

South Australia

## **Explosives (Fireworks) Regulations 2016**

under the *Explosives Act 1936*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Explosives (Fireworks) Regulations 2016*.

### 2—Commencement

These regulations will come into operation on 1 September 2016.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Explosives Act 1936*;

*aerial firework* means a firework designed to have an effect at a height greater than 20 metres (whether or not it also has an effect at or below that height);

*aerial shell* means a firework that is designed to burst high in the air and is projected from a mortar by a lifting charge;

*cracker shell* means a 12 gauge cartridge designed and manufactured principally for use in scaring and dispersing birds and other animals and containing a projectile that explodes;

*director* of a body corporate includes—

- (a) a person occupying or acting in the position of director or member of the governing body of the body corporate, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; and
- (b) any person in accordance with whose directions or instructions the directors or members of the governing body of the body corporate are accustomed to act;

*distress signal* means a pyrotechnic device intended for signalling or warning or similar purposes and includes a marine flare or signal, landing flare, highway flare, highway fusee, line-carrying rocket, anti-hail rocket, cloud seeding rocket, avalanche rocket, railway fog signal or smoke generator;

*exempt display permit*—see Part 3 Division 3;

*firecracker* means a firework consisting of a casing fitted with a wick and filled with gunpowder or other pyrotechnic composition and designed to explode with a single sharp report;

*firework* means—

- (a) a manufactured firework item; or

(b) an item designed or adapted so as to contain or include an explosive that on ignition burns or explodes, or both, to produce a visual effect or aural effect, or both; or

(c) flash powder or other pyrotechnic substance,

but does not include a distress signal, a model rocket motor or a cracker shell;

**fireworks display** means an event or activity involving the outdoor use of fireworks other than general use fireworks, but does not include—

(a) a test or private demonstration for a potential customer of fireworks by the holder of a pyrotechnic sales business licence; or

(b) a special effects display;

**general use firework** means—

(a) toy pistol caps; or

(b) starting pistol caps; or

(c) sparklers; or

(d) items commonly known as party poppers; or

(e) bonbon crackers or snaps for bonbon crackers; or

(f) items commonly known as blaster balls; or

(g) small fireworks commonly known as aluminium torches, amorces, indoor table bombs or magnesium torches;

**ignite** a firework includes initiate a firework;

**indoor firework** means—

(a) flash powder; or

(b) a firework that is designed to be safe for indoor use and is fitted with, or adapted for use with, an electrical ignition device;

**licence** means (except in Part 2)—

(a) a pyrotechnician's licence; or

(b) a pyrotechnic displays business licence; or

(c) a pyrotechnic sales business licence;

**pyrotechnic displays business licence**—see Part 3 Division 2;

**pyrotechnic sales business licence**—see Part 4;

**pyrotechnician's licence**—see Part 3 Division 1;

**sell** includes supply in the course of a business (whether or not for valuable consideration) and offer or expose for sale or such supply;

**sky rocket** means a firework with a casing that contains pyrotechnic substance which on ignition produces a jet of flame and escaping gases that propel the rocket into the air;

*special effects display* means an event or activity involving the use of fireworks (other than indoor fireworks or general use fireworks) conducted for the purpose of a stunt, or other special effect, for theatrical, cinematic or other entertainment purposes;

*string cracker* means a firework consisting of a series of firecrackers with their wicks intertwined to form a string, designed to explode in a rapid series of sharp reports;

*substance* includes a mixture of substances;

*supply* includes offer or expose for supply;

*use* a firework includes prepare a firework for use or ignite a firework.

#### **4—Non-application of regulations to inspectors**

These regulations do not apply to an inspector acting in the course of official duties.

## **Part 2—Prohibitions**

### **5—Prohibited fireworks**

- (1) A person must not, without the written approval of the Director, manufacture, keep, convey, sell or use—
  - (a) an encased firework that is constructed in a manner that may allow the escape of an explosive substance from its casing; or
  - (b) a firework, other than a general use firework, that contains a mixture of a chlorate with sulphur, a sulphide or phosphorus; or
  - (c) a firework that explodes wholly or in part and contains a mixture of a chlorate with aluminium or magnesium; or
  - (d) a firecracker other than one included in—
    - (i) a firework not comprised solely of firecrackers; or
    - (ii) a string cracker; or
  - (e) a string cracker other than a string cracker where—
    - (i) the quantity of gunpowder in each firecracker does not exceed 0.3 grams; and
    - (ii) the length of each firecracker does not exceed 50 millimetres; and
    - (iii) the length of the string cracker does not exceed 3 000 millimetres and is not less than 500 millimetres; or
  - (f) a firework that explodes wholly or in part and contains components (other than components constructed solely of lightweight material such as paper or thin cardboard or plastic) that may be projected without disintegration by the explosion of the firework; or
  - (g) a firework, other than a general use firework, that contains its own means of ignition, *ie* a device attached to or forming part of the firework and adapted to ignite the firework by friction or percussion; or
  - (h) a firework that, on ignition, is liable to be projected along the ground or through the air in an erratic or unpredictable flight; or

- (i) a firework consisting of a sky rocket; or
- (j) a firework that resembles or is packaged to resemble, or is labelled as being, a form of military munition.

Maximum penalty: \$5 000.

- (2) Subregulation (1)(f) does not prohibit the manufacture, keeping, conveyance, sale or use of a line rocket, being a rocket attached to a line and designed to travel the length of the line on ignition.

## **6—Unlawful sale, supply or possession of fireworks**

- (1) A person must not—
  - (a) sell or supply a firework, other than a general use firework; or
  - (b) have a firework, other than a general use firework, in his or her possession or custody,

except—

- (c) in the course of activities authorised by a licence or an exempt display permit; or
- (d) by, or in the course of, delivering the firework, in circumstances not requiring the carrier to hold a licence, to the holder of a licence or exempt display permit authorising activities in relation to the firework or an inspector; or
- (e) by, or in the course of, returning the firework to the holder of a licence from whom the firework was obtained; or
- (f) in respect of possession or custody—as authorised by section 23(2) of the Act; or
- (g) with the written approval of the Director.

Maximum penalty: \$5 000.

Expiation fee: If the person has possession or custody of less than 3 kilograms (gross weight) of fireworks—\$315.

- (2) In this regulation—

*licence* means a licence granted under the Act, these regulations or any other regulations made under the Act.

## **7—Unlawful sale, supply or possession of certain imported items**

- (1) A person must not sell or supply an imported firework comprising of aerial shells packaged together with a reloadable mortar of a kind that does not comply with the requirements of Schedule 1.

Maximum penalty: \$5 000.

- (2) A person who imports, or otherwise becomes the owner of, a firework of a kind referred to in subregulation (1) must, as soon as reasonably practicable after the firework comes into his or her possession or custody, cause the reloadable mortar to be removed from the package and to be properly disposed of.

Maximum penalty: \$2 500.

Expiation fee: \$210.

## **8—Prepared fireworks not to be transported on public roads**

A person must not, without the written approval of the Director, transport a firework on a public road if it has been prepared for display.

Maximum penalty: \$5 000.

## **Part 3—Use of fireworks**

### **Division 1—Pyrotechnician's licence**

#### **9—Requirement to hold pyrotechnician's licence**

- (1) A person must not personally use a firework (other than a general use firework) unless the person—
  - (a) holds a pyrotechnician's licence; or
  - (b) is acting under the direct supervision of a person who holds a pyrotechnician's licence.

Maximum penalty: \$5 000.

Expiation fee: If the offence involves less than 3 kilograms (gross weight) of fireworks—\$315.

- (2) A person must not conduct a fireworks display or special effects display unless—
  - (a) the person holds a pyrotechnician's licence; or
  - (b) the person acts through the instrumentality of such a person.

Maximum penalty: \$5 000.

Expiation fee: If the offence involves less than 3 kilograms (gross weight) of fireworks—\$315.

- (3) The Director may, by conditions of licence—
  - (a) limit the types of fireworks authorised to be used under a pyrotechnician's licence;
  - (b) limit the types of displays authorised to be conducted under a pyrotechnician's licence.

#### **10—Criteria for grant of pyrotechnician's licence**

A pyrotechnician's licence will only be granted by the Director if the applicant for the licence satisfies the Director that he or she—

- (a) has, personally or under the direct supervision of the holder of a pyrotechnician's licence, gained practical experience in the use of fireworks that is, in the opinion of the Director, appropriate for the grant of the licence; and
- (b) has successfully completed training or instruction of a kind that is, in the opinion of the Director, appropriate for the grant of the licence; and
- (c) has attained the age of 21 years; and
- (d) is otherwise a fit and proper person to hold the licence.

### **11—Term and renewal of pyrotechnician's licence**

- (1) A pyrotechnician's licence has, subject to these regulations, effect for a period of 12 months from the date on which it is granted.
- (2) A pyrotechnician's licence may be renewed for successive terms of 12 months.
- (3) An application for renewal of a pyrotechnician's licence must be lodged with the Director before, or within 1 month after, the date of expiry of the licence.
- (4) The Director may—
  - (a) refuse to renew a pyrotechnician's licence if the Director is satisfied the applicant has not acted under the authority of the licence to an extent that is, in the opinion of the Director, appropriate for the renewal of the licence; or
  - (b) require an applicant for renewal to satisfactorily complete a form of instruction specified by the Director before the renewal is granted.
- (5) A pyrotechnician's licence that is renewed by the Director under this regulation will be taken to have been renewed from the date on which the licence last expired.

### **12—Guidelines on appropriate practical experience and training or instruction**

- (1) The Director will publish guidelines as to the practical experience and training or instruction that the Director will consider appropriate for the grant or renewal of a pyrotechnician's licence.
- (2) The requirements may vary according to the type of fireworks authorised to be used under the pyrotechnician's licence or any other factor.

### **13—Notification of fireworks displays and special effects displays**

- (1) Subject to subregulation (2), it is a condition of a pyrotechnician's licence that the holder of the licence must ensure that the Director is notified (in the manner and form approved by the Director) at least 5 clear business days prior to the conduct of a fireworks display or special effects display under the authority of the licence.
- (2) The Director may, by conditions of licence, require the holder of the licence to obtain the prior approval of the Director for each special effects display, or each special effects display of a specified kind, conducted under the authority of the licence.

### **14—Public liability insurance**

It is a condition of a pyrotechnician's licence that the holder of the licence must ensure that, for each fireworks display conducted under the authority of the licence, a policy of public liability insurance is maintained in respect of death, personal injury and property damage arising out of the display in an amount of—

- (a) if the display involves the use of aerial fireworks, at least \$5 million; or
- (b) in any other case, at least \$1 million.

### **15—Log book to be kept by licensed pyrotechnician**

- (1) It is a condition of a pyrotechnician's licence that the holder of the licence must—
  - (a) keep a log book in accordance with this regulation recording each event or activity involving the use of a firework under the authority of the licence; and



- (b) retain the log book for at least 3 years after the event or activity to which the latest entry in the log book relates.
- (2) The log book must, unless otherwise approved by the Director, be bound and consist of consecutively numbered pages and entries in the book must be handwritten.
- (3) The log book must set out—
  - (a) the name of the licensed pyrotechnician; and
  - (b) the serial number of the pyrotechnician's licence; and
  - (c) in respect of each event or activity involving the use of a firework under the authority of the pyrotechnician's licence—
    - (i) the name and address of the person who employed or engaged the licensed pyrotechnician (if anyone); and
    - (ii) if the event or activity is a fireworks display or special effects display, the date on which the Director was notified of the display; and
    - (iii) the name and address of each person using fireworks under the supervision of the licensed pyrotechnician; and
    - (iv) the date and place of the event or activity; and
    - (v) the quantity and description of the fireworks used (including misfires and details of how each misfire was dealt with); and
    - (vi) a reference to the written plan prepared in relation to the event or activity sufficient to enable the plan to be identified (see Schedule 1).
- (4) If an error is made in the log book, the error must be ruled out or otherwise marked so as to still be clearly legible and the entry signed and dated by the licensed pyrotechnician.

### **16—Log book to accompany application for pyrotechnician's licence**

- (1) An applicant for a pyrotechnician's licence must, unless the Director approves otherwise, produce to the Director a log book kept by the applicant relating to each event or activity involving the use of fireworks under the supervision of a licensed pyrotechnician relied on for the purposes of the application.
- (2) The log book must, unless otherwise approved by the Director, be bound and consist of consecutively numbered pages and entries in the book must be handwritten.
- (3) The log book must—
  - (a) set out the name and address of the applicant; and
  - (b) in respect of each event or activity involving the use of a firework, set out—
    - (i) the name of the supervising licensed pyrotechnician; and
    - (ii) the serial number of the supervising pyrotechnician's licence; and
    - (iii) the name and address of the person who employed or engaged the licensed pyrotechnician (if anyone); and
    - (iv) the date and place of the event or activity; and

- (v) a description of the duties of the applicant in relation to the display; and
  - (vi) the quantity and description of the fireworks (if any) used by the applicant under the supervision of the licensed pyrotechnician, and be certified correct by signature of the supervising licensed pyrotechnician.
- (4) If an error is made in the log book, the error must be ruled out or otherwise marked so as to still be clearly legible and the entry signed and dated by the supervising licensed pyrotechnician.

### **17—Compliance with requirements of Schedules 1 and 2**

It is a condition of a pyrotechnician's licence that the holder of the licence must ensure that the requirements of Schedule 1 and Schedule 2 are complied with in respect of the use of fireworks or the conduct of a fireworks display under the authority of the licence.

## **Division 2—Pyrotechnic displays business licence**

### **18—Requirement to hold pyrotechnic displays business licence**

- (1) A person must not carry on a business constituted of, or involving, the conduct or arranging for the conduct of fireworks displays or special effects displays unless the person is the holder of—
- (a) a pyrotechnician's licence; or
  - (b) a pyrotechnic displays business licence.

Maximum penalty: \$5 000.

- (2) The Director may, by conditions of licence, limit the types of displays that may be conducted or arranged to be conducted in the course of the business authorised by a pyrotechnic displays business licence.

### **19—Criteria for grant of pyrotechnic displays business licence**

A pyrotechnic displays business licence will not be granted by the Director unless the applicant for the licence satisfies the Director that—

- (a) adequate arrangements are or will be in place to ensure compliance with the conditions of the licence; and
- (b) in the case of a natural person, he or she is a fit and proper person to hold a pyrotechnic displays business licence; and
- (c) in the case of a body corporate, each of the directors of the body corporate is a fit and proper person to hold a pyrotechnic displays business licence.

### **20—Term and renewal of pyrotechnic displays business licence**

- (1) A pyrotechnic displays business licence has, subject to these regulations, effect for a period of 12 months from the date on which it is granted.
- (2) A pyrotechnic displays business licence may be renewed for successive terms of 12 months.

- (3) An application for renewal of a pyrotechnic displays business licence must be lodged with the Director at least 14 days prior to the date of expiry of the licence.

## **21—Requirement to ensure displays conducted in compliance with regulations**

It is a condition of a pyrotechnic displays business licence that the holder of the licence must take all practicable steps to ensure that each display conducted or arranged to be conducted in the course of the business authorised by the licence is conducted in accordance with these regulations.

## **Division 3—Exempt display permit**

### **22—Exempt display permit**

- (1) The Director may, on application, grant an exempt display permit to a person authorising the conduct of a specified fireworks display or specified series of fireworks displays in the course of a specified event.
- (2) An application for an exempt display permit may only be made by a natural person who proposes to be responsible for the conduct of the fireworks display and to personally use the fireworks in the conduct of the display.
- (3) An exempt display permit exempts the holder, any person acting through the instrumentality of the holder and any person acting under the direct supervision of the holder from the application of Division 1 in relation to the display for which the permit is granted.
- (4) An exempt display permit is not to be granted unless the applicant satisfies the Director that—
  - (a) the fireworks display is to be conducted for public or community purposes by or on behalf of a prescribed body and it is not practicable to engage a licensed pyrotechnician to conduct the display due to the distance that would need to be travelled by the licensed pyrotechnician to the place at which the display is to be conducted; and
  - (b) the fireworks display is of a kind that is appropriate to be conducted by a person who is not a licensed pyrotechnician taking into account, without limitation, the amount and types of fireworks involved, the method of ignition of the fireworks, the complexity of the display, the nature of the display site and the proposed arrangements for safeguarding persons and property; and
  - (c) the applicant—
    - (i) has appropriate experience in, or has or will receive appropriate training or instruction in, the safe use and handling of fireworks of the kind to be used in the display; and
    - (ii) does not carry on a business consisting of, or involving, the use of fireworks; and
    - (iii) has attained the age of 21 years; and
    - (iv) is otherwise a fit and proper person to use fireworks in the conduct of the display.
- (5) Subject to this regulation, the Director has an absolute discretion whether to grant or refuse an application for an exempt display permit.

## **Explosives (Fireworks) Regulations 2016**

### Part 3—Use of fireworks

#### Division 3—Exempt display permit

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- (6) An exempt display permit is subject to the following conditions:
- (a) a condition that the holder ensure that, except to the extent that the Director approves otherwise in relation to the particular display, the requirements of Schedule 1 and Schedule 2 are complied with in respect of the use of fireworks, and the conduct of the fireworks display, under the authority of the permit;
  - (b) any other conditions that the Director imposes on the permit.
- (7) A person must not contravene or fail to comply with a condition of an exempt display permit.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (8) The Director may, on application or on his or her own initiative by written notice to the holder of an exempt display permit, vary or revoke the permit.
- (9) In this regulation—
- prescribed body* means—
- (a) a charitable or religious body; or
  - (b) a body formed to promote sport or any other social or community activity; or
  - (c) a body formed for educational purposes; or
  - (d) a body formed to promote any other public purpose.

## **Part 4—Sale of fireworks**

### **23—Requirement to hold pyrotechnic sales business licence**

- (1) A person must not carry on a business constituted of, or involving, the sale of fireworks (whether by retail or wholesale) unless the person is the holder of a pyrotechnic sales business licence.  
Maximum penalty: \$5 000.
- (2) The Director may, by conditions of licence, limit the business authorised by a pyrotechnic sales business licence to a retail sale business or to a wholesale business.
- (3) This regulation does not apply to—
- (a) the sale of general use fireworks; or
  - (b) the sale of fireworks in the course of activities authorised by a pyrotechnic displays business licence, a pyrotechnician's licence or an exempt display permit.

### **24—Criteria for grant of pyrotechnic sales business licence**

A pyrotechnic sales business licence will not be granted by the Director unless the applicant for the licence satisfies the Director that—

- (a) adequate arrangements are or will be in place to ensure compliance with the conditions of the licence; and

- 
- (b) in the case of a natural person, he or she is a fit and proper person to hold a pyrotechnic sales business licence; and
  - (c) in the case of a body corporate, each of the directors of the body corporate is a fit and proper person to hold a pyrotechnic sales business licence.

### **25—Term and renewal of pyrotechnic sales business licence**

- (1) A pyrotechnic sales business licence has, subject to these regulations, effect for a period of 12 months from the date on which it is granted.
- (2) A pyrotechnic sales business licence may be renewed for successive terms of 12 months.
- (3) An application for renewal of a pyrotechnic sales business licence must be lodged with the Director at least 14 days prior to the date of expiry of the licence.

### **26—General conditions of pyrotechnician sales business licence**

It is a condition of a pyrotechnic sales business licence that the holder of the licence must ensure that the following requirements are complied with:

- (a) the business conducted under the licence must, at all times, be under direct personal supervision of a licensed pyrotechnician approved by the Director;
- (b) only fireworks of the kind authorised to be used under the pyrotechnician's licence of the approved person may be sold;
- (c) fireworks may only be sold from premises approved by the Director for the sale of fireworks;
- (d) fireworks must not be sold in this State to a person other than—
  - (i) the holder of a pyrotechnician's licence, or an exempt display permit, authorising use of fireworks of the kind sold; or
  - (ii) the holder of a pyrotechnic displays business licence authorising a business constituted of, or involving, the conduct, or arranging for the conduct of, displays involving the use of fireworks of the kind sold; or
  - (iii) the holder of a pyrotechnic sales business licence authorising the sale of fireworks of the kind sold;
- (e) a transaction for the sale in this State of fireworks must not be entered into unless steps of a kind approved by the Director have been taken to verify that the purchaser is a person of a class referred to in paragraph (d).

### **27—Requirements for premises**

It is a condition of a pyrotechnic sales business licence that the holder of the licence must ensure that the following requirements are complied with in respect of premises at which a customer may attend to purchase or collect fireworks:

- (a) the words "licensed to sell fireworks" and the serial number of the licence must be conspicuously displayed at each entrance to the premises;
- (b) signs indicating that fire, naked flame and smoking are prohibited must be conspicuously displayed at each entrance to the premises and at each place within the premises at which fireworks may be delivered to a customer;

- (c) smoking must not be permitted on the premises;
- (d) fireworks must not be exposed or displayed for sale (although dummy fireworks containing no explosives and labelled as dummies may be used for display purposes);
- (e) fireworks must be stored as required by the Act and regulations under the Act.

## **28—Packaging of fireworks**

It is a condition of a pyrotechnic sales business licence that the holder of the licence must ensure that the following requirements are complied with in respect of each package of fireworks supplied to a customer:

- (a) the fireworks must be packaged, and the packages marked, as required by Part 6 of the *Explosives Regulations 2011* or, if the original outer packaging has been removed to allow for the sale of a smaller quantity of fireworks, the fireworks must be packaged into packagings that are sufficiently strong and closed so as to prevent spillage of loose fireworks;
- (b) if the package contains more than 3 kilograms (gross weight) of fireworks, the word "fireworks" must be conspicuously displayed on the outer packaging;
- (c) the package must have attached to it or enclosed within it readily understood instructions in English relating to the manner in which the fireworks are to be ignited and the manner in which the fireworks are designed to perform;
- (d) matches, including Bengal matches, magic matches and similar articles, must not be included in any package with fireworks.

## **29—Records**

It is a condition of a pyrotechnic sales business licence that the holder of the licence must ensure that a record is made of each sale of fireworks (and retained for at least two years after the sale to which it relates) setting out—

- (a) the name of the holder of the licence; and
- (b) the serial number of the licence; and
- (c) the date of the transaction; and
- (d) the quantity and description of the fireworks; and
- (e) if the sale takes place in this State, the name and address of the holder of the licence or exempt display permit purchasing the fireworks, the serial number of that licence or permit and any information required to be recorded by the Director for the purpose of evidencing the verification of the identity of the purchaser; and
- (f) if the sale takes place outside the State, the name and address of the person purchasing the fireworks.

## **Part 5—Provisions of general application to licences**

### **30—Conditions of licence**

- (1) The Director may—
  - (a) impose conditions on a licence as contemplated by these regulations;
  - (b) in addition to the conditions imposed or contemplated by these regulations, impose conditions on a licence that the Director considers appropriate;
  - (c) on application by the holder of, or an applicant for, a licence or on his or her own initiative, exempt (conditionally or unconditionally) the applicant from a condition of the licence imposed by these regulations if satisfied that it is appropriate to do so in the particular circumstances.
- (2) The Director may, on application by the holder of a licence or on his or her own initiative, by notice in writing to the holder of the licence—
  - (a) vary or revoke a condition of the licence imposed by the Director; or
  - (b) attach a further condition to the licence; or
  - (c) vary or revoke an exemption under subregulation (1)(c).

### **31—Offence to breach conditions of licence**

The holder of a licence must not contravene or fail to comply with a condition of the licence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **32—Cancellation or suspension of licence**

The Director may, by notice in writing to the holder of a licence, suspend the licence for a specified period or cancel the licence if satisfied—

- (a) that the holder of the licence has contravened or failed to comply with—
  - (i) the Act or regulations under the Act; or
  - (ii) any other law relating to explosives (including a law of another State or a Territory of the Commonwealth); or
- (b) that a person has otherwise acted unlawfully or improperly in the conduct of activities authorised by the licence; or
- (c) that an event has occurred, or circumstances have come to light, that show the holder of the licence or, in the case of a body corporate, a director of the body corporate, to be a person who is not a fit and proper person to hold such a licence.

### **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 may appeal against a decision of the Director—

- (i) to refuse to grant the licence; or
    - (ii) to impose particular conditions on the licence;
  - (b) a person who holds or formerly held a licence may appeal against a decision of the Director—
    - (i) to suspend or cancel the licence; or
    - (ii) to impose or vary particular conditions on the licence.
- (2) Subject to this regulation, an appeal must be instituted within one 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 one 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—Manner and form of applications**

- (1) An application under these regulations (including an application for the approval of the Director) must—
- (a) be made to the Director in the manner and form approved by the Director for the purpose; and
  - (b) be accompanied by documents or records as required by the Director.
- (2) An applicant must—
- (a) provide the Director with such additional information as the Director requires to enable the Director to determine the application; and
  - (b) if the Director so requires, verify any information provided to the Director by statutory declaration.

### **35—Licence to include photograph**

- (1) A licence granted to a natural person will, if the Director so determines, include a photograph of the holder of the licence.
- (2) For that purpose, an applicant for a licence 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 one or more photographs of the applicant as specified by the Director.

### **36—Fees**

- (1) The fees fixed by Schedule 3 are payable to the Director for the purposes set out in the Schedule.



- (2) The Director may waive or reduce a fee payable under these regulations if the Director considers it appropriate to do so.
- (3) A licence will not be granted or renewed, and an exempt display permit will not be granted, unless the appropriate fee has been paid.

### **37—Production of licences, permits and records**

- (1) An inspector may require a person to whom a licence or exempt display permit has been granted under these regulations to produce for inspection the licence or permit or records required to be kept by the person 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.

### **38—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.

### **39—Police report**

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—

- (a) an application under these regulations; or
- (b) whether a licence should be suspended or cancelled; or
- (c) whether an exempt display permit should be revoked.

## **Schedule 1—General requirements for use of fireworks**

### **1—General duty**

Whenever fireworks are used such precautions must be taken and care exercised as is reasonable in the circumstances in order to avoid endangering the health or safety of any person or the safety of property.

### **2—Written plans**

- (1) For each event or activity involving fireworks a written plan must be prepared (of a level of detail appropriate to the type of event or activity) addressing compliance with these regulations and the risks involved in the event or activity, including risks relating to—
  - (a) the nature of the site and the proximity to buildings, structures and other fire hazards; and
  - (b) crowd control; and
  - (c) the positioning and method of igniting the fireworks.

- (2) A written plan prepared under subclause (1) must be retained for a period of at least 3 years after the event or activity takes place.

### **3—Persons using fireworks under supervision**

Each person using fireworks under the authority of the pyrotechnician's licence or exempt display permit (as the case requires) must—

- (a) be directly supervised by the holder of the licence or permit; and
- (b) have attained the age of 18 years; and
- (c) have been appropriately trained or instructed in the safe use and handling of the fireworks.

### **4—String crackers**

String crackers may only be used in the course of a cultural or religious ceremony or celebration of a kind for which string crackers are traditionally used as an integral part of the ceremony or celebration (such as Chinese New Year).

### **5—Use of fireworks indoors**

- (1) Fireworks, other than indoor fireworks or general use fireworks, must not be ignited indoors without the written approval of the Director.
- (2) Indoor fireworks must not be ignited indoors while a spectator is closer to the point of firing than—
  - (a) if the manufacturer's instructions for use displayed on the firework or packaging containing the firework or supplied with the firework specify a distance for that purpose—that distance; or
  - (b) if a distance is not so specified—3 metres.

### **6—Flash powder**

- (1) Flash powder must not—
  - (a) be mixed with any other substance; or
  - (b) be used in a pot made of steel or other ferrous material or with an opening that is at any point less than 5 times greater than the depth of the pot; or
  - (c) be subjected to vibration; or
  - (d) be ignited before the pot is in place; or
  - (e) be ignited by any means other than an electrical firing system; or
  - (f) be ignited unless the licensed pyrotechnician has a clear view of the area in which the flash powder is being used and has determined, having regard to all the circumstances, that it is safe to do so.
- (2) A pot containing flash powder for use must—
  - (a) be positioned so as not to cause an obstruction to any exit; and
  - (b) be at least 3 metres from any person or flammable material.

## **7—Aerial shells**

- (1) Mortars for firing aerial shells must be suitable for the purpose, robust and in sound condition and must be arranged and secured to prevent movement during firing and danger to persons due to premature explosion of shells.
- (2) If the diameter of an aerial shell is greater than 150 millimetres, the mortar—
  - (a) must be buried to its full length in the ground; or
  - (b) if burying the mortar is not practicable, must be surrounded to over its full length with bags of sand to a width of at least 1 metre in all directions.
- (3) An aerial shell with a diameter of 150 millimetres or greater must not be ignited except by means of remote electrical ignition.

## **8—Tubes, mortars and supporting structures for fireworks**

- (1) Firework support structures must be sufficiently secure so as to not fall over on the ignition of the firework.
- (2) Subject to subclause (3), tubes or mortars for fireworks or stakes, frames, supports or securing devices to which fireworks are immediately attached must not be comprised of or contain metal (although nails may be used in the construction of such devices and metal bearings may be used in parts of such devices designed to spin).
- (3) Indoor fireworks may, when used indoors, be attached to stakes, frames, supports or other securing devices comprised of or containing metal if no part of such device is positioned so as to be between the firework and any spectator.
- (4) Tubes or mortars must not be made of polyvinyl chloride.

## **9—Fireworks ignited electrically**

If fireworks are to be ignited electrically—

- (a) reasonable precautions must be taken to ensure that the only person who may access the firing unit is a person who may lawfully use the fireworks; and
- (b) reasonable precautions must be taken to prevent the fireworks from being accidentally ignited by static electricity, stray electrical currents, radio transmitters or other foreseeable cause; and
- (c) electrical cable used in connection with the fireworks must be secured and protected from abrasion; and
- (d) during the testing of the firing circuits, no person may be closer than 5 metres to any firework attached to the circuit.

## **10—Misfires**

- (1) A firework that misfires must not be approached within 20 minutes of the misfire.
- (2) A misfired shell in a mortar must be covered with water before removal (unless, in the case of fireworks used by or under the supervision of a licensed pyrotechnician, the licensed pyrotechnician has identified the cause of the misfire and has determined that it is safe to remove the shell without first covering it with water).

## **11—Precautions against fire and fallout**

- (1) When preparing fireworks and when fireworks are in position for use, there must be no open flame within 15 metres of the fireworks and no ignition or fuel source within 5 metres of the fireworks.
- (2) Adequate fire protection and a suitable means of firefighting must be available at the place the fireworks are being used.
- (3) Precautions must be taken to prevent fallout or burning particles from fireworks from igniting other fireworks.
- (4) Fireworks must not be positioned so as to be above a person when ignited unless precautions are taken to ensure that burning or hot debris cannot fall on the person.

## **Schedule 2—General requirements for conduct of fireworks displays**

### **1—Time at which display may be conducted**

A fireworks display may only be conducted—

- (a) between 4:00 pm and 10:00 pm; or
- (b) on New Year's Eve between 4:00 pm and 12:30 am; or
- (c) at some other time approved in writing by the Director.

### **2—Requirement to have licence or permit at display**

At all times during a fireworks display and when fireworks are being prepared for a fireworks display, the person responsible for the conduct of the fireworks display must be present and have available for inspection his or her pyrotechnician's licence or exempt display permit.

### **3—Notice of display**

At least 7 and not more than 14 days before a fireworks display is conducted, a notice specifying the place, date and time of the display and the name and contact details of the person conducting the display must be published as follows:

- (a) if the display involves the use of aerial fireworks—the notice must be published in a newspaper circulating in the area in which the display is to be conducted;
- (b) if the display does not involve the use of aerial fireworks but does involve the use of fireworks principally designed to produce an aural effect—either the notice may be published in a newspaper circulating in the area in which the display is to be conducted or a copy of the notice left in the letterbox of each premises in an area approved by the Director on request;
- (c) in any other case—either the notice may be published in a newspaper circulating in the area in which the display is to be conducted or a copy of the notice left in the letterbox of each premises adjoining the display site or that would adjoin the display site apart from an intervening road or public area.

#### **4—Conditions requiring display to be postponed or halted**

- (1) A fireworks display must be postponed or halted if weather conditions may result in danger to the safety of persons or property arising from the holding or continuation of the display.
- (2) If a firework malfunctions, or some other incident occurs, resulting in danger to the safety of persons, the display must be halted and must not be resumed until it is safe to do so.

#### **5—Keeping and positioning of fireworks at display site**

- (1) Fireworks kept at the site prior to being positioned for the display must be kept within a secured area in sturdy spark-proof closed receptacles clearly and conspicuously marked with the word "fireworks" and a person responsible for the fireworks must be present at all times while the fireworks are so kept (but the fireworks must not be at the site prior to being positioned for the display for longer than 24 hours).
- (2) Fireworks positioned for the display must not remain so positioned for longer than 48 hours before the commencement of the display and a person responsible for the fireworks must be present at all times while the fireworks are so positioned.

#### **6—Prohibition against reloading mortars during display**

Reloading of mortars (if used for the display) must not occur during a fireworks display.

#### **7—Prohibited area**

- (1) For the purposes of protecting the safety of members of the public, a prohibited area must be created in respect of a fireworks display encompassing—
  - (a) an area surrounding the point or points at which the fireworks are positioned; and
  - (b) an area set aside as the fall-out area for unexploded shells or debris from ignited fireworks,

(for example by erecting barricades around the area, using natural barriers such as a body of water or by sufficient security patrols of the area).

- (2) The prohibited area must be determined taking into account the nature of the fireworks, the angle at which they are to be fired, wind conditions and other relevant factors, but in any event must be such as to ensure compliance with clause 8.
- (3) After the fireworks are in position for the display, during the display and until the searches required by this subregulation have been completed, members of the public must be excluded from the prohibited area.
- (4) During the display, each person within the prohibited area must wear spark resistant clothing (including a hat), eye protection, enclosed footwear and, if the fireworks used include fireworks principally designed to produce an aural effect, ear protection.
- (5) Adequate fire fighting equipment and, if required for use in connection with that equipment, an adequate supply of water must be available within the prohibited area.
- (6) Each firework must be positioned or aimed so that any debris falls in the pre-determined fall-out area (comprising part of the prohibited area) away from spectators and the firework does not cross over or burst in airspace above spectators.

**8—Minimum separation distance from spectators**

- (1) Subject to subclause (2), for the purposes of this clause the size of an aerial firework is—
- (a) in the case of an aerial shell—the greater of the diameter of the shell or the length of the shell; and
  - (b) in any other case—the inside diameter of the tube comprising or containing the firework.
- (2) In the case of an aerial shell that is a multi-break shell, the size of the shell will be regarded as being within the range of shell sizes in the table in subclause (3) that is one greater than the range in which it actually falls.
- (3) No spectator is to be closer to a point at which fireworks are positioned for a fireworks display than the distance determined in accordance with the following table:

<b>Firework Type</b>	<b>Distance in metres</b>	
String cracker	5	
Indoor firework	5	
Aerial firework—		
51mm or less—		
• salute	70	
• other	50	
greater than 51mm and less than or equal to 64mm—		
• salute	75	
• other	50	
Aerial firework—	<b>If fireworks are angled away from spectators</b>	<b>In any other case</b>
greater than 64mm and less than or equal to 76mm—		
• salute	80	80
• other	55	65
greater than 76mm and less than or equal to 102mm	65	85
greater than 102mm and less than or equal to 127mm	85	110
greater than 127mm and less than or equal to 152mm	100	130
greater than 152mm and less than or equal to 178mm	120	150
greater than 178mm and less than or equal to 203mm	140	170
greater than 203mm and less than or equal to 254mm	170	215

<b>Firework Type</b>	<b>Distance in metres</b>	
greater than 254mm	200	255
Other firework	40	

**Note—**

The distances fixed for aerial fireworks (other than fireworks angled away from spectators) have been based on vertical mortars and conditions of no wind.

## **9—Searches following display**

- (1) After a fireworks display is completed, a search must be made of the prohibited area for unfired or unexploded fireworks or parts of fireworks and any such fireworks or parts, or any other debris resulting from the use of the fireworks, must be collected and disposed of safely.
- (2) The search must be undertaken immediately after the display is completed and, if the light or weather conditions at that time prevent a thorough search being conducted, a further thorough search must be conducted as soon as practicable after the light and weather conditions allow it.
- (3) The prohibited area must remain secured from unauthorised access until the required searches are completed.

## **Schedule 3—Fees**

1	Pyrotechnician's licence or renewal of pyrotechnician's licence	\$234.00
2	Pyrotechnic displays business licence or renewal of pyrotechnic displays business licence	\$157.00
3	Pyrotechnic sales business licence or renewal of pyrotechnic sales business licence	\$157.00
4	Exempt display permit	\$31.00

## **Schedule 4—Revocation and transitional provisions**

### **Part 1—Revocation of *Explosives (Fireworks) Regulations 2001***

#### **1—Revocation of *Explosives (Fireworks) Regulations 2001***

The *Explosives (Fireworks) Regulations 2001* are revoked.

### **Part 2—Transitional provisions**

#### **2—Interpretation**

In this Part—

*revoked regulations* means the regulations revoked by clause 1.

### **3—Pyrotechnician's licences**

A pyrotechnician's licence in force under the revoked regulations immediately before the commencement of these regulations will, on that commencement, be taken to be a pyrotechnician's licence under these regulations and any conditions to which the licence was subject under the revoked regulations immediately before that commencement will be taken to continue to apply to the licence under these regulations if they had been imposed under these regulations.

### **4—Pyrotechnic displays business licences**

A pyrotechnic displays business licence in force under the revoked regulations immediately before the commencement of these regulations will, on that commencement, be taken to be a pyrotechnic displays business licence under these regulations and any conditions to which the licence was subject under the revoked regulations immediately before that commencement will be taken to continue to apply to the licence under these regulations if they had been imposed under these regulations.

### **5—Pyrotechnic sales business licences**

A pyrotechnic sales business licence in force under the revoked regulations immediately before the commencement of these regulations will, on that commencement, be taken to be a pyrotechnic sales business licence under these regulations and any conditions to which the licence was subject under the revoked regulations immediately before that commencement will be taken to continue to apply to the licence under these regulations if they had been imposed under these regulations.

### **6—Approvals**

An approval in force under the revoked regulations immediately before the commencement of these regulations will, on that commencement, be taken to be an approval under these regulations and any conditions to which the approval was subject under the revoked regulations immediately before that commencement will be taken to continue to apply to the approval under these regulations as if they had been imposed under these regulations.

### **7—Exemptions**

An exemption in force under the revoked regulations immediately before the commencement of these regulations will, on that commencement, be taken to be an exemption under these regulations and any conditions to which the exemption was subject under the revoked regulations immediately before that commencement will be taken to continue to apply to the exemption under these regulations as if they had been imposed under these regulations.

### **8—Permits**

An exempt display permit in force under the revoked regulations immediately before the commencement of these regulations will, on that commencement, be taken to be an exempt display permit under these regulations and any conditions to which the permit was subject under the revoked regulations immediately before that commencement will be taken to continue to apply to the permit under these regulations as if they had been imposed under these regulations.



**Made by the Governor**

with the advice and consent of the Executive Council  
on 28 April 2014

No 24 of 2016

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