause –

prescribed distance means –

 - (a) for Type 2 fireworks, 10 metres; and
 - (b) for Type 3 (ground display) fireworks, 25 metres; and
 - (c) for Type 3 (aerial) fireworks with a shell not exceeding 100 millimetres in diameter, 100 metres; and
 - (d) for Type 3 (aerial) fireworks with a shell exceeding 100 millimetres in diameter, 100 metres plus one extra metre for every millimetre by which the diameter of the shell exceeds 100 millimetres.
- (2) The holder of the permit is responsible for crowd control and ensuring that spectators do not gain access to the fireworks, or firing areas, for the relevant display.
- (3) Aerial fireworks or shells must not be fired so as to cross over or burst over any designated spectator or parking area.
- (4) Any area set apart for the landing of aerial fireworks or associated debris (or any area in which such fireworks or debris may reasonably be expected to land) must be –
 - (a) free of flammable or combustible material; and
 - (b) be at least 100 metres from any designated spectator area.
- (5) Fireworks must not be fired within the prescribed distance of any designated spectator area.

9. Fireworks precautions

- (1) Before being taken on site –
 - (a) Type 3 fireworks must be kept in an approved magazine; and
 - (b) Type 2 fireworks must be securely held away from any ignition source or from other dangerous substances with which they could explosively interact.
- (2) Once fireworks have been taken on site, the fireworks –

(a) must be kept in closed containers, at least 25 metres away from the firing area, until they need to be positioned and made ready for firing; and

(b) must not, before being fired, be left unattended at any time.

(3) All fireworks must be checked for damage or defects before the display and any found to be damaged or defective (or suspected of being so) must be put aside and not used.

(4) Fireworks that do not have the manufacturer's instructions printed on its casing must not be fired unless the manufacturer is responsible for the firing.

(5) Misfires must be destroyed, or safely removed from the site in an approved portable magazine, preferably by soaking with water for at least 10 hours and then burying, but under no circumstances may misfires be burned.

10. Mortars

(1) All mortars must be checked before the display (particularly for bent, bulging or split tubes) and any mortars found to be damaged or defective (or suspected of being so) must be put aside and not used.

(2) Mortars must be –

(a) securely pegged; and

(b) so sited that the projectiles will fire as near to the vertical as possible.

11. Follow-up measures

(1) Immediately after the display, all necessary follow-up measures must be taken.

(2) Any misfires found must be treated in accordance with clause 9(5) .

12. Incidents and accidents

(1) An incident or accident attributable in any way to the display fireworks (whether or not resulting from the actual firing of the fireworks and whether or not causing damage or injury) must be promptly reported to an authorised officer.

(2) For the purposes of subclause (1) , a serious misfire or malfunction of a Type 3 firework is taken to be an incident.

SCHEDULE 8 - Infringement notices offences and penalties

Regulation 115

	Column 1 Provision	Column 2 Penalty units	
		Body corporate	
		Individual	
1.	Section 28	25	25
2.	Section 29(1)	10	10
3.	Section 29(2)	10	10
4.	Section 36(3)	2	2
5.	Section 56(2)	5	5
6.	Section 56(3)	5	5
7.	Section 56(4)	5	5
8.	Section 70 Section 70	15	10
9.	Regulation 11(2)	15	15
10.	Regulation 12(1)	15	15
11.	Regulation 12(2)	15	15
12.	Regulation 12(3)	15	15
13.	Regulation 13(1)	15	15
14.	Regulation 13(2)	15	15
15.	Regulation 13(3)	15	15
16.	Regulation 14(2)	5	5
17.	Regulation 14(3)	5	5
18.	Regulation 27	10	10
19.	Regulation 28	10	10
20.	Regulation 34(3) –		
	(a) if the offence is committed in respect of an explosives location; and	15	15
	(b) in any other case	5	5
21.	Regulation 38(3)	5	5
22.	Regulation 38(4)	5	5
23.	Regulation 39(3)	5	5
24.	Regulation 39(4)	5	5
25.	Regulation 40(2)	5	5
26.	Regulation 40(3)	5	5
27.	Regulation 40(4)	5	5
28.	Regulation 41(1)	5	5
29.	Regulation 41(2)	5	5
30.	Regulation 41(3)	5	5
31.	Regulation 44	15	10
32.	Regulation 47(2)	-	5
33.	Regulation 54(4)	15	5
34.	Regulation 56(3)	15	5
35.	Regulation 57(2)	15	5
36.	Regulation 57(3)	15	5
37.	Regulation 58	-	5
38.	Regulation 59(1)	-	5
39.	Regulation 62(3)	15	3
40.	Regulation 72(2)	15	5
41.	Regulation 80(1)	15	5
42.	Regulation 80(2)	15	5
43.	Regulation 85(1)	10	5
44.	Regulation 85(2)	15	10
45.	Regulation 85(3)	15	10
46.	Regulation 86	15	10
47.	Regulation 89(4)	10	5
48.	Regulation 98(1)	25	25
49.	Regulation 98(2)	25	25
50.	Regulation 98(3)	25	25
51.	Regulation 99(2)	25	25
52.	Regulation 100	25	25
53.	Regulation 102	15	10
54.	Regulation 103(1)	25	25
55.	Regulation 109	15	10
56.	Regulation 110(1)	5	5

57.	Regulation 110(2)	5	5
58.	Regulation 110(3)	5	5
59.	Regulation 110(4)	5	5

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These regulations are administered in the Department of Justice.