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LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

DANGEROUS SUBSTANCES (EXPLOSIVES) REGULATIONS 2004

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EXPLANATORY STATEMENT

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DANGEROUS SUBSTANCES (EXPLOSIVES) REGULATIONS 2004

The *Dangerous Substances Act 2004* (the Act) regulates the import, manufacture, transport, storage, handling, sale and use of dangerous substances in the ACT. This statutory framework is designed to minimise the risk these materials can pose to the health and safety of people working with these substances, the general community and the environment. The regulatory framework established by the Act is supported by detailed regulations that can be updated regularly and modified to reflect industry best practice and technological advances.

To support the Act, regulations for explosives have been prepared that have been modelled on recently developed Victorian regulatory frameworks for explosives, which incorporate the Australian Explosives Code, and will regulate all activities associated with the import, manufacture, supply, use, transport and disposal of explosives (including fireworks).

The Australian Code for the Transport of Explosives by Road and Rail (“the Australian Explosives Code”) is a nationally agreed document prepared to provide a uniform basis for Commonwealth, State and Territory legislation governing the transport of explosives. It complements the Australian Code for the Transport of Dangerous Goods by Road and Rail. The latter Code is incorporated into the *Road Transport Reform (Dangerous Goods) Act 1995* (Cth) which currently applies to the transport of dangerous goods in the Territory. The regulations will bring the ACT into line with generally agreed directions for regulatory reform in relation to explosives.

The regulations establish a system of explosives-related licensing. Licences will be required to manufacture, import, transport (drivers and vehicles), store (persons who store and storage facilities), supply, and use (shotfirers and fireworks display operators). In addition, permits will be required to use blasting explosives or fireworks (with the exception of “general use” and “consumer” fireworks).

The regulations set out a new approach to the regulation of fireworks generally. The new regime is not limited to changes to consumer fireworks arrangements. The new regime includes provisions for the authorisation and management of fireworks displays and for the authorisation and use of fireworks for theatrical productions and other events such as sporting events or events of a cultural nature. The new display provisions are focussed on controlling the impact of noise and disturbance on the community (particularly in residential areas), and on better safety controls generally. The new provisions will also prohibit the direct sale, display or storage of fireworks at retail and other premises accessible by the public – with the exception of the one week June long weekend sale period - and will introduce greater penalties for illegal sales, possession and use of fireworks.

The draft regulations establish a number of categories of fireworks:

- fireworks that are prohibited explosives (e.g. bungers, bangers, and certain very large aerial display fireworks which would be illegal to use at any time with or without a licence);
- general use fireworks (an exempt class of specified novelty fireworks which can be purchased year-round by members of the general public, e.g. party poppers, bon bon snaps and small sparklers);
- consumer fireworks (a class of specified low-hazard fireworks which can be purchased by members of the general public for use on the Queen’s Birthday June weekend);
- display fireworks (fireworks discharged by a licensed fireworks display operator as part of an authorised display);
- theatrical fireworks (fireworks discharged by a licensed fireworks display operator or a licensed special event display operator as part of an authorised display);
- Chinese firecrackers (fireworks discharged by a licensed fireworks display operator or a licensed special event display operator as part of an authorised display).

For consumer fireworks maximum amounts of pyrotechnic substance that are permissible for each type of prescribed firework are imposed. This is intended to ensure the firework does not make a report or loud bang as one of its main effects. The firework types (fountains, ground spinners, helicopters, mines, multishot cakes, novelties, snakes and wheels) have been selected because they can be designed for a primarily visual effect (e.g. fountains) for which a very small amount of “flash powder” is required. Flash powder (“concussion powder” or “salute powder”) is used to make an audible “report” or noise and a flash of light.

The regulations also set storage requirements for explosives. These requirements vary depending on the type of explosive, its hazard division, the quantity involved and its intended use. Explosives will have to be stored in magazine standard facilities with the exception of small amounts prescribed by type.

Throughout the regulations there are numerous provisions that impose requirements. Some requirements are imposed under a licence, and a failure to comply with such a requirement or to contravene a condition of this nature is a breach of a licence condition under the Act. Other provisions are offences, usually where a condition imposed applies to all persons irrespective of whether they hold a licence or possess a permit.

The highest maximum penalty available under the regulations for an offence is 30 penalty units. Many of the offences are designed to ensure the safe and proper use of explosive articles in order to protect the general community and the environment. Accordingly, it has been necessary to set the maximum penalty for the majority of offences at 30 units. For other offences, where the need to protect the community is not as great, it has been appropriate to set maximum penalties to 20 units, or in some cases 10 units.

Strict liability applies to all but a few offences in the regulations. Strict liability offences do not require that the alleged offender intended, whether knowingly, recklessly or negligently, to contravene the duty or the provision. This offence is subject to lower penalties than offences where it can be demonstrated that a person intentionally, recklessly or negligently failed to comply with a safety duty. Defences, most notably mistake of fact, apply to strict liability offences.

There are no absolute liability offences within the regulations, and only one strict liability offence that contains an absolute liability element. Absolute liability means a person is regarded to have contravened the requirement, irrespective of their knowledge or intent. The application of absolute liability to an element of an offence is more common, as it precludes the ability to raise even the defence of mistake of fact to that element. Applying absolute liability to an element of an offence often occurs in duty based offences. This prevents a person using the defence of mistake of fact to assert that they were mistaken about whether they owed the duty, whilst enabling the person to raise the defence of mistake of fact to contravention of the duty.

Throughout the regulations there are provisions that require decisions or determinations to be made by the Minister or the Chief Executive. Some decisions must be made in writing and these instruments are disallowable instruments that must be placed on the ACT Legislation Register. Other decisions are administrative, and some may impact on the ability of a member of the public, or a class of persons, to conduct their business. In such situations persons affected will usually, except in certain limited circumstances, have a right to seek a review of the decision by the Administrative Appeals Tribunal (the AAT). Not all decisions made under an Act or regulations are reviewable as to do so could hinder the proper and effective operation of the regulatory scheme.

Chapter 9 of the Act contains provisions dealing with reviewable decisions, requirements for notification of reviewable decisions and identifying decisions that are subject to internal review. The operation of the provisions contained in Chapter 9 of the Act extend to any regulations made under the Act. If a decision is reviewable by the AAT under the Act, the related provisions in the regulations will also be subject to AAT review.

In cases where the regulations may require a decision, but the decision is not listed as a reviewable decision, this is generally because the decision concerns the issuing of a licence or permit, or the setting of conditions on a licence or permit. The power to issue or refuse to issue licences, the power to impose conditions on licences and the power to amend or revoke licences are reviewable decisions under the Act. As such a decision regarding a licence or permit in the regulations will not be listed as a reviewable decision because a right of review of that decision is already assigned by the Act.

Notes on Parts

Chapter 1 General

This chapter containing general matters is divided into two parts, preliminary matters and important concepts. Neither part contains any offences, but Part 1.2 establishes several fundamental definitions that apply through out all of these regulations.

Part 1.1 Preliminary

This chapter contains regulations 1 to 6 of the regulations dealing with formal and preliminary matters such as the name of the regulations, commencement, the role of the dictionary, the role of notes and the application of the Criminal Code to offences under the Act. The relationship between these regulations and incorporated documents is explained, including provision that if a regulation requires compliance with an incorporated document, the provision of the document must be complied with even if the document is drafted in advisory terms. Sections 9 and 220 of the Act prescribe matters concerning incorporated documents.

Part 1.2 Important Concepts

This part contains provisions that are relevant to all of the regulations. Important terms are defined, such as *explosive*. Methods of classification and classification codes are also explained, and hazard divisions are established.

Division 1.2.1 Explosives and dangerous substances

This division defines important terms such as *explosive* and *dangerous substance*.

Division 1.2.2 Classification of explosives

Methods of classification and classification codes are explained in this division, and hazard divisions are established.

Division 1.2.3 Other concepts

This division addresses other concepts relevant to all of the regulations, such as the meaning of *ensure*, how references to quantities of explosives is to be read, and the provision of reports to the fire commissioner and chief fire control officer.

Chapter 2 Explosives generally

This part establishes the regulatory framework that applies generally to explosives.

Part 2.1 General duties

Part 2.1 contains duties that apply to all forms of explosives and to all operators. Obligations to report incidents involving damage or injury from explosions, or the loss or theft of explosives are included. There is also a fundamental prohibition on misusing explosives. Each regulation in this part contains a strict liability offence carrying a maximum penalty of 30 penalty units, reflecting the seriousness of non-compliance with these provisions.

Part 2.2 Authorisation of explosives

Matters concerning the processes and effects of authorisation are detailed within this part.

Division 2.2.1 Preliminary

This division contains preliminary matters such as establishing a meaning of Queen's birthday supply period, and what is to be regarded as an *authorised explosive* and a *prohibited explosive* for the purposes of the Act.

Division 2.2.2 Ministerial declarations – Act, s 314 (3) (a)

This division contains only one provision applying to ministerial declarations. Under this provision the Minister has the power to declare an explosive to be authorised, but cannot declare a prohibited firework to be authorised. A Ministerial declaration under this provision is a disallowable instrument.

Division 2.2.3 Chief executive declarations – Act, s 314 (3) (a)

A system enabling the Chief Executive to authorise explosives is established by this division. Under this division a person may apply to the Chief Executive to authorise an explosive, and in doing so specified information and documents, such as the explosive's UN number and classification code and a copy of a safety data sheet for the explosive, must accompany the request. After consideration of the request, if all required information and documents have been provided and the explosive is not of a type that the Chief Executive must not authorise, such as a prohibited firework, the Chief Executive may declare an explosive to be authorised.

This division also requires the Chief Executive to keep a register of authorised explosives, and also prescribes how an authorisation may end, such as by revocation of the authorisation by the Chief Executive, and how explosives are to be disposed of if an authorisation is revoked.

Failure to comply with a notice of revocation of an authorisation is a strict liability offence with a maximum penalty of 30 penalty units. Similarly, it is a strict liability offence if a person receives a revocation notice and continues to use the explosive or supply it to someone else, unless that supply was for the purpose of removing the explosive from the ACT. Again, the maximum penalty available is 30 penalty units.

A decision by the Chief Executive not to authorise an explosive or to revoke an authorisation is reviewable by the Administrative Appeal Tribunal (the AAT).

Division 2.2.4 Registration of consumer fireworks for Queen's birthday supply – Act, s 314 (3) (a)

Provisions governing the registration of consumer fireworks for supply during the Queen's birthday supply period are contained in division 2.2.4. A request can be made to the Chief Executive to register a consumer firework for supply during the Queen's birthday supply period, but such a request must be accompanied by specified information and documents, including a classification report.

Any registration granted ends at 5 pm on the second Monday in June following the date of registration. This ensures that registration of a consumer firework is only a registration for one Queen's birthday supply period, which enables the Chief Executive to reassess a firework each year and take into account factors such as any changes in composition or any problems associated with that firework in the previous year.

The Chief Executive can refuse a request for registration if any required information or documents is not provided, and must refuse a request if the firework is not an authorised explosive and does not meet the consumer fireworks standards in Schedule 1. Accordingly, this division is linked to divisions 2.2.2 and 2.2.3 because of the requirement for authorisation.

Part 2.3 Packing, labelling and placarding explosives

Part 2.3 applies to the packing of explosives and to the labelling or placarding of packages, unit loads and intermediate bulk containers of explosives.

The part contains provisions detailing what is regarded as correct packaging, labelled or placarded for the purposes of the Act, as well as exceptions in certain specified circumstances.

Part 2.4 Manufacturing explosives

The regulations specify requirements for the manufacture of explosives (including fireworks). Four manufacturing categories have been identified.

- The manufacture of explosives at a factory (i.e. at a defined single location). Buildings where safety cartridges are filled or capped for commercial purposes may also be factories.
- The filling or capping of safety cartridges for commercial purposes at any place other than at a factory.
- The making of an explosives mixture at a central mixing point or other place at or near a work site where the explosives are to be used.
- The making of an explosives mixture by means of a mobile manufacturing unit at a place where the explosives are to be used.

Licences

The following new licences will apply to explosives manufacturing.

- Licence to manufacture explosives at a factory.
- Licence to make an explosives mixture near the place of use (i.e. a central mixing point licence).
- Licence to make an explosive mixture with a mobile manufacturing unit.
- Licence to fill and cap safety cartridges at a place other than at a factory.

Requirements for factories

Before a factory licence can be issued, the regulations specify that details relating to the factory and to the manufacturing process must be supplied to the Chief Executive. In addition, factories where explosives are made will need to establish, and put into place, a Safety Management System (SMS). Any modifications to the SMS or to the premises must also be made known to the Chief Executive.

Requirements for central mixing points

This type of operation is typically the manufacture of ANFO explosives mixture. The equipment used in this process, such as mechanical mixers, truck-mounted bulk mixers and injectors, will need to be approved by the Chief Executive. The design and construction of central mixing points, mixing appliances and associated equipment and the mixing operations must comply with AS 2187.2 "Explosives – Storage, Transport and Use. Part 2: Use of Explosives".

Requirements for mobile manufacturing units

The regulations establish a new licence category to cover vehicles or mobile units that manufacture explosives. Mobile manufacturing units must comply with AS 2187.2 and must be marked to comply with the Australian Explosives Code (the AEC).

Requirements for filling and capping safety cartridges other than for personal use (other than at a factory)

Filling and capping safety cartridges must be carried out at premises licensed for this activity unless they are for a person's own use. The regulations set out minimum safety requirements for this activity.

Safety distances

The regulations adopt the separation distances specified in AS 2187.1 "Explosives – Storage, Transport and Use. Part 1 Storage".

Division 2.4.1 Definitions about manufacturing explosives

This division contains definitions, such as *central mixing point*, *filling or capping* and *mobile manufacturing unit*, and establishes a meaning of *explosive* that applies exclusively to part 2.4.

Division 2.4.2 Manufacturing licences

This division specifies the information and documents that must be provided in applications for manufacturing licences. There are general requirements that apply to all manufacturing licences, as well as specific requirements for licences for factory manufacture, central mixing points and mobile manufacturing units, and also for safety cartridges.

The division also imposes requirements and obligations associated with the manufacture of explosives. In particular, there are provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 2.4 have been observed.

The division also requires creation of records about the type and quantity of explosives manufactured and the date(s) of manufacture. It is also necessary to record whether the manufacture was for immediate use or supply, or if the explosives were manufactured and then stored, and if stored, details about the storage. These records must be retained for a period not less than 3 years. Failure to comply with either requirement is a strict liability offence that has a maximum penalty of 20 penalty units.

Division 2.4.3 Safety management system

Safety management systems are an important component of both the Act and these Regulations. Under this division the holder of a manufacturing licence is required to establish and implement a safety management system as soon as possible after a licence is issued. Safety management systems are required to be detailed in a document that can be accessed and understood by all who use it, must comply with Schedule 2 of these regulations, and conform with a range of other requirements, such as the need to review and if need be revise the system if the factory is modified. These requirements are all conditions imposed on a licence.

However, division 2.4.3 also contains two strict liability offences, each with a maximum penalty of 10 penalty units. The first is an obligation to keep written records of all modifications made to or that affect the safety management system for a period of 5 years. The second is to provide within seven days any information that relates to the safety management system that the Chief Executive has reasonably requested.

Division 2.4.4 Factory manufacture

Division 2.4.4 applies if a manufacturing licence authorises the manufacture of explosives at a factory. The division requires separation distances set out in Australian Standard 2187.1 to be complied with, along with notification to be given to the Chief Executive prior to modifications being made to a factory. These requirements are imposed as licence conditions, whereas the other requirements within the division, about notifying fire authorities of certain matters, are strict liability offences with maximum penalties of 20 penalty units.

Fire authorities must be given a copy of the licence, a site plan with certain details, and the location of manifests, emergency plans and critical controls are located. In the event of a fire at an explosives factory it is vital to the safety of firefighters, and their ability to respond quickly and appropriately, that fire authorities are aware of the presence of explosives and have access to crucial information.

Division 2.4.5 Central mixing points

If a manufacturing licence authorises the manufacture of explosives at a central mixing point, division 2.4.5 applies. The division requires separation distances set out in Australian Standard 2187.1 to be maintained between the central mixing point and certain parts of licensed premises, such as magazines and vulnerable facilities to be maintained.

The division also contains requirements to construct premises and certain equipment in accordance with Australian Standard 2187.2, warning notices to be posted, other explosives and fire sources to be kept clear and containers holding explosive mixtures to be clearly marked.

The division also requires an explosive mixture controller to keep persons, other than persons involved in making the mixture, at least 10 metres away from the place where the explosive mixture is being made. As failure to meet this requirement could have very serious consequences it is a strict liability offence that applies the maximum penalty available under the regulations, 30 penalty units, as the maximum penalty for this offence. It is also a strict liability offence, with a maximum penalty of 30 penalty units, for a person that is not involved in making the mixture to fail to comply with a direction to keep clear by an explosive mixture controller.

Division 2.4.6 ANFO manufacture

If a manufacturing licence authorises the manufacture of Ammonium Nitrate Fuel Oil (ANFO) division 2.4.6 applies. This division requires a manufacturing licensee to manufacture ANFO in accordance with Australian Standard 2187.2 and to maintain separation distances for ammonium nitrate stores in accordance with those standards. These obligations are additional to those in the rest of the Part. Furthermore, if a requirement under this division is inconsistent with a requirement with any other requirement under these regulations, division 2.4.6 prevails. There are no offences in division 2.4.6 as all requirements are licence conditions.

Division 2.4.7 Mobile manufacturing units

This division applies to manufacturing licences that authorise the manufacture of an explosive mixture using a mobile manufacturing unit. Under this division, mobile manufacturing units must conform to the requirements in Australian Standard 2187.2, and if the unit is transporting explosives it must be marked as required by the Australian Explosives Code. Furthermore, the division demands that a person operating processing equipment not leave the equipment unattended while the equipment is running. There are no offences in division 2.4.7 as all requirements are licence conditions.

Division 2.4.8 Filling or capping safety cartridges other than at a factory—commercial purposes

If a manufacturing licence authorises the manufacture of an explosive by filling or capping safety cartridges for commercial purposes, division 2.4.8 applies, and imposes specific requirements upon the licensee.

Division 2.4.9 Filling or capping safety cartridges - non-commercial purposes

If an individual fills or caps safety cartridges for a purpose other than a commercial purpose, division 2.4.9 applies. This division establishes two offences, both strict liability offences carrying a maximum penalty of 30 penalty units reflecting the seriousness of the risk to community of non-compliance. The first offence is for filling a safety cartridge with an explosive other than an authorised explosive. The other offence is for capping or filling a safety cartridge in a manner other than in accordance with the requirements contained in regulation 85.

Part 2.5 Importing explosives

The regulations require a licence to be held for the import of explosives into the ACT. When applying for a licence, the importer will need to specify the kinds of explosives that will be imported. Those explosives may then be imported for the duration of the licence upon notification, unless of a category where notification is not required.

Division 2.5.1 Interpretation

Division 2.5.1 contains only one provision, which instructs that an *import licence* is a licence issued for Part 2.5 authorising the import of explosives into the ACT.

Division 2.5.2 Import licences

In particular, there are provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 2.5 have been observed.

Division 2.5.3 Import conditions

This division imposes conditions on person importing explosives into the ACT. A holder of a licence authorising the importing of explosives must notify the Chief Executive of an intention to import explosives unless the import is of an excepted type. ACT based shotfirers that have taken explosives out of the ACT and are returning with unused explosives need not notify the Chief Executive. Importing explosives of certain types and quantities listed in Table 96.1, such as less than 10 kilograms of distress signals of classification code 1.4G, do not require notification to the Chief Executive. If notification is required, certain information and documents such as the intended date of import, must be provided. Each of these conditions are licence conditions.

Strict liability offences apply to the production and keeping of records. In this division it is a strict liability offence not to make a record of all explosives imported into the ACT, and also for failing to keep those records for at least three years. These offences have a maximum penalty of 20 penalty units.

Part 2.6 Carrying explosives

The regulations specify requirements for the transport of explosives by road and rail. Some key features of the regulations are:

- For road and rail transport, the regulations reference the Australian Explosives Code (AEC). The AEC provides an Australia-wide reference for uniform requirements in explosives transport.
- The AEC identifies three risk categories in the transport of explosives, based on the type and quantity of explosives being carried. The number and extent of requirements applicable to both road and rail transport is dependant on this risk category.

Licences

The following new licences will apply to explosives transport.

- Licence to transport explosives by road
- Licence to transport explosives by rail
- Licence to drive a vehicle transporting explosives

A transport operator who intends to carry explosives is required to hold a licence to transport explosives by road. Any vehicle that will be used for explosives transport must meet the requirements of the AEC, and be approved by the Chief Executive. Similarly, rail transport operators who intend to carry explosives are required to hold a licence to transport explosives by rail.

The AEC provides specifications for rail vehicles carrying explosives. Further approval by the Chief Executive is not required.

A person who intends to drive a road vehicle carrying explosives is required to obtain a licence to drive a vehicle transporting explosives. This requirement applies to the commercial transport of explosives above set quantities. Explosives users and other licence holders are permitted to transport explosives up to a maximum quantity. Certain types of explosives may be carried on a road vehicle without the need for a licence, provided limitations on type and quantity are observed.

Requirements for road vehicle operators

To obtain a licence to transport explosives the road operator will need to supply the Chief Executive with details of each of the vehicles that will carry explosives. The vehicles will need to be constructed and marked in accordance with the AEC. Each vehicle will be inspected and, if approved, the vehicles will be listed on the operator's licence. The Chief Executive can prohibit or authorise the transport of explosives by road along certain routes.

Requirements for rail operators

In addition to obtaining a licence, rail operators will need to observe the requirements of the AEC in relation to rail vehicle construction, segregation and separation of loads, and various operational matters. The regulations also specify a maximum time that explosives may be kept in a rail yard. Explosives will be permitted on passenger trains and parcel vans, subject to restrictions as given in the AEC.

Requirements for licensed road vehicle drivers

The driver of a road vehicle that is licensed to transport explosives must hold a separate licence to drive the vehicle. An applicant for a licence must

- have held a driver's licence for at least 12 months
- have had 12 months experience in driving vehicles of the same class
- have completed a training course approved by the Chief Executive, and
- meet the commercial vehicle driver medical standards required by Austroad Inc's *Assessing fitness to drive*.

Note: A driver who lives outside of the ACT and holds a driver's licence/permit to transport explosives in that jurisdiction is not required to obtain an ACT explosives driver's licence.

The driver of a vehicle carrying explosives must also observe route and time restrictions relating to allowable carrying of explosives in the ACT.

Division 2.6.1 Preliminary

This division contains definitions, such as *carrying licence* and *exempt interstate driver*, and deals with the application of Part 2.6.

Division 2.6.2 Carrying licences

This division specifies who may carry explosives by road or rail, and the information and documents that must be provided in applications for carrying licences. The division also imposes requirements and obligations associated with the carriage of explosives. In particular, there are provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 2.6 have been observed.

It is a strict liability offence for a person to hire someone else to carry explosives by road or rail unless that person is authorised to carry explosives under regulation 100 or 101. The maximum penalty that can be imposed is 30 penalty units, reflecting the seriousness of unauthorised persons carrying explosives.

Division 2.6.3 Explosives driving licences

This division specifies who may drive a vehicle carrying explosives, and the information and documents that must be provided in applications for explosives driving licences. The division also imposes requirements and obligations associated with the driving vehicles carrying explosives. In particular, there are provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 2.6 have been observed.

It is a strict liability offence for a person that owns or controls a vehicle to allow another person to drive the vehicle to carry explosives, or to hire someone to drive a vehicle to carry explosives, if the other person is not authorised to drive vehicles carrying explosives. The maximum penalty that can be imposed is 30 penalty units, reflecting the seriousness of unauthorised persons driving vehicles in the ACT that are carrying explosives.

Similarly, a person authorised to drive a vehicle carrying explosives must carry with them the required authorisation whenever they are driving a vehicle carrying explosives. Furthermore, they must produce the authorisation for inspection whenever they are requested to do so by an inspector or a police officer. Failure to comply with these requirements is a strict liability offence with a maximum penalty of 10 penalty units.

Division 2.6.4 Australian Explosives Code—carrying and consignment

Under this division a consignor of an explosive must comply with the Australian Explosives Code (AEC), and that a driver of a vehicle carrying explosives must carry the shipping documentation required by the code.

Furthermore, under this division explosives must be carried in accordance with the AEC, and the holder of a carrying licence must keep a copy of the shipping documentation required by the AEC for at least 3 years. Failure to comply with either requirement is a strict liability offence that carries a maximum penalty of 20 penalty units.

Division 2.6.5 Road carrying conditions

Under this division the Chief Executive may determine in writing routes and times by which explosives may be carried or must not be carried in the ACT. A determination under this division is a disallowable instrument.

Division 2.6.6 Rail carrying conditions

Under this division the maximum amount of explosive of any hazard division that may be held in a rail yard must not exceed 40 000 kilograms and must not be kept for longer than a specified period. Separation distances must also be observed to ensure that rail vehicles containing explosives are kept apart.

There is also a strict liability offence with a maximum penalty of 30 penalty units for the introducing a source of ignition onto a rail vehicle containing explosives. The setting of the maximum penalty at 30 units reflects the seriousness of the risk to people and property from such an act.

Part 2.7 Storing explosives

The requirements in this part vary depending on the type of explosive, its hazard division, the quantity involved and its intended use. There are three storage categories set out in divisions 2.7.3, 2.7.4 and 2.7.5. Licences apply to explosives storage.

Requirements for magazines

The regulations specify that magazines must be designed, constructed, located and operated in accordance with AS 2187.1 “Explosives - Storage, Transport and Use - Part 1 Storage”. The regulations also specify some additional requirements to those in AS 2187.1.

Requirements for storage facilities

This type of storage may include a building, room or receptacle, provided the licence quantity limits are not exceeded. The requirements set out minimum general safety requirements (such as segregation, separation and security measures). In addition, storage locations have specifications covering construction and signage.

Division 2.7.1 Preliminary

This division contains definitions, such as *licensed storage place* and *magazine*, establishes meanings of *blasting* and *fireworks storage* as well as *exempt storage*, and deals with the application of Part 2.7.

Division 2.7.2 Storage licences

This division specifies who may store explosives, and the information and documents that must be provided in applications for storage licences. The division also imposes requirements and obligations associated with the storage of explosives. In particular, there are provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 2.7 have been observed.

The division also requires creation of records about the type and quantity of explosives stored in each magazine used. These records must be retained for a period not less than 3 years. Failure to comply with either requirement is a strict liability offence that has a maximum penalty of 20 penalty units.

Division 2.7.3 Licensable storage—magazines

Division 2.7.3 applies to the licensable storage of explosives in a magazine under a storage licence. If an explosive is subject to licensable storage, the explosive must be stored in a magazine under this division and must conform to certain requirements.

Most requirements in the division are imposed as conditions on a licence. This includes requirements such as those concerning separation distances for magazines, the construction of magazines, security fencing and magazine markings. Failure to adhere to requirements imposed under this division concerning notification of fire authorities, the taking of certain fire precautions and some security requirements are strict liability offences.

In the event of a fire where explosives are stored it is vital to the safety of firefighters, and their ability to respond quickly and appropriately, that fire authorities are aware of the presence of explosives and have access to crucial information. Accordingly, a copy of the licence and a site plan showing the location of magazines must be notified to a relevant fire authority, as must the cessation of a licence. The maximum penalty available under this offence is 20 penalty units.

A maximum penalty of 30 penalty units applies if a person brings a source of ignition, including matches or a lighter into a magazine area or smokes in a magazine area. This is due to the extreme hazard associated with such an activity. For similar reasons a vehicle must not be brought into a magazine area, unless it is for specific reasons including loading or unloading explosives and security patrols.

Magazines must be kept securely locked when not in use, and the keys must always be in the licensee's custody. However, if an inspector or a police officer exercising a function under the Act requests that the licensee give them the keys and the licensee fails to comply, the licensee commits a strict liability offence that has a maximum penalty of 30 penalty units.

It is also a strict liability offence for a person, other than an inspector or a police officer, to enter a magazine or magazine area without the authorisation of a licensee. Contravention of this offence has a maximum penalty of 30 penalty units.

Division 2.7.4 Special portable magazine storage

This division applies to the special portable magazine storage of explosives. The division requires a minimum separation distance of 10 metres to be maintained, specified notices to be posted, and combustible material to be kept at least 3 metres clear of explosives and a licensed storage place.

The division also requires an explosive mixture controller to keep persons, other than persons involved in making the mixture, at least 10 metres away from the place where the explosive mixture is being made. As failure to meet this requirement could have very serious consequences it is a strict liability offence that applies the maximum penalty available under the regulations, 30 penalty units, as the maximum penalty for this offence. It is also a strict liability offence, with a maximum penalty of 30 penalty units, for a person that is not involved in making the mixture to fail to comply with a direction to keep clear by an explosive mixture controller.

Division 2.7.5 Exempt storage

Certain types and quantities of explosives are exempt from the need for a storage licence. Nevertheless, certain requirements relating to exempt storage must be complied with under this division. As storage under this division does not require a licence, contravention of any requirement cannot be enforced under licence conditions. For this reason all provisions in division 2.7.5 are strict liability offences with a maximum penalty of 30 penalty units.

Under this division any combustible material or source of ignition must be kept at least 2 metres away from the explosive or the place where the explosive is stored. Other more general requirements apply (except to general use fireworks and safety fuses), such as the need to store the explosive out of the reach of children, must be complied with. Regulation 164 contains specific storage requirements that apply to safety fuses.

Part 2.8 Supplying explosives

The regulations have general requirements for the sale of explosives (including ammunition and fireworks). These include requirements that packaging must conform to the AEC requirements and needs to be appropriate for the type of explosive. A person who has a licence to use blasting explosives, is authorised to buy blasting explosives. In other cases, an authority to purchase is required. Fireworks (other than general use fireworks) may only be sold to a person who has a fireworks display licence or an authority to purchase. Distress signals may be obtained without an authority to purchase.

Sale of blasting explosives

In general, blasting explosives may be sold to a person who holds a licence to use, store or sell blasting explosives, and to an official authorised to purchase (e.g. an inspector buying a sample for testing). The regulations specify duties in relation to the recording of sale details and to the keeping of records of sale.

Division 2.8.1 Interpretation

Division 2.8.1 contains only one provision, which instructs that a *supply licence* is a licence issued for Part 2.8 authorising the supply of explosives in the ACT.

Division 2.8.2 Supply licences

This division contains definitions, such as *emergency plan* and *magazine*, establishes meanings of *blasting* and *fireworks storage* as well as *exempt storage*, and deals with the application of Part 2.7.

Division 2.8.3 Explosives—supply requirements

The supply of general use fireworks is not covered by this division, nor is the retail supply of consumer fireworks under a consumer fireworks licence, which is covered by Part 3.3. However, division 2.8.3 applies to the supply of all other types of explosives.

The division prohibits the display or supply of explosives at any premises and the supply of explosives in a public place. The supply of defective explosives or explosives in defective packages is also prohibited unless approval in writing is given by the Chief Executive.

Under division 2.8.3 there is a requirement to maintain supply records and to retain those records for at least five years. Failure to comply with these requirements is strict liability offence with a maximum penalty of 10 penalty units.

It is also a strict liability offence with a maximum penalty of 10 penalty units for a person taking delivery of an explosive from a supplier to fail to sign the supplier's record book.

Another strict liability offence unique to this division is for failing to make a supply record book and any associate documents available for inspection as directed by an inspector or a police officer. Non-compliance with this offence also has a maximum penalty of 10 penalty units.

Division 2.8.4 Advertising - supply of explosives

Division 2.8.4 contains only one provision, an offence for false or misleading statements about authority to supply blasting explosives that has a maximum penalty of 30 penalty units. This offence is not a strict liability offence as recklessness must be shown to prove a contravention of the provision.

There are six elements of this offence that must be established to for a contravention to be proved, these are:

- that the person has made a statement, either orally or in writing or in any other way,
- the statement concerns either the supply or possible supply of explosives, or the promotion of the supply or use of explosives,
- the statement was about the availability of the explosives to members of the public
- the statement is false or misleading,
- the person was reckless about whether the statement was false or misleading or omitted anything without which the statement is false or misleading, and
- the statement was made in the course of trade or commerce.

Absolute liability attaches to the last element, which excludes the application of defences, including the defence of mistake of fact to that element only. Accordingly, to establish the last element it only needs to be proved to the requisite standard that the statement was made in the course of trade or commerce.

However, for a conviction to be possible all elements of the offence must be established, and defences such as mistake of fact can be raised to any of the other elements.

Part 2.9 Using explosives

Uses of explosives

Explosives are found in a variety of forms, such as:

- Primers (blasting), detonators and safety fuses
- Smokeless powder
- Display fireworks, consumer fireworks, theatrical fireworks, general use fireworks and Chinese firecrackers
- Rail track signals and distress flares
- Safety cartridge primers and explosives assisted power tools

These explosives are used in a number of applications, such as:

- Quarrying / drilling
- Trenching / ditching
- Sub-soiling Rock breaking
- Stump removal Log splitting
- Ammunition, and
- Theatrical & entertainment displays

Division 2.9.1 Preliminary

This division contains definitions, such as *blasting permit* and *shotfirer*, and instructs that Part 2.9 applies to the use of explosives with certain exceptions. Exceptions have been included for several reasons. Model rocket motors and general use fireworks are excluded as they are relatively safe articles that are readily available. Fireworks used under a fireworks display permit are excluded as their use is governed by a different part of these regulations, whereas the use of distress signals in an emergency is excluded as persons finding themselves in emergency situations should not need to have regard to regulatory provisions.

Division 2.9.2 Using explosives - general

This division specifies who is authorised to use an explosive or manufacture ANFO for immediate use and provides guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 2.9 have been observed.

The division also contains strict liability offences, each with a maximum penalty of 10 penalty units, for allowing a person not authorised to use explosives and for allowing the use of an explosive at premises contrary to the requirements of a blasting permit.

Division 2.9.3 Shotfirer licences

This division specifies the information and documents that must be provided in applications for a shotfirer licence, and the prescribed conditions that are imposed on a shotfirer licence.

Division 2.9.4 Blasting permits

This division specifies the information and documents that must be provided in applications for a blasting permit, the prescribed conditions that are imposed on a blasting permit and the requirements for blast plans.

After a blasting operation is completed permit-holders must make a written evaluation of the operation and, if required by the Chief Executive, give the Chief Executive a copy. Failure to do so is a strict liability offence with a maximum penalty of 10 penalty units.

Division 2.9.5 Purchase of additional explosives for blasting operations

This division enables a shotfirer to make a written application to the Chief Executive for special authorisation to be supplied with a greater amount of explosives than is stated in the shotfirer's licence or the blasting permit. If satisfied the amount and kind is necessary and the explosives will be stored in accordance with Part 2.7, the Chief Executive may issue a special authorisation.

Division 2.9.6 On-site storage by shotfirers

This division imposes requirements for on-site storage of explosives by shotfirers. All requirements under this division are imposed as conditions on a shotfirer's licence.

Division 2.9.7 Equipment for blasting operations

Requirements relating to equipment used for blasting operations are contained in division 2.9.7, including such matters as the condition of the equipment and the types of firing switches, switchboxes and short-circuit switches that can be used. There is also a requirement that a holder of a blasting permit comply with reasonable requests from the shotfirer about the provision and maintenance of equipment. All conditions within this division are imposed as conditions on licences or permits.

Division 2.9.8 Before and after blasting

Division 2.9.8 contains requirements and some strict liability offences that apply to necessary steps and procedures that occur before and after blasting. Requirements include the need for audible warning systems, dealing with approaching storms and site preparation. These requirements are imposed as conditions on licences and permits.

Under this division it is a strict liability offence with a maximum penalty of 30 penalty units if a shotfirer fails to take all necessary precautions to prevent any danger to people or property from the use of explosives in a blasting operation. The same offence also applies to a person other than the shotfirer that is in charge of a blasting operation.

It is also a strict liability offence for a person at a site to fail to obey reasonable instructions given by the shotfirer during the period when charges are being prepared for firing through to the issue of an 'all clear' signal. Contravention of this offence has a maximum penalty of 30 penalty units.

Division 2.9.9 Electrical firing

Additional requirements are imposed by this division if electrical firing is utilised, including the use of exploders and mains firing. Requirements relate to such matters as testing of components, location of the firing position and the use of electric detonators near radiation sources. All conditions are imposed as conditions on a licence.

Division 2.9.10 Other blasting procedures

Blasting procedures other than those already addressed are dealt with in this division. Matters covered include the use of detonating cord, the use of ANFO and bulling charges. All requirements imposed in this division are regarded as conditions on a licence or permit.

Division 2.9.11 Misfire precautions

Misfires are specifically dealt with in this division, imposing specific requirements such as the taking of immediate action after a misfire and blasting strategies to deal with a misfire.

Due to the extreme danger associated with improper handling of a misfire, there are several strict liability offences contained in this division and all but one have a maximum penalty of 30 penalty units. There is an offence for leaving a misfire unattended, and for not erecting barriers and necessary signs to warn of the danger. There is also an offence for removing a cartridge explosive from a blast hole containing a misfired cartridge, and a prohibition on recommencement of work until it is safe to do so.

If a misfire cannot be dealt with in accordance with this division, the controller or manager must issue immediate instructions to deal with the misfire, ensure those instructions are carried out and make a record of the instructions issued. If the misfire occurs in a mine or quarry an inspector must also be notified of the misfire. These requirements are imposed as a strict liability offence that has a maximum penalty of 20 penalty units..

Division 2.9.12 Special blasting operations

This division deal imposes additional requirements for blasting operations that occur under water, use hot-material or involve high-temperature blasting or involves the demolition of buildings or structures.

Part 2.10 Disposal of explosives

Part 2.10 applies exclusively to the disposal of explosives. The provisions within this part impose several conditions as licence conditions

This part is a strict liability offence with a maximum penalty of 30 penalty units for discarding explosives, such as throwing the fireworks away or burying them other than in accordance with regulations 255 or 256. The penalty imposed reflects the seriousness and the danger to the community associated with discarding fireworks.

There is also a requirement to keep records of explosives disposed of, and to retain those records for at least 3 years. Failure to comply with either requirement is an offence to which strict liability applies, and carries a maximum penalty of 20 penalty units.

Chapter 3 Fireworks

This chapter deals exclusively with fireworks, and imposes greater control and regulation of the use and supply of all types of fireworks within the ACT.

Part 3.1 Kinds of fireworks

The various kinds of fireworks are determined by this part, including general use fireworks, consumer fireworks and prohibited fireworks. The categories are crucially important to the establishment of an improved and better regulated scheme. General use fireworks are available for sale year round, and are fireworks that pose very little risk to persons or property. Included in this category are party poppers, snaps for bon-bons, and sparklers.

Consumer fireworks are a controlled set of fireworks that have a limited amount of pyrotechnic substance, which limits the hazards associated with their use, and are designed to produce a visual effect but not a loud noise or report. Examples of such fireworks are fountains, wheels and snakes. The sale of consumer fireworks is limited to a one week period preceding the Queen's birthday long weekend, and may only be used during specified hours during that long weekend. To ensure a greater degree of control than under the previous regulatory regimes, the supply, storage and use of consumer fireworks is tightly controlled using licenses, authorised receipts, and offences. Supply to children and non-ACT residents is strictly prohibited.

This part also specifies fireworks that are prohibited fireworks, and are illegal in the ACT.

Part 3.2 General use fireworks

This part deals exclusively with general use fireworks. Included in this part is a strict liability offence for failing to use a firework in accordance with instructions. An example would be to use a sparkler indoors if the accompanying instructions direct not to do so. This offence has a maximum penalty of 5 penalty units, which reflects the low level of danger associated with general use fireworks. Also in this part is a provision that specifically excludes the operation of chapter 3, other than this part, from applying to general use fireworks.

Part 3.3 Consumer fireworks

This part deals exclusively with the sale and use of consumer fireworks during the Queen's birthday long weekend in June.

Division 3.3.1 Preliminary

This division contains definitions, such as *consumer fireworks licence* and *identification papers*, establishes a meaning of *supply* that applies exclusively to part 3.3, and deals with the application of the part.

Division 3.3.2 Consumer fireworks supply and storage - general

This division imposes requirements and obligations associated with supplying and storing consumer fireworks. In particular, there are provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 3.3 have been observed.

Division 3.3.3 Consumer fireworks licences

This division has the important function of establishing what information and documents must accompany an application for a consumer fireworks licence and prescribed conditions imposed upon such licences. Most notably, this division establishes that the maximum period for a consumer fireworks licence is 1 year. Section 54(2) of the Act provides that the maximum term of a licence is 3 years, unless a shorter maximum term is prescribed by regulations. As the supply, storage and use of consumer fireworks is confined to a specified period in each year, and evaluation of licence applications will include an examination of past compliance with regulatory requirements, a maximum term of 1 year for consumer fireworks licences is necessary and appropriate.

Division 3.3.4 Supply of consumer fireworks

This division imposes strict requirements upon suppliers of consumer fireworks. An obligations to ensure all staff have received proper training about safe handling of fireworks, the law relating to the supply of fireworks and record-keeping requirements and emergency procedures is imposed, and is regarded as licence condition under the Act.

There are also strict liability offences, each carrying a maximum penalty of 30 penalty units, for supply and advertising outside the Queen's birthday supply period. There are also similar strong measures about display consumer fireworks for supply, supply to children or non-ACT residents, misrepresentation and the issue of consumer fireworks authorised receipts.

In all cases the potential for injury, damage to property or disturbance of the peace that arises from contravention of these requirements warrants maximum penalties of 30 penalty units.

Division 3.3.5 Labelling – consumer fireworks

Requirements about where labels must be fixed, the information that labels must contain and the obtaining of assurances from importers or manufacturers about labels is required in this division. Each requirement is regarded as a licence condition under the Act.

Division 3.3.6 Packaging and safety instructions – consumer fireworks

Under division 3.3.6 consumer fireworks must only be supplied to a consumer if the fireworks are in sealed packages, and those packages must meet set requirements about seals, construction and affixed labels. The division also details required safety information to be supplied addressing issues such as storage, use and carrying fireworks in vehicles.

Division 3.3.7 Storage of consumer fireworks

Storage requirements for consumer fireworks are contained in division 3.3.7. There is a mix of provisions imposing licence conditions and provisions drafted as strict liability offences in this division. Of most significance is that consumer fireworks may only be stored under a licence at premises stated in the licence, in the period beginning two days before to two days after the Queen's birthday supply period, and in a quantity no greater than 200kg.

The limited supply period aims to prevent any likelihood of consumer fireworks being sold at any time during the year other than during the Queen's birthday supply period. The allowance for 2 days preceding and following the supply period recognises that suppliers will need some allowance for setting up and packing up. The limitation on quantity reduces the hazard associated with large quantities of fireworks being kept in a single location.

Division 3.3.8 Consumer fireworks records

Division 3.3.8 requires records of deliveries made, deliveries received and consumer fireworks sold to be created and maintained for set periods. As many of these records are evidence of consumer fireworks trade during the Queen's birthday supply period, and discrepancies could indicate non-compliance with the regulatory regime, each requirement is a strict liability offence.

Division 3.3.9 Use of consumer fireworks

The majority of Part 3.3 imposes obligations and requirements upon suppliers of consumer fireworks. However, under division 3.3.9 the use of consumer fireworks is regulated, and enforced through strict liability offences. A particularly important provision within division 3.3.9 is the creation of a strict liability offence, carrying a maximum penalty of 30 penalty units, for use of a consumer firework outside of the permissible period in each year.

The division also stipulates that to lawfully use a consumer firework a person must be an adult living in the ACT that holds a consumer fireworks authorised receipt. If a person does not meet these criteria, or uses a firework other than a consumer firework or a general use firework, they contravene section 82 of the Act (unauthorised handling of dangerous substances generally). Section 82 of the Act is a strict liability offence that has a maximum penalty of 100 penalty units. Accordingly, persons using consumer fireworks who do not hold a consumer fireworks authorised receipt chance significant penalties if convicted.

Part 3.4 Fireworks displays

This part applies to fireworks displays performed by licensed display operator's operating under a fireworks display permit.

Division 3.4.1 Preliminary

Preliminary matters in this division set out how Part 3.4 applies, as well as definitions applying to Part 3.4 such as *display site* and *effective barrier*.

Division 3.4.2 Using fireworks for fireworks displays - general

Included in this division is a provision stating that a person is authorised to use a firework for a fireworks display if the person holds a display operator's licence, a fireworks display permit, or is engaged to use fireworks under the supervision of a holder of either a display operator's licence or a fireworks display permit. Furthermore, under this division the holder of a display operator's licence or a fireworks display permit must carry the licence or permit at all times when they are using or preparing to use fireworks.

If an inspector, police officer or firefighter requests to see their licence or permit, it must be produced. Neither of these requirements are offences as both are conditions imposed under the licences and permits. Furthermore, the division contains provisions that provide guidance on how the terms *person in control* and *reasonable steps* are to be interpreted. For example, in working out whether *reasonable steps* have been taken, consideration must be given to whether the requirements under part 3.4 have been observed.

Division 3.4.3 Display operator licences

Information to be included in an application for a display operator's licence, how a suitable person for a licence is to be determined, and conditions that apply to all display operator's licences are all contained within division 3.4.3.

Division 3.4.4 Fireworks display permits

Information to be included in an application for a fireworks display permit, how a suitable person for a permit is to be determined, and conditions that apply to all display operator's licences are all contained within division 3.4.4.

Furthermore, the division prescribes requirements relating to insurance and restrictions on the times and places outdoor displays may be conducted. There are also provisions permitting the Chief Executive to approve multiple displays, generally and for theatrical events.

Division 3.4.5 Notification of outdoor fireworks displays

If a holder of a fireworks display permit proposes to conduct an outdoor fireworks display this division requires certain notifications to be made. Public notice in a daily newspaper circulating in the ACT is required in order to adequately inform the public. This puts Canberra residents who may be affected on notice so any disturbance is not unexpected, and will also give residents with pets sufficient time to make arrangements in order to minimise any likely distress to their animals.

Notification must also be given to the police, fire and emergency services, no later than 7 days before the proposed date of the display. Aside from putting those agencies on notice, the forewarning enables each agency to make necessary preparations for likely consequences of the display, such as altered traffic conditions and staffing resources.

Division 3.4.6 Management of fireworks displays—general

Division 3.4.6 applies to persons who hold a fireworks display permit and imposes a range of obligations, many of which are safety precautions, such as provisions concerning fire protection, sources of ignition and malfunctions. All provisions save for two, which concern keys for electrical firing and reporting on displays, are drafted to be conditions on the permit.

The requirement to report on displays in division 3.4.6 is a strict liability offence with a maximum penalty of 20 penalty units. The provision requires a report, containing specified information, to be provided to the Chief Executive and for a copy of the report and the permit to be kept by the permit-holder for 3 year after the display. As such a requirement cannot be imposed as a condition on the permit if the permit has expired, this provision must be drafted as an offence. The maximum penalty imposed reflects the importance of reporting on a display conducted, but also reflects that any risk of danger created from non-compliance is relatively low.

The provision concerning keys for electrical firing contains a strict liability offence with a maximum penalty of 30 penalty units, reflecting the seriousness and the risk to safety if the provision is contravened.

Division 3.4.7 Management of outdoor displays

Obligations are imposed upon persons who hold a fireworks display permit and will conduct a fireworks display outdoors under this division. The provisions within this division concern issues such as separation distances for firing fireworks, barriers for fireworks displays, mortar requirements and the firing of aerial shells. All provisions in division 3.4.7 are drafted to be conditions on a fireworks display permit, and all are concerned with reducing risks to the community from the use of display fireworks.

Division 3.4.8 Miscellaneous

This division contains provisions concerning the use of theatrical fireworks, flash powder and Chinese firecrackers.

Schedule 1 Consumer fireworks—registration standards

Registration standards for consumer fireworks are contained within Schedule 1, including matters relating to construction and design standards, sampling and testing standards and classification reports.

Schedule 2 Safety management systems

Schedule 2 sets out requirements for safety management systems for the manufacture of explosives that are in addition to those found in regulation 57. The schedule addresses such issues as operational controls, performance monitoring and the elements of a safety management system.

The **Dictionary** contains further definitions of terms and concepts used in the Regulations.