

South Australia

## **Explosives (Security Sensitive Substances) Regulations 2006**

under the *Explosives Act 1936*

---

### **Contents**

#### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Prescribed quantity for Part 3 (Carriage of explosives)
- 5 Non-application of regulations to inspectors or customs officers

#### Part 2—Meaning and classification of security sensitive substances

- 6 Security sensitive substances

#### Part 3—Prohibitions

- 7 Certain uses of security sensitive ammonium nitrate prohibited

#### Part 4—Licences and permits

- 8 Requirement for licence
- 9 Requirement for permit
- 10 Offence to sell or supply
- 11 Grant or renewal of licence or permit
- 12 Term of licence or permit
- 13 Annual returns
- 14 Conditions of licence or permit
- 15 Security management plan for licences
- 16 Security clearance of certain persons
- 17 Reporting of theft etc of security sensitive substances
- 18 Manufacture
- 19 Separation distances
- 20 Import and export
- 21 Records of sale or supply
- 22 Records of purchase or acquisition
- 23 Records of use or disposal
- 24 Offence to contravene conditions of licence or permit
- 25 Variation of licence or permit
- 26 Criteria for determination of applications
- 27 Applications
- 28 Licence or permit may include photograph
- 29 Suspension or revocation of licence or permit or revocation of approval
- 30 Production of licences, permits, approvals and records
- 31 False or misleading statements
- 32 Police reports

## Part 5—Appeal

33 Right of appeal

## Part 6—Miscellaneous

34 Exemption

35 Waiver of fees

## Schedule 1—Fees

## Schedule 2—Related variations and transitional provisions

### Part 1—Preliminary

1 Variation provisions

### Part 2—Variation of *Explosives Regulations 1996*

2 Variation of regulation 1.05—Interpretation

3 Insertion of regulation 3.A1

3.001 Application of Part

4 Insertion of regulation 6.01A

6.001 Application of Part

5 Insertion of regulation 7.01A

7.001 Application of Part

6 Insertion of regulation 10.01A

10.001 Application of Part

7 Insertion of regulation 11.01A

11.001 Application of Part

8 Insertion of regulation 13.01A

13.001 Application of Part

9 Variation of regulation 14.001—Application of Part

### Part 3—Transitional provisions

10 Current licences and permits relating to security sensitive substances

## Legislative history

---

## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Explosives (Security Sensitive Substances) Regulations 2006*.

### 2—Commencement

These regulations will come into operation 6 months after the day on which they are made.

### 3—Interpretation

(1) In these regulations, unless the contrary intention appears—

*Act* means the *Explosives Act 1936*;

**application for variation of a licence or permit**—see regulation 25;

**Class 1 Dangerous Goods** has the same meaning as in the *Explosives Regulations 1996*;

**compatibility group** has the same meaning as in Part 2 of the *Explosives Regulations 1996*;

**harm** to a person includes death of the person;

**licence** means a licence granted under the Act in relation to a security sensitive substance;

**permit** means a permit granted under these regulations;

**plant** includes—

- (a) a machine, engine, equipment, container or device; and
- (b) a component, fitting, pipe or accessory used in or in connection with a machine, engine, equipment, container or device;

**protected works** has the same meaning as in Part 11 of the *Explosives Regulations 1996*;

**secure** means secure from—

- (a) loss; or
- (b) theft; or
- (c) sabotage; or
- (d) unauthorised access;

**security risk** means risk of—

- (a) loss, theft or sabotage of a security sensitive substance; or
- (b) unauthorised access to a security sensitive substance;

**security sensitive ammonium nitrate** has the same meaning as in the *Explosives (Security Sensitive Ammonium Nitrate) Proclamation 2006*;

**security sensitive substance**—see regulation 6;

**sell** includes offer to sell;

**spouse** includes a putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*);

**supply** includes offer to supply.

- (2) For the purposes of these regulations, 2 persons are **close associates** if—
- (a) 1 is a spouse, parent, child, brother or sister of the other; or
  - (b) they are in partnership; or
  - (c) they are related bodies corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth); or
  - (d) 1 is a body corporate and the other is a director, manager, secretary or public officer of the body corporate; or

- (e) 1 is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
  - (f) 1 is a trustee of a trust and the other is a beneficiary of the trust or, in the case of a discretionary trust, an object of the trust; or
  - (g) 1 has a right to participate, or participates, (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
  - (h) 1 is in a position to exercise, or exercises, control or significant influence over the conduct of the other.
- (3) A reference to *keeping security sensitive substances secure* includes a reference to keeping the substances secure for the purposes of security within the meaning of the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth.

#### **4—Prescribed quantity for Part 3 (Carriage of explosives)**

For the purposes of Part 3 of the Act, the prescribed quantity of security sensitive substances is 20 kilograms.

#### **5—Non-application of regulations to inspectors or customs officers**

These regulations do not apply to an inspector, or a person employed in the Australian Customs Service, acting in the course of official duties.

### **Part 2—Meaning and classification of security sensitive substances**

#### **6—Security sensitive substances**

- (1) Subject to subregulation (3), in these regulations—  
*security sensitive substance* means a substance declared to be an explosive by proclamation under section 5 of the Act and declared by that proclamation to be a security sensitive substance.
- (2) Despite the *Explosives Regulations 1996*, a security sensitive substance may be classified by the Director under those regulations without assigning it to 1 of the divisions of Class 1 Dangerous Goods.
- (3) However, if the Director assigns a substance that would otherwise be a security sensitive substance to 1 of the divisions of Class 1 Dangerous Goods, the substance is to be regarded for the purposes of the Act and regulations under the Act as an explosive that is not a security sensitive substance.

### **Part 3—Prohibitions**

#### **7—Certain uses of security sensitive ammonium nitrate prohibited**

Security sensitive ammonium nitrate must not be used for household or domestic purposes or as a fertiliser for recreational grounds.

## **Part 4—Licences and permits**

### **8—Requirement for licence**

The requirements of the Act in relation to licensing apply to an explosive that is a security sensitive substance.

### **9—Requirement for permit**

A person must not, except as authorised by permit under these regulations—

- (a) import or export a security sensitive substance (whether to or from a place inside or outside Australia);
- (b) sell or otherwise supply to another a security sensitive substance;
- (c) purchase or otherwise acquire a security sensitive substance;
- (d) use or dispose of a security sensitive substance.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **10—Offence to sell or supply**

A person must not sell or otherwise supply a security sensitive substance to a person unless the person purchasing or otherwise acquiring the substance holds a permit authorising its purchase or acquisition.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **11—Grant or renewal of licence or permit**

- (1) The Director may, on application by a person, grant or renew a licence or permit.
- (2) If an applicant applies to the Director for the grant or renewal of a permit authorising several activities involving a security sensitive substance, the Director may, in the Director's discretion, grant the applicant a single permit or multiple permits authorising those activities.

### **12—Term of licence or permit**

- (1) Subject to these regulations—
  - (a) a licence remains in force for a period specified in the licence on its grant or renewal; and
  - (b) a permit remains in force for a period specified in the permit on its grant or renewal.
- (2) The period specified must not exceed—
  - (a) in the case of a licence or permit issued on an application made within 6 months after the commencement of this regulation—3 years and 6 months; and
  - (b) in any other case—3 years.

- (3) The Director may, if the Director thinks fit, renew a licence or permit despite the fact that application for renewal of the licence or permit was made after the end of the previous term of the licence or permit.
- (4) The Director may, of the Director's own initiative and without application by the holder of a licence or permit, renew the licence or permit if the Director is satisfied that it is necessary for the purposes of protecting persons, property or the environment from harm or keeping a security sensitive substance secure that the holder of the licence or permit continue to be bound by conditions of the licence or permit.
- (5) A licence or permit has effect, on grant or renewal, from the date specified in the licence or permit for that purpose, which may be earlier than the date of application for the grant or renewal of the licence or permit.

### 13—Annual returns

- (1) This regulation applies to a licence or permit granted or renewed for a term of 2 years or more.
- (2) The holder of a licence or permit must, in each year, lodge with the Director, before the date notified in writing to the holder by the Director for that purpose, an annual return containing the information required by the Director by licence or permit condition or by written notice.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) In this section—

*holder of a licence or permit* includes the holder of a licence or permit that has been suspended.

### 14—Conditions of licence or permit

- (1) A licence or permit is subject to—
  - (a) conditions imposed by these regulations; and
  - (b) conditions imposed by the Director.
- (2) Without limiting subregulation (1), conditions imposed by the Director may include the following:
  - (a) conditions specifying the activities authorised;
  - (b) conditions specifying the nature or quantity of security sensitive substances that may be involved in the authorised activity;
  - (c) conditions specifying packaging and labelling requirements for security sensitive substances;
  - (d) conditions specifying separation distances in relation to the storage of security sensitive substances;
  - (e) conditions specifying the training or supervision of employees, contractors and others, or requiring certain persons to hold specified qualifications or have specified experience;

- (f) conditions specifying the mechanisms for controlling and recording access to security sensitive substances or to information about security sensitive substances;
  - (g) conditions specifying the premises, vehicles or plant that may be used under the licence or permit;
  - (h) conditions requiring any alteration to premises, vehicles or plant to be approved by the Director;
  - (i) other conditions limiting or regulating the authorised activities for the purposes of protecting persons, property or the environment from harm or keeping security sensitive substances secure.
- (3) Without limiting subregulation (1), conditions imposed by the Director may relate to premises and plant associated with, or in the vicinity of, a security sensitive substance or premises or plant used, or to be used, in connection with a security sensitive substance.

### **15—Security management plan for licences**

- (1) It is a condition of a licence that the holder of the licence must—
- (a) have a security management plan approved by the Director; and
  - (b) ensure that activities under the licence conform with the security management plan approved by the Director; and
  - (c) review the security management plan in a manner, at intervals, and within a period, as required by conditions imposed by the Director and provide a report of the review to the Director.
- (2) A security management plan—
- (a) must incorporate or refer to a written report identifying and assessing security risks associated with the activities authorised by the licence; and
  - (b) must incorporate a set of processes adopted by the holder of the licence to apply to the activities authorised by the licence for the purposes of keeping security sensitive substances secure; and
  - (c) must, if it contemplates a security sensitive substance—
    - (i) being kept in a building, container or area that is not physically secured; or
    - (ii) being transported in a vehicle in a compartment that is not physically secured,require that the substance be under constant surveillance by specified means for each period during which the substance is so kept or transported; and
  - (d) must be fully documented.
- (3) Without limiting subregulation (2), the processes adopted by the holder of the licence may relate to 1 or more of the following:
- (a) security of premises or of magazines, buildings, tanks or other containers or storage areas for security sensitive substances;

- (b) security during transport of security sensitive substances, including during loading and unloading;
  - (c) the mechanisms for controlling and recording access to security sensitive substances;
  - (d) recording and stocktaking of security sensitive substances;
  - (e) security of information about security sensitive substances or activities involving security sensitive substances;
  - (f) assignment of responsibility for ensuring compliance with the plan or tasks included in the plan;
  - (g) monitoring of compliance with the processes;
  - (h) reviewing identification and assessment of security risks, in particular, where there may be additional or varied risks associated with a change in circumstances;
  - (i) reviewing the processes.
- (4) The Director may issue guidelines about security management plans for particular activities.
- (5) The Director may, on application by the holder of a licence or an applicant for a licence, approve a security management plan for that licence.
- (6) If, at any time, the Director is not satisfied as to the adequacy of a security management plan, the Director may require the plan to be resubmitted for approval within a specified period in a modified form (which may be specified by the Director).
- (7) If the holder of a licence fails to resubmit a security management plan as required, the holder is guilty of an offence.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (8) The Director may grant an exemption from the application of subregulation (1) for such period as the Director considers necessary to allow the licensee to prepare a security management plan and its supporting material.
- (9) An exemption under subregulation (8)—
- (a) may be conditional on the licensee—
    - (i) having, within a specified period, a compliance plan approved by the Director; and
    - (ii) conforming with the approved compliance plan; and
  - (b) is subject to other conditions imposed by the Director.
- (10) In this regulation—

**compliance plan** means a plan setting out the manner in which, and the period within which, a security management plan and its supporting material will be prepared;

**supporting material**, in relation to a security management plan, means a detailed explanation of the grounds on which it is proposed that the plan should be approved.



## 16—Security clearance of certain persons

- (1) It is a condition of a licence or permit that the holder of the licence or permit must ensure that—
  - (a) each person who supervises or manages the activities authorised by the licence or permit is an approved security cleared manager for that licence or permit; and
  - (b) each person—
    - (i) who has responsibility for ensuring compliance with an approved security management plan or tasks included in the plan; or
    - (ii) who may have access to a security sensitive substance other than in the presence of and under the direct supervision of an approved security cleared manager or approved security cleared agent,  
is an approved security cleared manager, or approved security cleared agent, for that licence or permit; and
  - (c) if required by condition of licence or permit imposed by the Director, each approved security cleared manager and approved security cleared agent wears, while undertaking duties relating to the activity authorised by the licence or permit, an identification card that is in a form approved by the Director and is clearly visible to other persons.
- (2) The Director may, on application by the holder of or an applicant for a licence or permit, approve a person as an approved security cleared manager, or approved security cleared agent, for that licence or permit.
- (3) An approval granted under this regulation remains in force for a period specified in the approval.

## 17—Reporting of theft etc of security sensitive substances

It is a condition of a licence or permit that the holder of the licence or permit must ensure that the theft, loss or apparent unauthorised interference with a security sensitive substance to which the licence or permit relates is reported immediately to a police officer and the Director.

## 18—Manufacture

It is a condition of a licence authorising the manufacture of a security sensitive substance that the holder of the licence must ensure that the name and address of each person from whom an ingredient for the substance is obtained has been notified in writing to the Director.

## 19—Separation distances

- (1) It is a condition of a licence authorising the storage of ammonium nitrate blasting intermediate that the holder of the licence must ensure that, unless the Director has authorised otherwise in writing, the distance between the place where ammonium nitrate blasting intermediate is stored and protected works is not less than the distance prescribed by the *Explosives Regulations 1996* for explosives of category ZZ stored in a magazine (see Part 11 and Schedule T of those regulations).

- (2) It is a condition of a licence authorising the storage of security sensitive ammonium nitrate other than ammonium nitrate blasting intermediate that the holder of the licence must ensure that, unless the Director has authorised otherwise in writing, the distance between a place where 100 tonnes or more of the substances are stored and protected works is not less than the distance prescribed by the *Explosives Regulations 1996* for a mass of explosives of category ZZ stored in a magazine that is half the actual mass of the substances (see Part 11 and Schedule T of those regulations).
- (3) In this regulation—
- ammonium nitrate blasting intermediate*** means security sensitive ammonium nitrate comprised of an emulsion, suspension or gel, primarily made up of ammonium nitrate (with or without other inorganic nitrates) and containing other substances such as oxidisers and fuels, and intended for use as a blasting explosive following modification prior to use.

## 20—Import and export

- (1) It is a condition of a permit authorising the import or export of a security sensitive substance from or to a place outside Australia that the holder of the permit must ensure that at least 7 clear working days notice is given of each lot, parcel or consignment of security sensitive substances to be brought into the State or to be taken out of the State.
- (2) The notice—
- (a) must be given to the Director and, if the security sensitive substance is to be landed at or to leave from a port, to the operator of the port; and
  - (b) must conform to the requirements of the Director about its form, contents and the manner in which it is made; and
  - (c) must, without limiting paragraph (b)—
    - (i) be accompanied by a statement of composition from the manufacturer of the substance and a certificate of analysis provided by a laboratory accredited by the National Association of Testing Authorities Australia or a laboratory accredited by an overseas body that, in the opinion of the Director, corresponds to that association; and
    - (ii) for import, include details of the licences and permits under which it is proposed that the substance be stored, transported or used while in the State.

## 21—Records of sale or supply

- (1) It is a condition of a permit authorising the sale or supply of a security sensitive substance that the holder of the permit must ensure—
- (a) that records are kept in accordance with this regulation and retained for a period of at least 5 years; and
  - (b) that the identity of each natural person to whom a security sensitive substance is delivered (a ***recipient***) is verified in accordance with this regulation; and

- (c) that a security sensitive substance is not delivered to a person on behalf of another unless the holder of the permit has received a written authorisation from the person to whom the substance is sold or supplied authorising the delivery of the substance to the person and there is no reason to doubt the authenticity or currency of the authorisation.
- (2) A record must be kept of each transaction for the sale or supply of a security sensitive substance including at least the following information:
- (a) the licence or permit number of the person from whom the substance was obtained by the holder or, if the substance was manufactured or imported by the holder, a statement of that fact;
  - (b) the date of the transaction;
  - (c) the type and amount of security sensitive substance sold or supplied;
  - (d) the place at which the security sensitive substance was delivered under the transaction;
  - (e) the licence or permit number of the person to whom the security sensitive substance was sold or supplied.
- (3) The identity of a recipient must be verified by examining in accordance with subregulation (4) evidence produced by the recipient consisting of—
- (a) a single card or document that appears—
    - (i) to have been issued by the government or a statutory authority of the State or the Commonwealth or another State or a Territory; and
    - (ii) to bear the name, residential address and signature and a photograph of the recipient; or
  - (b) 2 or more cards or documents—
    - (i) at least 1 of which appears to have been issued by the government or a statutory authority of the State or the Commonwealth or another State or a Territory and the other or others of which appear to have been issued for some official or other proper purpose by a person or body other than the recipient; and
    - (ii) that together appear to bear the name, residential address and signature of the recipient.
- (4) The person must examine the evidence produced by the recipient so as to ensure—
- (a) that it does not appear to have been forged or tampered with; and
  - (b) that it contains a name and address matching the name and address given to the person by the recipient as the recipient's name and residential address; and
  - (c) that it contains a signature apparently matching the signature of the recipient obtained by the person; and
  - (d) if it consists of a single card or document—that the photograph is a likeness of the recipient.

- (5) The following details of each card or document used to verify the identity of a recipient must be recorded in the records kept under subregulation (2):
- (a) if the card or document has an identifying number—that number;
  - (b) if the card or document does not have an identifying number but does bear the date of its issue—that date;
  - (c) details sufficient to enable identification of the body or person who apparently issued the card or document.
- (6) The records kept under subregulation (2) must include each written authorisation provided to the holder of the permit for the purposes of this regulation.

## **22—Records of purchase or acquisition**

- (1) It is a condition of a permit authorising the purchase or acquisition of a security sensitive substance that the holder of the permit must ensure that records are kept in accordance with this regulation and retained for a period of at least 5 years.
- (2) A record must be kept of each purchase or acquisition of a security sensitive substance including at least the following information:
- (a) the permit number of the person from whom the security sensitive substance is purchased or acquired;
  - (b) the date of the purchase or acquisition;
  - (c) the type and amount of security sensitive substance purchased or acquired;
  - (d) a brief description of the purpose for which the security sensitive substance is purchased or acquired;
  - (e) the number of any licence or permit under which the security sensitive substance is to be dealt with following purchase or acquisition.

## **23—Records of use or disposal**

- (1) It is a condition of a permit authorising the use or disposal of a security sensitive substance that the holder of the permit must ensure that records are kept in accordance with this regulation and retained for a period of at least 5 years.
- (2) A record must be kept of each use or disposal of a security sensitive substance including at least the following information:
- (a) the permit number of the person from whom the security sensitive substance was acquired or, if the substance was acquired before the commencement of these regulations, details of how the substance was acquired;
  - (b) the date of the use or disposal;
  - (c) the type and amount of security sensitive substance used or disposed of;
  - (d) the place at which the security sensitive substance was used or disposed of;
  - (e) a brief description of the use or the method of disposal.

## 24—Offence to contravene conditions of licence or permit

- (1) If a condition of a licence or permit is contravened, the holder of the licence or permit is guilty of an offence.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (2) This regulation does not apply where the contravention of the condition constitutes an offence against the Act.

## 25—Variation of licence or permit

- (1) The holder of a licence or permit may apply for the Director to take action under section 48A of the Act to vary or revoke the conditions of the licence or permit or to impose further conditions on the licence or permit (an *application for variation of the licence or permit*).
- (2) The holder of a licence or permit must, at the request of the Director and within the period stated by the Director, return the licence or permit to the Director in order for the licence or permit to be replaced or altered to record action taken under section 48A of the Act.  
Maximum penalty: \$1 250.  
Expiation fee: \$160.

## 26—Criteria for determination of applications

- (1) A licence or permit is not to be granted to a natural person unless that person has attained 18 years of age and a licence or permit is not to be granted to a body corporate unless each of the directors has attained 18 years of age.
- (2) A person is not to be approved as a security cleared manager or security cleared agent unless that person has attained 18 years of age.
- (3) The Director may refuse an application for the grant, renewal or variation of a licence or permit if the Director is not satisfied—
  - (a) that the holder or proposed holder of the licence or permit is a suitable person to hold the licence or permit (or the licence or permit as proposed to be varied); or
  - (b) that the holder or proposed holder of the licence or permit has the capacity, or has made or proposes to make appropriate arrangements, to satisfy the requirements of the Act and regulations made under the Act; or
  - (c) that the holder or proposed holder of the licence or permit has a genuine reason for carrying out the activity authorised or to be authorised by the licence or permit (or the licence or permit as proposed to be varied).
- (4) The Director may refuse an application for the approval of a security cleared manager or security cleared agent if the Director is not satisfied that the person is a suitable person to be so approved.

- (5) Without limiting subregulation (3) or subregulation (4)—
- (a) a person who is the subject of an adverse security assessment within the meaning of the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth will not be regarded as a suitable person to hold a licence or permit or to be approved as a security cleared manager or security cleared agent; and
  - (b) in assessing the suitability of a person, the Director may have regard to the character and reputation of the person and the person's close associates and may, without limitation, take into account relevant offences.
- (6) If, under the Act, the Director has an absolute discretion to grant or refuse to grant an application, this regulation does not fetter that discretion and is to be read as an expression of the intention of the Director at the time this regulation came into operation.

## 27—Applications

- (1) An application under this Part—
- (a) must be made to the Director; and
  - (b) must conform to the requirements of the Director about its form, contents and the manner in which it is made; and
  - (c) must, in the case of an application for a licence or permit, specify the purposes for which the person requires the licence or permit; and
  - (d) must, in the case of an application for a licence or permit, be accompanied by proof (to the satisfaction of the Director) of the applicant's identity and age, or, if the applicant is a body corporate, the identity and age of each of the directors; and
  - (e) must, in the case of an application for approval of a security cleared manager or security cleared agent, be accompanied by proof (to the satisfaction of the Director) of the identity and age of the person proposed to be approved; and
  - (f) must, in the case of an application for approval of a security management plan, be accompanied by the supporting material referred to in regulation 15; and
  - (g) must be accompanied by the fee fixed by these regulations (if any).
- (2) The Director may, by written notice—
- (a) ask the applicant to give the Director further information, documents or records relevant to the application (including reports about the person's physical or mental health); or
  - (b) ask the applicant to allow persons authorised by the Director to inspect premises, vehicles, plant or security sensitive substances proposed to be used by the applicant in connection with activities proposed to be authorised by the licence or permit; or
  - (c) ask the applicant, a close associate of the applicant, a person proposed to be approved as a security cleared manager or security cleared agent or a close associate of such a person to submit to the taking of photographs; or

- (d) ask the applicant, a close associate of the applicant, a person proposed to be approved as a security cleared manager or security cleared agent or a close associate of such a person to obtain from the Commissioner of Police such reports on the person as the Director considers necessary, or to provide consents appropriate for the obtaining of such reports (and the cost of obtaining the reports is to be borne by the applicant).

**Note—**

However, a person who has been approved as a security cleared manager or security cleared agent for a licence or permit within the previous 3 years and whose approval has not been revoked will not be asked to obtain reports or provide consents if an application is made for approval of the person as a security cleared manager or security cleared agent for another licence or permit.

- (3) The Director may refuse the application if a person does not comply with such a request.
- (4) The applicant may, with the approval of the Director or at the request of the Director, amend the application before the Director has finished considering it.
- (5) The Director may, as the Director considers appropriate, accept a single application from an applicant in respect of different activities of the applicant or activities of the applicant at different locations or may require separate applications.

## **28—Licence or permit may include photograph**

- (1) A licence or permit granted to a natural person will, if the Director so determines, include a photograph of the holder of the licence or permit.
- (2) For that purpose, an applicant for a licence or permit who is a natural person may be required by the Director—
  - (a) to attend at a specified place to have the applicant's photograph taken; or
  - (b) to supply the Director with 1 or more photographs of the applicant as specified by the Director.

## **29—Suspension or revocation of licence or permit or revocation of approval**

- (1) The Director may suspend or revoke a licence or permit if satisfied that—
  - (a) the licence or permit was obtained improperly; or
  - (b) the holder of the licence or permit—
    - (i) has ceased to engage in the activity authorised by the licence or permit; or
    - (ii) has not paid fees or charges payable to the Director within the required time; or
    - (iii) has contravened the Act, regulations under the Act or a law of the Commonwealth or another State or a Territory of the Commonwealth that regulates activities involving explosives; or
    - (iv) has ceased to be a suitable person to hold the licence; or
  - (c) the activities authorised by the licence or permit should not be continued because the security risks, or the risks of harm to persons, property or the environment, associated with the activity are unacceptably high.

- (2) A suspension under this regulation may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Director.
- (3) A suspension under this regulation may be expressed to have effect at a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.
- (4) The Director may revoke an approval of a person as a security cleared manager, or security cleared agent, for a licence or permit if satisfied that—
  - (a) the approval was obtained improperly; or
  - (b) the person approved has contravened the Act or a law of the Commonwealth or another State or a Territory of the Commonwealth that regulates activities involving explosives; or
  - (c) the person has ceased to be a suitable person to be approved.
- (5) Before the Director acts under this regulation, the Director must—
  - (a) give written notice to the holder of the licence or permit of the proposed action specifying the reasons for the proposed action; and
  - (b) unless satisfied that urgent action is required, allow the holder of the licence or permit at least 14 days within which to make submissions to the Director in relation to the proposed action.
- (6) If the Director suspends or revokes a licence or permit, the holder of the licence or permit must return the licence or permit to the Director within 14 days.  
Maximum penalty: \$1 250.  
Expiation fee: \$160.

### **30—Production of licences, permits, approvals and records**

- (1) An inspector may require the holder of a licence or permit to produce for inspection the licence or permit or approvals or records pertaining to the licence or permit under these regulations.
- (2) A person who does not comply with a requirement of an inspector under subregulation (1) is guilty of an offence.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.

### **31—False or misleading statements**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided or record kept under these regulations.

Maximum penalty: \$5 000.

### **32—Police reports**

The Commissioner of Police must, at the request of the Director, provide to the Director any information required by the Director for the purpose of determining an application for a licence, permit or approval or whether a licence, permit or approval should be suspended or revoked.



## **Part 5—Appeal**

### **33—Right of appeal**

- (1) The following appeals may be made to the Administrative and Disciplinary Division of the District Court:
  - (a) an applicant for a licence or permit may appeal against a decision of the Director—
    - (i) to refuse to grant the licence or permit; or
    - (ii) to impose particular conditions on the licence or permit;
  - (b) a person who holds or formerly held a licence or permit may appeal against a decision of the Director—
    - (i) to suspend or cancel the licence or permit; or
    - (ii) to impose or vary particular conditions on the licence or permit.
- (2) Subject to this regulation, an appeal must be instituted within 1 month of the making of the decision appealed against.
- (3) The Director must, on application by a person seeking to appeal a decision of the Director, state in writing the reasons for the decision.
- (4) If the reasons of the Director are not given in writing at the time of making a decision and the person affected by the decision, within 1 month of the making of the decision, requires the Director to state the reasons in writing, the time for instituting an appeal runs from the time when the person receives the written statement of those reasons.

## **Part 6—Miscellaneous**

### **34—Exemption**

- (1) The Director may, by notice in the Gazette, exempt a class of persons, substances or activities from the application of the Act or specified provisions of the Act.
- (2) An exemption is subject to any conditions stated in the notice.
- (3) An exemption may be varied or revoked by further notice in the Gazette.
- (4) A person who has been exempted from the application of the Act or specified provisions of the Act must not contravene a condition of the exemption.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### 35—Waiver of fees

The Director may waive a fee (or part of a fee) payable under these regulations if satisfied it is appropriate to do so in a particular case.

**Example—**

If an applicant for the grant or renewal of a licence or permit holds an authorisation under the law of another State or a Territory of the Commonwealth authorising activities that are substantially the same as those sought to be authorised by the licence or permit (whether or not this result is achieved by means of the imposition of conditions), the Director may waive the application fee or part of the application fee.

## Schedule 1—Fees

- |   |   |      |
|---|---|------|
| 1 | Application for grant or renewal of licence or permit (regardless of the number of licences or permits to be granted to the applicant, or held by the applicant to be renewed, at the same time)  | \$45 |
| 2 | Application for variation of licence or permit  | \$45 |
| 3 | If a licence or permit is to be granted or renewed for a period that is less than or more than 36 months, a pro rata adjustment is to be made to the amount of the fee by applying the proportion that the length of the licence or permit period in months bears to 36 months. |      |

## Schedule 2—Related variations and transitional provisions

### Part 1—Preliminary

#### 1—Variation provisions

In this Schedule, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

### Part 2—Variation of *Explosives Regulations 1996*

#### 2—Variation of regulation 1.05—Interpretation

Regulation 1.05—after the definition of *Schedule* insert:

*security sensitive substance* has the same meaning as in the *Explosives (Security Sensitive Substances) Regulations 2006*.

#### 3—Insertion of regulation 3.A1

Before regulation 3.01 insert:

##### 3.001—Application of Part

This Part does not apply in relation to a security sensitive substance.

#### **4—Insertion of regulation 6.01A**

Before regulation 6.01 insert:

##### **6.001—Application of Part**

This Part does not apply in relation to a security sensitive substance.

#### **5—Insertion of regulation 7.01A**

Before regulation 7.01 insert:

##### **7.001—Application of Part**

- (1) Subject to this regulation, this Part does not apply in relation to a security sensitive substance.
- (2) If a security sensitive substance is transported together with explosives of any other kind, the security sensitive substance must be taken into account under this Part (see especially regulation 7.10, 7.13 and 7.18) on the basis—
  - (a) in the case of ammonium nitrate blasting intermediate, that it is an explosive of Division 1.1D; and
  - (b) in any other case, that it is an explosive of Division 1.1D with a mass that is half its actual mass.
- (3) In this regulation—

*ammonium nitrate blasting intermediate* means security sensitive ammonium nitrate comprised of an emulsion, suspension or gel, primarily made up of ammonium nitrate (with or without other inorganic nitrates) and containing other substances such as oxidisers and fuels, and intended for use as a blasting explosive following modification prior to use.

#### **6—Insertion of regulation 10.01A**

Before regulation 10.01 insert:

##### **10.001—Application of Part**

This Part does not apply in relation to a security sensitive substance.

#### **7—Insertion of regulation 11.01A**

Before regulation 11.01 insert:

##### **11.001—Application of Part**

- (1) If—
  - (a) ammonium nitrate blasting intermediate; or
  - (b) a quantity of security sensitive substance other than ammonium nitrate blasting intermediate exceeding 100 tonnes,

is stored together with or in the vicinity of other explosives, the security sensitive substance must be taken into account under this Part (see especially regulations 11.05 and 11.06) on the basis that it is an explosive of category ZZ.

- (2) If a quantity of security sensitive substance other than ammonium nitrate blasting intermediate not exceeding 100 tonnes is stored together with or in the vicinity of other explosives, the security sensitive substance must be taken into account under this Part (see especially regulations 11.05 and 11.06) on the basis that it is an explosive of category ZZ with a mass that is half its actual mass.

- (3) In this regulation—

*ammonium nitrate blasting intermediate* means security sensitive ammonium nitrate comprised of an emulsion, suspension or gel, primarily made up of ammonium nitrate (with or without other inorganic nitrates) and containing other substances such as oxidisers and fuels, and intended for use as a blasting explosive following modification prior to use.

## **8—Insertion of regulation 13.01A**

Before regulation 13.01 insert:

### **13.001—Application of Part**

This Part does not apply in relation to a security sensitive substance.

## **9—Variation of regulation 14.001—Application of Part**

Regulation 14.001—after "fireworks" insert:

or security sensitive substances

## **Part 3—Transitional provisions**

### **10—Current licences and permits relating to security sensitive substances**

- (1) These regulations apply to a licence relating to a security sensitive substance that was in force immediately before the commencement of this clause.
- (2) A permit relating to a security sensitive substance that was in force under the *Explosives Regulations 1996* immediately before the commencement of this clause will be taken to be a permit issued under these regulations (and will expire on the date on which the permit would have expired under the *Explosives Regulations 1996*).
- (3) If there is a conflict between the conditions of such a licence or a permit as in force immediately before the commencement of this clause and the conditions imposed by these regulations, the conditions imposed by these regulations prevail.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Principal regulations

Year	No	Reference	Commencement
2006	14	<i>Gazette 25.1.2006 p357</i>	25.7.2006: r 2