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SPECIAL SUPPLEMENT

Proclamations



New South Wales

Proclamation

under the

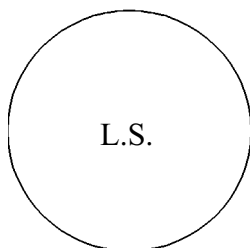
Explosives Act 2003 No 39

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Explosives Act 2003*, do, by this my Proclamation, appoint 1 September 2005 as the day on which that Act commences.

Signed and sealed at Sydney, this 1st day of September 2005.

By Her Excellency's Command,



JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

GOD SAVE THE QUEEN!



New South Wales

Proclamation

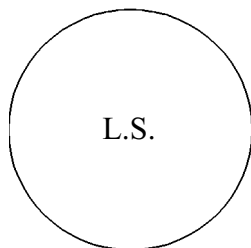
under the

Local Government Amendment (Public-Private Partnerships) Act
2004 No 113

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Local Government Amendment (Public-Private Partnerships) Act 2004*, do, by this my Proclamation, appoint 1 September 2005 as the day on which that Act commences. Signed and sealed at Sydney, this 31st day of August 2005.

By Her Excellency's Command,



KERRY HICKEY, M.P.,
Minister for Local Government

GOD SAVE THE QUEEN!



New South Wales

Proclamation

under the

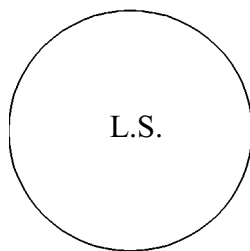
Occupational Health and Safety Amendment (Dangerous Goods)
Act 2003 No 38

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003*, do, by this my Proclamation, appoint 1 September 2005 as the day on which that Act (other than Schedule 2.9 and 2.12 to that Act) commences.

Signed and sealed at Sydney, this 1st day of September 2005.

By Her Excellency's Command,



JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003* (other than Schedule 2.9 and 2.12 to that Act). Schedule 2.9 and 2.12 to the *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003* proposed to make consequential amendments to two regulations that have, since the enactment of that Act, been repealed under the staged repeal of regulations program.

Regulations



New South Wales

Annual Reports (Departments) Regulation 2005

under the

Annual Reports (Departments) Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Annual Reports (Departments) Act 1985*.

MICHAEL COSTA, M.P.,
Minister for Finance

Explanatory note

This Regulation replaces, without any changes in substance, the *Annual Reports (Departments) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals generally with the annual reports to be prepared by Departments and, in particular, with the report of operations that forms part of any such annual report.

This Regulation is made under the *Annual Reports (Departments) Act 1985*, including section 20 (the general power to make regulations) and sections 9–14.

This relates to matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Annual Reports (Departments) Regulation 2005

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Annual Reports (Departments) Regulation 2005

Clause 1

Preliminary

Part 1

Annual Reports (Departments) Regulation 2005

under the

Annual Reports (Departments) Act 1985

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Annual Reports (Departments) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Annual Reports (Departments) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

executive officer means a person who holds an executive position, and includes a person acting in such a position for 6 months or more.

executive position means:

- (a) a position in the Chief Executive Service under Chapter 3 of the *Public Sector Employment and Management Act 2002*, or
- (b) a position in the Senior Executive Service under Chapter 3 of the *Public Sector Employment and Management Act 2002* or in the NSW Police Senior Executive Service.

level means the level by which the remuneration of an executive officer is determined, being level 1, 2, 3, 4, 5, 6, 7 or 8.

remuneration package of an executive officer, in relation to a reporting year, means the total amount of the monetary remuneration for the executive officer, and the cost of employment benefits (within the meaning of section 73 of the *Public Sector Employment and Management Act 2002*) provided for the executive officer, under the officer's contract of employment for that year, but does not include any performance-related incentive payments.

Clause 3 Annual Reports (Departments) Regulation 2005
Part 1 Preliminary

reporting year means:

- (a) in relation to a Department, other than the Department of Education and Training—the financial year of the Department determined in accordance with section 4 of the *Public Finance and Audit Act 1983*, or
- (b) in relation to the Department of Education and Training—the period from 1 January to the next following 31 December.

the Act means the *Annual Reports (Departments) Act 1985*.

- (2) Notes included in the text of this Regulation do not form part of this Regulation.

Annual Reports (Departments) Regulation 2005

Clause 4

Annual reports generally

Part 2

Part 2 Annual reports generally

4 Identification of audited financial statements

The start and finish of the audited financial statements of a Department required under section 9 (1) (a) of the Act is to be clearly indicated in the annual report of the Department.

5 Additional matters for inclusion in annual reports

For the purposes of section 9 (1) (d) of the Act, there must be shown in the annual report of a Department:

- (a) a list of major assets, other than land holdings, appropriately classified and highlighting major acquisitions made in the reporting year, and
- (b) for the first reporting year, a copy of the code of conduct prepared by the Department for observance by its officers and employees, and
- (c) for the second and subsequent reporting years, a copy of any amendments made to the code referred to in paragraph (b), or of any new code that has replaced that code, during the reporting year, and
- (d) particulars of any matter (arising after the end of the reporting year and before the report is submitted to the appropriate Minister under section 12 (1) of the Act) which could have a significant effect in the succeeding reporting year on:
 - (i) the financial operations of the Department, or
 - (ii) the other operations of the Department, or
 - (iii) the clientele or section of the community served by the Department, and
- (e) the total external costs (such as fees for consultants and printing costs) incurred in the production of the report, and
- (f) whether the report is available in non-printed formats (such as on the Internet or on CD-ROM), and
- (g) if the report is available on the Internet, the Internet address at which the report may be accessed (disclosure of the Department's homepage address is sufficient compliance with this paragraph).

6 Inclusion of unaudited financial statements

If unaudited financial statements are, or unaudited financial information is, included in the annual report of a Department, the fact that the statements have not, or the information has not, been audited is to be clearly indicated by note or otherwise.

Clause 7	Annual Reports (Departments) Regulation 2005
Part 2	Annual reports generally

7 Performance of executive officers

- (1) The matters comprised in an annual report of a Department under section 9 of the Act are to include a statement on the performance of each executive officer of the Department of or above level 5 holding office at the end of the reporting year.
- (2) The statement:
 - (a) is to be made by the person responsible by law for reviewing the officer's performance, and
 - (b) is to indicate the officer's performance having regard to the officer's agreed performance criteria and, if any performance-related incentive payments were paid or payable in respect of the officer, is to include the details set out in subclause (3), and
 - (c) is to be prepared in accordance with guidelines issued to Departments by the Treasurer from time to time.
- (3) The details of the performance-related incentive payments paid or payable to the officer to be included are as follows:
 - (a) if the performance-related incentive payments are accounted for on an accrual basis, the total amount of such payments for the reporting year that were paid or due and payable to the officer,
 - (b) if performance-related incentive payments are accounted for on a cash basis, the total amount of such payments that were paid during the reporting year to the officer, and the periods to which the payments relate,
 - (c) a summary of the criteria for determining the total performance-related incentive payments to the officer as referred to in paragraph (a) or (b).
- (4) This clause also applies to any statutory officer who is the chief executive officer of a Department but does not hold an executive position and, in any such case, applies as provided in guidelines issued to Departments by the Treasurer from time to time.

Annual Reports (Departments) Regulation 2005

Clause 8

Report of operations

Part 3

Part 3 Report of operations

8 Numbers of executive officers

- (1) The report under section 10 of the Act of the operations of a Department is to include the following particulars about the staff of the Department:
 - (a) the number of executive positions at each level at the end of the reporting year, compared with the number at the end of the previous reporting year,
 - (b) the number of female executive officers at the end of the reporting year, compared with the number at the end of the previous reporting year,
 - (c) the name of, position held by and level and remuneration package of each executive officer of or above level 5 holding office at the end of the reporting year.
- (2) This clause also applies to any statutory officer who is the chief executive officer of a Department but does not hold an executive position and, in any such case, applies as provided in guidelines issued to Departments by the Treasurer from time to time.

9 Information and particulars in report of operations

For the purposes of section 11 (1) and (2) of the Act, the particulars set out in Column 2 of Schedule 1 are prescribed in relation to the matters described in Column 1 of that Schedule.

Clause 10 Annual Reports (Departments) Regulation 2005

Part 4 Miscellaneous

Part 4 Miscellaneous

10 Form of annual reports—generally

- (1) The annual report of a Department must be effectively presented and arranged with attention given to the following:
 - (a) material information reported,
 - (b) logical sequence of information,
 - (c) appropriate layout of information,
 - (d) clear readable text,
 - (e) appropriately captioned charts, diagrams or photographs.
- (2) The annual report of a Department is to contain an index and a table of contents, arranged so as to assist in identifying the reporting requirements of the Act complied with in the report.

11 Form of annual reports—presentation to Parliament

- (1) The copies of an annual report of a Department that are laid before Parliament or distributed to members of Parliament are to be of the size ISO A4.
- (2) The appropriate Minister, in transmitting copies of an annual report to the Clerk of the Parliaments and the Clerk of the Legislative Assembly pursuant to section 13 (2) of the Act, must transmit a sufficient number of copies for distribution to the members of Parliament.

12 Public availability of annual reports

- (1) A Department Head must keep, at the office of the Department, sufficient copies of its annual report in order to meet normal public demand.
- (2) A Department Head must, if required by the Treasurer to do so, furnish copies of its annual report to the New South Wales Government Information Service, and to such other persons or organisations as may be specified by the Treasurer, for purchase by the public at a price per copy not greater than the direct cost of production per copy.

13 Exemptions

- (1) The Treasurer may, on application by a Department Head made at any time, grant an exemption from any or all of the provisions of this Regulation (this clause excepted), in relation to the annual report of the Department for a particular reporting year.
- (2) An exemption may be granted subject to such conditions as the Treasurer may determine.

Annual Reports (Departments) Regulation 2005

Clause 14

Miscellaneous

Part 4

-
- (3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the Department Head to whom the exemption was granted.
 - (4) Details of an exemption, and the reasons for the exemption, must be included under a separate heading entitled “Exemptions from the Reporting Provisions” in the annual report for the reporting year in which the exemption applies.

14 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Annual Reports (Departments) Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Annual Reports (Departments) Regulation 2005

Schedule 1 Report of operations

Schedule 1 Report of operations

(Clause 9)

Column 1	Column 2
Charter	A statement of the manner in which and the purpose for which the Department was established and a statement of the principal legislation administered within the Department
Aims and objectives	Information as to what the Department sets out to do, the range of services provided by the Department and the clientele or section of the community served by the Department
Access	The address and telephone number of the principal office or offices of the Department and the business and service hours of the Department
Management and structure	The names of the principal officers of the Department and the offices they occupy, particulars of any appropriate qualifications of those officers, the names of significant committees of the Department, the names of the members of those committees and the names of officers and offices held by those officers as members of significant statutory bodies and significant inter-Departmental committees A list of all significant committees established or abolished during the reporting year and a list of the functions of all such committees established during the reporting year An organisation chart indicating functional responsibilities within the Department
Summary review of operations	A narrative summary of the significant operations for the reporting year Selected financial and other quantitative information associated with the administration of programs or the operations of the Department
Funds granted to non-government community organisations	The name of the organisation receiving the grant of funds The amount of funds granted The program area, as defined in the relevant Budget paper for the reporting year The program, as defined in the relevant Budget paper for the reporting year Further details in accordance with guidelines issued to the Department by the Treasurer from time to time

Annual Reports (Departments) Regulation 2005

Report of operations

Schedule 1

Column 1	Column 2
Legal change	Changes in Acts and subordinate legislation and significant judicial decisions affecting the Department or the users of the services provided by the Department
Economic or other factors	Factors that have affected the achievement of the operational objectives of the Department during the reporting year
Management and activities	<p>A description of the nature and range of activities undertaken</p> <p>If practicable, qualitative and quantitative measures and indicators of performance showing the level of efficiency and effectiveness</p> <p>The nature and extent of performance review practices and of improvements in organisational achievements as assessed by both internal and external performance reviews</p> <p>Benefits achieved as a result of management and strategy reviews</p> <p>A description of management improvement plans adopted by the Department and achievements in reaching previous targets</p> <p>A description of the major problems and issues that have arisen</p> <p>Details, lists or tables of major works in progress, the cost of those works to date and the estimated dates of completion, together with particulars of significant cost overruns in major works or programs</p> <p>The reasons for any significant delays to, or amendment, deferment or cancellation of, major works or programs</p>
Research and development	Particulars of completed research and continuing research and development activities, together with the resources allocated for that research and those activities, unless the inclusion of those particulars would, in the opinion of the Department Head, adversely affect the business or commercial operations of the Department
Human resources	<p>The number of officers and employees, by category, with comparison to each of not less than 3 years before the reporting year</p> <p>Any exceptional movement in wages, salaries or allowances</p> <p>Personnel policies and practices</p> <p>Industrial relations policies and practices</p>

Annual Reports (Departments) Regulation 2005

Schedule 1 Report of operations

Column 1	Column 2
Consultants	<p>In respect of the engagement during the reporting year of a consultant by or on behalf of the Department, the cost of which is equal to or more than \$30,000, the following details relating to the consultant:</p> <ul style="list-style-type: none"> (a) the name of the consultant, (b) if the consultant has been engaged for a particular project, the title of the project, (c) the actual cost of engaging the consultant <p>In respect of the engagement during the reporting year of consultants by or on behalf of the Department if the cost of each such engagement is less than \$30,000, the following details relating to the consultants:</p> <ul style="list-style-type: none"> (a) the total number of engagements costing less than \$30,000, (b) the total cost of all such engagements <p>If no consultants were engaged by or on behalf of the Department during the reporting year, a statement of that fact</p>
Equal employment opportunity	<p>A statement setting out the equal employment opportunity achievements of the Department during the reporting year and the key equal employment opportunity strategies proposed by the Department for the following year</p> <p>Statistical information for the reporting year of such kind, and set out in such form, as is determined by the Secretary of the Treasury</p>
Disability plans	<p>A statement setting out the progress during the reporting year in implementing the Department's disability plan required under the <i>Disability Services Act 1993</i></p>

Annual Reports (Departments) Regulation 2005

Report of operations

Schedule 1

Column 1	Column 2
Land disposal	<p>The total number and the total value of properties disposed of during the reporting year</p> <p>A list of such of those properties as were disposed of by means other than public auction or tender and that had a value of more than \$5,000,000, including in each case the name of the person who acquired the property and the proceeds from the disposal of the property</p> <p>Details of any family connection or business association between a person who acquired any property disposed of during the reporting year and the person responsible for approving the disposal of the property</p> <p>A short statement giving the reasons for the disposal of properties during the reporting year</p> <p>The purpose or purposes for which the proceeds from the disposal of properties during the reporting year were used</p> <p>A statement that an application for access to documents concerning details of properties disposed of during the reporting year may be made in accordance with the <i>Freedom of Information Act 1989</i></p>
Promotion	<p>A statement setting out the types of publications and other information available to the public dealing with the functions and activities of the Department and indicating those that were published by the Department during the reporting year</p> <p>Overseas visits undertaken by officers and employees with the main purposes highlighted</p>
Consumer response	The extent and main features of consumer complaints, indicating any services improved or changed as a result of complaints or consumer suggestions made
Guarantee of service	If appropriate, the standard for providing services, together with comment on any variance from the standard or changes made to the standard
Payment of accounts	Details of performance in paying accounts (assessed in accordance with indicators determined by the Treasurer from time to time) during the reporting year, including details, where appropriate, of action taken to improve performance in paying accounts
Time for payment of accounts	All instances where interest has become payable as a result of late payment by the Department for goods or services supplied to the Department, and the reason for the delay in making the payment that led to the payment of the interest
Risk management and insurance activities	A report on the risk management and insurance arrangements and activities affecting the Department

Annual Reports (Departments) Regulation 2005

Schedule 1 Report of operations

Column 1	Column 2
Controlled entities	A detailed statement of the name, objectives, operations, activities, performance targets and actual performance measures of each entity controlled by the Department that is an entity of the kind referred to in section 45A (1A) of the <i>Public Finance and Audit Act 1983</i>
Ethnic affairs priorities statement and any agreement	<p>A statement setting out the progress in implementing the Department's ethnic affairs priorities statement, the key ethnic affairs strategies proposed by the Department for the following year and information as to the ethnic affairs priorities statements of any bodies reporting to the Department</p> <p>A statement describing any agreement entered into between the Department and the Community Relations Commission under the <i>Community Relations Commission and Principles of Multiculturalism Act 2000</i> and a statement setting out the Department's progress in implementing any such agreement</p>
NSW Government Action Plan for Women	<p>A statement setting out the following:</p> <ul style="list-style-type: none"> (a) a brief description of the Government's philosophy in relation to women and the whole of Government approach to addressing women's issues and concerns, (b) Government policy orientations in relation to women's interests in the specific areas in which the Department operates, (c) the key objectives, as stated in the Action Plan for Women, under which the Department took action during the reporting year, (d) the specific goals and strategies, as stated in the Action Plan for Women, that the Department has committed to and the actual outcome for women achieved during the reporting year through the implementation of those strategies, (e) reference to sources of further information in relation to the Department's strategies regarding women
Occupational health and safety	<p>A statement setting out the Department's occupational health and safety performance during the reporting year (including details of work-related injuries, work-related illnesses and prosecutions under the <i>Occupational Health and Safety Act 2000</i>)</p> <p>Statistical information for the reporting year of such kind, and set out in such form, as is determined by the Secretary of the Treasury</p>

Annual Reports (Departments) Regulation 2005

Report of operations

Schedule 1

Column 1**Column 2**

Waste

A statement on the implementation of the Government's Waste Reduction and Purchasing Policy, including information on measures taken and progress on the following:

- (a) reducing the generation of waste,
 - (b) resource recovery,
 - (c) the use of recycled material.
-



New South Wales

Annual Reports (Statutory Bodies) Regulation 2005

under the

Annual Reports (Statutory Bodies) Act 1984

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Annual Reports (Statutory Bodies) Act 1984*.

MICHAEL COSTA, M.P.,
Minister for Finance

Explanatory note

This Regulation replaces, without any changes in substance, the *Annual Reports (Statutory Bodies) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals generally with the annual reports to be prepared by statutory bodies and, in particular, with the report of operations that forms part of any such annual report.

This Regulation is made under the *Annual Reports (Statutory Bodies) Act 1984*, including section 17 (the general power to make regulations) and sections 7–12.

This relates to matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Annual Reports (Statutory Bodies) Regulation 2005

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Annual Reports (Statutory Bodies) Regulation 2005

Clause 1

Preliminary

Part 1

Annual Reports (Statutory Bodies) Regulation 2005

under the

Annual Reports (Statutory Bodies) Act 1984

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Annual Reports (Statutory Bodies) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Annual Reports (Statutory Bodies) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

executive officer means:

- (a) a person who holds an executive position, and includes a person acting in such a position for 6 months or more, or
- (b) a person who is concerned in, or takes part in, the management of a statutory State owned corporation or any of its subsidiaries (regardless of the person's designation and whether or not the person is a director of the corporation).

executive position means:

- (a) a position in the Chief Executive Service under Chapter 3 of the *Public Sector Employment and Management Act 2002*, or
- (b) a position in the Senior Executive Service under Chapter 3 of the *Public Sector Employment and Management Act 2002* or in the NSW Police Senior Executive Service.

level means:

- (a) in relation to a person who holds or acts in an executive position, the level by which the remuneration of an executive officer is determined, being level 1, 2, 3, 4, 5, 6, 7 or 8, or

Clause 4 Annual Reports (Statutory Bodies) Regulation 2005
Part 1 Preliminary

- (b) in relation to a person who is an executive officer of a statutory State owned corporation, that the amount of the remuneration package payable to the person is within the range of amounts of the remuneration packages payable to a person who holds an executive position of that level.

remuneration package means:

- (a) when used in relation to a person who holds or acts in an executive position, in relation to a reporting year, the total amount of the monetary remuneration for the person, and the cost of employment benefits (within the meaning of section 73 of the *Public Sector Employment and Management Act 2002*) provided for the person, under the person's contract of employment for that year, but does not include any performance-related incentive payments, or
- (b) when used in relation to a person who is concerned in, or takes part in, the management of a statutory State owned corporation, in relation to a reporting year, the total amount of any money and the cost of any consideration or other benefit paid or payable (directly or indirectly) to the officer in connection with the management of the affairs of the corporation or any of its subsidiaries in respect of the year, whether as an executive officer or otherwise, but does not include:
- (i) amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the corporation or any of its subsidiaries, or
- (ii) performance-related incentive payments.

reporting year means the financial year to which the annual report for that year relates.

the Act means the *Annual Reports (Statutory Bodies) Act 1984*.

- (2) Notes included in the text of this Regulation do not form part of this Regulation.

4 Prescription of certain statutory bodies

As referred to in paragraph (b) of the definition of **statutory body** in section 3 (1) of the Act, the following persons, groups of persons or bodies are prescribed to be statutory bodies for the purposes of the Act:

The Dumaresq–Barwon Border Rivers Commission
Heritage Council of New South Wales

Annual Reports (Statutory Bodies) Regulation 2005

Clause 5

Annual reports generally

Part 2

Part 2 Annual reports generally

5 Identification of audited financial statements

The start and finish of the audited financial statements of a statutory body required under section 7 (1) (a) (i) of the Act is to be clearly indicated in the annual report of the statutory body.

6 Detailed budget

If the detailed budget included, under section 7 (1) (a) (iii) of the Act, in the annual report of a statutory body for a reporting year:

- (a) is the first budget approved (after consideration by the Government, if that consideration is required) by the body for that reporting year, there must be included in the annual report, by means of appropriate notes to the detailed budget, particulars of any subsequent material adjustments to the detailed budget, or
- (b) is not the first budget so approved, there must be included in the annual report, by means of appropriate notes to the detailed budget, particulars of any material adjustments made to the first budget so approved to produce the detailed budget.

7 Place for inclusion of detailed budget

The detailed budget included, under section 7 (1) (a) (iii) of the Act, in the annual report of a statutory body for a reporting year may be included with the audited financial statements of the body required under section 7 (1) (a) (i) of the Act.

8 Additional matters for inclusion in annual reports

- (1) For the purposes of section 7 (1) (a) (v) of the Act, if, after the end of the reporting year of a statutory body and before the annual report is submitted to the appropriate Minister under section 10 (1) of the Act, any matter arises which could have a significant effect in the succeeding reporting year on:
 - (a) the financial operations of the body, or
 - (b) the other operations of the body, or
 - (c) the clientele or section of the community served by the body,particulars of the matter must be included in the annual report.
- (2) For the purposes of section 7 (1) (a) (v) and (b) of the Act, the following matter is prescribed as matter that the annual report of a statutory body must comprise:
 - (a) a statement of the total external costs (such as fees for consultants and printing costs) incurred in the production of the report,

Clause 9	Annual Reports (Statutory Bodies) Regulation 2005
Part 2	Annual reports generally

- (b) a statement as to whether the report is available in non-printed formats (such as on the Internet or on CD-ROM),
- (c) if the report is available on the Internet, particulars of the Internet address at which the report may be accessed (disclosure of the statutory body's homepage address is sufficient compliance with this paragraph).

9 Inclusion of unaudited financial statements in annual report

If unaudited financial statements are, or unaudited financial information is, included in the annual report of a statutory body, the fact that the statements have not, or the information has not, been audited is to be clearly indicated by note or otherwise.

10 Annual reports of prescribed statutory bodies

- (1) For the purposes of section 7 (1) (b) of the Act, the following matters are prescribed in relation to the Heritage Council of New South Wales:
 - (a) a report of the operations of the Heritage Council prepared in accordance with the Act and this Regulation,
 - (b) a copy of the audited financial statements for the Heritage Conservation Fund for the year for which the report is prepared.
- (2) For the purposes of section 7 (1) (b) of the Act, financial statements of The Dumaresq–Barwon Border Rivers Commission which have been audited by the Auditor-General of New South Wales or Queensland, as the case may be, are prescribed in relation to that Commission.

11 Performance of executive officers

- (1) The matters comprised in an annual report of a statutory body under section 7 of the Act are to include a statement on the performance of each executive officer of the statutory body of or above level 5 holding office at the end of the reporting year.
- (2) The statement:
 - (a) is to be made by the person responsible by law for reviewing the officer's performance, and
 - (b) is to indicate the officer's performance having regard to the officer's agreed performance criteria and, if any performance-related incentive payments were paid or payable in respect of the officer, is to include the details set out in subclause (3), and
 - (c) is to be prepared in accordance with guidelines issued to statutory bodies by the Treasurer from time to time.

Annual Reports (Statutory Bodies) Regulation 2005

Clause 11

Annual reports generally

Part 2

-
- (3) The details of the performance-related incentive payments paid or payable in respect of the officer to be included are as follows:
- (a) if performance-related incentive payments are accounted for on an accrual basis, the total amount of such payments for the reporting year that were paid or due and payable to the officer,
 - (b) if performance-related incentive payments are accounted for on a cash basis, the total amount of such payments that were paid during the reporting year to the officer, and the periods to which the payments relate,
 - (c) a summary of the criteria for determining the total performance-related incentive payments to the officer as referred to in paragraph (a) or (b).
- (4) This clause also applies to any statutory officer who is the chief executive officer of a statutory body but does not hold an executive position and, in any such case, applies as provided in guidelines issued to statutory bodies by the Treasurer from time to time.

Clause 12 Annual Reports (Statutory Bodies) Regulation 2005

Part 3 Report of operations

Part 3 Report of operations

12 Report of operations to include comparison of investment performance

- (1) The report under section 8 of the Act of the operations of a statutory body is to include, in the form of a comparison, details of the investment performance of the body in respect of its surplus funds and of the investment performance of the appropriate Treasury Corporation investment facilities.
- (2) The appropriate Treasury Corporation investment facility is (in respect of any particular surplus funds) the one chosen by the statutory body from among the investment facilities made available under the description "Hour-Glass Investment Facilities" by the Treasury Corporation to public authorities for investment of their surplus funds.
- (3) The statutory body's choice of investment facility is to be made on the basis of the nature and term of the underlying liability to which the particular surplus funds relate, as determined in accordance with guidelines issued by the Treasurer.
- (4) The statutory body is to notify the Treasurer of its choice of investment facilities for the purposes of the comparison, giving reasons for its choice, within 1 month after the beginning of the reporting year.
- (5) The Treasurer can disallow a statutory body's choice of investment facility and substitute the Treasurer's own choice (advising the statutory body accordingly), in which case the comparison is to be based on the Treasurer's choice of investment facility.
- (6) The following provisions apply to a comparison required by this clause:
 - (a) investment performance is to be stated as an annual compound percentage rate of return,
 - (b) the investment performance of an investment facility made available by the Treasury Corporation is as advised to statutory bodies by the Treasurer from time to time,
 - (c) the comparison is to relate to investment performance during the reporting year.
- (7) For the purposes of the comparison, the following matters are to be as determined in accordance with guidelines issued to statutory bodies by the Treasurer from time to time:
 - (a) which cash assets of a statutory body are to be considered to be its surplus funds,
 - (b) the method of calculating investment return, including the method of calculating an annual return from an actual period of investment of less than a year,

Annual Reports (Statutory Bodies) Regulation 2005

Clause 13

Report of operations

Part 3

-
- (c) the method of calculating and comparing investment return if there is a difference between the period of actual investment of funds and the period over which the return of the relevant Treasury Corporation investment facility is measured.

13 Report of operations to include comparison of liability management performance

- (1) This clause applies to a statutory body that has a level of debt of or above the level determined by the Treasurer from time to time and notified to statutory bodies.
- (2) The report under section 8 of the Act of the operations of a statutory body to which this clause applies is to include, in the form of a comparison, details of the performance of the body's liability portfolio and the performance of the body's benchmark portfolio.
- (3) A statutory body's benchmark portfolio is a notional portfolio maintained by the body and constructed in accordance with guidelines issued by the Treasurer so as to be risk neutral.
- (4) The comparison required by this clause:
- (a) is to be in terms of the measure or measures advised in guidelines issued by the Treasurer, and
- (b) is to relate to liability portfolio performance during the reporting year.

14 Numbers of executive officers

- (1) The report under section 8 of the Act of the operations of a statutory body is to include the following particulars about the staff of the statutory body:
- (a) the number of executive positions at each level at the end of the reporting year, compared with the number at the end of the previous reporting year,
- (b) in the case of a statutory State owned corporation, the number of executive officer positions of level 1 or above at the end of the reporting year, compared with the number at the end of the previous reporting year,
- (c) the number of female executive officers at the end of the reporting year, compared with the number at the end of the previous reporting year,
- (d) the name of, position held by and level and remuneration package of each executive officer of or above level 5 holding office at the end of the reporting year.

Clause 15 Annual Reports (Statutory Bodies) Regulation 2005

Part 3 Report of operations

- (2) This clause also applies to any statutory officer who is the chief executive officer of a statutory body but does not hold an executive position and, in any such case, applies as provided in guidelines issued to statutory bodies by the Treasurer from time to time.
- (3) The requirement in subclause (1) (d) to include in a report the level of each executive officer of or above level 5 does not extend to a statutory body that is a statutory State owned corporation.

15 Information and particulars in report of operations

For the purposes of section 9 (1) and (2) of the Act, the particulars set out in Column 2 of Schedule 1 are prescribed in relation to the matters described in Column 1 of that Schedule.

Annual Reports (Statutory Bodies) Regulation 2005

Clause 16

Miscellaneous

Part 4

Part 4 Miscellaneous

16 Form of annual reports—generally

- (1) The annual report of a statutory body must be effectively presented and arranged with attention given to the following:
 - (a) material information reported,
 - (b) logical sequence of information,
 - (c) appropriate layout of information,
 - (d) clear readable text,
 - (e) appropriately captioned charts, diagrams or photographs.
- (2) The annual report of a statutory body is to contain an index and a table of contents, arranged so as to assist in identifying the reporting requirements of the Act complied with in the report.

17 Form of annual reports—presentation to Parliament

- (1) The copies of an annual report of a statutory body that are laid before Parliament or distributed to members of Parliament are to be of the size ISO A4.
- (2) The appropriate Minister, in transmitting copies of an annual report to the Clerk of the Parliaments and the Clerk of the Legislative Assembly under section 11 (2) of the Act, must transmit a sufficient number of copies for distribution to the members of Parliament.

18 Public availability of annual reports

- (1) A statutory body must keep, at the office of the body, sufficient copies of its annual report in order to meet normal public demand.
- (2) A statutory body must, if required by the Treasurer to do so, furnish copies of its annual report to the New South Wales Government Information Service, or to such person or persons as may be specified by the Treasurer, for purchase by the public at a price per copy not greater than the direct cost of production per copy.

19 Exemptions

- (1) The Treasurer may, on application by a statutory body made at any time, grant an exemption from any or all of the provisions of this Regulation (this clause excepted), in relation to the annual report of the body for a particular reporting year.
- (2) An exemption may be granted subject to such conditions as the Treasurer may determine.

Clause 20 Annual Reports (Statutory Bodies) Regulation 2005

Part 4 Miscellaneous

- (3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the statutory body to which the exemption was granted.
- (4) Details of an exemption, and the reasons for the exemption, must be included under a separate heading entitled “Exemptions from the Reporting Provisions” in the annual report for the reporting year in which the exemption applies.

20 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Annual Reports (Statutory Bodies) Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Annual Reports (Statutory Bodies) Regulation 2005

Report of operations

Schedule 1

Schedule 1 Report of operations

(Clause 15)

Column 1	Column 2
Charter	A statement of the manner in which and the purpose for which the statutory body was established and a statement of the legislation under which the body operates
Aims and objectives	Information as to what the statutory body sets out to do, the range of services provided by the body and the clientele or section of the community served by the body
Access	The address and telephone number of the principal office or offices of the statutory body and the business and service hours of the body
Management and structure	<p>The names of the members of the statutory body, particulars of any appropriate qualifications of those members, the method and term of appointment of those members, the frequency of meetings of the body, the attendance at those meetings, the names of significant committees of the body, the names of the members of those committees, the titles of the senior offices within the staff establishment of the body, the names of the occupants of those offices and any appropriate qualifications of those occupants</p> <p>A list of all significant committees established or abolished during the reporting year and a list of the functions of all such committees</p> <p>An organisation chart indicating functional responsibilities within the body</p>
Summary review of operations	<p>A narrative summary of the significant operations for the reporting year</p> <p>Selected financial and other quantitative information associated with the administration of programs or the operations of the body</p>
Funds granted to non-government community organisations	<p>The name of the organisation receiving the grant of funds</p> <p>The amount of funds granted</p> <p>The program area, as defined in the relevant Budget paper for the reporting year</p> <p>The program, as defined in the relevant Budget paper for the reporting year</p> <p>Further details in accordance with guidelines issued to the statutory body by the Treasurer from time to time</p>

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Annual Reports (Statutory Bodies) Regulation 2005

Schedule 1 Report of operations

Column 1	Column 2
Social Programs	Such details as are determined by the Secretary of the Treasury from time to time relating to any Social Programs provided by the body
Legal change	Changes in Acts and subordinate legislation and significant judicial decisions affecting the statutory body or the users of the services provided by the body
Economic or other factors	Factors that have affected the achievement of the operational objectives of the statutory body during the reporting year
Management and activities	<p>A description of the nature and range of activities undertaken</p> <p>If practicable, qualitative and quantitative measures and indicators of performance showing the level of efficiency and effectiveness</p> <p>The nature and extent of performance review practices and of improvements in organisational achievements as assessed by both internal and external performance reviews</p> <p>Benefits achieved as a result of management and strategy reviews</p> <p>A description of management improvement plans adopted by the statutory body and achievements in reaching previous targets</p> <p>A description of the major problems and issues that have arisen</p> <p>Details, lists or tables of major works in progress, the cost of those works to date and the estimated dates of completion, together with particulars of significant cost overruns in major works or programs</p> <p>The reasons for any significant delays to, or amendment, deferment or cancellation of, major works or programs</p>
Research and development	Particulars of completed research and continuing research and development activities, together with the resources allocated for that research and those activities, unless the inclusion of those particulars would, in the opinion of the statutory body, adversely affect the business or commercial operations of the body

Annual Reports (Statutory Bodies) Regulation 2005

Report of operations

Schedule 1

Column 1	Column 2
Human resources	<p>The number of employees, by category, with comparison to each of not less than 3 years before the reporting year</p> <p>Any exceptional movement in wages, salaries or allowances</p> <p>Personnel policies and practices</p> <p>Industrial relations policies and practices</p>
Consultants	<p>In respect of the engagement during the reporting year of a consultant by or on behalf of the statutory body (other than a statutory body being the Public Trustee or the Senate, Board of Governors or Council of a university), the cost of which is equal to or more than \$30,000, the following details relating to the consultant:</p> <p>(a) the name of the consultant,</p> <p>(b) if the consultant has been engaged for a particular project, the title of the project,</p> <p>(c) the actual cost of engaging the consultant</p> <p>In respect of the engagement during the reporting year of consultants by or on behalf of the statutory body (other than a statutory body being the Public Trustee or the Senate, Board of Governors or Council of a university) if the cost of each such engagement is less than \$30,000, the following details relating to the consultants:</p> <p>(a) the total number of engagements costing less than \$30,000,</p> <p>(b) the total cost of all such engagements</p> <p>If no consultants were engaged by or on behalf of the statutory body during the reporting year, a statement of that fact</p>
Equal employment opportunity	<p>A statement setting out the equal employment opportunity achievements of the statutory body during the reporting year and the key equal employment opportunity strategies proposed by the statutory body for the following year</p> <p>Statistical information for the reporting year of such kind, and set out in such form, as is determined by the Secretary of the Treasury</p>
Disability plans	<p>A statement setting out the progress during the reporting year in implementing the statutory body's disability plan (if such a plan is required under the <i>Disability Services Act 1993</i>)</p>

Annual Reports (Statutory Bodies) Regulation 2005

Schedule 1 Report of operations

Column 1	Column 2
Land disposal	<p>The total number and the total value of properties disposed of during the reporting year</p> <p>A list of such of those properties as were disposed of by means other than public auction or tender and that had a value of more than \$5,000,000, including in each case the name of the person who acquired the property and the proceeds from the disposal of the property</p> <p>Details of any family connection or business association between a person who acquired any property during the reporting year and the person responsible for approving the disposal of the property</p> <p>A short statement giving the reasons for the disposal of properties during the reporting year</p> <p>The purpose or purposes for which the proceeds from the disposal of properties during the reporting year were used</p> <p>A statement that an application for access to documents concerning details of properties disposed of during the reporting year may be made in accordance with the <i>Freedom of Information Act 1989</i></p>
Promotion	<p>A statement setting out the types of publications and other information available to the public dealing with the functions and activities of the body and indicating those that were published by the body during the reporting year</p> <p>Overseas visits undertaken by officers and employees with the main purposes highlighted</p>
Consumer response	<p>The extent and main features of consumer complaints, indicating any services improved or changed as a result of complaints or consumer suggestions made</p>
Guarantee of service	<p>If appropriate, the standard for providing services, together with comment on any variance from the standard or changes made to the standard</p>
Payment of accounts	<p>Details of performance in paying accounts (assessed in accordance with indicators determined by the Treasurer from time to time) during the reporting year, including details, where appropriate, of action taken to improve performance in paying accounts</p>
Time for payment of accounts	<p>All instances where interest has become payable as a result of late payment by the Department for goods or services supplied to the Department, and the reason for the delay in making the payment that led to the payment of the interest</p>
Risk management and insurance activities	<p>A report on the risk management and insurance arrangements and activities affecting the statutory body</p>

Annual Reports (Statutory Bodies) Regulation 2005

Report of operations

Schedule 1

Column 1	Column 2
Controlled entities	A detailed statement of the name, objectives, operations, activities, performance targets and actual performance measures of each entity controlled by the statutory body that is an entity of the kind referred to in section 39 (1A) of the <i>Public Finance and Audit Act 1983</i>
Ethnic affairs priorities statement and any agreement	<p>A statement setting out the progress in implementing the statutory body's ethnic affairs priorities statement, the key ethnic affairs strategies proposed by the statutory body for the following year and information as to the ethnic affairs priorities statements of any bodies reporting to the statutory body</p> <p>A statement describing any agreement entered into between the statutory body and the Community Relations Commission under the <i>Community Relations Commission and Principles of Multiculturalism Act 2000</i> and a statement setting out the statutory body's progress in implementing any such agreement</p>
NSW Government Action Plan for Women	<p>A statement setting out the following:</p> <ul style="list-style-type: none"> (a) a brief description of the Government's philosophy in relation to women and the whole of Government approach to addressing women's issues and concerns, (b) Government policy orientations in relation to women's interests in the specific areas in which the statutory body operates, (c) the key objectives, as stated in the Action Plan for Women, under which the statutory body took action during the reporting year, (d) the specific goals and strategies, as stated in the Action Plan for Women, that the statutory body has committed to and the actual outcome for women achieved during the reporting year through the implementation of those strategies, (e) reference to sources of further information in relation to the statutory body's strategies regarding women
Occupational health and safety	<p>A statement setting out the statutory body's occupational health and safety performance during the reporting year (including details of work-related injuries, work-related illnesses and prosecutions under the <i>Occupational Health and Safety Act 2000</i>)</p> <p>Statistical information for the reporting year of such kind, and set out in such form, as is determined by the Secretary of the Treasury</p>

Annual Reports (Statutory Bodies) Regulation 2005

Schedule 1 Report of operations

Column 1	Column 2
Waste	A statement on the implementation of the Government's Waste Reduction and Purchasing Policy, including information on measures taken and progress on the following: (a) reducing the generation of waste, (b) resource recovery, (c) the use of recycled material.



New South Wales

Children (Community Service Orders) Regulation 2005

under the

Children (Community Service Orders) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Community Service Orders) Act 1987*.

ANTHONY KELLY, M.L.C.,
Minister for Juvenile Justice

Explanatory note

The object of this Regulation is to remake, with only minor changes in substance, the provisions of the *Children (Community Service Orders) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) conditions relating to the performance of community service work, including maximum hours of work to be performed each day, the taking of tea breaks and meal breaks and requirements to be observed by offenders performing such work (Part 2),
- (b) miscellaneous matters, including service of documents and the appointment of assigned officers and supervisors for the administration of children's community service orders (Part 3).

This Regulation is made under the *Children (Community Service Orders) Act 1987*, including sections 13, 16, 18, 20A, 21 and 29 (the general regulation-making power).

Children (Community Service Orders) Regulation 2005

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Children (Community Service Orders) Regulation 2005

Clause 1

Preliminary

Part 1

Children (Community Service Orders) Regulation 2005

under the

Children (Community Service Orders) Act 1987

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Children (Community Service Orders) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Children (Community Service Orders) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

offender means a person in respect of whom a children's community service order is in force.

the Act means the *Children (Community Service Orders) Act 1987*.

work site means a place at which an offender performs, or is required to perform, community service work.

(2) Notes included in this Regulation do not form part of this Regulation.

Clause 4	Children (Community Service Orders) Regulation 2005
Part 2	Conditions of community service work

Part 2 Conditions of community service work

4 Maximum hours of work per day

The maximum number of hours of community service work that an offender may be required to perform in any one day is 8. However, an offender may agree to perform more community service work in any one day.

5 Tea breaks and meal breaks

- (1) An offender is to be given such tea breaks (at a rate of no more than 5 minutes for each hour for which the offender is actually engaged in performing community service work) as the offender's assigned officer or supervisor thinks fit.
- (2) An offender who has performed community service work continuously (or interrupted only by a tea break to which the offender is entitled under subclause (1)) for 4 hours is entitled to a meal break of 1 hour.

6 Computation of hours of community service work performed

- (1) The following periods of time are to be taken to form part of the time spent by an offender in performing community service work:
 - (a) time spent by the offender while actually engaged in performing community service work,
 - (b) time spent by the offender in travelling between the offender's place of residence and the offender's work site,
 - (c) time spent by the offender in having any meal break or tea break,
 - (d) time spent by the offender at the offender's work site (otherwise than as referred to in paragraph (a) or (c)) in accordance with a direction given by the assigned officer or a supervisor,
 - (e) time that elapses between the offender's early release from community service work on any day and the time when the offender would (but for the early release) otherwise have been released.
- (2) The assigned officer for an offender may determine that the whole or any part of the time spent by the offender at a work site (whether or not the time is spent in performing community service work) is to be deducted from any computation of the time spent by the offender in performing community service work if the offender, while at the work site:
 - (a) is under the influence of drugs or alcohol, or
 - (b) conducts himself or herself in an offensive manner.

Children (Community Service Orders) Regulation 2005

Clause 7

Conditions of community service work

Part 2

-
- (3) The periods of time referred to in subclause (1) (b) and (2) are to be determined by the offender's assigned officer in accordance with any relevant directions given by the Director-General.

7 Offenders to comply with certain requirements

- (1) An offender must, while performing community service work:
- (a) comply with such standards of dress, cleanliness and conduct as the assigned officer may from time to time specify, and
 - (b) keep in good order and condition such clothing and equipment as may be issued to the offender in connection with the performance of that work.
- (2) An offender must not damage or deface any property that is on or forms part of a work site otherwise than in the course of performing community service work in accordance with the directions of the assigned officer or supervisor.

8 Inability of offender to comply with certain directions

- (1) If an offender is directed to do anything that the offender is incapable of doing, the offender must, as soon as practicable, advise the assigned officer or supervisor of that fact.
- (2) An assigned officer or supervisor may, if satisfied that an offender is incapable of doing something that the offender has been directed to do, relieve the offender from the obligation to comply with the direction even though the direction may have been given by some other assigned officer or supervisor.
- (3) Before relieving an offender from the obligation to comply with a direction, or as a condition of so relieving the offender, the assigned officer or supervisor may require the offender to furnish a certificate issued by a registered medical practitioner to the effect that the offender is incapable of doing the thing concerned.

9 Travelling and transport arrangements

The Director-General may, in such circumstances as the Director-General thinks fit:

- (a) provide transport for an offender between the offender's work site and the offender's place of residence, or
- (b) reimburse the offender for the offender's expenses in travelling between the offender's work site and the offender's place of residence or in performing community service work.

Clause 10	Children (Community Service Orders) Regulation 2005
Part 2	Conditions of community service work

10 Work sites

- (1) An assigned officer may, in accordance with section 18 of the Act, direct an offender to perform work for:
 - (a) any department within the meaning of the *Public Sector Employment and Management Act 2002*, or
 - (b) any declared authority to which Part 6.4 of the *Public Sector Employment and Management Act 2002* applies, or
 - (c) a council or county council within the meaning of the *Local Government Act 1993*.
- (2) Such a direction may be given only if arrangements satisfactory to the Director-General have been made in relation to the availability, location and type of work to be performed by offenders.

Children (Community Service Orders) Regulation 2005

Clause 11

Miscellaneous

Part 3

Part 3 Miscellaneous

11 Service of documents

- (1) Service of a document under the Act or this Regulation is to be treated as having been effected if it is served by post at the last known address of the person on whom the document is required to be served.
- (2) In addition, a children's community service order made by an authorised justice is taken to have been effectively served if a copy of the children's community service order is served personally on the person to whom the order relates.

12 Appointment of assigned officers: section 16

- (1) For the purposes of section 16 (1) of the Act, the Director-General may appoint any person who is, in the opinion of the Director-General, suitably qualified and of suitable character as an assigned officer in respect of the administration of a children's community service order.
- (2) A person so appointed is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Director-General may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

13 Appointment of supervisors

- (1) The Director-General may appoint any person who is, in the opinion of the Director-General, suitably qualified and of suitable character to supervise persons in the performance of community service work.
- (2) A person so appointed is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Director-General may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

14 Supervisor to report to assigned officer

A supervisor must, when required by an assigned officer to do so, report to the assigned officer on any matter relating to an offender under the supervisor's supervision.

15 Applications for extension of order: section 20A

An application under section 20A of the Act for the extension of the period for which a children's community service order is in force must be in writing and in such form as the Director-General may from time to time determine.

Clause 16 Children (Community Service Orders) Regulation 2005
Part 3 Miscellaneous

16 Application for revocation of order: section 21

An application under section 21 of the Act for the revocation of a children's community service order must be in writing and in such form as the Senior Children's Magistrate may from time to time determine.

17 Savings

Any act, matter or thing that, immediately before the repeal of the *Children (Community Service Orders) Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

Children (Detention Centres) Regulation 2005

under the

Children (Detention Centres) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Detention Centres) Act 1987*.

ANTHONY KELLY, M.L.C.,
Minister for Juvenile Justice

Explanatory note

The object of this Regulation is to remake, with only minor changes in substance, the provisions of the *Children (Detention Centres) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the administration of detention centres, including the classification of detainees (Part 2),
- (b) persons who may visit detainees and the rules to be observed in relation to visits and the sending of parcels or letters to or by detainees (Part 3),
- (c) the making of complaints in relation to a detention centre (Part 4),
- (d) the granting of day leave or overnight leave (Part 5),
- (e) the maintenance of order in detention centres (Part 6),
- (f) prescribing conduct to be treated as misbehaviour and the procedure for dealing with allegations of misbehaviour against detainees (Part 7 and Schedule 1),
- (g) parole orders in relation to detainees (Part 8),
- (h) forms for notice of revocation of parole orders, arrest warrants and warrants of commitment (Schedule 2),
- (i) other miscellaneous matters (Parts 1 and 9).

This Regulation is made under the *Children (Detention Centres) Act 1987*, including section 45 (the general regulation-making power) and the sections mentioned in the Regulation.

Children (Detention Centres) Regulation 2005

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Clause 1	Children (Detention Centres) Regulation 2005
Part 1	Preliminary

Children (Detention Centres) Regulation 2005

under the

Children (Detention Centres) Act 1987

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Children (Detention Centres) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Children (Detention Centres) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Aboriginal person means a person who:

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person.

approved property, in relation to a detainee, means:

- (a) any of the detainee's property that has not been surrendered or sent away under section 17 of the Act, or
- (b) any of the detainee's property that has been lawfully acquired by the detainee since the detainee was admitted into a detention centre.

centre manager of a detention centre means the person for the time being in charge of the centre.

classified person means:

- (a) a person who is a person on remand by virtue of an order referred to in paragraph (c) of the definition of **detention order** in section 3 of the Act, or

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Part 1

(b) a person who is a person subject to control by virtue of an order referred to in paragraph (a) or (b) of that definition.

complaints guidelines means guidelines prepared by the Director-General under clause 44.

contraband means any property the possession of which by a detainee is not permitted by or under this Regulation.

dental officer, in relation to a detention centre, means a registered dentist who is approved by the Director-General as a dental officer for the detention centre.

detention period, in relation to a person subject to control, means the period for which the person is required, under the detention order by virtue of which the person is a person subject to control, to be detained in a detention centre.

force includes threat of the use of force and use of instruments of restraint.

instruments of restraint includes handcuffs and riot shields and such other articles as are declared to be instruments of restraint by an order in force under subclause (3).

letter means any letter, card, telegram, electronic mail message, document or other similar form of written communication, whether or not contained in a parcel, and includes an envelope containing any of those things.

medical officer, in relation to a detention centre, means a registered medical practitioner who is approved by the Director-General as a medical officer for the detention centre.

minister of religion means:

- (a) a minister of religion (within the meaning of the *Marriage Act 1961* of the Commonwealth) who is appointed or authorised by the diocesan or other authority of a religious denomination to minister to members of that denomination, or
- (b) a person who is appointed or authorised by a minister of religion referred to in paragraph (a) to minister to members of that denomination.

parcel means any parcel, package or other similar article, and includes any parcel or package containing any book, newspaper, magazine or other similar printed material.

registered nurse means a nurse registered under the *Nurses and Midwives Act 1991*.

the Act means the *Children (Detention Centres) Act 1987*.

Torres Strait Islander means a person who:

- (a) identifies as a Torres Strait Islander, and

Clause 3	Children (Detention Centres) Regulation 2005
Part 1	Preliminary

- (b) is accepted by the Torres Strait Islander community as a Torres Strait Islander.
- (2) In this Regulation, a reference to a legal practitioner includes a reference to an Australian legal practitioner within the meaning of the *Legal Profession Act 2004*.
Note. At the commencement of this Regulation, the *Legal Profession Act 2004* was uncommenced.
- (3) The Director-General may, by order published in the Gazette, declare any articles, or classes of articles, to be instruments of restraint for the purposes of this Regulation.
- (4) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 2.
- (5) Notes included in this Regulation do not form part of this Regulation.

Children (Detention Centres) Regulation 2005

Clause 4

Administration

Part 2

Part 2 Administration

4 General routines

- (1) The general routine for each detention centre is to be as determined by the Director-General.
- (2) The Director-General may determine different general routines for different parts of a detention centre.
- (3) The centre manager of a detention centre is to ensure that a notice setting out the general routine for the centre:
 - (a) is written in English, and in such other languages as are determined by the Director-General in relation to the centre, and
 - (b) is written in a style that, for persons speaking the language in which it is written, is easy to read and understand, and
 - (c) is exhibited in a conspicuous position where it may be read by persons who are in the detention centre or part of the detention centre to which it relates.
- (4) The languages (other than English) in which such a notice is to be written are to be determined with regard to the languages spoken in the communities from whom the centre receives, or is likely to receive, detainees.
- (5) The Director-General may require the general routine for a detention centre to be published in such other manner as the Director-General thinks fit.

5 Admission of detainees

- (1) A detainee must not be admitted into a detention centre otherwise than in accordance with the Act.
- (2) As soon as practicable after a detainee has been admitted into a detention centre, the centre manager must ensure that the detainee is informed of the following:
 - (a) the general routine for the detention centre,
 - (b) the detainee's obligations as to behaviour and conduct,
 - (c) the detainee's rights as to legal representation and as to appeal,
 - (d) the procedures for seeking information and for making complaints in accordance with the complaints guidelines,
 - (e) the normal days and hours for visiting,
 - (f) any other matter about which it is necessary for the detainee to be informed so as to enable the detainee to understand the detainee's rights and obligations and to adapt to living in the centre.

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Part 2 Administration

- (3) If practicable, a detainee must be informed of the matters referred to in subclause (2) by being given a document in which information relating to each of those matters is written.
- (4) A detainee who is being admitted to a detention centre must, on being required to do so by the centre manager, produce for inspection all property in the detainee's possession.
- (5) The centre manager may exercise the centre manager's functions under section 17 of the Act in respect of any property produced for inspection as referred to in subclause (4).

6 Information to be given to detainees

- (1) When a detainee is received into a detention centre to serve a detention period, the centre manager of the detention centre must give to the detainee information in writing concerning the nature and effect of the sentence.
- (2) The information must, in every case, include such information as the Minister determines to be the minimum necessary information.

7 Classification of detainees

For the purposes of section 16 of the Act, the following classes of detainees are prescribed:

- (a) Class A: those detainees who, in the opinion of the Director-General, are potentially dangerous and who should therefore be detained within a secure physical barrier at all times,
- (b) Class B: all other detainees.

8 Health and medical attention

- (1) Each detainee must be supplied with such medical and dental treatment as, in the opinion of a medical officer, dental officer or registered nurse, is necessary to promote and maintain the detainee's health and well-being.
- (2) Each detainee must, as soon as practicable after being admitted to a detention centre, be subjected to an examination by a registered medical practitioner or registered nurse for the purpose of determining the detainee's state of health and the results of the examination must be recorded.
- (3) If a medical officer or registered nurse recommends to the centre manager that the employment, diet, exercise or other treatment of a detainee should be varied or modified for reasons of health, the centre manager must carry the recommendation into effect in so far as is reasonably practicable.

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- (4) If it is not reasonably practicable to carry the recommendation or any part of it into effect, the centre manager must report that fact to the Director-General.
- (5) The centre manager may isolate a detainee from other detainees if:
- (a) the detainee is suffering from an infectious medical condition, and
 - (b) there is a risk of other detainees becoming infected with that condition, and
 - (c) the condition is, in the opinion of a medical officer or a registered nurse, sufficiently serious as to require the detainee's isolation.

9 Maintenance of physical well-being of detainees

- (1) A detainee must be supplied with adequate and wholesome food.
- (2) A detainee must be afforded reasonable opportunities to participate in healthy exercise and sporting, recreational and leisure activities.

10 Segregation of detainees for protection

For the purposes of section 19 (3) of the Act, the following particulars are prescribed in relation to a detainee who is segregated:

- (a) particulars of the detainee's name and age,
- (b) particulars of the dates and times that the segregation began and ended,
- (c) particulars describing the place where the detainee was kept segregated,
- (d) particulars of the means provided to enable the detainee to occupy himself or herself,
- (e) particulars of the reason for which the detainee was segregated,
- (f) particulars of any approval given by the Director-General under section 19 (1) (b) of the Act,
- (g) particulars of the name and official capacity of the person who ordered the segregation.

11 Property

- (1) The centre manager may refuse to allow a detainee to use or otherwise have possession of the detainee's approved property if, in the opinion of the centre manager, the possession of the property by the detainee is a risk to security, safety or good order.

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Part 2 Administration

- (2) Any approved property in the possession of a detainee:
 - (a) must be kept by the detainee in a tidy and orderly manner, and
 - (b) must be used only in a manner approved by the centre manager.
- (3) Any approved property of a detainee that, in the opinion of the centre manager, is kept or used in such a manner as to be a risk to security, safety or good order may be retained by the centre manager.
- (4) Any medicine surrendered by a detainee at a detention centre may be dealt with as a medical officer directs.
- (5) Religious books, recognised objects of religious devotion and similar items belonging to a detainee are taken to be approved property and to have been acquired with the permission of the centre manager.
- (6) The property of a detainee transferred from one detention centre to another must be transferred from the custody of the centre manager of the former detention centre to the custody of the centre manager of the new detention centre, together with such inventories and records as may be directed by the Director-General.

12 Books, newspapers, magazines and other printed material

- (1) A detainee may acquire any books, newspapers, magazines or other printed material approved by the centre manager.
- (2) Any book, newspaper, magazine or other printed material in the possession of a detainee which, in the opinion of the centre manager, is likely to adversely affect the security, safety or good order of the detention centre may be disposed of or otherwise dealt with by the centre manager in such manner as is reasonable in the circumstances, taking into account the nature of the material.

13 Unauthorised possession of property

Any property found in the possession of a detainee at any time after the detainee has been admitted to the detention centre is forfeited to the Crown unless:

- (a) the property was issued to the person by the centre manager or is the detainee's approved property, or
- (b) the Director-General otherwise directs.

14 Disposal of property

- (1) Any property of a detainee that is retained by the centre manager may be disposed of by the centre manager in accordance with a request made by the detainee.

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- (2) Any food or articles of clothing belonging to a detainee may be destroyed if the centre manager considers it necessary for the maintenance of hygiene.
 - (3) Before any property is destroyed, the centre manager must, if practicable, cause the detainee to be informed of its proposed destruction and of the reason for its destruction.

15 Records to be kept concerning property

A record must be kept by the centre manager, in a manner approved by the Director-General, of any property of a detainee:

- (a) surrendered to, or taken and retained by, the centre manager, or
- (b) sent away by the centre manager, or
- (c) forfeited to the Crown, or
- (d) disposed of by the centre manager, or
- (e) destroyed by the centre manager, or
- (f) transferred by the centre manager to the custody of the centre manager of some other detention centre, or
- (g) allowed to be retained by the detainee, or
- (h) returned to the detainee on discharge.

16 Education and training

- (1) The Director-General must take all reasonable steps to ensure that each detainee under 15 years of age is provided with education at a level appropriate to the detainee's aptitude and potential, and must do so whether or not the detainee so requests.
- (2) The Director-General must take all reasonable steps to ensure that each detainee of or above the age of 15 years is provided with education or vocational training, or both, at a level appropriate to the detainee's aptitude, potential and interests.
- (3) In the exercise of a function under this clause, the Director-General must give special attention to the needs of detainees who are illiterate or who have a disability.

17 Access to programs

- (1) The Director-General may provide the following programs in detention centres:
 - (a) vocational and education programs,
 - (b) psychological and social programs,
 - (c) recreational programs,

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Part 2 Administration

- (d) alcohol and other drug rehabilitation programs,
 - (e) culture-specific programs.
- (2) The centre manager of a detention centre is to ensure that an incentive scheme is established and implemented in the centre that will encourage detainees to participate in any programs so provided.
 - (3) Such an incentive scheme is to comply with any guidelines issued by the Director-General in relation to incentive schemes.
 - (4) In the exercise of a function under this clause, the Director-General must give special attention to the needs of detainees who have a disability.

18 Religious observance

- (1) The centre manager must afford reasonable opportunity to a minister of religion:
 - (a) to minister to such of the detainees of the minister's religious denomination as wish to receive the minister's ministrations, and
 - (b) on Sundays or other recognised days of religious observance, and on such other days as the centre manager may permit:
 - (i) to conduct Divine services or such other rites, services or assemblies as pertain to the minister's religious denomination, or
 - (ii) to conduct combined services in association with ministers of religion of other denominations.
- (2) A detainee, on admission into a detention centre:
 - (a) may state the detainee's religious denomination, or
 - (b) may state that the detainee is of no religious denomination, or
 - (c) may decline to provide information regarding the detainee's religious denomination.
- (3) A record must be kept at a detention centre in relation to each detainee at the centre:
 - (a) of the detainee's religious denomination, or
 - (b) of the fact that the detainee is of no religious denomination, or
 - (c) that the detainee declined to provide information regarding the detainee's religious denomination.
- (4) The centre manager must, when requested to do so by a minister of religion, inform the minister of the names of all detainees of the minister's religious denomination at the detention centre.

Children (Detention Centres) Regulation 2005

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- (5) The centre manager must take all reasonable steps to facilitate the participation of detainees in the religious observances of their respective religious denominations, but not so as to offer any inducement, or impose any sanction, with respect to any such participation.
- (6) A detainee may attend at the detention centre:
- (a) Divine services or such other rites, services, or assemblies as pertain to the detainee's religious denomination, and
 - (b) services of other religious denominations, and
 - (c) combined services held by ministers of religion of the detainee's religious denomination in association with ministers of religion of other denominations.

Clause 19 Children (Detention Centres) Regulation 2005

Part 3 Visits and communications

Part 3 Visits and communications

Division 1 Visits

19 Visiting days and times

The normal days and times for visiting for each detention centre are to be as determined by the Director-General.

20 Visits by relatives and friends

- (1) A detainee may be visited by relatives and friends at least once immediately after admission and, with the permission of the centre manager, at such intervals after that as the Director-General may determine for the centre in which the detainee is detained.
- (2) The centre manager:
 - (a) must have regard to the wishes of any parent or guardian of a detainee who has not attained the age of 16 years in relation to the management of visits to the detainee, and
 - (b) must, at all times, seek to encourage and facilitate visits to detainees by their relatives and friends.

21 Visits by legal practitioners and their clerks

- (1) A detainee may be visited:
 - (a) by the detainee's legal practitioner, or
 - (b) by a clerk authorised in writing by the detainee's legal practitioner,
to discuss or transact legal business (whether civil or criminal) in which the detainee has an interest.
- (2) Visits to a detainee by a legal practitioner or legal practitioner's clerk for the purpose of discussing or transacting legal business must take place during the normal days and hours of visiting, but must not otherwise be restricted in duration or number.
- (3) The centre manager may, if of the opinion that it is convenient and practicable to do so, permit a visit to a detainee by a legal practitioner or legal practitioner's clerk:
 - (a) to take place outside the normal days and hours of visiting, or
 - (b) to extend beyond the normal days and hours of visiting.

Children (Detention Centres) Regulation 2005

Clause 22

Visits and communications

Part 3

22 Visits by diplomatic or consular representatives

- (1) A detainee who is a national of a foreign country (being a country with diplomatic or consular representation in Australia or New South Wales) may be visited by a diplomatic or consular representative of the foreign country.
- (2) A detainee who is a national of a foreign country (being a country without diplomatic or consular representation in Australia or New South Wales) or who is a refugee or stateless person may be visited:
 - (a) by a diplomatic or consular representative of a foreign country that assumes responsibility for the detainee's interests, or
 - (b) by a representative of a national or international organisation that has as an object the protection of the interests of any such person.

23 Visits to Aboriginal persons and Torres Strait Islanders

A detainee who is an Aboriginal person or Torres Strait Islander may be visited:

- (a) by a field officer appointed by the Aboriginal Legal Service, or
- (b) by a field officer of any other organisation that provides legal or other assistance to Aboriginal persons or Torres Strait Islanders and that is approved by the Director-General.

24 Other visits

- (1) The centre manager may authorise visits, in addition to other visits authorised by this Division, in any case in which the centre manager considers it appropriate.
- (2) Without limiting the generality of subclause (1), the centre manager may authorise additional visits to a detainee if a medical officer has reported to the centre manager that the detainee is ill.

25 Procedure for visits

- (1) The centre manager may determine the procedure to be observed by detainees and visitors during visits.
- (2) A detainee may not be visited by any person unless that person has made arrangements with the centre manager for that purpose.
- (3) A visit to a detainee may, with the consent of the Director-General or the centre manager, take place outside the sight and hearing of an officer.
- (4) However, a visit to a detainee by a police officer in the course of the police officer's official duties must take place within the sight and hearing of an officer.

Clause 26 Children (Detention Centres) Regulation 2005

Part 3 Visits and communications

- (5) The Director-General may permit a person:
- (a) to visit a detention centre, and
 - (b) to conduct research in the centre, and
 - (c) to be afforded facilities to interview, talk to and examine any detainee (but only with the detainee's consent) outside the sight and hearing of an officer.

26 Articles not to be conveyed between visitors and detainees

- (1) A visitor must not deliver to or receive from any detainee (whether on the visitor's own behalf or on behalf of any other person) any article of any kind, except in accordance with this clause.
Maximum penalty: 5 penalty units.
- (2) The centre manager, or an officer authorised by the centre manager for that purpose, may permit a visitor to deliver an article to a detainee or an officer at the detention centre for delivery to a detainee.
- (3) A person who is:
- (a) a legal practitioner or legal practitioner's clerk referred to in clause 21, or
 - (b) a diplomatic or consular representative, or a representative of a national or international organisation, referred to in clause 22, or
 - (c) a field officer referred to in clause 23, or
 - (d) an officer of the Crown authorised to visit a detainee,
- may deliver to the detainee whom the person is authorised to visit any document or other thing that it is necessary to deliver for the purpose of the visit.

27 Refusal and termination of visits

- (1) A detainee who is of or above the age of 16 years may refuse to receive a visitor.
- (2) The centre manager may, despite any other provision of this Division, refuse to permit a visit if, in the opinion of the centre manager, the security, safety or good order of the detention centre, or the health or well-being of a detainee, is likely to be adversely affected if the visit were to be permitted.
- (3) The centre manager may terminate a visit to a detainee and direct the visitor to leave the detention centre if, in the opinion of the centre manager:
- (a) the visitor or detainee has, during the visit, committed a breach of the Act, this Regulation, the general routine of the detention centre or the procedure for visits, or

Children (Detention Centres) Regulation 2005

Clause 28

Visits and communications

Part 3

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- (b) the security, safety or good order of the detention centre, or the health or well-being of a detainee, is likely to be adversely affected if the visit were to continue.
 - (4) A visitor must not fail to comply with a direction given under subclause (3).
Maximum penalty: 5 penalty units.
 - (5) The centre manager must cause a record to be kept of:
 - (a) each refusal of a visit (whether by the detainee or the centre manager) and each termination of a visit by the centre manager, and
 - (b) the reasons for the refusal or termination.

Division 2 Letters and parcels

28 Written communication with detainees

- (1) Except as otherwise provided by this Division:
 - (a) any letter or parcel sent to or by a detainee must not be opened, read or inspected otherwise than by the person to whom the letter or parcel is addressed, and
 - (b) any letter sent to or by a detainee must not be censored.
- (2) A detainee may send letters and parcels to, and receive letters and parcels from, persons who are not detainees.

29 Inspection of mail and parcels

- (1) A letter or parcel (other than a letter referred to in clause 30) for delivery to or dispatch from a detainee may be opened and inspected by the centre manager or an officer authorised by the centre manager to do so if, in the opinion of the centre manager, the security, safety or good order of the detention centre is likely to be adversely affected by the delivery or dispatch.
- (2) The centre manager may take possession of any letter or parcel and its contents and may deal with them in accordance with any directions given specifically or generally by the Director-General if, following opening and inspection, the letter or parcel is found to contain contraband or any item or matter that, in the opinion of the centre manager, is likely to adversely affect the security, safety or good order of the detention centre.
- (3) If the centre manager takes possession of a letter or parcel or its contents, the centre manager must ensure that the detainee to whom the letter or parcel is addressed is given notice of that fact.

Clause 30	Children (Detention Centres) Regulation 2005
Part 3	Visits and communications

30 Correspondence with external bodies

- (1) In this clause:
- Commonwealth Ombudsman** means the Commonwealth Ombudsman appointed under the *Ombudsman Act 1976* of the Commonwealth.
- privileged letter**, in relation to a detainee, means a letter that has been addressed by the detainee to the New South Wales Ombudsman, the Commonwealth Ombudsman, the Judicial Commission, the Australian Crime Commission, the New South Wales Crime Commission, the Independent Commission Against Corruption, the Anti-Discrimination Board, the Administrative Decisions Tribunal, the Human Rights and Equal Opportunity Commission, the Privacy Commissioner, the Legal Aid Commission of New South Wales, the Legal Services Commissioner, a Member of Parliament, a legal practitioner or a police officer.
- (2) If a detainee delivers to an officer a privileged letter:
- the officer must send the letter immediately to the person to whom it is addressed, and
 - the letter must not be opened, inspected or read by anyone except the person to whom it has been addressed or by some person authorised by that person.
- (3) Any letter addressed to a detainee by:
- the New South Wales Ombudsman, or
 - the Commonwealth Ombudsman, or
 - the Judicial Commission, or
 - the Australian Crime Commission, or
 - the New South Wales Crime Commission, or
 - the Independent Commission Against Corruption, or
 - the Anti-Discrimination Board, or
 - the Administrative Decisions Tribunal, or
 - the Human Rights and Equal Opportunity Commission, or
 - the Privacy Commissioner, or
 - the Legal Aid Commission of New South Wales, or
 - the Legal Services Commissioner,
- must not be opened, inspected or read by anyone except the detainee to whom it is addressed or some person authorised by that detainee.
- (4) If a Member of Parliament or a legal practitioner sends to a detainee a letter in a sealed envelope accompanied by a letter addressed to the centre manager claiming privilege in respect of the letter in the sealed

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Part 3

envelope, the sealed envelope and letter must not (except as provided by subclause (5)) be opened, inspected or read by anyone except the detainee or some person authorised by the detainee.

- (5) If the centre manager is of the opinion that a sealed envelope referred to in subclause (4) may contain contraband or any item or matter that is likely to adversely affect the security, safety or good order of the detention centre, the centre manager may require the detainee to open the sealed envelope in the centre manager's presence.
- (6) If a sealed envelope so opened is found to contain contraband or any item or matter that, in the opinion of the centre manager, is likely to adversely affect the security, safety or good order of the detention centre, the centre manager may take possession of the envelope and its contents and may deal with them in accordance with any directions given specifically or generally by the Director-General.

31 Telephone communications

- (1) A detainee may request the centre manager of a detention centre (either directly or through a staff member) to be allowed telephone contact with:
 - (a) his or her Juvenile Justice Officer, or
 - (b) any person or body referred to in clause 30 (3) (a)–(l).
- (2) A staff member who receives such a request:
 - (a) if he or she has the authority to do so, must facilitate such telephone contact as soon as practicable after receiving the request, or
 - (b) in any other case, must immediately refer the request to the centre manager.
- (3) The centre manager must ensure that procedures are in place that facilitate telephone contact in accordance with this clause on the day the request is made or as soon as practicable after that day.

32 Communication with detainees and inmates in other detention centres and correctional centres

A detainee may:

- (a) communicate by letter with a detainee who is detained in another detention centre, but only with the authority of the centre managers of both centres, and
- (b) communicate by letter with an inmate detained in a correctional centre, but only with the authority of the governor of the correctional centre and the centre manager of the detention centre.

Clause 33 Children (Detention Centres) Regulation 2005

Part 3 Visits and communications

Division 3 Communications with staff members

33 Requests to speak to centre manager or other staff members

- (1) An officer who receives a request from a detainee (whether orally or in writing) for permission to speak to the centre manager or other staff member must, as soon as practicable, convey the request to the centre manager or other staff member.
- (2) The centre manager or other staff member must give a detainee from whom the centre manager or other staff member receives such a request an opportunity to speak to the centre manager or other staff member on the day on which the request is conveyed or made to the centre manager or other staff member or as soon as practicable after that day.
- (3) When giving a detainee an opportunity to speak, the centre manager or other staff member must consider what the detainee has to say and must inform the detainee of any action that the centre manager or other staff member has taken or proposes to take or (if no such action is taken or proposed) of the fact that the centre manager or other staff member does not propose to take any action.

Children (Detention Centres) Regulation 2005

Clause 34

Complaints

Part 4

Part 4 Complaints

34 Definitions

In this Part:

complainant means a person who makes a complaint under this Part.

complaints register means a complaints register referred to in clause 42.

officer of the Department does not include the centre manager or any other staff member of a detention centre.

referee, in relation to a complaint, means the person who deals with the complaint.

representative of a detainee, means:

- (a) a family member or carer of the detainee or any other person who is significant to the detainee, or
- (b) an Official Visitor for the detention centre, or
- (c) the New South Wales Ombudsman, or
- (d) a support person, or
- (e) a legal practitioner, or
- (f) a chaplain.

support person for a detainee, means:

- (a) a person who is authorised to visit the detainee under Division 1 of Part 3, or
- (b) another detainee at the detention centre, or
- (c) a staff member of the detention centre,

being a person who the detainee wishes to have as a support person, and who agrees to be the detainee's support person.

35 Who may make a complaint

- (1) A complaint concerning the administration or management of a detention centre may be made by any person.
- (2) A complaint concerning the treatment of a particular detainee may be made by the detainee or by a representative of the detainee.

36 How complaints may be made

- (1) A complaint may be addressed, either orally or in writing, to a prescribed person.
- (2) A written complaint addressed to a prescribed person may be lodged with that person or with any other prescribed person.

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Part 4 Complaints

- (3) A written complaint addressed to a prescribed person and lodged with another prescribed person is to be immediately referred to the person to whom the complaint is addressed.
- (4) If a detainee requests a prescribed person to do so, the prescribed person must ensure that all reasonable steps are taken to provide assistance to the detainee in making a complaint under this Part, including, where necessary, the provision of an interpreter.
- (5) Except in such circumstances as may be provided by the complaints guidelines, an envelope purporting to contain a complaint must not be opened or its contents inspected or read by anyone other than the person to whom it is addressed.
- (6) For the purposes of this clause only, a complaint addressed to the Director Transport Placements and Drug Intelligence Branch is to be treated as a complaint addressed to the centre manager of a detention centre.
- (7) In this clause, *prescribed person* means:
 - (a) the centre manager or any other staff member of a detention centre, and
 - (b) the Director-General or any other officer of the Department.

37 Who may deal with complaints

- (1) A complaint is to be dealt with by the person to whom it is made or addressed or by such other person as the complaints guidelines may permit or require.
- (2) The complaints guidelines may permit or require specified classes of complaints to be dealt with by specified persons, or specified classes of persons, instead of by the persons to whom they are addressed.
- (3) If a person to whom a complaint is addressed refers the complaint to some other person in accordance with the complaints guidelines, the person to whom the complaint was addressed must inform the complainant of that fact.

38 How complaints to be dealt with

- (1) The referee for a complaint may conduct a hearing into the matters raised by the complaint.
- (2) For the purposes of any such hearing, the referee:
 - (a) may invite any person to make representations in relation to the complaint, and

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Part 4

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- (b) if the complaint makes allegations against any other person, must invite the complainant and that other person to make representations in support of, or in reply to, the allegations.
 - (3) A person who is invited to make representations may decline to do so.
 - (4) Subject to this Part, the procedures for dealing with a complaint are to be as set out in the complaints guidelines.

39 Representation of complainants

- (1) This clause applies if a complainant is invited to make representations in relation to a complaint.
- (2) The complainant may be accompanied by a support person when making any representations.
- (3) If a complainant wishes to nominate a support person but is unable to do so, the referee must nominate a person who, in the referee's opinion, is appropriate to act as a support person for the detainee.
- (4) The detainee may decline to be accompanied by a support person nominated under subclause (3).
- (5) The Director-General is to ensure that all reasonable steps are taken to provide an interpreter when the detainee makes representations in either or both of the following circumstances:
 - (a) the detainee has difficulty communicating because of an intellectual or physical disability or impairment,
 - (b) the detainee has difficulty communicating in English.

40 Complainant to be notified of certain matters

- (1) As soon as practicable after receiving a complaint, the referee must notify the complainant:
 - (a) of the fact that the referee is dealing with the complaint, and
 - (b) of the means by which the referee may be contacted in relation to the complaint, and
 - (c) of the procedure to be followed by the referee in dealing with the complaint (including whether the complainant will be invited to appear before the referee to make representations in connection with the complaint), and
 - (d) when the complainant can expect a decision on the complaint.
- (2) As soon as practicable after making a decision on a complaint, the referee must notify the complainant:
 - (a) of the decision that has been made, and

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Part 4 Complaints

- (b) of the action (if any) that the complainant can expect to occur as a consequence of the decision.
- (3) As far as is practicable, all such information is to be communicated in such a way so as to be readily understood by the complainant.
- (4) The complaints guidelines may specify classes of complaint (being complaints of a trivial nature) in respect of which notice under this clause need not be given or may be given orally.

41 Review of decision on complaint

- (1) A complainant who is not satisfied with the decision on the complaint may apply to the referee's supervisor or to the Director-General for a review of that decision.
- (2) An application for a review is to be dealt with in accordance with the complaints guidelines.
- (3) An application for a review of the decision on a complaint must not be dealt with by the person who dealt with the complaint or by any person who is subordinate to the person who dealt with the complaint.

42 Complaints registers

- (1) A complaints register is to be kept:
 - (a) by the Director-General (in relation to complaints made to the Director-General or to officers of the Department other than staff of the centre), and
 - (b) by the centre manager of each detention centre (in relation to complaints made to the centre manager or to staff members of the centre, but not complaints made to the Manager Juvenile Placements/Transport Unit, being complaints that are treated as complaints addressed to the centre manager), and
 - (c) by the Director Transport Placements and Drug Intelligence Branch (in relation to complaints made to that person, being complaints that are treated as complaints addressed to the centre manager).
- (2) The complaints registers kept under this clause are to be available for inspection by the New South Wales Ombudsman.
- (3) The complaints register kept by the centre manager of a detention centre is also to be available for inspection by the Official Visitor for the centre to which the register relates.

Children (Detention Centres) Regulation 2005

Clause 43

Complaints

Part 4

43 Information to be recorded in complaints register

- (1) The following information is to be recorded in the relevant complaints register in respect of each complaint:
 - (a) the date on which the complaint was made, and
 - (b) the identity of the complainant, and
 - (c) the substance of the complaint, and
 - (d) the identity of the referee for the complaint, and
 - (e) brief particulars of the procedures followed by the referee in dealing with the complaint, and
 - (f) the decision that was made on the complaint, and
 - (g) the date on which the complainant was informed of the referee's decision on the complaint, and
 - (h) if the complaint was not disposed of within 21 days after it was made, the reason why it was not disposed of within that time, and
 - (i) such other information in relation to the complaint as the complaints guidelines require to be recorded in the register.
- (2) The complaints guidelines may specify classes of complaint (being complaints of a trivial nature) in respect of which the requirements of subclause (1) need not be complied with.

44 Complaints guidelines

- (1) The Director-General may issue guidelines as to how complaints, and applications for the review of decisions on complaints, are to be dealt with.
- (2) Copies of the complaints guidelines are to be available for inspection by detainees and visitors at each detention centre as well as at offices of the Department.

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Part 5 Leave

Part 5 Leave

45 Definitions

In this Part:

day leave means leave to be absent from a detention centre granted under section 24 of the Act, being leave that does not involve absence overnight.

escorted absence means absence from a detention centre granted under section 23A of the Act.

fixed term means a term of sentence of imprisonment where a court has declined to set a non-parole period.

non-parole period has the same meaning as it has in the *Crimes (Sentencing Procedure) Act 1999*.

overnight leave means leave to be absent from a detention centre granted under section 24 of the Act, being leave that involves absence overnight.

serious children's indictable offence has the same meaning as it has in the *Children (Criminal Proceedings) Act 1987*.

46 Matters to be taken into account before leave granted

In deciding whether or not to grant day leave or overnight leave to a person subject to control, the Director-General must have regard to the following matters:

- (a) whether the person would be likely to commit any offence if the person were to be granted leave,
- (b) whether the granting of leave would be likely to create a risk to public safety,
- (c) whether the person's conduct while detained in a detention centre indicates that the person would observe any conditions to which leave would be subject,
- (d) whether the person would be likely to interfere with, or attempt to interfere with, a witness in any proceedings,
- (e) any previous history of escape or absconding of the person from lawful custody,
- (f) the kind of supervision to which the person would be likely to be subject while on leave,
- (g) whether the granting of leave would be likely to bring the person into contact with any victim of the offence in relation to which the person is detained,

Children (Detention Centres) Regulation 2005

Clause 47

Leave

Part 5

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- (h) any other matter that is, in the opinion of the Director-General, relevant to the decision.

47 Day leave

- (1) Day leave must not be granted to a person subject to control unless the prescribed portion of each detention period being served by the person has expired.
- (2) Subject to subclause (3):
- (a) if 2 or more detention periods are ordered to be served consecutively, the prescribed portions of each of those periods are also taken to run consecutively, so that:
- (i) the first portion begins on the date on which the first detention period begins, and
- (ii) each of the subsequent portions begins on the date immediately following the date on which the preceding portion ends, and
- (b) if 2 or more detention periods are ordered to be served concurrently, the prescribed portions of each of those periods are also taken to run concurrently.
- (3) However, if 2 or more detention orders are imposed in different proceedings, the prescribed portion of a detention period arising from a detention order imposed in the second or subsequent proceedings is not taken to have begun before the date on which that order is imposed.
- (4) In this clause:
- prescribed portion*** of a detention period means:
- (a) one half of the fixed term or non-parole period of the detention period, for a serious children's indictable offence committed by a classified person, and
- (b) one third of the fixed term or non-parole period of the detention period, for any other indictable offence committed by a classified person, and
- (c) one quarter of the fixed term or non-parole period of the detention period:
- (i) for any other offence committed by a classified person, or
- (ii) for any offence (whether indictable or not) committed by a person who is not a classified person.

Clause 48 Children (Detention Centres) Regulation 2005
Part 5 Leave

48 Overnight leave

- (1) Overnight leave must not be granted to a person subject to control unless the prescribed portion of each detention period being served by the person has expired.
- (2) Subject to subclause (3):
 - (a) if 2 or more detention periods are ordered to be served consecutively, the prescribed portions of each of those periods are also taken to run consecutively, so that:
 - (i) the first portion begins on the date on which the first detention period begins, and
 - (ii) each of the subsequent portions begins on the date immediately following the date on which the preceding portion ends, and
 - (b) if 2 or more detention periods are ordered to be served concurrently, the prescribed portions of each of those periods are also taken to run concurrently.
- (3) However, if 2 or more detention orders are imposed in different proceedings, the prescribed portion of a detention period arising from a detention order imposed in the second or subsequent proceedings is not taken to have begun before the date on which that order is imposed.
- (4) In this clause:

prescribed portion of a detention period means:

 - (a) two thirds of the fixed term or non-parole period of the detention period, for an indictable offence (whether or not a serious children's indictable offence) committed by a classified person, and
 - (b) one half of the fixed term or non-parole period of the detention period:
 - (i) for any other offence committed by a classified person, or
 - (ii) for any offence (whether indictable or not) committed by a person who is not a classified person.

Children (Detention Centres) Regulation 2005

Clause 49

Maintenance of order

Part 6

Part 6 Maintenance of order

49 Order generally

- (1) Officers must seek to influence detainees through example and leadership and must seek to enlist their willing co-operation.
- (2) At all times, the treatment of detainees must be such as to encourage their self-respect and sense of personal responsibility.
- (3) An officer is not to engage in behaviour toward a detainee:
 - (a) that is intimidating, humiliating, demeaning, threatening or oppressive, or
 - (b) that otherwise constitutes an abuse of the officer's authority.

50 Use of force

- (1) An officer must not use force against any person in a detention centre except for the following purposes:
 - (a) to prevent a detainee from injuring himself or herself,
 - (b) to protect the officer or other persons from attack or harm,
 - (c) to prevent a detainee from inflicting serious damage to property,
 - (d) to prevent a detainee from escaping,
 - (e) to prevent a person from entering a detention centre by force,
 - (f) to search a detainee in circumstances in which the detainee refuses to submit to being searched,
 - (g) to seize any dangerous or harmful article or substance that is in the possession of a detainee,
 - (h) to prevent or quell a riot or other disturbance.
- (2) An officer may also use force in order to move a detainee who refuses to move from one location to another in accordance with an order of that officer, but only if the officer first gives a warning to the detainee of the consequences of failing to comply with the order.
- (3) In dealing with a detainee, an officer must use no more force than is reasonably necessary in the circumstances, and the infliction of injury on the detainee is to be avoided if at all possible.

51 Reports on use of force

- (1) As soon as practicable after force is used by an officer against a person, a report must be furnished to the centre manager by each officer involved in the use of force.

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Part 6 Maintenance of order

- (2) The report:
- (a) must be in writing, and
 - (b) must specify the name of each person who has been subjected to force and the name of each officer who was involved in the use of force, and
 - (c) must specify the location where the use of force occurred, and
 - (d) must describe the nature of the force used and the purpose for which, or the circumstances in which, force was used, and
 - (e) must be signed by each officer involved in the use of force.

Children (Detention Centres) Regulation 2005

Clause 52

Misbehaviour

Part 7

Part 7 Misbehaviour

Division 1 Misbehaviour generally

52 Definitions

(1) In this Part:

minor misbehaviour means any act or omission that constitutes a breach of any of the provisions of Part 1 of Schedule 1.

serious misbehaviour means any act or omission that constitutes an offence under section 37A of the Act or a breach of any of the provisions of Part 2 of Schedule 1.

(2) Serious misbehaviour within the meaning of this Part is declared to be serious misbehaviour for the purposes of section 21 (1) (e) of the Act.

53 Misbehaviour

A detainee must not:

- (a) breach any of the provisions of Schedule 1, or
- (b) encourage any other detainee to breach any of those provisions.

54 Allegations of misbehaviour

- (1) An allegation that a detainee is guilty of misbehaviour may be made, orally or in writing, to the centre manager.
- (2) An oral allegation must be recorded in writing by the centre manager.

55 Visits by prescribed persons

For the purposes of section 21 (3) (a) of the Act, the following classes of persons are prescribed:

- (a) a legal practitioner's clerk authorised in writing by a detainee's legal practitioner,
- (b) a registered medical practitioner,
- (c) an Official Visitor to the detention centre appointed under section 8A of the Act,
- (d) a field officer referred to in clause 23,
- (e) a person conducting an inspection of the detention centre in accordance with section 8 of the Act.

Clause 56 Children (Detention Centres) Regulation 2005
Part 7 Misbehaviour

Division 2 Minor misbehaviour

56 Allegations of minor misbehaviour

An allegation that a detainee is guilty of minor misbehaviour is to be heard and determined by the centre manager.

57 Inquiry to be held

- (1) The centre manager must inquire into an allegation as soon as is reasonably practicable but, in any event, within 24 hours after the allegation is made.
- (2) Before proceeding to inquire into an allegation, the centre manager must inform the detainee of the name of the person who made the allegation and of the substance of the allegation.

58 Adjournments

The centre manager may adjourn an inquiry for any reason that seems to the centre manager to be sufficient.

59 Procedure after guilty plea

The centre manager may punish a detainee in accordance with section 21 of the Act if the detainee admits his or her guilt and the centre manager is satisfied that the detainee is guilty of the misbehaviour charged in the allegation.

60 Procedure after not guilty plea

- (1) If the detainee denies his or her guilt, the detainee must be given an opportunity to cross-examine the person who made the allegation and any witnesses called by that person.
- (2) If the detainee gives evidence at the inquiry, the centre manager and the person who made the allegation may cross-examine the detainee and any other person who gives evidence on the detainee's behalf.
- (3) If the detainee, or any other person who is to give evidence on the detainee's behalf, cannot speak English to an extent that is sufficient for the purposes of the inquiry, the centre manager must adjourn the inquiry until the services of an interpreter can be obtained.
- (4) At the conclusion of evidence, both the person who made the allegation and the detainee (in that order) must be given an opportunity to address the centre manager.

Children (Detention Centres) Regulation 2005

Clause 61

Misbehaviour

Part 7

61 Procedure generally

- (1) An inquiry must be conducted with as little formality and technicality, and with as much expedition, as fairness to the detainee, the requirements of the Act and this Regulation and the proper consideration of the allegation permit.
- (2) Neither the person who made the allegation nor the detainee are entitled to be represented by a legal practitioner or by any other person.
- (3) If the detainee refuses or fails to attend the inquiry, the centre manager may hear and determine the allegation in the detainee's absence.
- (4) Evidence must not be required to be given on oath at the inquiry.
- (5) The centre manager may allow such persons to be present and to give evidence at the inquiry as the centre manager thinks fit.
- (6) A detainee may be dealt with for misbehaviour even though the misbehaviour constitutes an offence.
- (7) Punishment must not be imposed on a person found guilty of misbehaviour if criminal proceedings have been, or are likely to be, brought in respect of substantially the same facts as those on which the person has been found guilty.

62 Misbehaviour occurring in other detention centres

Misbehaviour may be dealt with by the centre manager even though it occurred, or was alleged to have occurred, while the detainee was detained in another detention centre or in the custody of the centre manager of another detention centre.

63 Transfer of inquiries

The centre manager of one detention centre may transfer to the centre manager of another detention centre the conduct of an inquiry relating to an allegation concerning a detainee who has been transferred to the other detention centre.

64 Recording of punishment

- (1) When the centre manager imposes a punishment under section 21 of the Act, the centre manager must keep a record of the following particulars:
 - (a) particulars of the detainee's name and age,
 - (b) particulars of the dates and times when the misbehaviour occurred,
 - (c) particulars of the dates and times of the inquiry into the allegation of misbehaviour,

Clause 65 Children (Detention Centres) Regulation 2005

Part 7 Misbehaviour

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- (d) particulars of the name and official capacity of the person who made the allegation,
 - (e) particulars of the detainee's plea,
 - (f) particulars of the evidence given at the inquiry,
 - (g) particulars of the reasons for which the detainee was found guilty of misbehaviour,
 - (h) particulars of the punishment imposed on the detainee and of the reasons for which that particular punishment was imposed.
- (2) The centre manager must forward to the Director-General, within 10 days after the end of each calendar month, a copy of all records made by the centre manager under this clause for that month.

Division 3 Serious misbehaviour

65 Allegations of serious misbehaviour

The centre manager must, as soon as practicable after it is alleged that a detainee has been guilty of serious misbehaviour, make arrangements with a Children's Magistrate for hearing the allegation.

66 Notice of hearing

- (1) The centre manager must cause a notice to be served on the detainee concerned, stating the allegation and advising that the detainee is required to appear before the Children's Court for the purpose of hearing the allegation.
- (2) The notice must state:
 - (a) the name of the person who made the allegation, and
 - (b) the nature of the alleged serious misbehaviour, and
 - (c) the date and time when, and the place where, the detainee's appearance before the Children's Court is required, and
 - (d) that the detainee must indicate to the centre manager, not later than 8 hours prior to the detainee's appearance before the Children's Court, whether or not the alleged serious misbehaviour is admitted or denied, and
 - (e) that the detainee is entitled to be legally represented at the hearing, and
 - (f) that the detainee is entitled to give evidence before the Children's Court in respect of the alleged serious misbehaviour.
- (3) It is the duty of the centre manager to ensure, as far as possible, that the detainee understands the meaning of the notice.

Children (Detention Centres) Regulation 2005

Clause 67

Parole

Part 8

Part 8 Parole

67 Definitions

In this Part:

applied Act means the *Crimes (Administration of Sentences) Act 1999*, as applied to a detainee by section 29 of the *Children (Detention Centres) Act 1987*.

parole order means an order, whether made under the applied Act or otherwise, directing the release of a detainee from a detention centre on parole.

supervisor means:

- (a) a person employed in the Department of Juvenile Justice as a supervisor for the purposes of this Part (whether or not the person has other duties to perform in the Department), or
- (b) a probation and parole officer employed in the Department of Corrective Services.

68 Material in support of parole orders (sentences of more than 3 years): section 135 of applied Act

- (1) For the purposes of section 135 of the applied Act, the Director-General is to arrange for the preparation of material to assist the Children's Court in its consideration of whether a detainee should be released on parole.
- (2) The material must include:
 - (a) a pre-discharge report which describes:
 - (i) the detainee's overall behavioural response while in detention, and
 - (ii) the detainee's involvement in the various programs offered at the detention centre, and
 - (iii) any significant community support available to the detainee on discharge, and
 - (iv) the details of any proposed post-release supervision, and
 - (v) any additional information that the Children's Court considers necessary in its consideration of parole, and
 - (b) a psychological or psychiatric assessment, and
 - (c) a copy of any current court orders, and
 - (d) a copy of the sentencing court's comments at the time of sentencing.

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Part 8 Parole

69 Parole orders

- (1) A parole order made under the applied Act must be in writing in a form approved by the Minister.
- (2) A copy of the order is to be given to the offender, and further copies are to be sent to the following persons:
 - (a) the centre manager of the detention centre in which the detainee is kept,
 - (b) the Director-General.
- (3) Copies of the order sent to the centre manager of the detention centre are, if practicable, to be sent so as to arrive at the detention centre at or before the time the detainee arrives.

70 Detainee to be given explanation of parole order

- (1) On a detainee's day of release from the detention centre in accordance with a parole order, the centre manager must ensure that:
 - (a) the order is read to the detainee, and
 - (b) the effect of the order is explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (c) the detainee indicates that the detainee understands the conditions on which the detainee is to be released by signing a statement to that effect on a copy of the order, and
 - (d) all copies of the order are endorsed with the detainee's date of release, and
 - (e) a copy of the order is sent to the Director-General, and
 - (f) a copy of the order is given to the detainee, and
 - (g) the copy of the order containing the signed statement referred to in paragraph (c) is retained at the detention centre.
- (2) If a detainee is subject to more than one parole order, this clause does not require common provisions in the orders to be read to the detainee more than once.

71 Standard conditions applying to parole: section 128 of applied Act

For the purposes of section 128 (1) (a) of the applied Act, the following are standard conditions of parole:

- (a) the detainee must be of good behaviour and must not, during the term of the order, commit any offence,
- (b) the order may be revoked if the detainee contravenes any of the conditions of the order,

Children (Detention Centres) Regulation 2005

Clause 72

Parole

Part 8

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- (c) the order may be revoked if the Children's Court determines that it has sufficient reason to believe that the detainee, having been released from custody, has not adapted to normal lawful community life.

72 Imposition and extension of supervision conditions: section 128 of applied Act

- (1) A condition of a parole order may require the detainee to be subject to supervision for up to:
- (a) 3 years, in the case of a classified person, or
 - (b) 2 years, in any other case,
- from the date on which the detainee is released in accordance with the order.
- (2) For the purposes of section 128 (3) of the applied Act, the prescribed supervision is supervision by a supervisor.
- (3) As soon as practicable after receiving a parole order that requires a detainee to be supervised, the Director-General must assign a supervisor to supervise the detainee.
- (4) The Director-General may from time to time assign another supervisor to supervise the detainee in place of the supervisor previously assigned and, in that event, must cause notice of that fact to be sent to the detainee.

73 Supervision conditions

- (1) This clause applies to a detainee whose parole order includes a condition requiring that the detainee be subject to supervision.
- (2) While the detainee is subject to supervision by a supervisor under such a condition, the detainee has the following obligations:
- (a) to obey all reasonable directions of the supervisor,
 - (b) to report to the supervisor (or to another person nominated by the supervisor) at such times and places as the supervisor may from time to time direct,
 - (c) to be available for interview at such times and places as the supervisor (or the supervisor's nominee) may from time to time direct,
 - (d) to reside at an address agreed on by the supervisor, and to receive visits at that address by the supervisor at such times as the supervisor considers necessary,
 - (e) not to travel outside the boundaries of New South Wales without the express approval of the Director-General,

Clause 74 Children (Detention Centres) Regulation 2005

Part 8 Parole

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- (f) not to leave Australia without the permission of the Children's Court,
 - (g) to enter into employment arranged or agreed on by the supervisor, or to make himself or herself available for employment as instructed by the supervisor,
 - (h) to notify the supervisor of any intention to change his or her employment:
 - (i) if practicable, before the change occurs, or
 - (ii) otherwise, at his or her next interview with the supervisor,
 - (i) not to associate with any person or persons specified by the supervisor,
 - (j) not to frequent or visit any place or district designated by the supervisor.
- (3) A detainee's supervisor may, with the concurrence of the Director-General, direct that the conditions of the detainee's parole order in relation to supervision are suspended.
- (4) Such a direction takes effect when notice of the direction is given to the detainee.

74 Variation of conditions: section 128 of applied Act

- (1) If a notice has been served under section 128 (2) (b) of the applied Act on a detainee who is a child, the Registrar of the Children's Court must send written advice to the Director-General that such a notice has been served and must include with that advice a copy of the notice.
- (2) If the Children's Court varies the conditions of a parole order under section 128 (2) (b) of the applied Act so as to make the detainee subject to supervision under the order, or so as to affect the supervision of the detainee, the Registrar of the Children's Court must send notice of the variation to the Director-General.

75 Revocation of parole order before release: section 130 of applied Act

- (1) For the purposes of section 130 of the applied Act, the circumstances set out in subclause (2) are prescribed as circumstances in which the Children's Court may revoke a parole order.
- (2) The circumstances concerned are circumstances in which the Children's Court, after the making of the order and before the release of the detainee, decides that it has sufficient reason to believe that the detainee, if released from custody, would not be able to adapt to normal lawful community life.

Children (Detention Centres) Regulation 2005

Clause 76

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Part 8

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- (3) The Children's Court must send copies of an order under section 130 of the applied Act to the centre manager of the detention centre in which the detainee is kept.
 - (4) As soon as practicable after receiving the order, the centre manager must ensure that:
 - (a) the order is read to the detainee, and
 - (b) the effect of the order is explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (c) the detainee's rights to a review of the revocation are explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (d) a copy of the order is handed to the detainee.
 - (5) The Children's Court must send notice of the revocation of a parole order under section 130 of the applied Act to the Director-General.

76 Review by the Children's Court of intention to refuse release on parole: sections 138 and 139 of applied Act

- (1) A notice under section 138 (1) (b) of the applied Act must be sent to the centre manager of the detention centre in which the detainee is kept.
- (2) As soon as practicable after receiving the notice, the centre manager must ensure that:
 - (a) the notice is read to the detainee, and
 - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (c) the notice is handed to the detainee.
- (3) Notice of a detainee's intention to make representations to the Children's Court concerning release on parole:
 - (a) must be given by the detainee to the centre manager of the detention centre in which the detainee is kept, and
 - (b) must be sent by the centre manager to a Registrar of the Children's Court.
- (4) When the Children's Court reconsiders whether the detainee should be released on parole, the detainee is entitled to be represented by a legal practitioner for the purpose of making representations in respect of which notification has been given to the Registrar of the Children's Court in accordance with section 139 of the applied Act.

Clause 77 Children (Detention Centres) Regulation 2005

Part 8 Parole

77 Decision on review of parole refusal: section 141 of applied Act

- (1) A notice under section 141 (4) (b) of the applied Act must be sent to the centre manager of the detention centre in which the detainee is kept.
- (2) As soon as practicable after receiving the notice, the centre manager must ensure that:
 - (a) the notice is read to the detainee, and
 - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (c) the detainee's rights concerning the Children's Court's decision are explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (d) the notice is handed to the detainee.
- (3) The centre manager must keep a copy of the notice.
- (4) The Registrar of the Children's Court must send a copy of the notice to the Director-General.

78 Revocation of parole order and review of revocation: section 173 of applied Act

- (1) For the purposes of section 173 (2) (a) of the applied Act, the prescribed form of revocation notice that is to be served on a detainee is set out in Form 1.
- (2) The notice must be sent to the centre manager of the detention centre in which the detainee is kept.
- (3) As soon as practicable after receiving the notice, the centre manager must ensure that:
 - (a) the notice is read to the detainee, and
 - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (c) the notice is handed to the detainee.
- (4) Notice of a detainee's intention to make representations to the Children's Court concerning the revocation of a parole order:
 - (a) must be given by the detainee to the centre manager of the detention centre in which the detainee is kept, and
 - (b) must be sent by the centre manager to the Registrar of the Children's Court.

Children (Detention Centres) Regulation 2005

Clause 79

Parole

Part 8

79 Decision on review of revocation: section 175 of applied Act

- (1) The Registrar of the Children's Court must send written notice of a decision of the Children's Court following a review under section 175 of the applied Act to the centre manager of the detention centre in which the detainee is kept.
- (2) As soon as practicable after receiving the notice, the centre manager must ensure that:
 - (a) the notice is read to the detainee, and
 - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
 - (c) the detainee's rights concerning the decision are explained to the detainee in language that is capable of being readily understood by the detainee.
- (3) The Registrar of the Children's Court must send a copy of the notice to the Director-General.

80 Notice of revocation of parole order: section 179 of applied Act

- (1) If the Children's Court revokes a parole order as referred to in section 179 (1) of the applied Act, the Registrar of the Children's Court must send written notice of that fact to the following persons:
 - (a) the Director-General,
 - (b) the Children's Court that made the order.
- (2) The notice must be in a form approved by the Minister and must specify any direction given by the Children's Court as to the day on which the order is to be treated as having been revoked.

81 Inquiry into suspected breach of a parole order: section 180 of applied Act

- (1) A notice under section 180 (1) (a) of the applied Act calling on a detainee to appear before the Children's Court must be served on the detainee at least 7 days before the date set for the inquiry referred to in the notice.
- (2) The Registrar of the Children's Court must send a copy of every such notice to the Director-General.

82 Arrest warrants: section 180 of applied Act

A warrant for the arrest of a person under section 180 of the applied Act must be as set out in Form 2.

Clause 83 Children (Detention Centres) Regulation 2005

Part 8 Parole

83 Warrants of commitment: section 181 of applied Act

A warrant for the commitment of a detainee to a detention centre under section 181 of the applied Act must be as set out in Form 3.

84 Delegation of functions

A function conferred or imposed by this Part on the centre manager of a detention centre may be delegated to any officer of the Department of Juvenile Justice.

Children (Detention Centres) Regulation 2005

Clause 85

Miscellaneous

Part 9

Part 9 Miscellaneous

85 Report on inspection of detention centre by officer

For the purposes of section 7 (3) of the Act, the prescribed matters that must be dealt with in a report are the following:

- (a) the physical, psychological and emotional well-being of detainees,
- (b) the social, cultural and educational development of detainees,
- (c) the general control and management of the detention centre,
- (d) the morale, conduct and functions of persons employed in the detention centre,
- (e) the condition of the premises (including the grounds, buildings, furniture, equipment and amenities) of the detention centre,
- (f) the security of the detention centre.

86 Returns relating to persons detained for trial or appeal

A return referred to in section 39 (1) of the Act must contain the following particulars in relation to each person detained for trial or appeal at the detention centre at the end of the month to which the report relates:

- (a) the name and date of birth of the person,
- (b) the name and address of the place where the person is detained,
- (c) the date on which the person's trial or appeal is set down for hearing or (if a hearing date has not been fixed) the date on which the matter is next to be mentioned,
- (d) the total period during which the person has so far been detained awaiting trial or appeal,
- (e) whether the person is detained because bail is refused or because the person is unable to meet a bail condition,
- (f) any recommendation as to any means that may be available to expedite the hearing of the case.

87 Accommodation of children in detention centres

A child must not be provided with accommodation at a detention centre unless:

- (a) the child is a detainee, or

Clause 88	Children (Detention Centres) Regulation 2005
Part 9	Miscellaneous

- (b) the child is being detained in the detention centre under the *Intoxicated Persons Act 1979* or Part 16 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

Note. Part 16 of the *Law Enforcement (Powers and Responsibilities) Act 2002* commences on 1 December 2005.

88 Attendance at youth justice conferences

For the purposes of the definition of *appropriate person or body* in section 42 (5) of the Act, a conference convenor, acting with the written authority of a conference administrator, under the *Young Offenders Act 1997* is prescribed.

89 Savings

Any act, matter or thing that, immediately before the repeal of the *Children (Detention Centres) Regulation 2000* had effect under that Regulation continues to have effect under this Regulation.

Children (Detention Centres) Regulation 2005

Misbehaviour

Schedule 1

Schedule 1 Misbehaviour

(Clauses 52 and 53 (1))

Part 1 Minor misbehaviour

1 Disobeying rules or instructions

A detainee must not breach any of the published rules of the detention centre or disobey any reasonable instruction given by a detention centre staff member.

2 Lying

A detainee must not tell lies which adversely affect the good order and discipline of the detention centre.

3 Unauthorised telephone calls

A detainee must not make telephone calls other than those authorised by a detention centre staff member.

4 Deliberate harassment or provocation

A detainee must not deliberately use either words or actions to harass or provoke other detainees, detention centre staff members or any other person.

5 Damage to Government or personal property

A detainee must not deliberately cause damage to any Government property or to the personal property of another detainee, a detention centre staff member or any other person in the detention centre.

6 Abusive, indecent or threatening language

A detainee must not use abusive, indecent or threatening language when speaking to another person in the detention centre, or when corresponding or communicating with persons either in the detention centre or elsewhere.

7 Subversive behaviour

A detainee must not, by word or action, attempt to undermine the good order or discipline of a detention centre, or encourage other detainees to behave in such a way as to disrupt the good order and discipline of the detention centre.

Children (Detention Centres) Regulation 2005

Schedule 1 Misbehaviour

8 Unauthorised entry to certain areas

A detainee must not, unless with the permission of a detention centre staff member, enter a room, office, storeroom or other area to which entry by detainees has been clearly prohibited.

9 Possession of unauthorised articles

A detainee must not receive, possess, or pass on to others, any article which is not of a kind that has been authorised by the centre manager.

10 Fighting

A detainee must not become involved, or encourage others to become involved, in fights with other detainees.

11 Unauthorised use of alarms or equipment

A detainee must not, unless authorised by a detention centre staff member or responding to a perceived emergency, use any alarm, fire fighting equipment or first aid supplies.

12 Stealing

A detainee must not steal.

13 Refusal to work or participate in activities

A detainee must not, except with reasonable excuse, refuse to perform properly allocated duties or to participate in authorised program activities.

Part 2 Serious misbehaviour**14 Assault**

A detainee must not assault or attempt to assault any other person.

15 Concealment for purpose of escape

A detainee must not hide, or assist another detainee to hide, in an attempt to escape.

16 Insubordination

A detainee must not defy the reasonable instructions of detention centre staff or refuse to comply with the established rules or routines of the detention centre.

Children (Detention Centres) Regulation 2005

Misbehaviour

Schedule 1

17 Inciting misbehaviour

A detainee must not incite other detainees to engage in behaviour which seriously disrupts the good order or discipline of the detention centre.

18 Mistreatment of animals

A detainee must not ill-treat any animal.

19 Unauthorised medications or substances

A detainee must not procure, possess or supply to other detainees unauthorised medications or substances likely to be injurious to health.

Children (Detention Centres) Regulation 2005

Schedule 2 Forms

Schedule 2 Forms

(Clause 3 (4))

Form 1 Notice of revocation of parole order

(Clause 78)

(Crimes (Administration of Sentences) Act 1999, section 173)

TO [Name of detainee]

TAKE NOTICE that the Children’s Court on made an order for revocation of your parole to date from The Children’s Court will reconvene on at [time] in order to reconsider the revocation of your parole.

- * A copy of the order made which revoked your parole order is attached.
- * Copies are attached of reports and other documents intended to be used by the Children’s Court in reaching its decision.
- * You may make submissions to the Children’s Court with respect to *the revocation of your parole order/*the date of revocation of your parole order. If you wish to do so, you are required to notify the Registrar of the Children’s Court not later than

.....
Registrar of the Children’s Court

* Delete if inapplicable

Form 2 Arrest warrant

(Clause 82)

(Children (Detention Centres) Act 1987, section 29,
Crimes (Administration of Sentences) Act 1999, section 180)

To the Commissioner of Police for the State of New South Wales, to all members of NSW Police and to all centre managers of detention centres in that State.

WHEREAS was sentenced to by [court] at on for the offence(s) of AND by order of the Children’s Court dated was released from a detention centre on parole on in accordance with the terms of the parole order, which order has been revoked,

NOW the Children’s Court issues this warrant authorising any member of the Police Force to apprehend

- * and return him/her to a detention centre
- * to serve the portion of his/her term of detention unexpired on
- * and to remove him/her to
- * for the purpose of conducting, within 7 days, an inquiry as to whether the order should be revoked.

Children (Detention Centres) Regulation 2005

Forms

Schedule 2

* The Children’s Court ordered the revocation of the Parole Order for breach of the following conditions of the order, namely:

This warrant is sufficient authority for the apprehension of and *his/her return to and detention in a detention centre.

Dated:

.....
Children’s Magistrate

* *Delete if inapplicable*

TO ALL POLICE OFFICERS in the State of New South Wales

By virtue of section 180 of the *Crimes (Administration of Sentences) Act 1999*, as applied by section 29 of the *Children (Detention Centres) Act 1987*, this warrant is sufficient authority for you to arrest, or to have custody of, the detainee named in this warrant, to convey the detainee to the detention centre specified in this warrant and to deliver the detainee into the custody of the centre manager of that detention centre.

Form 3 Warrant of commitment to detention centre

(Clause 83)

(Children (Detention Centres) Act 1987, section 29,
Crimes (Administration of Sentences) Act 1999, section 181)

TO THE CENTRE MANAGER of the detention centre at
in the State of New South Wales

WHEREAS of (*the detainee*) has been found guilty by the Court of the following offence or offences:

..... ,
AND WHEREAS the Court has made a detention order, within the meaning of the *Children (Detention Centres) Act 1987*, requiring the detainee to be detained in a detention centre for a term of , to commence on

AND WHEREAS the detainee has been released from custody on parole under a parole order, within the meaning of the *Crimes (Administration of Sentences) Act 1999*, in respect of that term of detention,

AND WHEREAS the Children’s Court has revoked the parole order,

YOU ARE HEREBY DIRECTED to receive the detainee into your custody there and (subject to the *Children (Detention Centres) Act 1987* and to any order under that Act) to detain the detainee there for the remainder of the term of the detainee’s sentence.

.....
Children’s Magistrate

Date:

Children (Detention Centres) Regulation 2005

Schedule 2 Forms

TO ALL POLICE OFFICERS in the State of New South Wales

By virtue of section 181 of the *Crimes (Administration of Sentences) Act 1999*, as applied by section 29 of the *Children (Detention Centres) Act 1987*, this warrant is sufficient authority for you to arrest, or to have custody of, the detainee named in this warrant, to convey the detainee to the detention centre specified in this warrant and to deliver the detainee into the custody of the centre manager of that detention centre.



New South Wales

Children (Interstate Transfer of Offenders) Regulation 2005

under the

Children (Interstate Transfer of Offenders) Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Interstate Transfer of Offenders) Act 1988*.

ANTHONY KELLY, M.L.C.,
Minister for Juvenile Justice

Explanatory note

The object of this Regulation is to remake, without any changes in substance, the provisions of the *Children (Interstate Transfer of Offenders) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation declares other States that have enacted legislation dealing with the interstate transfer of young offenders (*State* is defined in the *Children (Interstate Transfer of Offenders) Act 1988* to include Territories). This enables the Minister to enter into agreements with those States for the transfer of young offenders between those States and New South Wales.

This Regulation is made under the *Children (Interstate Transfer of Offenders) Act 1988*, including sections 4 and 22 (the general regulation-making power).

This Regulation comprises or relates to matters arising under legislation that is substantially uniform or complementary with legislation of another State or Territory.

Clause 1 Children (Interstate Transfer of Offenders) Regulation 2005

Children (Interstate Transfer of Offenders) Regulation 2005

under the

Children (Interstate Transfer of Offenders) Act 1988

1 Name of Regulation

This Regulation is the *Children (Interstate Transfer of Offenders) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Children (Interstate Transfer of Offenders) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Notes

Notes in the text of this Regulation do not form part of this Regulation.

4 Legislation of other States and Territories

For the purposes of section 4 (2) of the *Children (Interstate Transfer of Offenders) Act 1988*, the following States are declared to have enacted legislation dealing with the interstate transfer of young offenders:

Australian Capital Territory

Northern Territory

Queensland

South Australia

Tasmania

Victoria



New South Wales

Conveyancing (Sale of Land) Regulation 2005

under the

Conveyancing Act 1919

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancing Act 1919*.

ANTHONY KELLY, M.L.C.,
Minister for Lands

Explanatory note

The object of this Regulation is to replace, without substantial changes (apart from the exemption from certain requirements of the *Conveyancing Act 1919 (the Act)* of contracts for the sale of Crown land arising from the closure of a public road), the *Conveyancing (Sale of Land) Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the following matters:

- (a) the documents that a vendor must attach to a contract for the sale of land, and the terms and warranties that a vendor is taken to have included in such a contract and in an option to purchase residential property, under sections 52A and 66ZA of the Act,
- (b) the form of the statement regarding the cooling off period that sections 66X and 66ZH of the Act require every contract for the sale of residential property, and every option to purchase, to contain,
- (c) exemptions from the application of section 52A and Divisions 8 (Sale of residential property) and 9 (Options for purchase of residential property) of Part 4 of the Act,
- (d) purchasers' remedies for breaches of vendors' obligations under section 52A (2) or 66ZA (1) of the Act,
- (e) matters of a technical nature.

This Regulation is made under the *Conveyancing Act 1919*, including section 202 (the general regulation-making power) and the other sections referred to in the Regulation.

Conveyancing (Sale of Land) Regulation 2005

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Conveyancing (Sale of Land) Regulation 2005

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Clause 1	Conveyancing (Sale of Land) Regulation 2005
Part 1	Preliminary

Conveyancing (Sale of Land) Regulation 2005

under the

Conveyancing Act 1919

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Conveyancing (Sale of Land) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Conveyancing (Sale of Land) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

building certificate means a certificate issued in accordance with sections 149A–149E of the *Environmental Planning and Assessment Act 1979*.

Note. Building certificates issued under the *Local Government Act 1919* (“section 317A certificates” and “section 317AE certificates”) that were in force immediately before 1 July 1993, and building certificates issued before 1 July 1998 under the *Local Government Act 1993* (“section 172 certificates”), are taken to be building certificates issued in accordance with sections 149A–149E of the *Environmental Planning and Assessment Act 1979*. (See clause 20 of Schedule 7 to the *Local Government Act 1993* and clause 59 (2) (a) of the *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998*.)

Crown land has the same meaning as in the *Crown Lands Act 1989*.

folio means a folio of the Register maintained by the Registrar-General under the *Real Property Act 1900*.

property certificate, in relation to land, means any of the following:

- (a) a copy of the folio for the land,
- (b) a computer folio certificate (within the meaning of the *Real Property Act 1900*) in relation to the land,
- (c) a document that contains the information contained in the folio for the land, being a document that is certified (by or on behalf of

Conveyancing (Sale of Land) Regulation 2005

Clause 3

Preliminary

Part 1

the person to whom the information has been provided) as having been provided in accordance with section 96B (2) of the *Real Property Act 1900*,

but does not include a certificate of title.

Note. Section 96B (2) of the *Real Property Act 1900* provides that the Registrar-General may make information in the Register available in accordance with such conditions as the Registrar-General, with the approval of the Minister, determines. Under that subsection, the Registrar-General provides a facility for on-line direct access to the part of the Register that is concerned with titles to land and is stored on computer. A document provided in accordance with that subsection is not an official search for the purposes of the *Real Property Act 1900*.

recognised sewerage authority means any public or local authority that provides a sewage disposal service, and includes Sydney Water Corporation and Hunter Water Corporation.

section 149 certificate means a certificate issued under section 149 (2) of the *Environmental Planning and Assessment Act 1979*.

the Act means the *Conveyancing Act 1919*.

- (2) In this Regulation, a reference to a document of any kind includes a reference to a copy of the document.
- (3) Notes included in this Regulation do not form part of this Regulation.

- Clause 4 Conveyancing (Sale of Land) Regulation 2005
- Part 2 Vendor disclosure for contracts for sale of land

Part 2 Vendor disclosure for contracts for sale of land

Note. Section 52A (2) (a) of the *Conveyancing Act 1919* requires the vendor under a contract for the sale of land to attach to the contract such documents as may be prescribed. Section 52A (2) (b) provides that the vendor is taken to have included in the contract such terms, conditions and warranties as may be prescribed. Section 52A (5) (a) provides that the regulations may provide that section 52A (2), or any provision of that subsection, does not apply to or in respect of a prescribed vendor or a vendor of a prescribed class. Section 52A (5) (b) and (c) make the same provision in relation to a prescribed contract (or a contract of a prescribed class) and prescribed land (or land of a prescribed class). Certain contracts and lands are so prescribed: see Division 2 of this Part.

Division 1 Vendor disclosure and implied terms and warranties under section 52A of the Act

4 Prescribed documents

- (1) For the purposes of section 52A (2) (a) of the Act, the prescribed documents are:
 - (a) such of the documents specified in Schedule 1 (or such parts of those documents) as are relevant to the land the subject of the contract for sale, or
 - (b) in the case of land comprising one or more lots in a proposed plan of subdivision, such of the documents specified in Schedule 1 (or such parts of those documents) as are relevant to the land from which the lot is to be created.
- (2) In the case of land comprising one or more lots in a plan of subdivision that was registered before the date of the contract, the section 149 certificate referred to in Schedule 1 may relate either to those lots or to the land from which those lots have been created, whether or not it also relates to other land.

5 Implied term—all contracts

For the purposes of section 52A (2) (b) of the Act, the term set out in clause 1 of Schedule 2 is prescribed for a contract for the sale of land.

6 Implied term—strata units bought “off the plan”

- (1) For the purposes of section 52A (2) (b) of the Act, the term set out in clause 2 of Schedule 2 is prescribed for a contract for the sale of land if:
 - (a) the contract is a contract for the sale of a lot in a strata plan or a proposed strata plan within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, and
 - (b) the contract is entered into before the date of registration of the strata plan, or within 12 months after that date, and

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Vendor disclosure for contracts for sale of land	Part 2

- (c) pursuant to section 109M of the *Environmental Planning and Assessment Act 1979*, an occupation certificate (within the meaning of that Act) will be required to issue before occupation or use of the building, or part of the building, of which the lot and access to the lot form part, may commence, and
- (d) the contract does not expressly provide that the vendor and the purchaser agree that:
 - (i) an occupation certificate in relation to the building, or part of the building, of which the lot and access to the lot form part, will not be issued before completion, and
 - (ii) occupation or use of the lot will not commence before the occupation certificate is issued.

Note. Under section 109M of the *Environmental Planning and Assessment Act 1979*, an occupation certificate is not required for the occupation or use of certain buildings, including a building that has been erected by or on behalf of the Crown.

- (2) For the purposes of this clause, the part of a building comprising access to a lot is any part of the building reasonably necessary for access to the lot.

7 Implied term—“land and house” packages

For the purposes of section 52A (2) (b) of the Act, the term set out in clause 3 of Schedule 2 is prescribed for a contract for the sale of land if:

- (a) the contract is a contract for the sale of a lot in a deposited plan, or in a proposed deposited plan, and
- (b) the contract provides for:
 - (i) the erection by the vendor of a dwelling-house on the lot, or
 - (ii) the sale of a dwelling-house already erected on the lot, and
- (c) pursuant to section 109M of the *Environmental Planning and Assessment Act 1979*, an occupation certificate (within the meaning of that Act) will be required to issue before occupation or use of the dwelling-house may commence.

Note. Under section 109M of the *Environmental Planning and Assessment Act 1979*, an occupation certificate is not required for the occupation or use of certain buildings, including a building that has been erected by or on behalf of the Crown.

8 Implied warranty

For the purposes of section 52A (2) (b) of the Act, the prescribed warranty for a contract for the sale of land is the warranty set out in Part 1 of Schedule 3.

Clause 9	Conveyancing (Sale of Land) Regulation 2005
Part 2	Vendor disclosure for contracts for sale of land

9 Prescribed persons and bodies

For the purposes of section 52A (3) of the Act, the following persons and bodies are prescribed as persons and bodies whose certificates and documents may be relied on by a purchaser under a contract for the sale of land in the same way as they may be relied on by the vendor to whom they were issued:

- (a) Sydney Water Corporation,
- (b) Hunter Water Corporation,
- (c) East Australian Pipeline Limited,
- (d) AGL Gas Networks Limited.

Division 2 Exemptions from section 52A of the Act

10 Exemption of certain contracts

For the purposes of section 52A (5) (b) of the Act:

- (a) the contracts listed in Parts 1 and 2 of Schedule 4 are prescribed contracts, and
- (b) section 52A (2) of the Act does not apply to such contracts.

11 Exemption of certain land

- (1) For the purposes of section 52A (5) (c) of the Act, the land described in Schedule 5 is prescribed land.
- (2) Section 52A (2) of the Act does not apply to the land prescribed by subclause (1).
- (3) However, section 52A (2) of the Act does apply to:
 - (a) a contract for the sale of land by a mortgagee exercising a power of sale, and
 - (b) a contract for the sale of the equity of redemption in land, in relation to land comprising an estate or interest referred to in Item 1 of Schedule 5.

Conveyancing (Sale of Land) Regulation 2005

Clause 12

Cooling off period for contracts for sale of residential property

Part 3

Part 3 Cooling off period for contracts for sale of residential property

Note. Division 8 of Part 4 of the *Conveyancing Act 1919* includes sections 66S, 66X and 66Y. Section 66S allows a cooling off period in respect of contracts for the sale of residential property (with certain exceptions). Section 66X requires contracts for the sale of residential property (with certain exceptions) to include a statement, in the form prescribed by the regulations, relating to the cooling off period. Section 66Y provides that Division 8 of Part 4 of the Act, or a prescribed provision of that Division, does not apply to prescribed vendors, purchasers, contracts or land or in prescribed circumstances. Certain contracts and lands are so prescribed: see Division 2 of this Part.

Division 1 Statement relating to cooling off period under Division 8 of Part 4 of the Act

12 Form of statement relating to cooling off period

- (1) For the purposes of section 66X of the Act, Form 1 in Schedule 6 is the prescribed form of statement relating to the cooling off period.
- (2) The statement must be legibly printed so that:
 - (a) the words shown in bold face capital letters in Form 1 are printed in bold face capital letters at least 3 millimetres high, and
 - (b) the rest of the statement is printed in bold face figures and letters at least 1 millimetre high.

Division 2 Exemptions from Division 8 of Part 4 of the Act

13 Exemption of certain contracts

- (1) For the purposes of section 66Y (3) of the Act, the contracts referred to in Parts 1 and 3 of Schedule 4 are prescribed contracts.
- (2) Division 8 of Part 4 of the Act does not apply to the contracts prescribed by subclause (1).

14 Exemption of certain land

- (1) For the purposes of section 66Y (3) of the Act, the land described in Schedule 5 is prescribed land.
- (2) Division 8 of Part 4 of the Act does not apply to the land prescribed by subclause (1).
- (3) However, Division 8 of Part 4 of the Act does apply to:
 - (a) a contract for the sale of residential property by a mortgagee exercising a power of sale, and

Clause 14 Conveyancing (Sale of Land) Regulation 2005

Part 3 Cooling off period for contracts for sale of residential property

(b) a contract for the sale of the equity of redemption in residential property,
in relation to land comprising an estate or interest referred to in Item 1 of Schedule 5.

Conveyancing (Sale of Land) Regulation 2005

Clause 15

Options for purchase of residential property

Part 4

Part 4 Options for purchase of residential property

Note. Division 9 of Part 4 of the *Conveyancing Act 1919* includes sections 66ZA, 66ZB, 66ZH, 66ZI and 66ZK. Section 66ZA provides that a vendor under an option to purchase residential property is taken to have included in the option such terms, conditions and warranties as may be prescribed. Section 66ZB allows a cooling off period in respect of options to purchase residential property (with certain exceptions). Section 66ZH requires options to purchase residential property (with certain exceptions) to include a statement, in the form prescribed by the regulations, relating to the cooling off. Section 66ZI requires options to purchase residential property to have certain documents (including those required by section 52A to be attached to a contract) to be attached to the option document. Section 66ZK provides that Division 9 of Part 4 of the Act, or a prescribed provision of that Division, does not apply to prescribed vendors, purchasers, options or land or in prescribed circumstances. Certain options and lands are so prescribed: see Division 2 of this Part.

Division 1 Implied warranty and statement relating to cooling off period under Division 9 of Part 4 of the Act

15 Implied warranty

- (1) This clause applies to an option to purchase residential property to which are attached:
 - (a) a proposed contract for the sale of the land, and
 - (b) the documents (referred to in clause 4 and Schedule 1) prescribed under section 52A (2) (a) of the Act.
- (2) For the purposes of section 66ZA (1) of the Act, the prescribed warranty for an option to which this clause applies is the warranty set out in Part 2 of Schedule 3.

16 Form of statement relating to cooling off period

- (1) For the purposes of section 66ZH (1) of the Act, Form 2 in Schedule 6 is the prescribed form relating to the cooling off period.
- (2) The statement must be legibly printed, so that:
 - (a) the words shown in bold face capital letters in Form 2 are printed in bold face capital letters at least 3 millimetres high, and
 - (b) the rest of the statement is printed in bold face figures and letters at least 1 millimetre high.

Division 2 Exemptions from Division 9 of Part 4 of the Act

17 Exemption of certain options

- (1) For the purposes of section 66ZK (3) of the Act, the options referred to in Part 4 of Schedule 4 are prescribed options.
- (2) Division 9 of Part 4 of the Act does not apply to an option prescribed by subclause (1).

Clause 18 Conveyancing (Sale of Land) Regulation 2005

Part 4 Options for purchase of residential property

18 Exemption of certain land

- (1) For the purposes of section 66ZK (3) of the Act, the land described in Schedule 5 is prescribed land.
- (2) Division 9 of Part 4 of the Act does not apply to the land prescribed by subclause (1).
- (3) However, Division 9 of Part 4 of the Act does apply to:
 - (a) an option to purchase residential property granted by a mortgagee exercising a power of sale, and
 - (b) an option to purchase the equity of redemption in residential property,in relation to land comprising an estate or interest referred to in Item 1 of Schedule 5.

Conveyancing (Sale of Land) Regulation 2005

Clause 19

Purchasers' remedies under contracts for sale of land and options for purchase of residential property

Part 5

Part 5 Purchasers' remedies under contracts for sale of land and options for purchase of residential property

Note. Section 52A (6) of the *Conveyancing Act 1919* empowers the regulations to make provision for or with respect to the remedies and relief available to a purchaser under a contract for the sale of land and the penalties that may be incurred by a vendor under such a contract for any failure to comply with the provisions of section 52A or a regulation made for the purposes of that section, or for any breach of a term, condition or warranty taken to be included in the contract. Section 66ZA similarly empowers the regulations with regard to the terms, conditions and warranties taken to be included in an option under that section. Section 66ZI provides that either party may rescind an option to purchase residential property (or, if the option has been exercised, the contract resulting from the exercise of the option) if the required documents are not attached to the option document at the time the option is granted.

19 Circumstances under which purchaser may rescind contract or option

- (1) The purchaser under a contract for the sale of land may rescind the contract:
 - (a) for the vendor's failure to attach to the contract the documents (referred to in clause 4 and Schedule 1) prescribed under section 52A (2) (a) of the Act, or
 - (b) for breach of the warranty (referred to in clause 8 and Part 1 of Schedule 3) prescribed under section 52A (2) (b) of the Act.
- (2) The purchaser under an option to purchase residential property to which a proposed contract for the sale of the land concerned is attached may rescind the option for breach of the warranty (referred to in clause 15 and Part 2 of Schedule 3) prescribed under section 66ZA (1) of the Act.
- (3) A contract or option may not be rescinded on the grounds referred to in subclause (1) (b) or (2) unless:
 - (a) the breach constitutes a failure to disclose to the purchaser the existence of a matter affecting the land, and
 - (b) the purchaser was unaware of the existence of the matter when the contract or option was entered into, and
 - (c) the matter is such that the purchaser would not have entered into the contract or option had he or she been aware of its existence.
- (4) Further, a purchaser may not rescind:
 - (a) a contract for the sale of land for a breach of so much of the warranty prescribed under section 52A (2) (b) of the Act as is set out in item 1 (d) of Part 1 of Schedule 3, or

Clause 20	Conveyancing (Sale of Land) Regulation 2005
Part 5	Purchasers' remedies under contracts for sale of land and options for purchase of residential property

- (b) an option to purchase residential land for a breach of so much of the warranty prescribed under section 66ZA (1) of the Act as is set out in item 1 (d) of Part 2 of Schedule 3,
if a building certificate in respect of the building (or part of the building) to which the warranty relates has issued since the date of the contract or option concerned.

20 Method of rescinding contract or option

- (1) A purchaser rescinds a contract for the sale of land by notice in writing served on the vendor:
 - (a) if the purchaser's right to rescind arises from the vendor's failure to attach the prescribed documents—at any time within 14 days after the making of the contract, unless the contract has been completed, and
 - (b) if the purchaser's right to rescind arises from the vendor's breach of the prescribed warranty—at any time before the contract is completed.
- (2) A purchaser rescinds an option to purchase residential property by notice in writing served on the vendor at any time before the option is exercised or ceases to be exercisable, whichever is the earlier.
- (3) A notice under this clause may be served as provided by section 170 of the Act or in such other manner as the contract or option may specify.

21 Effect of notice of rescission of contract or option

- (1) A notice of rescission of a contract for the sale of land rescinds the contract as from the time the contract was made and, in that event, the deposit and any other money paid by the purchaser to the vendor under the contract is to be refunded.
- (2) A notice of rescission of an option to purchase residential property rescinds the option as from the time the option was granted and, in that event, any consideration paid in relation to the option, and any deposit paid in relation to the purchase of the property, are to be refunded.
- (3) The rescission of the contract or option does not render the vendor liable to pay to the purchaser, or the purchaser liable to pay to the vendor, any sum for damages, costs or expenses.
- (4) However, subclause (3) does not affect any liability under the contract or option in relation to:
 - (a) the payment of damages, costs or expenses arising out of a breach of any term or condition of the contract or option, or

Conveyancing (Sale of Land) Regulation 2005

Clause 21

Purchasers' remedies under contracts for sale of land and options for purchase of residential property

Part 5

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- (b) the payment of damages, costs or expenses arising out of a breach of any warranty contained in the contract or option (other than a warranty prescribed by clause 8 or 15), or
 - (c) an adjustment between the vendor and a purchaser who has received the benefit of possession of the land, or
 - (d) the reimbursement of the purchaser for expenses incurred by the purchaser in complying with the requirements of any order, direction or notice in connection with the land.

Clause 22 Conveyancing (Sale of Land) Regulation 2005

Part 6 Miscellaneous

Part 6 Miscellaneous

22 Application of amendments to this Regulation

An amendment to this Regulation does not affect a contract for the sale of land, or an option to purchase residential property, made before the commencement of the amendment.

23 Savings

The *Conveyancing (Sale of Land) Regulation 2000* continues to apply to a contract for the sale of, and an option to purchase, residential property entered into on or after 1 September 2000, and before the repeal of that Regulation by the operation of section 10 (2) of the *Subordinate Legislation Act 1989*, as if that Regulation were still in force.

Conveyancing (Sale of Land) Regulation 2005

Prescribed documents

Schedule 1

Schedule 1 Prescribed documents

(Clause 4)

- 1 A section 149 certificate (unless the land is not within a local government area).
- 2 A diagram for the land from a recognised sewerage authority (if available from the authority in the ordinary course of administration), indicating the location of the authority's sewer in relation to the land.
- 3 If the contract relates to land under the provisions of the *Real Property Act 1900* (including any land that is the subject of a qualified or limited folio, but not including land the subject of a contract referred to in item 5, 6, 7, 9, 11, 12, 13 or 14):
 - (a) a property certificate, and
 - (b) a copy of a plan for the land issued by the Department of Lands, or any of its predecessors, or the office of Land and Property Information (except in the case of land that is the subject of a limited folio).
- 4 Copies of all deeds, dealings and other instruments lodged or registered in the office of Land and Property Information that are shown on the relevant property certificate and that create or purport to create:
 - (a) easements, or
 - (b) profits à prendre, or
 - (c) restrictions on the use of land, or
 - (d) positive covenants imposed under Division 4 of Part 6 of the *Conveyancing Act 1919*,
burdening or benefiting or purporting to burden or benefit the land or any part of the land, together with copies of all Memoranda referred to in any such instrument.
- 5 If the contract relates to land that comprises or includes a lot as defined in the *Strata Schemes (Freehold Development) Act 1973*:
 - (a) a property certificate for the lot and the common property, and
 - (b) a copy of the strata plan that shows the lot, and
 - (c) a copy of any by-law for the strata scheme to which Division 4 of Part 5 of Chapter 2 of the *Strata Schemes Management Act 1996* applies.

Conveyancing (Sale of Land) Regulation 2005

Schedule 1 Prescribed documents

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- 6** If the contract relates to land that comprises or includes a lease of a lot as defined in the *Strata Schemes (Leasehold Development) Act 1986*:
- (a) a property certificate for the leasehold estate in the lot, and
 - (b) a property certificate for the leasehold estate in the common property, and
 - (c) a copy of the strata plan that shows the lot, and
 - (d) a copy of the registered lease of the lot and the registered lease of the common property, and
 - (e) a copy of any by-law for the strata scheme to which Division 4 of Part 5 of Chapter 2 of the *Strata Schemes Management Act 1996* applies.
- 7** If the contract relates to land that is subject to a strata management statement registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, a copy of the strata management statement, as in force for the time being.
- 8** If the contract relates to land that is subject to a building management statement registered under the *Conveyancing Act 1919*, a copy of the building management statement, as in force for the time being.
- 9** If the contract relates to land that comprises or includes a lot in a development scheme within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, a copy of the strata development contract or strata development statement.
- 10** A notice in or to the effect of the following (unless the notice is printed in the contract):
- IMPORTANT NOTICE TO VENDORS AND PURCHASERS**
- Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.
- that is legibly printed, in bold type, with the words “IMPORTANT NOTICE TO VENDORS AND PURCHASERS” in capital letters at least 3 millimetres high, and the rest of the notice printed in letters at least 1 millimetre high.
- 11** If the contract relates to land that comprises or includes a lot that forms part of a community scheme within the meaning of the *Community Land Development Act 1989*:
- (a) a property certificate for the lot and community property, and

Conveyancing (Sale of Land) Regulation 2005

Prescribed documents

Schedule 1

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- (b) a copy of the community plan incorporating the lot, including a copy of the community management statement and any community development contract.
- 12** If the contract relates to land that comprises or includes a lot that forms part of a precinct scheme within the meaning of the *Community Land Development Act 1989*:
- (a) a property certificate for the lot, precinct property and community property, and
 - (b) a copy of the precinct plan incorporating the lot, including a copy of the precinct management statement and any precinct development contract, and
 - (c) a copy of the community plan incorporating the precinct scheme to which the lot relates, including a copy of the community management statement and any community development contract.
- 13** If the contract relates to land that comprises or includes a lot that forms part of a neighbourhood scheme within the meaning of the *Community Land Development Act 1989*:
- (a) a property certificate for the lot and neighbourhood property, and
 - (b) a copy of the neighbourhood plan incorporating the lot, including a copy of the neighbourhood management statement and development contract, and
 - (c) if the neighbourhood scheme in which the lot is situated is within a community scheme:
 - (i) a property certificate for the community property and any precinct property, and
 - (ii) a copy of the community plan, including a copy of the community management statement and any community development contract, and
 - (iii) if applicable, a copy of the precinct plan, including a copy of the precinct management statement and any precinct development contract.
- 14** If the contract relates to land that comprises or includes a lot (within the meaning of the *Strata Schemes (Freehold Development) Act 1973*) that is within a community scheme (within the meaning of the *Community Land Development Act 1989*):
- (a) the documents prescribed by item 5, and
 - (b) a property certificate for the community property and any precinct property, and

Conveyancing (Sale of Land) Regulation 2005

Schedule 1 Prescribed documents

- (c) a copy of the community plan, including a copy of the community management statement and any community development contract, and
- (d) if applicable, a copy of the precinct plan, including a copy of the precinct management statement and any precinct development contract.

Conveyancing (Sale of Land) Regulation 2005

Prescribed terms

Schedule 2

Schedule 2 Prescribed terms

(Clauses 5–7)

1 Objections and requisitions

Nothing in this contract or any other agreement prevents the purchaser, expressly or by implication, from making any objection, requisition or claim that the purchaser would otherwise be entitled to make in respect of:

- (a) any encroachment onto any adjoining land by any building or structure on the land, other than a dividing fence as defined in the *Dividing Fences Act 1991*, or
- (b) any encroachment onto the land by any building or structure on any adjoining land, other than a dividing fence as defined in the *Dividing Fences Act 1991*,

unless the encroachment is disclosed and clearly described in this contract and the contract contains an express term precluding the purchaser from making such an objection, requisition or claim.

2 Strata units bought “off the plan”

- (1) The vendor must serve at least 14 days before completion the original or a copy of an occupation certificate within the meaning of the *Environmental Planning and Assessment Act 1979* (being an interim occupation certificate or a final occupation certificate) in relation to the building, or part of the building, of which the lot and access to the lot form part.
- (2) For the purposes of this clause, the part of a building comprising access to a lot is any part of the building reasonably necessary for access to the lot.
- (3) The purchaser does not have to complete earlier than 14 days after service of the original or copy certificate.

3 “Land and house” packages

- (1) The vendor must serve at least 14 days before completion the original or a copy of an occupation certificate within the meaning of the *Environmental Planning and Assessment Act 1979* (being an interim occupation certificate or a final occupation certificate) in relation to the dwelling-house.
- (2) The purchaser does not have to complete earlier than 14 days after service of the original or copy certificate.

Conveyancing (Sale of Land) Regulation 2005

Schedule 3 Prescribed warranties

Schedule 3 Prescribed warranties

(Clauses 8 and 15)

Part 1 Warranty in contract

- 1 The vendor warrants that, as at the date of the contract and except as disclosed in the contract:
 - (a) the land is not subject to any adverse affectation, and
 - (b) the land does not contain any part of a sewer belonging to a recognised sewerage authority, and
 - (c) the section 149 certificate attached to the contract specifies the true status of the land the subject of the contract in relation to the matters set out in Schedule 4 to the *Environmental Planning and Assessment Regulation 2000*, and
 - (d) there is no matter in relation to any building or structure on the land (being a building or structure that is included in the sale of the land) that would justify the making of any upgrading or demolition order or, if there is such a matter, a building certificate has issued in relation to the building or structure since the matter arose, and
 - (e) if the land is burdened or purports to be burdened by a positive covenant imposed under Division 4 of Part 6 to the *Conveyancing Act 1919*, no amount is payable under section 88F of that Act in respect of the land.

- 2 For the purposes of this warranty:
 - (a) land is ***subject to an adverse affectation*** if anything listed in Part 3 of Schedule 3 to the *Conveyancing (Sale of Land) Regulation 2005* applies in respect of the land, and
 - (b) a public or local authority has a proposal in respect of land if, and only if, the authority has issued a written statement the substance of which is inconsistent with there being no proposal of the authority in respect of the land, and
 - (c) without limiting the way in which it may otherwise be disclosed, an adverse affectation is taken to be disclosed in a contract if any of the following is attached to the contract:
 - (i) a document stating or illustrating the effect of the adverse affectation,
 - (ii) a document, issued by a public or local authority, to the effect that the authority, or another such authority, has a proposal referred to in Part 3 of that Schedule,

Conveyancing (Sale of Land) Regulation 2005

Prescribed warranties

Schedule 3

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- (iii) a copy of the order, notice, declaration or other instrument giving rise to the adverse affectation,
 - (iv) a copy of the page of the Gazette in which the order, notice, declaration or other instrument giving rise to the adverse affectation was published, and
- (d) ***upgrading or demolition order*** means any of the following:
- (i) order No 2 in the Table to section 121B of the *Environmental Planning and Assessment Act 1979*, being an order made in the circumstances referred to in paragraph (a) or (d) relating to that order,
 - (ii) order No 12, 13 or 14 in the Table to section 121B of the *Environmental Planning and Assessment Act 1979*,
 - (iii) order No 1 in the Table to section 124 of the *Local Government Act 1993*, being an order made in the circumstances referred to in paragraph (d) relating to that order,
 - (iv) order No 3 in the Table to section 124 of the *Local Government Act 1993*, being an order made in the circumstances referred to in paragraph (c) relating to that order.

Part 2 Warranty in option

- 1 The vendor warrants that, as at the date of the option and except as disclosed in the option:
- (a) the land is not subject to any adverse affectation, and
 - (b) the land does not contain any part of a sewer belonging to a recognised sewerage authority, and
 - (c) the section 149 certificate attached to the option specifies the true status of the land the subject of the option in relation to the matters set out in Schedule 4 to the *Environmental Planning and Assessment Regulation 2000*, and
 - (d) there is no matter in relation to any building or structure on the land (being a building or structure that is included in the sale of the land) that would justify the making of any upgrading or demolition order or, if there is such a matter, a building certificate has issued in relation to the building or structure since the matter arose, and
 - (e) if the land is burdened or purports to be burdened by a positive covenant imposed under Division 4 of Part 6 to the *Conveyancing Act 1919*, no amount is payable under section 88F of that Act in respect of the land.

Conveyancing (Sale of Land) Regulation 2005

Schedule 3 Prescribed warranties

- 2** For the purposes of this warranty:
- (a) land is ***subject to an adverse affectation*** if anything listed in Part 3 of Schedule 3 to the *Conveyancing (Sale of Land) Regulation 2005* applies in respect of the land, and
 - (b) a public or local authority has a proposal in respect of land if, and only if, the authority has issued a written statement the substance of which is inconsistent with there being no proposal of the authority in respect of the land, and
 - (c) without limiting the way in which it may otherwise be disclosed, an adverse affectation is taken to be disclosed in an option if any of the following is attached to the option:
 - (i) a document stating or illustrating the effect of the adverse affectation,
 - (ii) a document, issued by a public or local authority, to the effect that the authority, or another such authority, has a proposal referred to in Part 3 of that Schedule,
 - (iii) a copy of the order, notice, declaration or other instrument giving rise to the adverse affectation,
 - (iv) a copy of the page of the Gazette in which the order, notice, declaration or other instrument giving rise to the adverse affectation was published, and
 - (d) ***upgrading or demolition order*** means any of the following:
 - (i) order No 2 in the Table to section 121B of the *Environmental Planning and Assessment Act 1979*, being an order made in the circumstances referred to in paragraph (a) or (d) relating to that order,
 - (ii) order No 12, 13 or 14 in the Table to section 121B of the *Environmental Planning and Assessment Act 1979*,
 - (iii) order No 1 in the Table to section 124 of the *Local Government Act 1993*, being an order made in the circumstances referred to in paragraph (d) relating to that order,
 - (iv) order No 3 in the Table to section 124 of the *Local Government Act 1993*, being an order made in the circumstances referred to in paragraph (c) relating to that order.

Conveyancing (Sale of Land) Regulation 2005

Prescribed warranties

Schedule 3

Part 3 Adverse affectations

- 1 A proposal for re-alignment, widening or siting, or alteration of the level, of a road or railway by the Roads and Traffic Authority, Rail Corporation New South Wales, Transport Infrastructure Development Corporation or Rail Infrastructure Corporation.
- 2 A proposal by or on behalf of the Minister for Education and Training to acquire the whole or any part of the land.
- 3 A proposal of TransGrid or an energy distributor (within the meaning of the *Energy Services Corporations Act 1995*) to acquire any right or interest in the whole or any part of the land.
- 4 An interim heritage order, listing on the State Heritage Register or other order or notice under the *Heritage Act 1977*.
- 5 A proposal to acquire any right or interest in the whole or any part of the land by reason of the *Pipelines Act 1967*.
- 6 A proposal of the New South Wales Land and Housing Corporation to acquire the whole or any part of the land.
- 7 A notice to or claim on the vendor by any person, evidenced in writing, in relation to:
 - (a) any common boundary or any boundary fence between the land and adjoining land, or
 - (b) any encroachment onto any adjoining land by any building or structure on the land, or
 - (c) any encroachment onto the land by any building or structure on any adjoining land, or
 - (d) any access order, or any application for an access order, under the *Access to Neighbouring Land Act 2000*.
- 8 A order under section 124 of the *Local Government Act 1993* to demolish, repair or make structural alterations to a building which has not been fully complied with.
- 9 A notice to or claim on the vendor by any person, evidenced in writing, in relation to a failure or alleged failure to comply with a positive covenant imposed on the land under Division 4 of Part 6 of the *Conveyancing Act 1919*.

Conveyancing (Sale of Land) Regulation 2005

Schedule 3 Prescribed warranties

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- 10** If the contract relates to land that comprises or includes a lease of a lot as defined in the *Strata Schemes (Leasehold Development) Act 1986*—a notice to or claim on the vendor by the lessor, evidenced in writing, in relation to a breach or alleged breach of a term or condition of the lease of the lot concerned.
- 11** A right of way under section 164 or 211 of the *Mining Act 1992*.
- 12** A licence under section 13A of the *Water Act 1912*.
- 13** Any:
- (a) order under section 7 (1) (c) or (d), 8 (1) (a), (b), (c1), (d) or (f), 13 (2) or 17 (1), or
 - (b) notice under section 8 (1) (c), or
 - (c) declaration under section 10, 11A or 15 (1), or
 - (d) undertaking under section 11, or
 - (e) appointment under section 12 (a), or
 - (f) authorisation under section 12 (b),
- of the *Stock Diseases Act 1923*.
- 14** Any:
- (a) order under section 5 (1) (d) or (e) (ii) or 11 (1) or (2), or
 - (b) requirement under section 7 (1) or 8 (1), or
 - (c) undertaking under section 7A (1), or
 - (d) restriction or prohibition under section 12 (1),
- of the *Stock (Chemical Residues) Act 1975*.
- 15** Any:
- (a) requirement under section 15A (1) or 22 (1), or
 - (b) notification under section 17 (1) or (7) (c) or 20 (1), or
 - (c) notice under section 18,
- of the *Soil Conservation Act 1938*.
- 16** Any direction under section 47 (1) of the *Native Vegetation Conservation Act 1997* or section 38 (1) of the *Native Vegetation Act 2003*.

Conveyancing (Sale of Land) Regulation 2005

Exempt contracts

Schedule 4

Schedule 4 Exempt contracts

(Clauses 10, 13 and 17)

Part 1

(Clauses 10 and 13)

- 1 A contract between the owners of adjoining land that will result solely in an adjustment of a common boundary.
- 2 A contract between co-owners providing for the acquisition by one or more co-owners of the whole or any part of the share or interest of any other co-owner.
- 3 A contract for the sale of land to the Roads and Traffic Authority, if the contracts are expressed to be for the acquisition of land for the purposes of the *Roads Act 1993*.
- 4 A contract for the sale of the fee simple in the whole or part of any land the subject of a lease, holding or tenure under the *Crown Lands (Continued Tenures) Act 1989* or the *Western Lands Act 1901* to the holder of the lease, holding or tenure.
- 5 A contract for the sale of whole or part of a former public road pursuant to section 42 or 43 of the *Roads Act 1993*.
- 6 A contract for the sale of land entered into by the Minister administering the *Environmental Planning and Assessment Act 1979* pursuant to section 9 of that Act.
- 7 A contract for the sale of land entered into by the Minister administering the *Heritage Act 1977* pursuant to section 112 of that Act.

Part 2

(Clause 10)

- 1 A contract arising from the exercise of an option to purchase land where the option is contained in a will or a lease.
- 2 A contract arising from the exercise of any other option to purchase land (not being an option that is void under section 66ZG of the Act) so long as the proposed contract, and the documents (referred to in clause 4 and Schedule 1) prescribed under section 52A (2) (a) of the Act, are attached to the option.
- 3 A contract arising from the exercise of any other option to purchase land other than residential land where the terms of the option prevent its exercise earlier than 3 months after the date on which it is granted.

Conveyancing (Sale of Land) Regulation 2005

Schedule 4 Exempt contracts

Part 3

(Clause 13)

- 1 A contract arising from the exercise of an option to purchase land where the option is contained in a will or a lease.
- 2 A contract arising from the exercise of any other option to purchase land (not being an option that is void under section 66ZG of the Act) so long as the proposed contract, and the documents (referred to in clause 4 and Schedule 1) prescribed under section 52A (2) (a) of the Act, are attached to the option.

Part 4

(Clause 17)

- 1 An option to purchase, the exercise of which would result in a contract listed in Part 1 of this Schedule.
- 2 An option to purchase land where the option is contained in a will or a lease.

Conveyancing (Sale of Land) Regulation 2005

Exempt land

Schedule 5

Schedule 5 Exempt land

(Clauses 11, 14 and 18)

- 1 An estate or interest created by or subsisting by virtue of a mortgage, easement, permissive occupancy or profit à prendre.
- 2 An interest under a lease, other than:
 - (a) a lease having an unexpired term (including any term for which the lease may be renewed at the option of the lessee) of more than 25 years, or
 - (b) a lease of Crown land having an unexpired term of more than 5 years, or
 - (c) a perpetual lease or other lease from the Crown having an unexpired term of more than 5 years, or
 - (d) a lease of a lot within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*.

Conveyancing (Sale of Land) Regulation 2005

Schedule 6 Forms

Schedule 6 Forms

(Clauses 12 and 16)

Form 1 Cooling off period (purchaser's rights)

- 1 This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
- 2 The purchaser may rescind the contract at any time before 5 p.m. on the fifth business day after the day on which the contract was made, **EXCEPT** in the circumstances listed in paragraph 3.
- 3 There is **NO COOLING OFF PERIOD**:
 - (a) if, at or before the time the contract is made, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66W of the Act, or
 - (b) if the property is sold by public auction, or
 - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in, or
 - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under section 66ZG of the Act.
- 4 A purchaser exercising the right to cool off by rescinding the contract will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as a deposit under the contract and the purchaser is entitled to a refund of any balance.

Form 2 Cooling off period (purchaser's rights)

- 1 This is the statement required by section 66ZH of the *Conveyancing Act 1919* and applies to an option to purchase residential property.
- 2 The purchaser may rescind the option at any time before 5 p.m. on the fifth business day after the day on which the option was granted, **EXCEPT** in the circumstances listed in paragraph 3.
- 3 There is **NO COOLING OFF PERIOD**:
 - (a) if, at or before the time the option is granted, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66ZF of the Act, or
 - (b) if the option is granted on the same day as the property was offered for sale by public auction but passed in.

Conveyancing (Sale of Land) Regulation 2005

Forms

Schedule 6

-
- 4** A purchaser exercising the right to cool off by rescinding the option will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser in relation to the option or from any deposit paid in relation to the purchase of the property and the purchaser is entitled to a refund of any balance.



New South Wales

Co-operatives Regulation 2005

under the

Co-operatives Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Co-operatives Act 1992*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to replace the *Co-operatives Regulation 1997* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) rules for co-operatives (Part 2),
- (b) requirements for active membership of co-operatives (Part 3),
- (c) shares and voting (Part 4),
- (d) management and administration (Part 5),
- (e) funds and property (Part 6),
- (f) application of certain provisions of the *Corporations Act 2001* of the Commonwealth to co-operatives (Part 7),
- (g) restrictions on the acquisition of interests (Part 8),
- (h) merger, transfer of engagements and winding up (Part 9),
- (i) arrangements and reconstructions (Part 10),
- (j) formation and application of the *Co-operatives Act 1992* to foreign co-operatives (Part 11),
- (k) supervision and protection (Part 12),
- (l) inspection of the Register of Co-operatives (Part 13),
- (m) provisions relating to the Schedules to the *Co-operatives Act 1992* (eg matters dealing with subscription for minimum number of shares and certificates of particulars of charges) (Part 14),

Co-operatives Regulation 2005

Explanatory note

(n) other matters of a machinery, consequential or transitional nature (Parts 1 and 15).
This Regulation is made under the *Co-operatives Act 1992*, including section 446 (the general regulation-making power) and the various other sections mentioned in the Regulation.
This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

Co-operatives Regulation 2005

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Clause 1	Co-operatives Regulation 2005
Part 1	Preliminary

Co-operatives Regulation 2005

under the

Co-operatives Act 1992

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Co-operatives Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Co-operatives Regulation 1997*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

- (1) In this Regulation:

CCU means a co-operative capital unit and has the same meaning as provided for by Division 2 of Part 10 of the Act.

Council means the Co-operatives Council constituted under the Act.

non-trading co-operative has the same meaning as in the Act.

the Act means the *Co-operatives Act 1992*.

trading co-operative has the same meaning as in the Act.

- (2) In this Regulation (except in Schedule 2 (Conduct of postal ballots, postal ballot paper and middle envelope)), a reference to a Form is a reference to a Form set out in Schedule 7.

- (3) Notes in the text of this Regulation do not form part of this Regulation.

Note. Penalty unit is defined in section 17 of the *Crimes (Sentencing Procedure) Act 1999* which provides that a reference in any Act or statutory rule to a number of penalty units is to be read as a reference to an amount of money equal to the amount obtained by multiplying a specified monetary value by that number of penalty units. On the commencement of this Regulation, the monetary value of a penalty unit was \$110.

Co-operatives Regulation 2005

Clause 4

Preliminary

Part 1

4 Definition of “debenture”—exempt documents

The following classes of documents are prescribed as exempt documents for the purposes of paragraph (c) of the definition of *debenture* in section 5 (1) of the Act:

- (a) a passbook or other document:
 - (i) that contains all or some of the terms and conditions pursuant to which deposits are accepted by, or withdrawn from, a co-operative, and
 - (ii) that acknowledges the receipt of a deposit with a co-operative, and
 - (iii) that enables further deposits to be made at any time adding to the balance of an existing deposit, and
 - (iv) that enables the withdrawal of the whole or part of the balance of a deposit, whether at call or on the giving of a fixed period of notice, and
 - (v) that acknowledges the amount of the withdrawal and the balance remaining,
- (b) a document acknowledging a debt incurred by a co-operative:
 - (i) in the ordinary course of carrying on so much of a business as neither comprises, nor forms part of, a business of borrowing money and providing finance, and
 - (ii) in respect of money that is or may be deposited with or lent to the co-operative by a person in the ordinary course of a business carried on by the co-operative,
- (c) a document that is issued by a company and that constitutes evidence of a debt owed by the company to a co-operative that is a holding company (within the meaning of the Corporations Act) of the company,
- (d) a document that is issued by a co-operative and that constitutes evidence of a debt owed by the co-operative to a body corporate that is a subsidiary of the co-operative.

Clause 5 Co-operatives Regulation 2005

Part 2 Rules

Part 2 Rules

5 Maximum fine that may be imposed on member under rules

For the purposes of section 107 (7) of the Act, the maximum fine that may be fixed by the rules of a co-operative is:

- (a) in the case of a trading co-operative—10 penalty units, or
- (b) in the case of a non-trading co-operative—1 penalty unit.

Co-operatives Regulation 2005

Clause 6

Active membership

Part 3

Part 3 Active membership

6 Active membership—explanation

- (1) This clause applies to a co-operative that has as its primary activity the carrying on of a club, including a registered club within the meaning of the *Registered Clubs Act 1976*.
- (2) For the purposes of section 116 (b) of the Act, a person's active membership of a co-operative is sufficiently established if the person is the holder of a life membership awarded under the rules of the co-operative for long or meritorious service.

7 Factors and considerations for determining primary activities

- (1) For the purposes of section 121 (2) (c) of the Act, the following factors and considerations are relevant in determining the matter referred to in section 121 (1) (a) of the Act:
 - (a) in the case of a co-operative whose activities include the provision of a taxi radio network facility—whether the co-operative actually carries out that activity,
 - (b) in the case of a co-operative whose activities include the disposal of produce or livestock on behalf of its members—whether the co-operative actually carries out that activity,
 - (c) in the case of a co-operative whose activities include the acquisition of particular goods or services for its members—whether the co-operative actually carries out that activity.
- (2) For the purposes of section 121 (3) of the Act, the following matters may be taken into account in determining whether an activity makes a significant contribution to the business of the co-operative:
 - (a) if the activity contributes at least 10 per cent of the co-operative's:
 - (i) turnover, or
 - (ii) income, or
 - (iii) expenses, or
 - (iv) surplus, or
 - (v) business,
 - (b) if the failure by the co-operative to conduct that activity would result in a reduction of 10 per cent or more in the business conducted by the co-operative.

Clause 8	Co-operatives Regulation 2005
Part 3	Active membership

8 Active membership—supply or purchase of goods or produce

For the purposes of section 123 (3) (b) of the Act, a person's relationship with a co-operative as a supplier of livestock is sufficiently established if the person supplies livestock to an agent of the co-operative who in turn supplies the livestock to the co-operative.

9 Register of cancelled memberships

For the purposes of section 137 of the Act, a register of cancelled memberships must specify the particulars set out in clause 6 of Schedule 1.

Co-operatives Regulation 2005

Clause 10

Shares and voting

Part 4

Part 4 Shares and voting

10 Notice in respect of bonus shares

For the purposes of section 156 (3) (c) of the Act, a *prescribed person* is:

- (a) in relation to the valuation of property within the meaning of the *Valuers Act 2003*—a person who is a registered valuer under that Act, and
- (b) in relation to the valuation of assets of some other kind—a person who has been engaged in valuing assets of that kind for a period of, or for periods totalling, at least 5 years.

11 Postal ballots

For the purposes of section 193 of the Act, a postal ballot must be conducted in accordance with Schedule 2.

Clause 12	Co-operatives Regulation 2005
Part 5	Management and administration of co-operatives

Part 5 Management and administration of co-operatives

12 Prescribed authorities

For the purposes of section 208 (3) of the Act, each of the following authorities is a *prescribed authority*:

- (a) the Commissioner of Corrective Services in New South Wales,
- (b) the general manager of the prison in Victoria in which the person was detained in custody on the date of release,
- (c) the general manager of the prison in Queensland in which the person was detained in custody on the date of release,
- (d) the Executive Director of the Prisons Division of the Department of Justice of Western Australia,
- (e) the Executive Director of the Prisons Division of the Department of Justice of South Australia,
- (f) the Director of Prisons in Tasmania,
- (g) the Director of Correctional Services of the Northern Territory.

13 Requirements for financial records and financial statements

- (1) A co-operative is declared to be an applied Corporations legislation matter for the purposes of Part 3 of the *Corporations (Ancillary Provisions) Act 2001* in relation to the provisions of section 198F, Part 2F.3, sections 249K, 249V, 250PA, 250RA, 250S, 250SA and 250T and Parts 2M.2, 2M.3, 2M.4 and 2M.7 of the Corporations Act, subject to the following modifications:
 - (a) the modifications specified in the *Co-operatives Act 1992* and Parts 1 and 2 of Schedule 3 to this Regulation,
 - (b) the provisions are to be read as if:
 - (i) any offence created in respect of those provisions were the offence set out in section 243 (1) of the *Co-operatives Act 1992*, and
 - (ii) any penalty for the offence were the penalty set out in section 243 (1) of the *Co-operatives Act 1992*,
 - (c) the provisions apply subject to subclause (2).

Note. Part 3 of the *Corporations (Ancillary Provisions) Act 2001* provides for the application of provisions of the *Corporations Act 2001* of the Commonwealth and Part 3 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth as laws of the State in respect of any matter declared by a law of the State (whether with or without modification) to be an applied Corporations legislation matter for the purposes of that Part in relation to those Commonwealth provisions. Section 14 (2) of the *Corporations (Ancillary Provisions) Act 2001* ensures that a declaration made for the purposes of Part 3

Co-operatives Regulation 2005

Clause 14

Management and administration of co-operatives

Part 5

of that Act only operates to apply a provision of the Corporations legislation to a matter as a law of the State if that provision does not already apply to the matter as a law of the Commonwealth. If a provision referred to in a declaration already applies as a law of the Commonwealth, nothing in the declaration will affect its continued operation as a law of the Commonwealth.

- (2) The directors of a co-operative, or the co-operative by a resolution passed at a general meeting, may authorise a member to inspect books of the co-operative.

14 Registers to be kept by co-operatives

- (1) The registers that a co-operative is required to keep under section 249 of the Act must:
- (a) be kept in written or electronic form, and
 - (b) contain the particulars specified in Schedule 1.
- (2) A register may include:
- (a) any document in the English language in which the required particulars are recorded, and
 - (b) any disc, tape, soundtrack or other device in which the required particulars are recorded, so long as they are capable (with or without the aid of some other equipment) of being reproduced in a document in the English language.
- (3) For the purposes of section 249 (1) (g) of the Act, a co-operative must keep:
- (a) a register of names of persons who have given loans or deposits to or hold securities, debentures or CCUs given or issued by the co-operative containing the particulars specified in clause 3 of Schedule 1, and
 - (b) a register of subordinated debt containing the particulars specified in clause 8 of Schedule 1.

15 Inspection of registers etc

- (1) For the purposes of section 251 (1) (g) of the Act, the following registers are prescribed:
- (a) the register of any loans made by or guaranteed by the co-operative, and of any securities taken by the co-operative, required to be kept under section 249 (1) (c) of the Act,
 - (b) the register of memberships cancelled under Part 6 of the Act required to be kept under section 249 (1) (e) of the Act,
 - (c) the register of notifiable interests required to be kept under section 294 of the Act,

Clause 16	Co-operatives Regulation 2005
Part 5	Management and administration of co-operatives

- (d) the register of names of persons who have given loans or deposits to or hold securities, debentures or CCUs given or issued by the co-operative required to be kept under clause 14 (3) (a),
 - (e) the register of subordinated debt required to be kept under clause 14 (3) (b).
- (2) For the purposes of section 251 (7) of the Act, the following documents are prescribed:
- (a) a copy of the Act and this Regulation,
 - (b) a copy of the rules of the co-operative,
 - (c) a copy of the last annual report of the co-operative under section 252 of the Act.

16 Notice of appointment etc of directors and officers

For the purposes of section 251B (2) (c) of the Act, the following particulars are prescribed:

- (a) the name of the co-operative or subsidiary,
- (b) the name and position of the person giving notice of the appointment or cessation of appointment,
- (c) in respect of any person being appointed to act as a director, principal executive officer or secretary:
 - (i) the full name (family and given names), and
 - (ii) any former names, and
 - (iii) the residential address, and
 - (iv) the date of birth, and
 - (v) the office held and date appointed,
- (d) in respect of any person ceasing to hold that office:
 - (i) the full name (family and given names), and
 - (ii) the date of birth, and
 - (iii) the office held and date appointment ceased,
- (e) in respect of any change of name of a director, principal executive officer or secretary:
 - (i) the name previously notified, and
 - (ii) the new name (family and given names), and
 - (iii) the date of change, and
 - (iv) the date of birth, and
 - (v) the office held,

Co-operatives Regulation 2005

Clause 17

Management and administration of co-operatives

Part 5

-
- (f) in respect of any change of address of a director, principal executive officer or secretary:
- (i) the new address, and
 - (ii) the date of change, and
 - (iii) the date of birth, and
 - (iv) the office held.

17 Annual report

For the purposes of section 252 (1) (e) of the Act, the prescribed form of return, and the prescribed particulars to be contained in the return, are set out in Form 1.

18 Advertising change of name of co-operative

For the purposes of section 259 (1) of the Act, the prescribed manner of advertising the change of name of a co-operative is for the co-operative to cause the change of name to be advertised in at least one newspaper circulating in the locality or localities in which the co-operative carries on business within 28 days after the change of name has been registered by the Registrar.

Clause 19 Co-operatives Regulation 2005

Part 6 Funds and property

Part 6 Funds and property

19 Fund raising to be in accordance with Act and regulations

- (1) This clause applies to a co-operative that is a deposit taking co-operative.
- (2) For the purposes of section 263 (1) of the Act, a deposit taking co-operative is restricted from accepting money on deposit from persons other than its members.
- (3) A deposit taking co-operative must provide a depositor with a copy of a current disclosure statement before the first deposit is made by the depositor after the commencement of this clause and, afterwards, at least once in each period of 12 months.
- (4) A current disclosure statement is a disclosure statement that:
 - (a) has been submitted to and registered by the Registrar, and
 - (b) has not, within 23 days after the date on which it was submitted to the Registrar, been the subject of a direction by the Registrar under section 264 of the Act, and
 - (c) complies with any such direction given by the Registrar, and
 - (d) complies with any conditions imposed by the Registrar under subclause (7), and
 - (e) is not more than 12 months old.
- (5) A disclosure statement that is submitted to the Registrar under subclause (4) must contain:
 - (a) a current balance sheet of the co-operative, and
 - (b) a current income statement for the co-operative, and
 - (c) such other information as the Registrar directs.
- (6) The Registrar may register a disclosure statement submitted under this clause with or without conditions.
- (7) The Registrar may require a deposit taking co-operative to give to a depositor, within such time as the Registrar may determine, a document of a kind referred to in clause 4 (a) of this Regulation.
- (8) This clause does not apply to the acceptance of money in connection with the issue by the co-operative of debentures.
- (9) This clause does not apply to the acceptance by a co-operative of a deposit of money in connection with goods or services to be supplied by the co-operative in the ordinary course of business.

Co-operatives Regulation 2005

Clause 20

Funds and property

Part 6

20 Compulsory loan by member to co-operative

For the purposes of section 268 (2) of the Act, the prescribed term is 10 years.

21 Limited dividend

For the purposes of section 282 (3) of the Act, the prescribed amount is 20 cents for each dollar invested in the shares of the co-operative.

Clause 22 Co-operatives Regulation 2005

Part 7 Application of Corporations Act

Part 7 Application of Corporations Act

22 Securities listing provisions to apply to co-operatives

- (1) For the purposes of section 9 (2) (a) of the Act, the provisions of the Corporations Act that relate to the listing of securities of a co-operative for quotation on a financial market are not to be excluded from the operation of the Corporations Act in relation to a co-operative.
- (2) For the purposes of section 9 (2) (a) of the Act, the provisions of the Corporations Act that relate to the matters for which the following provisions of that Act make provision are not to be excluded from the operation of the Corporations Act in relation to a co-operative in respect of securities that are listed for quotation on a financial market:
 - (a) Part 1.2 (Interpretation), but only in relation to the interpretation of the other provisions of the Corporations Act applying under their own force to co-operatives,
 - (b) Part 1.2A (Disclosing entities),
 - (c) Section 1020C (ASIC's power to prohibit short selling in certain cases),
 - (d) Sections 792B–792E (Market licensee's obligations to provide information and assistance to ASIC),
 - (e) Section 793C (Enforcement of operating rules),
 - (f) Part 7.3 (Licensing of clearing and settlement facilities),
 - (g) Part 7.5 (Compensation regimes for financial markets),
 - (h) Part 7.10 (Market misconduct and other prohibited conduct relating to financial products and financial services),
 - (i) Divisions 3 (Transfer of certain securities effected otherwise than through a prescribed CS facility), 4 (Transfer of financial products effected through prescribed CS facility) and 5 (Exemptions and modifications) of Part 7.11 (Title and transfer),
 - (j) Part 7.12 (Miscellaneous), but only to the extent to which that Part relates to the other provisions of the Corporations Act applying under their own force to co-operatives,
 - (k) Chapters 2L (Debentures) and 6D (Fundraising), but only in relation to securities of the same class, and issued or offered on the same terms, as those already listed by the co-operative on a financial market,
 - (l) Part 9.4 (Offences), but only to the extent to which that Part relates to the other provisions of the Corporations Act applying under their own force to co-operatives.

Co-operatives Regulation 2005

Clause 23

Application of Corporations Act

Part 7

- (3) To remove doubt, this clause extends to all the securities of a co-operative, including CCUs.
- (4) In this clause, *financial market* has the same meaning as in the Corporations Act.

23 Provisions of Corporations Act regarding irregularities applied to co-operatives

For the purposes of section 10 of the Act, co-operatives are declared to be applied Corporations legislation matters for the purposes of Part 3 of the *Corporations (Ancillary Provisions) Act 2001* in relation to section 1322 (1)–(3A) and (4)–(6) of the Corporations Act, subject to the following modifications:

- (a) references to “this Act” are to be read as including references to the *Co-operatives Act 1992*,
- (b) a reference to a “corporation” is to be read as a reference to a co-operative,
- (c) a reference to a meeting in section 1322 (3) is to be read as including a reference to a vote conducted by a postal ballot (including a special postal ballot),
- (d) a reference in section 1322 (3) to the giving of notice of a meeting is to be read as including a reference to the giving of a disclosure statement or explanatory statement in relation to a matter the subject of a vote at a meeting or in relation to a matter the subject of a postal ballot (including a special postal ballot),
- (e) the reference in section 1322 (3) to “a person entitled to attend the meeting” is to be read as including a reference to a person entitled to vote in a postal ballot (including a special postal ballot),
- (f) the reference in section 1322 (4) (b) to a register kept by ASIC under the Corporations Act is to be read as a reference to a register kept by the Registrar under the *Co-operatives Act 1992*.

Clause 24 Co-operatives Regulation 2005

Part 8 Restrictions on acquisition of interests in co-operatives

Part 8 Restrictions on acquisition of interests in co-operatives

24 Notice of relevant interest in member's right to vote

For the purposes of section 288 (b) of the Act, the prescribed particulars to be specified when giving notice of having or ceasing to have a relevant interest in the right to vote of a member of a co-operative are as follows:

- (a) the name of the co-operative to whom notice is being given,
- (b) the full name and address of the person giving notice,
- (c) the date on which the relevant interest was acquired or ceased,
- (d) the name of the member whose right to vote was so affected,
- (e) the date of giving notice.

25 Notice of substantial share interest

For the purposes of section 288 (b) of the Act, the prescribed particulars to be specified when giving notice of a substantial share interest are as follows:

- (a) the name of the co-operative to whom notice is being given,
- (b) the full name and address of the person giving notice,
- (c) the date on which the substantial share interest was acquired,
- (d) in respect of each holder of a substantial share interest:
 - (i) the full name and address of the holder, and
 - (ii) the number and description of the shares in which each substantial share interest is held, and
 - (iii) the name and address of each person registered as the holder of the shares in which the substantial share interest is held, and
 - (iv) the name and address of each person entitled to become registered as the holder of the shares in which the substantial share interest is held, and
 - (v) the date of each acquisition of a substantial share interest within the previous 12 months and the number of shares acquired at that date (if any), and
 - (vi) the valuable consideration for each acquisition in the previous 12 months, including the nature of any part that did not consist of money, and
 - (vii) the total number of shares in which the holder has a substantial interest,

Co-operatives Regulation 2005

Clause 26

Restrictions on acquisition of interests in co-operatives

Part 8

-
- (e) particulars of any contract, scheme, arrangement or other circumstance by reason of which the holder of the substantial share interest acquired the substantial share interest (not including interests acquired more than 12 months previously) if the holder has, throughout the period of 12 months immediately preceding the date of the notice, been the registered shareholder of those shares,
 - (f) particulars of the nature of the substantial share interest,
 - (g) particulars of any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers of the relevant shares,
 - (h) particulars of any additional benefit that any person from whom a substantial share interest was acquired has, or may, become entitled to receive, whether on the happening of a contingency or not, in relation to that acquisition, other than the valuable consideration referred to in paragraph (d) (vi) above,
 - (i) the date on which notice is given.

26 Notice of change in substantial share interest

For the purposes of section 288 (b) of the Act, the prescribed particulars to be specified when giving notice of a change in a substantial share interest are as follows:

- (a) the name of the co-operative to whom notice is being given,
- (b) the full name and address of the person giving notice,
- (c) the following particulars applicable before the change:
 - (i) the full name and address of the holder of the substantial share interest,
 - (ii) the number and description of the shares in which the substantial share interest was held,
 - (iii) the name and address of the person registered as the holder of the shares,
 - (iv) the name and address of the person entitled to become registered as the holder of the shares,
 - (v) the total number of shares in which the holder of the substantial share interest held the substantial share interest,
- (d) the following particulars relating to the change:
 - (i) the date of the change in the substantial share interest,
 - (ii) particulars of the valuable consideration given in relation to the change, including the nature of that part (if any) that did not consist of money,

Clause 27	Co-operatives Regulation 2005
Part 8	Restrictions on acquisition of interests in co-operatives

-
- (iii) particulars of any contract, scheme, arrangement or other circumstance by reason of which the change in the substantial share interest occurred,
 - (iv) particulars of any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers of those shares in which the substantial share interest in which the change occurred is held,
 - (v) particulars of any additional benefit that a person has, or may, become entitled to receive, whether on the happening of a contingency or not, as a consequence of a change in a substantial share interest,
 - (e) the following particulars applicable after the change:
 - (i) the full name and address of the holder of the substantial share interest,
 - (ii) the number and description of the shares in which the substantial share interest is held,
 - (iii) the full name and address of the person entitled to become registered as the holder of the shares,
 - (f) the date on which notice is given.

27 Notice of cessation of substantial share interest

For the purposes of section 288 (b) of the Act, the prescribed particulars to be specified when giving notice of a cessation of a substantial share interest in a co-operative are as follows:

- (a) the name of the co-operative to whom notice is being given,
- (b) the full name and address of the person giving notice,
- (c) the full name and address of the person ceasing to have a substantial share interest in the co-operative,
- (d) the date on which the person ceased to have a substantial share interest in the co-operative,
- (e) details of any agreement or other circumstances because of which the person ceased to hold a substantial share interest in the co-operative,
- (f) in relation to each change in a substantial share interest of the person since the person was last required to give notice of such a change to the co-operative:
 - (i) the date of the change, and
 - (ii) the nature of the change, and
 - (iii) the consideration given in relation to the change, and

Co-operatives Regulation 2005

Clause 27

Restrictions on acquisition of interests in co-operatives

Part 8

- (iv) the class and number of shares affected by the change,
- (g) the date on which notice is given.

Clause 28	Co-operatives Regulation 2005
Part 9	Merger, transfer of engagements and winding up

Part 9 Merger, transfer of engagements and winding up

28 Application for registration or incorporation under another law

For the purposes of section 316 (1) (f) of the Act, the *Aboriginal Councils and Associations Act 1976* of the Commonwealth is a prescribed law.

29 Winding up on Registrar's certificate

For the purposes of section 324 (4) of the Act, the security a liquidator must give is \$50,000 in the form of:

- (a) cash, or
- (b) a cheque drawn on an authorised deposit-taking institution, or
- (c) a certificate of deposit issued by an authorised deposit-taking institution, or
- (d) a debenture or security that is guaranteed by the Government of a State or Territory or by the Government of the Commonwealth, or
- (e) a surety issued by an authorised deposit-taking institution or a body corporate authorised to carry on insurance business under the *Insurance Act 1973* of the Commonwealth.

30 Application of Corporations Act to winding up

For the purposes of section 325 (1) of the Act, the modifications set out in Part I of Schedule 3 are prescribed.

Co-operatives Regulation 2005

Clause 31

Arrangements and reconstructions

Part 10

Part 10 Arrangements and reconstructions

31 Explanatory statements

For the purposes of sections 346 (2) (b) and 354 (3) (b) of the Act, the prescribed information that must be included in a draft explanatory statement or explanatory statement (as the case may be) is set out in Schedule 4.

32 Compulsory acquisition notices

For the purposes of section 360 (1) of the Act, a compulsory acquisition notice must be in Form 2.

33 Notice to remaining shareholders

For the purposes of section 362 (1) (a) of the Act, a notice to a remaining shareholder must be in Form 3.

Clause 34 Co-operatives Regulation 2005

Part 11 Foreign co-operatives

Part 11 Foreign co-operatives

34 Application for registration of participating co-operative as foreign co-operative

- (1) An application under section 369E of the Act by a participating co-operative for registration as a foreign co-operative must be made in writing to the Registrar.
- (2) For the purposes of section 369E (2) (d) of the Act, the statement must be verified by a statement by a director or the secretary of the applicant co-operative.
- (3) For the purposes of section 369E (2) (e) of the Act, the other information that must accompany an application by a participating co-operative for registration as a foreign co-operative is as follows:
 - (a) the details of the proposed business activities to be carried on in New South Wales,
 - (b) the details of the proposed principal place of business of the co-operative in New South Wales,
 - (c) the address of the registered office in the participating State of the co-operative,
 - (d) the name under which the participating co-operative carries on business in the participating State,
 - (e) the details of any charges required to be registered pursuant to Schedule 3 to the Act.

35 Application for registration of non-participating co-operative as foreign co-operative

- (1) An application under section 369F of the Act by a non-participating co-operative for registration as a foreign co-operative must be made in writing to the Registrar.
- (2) For the purposes of section 369F (2) (b) of the Act, the statement must be verified by a statement by a director or the secretary of the applicant co-operative.
- (3) For the purposes of section 369F (2) (c), the other documents and information that must accompany an application by a non-participating co-operative for registration as a foreign co-operative are as follows:
 - (a) a copy of the co-operative's certificate of registration,
 - (b) a copy of the latest audited financial statements of the co-operative,
 - (c) the full name, date of birth and residential address of each director of the co-operative,

Co-operatives Regulation 2005

Clause 36

Foreign co-operatives

Part 11

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- (d) the details of the proposed business activities to be carried on in New South Wales,
 - (e) the details of the proposed principal place of business of the co-operative in New South Wales,
 - (f) the address of the registered office in the jurisdiction under the law of which the co-operative is incorporated,
 - (g) the name under which the co-operative carries on business in that jurisdiction,
 - (h) the details of any charges required to be registered pursuant to Schedule 3 to the Act.

36 Registration of foreign co-operatives

For the purposes of section 369I of the Act, if the Registrar has registered a foreign co-operative under that section, the Registrar must send to the co-operative a certificate of registration at the address notified under section 369E (2) (d) (ii) or section 369F (2) (b) (ii) of the Act (as the case may be).

37 Application of Act and regulations to foreign co-operatives

- (1) For the purposes of section 369J of the Act:
 - (a) the following provisions of the Act and this Regulation are prescribed in relation to a participating co-operative:
 - (i) Division 4 of Part 1,
 - (ii) sections 258 and 264,
 - (iii) section 325 (but only to the extent that it applies Parts 5.4, 5.4B and 5.6 of the Corporations Act in relation to the winding up of a participating co-operative in insolvency),
 - (iv) sections 407 and 440A,
 - (v) clause 56,
 - (b) the following provisions of the Act and this Regulation are prescribed in relation to a non-participating co-operative:
 - (i) Divisions 3 and 4 of Part 1,
 - (ii) sections 13 (2), 14 and 15,
 - (iii) Part 3,
 - (iv) Division 5 of Part 4,
 - (v) sections 106, 108, 109A, 253, 254 and 258,
 - (vi) Division 1 of Part 10,
 - (vii) Part 12 (except Divisions 1 and 3)
 - (viii) Parts 13 and 16,

Clause 38	Co-operatives Regulation 2005
Part 11	Foreign co-operatives

- (ix) section 440A,
- (x) clause 56.

- (2) For the purposes of section 369J, section 258 is modified in its application to a foreign co-operative to require the name of the foreign co-operative, when appearing as required by section 258 (1) (b) or (c), to indicate the State, Territory or country in which the foreign co-operative was originally registered or incorporated.

38 Notification by foreign co-operative of certain changes

If a foreign co-operative lodges with the Registrar particulars of an alteration under section 369K of the Act, the particulars must be accompanied by the following documents:

- (a) in the case of a change of name resulting in the issue of a new or amended certificate of registration in the participating State, a copy of the new or amended certificate, certified by the Registrar of the participating State,
- (b) in the case of an alteration or change affecting the rules of the foreign co-operative:
 - (i) if the foreign co-operative is a participating co-operative—a copy of the new or amended rules, certified by the Registrar of the participating State, or
 - (ii) if the foreign co-operative is a non-participating co-operative—a copy of the new or amended rules.

39 Co-operative proposing to register as foreign co-operative

- (1) For the purposes of section 369N (1) of the Act, the prescribed provisions of the Act are as follows:
 - (a) Parts 5 and 6,
 - (b) Divisions 5–7 of Part 9,
 - (c) Division 1 of Part 10.
- (2) For the purposes of section 369N (3) of the Act, the prescribed documents are as follows:
 - (a) a copy, certified by the Registrar, of the co-operative's certificate of registration,
 - (b) a copy, certified by the Registrar, of the co-operative's rules,
 - (c) a copy, certified by the Registrar, of the last audited balance sheet of the co-operative lodged with the Registrar,
 - (d) a list containing the full name, date of birth, and residential address of each director of the co-operative.

Co-operatives Regulation 2005

Clause 40

Supervision and protection of co-operatives

Part 12

Part 12 Supervision and protection of co-operatives

40 Notice to appear, answer questions and produce documents

For the purposes of section 375 (1) of the Act, a notice must be in Form 4.

41 Investigator's notice to involved person

For the purposes of section 387 (1) of the Act, a notice must be in Form 5.

42 Examination of involved person—allowance and expenses

For the purposes of section 388 (4) of the Act, the prescribed expenses to which an involved person is entitled are as follows:

- (a) for persons ordinarily receiving wages, salary, remuneration or fees, for each hour, or part of an hour, of attendance—the amount of wages, salary, remuneration or fees actually lost because of the person's attendance, but not exceeding \$217 for any one day,
- (b) in any other case—the actual expenditure incurred (other than expenses under paragraphs (c) and (d)), but not exceeding \$59 for any one day,
- (c) for travelling expenses to and from a person's usual place of residence or business and the place of attendance:
 - (i) the amount actually paid, or
 - (ii) an amount calculated at 18 cents per kilometre travelled, whichever is the lesser,
- (d) for accommodation and meals, if a person is required to be absent over night from the person's usual place of residence:
 - (i) the amount actually paid, or
 - (ii) an amount not exceeding \$150 for any one night, whichever is the lesser.

Clause 43	Co-operatives Regulation 2005
Part 13	Administration of Act

Part 13 Administration of Act

43 Inspection of Register

For the purposes of section 413A (1) (b) of the Act, the prescribed documents are as follows:

- (a) rules approved by the Registrar under section 18,
- (b) documents lodged with the Registrar under section 19 or 24 that result in the registration of the co-operative concerned,
- (c) documents lodged with the Registrar under the following:
 - (i) section 251B, 252, 261, 369K (a) or 369L (1) of the Act,
 - (ii) Schedule 3 to the Act that create or evidence a charge, or the complete or partial satisfaction of a charge,
 - (iii) clause 12 or 17 of Schedule 4 to the Act,
- (d) documents lodged with the Registrar under section 369E (2) (c) or 369F (2) (a) of the Act that result in the registration of the co-operative concerned,
- (e) documents lodged under section 450A, 450B, 450C, 450D, 465A, 470, 494, 509 (3) and (7), 537 or 539 of the Corporations Act (as applied by sections 325 and 332 of the Act),
- (f) disclosure statements approved by the Registrar under section 17, 155, 194, 266A, 268, 311A or 369R of the Act or registered under clause 19,
- (g) copies of certificates of registration issued by the Registrar under section 21, 26, 311C (2) (c) or 369I of the Act,
- (h) documents evidencing consent or permission given by the Registrar under section 76A, 311, 346, 369Q or 440A of the Act,
- (i) documents evidencing an extension or abridgement of time given by the Registrar under section 408 of the Act,
- (j) copies of orders of the Court issued under section 90, 292, 350 or 443 of the Act or any other orders of the Court relating to a co-operative, or to a register kept by the Registrar, that are required by the Court to be lodged or filed with the Registrar,
- (k) alterations of rules registered under section 113 of the Act,
- (l) consolidated copies of altered rules lodged in accordance with section 113 (2) (c) of the Act,
- (m) documents evidencing exemptions granted by the Minister under section 143 of the Act,
- (n) disclosure statements filed with the Registrar under section 146A (1) (b) of the Act,

Co-operatives Regulation 2005

Clause 43

Administration of Act

Part 13

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- (o) special resolutions registered under section 192A of the Act,
 - (p) documents evidencing exemptions granted by the Registrar under section 146C, 244, 266, 298 or 369R of the Act or under clause 44 of Schedule 3 to the Act,
 - (q) documents evidencing approvals given by the Registrar under section 250 or 256 of the Act or under clause 23 (1) (b) of Schedule 6 to the Act,
 - (r) prospectuses lodged with the Registrar under Chapters 2L and 6D of the Corporations Act (as applied by section 266 of the Act),
 - (s) documents approved by the Registrar under section 273 or 355 of the Act,
 - (t) documents evidencing exemptions granted by the Council under section 285, 308, 312, 316 or 326 of the Act,
 - (u) documents relating to a court approved scheme of arrangement or reconstruction under Part 13 of the Act,
 - (v) copies of instruments made by the Registrar under clause 24 of Schedule 6 to the Act.

Clause 44	Co-operatives Regulation 2005
Part 14	Provisions relating to Schedules to Act

Part 14 Provisions relating to Schedules to Act

44 Subscription for minimum number of shares

For the purposes of item 9 of clause 2 of Schedule 1 (Matters for which rules must make provision) to the Act, the rules of a co-operative with a share capital must make provision for the minimum number of shares to which a member of the co-operative must subscribe.

45 Variation or abrogation of share rights if more than one class of shares

For the purposes of item 9 of clause 2 of Schedule 1 (Matters for which rules must make provision) to the Act, the rules of a co-operative with a share capital must make provision for the variation or abrogation of rights attaching to the shares of the co-operative if there is more than 1 class of shares issued or to be issued by the co-operative.

46 Exclusions—holders of prescribed offices

For the purposes of clause 13 of Schedule 2 (Relevant interests, associates, related bodies) to the Act, the prescribed offices are those set out in Schedule 5.

47 Charges required to be registered

For the purposes of clause 8 of Schedule 3 (Registration etc of charges) to the Act, each of the following laws is a prescribed law of a State or Territory:

- (a) Parts 2 and 3 of the *Liens on Crops and Wool and Stock Mortgages Act 1898*,
- (b) Parts 7 and 8 of the *Instruments Act 1958* of Victoria,
- (c) Part 2 (to the extent to which it relates to the registration of stock mortgages, liens on crops and liens on wool) and Part 4 of the *Bills of Sale and Other Instruments Act 1955* of Queensland,
- (d) the *Liens on Crops of Sugar Cane Act 1931* of Queensland,
- (e) sections 7 and 8 and Parts 9, 10 and 11 of the *Bills of Sale Act 1899* of Western Australia,
- (f) the *Liens on Fruit Act 1923* of South Australia,
- (g) the *Stock Mortgages and Wool Liens Act 1924* of South Australia,
- (h) section 36 of the *Bills of Sale Act 1900* of Tasmania,
- (i) the *Stock, Wool and Crop Mortgages Act 1930* of Tasmania,
- (j) Parts 4 and 5 of the *Instruments Act 1933* of the Australian Capital Territory,
- (k) the *Instruments Act* of the Northern Territory.

Co-operatives Regulation 2005

Clause 48

Provisions relating to Schedules to Act

Part 14

48 Inspection of register of charges

For the purposes of clause 41 (3) (b) of Schedule 3 to the Act, the prescribed amount is \$10.

49 Copies of register of charges

For the purposes of clause 41 (5) (a) of Schedule 3 to the Act, the prescribed amount is \$1 per page, to a maximum of \$20.

50 Request for certificate of particulars of charge

A request to the Registrar for a certificate under clause 42 of Schedule 3 to the Act must be in writing.

51 Managing controller's report

For the purposes of clause 6A (1) of Schedule 4 (Receivers, and other controllers, of property of co-operatives) to the Act, Form 6 is the prescribed form of report.

52 Notification of matters relating to controller

- (1) A notice referred to in clause 12 (1) (a), (2) (a) and (3) (a) of Schedule 4 to the Act is to be in Form 7.
- (2) For the purposes of clause 12 (4) of Schedule 4 to the Act, Form 8 is the prescribed form of notice.
- (3) A notice referred to in clause 12 (6) (a) of Schedule 4 to the Act is to be in Form 8.

53 Reporting officers' report

For the purposes of clause 14 (2) (b) of Schedule 4 to the Act, Form 6 is the prescribed form of report.

54 Report required by controller

For the purposes of clause 15 (1) of Schedule 4 to the Act, Form 6 is the prescribed form of report.

Clause 55	Co-operatives Regulation 2005
Part 15	Miscellaneous

Part 15 Miscellaneous

55 Fees

The fees payable under the Act, including the amount of the additional fee that the Registrar may impose for late lodgment of a document required to be lodged under the Act, are set out in Schedule 6.

56 Waiver of fees

For the purposes of section 446 (2A), the Registrar may waive, reduce or refund any fee payable by a co-operative under the Act or this Regulation if, in the opinion of the Registrar, there are special circumstances that justify payment being waived, reduced or refunded.

57 Savings

Any act, matter or thing that, immediately before the repeal of the *Co-operatives Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

Co-operatives Regulation 2005

Particulars to be included in registers

Schedule 1

Schedule 1 Particulars to be included in registers

(Clauses 9 and 14)

1 Register of members, directors and shares

- (1) The register of members, directors and shares of a co-operative must contain the following particulars for each member:
 - (a) the name and address of each member,
 - (b) the date on which each member was admitted to the co-operative,
 - (c) the folio reference to the minute evidencing the board's decision to admit the member,
 - (d) if the co-operative has share capital, a statement in respect of each member by whom shares are held of:
 - (i) the number of shares held beneficially and non-beneficially, and
 - (ii) the identifying number of each share held, and
 - (iii) the date on which the shares were allotted, and
 - (iv) the amount paid or agreed to be considered as having been paid on the shares,
 - (e) the date of and circumstances under which the member's membership ceased (if applicable),
 - (f) if shares are purchased pursuant to section 172 (1) of the Act, a statement of the number of shares purchased and the date on which the shares were purchased,
 - (g) if shares are forfeited pursuant to section 290 of the Act, a statement of the number of shares forfeited and the date on which forfeiture was effected,
 - (h) if there is a conversion to a co-operative without share capital, the date of the repayment of the share capital or the date of disposal and the name and address of the person or body to whom the share capital was repaid.
- (2) The register of members, directors and shares of a co-operative must contain the following particulars for each director:
 - (a) the name, any former names, date of birth, and residential address of each director,
 - (b) the date of that person's election or appointment as a director,
 - (c) whether the director is a non-member director,
 - (d) the date of termination of office (if applicable),
 - (e) the mode of termination of office (if applicable).

Co-operatives Regulation 2005

Schedule 1 Particulars to be included in registers

2 Register of loans to, securities given by, debentures issued by and deposits received by co-operative

- (1) The register of loans to, securities given by, debentures issued by and deposits received by a co-operative is required to contain the following particulars for each loan:
- (a) the name of the person by whom the loan is made,
 - (b) the amount of the loan,
 - (c) the date on which the loan was received by the co-operative,
 - (d) the folio reference to the minute evidencing the board's decision to accept the loan,
 - (e) a reference identifying the account created for the loan,
 - (f) the date of each payment made in relation to the loan and the amount of each payment so made,
 - (g) if the loan is secured by way of mortgage of real property, the address and particulars of title of the property and a reference identifying the mortgage agreement,
 - (h) if the loan is secured otherwise than by way of a mortgage of real property, particulars of the security given and a reference identifying the agreement that evidences that security,
 - (i) the location of the documents relating to the security given in respect of the loan,
 - (j) particulars of any movement of those documents from that location,
 - (k) the date of the final repayment made in relation to the loan.
- (2) The register of loans to, securities given by, debentures issued by and deposits received by a co-operative must contain the following particulars for each debenture issued:
- (a) the name and address of each person to whom a debenture is payable,
 - (b) the number and series of the debenture,
 - (c) the date of its issue,
 - (d) the amount of the debenture,
 - (e) the rate of interest,
 - (f) the dates of payment of principal,
 - (g) the place of payment,
 - (h) the name of the trustee (if applicable),
 - (i) the ledger folio,

Co-operatives Regulation 2005

Particulars to be included in registers

Schedule 1

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- (j) the name, address and occupation of any transferor,
 - (k) the date of any transfer,
 - (l) the redemption value.
- (3) The register of loans to, securities given by, debentures issued by and deposits received by a co-operative must contain the following particulars for each deposit received by the co-operative:
- (a) the name and address of the depositor,
 - (b) the date of receipt,
 - (c) the amount deposited,
 - (d) the rate of interest (if any),
 - (e) the amount repaid,
 - (f) the date of conversion to shares or debentures (if applicable),
 - (g) the due date for repayment,
 - (h) the balance owing (if any).

3 Register of names of persons who have given loans or deposits to or hold securities or debentures given or issued by co-operative

The register of names of persons who have given loans or deposits to or hold securities or debentures given or issued by a co-operative must contain the following particulars for each person:

- (a) the full name and any former names of the person,
- (b) the address of the person,
- (c) whether the person:
 - (i) has given a loan or deposit to the co-operative, or
 - (ii) holds securities given by the co-operative, or
 - (iii) holds debentures issued by the co-operative,
- (d) a reference to the relevant entry in the register of loans to, securities given by, debentures issued by and deposits received by the co-operative.

4 Register of loans made by or guaranteed by co-operative and of any securities taken by co-operative

- (1) The register of loans made by or guaranteed by a co-operative and of any securities taken by a co-operative must contain the following details for each loan made:
 - (a) the name of each person to whom a loan is made,
 - (b) the amount of the loan,
 - (c) the date on which the loan was approved,

Co-operatives Regulation 2005

Schedule 1 Particulars to be included in registers

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- (d) the folio reference to the minute evidencing the board's decision to make the loan,
 - (e) a reference identifying the account created for the loan,
 - (f) the date of each advance made in relation to the loan and the amount of each advance so made,
 - (g) if the loan is secured by way of mortgage of real property, the address and particulars of title of the property and a reference identifying the mortgage agreement,
 - (h) if the loan is secured otherwise than by way of a mortgage of real property, particulars of the security taken and a reference identifying the agreement that evidences that security,
 - (i) the location of the documents relating to the security taken in respect of the loan,
 - (j) particulars of any movement of those documents from that location,
 - (k) the date of the final repayment made in relation to the loan.
- (2) The register of loans made by or guaranteed by a co-operative and of any securities taken by a co-operative must contain the following particulars for each loan guaranteed by the co-operative:
- (a) the name of the member,
 - (b) the name of the lender,
 - (c) the amount of the loan,
 - (d) the date of the guarantee,
 - (e) the folio reference to the minutes evidencing the board's decision to guarantee the loan,
 - (f) if the loan is secured by way of mortgage of real property, the address and particulars of title of the property and a reference identifying the mortgage agreement,
 - (g) if the loan is secured otherwise than by way of a mortgage of real property, particulars of the security taken and a reference identifying the agreement that evidences that security,
 - (h) the location of the documents relating to the security taken in respect of the loan,
 - (i) particulars of any movement of those documents from that location,
 - (j) the due date for repayment.

Co-operatives Regulation 2005

Particulars to be included in registers

Schedule 1

5 Register of CCUs

The register of CCUs issued by a co-operative must contain the following particulars for each CCU:

- (a) the date of the resolution approving the terms of issue,
- (b) the name, address and occupation of the holder,
- (c) the number and series of the CCU,
- (d) the face value of the CCU,
- (e) the rate of interest and the nature of the interest (whether cumulative or non-cumulative),
- (f) the date of payment of interest,
- (g) the ranking for priority of payment of capital and interest on a winding up of the co-operative,
- (h) the entitlement (if any) to surplus assets and profits on a winding up of the co-operative,
- (i) if transferred, the name, address and occupation of the transferee,
- (j) the redemption value (if known),
- (k) the date and manner of redemption.

6 Register of memberships cancelled under Part 6 of Act

- (1) The register of memberships cancelled under Part 6 of the Act must contain the following particulars for each member whose membership is cancelled:
 - (a) the name of the member,
 - (b) if the whereabouts of the member are known:
 - (i) the date of the member's last active dealing with the co-operative, and
 - (ii) the date of giving the required notice to the member,
 - (c) the date and folio number of the board's resolution cancelling membership.
- (2) The register of memberships cancelled under Part 6 of the Act must, if the co-operative has a share capital, contain the following additional particulars for each member whose membership is cancelled:
 - (a) the amount subscribed in respect of the shares forfeited,
 - (b) if the whereabouts of the member are unknown:
 - (i) the date when the required period of the member's whereabouts being unknown commenced, and

Co-operatives Regulation 2005

Schedule 1 Particulars to be included in registers

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- (ii) if the amount required to be repaid to the member in respect of the cancelled membership exceeds \$50, the date of publication of the required notice in a newspaper and the name of the newspaper,
 - (c) the date and folio number of the board's resolution forfeiting the shares,
 - (d) if the date fixed by the board resolution for repayment of the amount paid up on shares is within 12 months of forfeiture:
 - (i) the date of repayment, or
 - (ii) the date and nature of the application of the amount under section 134 (2) of the Act,
 - (e) if the amount due is to be transferred to a debenture or deposit account:
 - (i) the date of transfer to such an account, and
 - (ii) the date of repayment.

7 Register of fixed assets

The register of fixed assets of a co-operative must contain the following particulars for each fixed asset:

- (a) a short description of the fixed asset,
- (b) the method of financing any fixed asset that is leased,
- (c) the physical location of the asset,
- (d) the date of its purchase or installation,
- (e) the manner in which depreciation is calculated,
- (f) the annual percentage at which depreciation is calculated,
- (g) the annual amount of depreciation or amortisation,
- (h) the total amount of depreciation or amortisation,
- (i) the revaluation increment,
- (j) the sale price,
- (k) the date sold.

8 Register of subordinated debt

The register of subordinated debt must contain the following particulars for each subordinated debt incurred:

- (a) the name and address of the person to whom the debt is owed,
- (b) the amount of the debt,
- (c) the date on which the debt was incurred,

Co-operatives Regulation 2005

Particulars to be included in registers

Schedule 1

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- (d) the folio reference to the minute evidencing the board's decision to incur the debt,
 - (e) a reference identifying the account created for the debt,
 - (f) the date of each payment made in relation to the debt and the amount of each payment made,
 - (g) the date of the final repayment made in relation to the debt.

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Schedule 2 Conduct of postal ballots, postal ballot paper and middle envelope

Schedule 2 Conduct of postal ballots, postal ballot paper and middle envelope

(Clause 11)

1 Ballots

- (1) The board must:
 - (a) cause the details of the proposal on which the ballot is to be held to be set out in a statement, and
 - (b) fix the dates for:
 - (i) the forwarding of ballots to members, and
 - (ii) the closing of the ballot, and
 - (c) appoint a returning officer for the ballot.
- (2) Every ballot must be conducted by the returning officer appointed by the board.

2 Returning officers

- (1) A director of the co-operative may not be appointed as a returning officer.
- (2) The returning officer may be assisted in the performance of his or her duties by any person (who would be eligible to be a returning officer) appointed by the returning officer.

3 Preparation of voting roll and ballot papers

- (1) The returning officer must prepare a roll of the full names and addresses of the members of the co-operative, as disclosed by the register of members, directors and shares, together with particulars of the number of votes each member would be entitled to exercise on a poll.
- (2) A person whose name is on the roll is entitled to vote in the ballot, and no person is otherwise so entitled.
- (3) The returning officer must cause ballot papers to be prepared:
 - (a) in or to the effect of Form A in this Schedule, or
 - (b) in such other form as the Registrar approves.
- (4) Each ballot paper must:
 - (a) be initialled by the returning officer or an appointed assistant, or
 - (b) bear a mark that identifies it as a genuine ballot paper.

Co-operatives Regulation 2005

Conduct of postal ballots, postal ballot paper and middle envelope

Schedule 2

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- (5) The returning officer must, at least 21 days before the date fixed for the closing of the ballot, send by post or otherwise deliver to every member entitled to vote in the ballot one set of the following material:
- (a) one ballot paper,
 - (b) an envelope (in this Schedule referred to as *the outer envelope*) addressed to the returning officer,
 - (c) a smaller envelope (in this Schedule referred to as *the middle envelope*), the reverse side of which must be printed in or to the effect of Form B in this Schedule,
 - (d) a small envelope (in this Schedule referred to as *the inner envelope*) in which the ballot paper is to be enclosed,
 - (e) a copy of the statement prepared by the board setting out the details of the proposal on which the decision of the members is to be sought,
 - (f) in the case of a special postal ballot, a copy of any disclosure statement approved by the Registrar under section 194 or 369R of the Act in respect of the ballot.

4 Duplicate ballot papers

The returning officer may send a duplicate ballot paper to any voter if the returning officer is satisfied:

- (a) that the voter has not received a ballot paper, or
- (b) that the ballot paper received by the voter has been lost, spoilt or destroyed and that the voter has not already voted.

5 Voting

A member casts a vote in the ballot by:

- (a) completing the details on the reverse side of the middle envelope, and
- (b) marking his or her vote on the ballot paper according to the instructions on the ballot paper, and
- (c) sending the ballot paper, in the envelopes provided, to the returning officer.

6 Safe keeping of ballot papers

- (1) The returning officer must provide a ballot box that must be locked immediately before the ballot papers are delivered to members in accordance with clause 3 (5) and must remain locked until the close of the ballot.

Co-operatives Regulation 2005

Schedule 2 Conduct of postal ballots, postal ballot paper and middle envelope

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- (2) The returning officer must place the outer envelopes in the ballot box not later than noon on the date fixed for the closing of the ballot.

7 Counting of the votes

- (1) Ballot papers received after noon on the date fixed for the closing of the ballot must not be taken into account at the ballot.
- (2) As soon as practicable after noon on the date fixed for the closing of the ballot, the returning officer must, in the presence of such scrutineers as may be appointed by the board, open the ballot box and deal with the contents in accordance with subclause (3).
- (3) The returning officer must:
- (a) remove the middle envelope from the outer envelope, and
 - (b) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it "rejected", and
 - (c) according to the information on the middle envelope, for each set of voting papers returned, mark the voter's name on the roll by drawing a line through the name, and
 - (d) if a member's name has already been crossed out on the roll, reject the postal vote and mark it "rejected", and
 - (e) if the middle envelope has not been signed, or if the details shown on the envelope are not sufficient to disclose by whom the vote is being exercised, reject the envelope and mark it "rejected", and
 - (f) extract the inner envelopes containing the ballot papers from all unrejected middle envelopes, separating the contents from the middle envelopes in such a way that no inner envelope could subsequently be identified with any particular voter, and
 - (g) when all the middle envelopes have been dealt with in the above manner, open all unrejected inner envelopes and take the ballot papers from them.
- (4) The ballot papers must be scrutinised by the returning officer who must reject as informal any ballot paper that:
- (a) is not duly initialled by the returning officer or appointed assistant or does not bear a mark that identifies it as a genuine ballot paper, or
 - (b) is so imperfectly marked that the intention of the voter cannot be ascertained by the returning officer, or
 - (c) has any mark or writing not authorised by this Schedule that, in the opinion of the returning officer, will enable the voter to be identified, or

Co-operatives Regulation 2005

Conduct of postal ballots, postal ballot paper and middle envelope

Schedule 2

(d) has not been marked as prescribed on the ballot paper itself.

8 Statement by returning officer

- (1) The returning officer must count all votes cast and make out and sign a statement of:
 - (a) the number of formal votes cast in favour of the proposal, and
 - (b) the number of formal votes cast against the proposal, and
 - (c) the number of informal votes cast, and
 - (d) the number of middle envelopes marked “rejected”, and
 - (e) the proportion of the formal votes cast in favour of the proposal.
- (2) On the declaration of the returning officer of the result of the postal ballot, the board of the co-operative must cause an entry to be made in the minute book showing the particulars referred to in subclause (1) (a)–(c).
- (3) The returning officer must forward a copy of the statement to the chairperson of the board of the co-operative who must announce the result of the ballot at the next general meeting.

9 Notification of result of ballot

- (1) A co-operative must give notification of the result of a ballot (other than a ballot conducted to alter the rules of a co-operative) by displaying the result on the notice board at the registered office of the co-operative.
- (2) In the case of a postal ballot conducted to alter the rules of a co-operative, the co-operative must cause the result of the ballot to be notified in writing to its members as soon as practicable after the alteration takes effect and, in any event, not later than the date on which notice is given to the members of the next annual general meeting of the co-operative following the date on which the alteration takes effect.

10 Retention of ballot papers

- (1) The returning officer must retain:
 - (a) all ballot papers (whether formal or otherwise), and
 - (b) all rejected outer envelopes, and
 - (c) all rolls,used in connection with the conduct of the postal ballot, locked in the ballot box, in accordance with this clause.

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Schedule 2 Conduct of postal ballots, postal ballot paper and middle envelope

- (2) The returning officer must retain those items for a period of not less than 8 weeks after the date fixed for the closing of the ballot unless directed in writing by the board to retain those items for a longer period specified in the board’s direction.

Form A Postal ballot paper

Co-operatives Regulation 2005 (Schedule 2, clause 3 (3))

Note: Before completing this ballot paper, please read the “How to vote” section below.

Name of Co-operative:

Ballot of members to determine the following proposal:
.....
.....
.....

Do you support the above proposal? (Please write YES or NO in the box)

The ballot will close at noon on

How to vote

- 1 Read these directions and the ballot paper carefully.
- 2 Complete and sign the details on the reverse side of the envelope that has appropriate spaces for the insertion of your name, address and signature (in this ballot paper referred to as *the middle envelope*).
- 3 If:
 - (a) you are in favour of the proposal—write the word “YES” in the box provided above, or
 - (b) you are not in favour of the proposal—write the word “NO” in the box provided above.
- 4 After marking the ballot paper, fold it and place it in the small envelope provided and seal the envelope. Then place the small envelope in the completed middle envelope and place the middle envelope in the envelope addressed to the returning officer. Forward this envelope either by post or personal delivery so as to reach the returning officer not later than noon on

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-
- 5** Unless the ballot paper is marked as indicated in 3 above and the details referred to in 2 above are completed in full and the middle envelope signed, your vote may be rejected as informal.

.....
Initials of returning officer

Form B Middle envelope (member details)

Co-operatives Regulation 2005 (Schedule 2, clause 3 (5) (c))

Note: Please use capital letters for your name and address

(Full name of member)

(Address of member)

(Full name of person casting vote if vote is being cast on behalf of a co-operative or other body corporate that is a member)

(Address of person casting vote if vote is being cast on behalf of a co-operative or other body corporate that is a member)

(Signature of person casting vote)

Co-operatives Regulation 2005

Schedule 3 Modifications of Corporations Act

Schedule 3 Modifications of Corporations Act

(Clauses 13 and 30)

Part 1 Interpretation of modified provisions

- 1 The following definitions replace the corresponding definitions under the Corporations Act for the purpose of interpreting the applied provisions of the Corporations Act as modified by the Act and this Schedule:

Act means the *Co-operatives Act 1992* (including applied provisions of the Corporations Act).

applied provisions means the provisions of the Corporations Act referred to in clauses 13 and 30 of this Regulation.

ASIC means the Registrar.

audit company means a company that consents to be appointed, or is appointed, as auditor of a co-operative.

audit firm means a firm that consents to be appointed, or is appointed, as auditor of a co-operative.

audited body, in relation to the audit of a co-operative, means the co-operative in relation to which the audit is, or is to be, audited.

consolidated entity means a co-operative together with all the entities that the accounting standards require the co-operative to include in consolidated financial statements.

Court means the Supreme Court.

debenture, in relation to a co-operative, has the same meaning as in the Act.

director, in relation to a co-operative, has the same meaning as in the Act.

disclosing entity—see section 266 of the Act (which applies Part 1.2A of the Corporations Act).

financial year means a financial year of a co-operative as determined in accordance with section 248 of the Act.

member means member of a co-operative.

officer, in relation to a co-operative, has the same meaning as in the Act.

related body corporate has the meaning given by clause 22 of Schedule 2 to the Act.

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Modifications of Corporations Act

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2 Expressions used in the applied provisions as modified by the Act and this Schedule that are not defined in the Corporations Act have the same meaning as in the Act.

3 The applied provisions apply as if all notes were omitted.

Part 2 Modification of Corporations Act requirements for financial records and financial statements

Part 2D.1 Duties and powers

[1] Section 198F

Omit “company” wherever occurring. Insert instead “co-operative”.

Part 2F.3 Inspection of books

[2] Section 247A (1)

Omit “company or registered managed investment scheme”.

Insert instead “co-operative”.

[3] Section 247A (1) (a) and (b)

Omit “company or scheme” wherever occurring.

Insert instead “co-operative”.

[4] Section 247A (3) and (5)

Omit “section 237” wherever occurring.

Insert instead “section 105A of the *Co-operatives Act 1992*”.

[5] Section 247C

Omit “ASIC”. Insert instead “the Registrar or an officer”.

[6] Section 247D

Omit the section.

Part 2G.2 Meetings of members of companies

[7] Sections 249K, 249V (1) and 250S (1)

Omit “company” wherever occurring. Insert instead “co-operative”.

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[8] Section 250PA (3)

Omit “company” where secondly, thirdly and fourthly occurring.
Insert instead “co-operative”.

[9] Sections 249V (1), 250RA (1) (a) and 250T

Omit “company’s” wherever occurring. Insert instead “co-operative’s”.

[10] Sections 250PA and 250T (4)

Omit “listed company” wherever occurring. Insert instead “co-operative”.

[11] Section 250RA

Omit “listed company’s” wherever occurring. Insert instead “co-operative’s”.

Part 2M.2 Financial records**[12] Sections 286 (1) and 290 (1)**

Omit “company, registered scheme or disclosing entity” wherever occurring.
Insert instead “co-operative”.

[13] Section 287 (2A)

Insert after section 287 (2):

- (2A) An inspector may, by notice in writing, specify a period within which the translation must be made available to the inspector.

[14] Section 288 (1A)

Insert after section 288 (1):

- (1A) An inspector may, by notice in writing, specify a period within which the hard copy must be made available to the inspector.

[15] Section 289

Omit the section. Insert instead:

289 Place where records are kept

The financial records must be kept within New South Wales but the co-operative may decide where within New South Wales to keep them.

[16] Section 291

Omit the section.

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Part 2M.3 Financial reporting

[17] Section 292

Omit the section. Insert instead:

292 Who has to prepare annual financial reports and directors' reports

A financial report and a directors' report must be prepared for each financial year by all co-operatives.

[18] Sections 293 and 294

Omit the sections.

[19] Section 295 (2)

Omit the subsection. Insert instead:

- (2) The financial statements for the year are:
- (a) the income statement for the year, and
 - (b) the balance sheet at the end of the year, and
 - (c) the cash flow statement for the year, and
 - (d) if required by the accounting standards—a consolidated income statement, balance sheet and cash flow statement.

[20] Sections 295 (4) (c), 297 (a), 298 (1), 299 (2) (a) and (3) (a), 300 (1) (c) and (ca) and (3) (a), 301 (1), 307 (c) and (d), 310 (a), 312, 314 (1), (4) and (5), 316 (1), 322 (2), 323, 323A (2), 323B, 323C and 323D (1), (3) and (5)

Omit “company, registered scheme or disclosing entity” wherever occurring.
 Insert instead “co-operative”.

[21] Sections 295A

Omit “company, disclosing entity or registered scheme” wherever occurring.
 Insert instead “co-operative”.

[22] Sections 295A (6) (b) (ii) and (7) (b) (ii), 300 (1) (d) (ii), (2), (2A), (9) (d) and (e) and (11) and 300A (1) (a)–(c)

Omit “company” and “company’s” wherever occurring.
 Insert instead “co-operative” and “co-operative’s”, respectively.

[23] Section 296 (1)

Omit the second sentence.

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[24] Section 298 (3)

Omit the subsection.

[25] Sections 299 (3) (b) and 300 (3) (b)

Omit “company, registered scheme or disclosing entity” wherever occurring.
Insert instead “co-operative, company or registered scheme”.

[26] Section 300 (1)

Omit the last sentence.

Insert instead “Co-operatives with listed securities must include additional information under subsections (10), (11), (11A) and (11B) of this section and section 300A.”

[27] Section 300 (5) (a), (6) (a) and (e), and 7 (a) and (c)

Omit “company, registered scheme or disclosing entity” wherever occurring.
Insert instead “entity”.

[28] Section 300 (8)

Omit the subsection. Insert instead:

- (8) The report for a co-operative must include details of:
 - (a) any indemnity that is given to a current or former officer or auditor against a liability, or any relevant agreement under which an officer or auditor may be given an indemnity, and
 - (b) any premium that is paid, or agreed to be paid, for insurance against a current or former officer’s or auditor’s liability.

For the purposes of this subsection, *officer* has the same meaning as in Division 2 of Part 9 of the *Co-operatives Act 1992*.

[29] Section 300 (10)

Omit “public company that is not a wholly-owned subsidiary of another company”.

Insert instead “co-operative that is not a wholly-owned subsidiary of another co-operative”.

[30] Section 300 (12) and (13)

Omit the subsections.

Co-operatives Regulation 2005

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[31] Section 300 (14) and (15)

Omit “section 237” wherever occurring.

Insert instead “section 105A of the *Co-operatives Act 1992*”.

[32] Section 300A (1)

Omit “company” where first occurring.

Insert instead “co-operative that is included in an official list of the Exchange”.

[33] Section 300A (2)

Omit the subsection.

[34] Section 300A (3)

Omit “company’s constitution”. Insert instead “co-operative’s rules”.

[35] Section 301 (2)

Omit the subsection.

[36] Sections 302 and 320

Omit “A disclosing entity” wherever occurring.

Insert instead “A co-operative that is a disclosing entity”.

[37] Sections 302 (c), 311 and 320

Omit “ASIC” wherever occurring. Insert instead “the Registrar”.

[38] Section 307 (d)

Omit the paragraph. Insert instead:

- (d) whether the co-operative has kept registers as required by section 249 of the *Co-operatives Act 1992* and other records as required by that Act (including any applied provisions of the Corporations Act).

[39] Sections 312 (a) and 323B (a)

Omit “company, scheme or entity”. Insert instead “co-operative”.

[40] Section 314 (1)

Omit “either”.

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[41] Section 314 (1) (c)

Insert at the end of section 314 (1) (b):

, or

- (c) in the case of a non-trading co-operative:
 - (i) giving members notice:
 - (A) that the reports referred to in paragraph (a) may be inspected at the registered office of the co-operative, or
 - (B) that a concise report of the kind referred to in paragraph (b) may be inspected at the registered office of the co-operative, and
 - (ii) making the report or reports (as the case requires) available for inspection.

[42] Section 315

Omit the section. Insert instead:

315 Deadline for reporting to members

A co-operative must report to members under section 314 by the earlier of:

- (a) 21 days before the next AGM after the end of the financial year, or
- (b) 21 days less than 5 months after the end of the financial year.

[43] Section 316 (1A)

Insert after section 316 (1):

- (1A) Subsection (1) (b) does not apply to a member of a non-trading co-operative.

[44] Section 317

Omit “public company”. Insert instead “co-operative”.

[45] Section 318 (1) and (2)

Omit “company or disclosing entity” wherever occurring.

Insert instead “co-operative”.

[46] Section 318 (1) and (4)

Insert “prescribed” before “debenture holders” wherever occurring.

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Schedule 3

[47] Section 318 (2)

Insert “prescribed” before “debenture holder”.

[48] Section 318 (2) (a)

Insert “or made available” after “sent”.

[49] Section 318 (3)

Omit the subsection. Insert instead:

- (3) The co-operative must, as soon as practicable after the request:
 - (a) if the terms of the debenture issue so provide—make the copies available for inspection free of charge at the registered office of the co-operative, or
 - (b) in any other case—give the prescribed debenture holder the copies free of charge.

[50] Section 318 (6)

Insert after section 318 (5):

- (6) In this section, *prescribed debenture holder* means a person who holds debentures or CCUs of a co-operative but is not a member of the co-operative.

[51] Part 2M.3, Division 5, heading

Omit “ASIC”. Insert instead “Registrar”.

[52] Section 319

Omit the section. Insert instead:

319 Lodgment of annual reports with Registrar

A co-operative that has to prepare or obtain a report for a financial year under the *Co-operatives Act 1992* (including any applied provisions of the Corporations Act) must include in its annual report to the Registrar for that year a copy of each such report.

[53] Section 321 (1)

Omit the subsection. Insert instead:

- (1) The Registrar may give a co-operative a direction to lodge with the Registrar a copy of reports prepared or obtained by it under Division 1 or 2.

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Schedule 3 Modifications of Corporations Act

[54] Section 322 (1)

Omit the subsection. Insert instead:

- (1) If a financial report or directors' report is amended after it is lodged with the Registrar, the co-operative must:
 - (a) lodge the amended report with the Registrar within 14 days after the amendment, and
 - (b) in the case of a non-trading co-operative—make a copy of the amended report available for inspection at the registered office of the co-operative and inform any member who asks, of its availability, and
 - (c) in any other case—give a copy of the amended report free of charge to any member who asks for it.

[55] Section 322 (2) (b)

Insert “inspect or” before “obtain”.

[56] Section 323D (1) and (2)

Omit the subsections.

[57] Part 2M.3, Division 8 (section 323DA)

Omit the Division.

Part 2M.4 Appointment and removal of auditor**[58] Sections 324AA–324DC (other than section 324BD)**

Omit “company or registered scheme” wherever occurring.
Insert instead “co-operative”.

[59] Sections 324AB (2), 324CM (1) (c), (2) (c) and (3) (f)

Omit “company or scheme”. Insert instead “co-operative”.

[60] Section 324BD

Omit the section.

[61] Section 324CD (2)

Omit the subsection. Insert instead:

- (2) Without limiting subsection (1), have regard to circumstances arising from any relationship that exists, has existed, or is likely to exist, between:
 - (a) the individual auditor, or

Co-operatives Regulation 2005

Modifications of Corporations Act

Schedule 3

-
- (b) the audit firm or any current or former member of the firm, or
 - (c) the audit company, any current or former director of the audit company or any person currently or formerly involved in the management of the audit company,
- and any of the following persons and bodies:
- (d) the co-operative, or
 - (e) a current or former director of the co-operative, or
 - (f) a person currently or formerly involved in the management of the co-operative.

[62] Section 324CH

Omit “This item does not apply if the audited body is a small proprietary company for the relevant financial year.” wherever occurring in the table that follows section 324CH (1).

[63] Section 324CH (2)

Omit the subsection.

[64] Section 324CH (3)

Omit “(other than a registered scheme)”.

[65] Sections 324CI (d), 324CJ (d) and 324CK (d)

Omit “and” wherever occurring.

[66] Sections 324CI (e), 324CJ (e) and 324CK (e)

Omit the paragraphs.

[67] Sections 324CI, 324CJ and 324CK

Omit “(other than a registered scheme)”.

[68] Section 324CL

Omit “company” wherever occurring. Insert instead “co-operative”.

[69] Part 2M.4, Division 5 (sections 324DA–324DD)

Omit “listed company or listed registered scheme”, “the company or the scheme”, “company or scheme”, “listed company’s or listed registered scheme’s” and “company’s or scheme’s” wherever occurring.

Insert instead “co-operative with listed securities”, “the co-operative”, “co-operative”, “co-operative with listed securities’s” and “co-operative’s” respectively.

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Schedule 3 Modifications of Corporations Act

- [70] Section 325**
Omit the section.
- [71] Sections 327A–327F**
Omit “public company” wherever occurring. Insert instead “co-operative”.
- [72] Section 327A (4)**
Insert after section 327A (3):
(4) The co-operative must give the Registrar written notice of an appointment under this section within 28 days of the appointment.
- [73] Section 327B (5)**
Insert after section 327B (4):
(5) The co-operative must give the Registrar written notice of an appointment under this section within 28 days of the appointment.
- [74] Sections 327A–331 (other than sections 327H, 328A and 329 (1A))**
Omit “the company”, “a company”, “the company’s” and “The company” wherever occurring.
Insert instead “the co-operative”, “a co-operative”, “the co-operative’s” and “The co-operative” respectively.
- [75] Section 327H**
Omit the section.
- [76] Section 328A (1) and (4)**
Omit “company, the directors of a company or the responsible entity of a registered scheme” wherever occurring.
Insert instead “co-operative or the directors of a co-operative”.
- [77] Section 328A (1)**
Omit “auditor of the company”. Insert instead “auditor of the co-operative”.
- [78] Section 328A (1)**
Omit “the company, the directors or the responsible entity of the scheme”.
Insert instead “the co-operative or the directors of the co-operative”.

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[79] Section 328A (4)

Omit “auditor of a company”. Insert instead “auditor of a co-operative”.

[80] Section 328A (4) (b)

Omit “company or responsible entity” wherever occurring.

Insert instead “co-operative”.

[81] Section 329 (1B)

Insert after section 329 (1A):

- (1B) At least 21 days notice must be given of a meeting of a co-operative at which a resolution will be moved to remove an auditor under section 329 of the Corporations Act (being an applied provision).

[82] Section 329 (8)

Omit “Subject to subsection (9), the”. Insert instead “The”.

[83] Section 329 (9)

Omit the subsection.

[84] Section 329 (11) (c)

Omit “prescribed form”. Insert instead “form approved by the Registrar”.

[85] Section 330

Omit the section. Insert instead:

330 Effect of winding up on office of auditor

An auditor of a co-operative ceases to hold office if:

- (a) a special resolution is passed in accordance with section 189 of the *Co-operatives Act 1992* for the voluntary winding up of the co-operative, or
- (b) a certificate is issued by the Registrar for the winding up of the co-operative, or
- (c) an order is made by the Court for the winding up of the co-operative.

[86] Part 2M.4, Division 7 (sections 331AAA–331AE)

Omit the Division.

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Part 2M.7 Sanctions for contraventions of Chapter

[87] Section 344 (1)

Omit “company, registered scheme or disclosing entity”.

Insert instead “co-operative”.

Co-operatives Regulation 2005

Prescribed information relating to proposed compromise or arrangement Schedule 4

Schedule 4 Prescribed information relating to proposed compromise or arrangement

(Clause 31)

1 Definitions

In this Schedule:

internal creditor means a creditor who is:

- (a) a member of the co-operative, or
- (b) a relative of a member, or
- (c) a relative of the spouse of a member.

marketable securities has the same meaning as it has in the Corporations Act.

relative has the same meaning as it has in the Corporations Act.

Scheme means the proposed compromise or arrangement.

scheme creditors means the creditors or class of creditors of a co-operative to whom the Scheme would apply.

scheme members means the members or class of members of a co-operative to whom the Scheme would apply.

2 Prescribed information relating to proposed compromise or arrangement with creditors or class of creditors

- (1) The prescribed information that must be included in a draft explanatory statement or explanatory statement (as the case may be) in relation to a proposed compromise or arrangement between a co-operative and any of its creditors is:
 - (a) the expected dividend that would be available to scheme creditors if the co-operative were to be wound up within 6 months after the date of the hearing of the application to the Court for an order under section 345 (1) of the Act, and
 - (b) if a composition of debts is proposed, the expected dividend that would be paid to scheme creditors if the Scheme were put into effect as proposed, and
 - (c) a list of the names of all known scheme creditors and the debts owed to those creditors, and
 - (d) if a scheme creditor is known to be a guaranteed creditor, the name of the creditor and the amount of the debt owed, and
 - (e) if a scheme creditor is known to be an internal creditor, the name of the creditor and the amount of the debt owed.

Co-operatives Regulation 2005

Schedule 4 Prescribed information relating to proposed compromise or arrangement

-
- (2) The statement referred to in subclause (1) must contain a statement that an order under section 345 (1) of the Act is not an endorsement of, or any other expression of opinion on, the Scheme.
- (3) The statement referred to in subclause (1) must contain or include:
- (a) a report on the affairs of the co-operative in or to the effect of the form approved by the Registrar, showing the financial position of the co-operative as at a day within one month of the date on which it is intended to apply to the Court for an order under section 345 (1) of the Act, and
 - (b) a copy, certified by a director or by the principal executive officer or a secretary of the co-operative to be a true copy, of all financial statements (if any) required to be laid before the co-operative at the annual general meeting, together with a copy of every document required by law to be annexed to the statements, and
 - (c) if the co-operative the subject of the Scheme is a trustee, a statement:
 - (i) of the number of trusts administered by the trustee, and
 - (ii) whether the trustee carries on any business separate from that of the trust, and
 - (iii) how the scheme creditors may obtain a copy of the relevant trust deed, free of charge, before the date of the meeting, and
 - (d) if the person (if any) who would be appointed to manage the Scheme proposes to charge for his or her services and for the services of his or her staff in accordance with a particular scale of charges, that scale of charges.

3 Prescribed information relating to proposed compromise or arrangement with members or a class of members

- (1) The prescribed information that must be included in a draft explanatory statement or explanatory statement (as the case may be) in relation to a proposed compromise or arrangement between a co-operative and any of its members is:
- (a) unless the co-operative the subject of the Scheme is in the course of being wound up or is under official management, in relation to each director of the co-operative:
 - (i) whether the director recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his or her reasons for so recommending, or
 - (ii) if the director is not available to consider the Scheme, that the director is not so available and the cause of his or her not being available, or

Co-operatives Regulation 2005

Prescribed information relating to proposed compromise or arrangement

Schedule 4

-
- (iii) in any other case, that the director does not desire to make, or does not consider himself or herself justified in making, a recommendation and, if the director so requires, his or her reasons for not wishing to do so, or
 - (b) if the co-operative is in the course of being wound up or is under official management, in relation to each liquidator or each official manager:
 - (i) whether he or she recommends acceptance of the Scheme or recommends against acceptance and, in either case his or her reasons for so recommending, or
 - (ii) in any other case, that the liquidator or official manager does not wish to make a recommendation and his or her reasons for not wishing to do so.
 - (2) The statement referred to in subclause (1) must set out:
 - (a) the number, description and amount of marketable securities of the co-operative the subject of the Scheme held by or on behalf of each director of the co-operative or, if none are held by or on behalf of a director, a statement to that effect, and
 - (b) for each director of the co-operative by whom or on whose behalf shares in that co-operative are held, whether:
 - (i) the director intends to vote in favour of, or against, the Scheme, or
 - (ii) the director has not decided whether he or she will vote in favour of, or against, the Scheme, and
 - (c) if the other party to the proposed reconstruction or amalgamation is, or includes, a body corporate, whether any marketable securities of the body corporate are held by, or on behalf of, any director of the co-operative the subject of the Scheme and, if so, the number, description and amount of those marketable securities, and
 - (d) particulars of any payment or other benefit that is proposed to:
 - (i) be made or given to any director, secretary or executive officer of the co-operative the subject of the Scheme as compensation for loss of, or as consideration for or in connection with his or her retirement from, office in that co-operative or in a related body corporate, or
 - (ii) be made or given to any director, secretary or executive officer of any related body corporate as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in that body corporate or in the co-operative the subject of the Scheme, and

Co-operatives Regulation 2005

Schedule 4 Prescribed information relating to proposed compromise or arrangement

-
- (e) if there is any other agreement or arrangement made between a director of the co-operative the subject of the Scheme and another person in connection with or conditional on the outcome of the Scheme, particulars of the agreement or arrangement, and
 - (f) if the object of the Scheme is for a co-operative to acquire control of a company, particulars of the nature and extent of any interest of a director of that company in any contract entered into by the co-operative, and
 - (g) whether, within the knowledge of the directors of the co-operative the subject of the Scheme or, if the co-operative is in liquidation or under official management, the knowledge of the liquidator or the official manager, the financial position of the co-operative has materially changed since the date of the last balance sheet laid before the co-operative in general meeting and, if so, full particulars of any change, and
 - (h) any other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any director, liquidator or official manager of a co-operative the subject of the Scheme or of a related company and that has not previously been disclosed to the Scheme members.
- (3) If:
- (a) the other party to the proposed reconstruction or amalgamation of the co-operative the subject of the Scheme has a prescribed share holding in the co-operative, or
 - (b) a director of any body corporate that is the other party to the proposed reconstruction or amalgamation is a director of a co-operative the subject of the Scheme,
- the statement must include a copy of a report made by an expert who is not associated with the body corporate that is the other party, stating whether or not, in his or her opinion, the proposed Scheme is in the best interest of the members of the co-operative the subject of the Scheme and setting out his or her reasons for that opinion.
- (4) If the co-operative the subject of the Scheme obtains 2 or more reports, each of which could be used for the purposes of subclause (3), the statement must include a copy of each report.
- (5) If:
- (a) the co-operative the subject of the Scheme obtains a report for the purposes of subclause (3), and

Co-operatives Regulation 2005

Prescribed information relating to proposed compromise or arrangement

Schedule 4

-
- (b) the report contains:
- (i) a forecast of the profits or profitability of the co-operative, or
 - (ii) a statement that the market value of an asset or assets of the co-operative or of a related body corporate differs from an amount at which the value of the asset or assets is shown in the books of the co-operative or the related body corporate,
- that report must not be included in the statement except with the consent in writing of the Registrar and in accordance with such conditions (if any) as are stated by the Registrar.
- (6) For the purposes of subclause (3):
- (a) a person has a prescribed share holding in a co-operative if he or she is entitled to not less than 30 per cent of the shares in the co-operative, and
 - (b) a person has a prescribed share holding in a co-operative in which the shares are divided into 2 or more classes of shares, if he or she is entitled to not less than 30 per cent of the shares in one of those classes.
- (7) If the consideration to be offered to scheme members consists, in whole or in part, of marketable securities issued, or to be issued, by a body corporate, the statement must set out the formula to be applied to find out the number of marketable securities to be issued to each scheme member, and the basis on which that formula was developed.
- (8) If marketable securities of the same class as those referred to in subclause (7) are granted official quotation on a securities exchange, the statement must state the fact, specify the securities exchange concerned, and set out:
- (a) the latest recorded sale price before the date on which the statement is sent to the Registrar, and
 - (b) the highest and lowest recorded sale prices during the 3 months immediately before that date and the dates of the relevant sales, and
 - (c) if the Scheme has been the subject of a public announcement in newspapers or by any other means before the statement has been sent to the Registrar, the latest recorded sale price immediately before the public announcement.
- (9) If the marketable securities referred to in subclause (7) are granted official quotation on more than one securities exchange, it is sufficient compliance with subclause (8) (a) and (c) if information on the marketable securities is given for the securities exchange at which there

Co-operatives Regulation 2005

Schedule 4 Prescribed information relating to proposed compromise or arrangement

has been the greatest number of recorded dealings in the securities in the 3 months immediately before the date on which the statement is sent to the Registrar.

- (10) If the securities referred to in subclause (7) have not been granted official quotation on a securities exchange, the statement must set out all the information that a director, liquidator or official manager of the co-operative the subject of the Scheme or of a related body corporate has about the number of securities that have been sold in the 3 months immediately before the date on which the statement was prepared and the price of those securities or, if that information or any part of that information cannot be ascertained, must include a statement to that effect.
- (11) The statement must set out particulars of the intentions of the directors of the co-operative the subject of the Scheme regarding:
- (a) the continuation of the business of the co-operative or, if the undertaking, or any part of the undertaking, of a co-operative is to be transferred, how that undertaking or part is to be conducted in the future, and
 - (b) any major changes to be made to the business of the co-operative, including any redeployment of the fixed assets of the co-operative, and
 - (c) the future employment of the present employees of the co-operative.

Co-operatives Regulation 2005

Prescribed offices

Schedule 5

Schedule 5 Prescribed offices

(Clause 46)

COMMONWEALTH

- 1 The Treasurer.
- 2 A trustee under Part IV, X or XI of the *Bankruptcy Act 1966* of the Commonwealth.
- 3 The following officers of the Australian Securities and Investments Commission under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth:
 - (a) the Chairperson, Deputy Chairperson or member of the Commission,
 - (b) the President or a member of the Takeovers Panel.

AUSTRALIAN CAPITAL TERRITORY

- 4 Treasurer.
- 5 The Public Trustee under the *Administration and Probate Act 1929* and the *Public Trustee Act 1985* of the Australian Capital Territory.
- 6 A Registrar or Master of the Supreme Court of the Australian Capital Territory.

NEW SOUTH WALES

- 7 Treasurer.
- 8 The Public Trustee under the *Public Trustee Act 1913*.
- 9 A master under Division 1 of Part 8 of the *Supreme Court Act 1970*.
- 10 The Supervisor of Loan Fund Companies under the *Loan Fund Companies Act 1976*.
- 11 The Protective Commissioner under the *Protected Estates Act 1983*.

NORTHERN TERRITORY

- 12 Treasurer.
- 13 The Public Trustee under the *Public Trustee Act* of the Northern Territory.

Co-operatives Regulation 2005

Schedule 5 Prescribed offices

14 A Master of the Supreme Court of the Northern Territory.

15 The Commissioner for Corporate Affairs.

QUEENSLAND

16 Treasurer.

17 The Commissioner for Corporate Affairs.

18 The Public Trustee under the *Public Trustee Act 1978* of Queensland.

19 A Registrar of the Supreme Court of Queensland.

SOUTH AUSTRALIA

20 Treasurer.

21 The Public Trustee under the *Public Trustee Act 1995* of South Australia.

22 A Master or Assessor under the *Supreme Court Act 1935* of South Australia.

TASMANIA

23 Treasurer.

24 An administrator under Chapter 49 of the *Criminal Code Act 1924* of Tasmania.

25 The Commissioner for Corporate Affairs.

26 The Public Trustee under the *Public Trustee Act 1930* of Tasmania.

27 A Registrar of the Supreme Court of Tasmania.

VICTORIA

28 Treasurer.

29 The Commissioner for Corporate Affairs.

30 State Trustees within the meaning of the *State Trustees (State Owned Company) Act 1994* of Victoria.

31 A Master under the *Supreme Court Act 1986* of Victoria.

Co-operatives Regulation 2005

Prescribed offices

Schedule 5

WESTERN AUSTRALIA

- 32** Treasurer.
- 33** The Commissioner for Corporate Affairs.
- 34** The Public Trustee under the *Public Trustee Act 1941* of Western Australia.
- 35** A Master or Registrar of the Supreme Court of Western Australia under the *Supreme Court Act 1935* of Western Australia.

Co-operatives Regulation 2005

Schedule 6 Fees

Schedule 6 Fees

(Clause 55)

Column 1	Column 2	Column 3	Column 4
Item	Section of Act	Type of fee	Amount
1	19	Application to Registrar for registration— proposed co-operative	\$119 non-trading \$180 trading
2	24	Application to Registrar for registration— existing body corporate	\$180
3	28G	Issue of duplicate certificate	\$31
4	67 (2)	Application for Registrar's certificate	\$31
5	76A (2)	Application for Registrar's consent	\$61
6	108 (3)	Copy of rules	\$15 for the first page and \$1 for each page thereafter
7	113 (2)	Application for registration of rule alteration	\$13 per rule to a maximum of \$120
8	113 (5)	Issue of certificate of registration of rule alteration	\$31
9	125 (1)	Application to Council for review	\$61
10	126 (3)	Application to Registrar for determination of a member's eligibility to vote	\$119
11	136 (6)	Application to Council for reduction in period for repayment	\$240
12	143	Application to Minister for exemption	\$240
13	145 (1)	Application to Council for approval to convert to a co-operative without share capital	\$61
14	155 (3) (a)	Application to Registrar for approval of disclosure statement	\$240
15	172 (3)	Application to Council for exemption regarding purchase and repayment of shares	\$240

Co-operatives Regulation 2005

Fees

Schedule 6

Column 1 Item	Column 2 Section of Act	Column 3 Type of fee	Column 4 Amount
16	177 (1) (a)	Application to Council for approval of rules restricting voting rights	\$240
17	178 (2)	Application to Council for review of voting entitlement	\$240
18	192 (2) (c)	Lodgment of special resolution (not involving alteration of rules)	\$13 per resolution to a maximum of \$120
19	192A (3)	Issue of certificate of registration of special resolution	\$31
20	194 (3)	Application to Registrar for approval of disclosure statement	\$240
21	212 (1) (c)	Application to Registrar for approval to fill a casual vacancy on a board an alternative manner	\$61
22	216 (3) (b)	Application to Council for approval of co-operative to have employee director	\$61
23	243	Lodgment by a disclosing entity that is a co-operative of an annual financial report and an annual director's report pursuant to sections 292 and 319 of the Corporations Act (as applied by section 243 of the Act)	Nil
24	244 (1)	Application to Registrar for exemption	\$240
25	250 (1) (d)	Approval of office where register is to be kept	\$31
26*	251 (5)	Obtaining copy of an entry in the Register	\$7 for the first page and \$1 for each page thereafter to a maximum of \$60 per document
27	252 (1)	Lodgment of annual report:	
		(a) on or before the due date	Nil
		(b) more than 1 day but less than 28 days after the due date	\$89
		(c) 28 days or more after the due date	\$180

Co-operatives Regulation 2005

Schedule 6 Fees

Column 1 Item	Column 2 Section of Act	Column 3 Type of fee	Column 4 Amount
28	255 (5) (g)	Application to Registrar for exemption to use the word "Co-operative" or abbreviation	\$300
29	256	Application to Registrar for approval of the omission of the word "Limited" or abbreviation	\$61
30	257 (e)	Application to Registrar for approval of abbreviation or elaboration of name	\$31
31	259 (1)	Application to Registrar for approval of change of name	\$61
32	261 (3)	Lodgment of notice of change of address	Nil
33	266 (1)	Lodgment of disclosure document under sections 706, 707, 721 and 727 of the Corporations Act (as applied by section 266 of the Act)	\$1,798
34	266 (1)	Lodgment of supplementary or replacement disclosure document under section 719 of the Corporations Act (as applied by section 266 of the Act)	Nil
35	266 (1)	Lodgment of disclosure document under section 707 of the Corporations Act (as applied by section 266 of the Act) relating to sale of unquoted securities	\$240
36	266 (4)	Application to Registrar for exemption	\$240
37	266A (2)	Application to Registrar for approval of disclosure statement	\$240
38	268 (3) (a)	Application to Registrar for approval of disclosure statement	\$240
39	273 (1) (c)	Application to Registrar for approval of terms of issue of CCUs	\$240
40	282 (3)	Application to Registrar for approval of limited dividend amount or rate in excess of prescribed amount	\$240
41	285 (2)	Application to Council for exemption	\$240
42	289 (3)	Application to Council for approval of maximum share interest	\$240
43*	294 (2) (b)	Inspection of register of notifiable interests	\$31

Co-operatives Regulation 2005

Fees

Schedule 6

Column 1 Item	Column 2 Section of Act	Column 3 Type of fee	Column 4 Amount
44	298	Application to Registrar for exemption	\$240
45	300 (1)	Application to Council for approval of share offer	\$240
46	302 (4)	Application to Registrar for extension of period of share offer	\$61
47	308	Application to Council for exemption	\$240
48	311 (2)	Application for Registrar's consent	\$61
49	311A (2)	Application to Registrar for approval of disclosure statement	\$240
50	311B (1)	Application to Registrar for approval of merger or transfer of engagements	\$61
51	312	Application to Council for exemption	\$61
52	316 (4)	Application to Council for exemption	\$240
53	325	Application to Registrar to exercise powers conferred by section 601AE or 601AF of the Corporations Act (as applied by section 325 of the Act)	\$61
54	326 (2)	Application to Council for exemption	\$61
55	346 (1) (a)	Application for Registrar's permission	\$61
56	348 (1) (f)	Application to Registrar for direction	\$240
57	355 (1)	Application to Registrar for approval of explanatory statement	\$1798
58	357 (5)	Lodgment of copy of order	\$31
		Additional fee for late lodgment	\$61
59	369E (2) (f)	Application to Registrar for registration—participating co-operative	\$240
60	369F (2) (d)	Application to Registrar for registration—non-participating co-operative	\$598
61	369K	Lodgment of particulars of alteration	\$31
		Additional fee for late lodgment	\$61
62	369L (1)	Lodgment of balance sheet:	
		(a) on or before the due date	Nil

Co-operatives Regulation 2005

Schedule 6 Fees

Column 1 Item	Column 2 Section of Act	Column 3 Type of fee	Column 4 Amount
		(b) more than 1 day but less than 28 days after the due date	\$89
		(c) 28 days or more after the due date	\$180
63	369M (1)	Lodgment of notice of cessation of business—foreign co-operative	Nil
64	369N (1)	Application to Registrar for certificate of compliance	\$719
65	369Q (3) (a)	Application for Registrar's consent	\$240
66	369R (2)	Application to Registrar for approval of disclosure statement	\$240
67	369R (4)	Application to Registrar for exemption	\$240
68	369S (1)	Application to Registrar for approval of merger or transfer of engagements	\$240
69	402 (1) (a)	Application to Registrar for special meeting	\$240
70	402 (1) (b)	Application to Registrar for inquiry	\$598
71	408 (1)	Application to Registrar for extension or abridgment of time	\$61
72	413A (1) (a)	Inspection of Register	\$15
73	413A (1) (b)	Inspection of prescribed document	\$15
74	413A (1) (c)	Certified copy of a document	\$16 for the first page and \$2 for each page thereafter
75	421 (1A)	Application to Registrar for certificate of compliance	\$61
76	421 (1B)	Application to Registrar for certificate stating that a body was not or had ceased to be registered as a co-operative	\$31
77	440A (2) (c)	Application to Registrar for permission to give notice by newspaper	\$61
78	Sch 3 cl 13 (1)	Lodgment of notice of charge	\$61
79	Sch 3 cl 17 (1) (a)	Lodgment of notice of acquisition of property subject to charge	\$61

Co-operatives Regulation 2005

Fees

Schedule 6

Column 1	Column 2	Column 3	Column 4
Item	Section of Act	Type of fee	Amount
80	Sch 3 cl 20 (3) (c)	Application to Registrar for extension of time	\$61
81	Sch 3 cl 36 (1)	Lodgment of notice of assignment of charge	\$61
82	Sch 3 cl 36 (2)	Lodgment of notice of variation of terms of charge	\$61
83	Sch 3 cl 37 (2)	Lodgment of memorandum of discharge	\$31
84	Sch 3 cl 42 (1) and (3)	Request for certificate	Nil
85	Sch 3 cl 44	Application to Registrar for exemption	\$240
86	Sch 4 cl 3 (1) (f)	Application to Registrar for direction	\$240
87	Sch 4 cl 6A (2)	Lodgment of managing controller's report:	
		(a) on or before the due date	Nil
		(b) more than 1 day but less than 28 days after the due date	\$89
		(c) 28 days or more after the due date	\$180
88	Sch 4 cl 6A (3) (b)	Inspection of managing controller's report	\$13
89	Sch 4 cl 7 (1) (c)	Lodgment of receiver's report	Nil
90	Sch 4 cl 12 (1) (a)	Lodgment of notice of order	Nil
		Additional fee for late lodgment	\$31
91	Sch 4 cl 12 (2) (a)	Lodgment of notice of appointment of controller	Nil
		Additional fee for late lodgment	\$31
92	Sch 4 cl 12 (3) (a)	Lodgment of notice that person has entered into possession or taken control of property of co-operative	Nil
		Additional fee for late lodgment	\$31
93	Sch 4 cl 12 (5)	Lodgment of notice of change in situation of controller's officer	Nil

Co-operatives Regulation 2005

Schedule 6 Fees

Column 1 Item	Column 2 Section of Act	Column 3 Type of fee	Column 4 Amount
		Additional fee for late lodgment	\$31
94	Sch 4 cl 12 (6) (a)	Lodgment of notice of cessation as controller	Nil
		Additional fee for late lodgment	\$31
95	Sch 4 cl 14 (2) (c)	Lodgment of copy of controller's report	Nil
		Additional fee for late lodgment	\$31
96	Sch 4 cl 14 (4)	Lodgment of notice by controller that extension of time within which to report has been granted	Nil
		Additional fee for late lodgment	\$31
97	Sch 4 cl 14 (5)	Lodgment of copy of court order that extension of time within which to report has been granted	Nil
		Additional fee for late lodgment	\$31
98	Sch 4 cl 17 (1)	Lodgment of controller's financial statement:	
		(a) on or before the due date	Nil
		(b) more than 1 day but less than 28 days after the due date	\$89
		(c) 28 days or more after the due date	\$180
99		Lodgment of any other document under the Act	Nil
		Additional fee for late lodgment	\$31
100		Lodgment of any other document under the Corporations Act as adopted by the Act	Nil

*Fees payable to the co-operative

Co-operatives Regulation 2005

Forms

Schedule 7

Schedule 7 Forms

Form 1 Annual report

(Clause 17)

Part A

Co-operatives Act 1992 (Section 252 (1) (e))

Co-operative name:

A.R.B.N. (if applicable): Telephone:

Address of registered office:

Co-operative No:

* Signature

Date

Financial year ended 20.....		Last year 20.....		Financial year ended 20.....		Last year 20.....	
ANZSIC	%	ANZSIC	%	LGA	%	LGA	%

		Financial year ended 20.....	Last year 20.....
NUMBER OF DIRECTORS:	Active member directors		
	Employee directors		
	Other independent directors		

Co-operatives Regulation 2005

Schedule 7 Forms

		Financial year ended 20.....	Last year 20.....
EXPORTS:	Value of exports		
	% of total sales		

Total turnover (including ancillary income)		
Cost of goods sold		
Total interest paid or provided		
Number of members		
Number of employees		

Does the co-operative have an exemption from clause 13 of the <i>Co-operatives Regulation 2005</i> ?	Yes/No	
	If yes, please specify details	

* May be signed by secretary, director or principal executive officer

Co-operatives Regulation 2005

Forms

Schedule 7

Co-operative name:

Financial year ended:

ANNUAL REPORT—MOVEMENT—SHARE VALUES (WHOLE DOLLARS)

Section of Act	SHARES					
		Section 151	Sections 151 (4) (a), 156, and 282 (1) (b)	Section 154	Section 155	
Narration	Shares	Issue of shares at a premium	Bonus shares issue	Issue of shares to active members in exchange for property	Members may be required to take up additional shares	Total
\$	\$	\$	\$	\$	\$	\$
Balance at beginning of year						
Additions						
Transfers						
Sub-total						
Forfeiture						
Re-purchase non-active						
Re-purchase active						
Transfers						
Sub-total						
Balance at end of year						

Co-operatives Regulation 2005

Schedule 7 Forms

ANNUAL REPORT—MOVEMENT—LOANS & CCUs (WHOLE DOLLARS)

Section of Act	DEPOSITS & DEBENTURES			LOANS	CCUs	
	Section 263A	Section 266	Section 266A	Section 268	Part 10, Division 2	
Narration	Deposits	Debentures	Debentures	Loans	CCUs to members	CCUs to non-members
	\$	\$	\$	\$	\$	\$
Balance at beginning of year						
Additions						
Transfers						
Sub-total						
Repayment						
Transfers						
Sub-total						
Balance at end of year						

Co-operative name:

BALANCE SHEET

	Financial year ended 20.....	Last year 20.....
	\$	\$
CURRENT ASSETS		
Cash		
Receivables		
Investments		
Inventories		

Co-operatives Regulation 2005

Forms

Schedule 7

	Financial year ended 20.....	Last year 20.....
	\$	\$
Other		
Total current assets		
NON-CURRENT ASSETS		
Receivables		
Investments		
Inventories		
Property, plant & equipment		
Intangibles		
Other		
Total non-current assets		
TOTAL ASSETS		
CURRENT LIABILITIES		
Creditors and borrowings		
Provisions		
Other		
Total current liabilities		
NON-CURRENT LIABILITIES		
Creditors and borrowings		
Provisions		
Other		
Total non-current liabilities		
TOTAL LIABILITIES		
NET ASSETS		
SHAREHOLDERS EQUITY		
Share capital		

Co-operatives Regulation 2005

Schedule 7 Forms

	Financial year ended 20.....	Last year 20.....
	\$	\$
Reserves		
Retained profits or accumulated losses		
Shareholders' equity attributable to members of the chief entity within the meaning of the Corporations Law		
Outside equity shareholders' interest in controlled entities		
TOTAL SHAREHOLDERS' EQUITY		

Co-operative name:

PROFIT & LOSS ACCOUNT

	Financial year ended 20.....	Last year 20.....
	\$	\$
Operating profit and loss		
Income tax attributable to operating profit or loss		
Operating profit or loss after income tax		
Profit or loss on extraordinary items		
Income tax attributable to profit or loss on extraordinary items		
Profit or loss on extraordinary items after income tax		
Operating profit or loss and extraordinary items after income tax		
Outside equity interests in operating profit or loss and extraordinary items after income tax		

Co-operatives Regulation 2005

Forms

Schedule 7

	Financial year ended 20.....	Last year 20.....
	\$	\$
Operating profit or loss and extraordinary items after income tax attributable to members of the chief entity within the meaning of the Corporations Law		
Retained profits or accumulated losses at the beginning of the financial year		
Aggregate of amounts transferred from reserves		
Total available for appropriation		
Dividends provided for or paid		
Rebates and bonuses provided for or paid		
Aggregates of amounts transferred to reserves		
Other appropriations		
Retained profits or accumulated losses at the end of the financial year		

Notes to and forming part of the financial statements are attached Yes No

Subject to any exemption granted by the Registrar, the following documents should be attached at the time of lodgment of this return:

- (1) Auditors' or directors' report (section 252 (1) (d))
- (2) Directors' statement (section 301 of the *Corporations Act 2001* of the Commonwealth as adopted by clause 13)
- (3) Accounts as submitted to the members (section 252 (1) (b))
- (4) List of directors and principal executive officers (section 252 (1) (a) and Part B of this Form)
- (5) Declarations of interest (section 234 (1) and Part C of this Form)

Co-operatives Regulation 2005

Schedule 7 Forms

PART B

Co-operative No

LIST OF DIRECTORS AND PRINCIPAL EXECUTIVE OFFICERS

Co-operatives Act 1992 (Section 252 (1) (a))

Name of Co-operative

I being *a director/*the principal executive officer/*a secretary of the abovenamed co-operative, give notice that the undermentioned persons:

- * (1) are the directors of the co-operative as at the date of this annual report
- * (2) are the directors of a subsidiary of the co-operative as the date of this annual report

Surname	Given names (in full)	Date of birth	Residential address	Office held	Date of appointment

*The principal executive officer of the co-operative at the date of this annual report is

*The principal executive officer of a subsidiary of the co-operative at the date of this annual report is

Has the address of the registered office changed? *Yes/*No

If yes, specify new address (Telephone)

Dated 20..... (Signature)

To the Registrar of Co-operatives
PO Box 3035
BANKSTOWN 2200

* Strike out words not applicable

Co-operatives Regulation 2005

Forms

Schedule 7

Part C

Co-operative No

DECLARATIONS OF INTEREST

Co-operatives Act 1992 (Section 234)

Name of Co-operative

The declarations of interest listed below were made to the board of directors of the co-operative under section 234 of the *Co-operatives Act 1992* during the financial year ended on 20..... .

Surname of director	Given names (in full)	Date of declaration	Contract or proposed contract referred to in declaration	Nature of interest	Whether contract entered into by co-operative	Nature, character and extent of conflict—eg office or property held

Note. A co-operative must hold its annual general meetings (after the first annual general meeting) within 5 months after the close of the financial year of the co-operative (section 198 (2) (a) of the *Co-operatives Act 1992*) unless further time is allowed under section 198 (2) (b).

This report (together with the documents listed at the end of Part A) must be sent to the Registrar of Co-operatives within 28 days after the annual general meeting of the co-operative (section 252 (2) (a) of the *Co-operatives Act 1992*). A late lodgment fee is payable if the report is sent after that time.

Co-operatives Regulation 2005

Schedule 7 Forms

Form 2 Compulsory acquisition notice

(Clause 32)

Co-operatives Act 1992 (Section 360 (1))

1. To: *(name of dissenting shareholder)*
of: *(address of dissenting shareholder)*
 - A. The transferee *(insert name of person giving notice)* on *(insert date)* made an offer to the holders of *shares in *(insert name)* Co-operative Limited/*shares included in a class of shares in *(insert name)* Co-operative Limited for the transfer of those shares to the transferee, not being an offer made under a scheme or contract to which Division 2 of Part 11 of the *Co-operatives Act 1992* applies, and
 - B. The scheme or contract involving the transfer of those shares to the transferee was on or before *(insert date)* approved by the holders of at least 90% in nominal value of all the shares concerned, other than excluded shares, and
 - C. You are a dissenting shareholder.
2. The transferee gives you notice under section 360 (1) of the *Co-operatives Act 1992* that the transferee desires to acquire those shares held by you.
3. You are entitled under section 360 (2) of the *Co-operatives Act 1992* to ask the transferee, by written notice given to the transferee within one month after the day on which this notice is given, to give you a statement in writing of the names and addresses of all other dissenting shareholders as shown in the register of members.
- *4. You are entitled not later than the expiration of 28 days after the date on which this notice is given or 14 days after the date on which a statement is supplied to you under section 360 (2) of the *Co-operatives Act 1992*, whichever is the later, to elect, by notice to the transferee, which of the alternative terms offered to the approving shareholders under the scheme or contract you prefer. The alternative terms are as follows: *(insert details)*
5. Unless, on application made by you within 28 days after the date on which this notice is given or within 14 days after a statement is supplied to you under section 360 (2) of the *Co-operatives Act 1992*, the Supreme Court otherwise orders, the transferee will be entitled and bound subject to section 360 (2) to acquire your shares:
 - (a) on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee, or
 - (b) if alternative terms were offered:
 - (i) on the terms for which you have elected, or

Co-operatives Regulation 2005

Forms

Schedule 7

(ii) if you have not so elected, on whichever of those terms the transferee determines unless the Supreme Court otherwise orders.

Dated 20

.....

(Signature of transferee)

* Strike out words not applicable

Form 3 Notice to remaining shareholder

(Clause 33)

Co-operatives Act 1992 (Section 362 (1) (a))

- 1. To: *(name of remaining shareholder)*
of: *(address of remaining shareholder)*
 - A. The transferee *(insert name of person giving notice)* on *(insert date)* made offers to the holders of *shares in *(insert name of co-operative)* Co-operative Limited/*shares included in a class of shares in *(insert name of co-operative)* Co-operative Limited for the transfer of those shares to the transferee, not being offers made under a scheme or contract to which Division 2 of Part 11 of the *Co-operatives Act 1992* applies, and
 - B. Under the scheme or contract the transferee became on *(insert date)* beneficially entitled to shares in that co-operative which together with any other shares in that co-operative to which the transferee, or the transferee and any body corporate related to the transferee, is beneficially entitled, comprise or include 90% in nominal value of the shares concerned, and
 - C. You are the holder of remaining shares *in that co-operative/*included in that class of shares in that co-operative and have not assented to the scheme or contract or been given notice in respect of those shares by the transferee under section 360 (1) of the *Co-operatives Act 1992*.
- 2. The transferee gives you notice under section 362 (1) (a) of the *Co-operatives Act 1992* that under that scheme or contract the transferee on *(insert date)* became beneficially entitled to shares in *(insert name of co-operative)* Limited and those shares together with any other shares in that co-operative to which the transferee, or the transferee and any body corporate related to the transferee, is beneficially entitled, comprise or include 90% in nominal value of the shares *in that co-operative/*included in that class of shares in that co-operative.
- 3. You are entitled under section 362 (1) (b) of the *Co-operatives Act 1992* within 3 months after being given this notice, by notice to the transferee to require the transferee to acquire your shares.
- *4. You are entitled under section 362 (1) (b) of the *Co-operatives Act 1992*, within 3 months after being given this notice to elect by notice to the transferee which of the alternative terms offered to the approving shareholders under the scheme or contract you will accept. The alternative terms are as follows: *(insert details)*

Co-operatives Regulation 2005

Schedule 7 Forms

-
- 5. If you require the transferee to acquire the shares held by you, the transferee will be entitled and bound to acquire those shares:
 - (a) on the terms that under the scheme or contract were offered to the approving shareholders, or
 - (b) if alternative terms were offered:
 - (i) on the terms for which you have elected, or
 - (ii) if you do not so elect, on whichever of the terms the transferee determines, or
 - (c) on such other terms as are agreed or as the Supreme Court on the application of the transferee or of yourself orders.

Dated 20
.....

(Signature of transferee)
* Strike out words not applicable

Form 4 Notice to appear, answer questions and produce documents

(Clause 40)

Co-operatives Act 1992 (Section 375 (1))

To: *(name of co-operative or person)*

In relation to an inspection of *(name of co-operative)*, you are required:

- *(a) to produce to me on *(date)* at *(time)* at *(full details of place)* the documents specified in the Schedule to this notice relating to the co-operative, and
- *(b) to attend on *(date)* at *(time)* before *(name of inspector)* at *(full details of place)* to answer any questions relating to the promotion, formation, membership, control, transactions, dealings, business or property of the co-operative.

Please note section 380 of the *Co-operatives Act 1992* (relating to self-incrimination).

SCHEDULE

.....
Signed by the inspector

.....
Date
* Strike out words not applicable

Co-operatives Regulation 2005

Forms

Schedule 7

Form 5 Investigator’s notice to involved person

(Clause 41)

Co-operatives Act 1992 (Section 387 (1))

To: *(name of involved person)*

In relation to an inquiry into the affairs of *(name of co-operative)*, you are required:

- * (a) to produce to me on *(date)* at *(time)* at *(full details of place)* the documents referred to in the Schedule to this notice that are in your custody or control and that relate to the affairs of *(name of co-operative)*,
- * (b) to give all reasonable assistance in connection with the inquiry,
- * (c) to appear on *(date)* at *(time)* before *(name of investigator)* at *(full details of place)* for examination on oath or affirmation.

Please note the provisions of section 388 (1) of the *Co-operatives Act 1992* (relating to legal representation) and section 388 (2) and (3) of the *Co-operatives Act 1992* (relating to self-incrimination).

SCHEDULE

.....
Signed by the investigator

.....
Date

* *Strike out words not applicable*

Co-operatives Regulation 2005

Forms

Schedule 7

Assets and Liabilities

Date specified under the relevant section as the date of the report (see directions) // (d/m/y)

	Valuation (for each entry show whether cost or net book amount)	Estimated Realisable values
	\$	\$
1. Assets not specifically charged— (a) Interests in land as detailed in Schedule A (b) Sundry debtors as detailed in Schedule B (c) Cash on hand (d) Cash at bank (e) Stock as detailed in annexed inventory (f) Work in progress as detailed in annexed inventory (g) Plant and equipment as detailed in annexed inventory (h) Other assets as detailed in Schedule C Sub Total		
2. Assets subject to specific charges, as detailed in Schedule D Less amounts owing as detailed in Schedule D Total Assets Total estimated realizable values		
3. Less payable in advance of secured creditor(s) Amounts owing for tax instalment deductions and prescribed payments tax Amounts owing for employee entitlements as detailed in Schedule E		
4. Less amounts owing and secured by debenture or floating charge over assets		
5. Less preferential claims ranking behind secured creditors, as detailed in Schedule F		

Co-operatives Regulation 2005

Schedule 7 Forms

	Valuation (for each entry show whether cost or net book amount) \$	Estimated Realisable values \$
6. Balances owing to partly secured creditors as detailed in Schedule G Total claims (\$) () Security held (\$) ()		
7. Creditors (unsecured) as detailed in Schedule H Amount claimed (\$) ()		
8. Contingent assets (\$) () Estimated to produce as detailed in Schedule I		
9. Contingent liabilities (\$) () Estimated to rank as detailed in Schedule J <input type="checkbox"/> Estimated deficiency or <input type="checkbox"/> Estimated surplus <input type="checkbox"/> Subject to costs of administration or <input type="checkbox"/> Subject to costs of liquidation Share capital \$ _____ Issued \$ _____ Paid up \$ _____		

Co-operatives Regulation 2005

Forms

Schedule 7

Schedules**SCHEDULE A
INTERESTS IN LAND**

Address and description of property	Valuation (1)	Estimated realizable value	Valuation for rating purposes	Particulars of tenancy	Where possession of deeds may be obtained	Short particulars of title
	\$	\$	\$			

**SCHEDULE B
SUNDRY DEBTORS (INCLUDING LOAN DEBTORS)**

Name and address of debtor	Amount owing	Amount realizable	Deficiency	Particulars of Security (if any) held	Explanation of deficiency
	\$	\$	\$		

**SCHEDULE C
OTHER ASSETS**

Description of deposit or investment	Cost	Amount Realizable
	\$	\$
Deposits		
Investments		

Co-operatives Regulation 2005

Schedule 7 Forms

**SCHEDULE D
ASSETS SUBJECT TO SPECIFIC CHARGES**

Description of asset	Date charge given	Description of charge	Holder of charge	Terms of repayment	Valuation (1)	Estimated realizable value	Amount owing under charge
					\$	\$	\$

**SCHEDULE E
CLAIMS BY EMPLOYEES**

Employee's name and address	Wages	Holiday pay	Long service leave	Estimated liability
	\$	\$	\$	\$

**SCHEDULE F
PREFERENTIAL CREDITORS (OTHER THAN THOSE DETAILED IN
SCHEDULE E)**

Name and address of preferential creditor	Description of amount owing	Amount owing
		\$

Co-operatives Regulation 2005

Forms

Schedule 7

**SCHEDULE G
PARTLY SECURED CREDITORS**

Name and address of creditor	Particulars of security held	Nature of security	Estimated value of security	Amount owing to creditor	Amount estimated to rank as unsecured
			\$	\$	\$

**SCHEDULE H
UNSECURED CREDITORS**

Name and address of creditor	Amount claimed by creditor	Amount admitted as owing	Reasons for difference between amount claimed and admitted (if any)
------------------------------	----------------------------	--------------------------	---

**SCHEDULE I
CONTINGENT ASSETS**

Description of asset	Gross asset	Estimated to produce
	\$	\$

Co-operatives Regulation 2005

Schedule 7 Forms

**SCHEDULE J
CONTINGENT LIABILITIES**

Name and address of creditor	Nature of liability	Gross liability	Estimated rank for
		\$	\$

Certification

I certify that the particulars contained in the above report as to affairs are true to the best of my knowledge and belief.

Dated this day of 20.....

(1) Indicate in respect of each entry whether cost or net book amount.

DIRECTIONS

1. This report is to be made as at the following dates:
 - (a) where prepared by the managing controller under clause 6A (1) of Schedule 4—a day not later than 30 days before the day when it is prepared,
 - (b) where submitted to a controller under clause 14 (2) (b) of Schedule 4—the control day,
 - (c) where submitted to the controller under clause 15 (1) (c) of Schedule 4—the date specified by the controller by notice.
2. Where this report is required under clause 15 (1) of Schedule 4, the report is to be verified by a statement in writing, in accordance with the form entitled “Statement Verifying Report”, by a person referred to in that subclause.
3. When a copy of this report is lodged with the Registrar of Co-operatives pursuant to clause 14 (2) (c) of Schedule 4, the report must be certified by the controller of the property of the Co-operative as a true copy of the original report.

Additional Requirements

Purpose for lodgment of copy of Statement Verifying Report
(tick appropriate box and complete date)

- by the managing controller of property under clause 6A (2) of Schedule 4 (to be lodged within 2 months after the control day) if a receiver and manager—date of appointment (d/m/y) /..... /.....
if a person who is in possession or has control of the property for the purpose of enforcing a charge date when person took control (d/m/y) /..... /.....

Co-operatives Regulation 2005

Forms

Schedule 7

by the controller of property under clause 14 (2) (c) of Schedule 4 (to be lodged within one (1) month after the receipt of the report date of receipt of report) (d/m/y) /..... /.....

Send to

Registry of Co-operatives & Associations
PO Box 22
154 Russell Street
BATHURST NSW 2795
or
DX 3123 BATHURST

Annexures

- To make any annexure you must
- 1. use A4 size paper of white or light pastel colour
- 2. provide a margin of at least 10mm on all sides
- 3. number the pages consecutively
- 4. print or type in dark blue or black ink, so that the document is clearly legible when photocopied
- 5. identify the annexure with a mark such as A, B, C etc.
- 6. endorse the annexure with the words
The annexure (mark) of (number) pages referred to in Form (form number and title)
- 7. sign and date the form
This annexure must be signed by same person(s) who signed the form.

Form 7 Notification that a person has been appointed controller/entered into possession etc.

(Clause 52)

lodging party or agent name _____

address _____

state _____

telephone _____

facsimile _____

DX number _____

suburb/city _____

Co-operatives Regulation 2005

Schedule 7 Forms

Registry of Co-operatives**Notification that a person has been appointed controller/entered into possession etc.****Form 7****(Clause 52 (1))****Co-operatives Act 1992****(Sch 4, clauses 12 (1) (a), (2) (a) and (3) (a))**

co-operative in respect of which the controller was appointed/entered into possession etc.

Co-operative name _____

A.R.B.N. (if applicable) _____

- This notice is being given by the person who obtained an order for the appointment of, or who appointed, the receiver under clause 12 (1) of Schedule 4
- the appointee of the controller under clause 12 (2) (a) of Schedule 4
- the controller under clause 12 (3) (a) of Schedule 4

Details of the appointment/entry into possession etc.

- (tick one box)
- receiver of the property described in the schedule to this form
- receiver & manager of the property described in the schedule to this form
- controller (other than a receiver or managing controller) of the property described in the schedule to this form
- managing controller (other than a receiver and manager) of the property described in the schedule to this form
- appointment by court order
- court Federal Court of Australia (give State or Territory registry)
- Family Court of Australia (give State or Territory registry)

Co-operatives Regulation 2005

Schedule 7 Forms

country (if not Australia) _____

type of appointment appointed singly
 appointed jointly
 appointed jointly and severally

name (surname & given names) _____

at the office of _____

office, floor, building name _____

street number & name _____

suburb/city _____ state _____ postcode _____

country (if not Australia) _____

type of appointment appointed singly
 appointed jointly
 appointed jointly and severally

Signature

This form must be signed by

- (a) where the form is lodged for the purposes of clause 12 (1) (a) or (2) (a) of Schedule 4, by the person who obtains an order for the appointment of, or who appoints, the controller, or
- (b) where the form is lodged for the purposes of clause 12 (3) (a) of Schedule 4, by the controller.

print name _____ name of corporation (if applicable) _____

capacity director
 secretary
 principal executive officer

sign here _____ date / /

Schedule of property

(if insufficient space) Further details are enclosed in the annexure marked () of () pages

Co-operatives Regulation 2005

Forms

Schedule 7

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BATHURST NSW 2795
or
DX 3123 BATHURST

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 7. sign and date the form
- This annexure must be signed by same person(s) who signed the form.

Form 8 Notification of appointment or cessation as an external administrator

(Clause 52)

lodging party or agent name

address

state

telephone

facsimile

DX number

suburb/city

**Registry of Co-operatives
Notification of appointment or
cessation as an external administrator**

**Form 8
(Clause 52 (2) and (3))
Co-operatives Act 1992
(Sch 4, clause 12 (4) and (6) (a))**

Co-operatives Regulation 2005

Schedule 7 Forms

Co-operative name
 A.R.B.N. (if applicable)

Details of person(s) appointed

name (surname & given names) _____
 at the office of _____
 office, floor, building name _____
 street number and name _____
 suburb/city _____ state _____ postcode _____
 country (if not Australia) _____
 type of appointment appointed singly
 appointed jointly
 appointed jointly and severally

name (surname & given names) _____
 at the office of _____
 office, floor, building name _____
 street number and name _____
 suburb/city _____ state _____ postcode _____
 country (if not Australia) _____
 type of appointment appointed singly
 appointed jointly
 appointed jointly and severally

Co-operatives Regulation 2005

Forms

Schedule 7

Appointment

type of administrator

(tick one box)

- administrator of a compromise or arrangement
- receiver of the property described in the schedule of property to this form
- receiver & manager of the property described in the schedule of property to this form
- managing controller (other than a receiver & manager) of the property described in the schedule of property to this form
- controller (other than a receiver or managing controller) of the property described in the schedule of property to this form
- administrator of a co-operative under administration
- administrator of a deed of company arrangement
- liquidator in a winding up by Court
- liquidator in a voluntary winding up by members
- liquidator in a voluntary winding up by creditors
- provisional liquidator

method of appointment

appointment by court order

- Federal Court of Australia (give State or Territory registry)

- Family Court of Australia (give State or Territory registry)

- Supreme Court of (give State or Territory registry)

- Other (specify)

date of obtaining order (d/m/y)

/ / proceeding matter number year

appointment by or under instrument

date of appointment (d/m/y)

/ / date of instrument (d/m/y) / /

description of instrument

Co-operatives Regulation 2005

Schedule 7 Forms

(tick one of the following boxes)

- instrument is registered in Register of co-operative charges registered charge number
- Australian register of company charges registered charge number
- register of company charges of State or Territory (give State or Territory) registered charge number
- instrument not registered name of appointer

by company by writing under its common seal

by liquidator or provisional liquidator

Cessation, resignation or removal

(If a controller, show details of method of appointment above)

- | | | | | |
|--------------------------|---|--------------|---|---|
| <input type="checkbox"/> | cessation of administrator of compromise or arrangement | date (d/m/y) | / | / |
| <input type="checkbox"/> | cessation of receiver | date (d/m/y) | / | / |
| <input type="checkbox"/> | cessation of receiver & manager | date (d/m/y) | / | / |
| <input type="checkbox"/> | cessation of managing controller (other than receiver & manager) | date (d/m/y) | / | / |
| <input type="checkbox"/> | cessation of controller (other than receiver or managing controller) | date (d/m/y) | / | / |
| <input type="checkbox"/> | cessation, resignation or removal of administrator of a co-operative under administration | date (d/m/y) | / | / |
| <input type="checkbox"/> | cessation, resignation or removal of administrator of deed of company arrangement | date (d/m/y) | / | / |
| <input type="checkbox"/> | resignation or removal of liquidator | date (d/m/y) | / | / |
| <input type="checkbox"/> | resignation or removal of provisional liquidator | date (d/m/y) | / | / |

Co-operatives Regulation 2005

Forms

Schedule 7

Signature

This form must be signed by the external administrator

print name

sign here

date / /

Schedule of property

(if insufficient space) Further details are enclosed in the annexure marked () of () pages

Additional information requirements

If this notice is lodged to notify the cessation, resignation, removal of an external administrator or where an administrator has been appointed to replace a currently appointed person or persons, please show below the details of the person or persons who have resigned etc. If joint administrators, show only the names of the person or persons who have resigned etc.

name
name
name

If one of the following administrators, please tick appropriate box and complete date of appointment of the person(s) who have ceased etc.

- receiver appointment date (d/m/y) / /
- receiver and manager appointment date (d/m/y) / /
- managing controller (other than a receiver & manager) appointment date (d/m/y) / /
- controller (other than a receiver or managing controller) appointment date (d/m/y) / /

Please note that failure to supply this information may result in the rejection of this document.

Co-operatives Regulation 2005

Schedule 7 Forms

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7. sign and date the form

This annexure must be signed by same person(s) who signed the form.



New South Wales

Food Amendment (Food Safety Schemes) Regulation 2005

under the

Food Act 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Food Act 2003*.

IAN MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to repeal the following Regulations which contain food safety schemes and transfer those schemes to the *Food Regulation 2004* for the purpose of achieving more uniform licensing procedures:

- (a) *Food (Plant Products Food Safety Scheme) Regulation 2005*,
- (b) *Food Production (Dairy Food Safety Scheme) Regulation 1999*,
- (c) *Food Production (Meat Food Safety Scheme) Regulation 2000*,
- (d) *Food Production (Seafood Safety Scheme) Regulation 2001*.

The Regulation makes changes to those food safety schemes for the following purposes:

- (a) to provide for one type of licence that may authorise the carrying on of activities dealt with by each of the food safety schemes,
- (b) to provide for all applications for the initial issue of a licence to be accompanied by the applicable licence fees,
- (c) to make it clear that a person cannot apply to the Administrative Decisions Tribunal for a review of a decision to refuse to issue a licence for non-payment of the licence fee,
- (d) to enable all licence fees to be increased by the Food Authority in accordance with CPI increases rather than just some licence fees as at present,
- (e) to ensure that licensing procedures, as far as practicable, are consistent for each of the food safety schemes.

This Regulation is made under the *Food Act 2003*, including sections 102 and 139 (the general regulation-making power).

Clause 1 Food Amendment (Food Safety Schemes) Regulation 2005

Food Amendment (Food Safety Schemes) Regulation 2005

under the

Food Act 2003

1 Name of Regulation

This Regulation is the *Food Amendment (Food Safety Schemes) Regulation 2005*.

2 Commencement

This Regulation commences on 2 September 2005.

3 Amendment of Food Regulation 2004

The *Food Regulation 2004* is amended as set out in Schedule 1.

4 Repeals

The following regulations are repealed:

- (a) *Food (Plant Products Food Safety Scheme) Regulation 2005*,
- (b) *Food Production (Dairy Food Safety Scheme) Regulation 1999*,
- (c) *Food Production (Meat Food Safety Scheme) Regulation 2000*,
- (d) *Food Production (Seafood Safety Scheme) Regulation 2001*.

Food Amendment (Food Safety Schemes) Regulation 2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order:

approved means approved by the Food Authority.

food safety program means a food safety program certified under clause 19.

licence means a licence granted under Part 3.

[2] Parts 3–7

Insert after Part 2:

Part 3 Food safety schemes—general provisions

Division 1 Interpretation

6 Definitions

In this Part:

food business means:

- (a) a dairy business within the meaning of Part 4, or
- (b) a meat business within the meaning of Part 5, or
- (c) a plant products business within the meaning of Part 6, or
- (d) a seafood business within the meaning of Part 7.

licence fee, in relation to a licence, means the fee determined for the licence in accordance with clause 21.

7 Application of food safety schemes to retail premises and food not intended for sale

- (1) This Part and Parts 4–7 do not apply to or in respect of the handling of food on retail premises, other than the handling of meat on meat retail premises.
- (2) This Part and Parts 4–7 do not apply to or in respect of the handling of food in or from retail vehicles, other than vehicles used by milk vehicle vendors.
- (3) This Part and Parts 4–7 do not apply to or in respect of the handling of food that is not intended for sale, other than the handling of milk and dairy products that are not intended for sale.

Food Amendment (Food Safety Schemes) Regulation 2005

Schedule 1 Amendments

(4) In this clause:

meat retail premises means retail premises on which raw meat carcasses are processed in some way (such as boning, slicing or cutting), not being premises where all the meat sold is:

- (a) in a form ready to be consumed (such as is sold at a restaurant or take-away food shop), or
- (b) in a form commonly referred to as cook and chill (that is, cooked packaged meat that requires reheating before consumption).

milk vehicle vendor means a person who delivers milk by vehicle and who sells the milk so delivered.

raw meat carcass includes a part of a raw meat carcass.

Division 2 Licensing of food businesses**8 Food business to be licensed**

A person must not carry on a food business unless the person holds a licence authorising the carrying on of the food business.

9 Application for licence

- (1) A person may apply to the Food Authority for a licence to carry on a food business.
- (2) An application for a licence must:
 - (a) be made in a form approved by the Food Authority, and
 - (b) be accompanied by an application fee of \$50, and
 - (c) be accompanied by the licence fee (other than a licence fee under Division 7 of Part 7) as calculated by the applicant in accordance with the information provided in the application form, and
 - (d) comply with any other requirements of this Regulation relating to applications for licences in respect of the type of food business concerned, and
 - (e) be accompanied by such information as the Food Authority requires to determine the application.
- (3) The Food Authority may require further information to be provided by the applicant if the Food Authority considers that the information is necessary to determine the application.

Food Amendment (Food Safety Schemes) Regulation 2005

Amendments

Schedule 1

10 Issue of licences

- (1) The Food Authority may, after considering an application for a licence:
 - (a) grant the application, with or without conditions, or
 - (b) refuse the application.
- (2) Without limiting the grounds on which the Food Authority may refuse to grant a licence, the Food Authority may refuse to grant a licence if it considers that there should be a food safety program for all or any of the food businesses proposed to be licensed and there is no such food safety program.
- (3) If the Food Authority decides to grant a licence but considers that the licence fee accompanying the application has been wrongly calculated by the applicant, the Food Authority must:
 - (a) refund the amount of any overpayment by the applicant, or
 - (b) give notice in writing of any additional amount that is required to be paid including a statement that the Food Authority may refuse to issue the licence until that amount is paid.
- (4) If the Food Authority grants an application for a licence, it must issue the licence to the applicant in a form that sets out the following:
 - (a) the activities authorised by the licence,
 - (b) the premises or vehicles on or in which such activities may be conducted,
 - (c) the conditions to which the licence is subject.

Note. The Act defines **vehicle** to mean any means of transport, whether self-propelled or not, and whether used on land or sea or in the air.
- (5) If the Food Authority refuses an application for a licence, it must give notice of the refusal in writing to the applicant setting out the reasons for the refusal and informing the applicant of the applicant's rights of review under this Regulation.
- (6) If the Food Authority refuses an application for a licence, it is to refund any licence fee that was submitted by the applicant in connection with the application.

11 Duration of licence

- (1) A licence has effect for a period of one year after the date on which the licence was issued or last renewed, except during any period of suspension or unless sooner cancelled.

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- (2) Despite subclause (1), if an application for renewal of a licence is made in accordance with this Regulation but the application is not finally determined before the expiry of the licence, the licence continues in force if not suspended or sooner cancelled until the application is finally determined.

12 Additional conditions of licence

In addition to any conditions of a licence imposed by the Food Authority under clause 10, it is a condition of a licence that the holder of the licence ensure that the provisions of the Act, this Regulation and the Food Standards Code are complied with in relation to the carrying on of any activity authorised by the licence and any premises or vehicle to which the licence relates.

13 Variation of terms and conditions of licence

- (1) The Food Authority may vary any term of a licence or any condition imposed by the Food Authority on a licence.
- (2) The Food Authority may vary a term or condition of a licence only after having given the holder of the licence written notice of its intention to vary the term or condition setting out its reasons.
- (3) The notice must include a statement that the holder of the licence concerned may make submissions to the Food Authority in relation to the proposed variation within 14 days after the date of the notice.
- (4) Subclauses (2) and (3) do not apply to the variation of a term or condition of a licence at the request of the holder of the licence.
- (5) A variation of a term or condition of a licence:
- (a) must be made by notice in writing, and
 - (b) must be served on the holder of the licence, and
 - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.
- (6) The notice referred to in subclause (5) must set out the reasons for the variation and inform the holder of the licence of the rights of review under this Regulation.
- (7) The Food Authority may charge the holder of a licence who applies for a variation of the terms or conditions of the licence:
- (a) an application fee of not more than \$50, and
 - (b) if the Food Authority considers that any inspection or audit is required to enable it to determine the application

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properly, a charge for the inspection or audit in accordance with clause 20.

- (8) If the Food Authority varies a term or condition of a licence, it is to issue the holder of the licence with a replacement licence that takes account of the variation.

Note. The holder of a licence will need to apply to the Food Authority for a variation under this clause of a term or condition of the licence if, for example, the holder proposes to change the activities authorised by the licence or the premises or vehicles on or in which such activities are conducted.

14 Suspension or cancellation of licence

- (1) The Food Authority may suspend or cancel a licence:
- (a) if the Food Authority is satisfied that the suspension or cancellation is necessary to avert a potential threat to food safety, or
 - (b) if the Food Authority is satisfied that there has been a contravention of any provision of the Act or this Regulation in relation to the carrying on of the food business authorised by the licence, or
 - (c) if the Food Authority is satisfied that a condition to which the licence is subject has been contravened, or
 - (d) if the Food Authority is of the opinion that the food safety program for the food business is inadequate or is not being properly implemented, or
 - (e) if any amount due to the Food Authority under the Act by the holder of the licence is unpaid, or
 - (f) if the Food Authority is of the opinion that the holder of the licence, or a person involved in the carrying on of the food business authorised by the licence, does not have the necessary capacity, experience or qualifications to ensure the safety of food for human consumption, or
 - (g) at the request of the holder of the licence.
- (2) The Food Authority may suspend or cancel a licence only after having given the holder of the licence written notice of its intention to suspend or cancel the licence setting out its reasons.
- (3) The notice must include a statement that the holder of the licence concerned may make submissions to the Food Authority in relation to the proposed suspension or cancellation within 14 days after the date of the notice.

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- (4) Subclauses (2) and (3) do not apply to the suspension or cancellation of a licence at the request of the holder of the licence.
 - (5) The suspension or cancellation of a licence:
 - (a) must be made by notice in writing, and
 - (b) must be served on the holder of the licence, and
 - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.
 - (6) The notice referred to in subclause (5) must set out the reasons for the suspension or cancellation and inform the holder of the licence of the rights of review under this Regulation.
 - (7) If a licence authorises the carrying on of more than one activity, the Food Authority may suspend the licence to the extent to which it authorises a particular activity or activities to be carried on.
 - (8) If a licence authorises the carrying on of an activity at 2 or more premises or in or on 2 or more vehicles, the Food Authority may suspend the licence to the extent to which it authorises activities to be carried on at particular premises or in or on a particular vehicle.

15 Licence not transferable

A licence is not transferable.

16 Renewal of licence

- (1) The holder of a licence is taken to apply for renewal of the licence:
 - (a) by paying the licence fee and, in the case of a licence that authorises the carrying on of a seafood business, the amount of any applicable levies under Divisions 7 and 8 of Part 7, as notified in writing to the holder by the Food Authority in accordance with clause 21, or
 - (b) if the holder has been given permission by the Food Authority under that clause to pay the relevant amount by instalments, by paying the appropriate instalment.
- (2) The Food Authority may:
 - (a) renew a licence with or without conditions, or
 - (b) refuse to renew the licence.

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- (3) Without limiting the grounds on which the Food Authority may refuse to renew a licence, the Food Authority may refuse to renew a licence on any ground on which the Food Authority could have suspended or cancelled the licence.
 - (4) If the Food Authority renews a licence, the Food Authority is to issue a further licence in a form that sets out the conditions to which the licence is subject.
 - (5) If the Food Authority refuses to renew a licence, the Food Authority must give notice of the refusal in writing to the applicant setting out the reasons for the refusal.
 - (6) A notice referred to in subclause (5) must inform the applicant of the applicant's rights of review under this Regulation.
 - (7) If the Food Authority refuses to renew a licence, the Food Authority is to refund any licence fee or levy that was submitted by the applicant in connection with the renewal.

17 Display of licence

- (1) The holder of a licence must ensure that, on every premises to which the licence relates, a copy of so much of the licence as is relevant to the premises is displayed.
Maximum penalty: 25 penalty units.
- (2) The holder of a licence must ensure that, on every vehicle to which the licence relates, a copy of so much of the licence as is relevant to the vehicle is carried.
Maximum penalty: 25 penalty units.

Division 3 Food safety programs**18 Content of food safety program**

A food safety program must:

- (a) comply with:
 - (i) the principles and guidelines set out in the document entitled *Hazard Analysis and Critical Control Point (HACCP) System and Guidelines For Its Application* published by the Codex Alimentarius Commission, or
 - (ii) Standard 3.2.1 of the Food Standards Code, and
- (b) meet any other requirements notified in writing by the Food Authority to the applicant for a licence or the holder of the licence for the food business concerned.

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19 Certification of food safety program

- (1) The Food Authority must certify a food safety program for a food business to which a licence or proposed licence relates if the Food Authority is satisfied that the food safety program complies with clause 18.
- (2) For the purposes of determining whether a proposed food safety program for a food business should be certified, the Food Authority may arrange for an authorised officer to conduct an audit of the food safety program.

Division 4 Inspections and audits**20 Charges for inspections and audits**

- (1) The charge payable for the carrying out by the Food Authority of:
 - (a) any inspection for the purposes of the Act in relation to a licence or application for a licence, or
 - (b) any audit of any food safety program or proposed food safety program required by this Regulation,is \$140 per hour with a minimum charge of half an hour (excluding time spent in travelling) plus \$35 for travelling expenses.
- (2) The Food Authority may increase the amounts referred to in subclause (1) annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.
- (3) The charges payable under this clause are payable to the Food Authority.
- (4) The Food Authority may reduce or waive payment of a charge in a particular case or class of cases.

Division 5 Procedures for payment of licence fees and levies**21 Calculation and notification of licence fees**

- (1) A licence fee for a licence that authorises the carrying on of:
 - (a) a dairy business is to be calculated in accordance with clause 58, or
 - (b) a meat business is to be calculated in accordance with clause 132, or

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- (c) a plants products business is to be the fee determined from time to time by the Food Authority, or
 - (d) a seafood business is to be calculated in accordance with clause 161 and, where applicable, clause 162.
- (2) If a licence authorises the carrying on of more than one food business, the licence fee is to be calculated as the total of the licence fees for each of those food businesses that would be applicable under subclause (1).
 - (3) The Food Authority is to issue to each holder of a licence who is liable to pay a licence fee or levy under this Regulation a notice in writing before the expiration of the licence:
 - (a) specifying the amount of the licence fee or levy and the period (being not less than 42 days after the issue of the notice) within which the licence fee or levy must be paid, and
 - (b) specifying (where relevant) the method of calculating the amount of the licence fee or levy to be paid by that holder.
 - (4) The holder of a licence may, before the expiration of the licence, apply to the Food Authority for approval to pay the licence fee or levy for a particular year by instalments.
 - (5) An approval under this clause must be notified in writing to the holder of the licence concerned and must specify the amount of each instalment and the date by which each instalment must be paid.
 - (6) The holder of a licence who has been given approval by the Food Authority to pay the licence fee or levy by instalments must pay each instalment in accordance with the terms of the approval.
 - (7) If there is a failure by the holder of a licence who has approval to pay the licence fee or levy by instalments to pay the amount of an instalment by the date required in the approval, the total unpaid balance of the licence fee or levy may be treated by the Food Authority as an overdue amount even if payment by instalments has commenced.
 - (8) The Food Authority may reduce or waive payment of a licence fee or levy in a particular case or class of cases.
 - (9) Without limiting subclause (8), if a licence is granted after the commencement of a year for which a licence fee or levy is payable, the Food Authority may reduce the licence fee or levy payable by the holder of the licence for that year by a proportionate amount.

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Division 6 Review of decisions of Food Authority**22 Review of decisions**

A person may apply to the Administrative Decisions Tribunal for a review of the following decisions:

- (a) a decision to refuse to issue a licence to the person (other than a decision to refuse to issue the licence for non-payment of the whole or part of the licence fee),
- (b) a decision to issue a licence to the person subject to conditions imposed by the Food Authority,
- (c) a decision to vary the conditions of the person's licence or to impose a condition on the person's licence,
- (d) a decision to suspend or cancel the person's licence,
- (e) a decision as to the assessment of the applicable licence fee for a licence held by the person,
- (f) a decision as to the applicable levy to be paid by the person under this Regulation,
- (g) a decision to revoke an approval as a meat safety officer under clause 128.

Part 4 Dairy food safety scheme**Division 1 Preliminary****23 Definitions**

In this Part:

dairy building means:

- (a) a building used for or in connection with the milking of milking animals for the purpose of producing milk that is supplied or to be supplied for sale, or
- (b) a building on a dairy farm, that is used for, or in connection with, the packaging of unprocessed goat's milk that is supplied or is to be supplied for sale.

dairy business has the meaning given by clause 25.

dairy farm means any land or premises used for or in connection with the stalling, grazing, feeding or milking of milking animals for the purpose of producing milk that is supplied or to be supplied for sale.

dairy farmer means a person who carries on the business of producing milk on a dairy farm for human consumption.

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Dairy Industry Act means the *Dairy Industry Act 2000*.

dairy produce factory means any building or place at or in which:

- (a) any milk or dairy product is produced or packaged, or
- (b) any milk is treated or processed after its production if the treatment or processing results in a product that is milk or a dairy product, or
- (c) any dairy product is treated or processed after its production if the treatment or processing results in a product that is a dairy product,

but does not include a building or place used solely as a dairy building or dairy farm, or a building on a dairy farm that is used for, or in connection with, the packaging of unprocessed goat's milk.

dairy produce merchant means any person:

- (a) who is the occupier of a milk store, dairy produce factory or dairy produce store, or
- (b) who is a vehicle vendor.

dairy produce store means any building or place at or in which any dairy product is stored, whether in a cold chamber or otherwise, but does not include any premises used solely for retail purposes.

dairy product means a food, not being milk, that contains:

- (a) at least 50 per cent (measured by weight) of either or both of the following:
 - (i) cow's milk,
 - (ii) any substance produced from cow's milk (but disregarding any weight of the substance not attributable to milk), or
- (b) at least 25 per cent (measured by weight) of either or both of the following:
 - (i) milk from a milking animal other than a cow,
 - (ii) any substance produced from milk from a milking animal other than a cow (but disregarding any weight of the substance not attributable to that milk), or
- (c) at least 50 per cent (measured by weight) of either or both of the following:
 - (i) milk from any one or more species of milking animal,

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- (ii) any substance produced from milk from any one or more species of milking animal (but disregarding any weight of the substance not attributable to that milk).

farm milk collector means any person who collects milk from a dairy farm for delivery or sale, or both, to a dairy produce merchant.

milk means the mammary secretion of a milking animal obtained from one or more milkings and intended for human consumption as a liquid or for further processing, but does not include colostrums.

milk store means any building or place used solely for the storage of processed milk, and includes any building and place at or from which milk is supplied, but does not include a dairy farm or a dairy building on a dairy farm.

milking animal means a cow, goat or sheep.

NSW Dairy Manual means the publication of that name published by the Food Authority, as in force from time to time.

vehicle vendor means a person who delivers milk by vehicle and who sells the milk so delivered.

24 Dairy food safety scheme

The provisions of Part 3 and this Part are prescribed as a food safety scheme under Part 8 of the Act.

25 Meaning of “dairy business”

In this Part, ***dairy business*** means a business involving any of the following:

- (a) the operation of a dairy farm,
- (b) the operation of a milk store,
- (c) the operation of a dairy produce factory,
- (d) the operation of a dairy produce store,
- (e) the delivery of milk by vehicle and the sale of milk so delivered,
- (f) the collection of milk from a dairy farm for delivery or sale, or both, to a dairy produce merchant.

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Division 2 General requirements

26 Milk and cream must be pasteurised

- (1) A person must not supply milk or cream for human consumption unless:
 - (a) the milk or cream has been pasteurised by one of the processes specified in Standard 1.6.2 (Processing requirements) of the Food Standards Code, and
 - (b) in the case of cow's milk or cream—the milk or cream does not exhibit a phosphatase activity equivalent to that required to give a reading in excess of 10 µg/mL of p-nitrophenol when tested immediately after pasteurisation by the current standard method in AS 2300, *Methods of chemical and physical testing for the dairying industry*.
- (2) This clause does not apply:
 - (a) to a dairy farmer in respect of the supply of milk or cream by the dairy farmer to a dairy produce factory, or
 - (b) to a dairy produce factory in respect of the supply of milk or cream by the dairy produce factory to another dairy produce factory, or
 - (c) to goat's milk or cream, but only if:
 - (i) the milk or cream has been produced in compliance with a food safety program, and
 - (ii) in the case of milk or cream that is unpasteurised—the milk or cream bears a label that includes an advisory statement in accordance with clause 2 of Standard 1.2.3 of the Food Standards Code, or
 - (d) to the supply of milk or cream by a dairy farmer, or dairy produce merchant, who is the holder of a licence to Dairy Farmers Milk Co-operative Limited (ARBN 108 690 384), or
 - (e) to the supply of milk or cream by Dairy Farmers Milk Co-operative Limited if the conditions set out in subclause (3) are complied with in relation to that supply.
- (3) For the purposes of subclause (2) (e), the following conditions must be complied with:
 - (a) Dairy Farmers Milk Co-operative Limited must obtain the milk or cream from a dairy farmer, or dairy produce merchant, who is the holder of a licence,

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- (b) Dairy Farmers Milk Co-operative Limited must supply the milk or cream to a licensed dairy produce factory,
 - (c) Dairy Farmers Milk Co-operative Limited must not deal with, or handle, the milk or cream except by obtaining it or supplying it in accordance with paragraphs (a) and (b) or disposing of it in a manner that will ensure that it cannot be used for the purposes of human consumption.

27 Protection of milk and dairy products on premises

Milk and dairy products at dairy farms, a milk store, a dairy produce factory or a dairy produce store must be kept, stored and treated in a manner that will protect the milk or dairy products at all times from all conditions or situations that may allow contamination to enter, or cause spoilage or tainting of, the milk or dairy products.

28 Protection of milk and dairy products being transported

The holder of a licence that authorises the transport of milk or dairy products must ensure that the milk or dairy products are transported in a manner that will protect the milk or dairy products at all times from all conditions or situations that may allow contamination to enter, or cause spoilage or tainting of, the milk or dairy products.

29 Requirements for production, manufacturing and storage areas

Products and materials must not be stored in the production area, manufacturing area, milk or dairy products storage area or packaging materials storage area of dairy premises, a milk store, a dairy produce factory or a dairy produce store, except those products and materials that are used:

- (a) in the production or manufacture of milk, dairy products or other foods, or
- (b) in the cleaning and sanitising of buildings and equipment used in connection with the production or manufacture of milk, dairy products or other foods.

Division 3 Requirements for dairy buildings and dairy farms**30 Licence requirements in relation to dairy buildings**

- (1) The Food Authority must not grant or renew an application for a licence that authorises the carrying on of a dairy business unless

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it is satisfied that any building proposed to be used by the applicant as a dairy building:

- (a) complies with the requirements set out in the publication *Code of Practice for Dairy Buildings* published by Safe Food, or
 - (b) is constructed in a way that is capable of delivering at least an equivalent outcome in terms of safe food production as a building that complies with the requirements referred to in paragraph (a).
- (2) If a dairy building used by the holder of a licence is substantially altered, added to or rebuilt after the licence is granted or renewed, the building must not be used as a dairy building except with the approval of the Food Authority and in accordance with any conditions of the approval.
 - (3) An application for approval must be made in a form approved by the Food Authority and must be accompanied by such documents and information as the Food Authority may require.
 - (4) The Food Authority may grant an approval subject to such conditions as the Food Authority considers appropriate.

31 Equipment in dairy buildings

A building must not be used as a dairy building unless equipment in the building used for or in connection with the milking of milking animals complies with the requirements set out in the publication *Code of Practice for Dairy Buildings* published by Safe Food, or the Food Authority otherwise approves in the particular case.

32 Maintenance

- (1) A dairy building must be maintained in good repair and clean condition.
- (2) Equipment in a dairy building used for or in connection with the milking of milking animals must be maintained in a serviceable and hygienic condition.

33 Cooling or packaging of milk

Milk harvested at dairy farms must, within 3 hours and 30 minutes after the commencement of milking:

- (a) be processed or packaged, or

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- (b) be cooled to a temperature that is 4 degrees Celsius or less and must be kept at that temperature during storage at the premises.

34 Sampling and testing

The holder of a licence authorising the operation of a dairy produce factory must ensure that the following requirements are complied with in respect of milk collected from dairy farms for delivery to the dairy produce factory:

- (a) milk must be sampled and sensory graded, and a record made of the volume and temperature of the milk and of the results of the sensory grading, by an appropriately qualified person,
- (b) samples of milk must be taken, stored, transported and treated in accordance with the requirements of the NSW Dairy Manual,
- (c) a sample of milk taken at dairy farms for microbiological testing must be a representative sample and must be taken aseptically,
- (d) when a sample is taken for the purpose of testing for the presence of any anti-microbial drug residue, the sample must be a representative sample,
- (e) milk received at a dairy produce factory must be tested in accordance with the requirements of the NSW Dairy Manual and a record of the test results kept at the factory and available for inspection for at least 12 months after the test,
- (f) milk must not be processed for human consumption and must not be used in the manufacture of dairy products unless it complies with the requirements of the following standards of the Food Standards Code with respect to metals, chemical residues, drug residues and contaminants:
 - (i) Standard 1.4.1 (Contaminants and Natural Toxicants),
 - (ii) Standard 1.4.2 (Maximum Residue Limits),
 - (iii) Standard 2.5.1 (Milk).

35 Milk collection

The holder of a licence that authorises the operation of a dairy produce factory must ensure that the following requirements are

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complied with in respect of the collection of milk from dairy farms for delivery to the dairy produce factory:

- (a) the frequency of milk collection from dairy farms must be such as to permit the cleaning and sanitising of the farm vat after emptying and before any more milk is placed in the vat,
- (b) milk is not to be collected from any farm vat unless the temperature has been reduced to 4 degrees Celsius or less, unless specifically authorised in a particular case by the Food Authority,
- (c) milk collection must be in accordance with the requirements of the publication *Code of Practice for Collection of Milk from Dairy Farms* published by Safe Food.

36 Audit and inspection frequency

- (1) Dairy farms at which a certified food safety program has been implemented are to be audited by the Food Authority at the frequency provided for by the NSW Dairy Manual.
- (2) Dairy farms at which no certified food safety program has been implemented are to be inspected by the Food Authority at the frequency determined by the Food Authority from time to time.

Division 4 Requirements for dairy produce factories, dairy produce stores and milk stores

37 Building not to be used without licence

- (1) The Food Authority must not grant or renew an application for a licence that authorises the operation of a dairy produce factory, dairy produce store or milk store unless it is satisfied that any building proposed to be used by the applicant as a dairy produce factory, dairy produce store or milk store complies with the requirements applicable in respect of the building under clause 39.
- (2) If a building authorised by a licence to be used as a dairy produce factory, dairy produce store or milk store is substantially altered, added to or rebuilt after the licence is granted or renewed, the building must not be used as a dairy produce factory, dairy produce store or milk store except with the approval of the Food Authority and in accordance with any conditions of the approval.

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- (3) An application for approval must be made in an approved form and must be accompanied by such documents and information as the Food Authority may require.
 - (4) The Food Authority may grant an approval subject to such conditions as the Food Authority considers appropriate.

38 Requirements of Export Control Orders to apply

- (1) Such of the requirements of Schedules 2 and 3 of the *Export Control (Dairy, Eggs and Fish) Orders 2005* as are applied to this Scheme under the NSW Dairy Manual apply as part of this Scheme to and in respect of a dairy produce factory, dairy produce store or milk store.
- (2) Those provisions so apply with such modifications as may be provided for by the NSW Dairy Manual.
- (3) In this clause:
Export Control (Dairy, Eggs and Fish) Orders 2005 means the *Export Control (Dairy, Eggs and Fish) Orders 2005* issued by the Commonwealth Department of Agriculture, Fisheries and Forestry as in force from time to time.

39 Cleaning and repair of buildings and equipment

The following requirements apply in respect of the premises and buildings that comprise a dairy produce factory, milk store or dairy produce store and the equipment used there:

- (a) the premises and buildings must be kept clean and in good repair,
- (b) equipment must be cleaned immediately after use and kept clean prior to reuse, and must be kept in a clean and sanitary condition and in good repair,
- (c) the premises, buildings and equipment must not be used to manufacture, process or pack any product other than food for human consumption, unless the Food Authority otherwise approves in a particular case.

40 Audit and inspection frequency

- (1) A dairy produce factory, milk store or dairy produce store at which a food safety program has been implemented is to be audited by the Food Authority at the frequency provided for by the NSW Dairy Manual.
- (2) A dairy produce factory, milk store or dairy produce store at which no food safety program has been implemented is to be

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inspected by the Food Authority at the frequency determined by the Food Authority from time to time.

41 Cooling of milk

- (1) Milk received at a dairy produce factory must be cooled immediately to and held at a temperature of not more than 5 degrees Celsius until its use in manufacture or dispatch to another dairy produce factory.
- (2) This clause does not apply to milk that is processed or packaged within 3 hours and 30 minutes after the commencement of milking.

42 Records to be kept

- (1) The holder of a licence that authorises the operation of a dairy produce factory must ensure that a record is kept of the details of:
 - (a) all milk, cream and other food ingredients received at the dairy produce factory for the manufacture of milk and dairy products, and
 - (b) all milk and dairy products dispatched by the dairy produce factory to another dairy produce factory, and
 - (c) the quantity, container type and size, date code or product batch number of each type of dairy product manufactured at and distributed from the dairy produce factory.
- (2) A record required by this clause must be kept at the dairy produce factory for not less than 12 months or the accepted shelf-life of the product to which the record relates, whichever is longer.

43 Testing of milk consigned from one dairy produce factory to another

- (1) If raw milk is consigned from one dairy produce factory to another, the milk must be tested by the manager of each factory in accordance with the requirements as to test methods, standards and test frequencies specified in the NSW Dairy Manual.
- (2) The results of those tests must be advised by the manager of the consignor dairy produce factory to the manager of the consignee dairy produce factory prior to acceptance of the milk at the consignee dairy produce factory.
- (3) A record of the results of the tests must be kept at each factory for not less than 12 months.

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44 Temperature of milk consigned between dairy produce factories

Milk consigned from a dairy produce factory must not be accepted at another dairy produce factory if the temperature of the milk is more than 5 degrees Celsius on arrival at the other dairy produce factory.

45 Temperature and storage of milk and cream at factories

- (1) When milk or cream is stored at a dairy produce factory pending processing, it must be kept at a temperature of not more than 5 degrees Celsius unless it is processed within 3 hours and 30 minutes after the commencement of milking.
- (2) When milk or cream is stored at a dairy produce factory where it will be packaged only, it must be kept at a temperature of not more than 5 degrees Celsius prior to packaging unless it is packaged within 3 hours and 30 minutes after the commencement of milking.
- (3) After processing of milk or cream at a dairy produce factory and prior to packaging, the milk or cream must be kept at a temperature of not more than 5 degrees Celsius.
- (4) Packaged milk and cream (other than commercially sterile products) must be cooled to and kept at a temperature of not more than 5 degrees Celsius after packaging.
- (5) In this clause, *commercially sterile product* means a milk or cream product that has been heat treated sufficiently to render it free of:
 - (a) micro-organisms capable of reproducing in the food under normal non-refrigerated conditions of storage and distribution, and
 - (b) viable micro-organisms, including spores, of public health significance.

46 Milk for manufacture

Milk and milk components used for the manufacture of dairy products for human consumption:

- (a) must be processed as required by Standard 1.6.2 (Processing requirements) of the Food Standards Code, and
- (b) in the case of cow's milk or milk components—must not exhibit a phosphatase activity equivalent to that required to give a reading in excess of 10 µg/mL of p-nitrophenol when tested immediately after pasteurisation by the

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current standard method in AS 2300.1.10—1988, *Methods of chemical and physical testing for the dairying industry—General methods and principles—Determination of phosphatase activity*.

47 Pasteuriser requirements

- (1) Equipment used for the pasteurisation of milk or milk components at a dairy produce factory:
 - (a) must comply with the requirements of the NSW Dairy Manual, and
 - (b) must be cleaned, sterilised and maintained in accordance with the requirements of the NSW Dairy Manual.
- (2) When milk is pasteurised at a dairy produce factory, a record must be made in respect of the pasteurisation as required by the NSW Dairy Manual.
- (3) A record required by subclause (2) must be kept at the dairy produce factory for not less than 12 months or the accepted shelf-life of the product to which the record relates, whichever is longer.

48 Standards and testing of milk and dairy products

- (1) The holder of a licence that authorises the operation of a dairy produce factory must ensure that finished milk and dairy products produced at the factory for human consumption comply with the standards specified in the Food Standards Code.
- (2) The holder of a licence that authorises the operation of a dairy produce factory must ensure that finished milk and dairy products produced at the factory are tested for compliance with the microbiological standards specified in the NSW Dairy Manual.
- (3) A failure result in a test for the purposes of subclause (2) must be followed up by testing of all subsequent batches of the same product produced at the dairy produce factory until a satisfactory result is achieved.

49 Control of Salmonella

Measures for the control of Salmonella contamination in dried milk products in a dairy produce factory must be carried out in accordance with the requirements of the publication *Australian Manual for the Control of Salmonella in the Dairy Industry* published by the Australian Dairy Authorities Standards Committee.

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50 Control of Listeria

Measures for the control of Listeria contamination in a dairy produce factory must be carried out in accordance with the requirements of the publication *Australian Manual for the Control of Listeria in the Dairy Industry* published by the Australian Dairy Authorities Standards Committee.

51 Product recall procedure

- (1) A dairy produce factory must have a documented product recall and retrieval procedure in place at the factory.
- (2) The recall procedure must be in accordance with the *Food Industry Recall Protocol* published by Food Standards Australia New Zealand.

52 Use of a milk tanker or vessel used for bulk milk transport

The holder of a licence that authorises the operation of a milk tanker or vessel that is used for the bulk transport of milk must ensure that the tanker or vessel is not used for any purpose except:

- (a) the collection of milk from dairy farms, or
- (b) the transportation of milk or cream, or
- (c) the transportation of clean water or food-grade liquids that will not contaminate or affect the quality of milk or cream or leave residual odours.

53 Cleanliness of a milk tanker or vessel used for bulk milk transport

The holder of a licence that authorises the operation of a milk tanker or vessel that is used for the bulk transport of milk must ensure that the tanker or vessel is not used to transport milk or cream unless the tanker or vessel is in good repair and has been cleaned to ensure that its interior surfaces are free of contaminants and that there are no unusual odours in the tanker or vessel.

54 Standards for milk and dairy produce stores

- (1) Packaged milk and cream (other than commercially sterile products) stored at a milk store or dairy produce store must be kept at a temperature of not more than 5 degrees Celsius during storage.
- (2) Any other dairy product stored at a milk store or dairy produce store must be kept at a temperature of not more than 5 degrees Celsius during storage or at some other temperature that can be

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demonstrated to the satisfaction of the Food Authority to not adversely affect the microbiological safety of the product.

55 Records to be kept by milk and dairy produce stores

- (1) The holder of a licence that authorises the operation of a milk store or dairy produce store must ensure that records are kept of the details of all packaged milk, cream or dairy products received at and distributed from the store.
- (2) A record required by this clause must be kept at the milk store or dairy produce store for not less than 12 months or the accepted shelf-life of the product to which the record relates, whichever is longer.

Division 5 Requirements for vehicle vendors

56 Handling of milk and dairy products

The holder of a licence that authorises the delivery of milk by vehicle and the sale of the milk so delivered must ensure that:

- (a) milk and dairy products in the vehicle are kept at a temperature of not more than 5 degrees Celsius, unless the Food Authority otherwise approves in a particular case or class of cases, and
- (b) without limiting paragraph (a), milk and dairy products in the vehicle are not placed or kept in such a manner that the product will be deteriorated whether by heat or injurious smells, or by the proximity of unclean matter or by any other means.

57 Audit and inspection frequency

- (1) The holder of a licence that authorises the delivery of milk by vehicle and the sale of the milk so delivered and who has implemented a food safety program in relation to those activities is to be audited by the Food Authority at the frequency provided for by the NSW Dairy Manual.
- (2) The holder of a licence that authorises the delivery of milk by vehicle and the sale of the milk so delivered and who has not implemented a food safety program in relation to those activities is to be inspected by the Food Authority at the frequency determined by the Food Authority from time to time.

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Division 6 Miscellaneous**58 Licence fees**

- (1) The holder of a licence that authorises the carrying on of a dairy business is liable to pay a licence fee determined in accordance with this clause and section 139 of the Act.
- (2) The amount of the licence fee is the fee determined by the Food Authority or the fee calculated on the basis determined by the Food Authority.
- (3) The Food Authority may determine a fee, or a basis for calculating a fee, for the purposes of subclause (2) that:
 - (a) applies generally or is limited in its application by reference to specified exceptions or factors, or
 - (b) applies differently according to different factors of a specified kind.

59 Industry consultation

The following bodies are declared to be consultative bodies for the purposes of the consultation referred to in section 105 of the Act in respect of this Scheme:

- (a) in relation to cow's milk and cow dairy products—the New South Wales Dairy Industry Conference constituted by the Dairy Industry Act,
- (b) in relation to goat's milk or sheep's milk and goat or sheep dairy products—the New South Wales Goat and Sheep Milk Industry Conference.

Part 5 Meat food safety scheme**Division 1 Preliminary****60 Definitions**

- (1) In this Part and Schedules 2–11:

abattoir means premises used for or in connection with the slaughtering of abattoir animals for human consumption, and includes:

 - (a) buildings used in connection with the slaughtering, handling, drafting or keeping of abattoir animals for human consumption at any premises so used, and
 - (b) holding yards and the like.

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abattoir animal means any of the following animals that is not a game animal:

- (a) any bull, ox, steer, cow, heifer, calf, ram, ewe, wether, hogget, lamb, goat, kid, swine, buffalo, crocodile, deer or rabbit,
- (b) any bird.

abattoir meat means meat that is from an abattoir animal and that is intended for human consumption.

animal means an abattoir animal, game animal or knackery animal.

animal food means food intended for consumption by animals.

animal food processing plant means any premises where:

- (a) in the course of a business (being a business of preparing or selling animal food) meat or fish or any product of meat or fish is stored, packed, packaged, processed, treated, boned or cut up, or
- (b) in the course of a business, processed animal food is produced,

but does not include:

- (c) an abattoir, knackery, meat processing plant or game meat processing plant, or
- (d) meat retail premises.

animal food van means any vehicle used for the conveyance of meat intended for use as animal food.

ARMCANZ means the Agricultural Resources Management Council of Australia and New Zealand.

bird includes ratite.

game animal means any of the following animals that is not husbanded in the manner of a farmed animal and is killed in the field:

- (a) any goat, kid, swine, deer, rabbit, camel, donkey, horse, hare or bird,
- (b) any fauna permitted to be taken and killed for the purposes of sale in accordance with a licence under the *National Parks and Wildlife Act 1974*.

game meat means meat that is from a game animal and that is intended for human consumption.

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game meat inspector means:

- (a) in relation to the inspection of game meat for human consumption—a person approved in writing to inspect game animals for human consumption, or
- (b) in relation to the inspection of game meat for use as animal food—a person approved in writing to inspect game animals for use as animal food.

game meat processing plant means any premises where, in the course of a business:

- (a) dead game animals intended for human consumption are, or game meat is, stored, packed, packaged, processed, treated, boned or cut up, or
- (b) processed meat is produced from game meat,

but does not include:

- (c) an abattoir, or
- (d) meat retail premises.

game meat van means any vehicle that is used for the conveyance of meat that is game meat.

hogget means an ovine animal that has cut at least one, but no more than 2, permanent incisor teeth.

knackery means premises used for or in connection with the slaughtering of knackery animals for use as animal food, or for or in connection with the destruction of animals, and includes:

- (a) buildings used in or in connection with the slaughtering, destruction, handling, drafting or keeping of any such animals at any premises so used, and
- (b) holding yards and the like.

knackery animal means horse, donkey, kangaroo, buffalo, deer, bull, ox, steer, cow, heifer, calf, ram, ewe, wether, hogget, lamb, goat, kid, swine, rabbit or bird.

knackery meat means meat that is from a knackery animal and that is intended for use as animal food.

lamb means an ovine animal that has not cut a permanent incisor tooth.

licensed premises means premises in respect of which a licence is in force.

licensed vehicle means a vehicle in respect of which a licence is in force.

meat means the whole or any part of the carcase of an animal, but does not include processed meat or processed animal food.

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meat business has the meaning given by clause 62.

meat processing plant means any premises where, in the course of a business:

- (a) abattoir meat is stored, packed, packaged, processed, treated, boned or cut up, or
- (b) processed meat is produced from abattoir meat,

but does not include:

- (c) an abattoir, or
- (d) meat retail premises.

meat retail premises means premises where meat is sold by retail and on which raw meat carcasses or parts of raw meat carcasses are processed in some way (such as boning, slicing or cutting), not being premises where, in any week during the preceding calendar year, more than one tonne of meat was sold by wholesale or where all the meat sold is:

- (a) in a form ready to be consumed (such as is sold at a restaurant or take-away food shop), or
- (b) in a form commonly referred to as cook and chill (that is, cooked packaged meat that requires reheating before consumption).

meat safety officer, in relation to an abattoir, means the meat safety officer appointed for the abattoir in accordance with clause 126.

meat van means any vehicle used for the conveyance of meat that is abattoir meat.

minimum standards means, in relation to:

- (a) an abattoir—the minimum standards specified in clause 66, or
- (b) a meat processing plant—the minimum standards specified in clause 70, or
- (c) a game meat processing plant—the minimum standards specified in clause 74, or
- (d) a meat van—the minimum standards specified in clause 79, or
- (e) a game meat van—the minimum standards specified in clause 84, or
- (f) a knackery—the minimum standards specified in clause 88, or
- (g) a rendering plant—the minimum standards specified in clause 91, or

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- (h) an animal food processing plant—the minimum standards specified in clause 95, or
 - (i) an animal food van—the minimum standards specified in clause 99, or
 - (j) meat retail premises—the minimum standards specified in clause 101.

operational standards means, in relation to:

- (a) an abattoir—the operational standards specified in clause 67, or
- (b) a meat processing plant—the operational standards specified in clause 71, or
- (c) a game meat processing plant—the operational standards specified in clause 75, or
- (d) a meat van—the operational standards specified in clause 80, or
- (e) a game meat van—the operational standards specified in clause 85, or
- (f) a knackery—the operational standards specified in clause 89, or
- (g) a rendering plant—the operational standards specified in clause 92, or
- (h) an animal food processing plant—the operational standards specified in clause 96, or
- (i) meat retail premises—the operational standards specified in clause 102.

processed animal food means any product of a manufacturing process that contains meat that is intended for use as animal food.

processed meat means any product of a manufacturing process that contains abattoir meat or game meat and that is intended for human consumption, but does not include any such product that is cooked and requires reheating in order to be ready to eat.

rendering plant means any premises where animal by-products are rendered or boiled down, but does not include an abattoir or a knackery.

- (2) A reference in this Part to premises or a vehicle used for a purpose includes a reference to premises or a vehicle intended to be used for the purpose.

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61 Meat food safety scheme

The provisions of Part 3, this Part and Schedules 2–11 are prescribed as a food safety scheme under Part 8 of the Act.

62 Meaning of “meat business”

In this Part, *meat business* means a business involving the operation of any of the following:

- (a) an abattoir,
- (b) a meat processing plant,
- (c) a game meat processing plant,
- (d) a meat van, other than solely for the purpose of conveying abattoir meat from retail premises that has been sold by retail,
- (e) a game meat van,
- (f) a knackery,
- (g) a rendering plant,
- (h) an animal food processing plant,
- (i) an animal food van,
- (j) meat retail premises.

Division 2 Classes of licence

63 Classes of licence

A licence authorising the carrying on of a meat food business may authorise any of the following classes of activity:

- (a) the operation of an abattoir,
- (b) class 1, 2 or 3 meat processing,
- (c) class 1, 2, 3, 4 or 5 game meat processing,
- (d) the operation of a class 1, 2 or 3 meat van,
- (e) the operation of a class 1, 2, 3, 4, 5 or 6 game meat van,
- (f) the operation of a knackery,
- (g) the operation of a rendering plant,
- (h) class 1, 2, 3 or 4 animal food processing,
- (i) the operation of a class 1, 2 or 3 animal food van,
- (j) the operation of meat retail premises.

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Division 3 Abattoirs**64 Additional requirements for applications for abattoir licences**

- (1) An application for a licence authorising the operation of an abattoir must be accompanied by:
 - (a) a copy of any consent required by or under the *Environmental Planning and Assessment Act 1979*, and
 - (b) a site plan showing:
 - (i) the location and dimensions of the site, and
 - (ii) the fall, if any, of the land comprising the site, and
 - (iii) the location of any watercourse adjacent to or passing through the site, and
 - (iv) the names and widths of any roads adjacent to the site, and
 - (v) the location of any railway lines adjacent to or passing through the site, and
 - (vi) the location of all existing and proposed buildings or other structures on the site, and
 - (vii) the direction of true north, and
 - (c) a floor plan showing the dimensions of all floor areas and the location of all appliances proposed to be used in connection with the slaughtering of animals or the dressing and processing of carcases, and
 - (d) a drainage plan showing proposals for floor drainage and effluent disposal and the location of hot and cold water outlets, hand-washing facilities and carcase-washing facilities, and
 - (e) a roof plan showing details of the roof structure of all existing and proposed buildings and the location of any existing or proposed skylights or vents, and
 - (f) longitudinal and cross-sectional drawings of all existing and proposed buildings, indicating the finish to be provided for walls, floors and partitions, the heights above floor level of all rails proposed to be used for the carriage of carcases or meat and the location of all appliances proposed to be used in connection with the slaughtering of animals or dressing and processing of carcases, and
 - (g) elevation drawings of each side of all existing and proposed buildings, showing the sizes and positions of all doorways, windows and other openings, and

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- (h) written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with the slaughtering of animals or dressing and processing of carcasses.
 - (2) The drainage plan referred to in subclause (1) may be incorporated with the site plan or floor plan referred to in that subclause.
 - (3) Any thing required to be shown on a plan or drawing referred to in subclause (1) may be shown on a separate plan or drawing.
 - (4) Plans and drawings must be prepared in a professional manner.

65 Applications to alter abattoir premises

- (1) An application to the Food Authority for its permission in respect of any structural alterations or additions to the premises to which a licence that authorises the operation of an abattoir relates is to be made in an approved form.
- (2) The applicant must furnish to the Food Authority:
 - (a) such plans and drawings relating to the structural alterations or additions as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in those buildings or structures as the Food Authority may require.
- (3) Plans and drawings must be prepared in a professional manner.

66 Minimum standards for abattoirs

The minimum standards for an abattoir are as follows:

- (a) in relation to an abattoir at which the slaughtering of meat (other than poultry meat, rabbit meat, ratite meat or crocodile meat) is authorised by the licence—the standards specified in the publication titled AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time,
- (b) in relation to an abattoir at which the slaughtering of poultry meat is authorised by the licence—the standards specified in the publication titled *Australian Standard for Hygienic Production of Poultry Meat for Human*

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Consumption published by ARMCANZ, as in force from time to time,

- (c) in relation to an abattoir at which the slaughtering of rabbit meat is authorised by the licence—the standards specified in the publication titled *Australian Standard for Hygienic Production of Rabbit Meat for Human Consumption* published by ARMCANZ, as in force from time to time,
- (d) in relation to an abattoir at which the slaughtering of ratite meat is authorised by the licence—the standards specified in the publication titled *New South Wales Code of Practice for Hygienic Production of Ratite (Emu/Ostrich) Meat for Human Consumption* published by the Food Authority, as in force from time to time,
- (e) in relation to an abattoir at which the slaughtering of crocodile meat is authorised by the licence—the standards specified in the publication titled *Australian Standard for Hygienic Production of Crocodile Meat for Human Consumption* published by ARMCANZ, as in force from time to time,
- (f) in relation to an abattoir at which the slaughtering of more than one type of meat referred to in the preceding paragraphs is authorised by the licence—the minimum standards specified in each of the relevant paragraphs.

67 Operational standards for abattoirs

The operation of an abattoir must comply with the requirements of:

- (a) each of the following:
 - (i) an approved hazard analysis critical control point program,
 - (ii) the publication titled AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time,
 - (iii) the publication specified in clause 66 in relation to an abattoir of the same type,
 - (iv) clause 9 of Standard 1.6.2 of the Food Standards Code, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

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Division 4 Meat processing plants

68 Additional requirements for applications for licences in respect of meat processing

- (1) An application for a licence that authorises the operation of a meat processing plant must be accompanied by:
 - (a) such plans and drawings as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with any proposed meat processing operations as the Food Authority may require.
- (2) Plans and drawings must be prepared in a professional manner.

69 Classes of meat processing licence

The Food Authority may issue:

- (a) a licence that authorises class 1 meat processing in respect of a meat processing plant comprising premises where processed meat in the form of ham, bacon, sausages or cooked meat, or salted, smoked, pickled or cured abattoir meat is produced, or
- (b) a licence that authorises class 2 meat processing in respect of a meat processing plant comprising premises where abattoir meat is stored or packed for the purpose of being stored, but not packaged, processed, treated, boned or cut up, or
- (c) a licence that authorises class 3 meat processing in respect of a meat processing plant comprising premises other than premises referred to in paragraph (a) or (b).

70 Minimum standards for meat processing plants

The minimum standards for meat processing plants are as follows:

- (a) in relation to a meat processing plant at which the processing of meat (other than poultry meat, rabbit meat, ratite meat or crocodile meat) is authorised by the licence—the standards specified in the publication titled AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time,

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- (b) in relation to a meat processing plant at which the processing of poultry meat is authorised by the licence—the standards specified in the publication titled *Australian Standard for Hygienic Production of Poultry Meat for Human Consumption* published by ARMCANZ, as in force from time to time,
 - (c) in relation to a meat processing plant at which the processing of rabbit meat is authorised by the licence—the standards specified in the publication titled *Australian Standard for Hygienic Production of Rabbit Meat for Human Consumption* published by ARMCANZ, as in force from time to time,
 - (d) in relation to a meat processing plant at which the processing of ratite meat is authorised by the licence—the standards specified in the publication titled *New South Wales Code of Practice for Hygienic Production of Ratite (Emu/Ostrich) Meat for Human Consumption* published by the Food Authority, as in force from time to time,
 - (e) in relation to a meat processing plant at which the processing of crocodile meat is authorised by the licence—the standards specified in the publication titled *Australian Standard for Hygienic Production of Crocodile Meat for Human Consumption* published by ARMCANZ, as in force from time to time,
 - (f) in relation to a meat processing plant at which the processing of more than one type of meat referred to in the preceding paragraphs is authorised by the licence—the minimum standards specified in each of the relevant paragraphs.

71 Operational standards for meat processing plants

The operation of a meat processing plant must comply with the requirements of:

- (a) each of the following:
 - (i) an approved hazard analysis critical control point program,
 - (ii) the publication titled AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time,
 - (iii) the publication specified in clause 70 in relation to a meat processing plant of the same type,

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- (iv) clause 9 of Standard 1.6.2 of the Food Standards Code, or
 - (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 5 Game meat processing plants

72 Additional requirements for applications for game meat processing licences

- (1) An application for a licence that authorises the operation of a game meat processing plant must be accompanied by:
 - (a) such plans and drawings as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with any proposed game meat processing operations as the Food Authority may require.
- (2) Plans and drawings must be prepared in a professional manner.

73 Classes of game meat processing licence

The Food Authority may issue:

- (a) a licence that authorises class 1 game meat processing in respect of a game meat processing plant comprising premises where processed game meat in the form of sausages or cooked meat, or salted, smoked, pickled or cured game meat is produced, or
- (b) a licence that authorises class 2 game meat processing in respect of a game meat processing plant comprising premises where game meat (except in the form of unflayed game meat carcasses) is stored or packed for the purpose of being stored, but not packaged, processed, treated, boned or cut up, or
- (c) a licence that authorises class 3 game meat processing in respect of a game meat processing plant comprising premises other than premises referred to in paragraph (a), (b), (d) or (e), or
- (d) a licence that authorises class 4 game meat processing in respect of a game meat processing plant comprising premises where game meat in the form of unflayed

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carcasses is stored but not packaged, processed, treated, boned or cut up, or

- (e) a licence that authorises class 5 game meat processing in respect of a game meat processing plant comprising premises where game meat is treated, boned or cut up.

74 Minimum standards for game meat processing plants

The minimum standards for game meat processing plants are the standards specified in the publication titled *Australian Standard for Hygienic Production of Game Meat for Human Consumption* published by ARMCANZ, as in force from time to time.

75 Operational standards for game meat processing plants

The operation of a game meat processing plant must comply with the requirements of:

- (a) each of the following:
- (i) an approved hazard analysis critical control point program,
 - (ii) the publication specified in clause 74 in relation to a game meat processing plant of the same type,
 - (iii) clause 9 of Standard 1.6.2 of the Food Standards Code, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 6 Meat vans**76 Applicants to present meat vans for inspection**

The Food Authority may require an applicant for the issue of a licence that authorises the operation of a meat van to present the vehicle in respect of which the application is made for inspection by the Food Authority at such time and place as the Food Authority may determine.

77 Meat van labels

- (1) The Food Authority is to issue to the holder of a licence that authorises the operation of a meat van a licensing label in respect of the vehicle to which the licence relates.
- (2) The licensing label issued by the Food Authority must be displayed in an approved position on the vehicle in respect of

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which it is issued whenever the vehicle is being operated as a meat van in the course of carrying on a business.

78 Issue of licence in respect of class 1, 2 or 3 meat van

The Food Authority may issue:

- (a) a licence that authorises the operation of a class 1 meat van in respect of a meat van fitted with rails from which abattoir meat conveyed in the van is to be suspended, or
- (b) a licence that authorises the operation of a class 2 meat van in respect of a vehicle that is not a meat van referred to in paragraph (a) or (c), or
- (c) a licence that authorises the operation of a class 3 meat van in respect of a vehicle that is used in the course of a business as a meat van, solely on journeys that in normal circumstances do not exceed 1 hour for the conveyance of:
 - (i) frozen abattoir meat from a cold store to a port, or
 - (ii) abattoir meat, that has been packed in cartons and secured to pallets, from the point of preparation to a cold store.

79 Minimum standards for meat vans

The minimum standards for meat vans are:

- (a) for a class 1 or class 2 meat van—the standards specified in Part 8 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, and
- (b) for a class 3 meat van—the standards specified in Schedule 2.

80 Operational standards for meat vans

The operation of a meat van must comply with the requirements of:

- (a) Part 8 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

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Division 7 Game meat vans**81 Applicants to present game meat vans for inspection**

The Food Authority may require an applicant for the issue of a licence that authorises the operation of a game meat van to present the vehicle in respect of which the application is made for inspection by the Food Authority at such time and place as the Food Authority may determine.

82 Game meat van labels

- (1) The Food Authority is to issue to the holder of a licence that authorises the operation of a class 1, 2, 3, 4, 5 or 6 game meat van a licensing label in respect of the vehicle to which the licence relates.
- (2) The licensing label issued by the Food Authority must be displayed in an approved position on the vehicle in respect of which it is issued whenever the vehicle is being operated as a game meat van in the course of carrying on a business.

83 Issue of licence in respect of class 1, 2, 3, 4, 5 or 6 game meat van

The Food Authority may issue:

- (a) a licence that authorises the operation of a class 1 game meat van in respect of a game meat van fitted with rails from which flayed game meat carcasses conveyed in the van are to be suspended, or
- (b) a licence that authorises the operation of a class 2 game meat van in respect of a vehicle that is not a game meat van referred to in paragraph (a), (c), (d), (e) or (f), or
- (c) a licence that authorises the operation of a class 3 game meat van in respect of a vehicle that is used in the course of a business as a game meat van, solely on journeys that in normal circumstances do not exceed 1 hour for the conveyance of game meat, that has been packed in cartons and secured to pallets, from the point of preparation to a cold store, or
- (d) a licence that authorises the operation of a class 4 game meat van in respect of a game meat van that is used in the course of a business for the conveyance of any game meat (other than rabbit or duck) from the point of harvest to a class 4 game meat processing plant, or
- (e) a licence that authorises the operation of a class 5 game meat van in respect of a game meat van that is used in the

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course of a business for the conveyance of rabbit game meat from the point of harvest to a class 4 game meat processing plant, or

- (f) a licence that authorises the operation of a class 6 game meat van in respect of a game meat van that is used in the course of a business for the conveyance of duck game meat from the point of harvest to a class 4 game meat processing plant.

84 Minimum standards for game meat vans

The minimum standards for:

- (a) a class 1, class 2 or class 3 game meat van are the standards specified in the publication titled AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, and
- (b) a class 4, class 5 or class 6 game meat van are the standards specified in the publication titled *Australian Standard for Hygienic Production of Game Meat for Human Consumption* published by ARMCANZ, as in force from time to time.

85 Operational standards for game meat vans

The operation of a game meat van must comply with the requirements of:

- (a) the publication titled *Australian Standard for Hygienic Production of Game Meat for Human Consumption* published by ARMCANZ, as in force from time to time, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 8 Knackeries**86 Additional requirements for applications for knackery class licences**

- (1) An application for a licence that authorises the operation of a knackery must be accompanied by:
- (a) a copy of any consent required by or under the *Environmental Planning and Assessment Act 1979*, and
- (b) a site plan showing:
- (i) the location and dimensions of the site, and

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- (ii) the fall, if any, of the land comprising the site, and
 - (iii) the location of any watercourse adjacent to or passing through the site, and
 - (iv) the names and widths of any roads adjacent to the site, and
 - (v) the location of any railway lines adjacent to or passing through the site, and
 - (vi) the location of all existing and proposed buildings or other structures on the site, and
 - (vii) the direction of true north, and
- (c) a floor plan showing the dimensions of all floor areas and the location of all appliances proposed to be used in connection with the slaughtering of animals or the dressing and processing of carcasses, and
 - (d) a drainage plan showing proposals for floor drainage and effluent disposal and the location of hot and cold water outlets, hand-washing facilities and carcase-washing facilities, and
 - (e) a roof plan showing details of the roof structure of all existing and proposed buildings and the location of any existing or proposed skylights or vents, and
 - (f) longitudinal and cross-sectional drawings of all existing and proposed buildings, indicating the finish to be provided for walls, floors and partitions, the heights above floor level of all rails proposed to be used for the carriage of carcasses or meat and the location of all appliances proposed to be used in connection with the slaughtering of animals or dressing and processing of carcasses, and
 - (g) elevation drawings of each side of all existing and proposed buildings, showing the sizes and positions of all doorways, windows and other openings, and
 - (h) written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with the slaughtering of animals or dressing and processing of carcasses.
- (2) The drainage plan may be incorporated with the site plan or the floor plan.
 - (3) Any thing required to be shown on a plan or drawing may be shown on a separate plan or drawing.
 - (4) Plans and drawings must be prepared in a professional manner.

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87 Applications to alter knacker premises

- (1) An application to the Food Authority for its permission in respect of any structural alterations or additions to premises authorised by a licence to be operated as a knacker is to be in an approved form.
- (2) The applicant must furnish to the Food Authority:
 - (a) such plans and drawings relating to the structural alterations or additions as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in those buildings or structures as the Food Authority may require.
- (3) Plans and drawings must be prepared in a professional manner.

88 Minimum standards for knackereries

The minimum standards for knackereries are the standards specified in Schedule 3.

89 Operational standards for knackereries

The operation of a knacker must comply with the requirements of:

- (a) Schedule 4, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 9 Rendering plants

90 Additional requirement for applications for licences in respect of rendering plants

- (1) An application for a licence that authorises the operation of a rendering plant must be accompanied by:
 - (a) such plans and drawings as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with any proposed rendering operations as the Food Authority may require.

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- (2) Plans and drawings must be prepared in a professional manner.

91 Minimum standards for rendering plants

The minimum standards for a rendering plant are the standards specified in the publication titled AS 5008—2001, *Hygienic rendering of animal products* published by Standards Australia, as in force from time to time.

92 Operational standards for rendering plants

The operation of a rendering plant must comply with the requirements of:

- (a) the publication specified in clause 91, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 10 Animal food processing plants**93 Additional requirements for applications for licences in respect of animal food processing plants**

- (1) An application for a licence that authorises the operation of an animal food processing plant must be accompanied by:
 - (a) such plans and drawings as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with any proposed animal food processing operations as the Food Authority may require.
- (2) Plans and drawings must be prepared in a professional manner.

94 Issue of licences in respect of class 1, 2, 3 or 4 animal food processing

The Food Authority may issue:

- (a) a licence that authorises class 1 animal food processing in respect of an animal food processing plant comprising premises where meat, poultry or fish or any product of poultry is stored or packed for the purpose of being stored, but not packaged, processed, treated, boned or cut up, or
- (b) a licence that authorises class 2 animal food processing in respect of an animal food processing plant comprising

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premises other than premises referred to in paragraph (a), (c) or (d), or

- (c) a licence that authorises class 3 animal food processing in respect of an animal food processing plant comprising premises where kangaroos or feral goats slaughtered in the field are dressed, packaged, processed, treated, boned or cut up, or
- (d) a licence that authorises class 4 animal food processing in respect of an animal food processing plant comprising premises where any unflayed carcase of a game animal is stored or packed for the purpose of being stored, but not packaged, processed, treated boned or cut up.

95 Minimum standards for animal food processing plants

The minimum standards for:

- (a) a class 1 animal food processing plant are the standards specified in Part 1 of Schedule 5, and
- (b) a class 2 animal food processing plant are the standards specified in Part 2 of Schedule 5, and
- (c) a class 3 animal food processing plant are the standards specified in Part 3 of Schedule 5, and
- (d) a class 4 animal food processing plant (field depot) are the standards specified in Part 4 of Schedule 5.

96 Operational standards for animal food processing plants

The operation of an animal food processing plant must comply with the requirements of:

- (a) Schedule 6, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 11 Animal food vans**97 Applicants to present animal food vans for inspection**

The Food Authority may require an applicant for the issue of a licence that authorises the operation of an animal food van to present the vehicle in respect of which the application is made for inspection by the Food Authority at such time and place as the Food Authority may determine.

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98 Issue of class 1, 2 or 3 animal food van licence

The Food Authority may issue:

- (a) a licence that authorises the operation of a class 1 animal food van in respect of an animal food van (other than an animal food van referred to in paragraph (c)) fitted with rails from which meat intended for use as animal food and conveyed in the van is suspended, or
- (b) a licence that authorises the operation of a class 2 animal food van in respect of a vehicle that is not an animal food van referred to in paragraph (a) or (c), or
- (c) a licence that authorises the operation of a class 3 animal food van in respect of an animal food van in which unflayed carcasses of game animals intended for use as animal food are conveyed from the point of harvest to a class 4 animal food processing plant.

99 Minimum standards for animal food vans

The minimum standards for:

- (a) a class 1 animal food van are the standards specified in Part 1 of Schedule 7, and
- (b) a class 2 animal food van are the standards specified in Part 2 of Schedule 7, and
- (c) a class 3 animal food van (field harvester) are the standards specified in Part 3 of Schedule 7.

Division 12 Meat retail premises**100 Additional requirements for applications for meat retail premises class licences**

- (1) An application for a licence that authorises the operation of meat retail premises must be accompanied by:
 - (a) such plans and drawings as the Food Authority may require, and
 - (b) such written specifications of materials to be used in the construction of all proposed buildings and other structures and of all appliances proposed to be used in connection with any proposed meat retail operations as the Food Authority may require.
- (2) Plans and drawings must be prepared in a professional manner.

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101 Minimum standards for meat retail premises

The minimum standards for meat retail premises are the standards specified in the publication titled *New South Wales Standard for Construction and Hygienic Operation of Retail Meat Premises* published by the Food Authority, as in force from time to time.

102 Operational standards for meat retail premises

The operation of meat retail premises must comply with the requirements of:

- (a) each of the following:
 - (i) a food safety program,
 - (ii) the publication specified in clause 101,
 - (iii) clause 9 of Standard 1.6.2 of the Food Standards Code, or
- (b) an approved quality assurance program that incorporates the principles of a hazard analysis critical control point program.

Division 13 Requirements relating to branding and inspection of abattoir meat

103 Removal of meat from abattoir

- (1) The holder of a licence that authorises the operation of an abattoir must ensure that abattoir meat is not removed from the abattoir unless the carcass or part of the carcass from which it came has been branded with a prescribed brand by or under the authority of a meat safety officer.
- (2) Subclause (1) does not apply to:
 - (a) meat that is:
 - (i) passed as fit for use only as animal food, or condemned as unfit for human consumption or for use as animal food, by a meat safety officer, and
 - (ii) is identified as such in accordance with this Part, or
 - (b) the carcass of a bird or meat from the carcass of a bird.

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104 Prescribed brands for abattoir meat

For the purposes of this Division, the following are prescribed brands for abattoir meat:

- (a) in the case of meat other than lamb or hogget—a brand in accordance with the design specified in Part 1 of Schedule 8,
- (b) in the case of lamb meat—brands in accordance with both the designs specified in Parts 1 and 2 of Schedule 8,
- (c) in the case of hogget meat—brands in accordance with both the designs specified in Parts 1 and 3 of Schedule 8.

105 Marking of carcasses

- (1) If a meat safety officer passes a carcass or part of a carcass as fit for human consumption, the meat safety officer must cause the appropriate prescribed brand to be applied to the carcass or part in accordance with clause 106.

Maximum penalty: 25 penalty units.

- (2) If an abattoir animal is slaughtered in accordance with orders under the *Export Control Act 1982* of the Commonwealth and a meat safety officer passes the carcass as fit for human consumption, the meat safety officer must cause an official mark for the purposes of that Act to be applied to the carcass or covering, as the case may be, in accordance with orders made under that Act.

Maximum penalty: 25 penalty units.

- (3) The provisions of this Division apart from subclause (2) do not apply in relation to meat from an animal referred to in that subclause.
- (4) If a meat safety officer condemns meat at an abattoir as unfit for human consumption and unfit for use as animal food, the meat safety officer must ensure that the meat is handled in accordance with section 7.13 of the *Australian Standard for Hygienic Production of Meat for Human Consumption* published by ARMCANZ, as in force from time to time.

106 Positions and manner in which brands are to be applied

- (1) Subject to subclauses (2) and (3), a brand applied for the purposes of clause 105 must be applied at the following positions:
 - (a) in the case of a carcass of a bovine, deer, sheep or goat—on each quarter or, if a bovine or deer hindquarter has been

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divided into portions being a butt, rump, loin or any combination of those, on each portion,

- (b) in the case of a carcase of a swine—on each of the shoulder, middle and hind leg on both sides of the carcase,
 - (c) in the case of a carcase of a rabbit—on the rump,
 - (d) in the case of a carcase of a lamb or a carcase of a hogget—on the lateral aspect of each side of the carcase from:
 - (i) the stifle along the leg and chump, and
 - (ii) parallel with the mid-line of the back over the loins and ribs to the top of the shoulder, and
 - (iii) over the shoulder to the elbow.
- (2) If the carcase has been broken into pieces, the brand must be applied to each of the pieces.
 - (3) If the carcase has been broken into pieces and those pieces are packed in a covering or container, the brand must be applied to the covering or container and need not be applied to the pieces themselves.
 - (4) A brand must be legible when applied and affixed in a reasonably permanent manner.
 - (5) Despite the other provisions of this clause, if a meat safety officer is of the opinion that a brand would not be sufficiently visible on meat or a covering of meat if applied in accordance with those provisions, the meat safety officer must cause the brand to be applied in such manner as he or she thinks fit.
 - (6) In this clause:
 - bovine* includes bull, ox, steer, cow, heifer, calf and buffalo.
 - goat* includes kid.
 - sheep* includes ram, ewe and wether.

107 Unauthorised removal of meat from chiller prohibited

A person must not remove meat from a chiller at an abattoir without the consent of a meat safety officer.

108 Identification systems for lamb and hogget meat

- (1) The holder of a licence that authorises the operation of an abattoir at which sheep are slaughtered must provide to the Food Authority details, in writing, of the identification system to be used for identifying whether meat is lamb meat or hogget meat.

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- (2) The identification system must include the following:
 - (a) the method of identification to be used,
 - (b) the point at which the identification will be made,
 - (c) the means of applying the identification,
 - (d) the means of maintaining that identification until such time as a mark identifying the type of meat is applied in accordance with this Division.
 - (3) The holder of a licence that authorises the operation of an abattoir must not commence using an identification system referred to in this clause until the Food Authority:
 - (a) is satisfied that the proposed system will be functional and will be adequately maintained, and
 - (b) approves the system.
 - (4) The holder of a licence that authorises the operation of an abattoir must not alter the system of identification approved under this clause unless the alteration has been approved.
 - (5) The holder of a licence that authorises the operation of an abattoir must make available to an authorised officer any records, animals, carcasses or meat that the officer may require to monitor the system.

109 Production of processed meat

The holder of a licence that authorises the operation of a meat processing plant must, in producing processed meat, use only meat, or things containing meat:

- (a) that is abattoir meat, and
- (b) that has been passed by a meat safety officer as being fit for human consumption.

Division 14 Requirements relating to branding and inspection of game meat**110 Removal of meat from game meat processing plant**

- (1) The holder of a licence that authorises the operation of a game meat processing plant must ensure that game meat is not removed from the game meat processing plant unless the carcass or part of the carcass from which it came has been branded with a prescribed brand by or under the authority of a game meat inspector.

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- (2) Subclause (1) does not apply to:
- (a) meat that is:
 - (i) passed as fit for use only as animal food, or condemned as unfit for human consumption or for use as animal food, by a game meat inspector, and
 - (ii) is identified as such in accordance with this Part, or
 - (b) the removal of meat from a class 4 game meat processing plant.

111 Prescribed brands for game meat

For the purposes of this Division, the prescribed brand for game meat is the brand set out in Schedule 9.

112 Marking of carcasses

- (1) If a game meat inspector passes a carcase or part of a carcase as fit for human consumption, the inspector must cause the appropriate prescribed brand to be applied to the carcase or part in accordance with clause 113.
Maximum penalty: 25 penalty units.
- (2) If a game animal is slaughtered in accordance with orders under the *Export Control Act 1982* of the Commonwealth and a game meat inspector passes the carcase as fit for human consumption, the game meat inspector must cause an official mark for the purposes of that Act to be applied to the carcase or covering, as the case may be, in accordance with orders made under that Act.
Maximum penalty: 25 penalty units.
- (3) The provisions of this Division other than subclause (2), do not apply in relation to meat from an animal referred to in that subclause.
- (4) If a game meat inspector condemns meat as unfit for human consumption and unfit for use as animal food, the meat safety officer must ensure that the meat is handled in accordance with section 9.24 of *Australian Standard for Hygienic Production of Game Meat for Human Consumption* published by ARMCANZ, as in force from time to time, before it is removed from the game meat processing plant.
Maximum penalty: 25 penalty units.

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113 Positions and manner in which brands are to applied

- (1) Subject to subclauses (2) and (3), a brand applied for the purposes of clause 112 must be applied at the following positions:
 - (a) in the case of a carcase of a deer or goat—on each quarter,
 - (b) in the case of a carcase of a swine—on each shoulder, middle and hind leg on both sides of the carcase,
 - (c) in the case of a carcase of a rabbit—on the midline of the chump,
 - (d) in the case of a carcase of a kangaroo—on the rump on each side of the carcase.
- (2) If the carcase has been broken into pieces, the brand must be applied to each of the pieces.
- (3) If the carcase has been broken into pieces and those pieces are packed in a covering or container, the brand must be applied to the covering or container and need not be applied to the pieces themselves.
- (4) A brand must be legible when applied and affixed in a reasonably permanent manner.
- (5) Despite the other provisions of this clause, if a game meat inspector is of the opinion that a brand would not be sufficiently visible on meat or a covering of meat if applied in accordance with those provisions, the game meat inspector must cause the brand to be applied in such manner as he or she thinks fit.

114 Production of processed game meat

The holder of a licence that authorises the operation of a game meat processing plant must, in producing processed meat, use only meat, or things containing meat:

- (a) that is game meat, and
- (b) that has been passed, or has come from an animal that has been passed, by a game meat inspector as being fit for human consumption.

Division 15 Requirements for branding and inspection of meat for use as animal food**115 Marking of carcasses as fit for animal food**

- (1) The holder of a licence that authorises the operation of an abattoir, game meat processing plant or animal food processing plant must ensure that any meat passed as fit for use only as

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animal food by a meat safety officer or a game meat inspector is stained before it is removed from the abattoir, game meat processing plant or animal food processing plant with an aqueous solution of Brilliant Blue FCF, not more dilute than 1 in 500, or an approved dye solution so that, where the meat consists of:

- (a) a piece of meat weighing 2 kilograms or more, the dye is visible on all exposed surfaces of the meat, and
- (b) a piece of meat weighing less than 2 kilograms, the dye is visible on at least one surface of the meat, and
- (c) diced or minced meat, there are appearances of dye throughout,

and is packed in accordance with subclauses (2)–(6).

- (2) The meat must be packed in a clean container that:
 - (a) is fitted with a clean leak-proof liner (unless it is made of a leak-proof material), and
 - (b) has printed or otherwise marked on it:
 - (i) the name, or other identification, and address of the packer of the meat, and
 - (ii) the day, month and year on which the meat was packed in the container.
- (3) The container must also have the words specified in subclause (4) printed or otherwise marked:
 - (a) on both the base and the lid of the container (in the case of a container having a separate lid that fits over or into the base of the container), and
 - (b) on the top (in any other case).
- (4) The words are:
 - (a) “ANIMAL FOOD MEAT—NOT FIT FOR HUMAN CONSUMPTION”, or
 - (b) “INEDIBLE MEAT—NOT FIT FOR HUMAN CONSUMPTION”, or
 - (c) “PET FOOD—NOT FIT FOR HUMAN CONSUMPTION”,in letters not less than 10 millimetres high on a contrasting background.
- (5) The container must also have a continuous yellow band at least 50 millimetres wide applied in accordance with subclause (6) around the centre of the exterior of the container.

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- (6) The band required to be applied around the centre of a container by subclause (5):
- (a) must be applied around the exterior of both the lid and the base (if the container has a separate lid that fits over or into the base of the container), and
 - (b) must be applied around the lesser circumference of the covering (in all other cases).
- (7) Subclause (1) does not apply to:
- (a) meat passed as fit for use as animal food if it is packed in containers of 1 kilogram or less in accordance with subclauses (2)–(6) and is handled in accordance with an approved program, or
 - (b) the removal of meat from a class 4 game meat processing plant.
- (8) In this clause, **Brilliant Blue FCF** means the dye identified as such in the publication entitled *Specifications for identity and purity of food colours* and prepared for the 28th session of the Joint Food and Agriculture Organisation and World Health Organisation expert committee on food additives.

116 Exception in case of heat-sterilised meat

Clause 115 does not apply to or in relation to the removal from an abattoir or game meat processing plant of meat if the meat is:

- (a) heat-sterilised or has been thoroughly frozen and is intended to be heat-sterilised at an animal food processing plant after removal from the abattoir or game meat processing plant, and
- (b) to be sorted, packed and frozen at an intermediate establishment after removal from the abattoir or game meat processing plant and intended to be heat-sterilised at an animal food processing plant after removal from the intermediate establishment under approved conditions that must apply at the abattoir, game meat processing plant or the intermediate establishment, and
- (c) packed in accordance with clause 115 (2)–(6), and
- (d) accompanied by a certificate in an approved form completed and signed by a meat safety officer in the case of an abattoir or a game meat inspector in the case of a game meat processing plant.

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117 Production of animal food

The holder of a licence that authorises the operation of an animal food processing plant must, in producing animal food, use only meat, or things containing meat:

- (a) that is abattoir meat that has been passed by a meat safety officer as being fit for use as animal food, or
- (b) that is game meat that has been passed, or that has come from an animal that has been passed, by a game meat inspector as being fit for use as animal food.

Division 16 Sale and storage of meat

118 Sale of meat for human consumption

- (1) A person must not sell, by wholesale or on meat retail premises, meat for human consumption or as an ingredient of processed meat unless:
 - (a) the meat, or the carcase from which it came, has been supplied from premises that are:
 - (i) authorised by a licence to be operated as an abattoir or game meat processing plant, or
 - (ii) an abattoir or game meat processing plant that is operating in accordance with the laws of the place in which the premises are situated, and
 - (b) the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for human consumption in accordance with this Regulation or the laws of the place from which the meat was supplied.
- (2) A person must not sell, by wholesale or on meat retail premises, processed meat for human consumption if it has been condemned as unfit for human consumption in accordance with this Regulation or the laws of the place from which the meat was supplied.
- (3) A person must not sell, on meat retail premises, processed meat for human consumption unless it has been produced at premises that are:
 - (a) authorised by a licence to be operated as a meat processing plant, or

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- (b) an abattoir or game meat processing plant that is operating in accordance with the laws of the place in which the premises are situated.

119 Sale of meat for use as animal food

- (1) A person must not sell, by wholesale or on meat retail premises, meat for use as animal food or as an ingredient of processed animal food unless:
 - (a) the meat, or the carcase from which it came, has been supplied from premises that are:
 - (i) authorised by a licence to be operated as an abattoir or game meat processing plant, or
 - (ii) an abattoir or game meat processing plant that is operating in accordance with the laws of the place in which the premises are situated, or
 - (b) the meat is game meat from a kangaroo or feral goat and has been packaged, processed, treated, boned or cut up on premises that are:
 - (i) authorised by a licence to be operated as a class 3 animal food processing plant, or
 - (ii) operating as the equivalent of a class 3 animal food processing plant in accordance with the laws of the place in which the premises are situated,and the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for human consumption in accordance with this Regulation or the laws of the place from which the meat was supplied.
- (2) A person must not sell, by wholesale or on meat retail premises, processed animal food if it has been condemned in accordance with this Regulation or the laws of the place from which the meat was supplied as unfit for use as animal food.

120 Storage of meat

- (1) A person must not store any meat on meat retail premises used for the sale of meat for human consumption unless:
 - (a) the meat, or the carcase from which it came, has been supplied from premises that are:
 - (i) authorised by a licence to be operated as an abattoir or game meat processing plant, or

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- (ii) an abattoir or game meat processing plant that is operating in accordance with the laws of the place in which the premises are situated, and
 - (b) the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for human consumption in accordance with this Regulation or the laws of the place from which the meat was supplied.
 - (2) A person must not store any processed meat on meat retail premises used only for the sale of meat for use as animal food unless the meat has been produced at premises that are:
 - (a) authorised by a licence to be operated as an animal food processing plant, or
 - (b) an animal food processing plant operating in accordance with the laws of the place in which the premises are situated.

Maximum penalty: 25 penalty units.

- (3) A person must not store any meat on meat retail premises used only for the sale of meat for use as animal food unless:
 - (a) the animal from which the meat came was slaughtered at premises that are:
 - (i) authorised by a licence to be operated as an abattoir, knackery or game meat processing plant, and
 - (ii) an abattoir, knackery or game meat processing plant that is operating in accordance with the laws of the place in which the premises are situated, and
 - (b) the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for use as animal food in accordance with this Regulation or the laws of the place from which the meat was supplied.

Maximum penalty: 25 penalty units.

Division 17 Issue and use of brands for meat

121 Application for and issue of brands

- (1) The holder of a licence that authorises the operation of an abattoir or a game meat processing plant may apply to the Food Authority for the issue to the holder of such of the prescribed brands as are

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necessary for the operation of the abattoir or game meat processing plant concerned.

- (2) An application under this clause must be in writing.
- (3) The fee payable for the issue of the brand is the amount that the Food Authority determines is equivalent to the cost to the Food Authority of the manufacture of the brand.

122 Storage of brands

The holder of a licence that authorises the operation of an abattoir or a game meat processing plant must ensure that any brand issued to the holder under this Part is stored in a place which is locked and to which access is available only to:

- (a) the holder of the licence, and
- (b) in the case of an abattoir—the meat safety officer, and
- (c) in the case of a game meat processing plant—a game meat inspector.

123 Lost, stolen or damaged brands

- (1) The holder of a licence that authorises the operation of an abattoir or a game meat processing plant who becomes aware that a brand issued to the holder under this Part has been lost or stolen must immediately report that fact to the Food Authority.
- (2) If a brand issued under this Part in relation to an abattoir or game meat processing plant is lost or stolen, the holder of the licence concerned must return any other brand so issued that has not been lost or stolen to the Food Authority.
- (3) If a brand issued under this Part in relation to an abattoir or game meat processing plant is lost, stolen or damaged, the holder of the licence concerned may apply in writing to the Food Authority:
 - (a) in the case of a brand that is lost or stolen—for the issue of new brands for the abattoir or game meat processing plant, but only if the holder has complied with subclauses (1) and (2), and
 - (b) in the case of a brand that is damaged—for the issue of a replacement brand.
- (4) On payment of the cost of manufacture of a new brand or a replacement brand (as the case requires), the Food Authority may, if satisfied that the provisions of this clause have been complied with, issue the new brand or the replacement brand to the holder of the licence concerned.

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124 Resemblances of prescribed brands

A person must not manufacture or possess a brand which resembles a prescribed brand referred to in clause 104 or 111 unless the manufacture or possession is authorised by this Regulation or has been approved.

Maximum penalty: 25 penalty units.

125 Unauthorised branding of meat

A person must not brand, stamp or otherwise mark any meat with a mark resembling a prescribed brand referred to in clause 104 or 111 unless:

- (a) the person is authorised by this Regulation to do so or is acting under the direction of a person so authorised, or
- (b) the person is authorised in writing by the Food Authority.

Division 18 Meat safety officers

126 Appointment of meat safety officers for abattoirs

The holder of a licence that authorises the operation of an abattoir must not operate the abattoir to which the licence relates unless there is a person holding the position of meat safety officer for the abattoir whose appointment has been approved in writing by the Food Authority.

127 Duty of meat safety officer to report contraventions of Regulation

A meat safety officer for an abattoir is to report, as soon as practicable, to the Food Authority any contravention of this Regulation relating to the abattoir of which the officer becomes aware.

128 Revocation of approval of appointment of meat safety officer

- (1) The Food Authority may revoke the approval of a person to hold the position of meat safety officer at a particular abattoir if the Food Authority is of the opinion that the person:
 - (a) has not competently carried out any function of a meat safety officer under this Regulation, or
 - (b) has failed to report any contravention of this Regulation relating to the abattoir of which the officer was aware or should have been aware.

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- (2) A revocation of approval under this clause:
- (a) may be made only after the Food Authority has given the meat safety officer an opportunity to be heard, and
 - (b) must be in writing served on the meat safety officer and the holder of the licence for the abattoir concerned.

Division 19 Miscellaneous**129 Establishment of Meat Industry Consultative Council**

- (1) The Minister is to establish a committee to be called the Meat Industry Consultative Council for the purposes of the consultation referred to in section 105 of the Act in relation to the food safety scheme prescribed under this Part.
- (2) The Council is to consist of the following members appointed by the Minister:
 - (a) one member appointed to be Chairperson,
 - (b) one member appointed to be Deputy Chairperson,
 - (c) one member who is the Director-General of the Department of Primary Industries, or a nominee of the Director-General,
 - (d) one member who is the Director-General of the Food Authority, or a nominee of the Director-General,
 - (e) 3 members who are representatives of livestock producers,
 - (f) 2 members who are representatives of meat processors (other than poultry processors or game meat processors),
 - (g) one member who is a representative of poultry processors,
 - (h) one member who is a representative of game meat processors,
 - (i) one member who is a representative of smallgoods manufacturers,
 - (j) one member who is a representative of meat retailers,
 - (k) one member who is a representative of consumers of meat,
 - (l) one member who is a representative of meat industry employees,
 - (m) such other members as the Minister considers have appropriate expertise, qualifications or experience as will enable them to make a valuable contribution to the Council.

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- (3) When appointing the members of the Council, the Minister is to call for nominations as follows and is to specify a time within which the nominations must be received:
 - (a) from the NSW Farmers' Association in relation to the members referred to in subclause (2) (e),
 - (b) from the Australian Meat Industry Council in relation to the members referred to in subclause (2) (f), (i) and (j),
 - (c) from the NSW Chicken Meat Council in relation to the member referred to in subclause (2) (g),
 - (d) from the Australian Game Meat Producers Association in relation to the member referred to in subclause (2) (h).
 - (4) The Minister is to consider any nomination made in accordance with subclause (3), but need not appoint a person so nominated.
 - (5) Schedule 10 has effect with respect to the constitution and procedure of the Meat Industry Consultative Council.

130 Functions of Council

The Meat Industry Consultative Council has the function of consulting with the Food Authority on food safety schemes under the Act relating to the meat industry.

131 Audits

- (1) The Food Authority may carry out an audit in relation to any premises or vehicle to which a licence relates.
- (2) The audit must be for the purpose of ascertaining whether the premises or vehicle concerned are or is being operated in compliance with the Act and this Regulation.
- (3) An audit must not be carried out, in respect of any particular premises or vehicle, more often than is reasonably necessary to ensure compliance with the Act and this Regulation.

132 Licence fees for licences in respect of meat businesses

- (1) The holder of a licence who carries on one or more of the activities specified in Column 1 of Schedule 11 is to pay a licence fee each year to the Food Authority calculated in accordance with this clause.
- (2) If the licence authorises the carrying on of an activity specified in Column 1 of the Table in Schedule 11, the licence fee payable by the holder of the licence is the fee specified in Column 3 of that Schedule that is applicable to the number of employees (if any) involved in the handling of meat, processed meat or animal food

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at the premises or in the vehicle where the relevant activity is carried out.

- (3) If more than one activity specified in Column 1 of the Table in Schedule 11 applies to a meat business, the amount of the licence fee payable by the holder of the licence is the total of each amount payable by the holder under subclause (2) in respect of each of those activities.
- (4) If more than one premises or vehicle are authorised by the licence to be used for an activity specified in Column 1 of the Table in Schedule 11, the licence fee in respect of those activities is payable in relation to each of those premises and vehicles.
- (5) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Part 6 Plant products food safety scheme

Division 1 Preliminary

133 Definitions

In this Part:

fresh cut fruit means any fruit that has been processed in some way such as by trimming, cutting, slicing, peeling or pulling apart, but is still raw.

fresh cut vegetable means any vegetable that has been processed in some way such as by trimming, cutting, slicing, peeling or pulling apart, but is still raw.

pasteurisation means, in relation to fruit or vegetable juice:

- (a) heating the juice to a temperature of not less than 72 degrees Celsius and retaining the juice at that temperature for no less than 15 seconds, or
- (b) treating the juice using a technology or method that produces an equivalent lethal effect on microorganisms present in the juice as that provided by the method referred to in paragraph (a).

plant product means fresh cut fruit, fresh cut vegetable, vegetables in oil, unpasteurised juice or seed sprouts.

plant products business is defined in clause 136.

Plant Products Safety Manual means the document of that name published by the Food Authority, as in force from time to time.

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seed sprouts means sprouted seeds or beans.

unpasteurised juice means fruit or vegetable juice, or a mixture of such juice, that has not been subject to pasteurisation.

vegetables in oil means fruits, vegetables or herbs, or a combination of any of those, immersed in oil, whether in whole or in part.

134 Plant products food safety scheme

The provisions of Part 3 and this Part are prescribed as a food safety scheme under Part 8 of the Act.

135 Application of Part to fresh cut fruit and vegetable, seed sprouts and juices

- (1) This Part does not apply to the carrying on of a plant products business to the extent to which the business involves the handling of a plant product (other than vegetables in oil) that the person carrying on the business reasonably believes:
 - (a) will be further processed in a way that will convert it from being a plant product and reduce the risk of microbiological contamination in it before it is supplied to a consumer, or
 - (b) will be in packaging, when supplied to a consumer, that indicates that the plant product is not ready to consume until it is further processed in a way that will reduce the risk of microbiological contamination in it.
- (2) For the purposes of subclause (1), the risk of microbiological contamination is taken to be reduced:
 - (a) in fresh cut fruit, fresh cut vegetable and seed sprouts by cooking or by a process equivalent in its effectiveness, or
 - (b) in unpasteurised juice by pasteurisation or by a process equivalent in its effectiveness.

136 Meaning of “plant products business”

In this Part, *plant products business* means a business involving the handling of plant products, but only if any of the following activities are carried out in the course of that business:

- (a) the extraction of juice from vegetables or fruits without pasteurising the juice,
- (b) the processing of seed sprouts, fruits or vegetables to produce plant products, including (but not limited to) cutting, peeling, preserving and cooking,

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- (c) the storage of plant products,
- (d) the distribution of plant products,
- (e) the transportation of plant products,
- (f) the packaging of plant products.

Division 2 Additional licence requirements**137 Plant products business to be licensed to carry out activities**

- (1) Clause 8 does not apply to a plant products business if the Food Authority has issued an exemption in writing from the operation of that clause in relation to that business and the exemption has not been revoked by the Food Authority.
- (2) The Food Authority may issue an exemption under subclause (1) only if it is of the opinion that the plant products business concerned is of a class identified in the Plant Products Safety Manual as not requiring licensing.

Division 3 Sampling and analyses**138 Plant products business to undertake analyses of plant products**

- (1) The holder of a licence must, at the holder's own expense, ensure that samples of plant products handled in the course of the plant products business authorised by the licence are analysed:
 - (a) except as provided by paragraph (b), in accordance with the requirements of the Plant Products Safety Manual, or
 - (b) in accordance with the terms of a notice served on the holder of the licence under subclause (2).

Maximum penalty: 25 penalty units.

- (2) The Food Authority may, by notice in writing served on the holder of a licence, specify the frequency at which analyses are to be carried out for the purposes of this clause and the manner in which they are to be carried out.

139 Reports of analyses

- (1) The holder of a licence must ensure that every analysis carried out for the purposes of clause 138 is carried out in a laboratory approved by the National Association of Testing Authorities, Australia, or by the Food Authority, for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

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- (2) The person in charge of a laboratory in which an analysis for the purposes of clause 138 is carried out must, within 24 hours after the analysis is completed, submit a written report to the Food Authority of the results of the analysis if any pathogen or substance specified in the Plant Products Safety Manual is detected, unless the analysis is the subject of an exemption under subclause (7).
Maximum penalty: 25 penalty units.
- (3) The holder of a licence must, in accordance with subclause (4), notify the Food Authority of the results of any analysis carried out by or on behalf of the holder of the licence (other than an analysis the subject of an exemption under subclause (7)) if:
- (a) any pathogen specified in the Plant Products Safety Manual is detected, or
 - (b) the results indicate that any plant product analysed contained a substance at a level in excess of that allowed for that substance by the Food Standards Code or the Plant Products Safety Manual.
- Maximum penalty: 25 penalty units.
- (4) A notification under subclause (3) must:
- (a) be made orally as soon as possible after the holder becomes aware of the results of the analysis, and
 - (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.
- (5) A person is not excused from a requirement to notify the Food Authority under subclause (3) on the ground that the information provided in the notification might incriminate the person or make the person liable to a penalty.
- (6) However, any information furnished in such a notification is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence against subclause (3).
- (7) The Food Authority may exempt analyses carried out for the purposes of clause 139 from the operation of subclause (2) or (3) in a particular case or class of cases.
- (8) An exemption must be in writing and notified to each laboratory or holder of a licence that is affected or, if the exemption affects or may affect a number of laboratories or holders of licences, may instead be published in the Gazette.

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140 Charges for analyses

- (1) The charge payable for the carrying out by the Food Authority of any analysis for the purposes of the Act or this Regulation in relation to a plant products business is the amount determined by the Food Authority to be the reasonable costs incurred by the Food Authority in carrying out the analysis or having the analysis carried out on its behalf.
- (2) The charges payable under this clause are payable to the Food Authority.
- (3) The Food Authority may reduce or waive payment of a charge in a particular case or class of cases.

Division 4 Miscellaneous**141 New South Wales Plant Products Industry Committee**

- (1) The Food Authority is to establish a body to be known as the New South Wales Plant Products Industry Committee (*the Industry Committee*) for the purposes of the consultation referred to in section 105 of the Act in relation to the food safety scheme prescribed under this Part.
- (2) The Industry Committee is to be comprised principally of persons nominated by the plant products industry, and endorsed by the Food Authority, to represent the major sectors of the industry.
- (3) The Industry Committee may also comprise such officers of the Food Authority and the Department of Health, and representatives of other bodies or industry organisations and of consumers, as the Food Authority allows.
- (4) The Industry Committee may establish subcommittees to assist it in the exercise of its functions.
- (5) The Food Authority is to appoint a Chairperson and Secretary of the Industry Committee.
- (6) The procedure for the calling and holding of meetings of the Industry Committee is to be as determined by the Food Authority in consultation with the plant products industry.

142 Inspections and audits in relation to plant food businesses

- (1) The Food Authority may arrange for an authorised officer to carry out any or all of the following types of inspection or audit before or after granting a licence in respect of a plant food business:

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- (a) an inspection of the premises and equipment involved in the food business, and the activities carried on in the course of the food business,
- (b) an audit of the food safety program, or proposed food safety program, for the food business.
- (2) This clause is not intended to limit any powers of an authorised officer to carry out an inspection under Part 4 or 5 of the Act.

Part 7 Seafood safety scheme

Division 1 Preliminary

143 Definitions

In this Part:

annual local shellfish program levy means the levy payable under Division 9.

class A permit means a class A aquaculture permit under the *Fisheries Management Act 1994*.

Code of Practice for Oyster Depuration in NSW means the document of that title published by the Food Authority as in force from time to time.

estuarine waters means waters located within the estuary of a New South Wales river.

local committee means a local shellfish committee appointed under clause 157.

local program means a local shellfish program prepared under clause 154.

NSW Shellfish Committee means the New South Wales Shellfish Committee appointed under clause 155.

NSW Shellfish Program Operations Manual means the document of that title published by Safe Food on 31 December 2001, including any amendments of that document as a result of a review under clause 154.

Program means the New South Wales Shellfish Program established under clause 154.

Program Manager means the person appointed by the Food Authority to be Program Manager of the Program.

seafood has the meaning given by clause 146.

seafood business has the meaning given by clause 147.

shellfish means estuarine or oceanic bivalve molluscs.

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transhipment means the process of transferring live shellfish between harvest areas.

144 Seafood safety scheme

The provisions of Part 3, this Part and Schedules 12 and 13 are prescribed as a food safety scheme under Part 8 of the Act.

145 Certain vessels excluded from Part

This Part does not apply to a vessel that is used in the handling of seafood intended for sale if the vessel is used for one or more of the following purposes only:

- (a) the cultivation and handling of live estuarine bivalve molluscs,
- (b) setting and retrieving fishing gear,
- (c) towing.

146 Meaning of “seafood”

- (1) In this Part, *seafood* means any of the following intended for human consumption:
 - (a) marine, estuarine or freshwater fish or other aquatic animal life,
 - (b) any aquatic organisms,
 - (c) any product of, or anything containing a product of, fish, animal life or aquatic organisms referred to in paragraphs (a) and (b).
- (2) However, seafood does not include the following:
 - (a) crocodile,
 - (b) aquatic plant life,
 - (c) any product of, or anything containing a product of, crocodile or aquatic plant life that does not also contain any other thing referred to in subclause (1) (a)–(c).

147 Meaning of “seafood business”

- (1) In this Part, *seafood business* means a business involving the handling of seafood, including (but not limited to) the carrying on of any of the following activities:
 - (a) the culture, harvesting and collecting of shellfish and gastropods,
 - (b) the depuration of shellfish,
 - (c) aquaculture,

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- (d) the processing of seafood, including (but not limited to) skinning, gill and gutting, filleting, shucking, cooking, smoking, preserving and canning,
 - (e) the packaging of seafood,
 - (f) the storage of seafood,
 - (g) the transportation of seafood,
 - (h) the wholesaling of seafood.
- (2) For the purposes of this Part, a *seafood business*:
- (a) does not include the act of taking or catching marine fin fish, crustacea or cephalopod but includes any handling of such seafood immediately after it is taken or caught, whether the handling occurs on board a vessel or otherwise, and
 - (b) does not include the retail sale of seafood.

Division 2 Handling of seafood**148 Temperature at which certain seafood to be kept**

A person must not store or transport seafood at a temperature:

- (a) subject to paragraph (b), that contravenes the requirements of Standard 3.2.2 of the Food Standards Code, or
- (b) if a requirement relating to the storage or transportation of a particular type of shellfish is specified in the NSW Shellfish Program Operations Manual, that contravenes that requirement.

Division 3 Additional licence requirements**149 Application requirements**

Without limiting the grounds on which the Food Authority may refuse a licence, the Food Authority must not grant a licence for a seafood business unless satisfied that the applicant has any necessary authorisation under the *Fisheries Management Act 1994* to carry on the activities to which the application relates.

150 Suspension or cancellation of licence

Without limiting the grounds on which the Food Authority may suspend or cancel a licence, the Food Authority may suspend or cancel a licence for a seafood business if any relevant authorisation under the *Fisheries Management Act 1994* has been suspended or cancelled.

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151 Additional conditions of licence

In addition to any conditions of a licence imposed by the Food Authority under clause 10, it is a condition of a licence for a seafood business that the holder of the licence ensure that the requirements specified in Schedule 12 in relation to a particular activity authorised by the licence are complied with in respect of the carrying on of the activity and the premises or vehicles used in the carrying on of the activity.

Division 4 Sampling and analyses**152 Seafood businesses to undertake analyses of seafood**

- (1) The holder of a licence must, at the holder's own expense, ensure that samples of seafood handled in the course of the seafood business authorised by the licence are analysed:
 - (a) except as provided by paragraph (b):
 - (i) in the case of shellfish—in accordance with the requirements of the NSW Shellfish Program Operations Manual, or
 - (ii) in the case of any other seafood or of any materials used in the handling of any seafood—in accordance with the requirements of the Food Standards Code, or
 - (b) in accordance with the terms of a notice served on the holder of the licence under subclause (2).

Maximum penalty: 25 penalty units.

- (2) The Food Authority may, by notice in writing given to the holder of a licence, specify the frequency at which analyses are to be carried out for the purposes of this clause and the manner in which they are to be carried out.

153 Reports of analyses

- (1) The holder of a licence must ensure that every analysis carried out for the purposes of clause 152 is carried out in a laboratory approved by the National Association of Testing Authorities, or by the Food Authority, for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

- (2) The person in charge of a laboratory in which an analysis for the purposes of clause 152 is carried out must submit a written report to the Food Authority on the results of the analysis within

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24 hours after the analysis is completed, unless the analysis is the subject of an exemption under subclause (3).

Maximum penalty: 25 penalty units.

- (3) The Food Authority may exempt analyses carried out for the purposes of clause 152 from the operation of subclause (2) in a particular case or class of cases.
- (4) An exemption must be in writing and notified to each laboratory that is affected or, in a case where the exemption affects or may affect a number of laboratories, may instead be published in the Gazette.
- (5) The holder of a licence must, in accordance with subclause (6), notify the Food Authority of the details of any analysis carried out by or on behalf of the holder for the purposes of clause 152 if the results of the analysis indicate that the seafood analysed contained a substance at a level in excess of that allowed by the Food Standards Code.
Maximum penalty: 25 penalty units.
- (6) A notification under subclause (5) must:
 - (a) be made orally as soon as possible after the holder becomes aware of the results of the analysis, and
 - (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.
- (7) A person is not excused from a requirement to notify the Food Authority under subclause (5) on the ground that the information provided in the notification might incriminate the person or make the person liable to a penalty.
- (8) However, any information furnished in such a notification is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence against subclause (5).

Division 5 New South Wales Shellfish Program**154 Establishment of New South Wales Shellfish Program**

- (1) The Food Authority is required:
 - (a) to establish, manage and operate a program to be called the New South Wales Shellfish Program, and
 - (b) to ensure that the Program is maintained and applied to the harvest, collection, depuration, transshipment, labelling, identification and tracking of shellfish.

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- (2) The objective of the Program is to ensure that shellfish harvested or collected in New South Wales for sale for human consumption meet food safety requirements by:
- (a) assessing harvest areas to determine appropriate risk-based classifications and required food safety controls, and
 - (b) establishing criteria for the harvest, collection and depuration of shellfish, and
 - (c) ensuring that those criteria are satisfied in the harvest, collection and depuration of shellfish, and
 - (d) monitoring and assessing the effectiveness of those criteria.
- (3) The operational parameters of the Program are to be contained in a document to be called the NSW Shellfish Program Operations Manual, that includes the following:
- (a) minimum requirements for management plans for each area where shellfish are harvested or collected,
 - (b) standards that are to apply to shellfish and harvest areas,
 - (c) requirements relating to the depuration of shellfish,
 - (d) requirements relating to the transshipment of shellfish,
 - (e) requirements relating to the labelling and identification of transhipped and harvested shellfish,
 - (f) requirements relating to the keeping of records of shellfish that have been transhipped, harvested, depurated or packaged for human consumption,
 - (g) provisions for the collection of data for the purposes of the Program,
 - (h) other methods or operational parameters of a food safety nature to be applied to the harvest or collection of shellfish.
- (4) The NSW Shellfish Program Operations Manual may be reviewed from time to time by the Food Authority and the NSW Shellfish Committee.
- (5) For each area in which shellfish is harvested or collected, the Food Authority is to prepare a local shellfish program that complies with the objectives and operational parameters set out in the NSW Shellfish Program Operations Manual.

155 Appointment of NSW Shellfish Committee

- (1) The Food Authority is required to appoint a committee to be called the NSW Shellfish Committee.

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- (2) The NSW Shellfish Committee is to have 8 members of whom:
- (a) 4 are to be persons who are holders of a licence that authorises the harvesting of farmed shellfish, and
 - (b) 1 is to be a person who is the holder of a licence that authorises the collection of wild shellfish from near-shore oceanic areas, and
 - (c) 1 is to be a person who is the holder of a licence that authorises the collection of wild shellfish from estuarine areas, and
 - (d) 1 is to be the Director-General of the Food Authority, or a nominee of the Director-General who is a member of staff of the Food Authority, and
 - (e) 1 is to be the Program Manager.
- (3) The members of the NSW Shellfish Committee referred to in subclause (2) (a), (b) and (c) are to be appointed by the Food Authority for a period, not exceeding 3 years, specified in their instruments of appointment and are to be selected by a panel established by the Food Authority comprising:
- (a) the Director-General of the Food Authority, and
 - (b) an independent person appointed by the Food Authority, and
 - (c) 1 industry representative who is a member of, and nominated by, the Oyster Farmers Association of NSW Pty Ltd, and
 - (d) 1 industry representative who is a member of, and nominated by the NSW Farmers Association Oyster Growers Committee.
- (4) The panel is to apply the following selection criteria in determining the persons who are to be members of the NSW Shellfish Committee, but may have regard to other relevant matters:
- (a) possession of a licence to harvest, collect or deplete shellfish,
 - (b) commercial reliance on harvesting, collection or depuration of shellfish,
 - (c) demonstration of experience at a local committee level in the Program conducted under this Regulation, the former *Food Production (Seafood Safety Scheme) Regulation 2001* or the New South Wales Shellfish Quality Assurance

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Program conducted under the *Fisheries Management Act 1994*,

- (d) demonstration of previous compliance with those Programs.
- (5) The NSW Shellfish Committee is to elect one of its members as chairperson of the Committee.

156 Responsibilities of NSW Shellfish Committee

The NSW Shellfish Committee is responsible for the following:

- (a) advising the Minister and the Food Authority on matters relating to the operation and administration of the Program, including its operation at a local level,
- (b) communicating with and assisting local committees and industry members on matters relating to the Program,
- (c) providing, where appropriate, representatives to other committees dealing with shellfish food safety issues,
- (d) assisting the Program Manager in the preparation of an annual report on the operation and finances of the Program.

157 Appointment of local shellfish committees

- (1) The Food Authority is required to appoint a local shellfish committee for each area or group of areas of estuarine waters to which the Program relates.
- (2) A local committee is to comprise such number of members as the Food Authority considers appropriate.
- (3) The Food Authority is to arrange for the election of members of a local committee by such persons as the Food Authority is satisfied are holders of licences that authorise the harvesting or collection of shellfish, or the operation of a depuration plant, in the proposed area of operations of the committee.
- (4) A person is eligible to be elected to a local committee if the Food Authority is satisfied that the person:
 - (a) is the holder of a licence that authorises the harvesting or collection of shellfish in the proposed area of operations of the committee, and
 - (b) has previously complied with the Program conducted under this Regulation, the former *Food Production (Seafood Safety Scheme) Regulation 2001* or the New

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South Wales Shellfish Quality Assurance Program
conducted under the *Fisheries Management Act 1994*.

158 Responsibilities of local shellfish committees

- (1) A local committee is responsible for the following:
 - (a) administering, under the direction of the Program Manager, the local program for the area for which the committee is appointed,
 - (b) communicating and consulting with the NSW Shellfish Committee, the Program Manager and persons who harvest farmed shellfish or collect wild shellfish in the area,
 - (c) determining annually, in consultation with persons required to comply with the local program, the total projected administration and operational costs of the local program (including the cost of maintaining the local committee),
 - (d) advising the Food Authority before 1 August in each year of the costs referred to in paragraph (c),
 - (e) preparing and submitting to the Food Authority, before 1 August in each year, a report on the local committee's operations, including the level of participation in the local program, an account of the finances of the committee and any other matter that the NSW Shellfish Committee notifies as being required for inclusion in the report.
- (2) A local committee is to nominate one or more of its members to assist in the day to day operation of the local program under the general direction of the Program Manager.

159 Provisions relating to members and procedure of committees

Schedule 13 applies to the NSW Shellfish Committee and to each local committee.

160 Funding of committees

- (1) The Food Authority may arrange for the funding of the NSW Shellfish Committee from licence fees and levies payable under Division 7.
- (2) The Food Authority may arrange for the funding of each local committee from money levied under Division 8.

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- (3) Each committee funded by the Food Authority is to keep accounts of:
 - (a) all amounts paid to the committee by the Food Authority for the purposes of enabling the committee to exercise its functions, and
 - (b) all amounts expended by the committee.
 - (4) A local committee is to establish and maintain at an authorised deposit-taking institution located in New South Wales a trust account for the operation of the relevant local program into which all amounts referred to in subclause (3) (a) are to be paid.
 - (5) The Food Authority may require a committee funded by the Food Authority under this Part to produce its accounts for inspection at any reasonable time.

Division 6 Annual general licence fees**161 Payment of annual general licence fee**

- (1) The holder of a licence who carries on one or more of the activities specified in Column 1 of the Table in Schedule 14 is to pay a licence fee each year to the Food Authority calculated in accordance with this clause.
- (2) The licence fee payable under this clause is in addition to any other licence fee or levy payable by the holder under this Part.
- (3) If a category specified in Column 2 of the Table in Schedule 14 applies to a seafood business (that is, because the business carries on the activity specified in Column 1 of that Table in respect of that category and employs the number of persons, if any, indicated in Column 3 of that Table in respect of that category), the amount specified in Column 4 of that Table in respect of that category is payable by the holder of the licence authorising the carrying on of the seafood business.
- (4) If more than one category specified in Column 2 of the Table in Schedule 14 applies to a seafood business, the amount of the licence fee payable by the holder of the licence is the total of each amount payable by the holder under subclause (2) in respect of each of those categories.
- (5) If more than one premises are authorised by the licence to be used for finfish or crustacean aquaculture, or processing or storing seafood (or both), the licence fee in respect of those activities is payable in relation to each of those premises.

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- (6) A reference in subclause (3) to an employee of a seafood business is a reference to an employee of the business involved in the handling of seafood on the vessel or at the premises where the relevant activity is carried out.
 - (7) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Division 7 Licence fees and levies for State shellfish program

162 Payment of licence fees for shellfish harvesting or operation of depuration plant

- (1) The holder of a licence that authorises the harvesting of shellfish or the operation of a depuration plant is to pay a licence fee each year to the Food Authority.
- (2) The amount of the licence fee is the fee determined by the Food Authority or the fee calculated on the basis determined by the Food Authority.
- (3) The Food Authority may determine a fee, or a basis for calculating a fee, for the purposes of subclause (2) that:
 - (a) applies generally or is limited in its application by reference to specified exceptions or factors, or
 - (b) applies differently according to different factors of a specified kind.
- (4) The licence fee payable under this clause is in addition to any other licence fee or levy payable by the holder under this Part.

163 Shellfish area service levy

- (1) The holder of a licence is to pay a levy each year to the Food Authority if the holder:
 - (a) is also the holder of a class A aquaculture permit issued under Part 6 of the *Fisheries Management Act 1994* that authorises the carrying on of any activity authorised by the licence, and
 - (b) is the lessee under an aquaculture lease granted under Part 6 of that Act.
- (2) The amount of the levy payable under this clause by the holder of a licence is to be calculated by multiplying the number of

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hectares (including any part of a hectare) of the area of the aquaculture lease granted to the holder by \$31.

- (3) The levy payable under this clause is in addition to any other licence fee or levy payable by the holder under this Part.

164 Purposes for which licence fee or levy to be applied

A licence fee or levy payable under this Division is to be applied only for the following purposes:

- (a) meeting the costs incurred in maintaining the NSW Shellfish Committee,
- (b) meeting the costs incurred by that Committee in carrying out its responsibilities,
- (c) contributing to the operating costs of the Program.

Division 8 Local shellfish program levy**165 Payment of annual local shellfish program levy**

- (1) An annual local shellfish program levy is payable to the Food Authority, in addition to any other levy payable under this Part, by the holder of a licence that authorises any of the following activities if there is a local committee appointed for the area in which the activity is carried on:
- (a) the harvesting or collection of shellfish,
 - (b) the operation of a depuration plant.
- (2) The levy is to be applied only for the following purposes:
- (a) meeting the costs incurred in maintaining the local committees,
 - (b) meeting the costs incurred by those committees in carrying out their responsibilities.

166 Calculation of annual local shellfish program levy

- (1) The annual local shellfish program levy payable by the holder of a licence is to be calculated in accordance with this clause.
- (2) The Food Authority is to determine the levy payable under this clause in relation to the holder of a licence who harvests or collects shellfish, or operates a depuration plant, in an area for which a local committee is appointed by dividing the total projected administration and operational costs submitted to the Food Authority under clause 158 (1) (c) for the year concerned by the number of such licence holders.

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- (3) If the holder of a licence harvests or collects shellfish, or operates a depuration plant, in more than one area for which a local committee is appointed, the holder is liable to pay a levy under this Division for each of those areas.
 - (4) Despite any other provision of this Division, the levy payable by the holder of a licence in respect of an area for which a local committee is appointed is to be reduced by half if:
 - (a) the only activity carried on in that area under the licence is:
 - (i) the operation of a depuration plant, or
 - (ii) the harvesting of shellfish that are required to be on-grown in another area before being sold for human consumption, and
 - (b) the holder harvests or collects shellfish, or operates a depuration plant, in at least one other such area and has paid an unreduced amount of levy required under this Division in relation to at least one other such area.

Division 9 Miscellaneous**167 New South Wales Seafood Industry Conference**

- (1) The Food Authority is to establish a body to be known as the New South Wales Seafood Industry Conference for the purposes of the consultation referred to in section 105 of the Act in relation to this Regulation (except Divisions 5, 7 and 8).
- (2) The Industry Conference is to be comprised principally of persons nominated by the seafood industry, and endorsed by the Food Authority, to represent the major sectors of the industry.
- (3) The Industry Conference may also comprise such officers of the Food Authority and the Department of Health, and representatives of other bodies or industry organisations, as the Food Authority allows.
- (4) The Industry Conference may establish subcommittees to assist it in the exercise of its functions.
- (5) The Food Authority is to appoint a Chairperson and Secretary of the Industry Conference.
- (6) The procedure for the calling and holding of meetings of the Industry Conference is to be as determined by the Food Authority in consultation with the seafood industry.

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168 Industry consultation on shellfish

The NSW Shellfish Committee is established as the consultative body for the purposes of the consultation referred to in section 105 of the Act in respect of Divisions 5, 7 and 8 of this Part.

Note. The NSW Shellfish Committee has other functions under Division 5.

169 Inspections and audits in relation to seafood businesses

- (1) The Food Authority may arrange for an authorised officer to carry out any or all of the following types of inspection or audit before or after granting a licence that authorises the carrying on of a seafood business:
 - (a) an inspection of the premises and equipment involved in the seafood business, and the activities carried on in the course of the seafood business,
 - (b) an audit of the food safety program, or proposed food safety program, for the seafood business.
- (2) This clause is not intended to limit any powers of an authorised officer to carry out an inspection under Part 4 or 5 of the Act.

[3] Existing Parts 3 and 4

Renumber existing Parts 3 and 4 as Parts 8 and 9, respectively, and existing clauses 6–8A as clauses 170–173, respectively, and clauses 9 and 10 as clauses 175 and 176.

[4] Clause 174

Insert after clause 173 (as renumbered):

174 Offences

- (1) A breach of a provision of Parts 3–7 does not constitute an offence against this Regulation unless a penalty is provided in the provision.
- (2) Subclause (1) does not affect the operation of section 104 of the Act in relation to the provisions of this Regulation.

Note. Section 104 of the Act makes it an offence (among other things):

 - (a) for a person to handle food in a manner that contravenes a provision of a food safety scheme, and
 - (b) for a person who carries on a food business or activity for which a licence is required by the regulations to carry on that food business or activity without such a licence, and
 - (c) for the holder of a licence granted under the regulations to contravene or fail to comply with a condition of a licence.

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[5] Clause 176 (as renumbered)

Insert at the end of the clause:

(2) Schedule 15 has effect.

[6] Schedule 1 Penalty notices

Omit “(Clause 9)”. Insert instead “(Clause 175)”.

[7] Schedule 1

Insert after the heading to the Schedule and the source reference:

Part 1 Offences against the Act

[8] Schedule 1

Insert at the end of the Schedule:

Part 2 Offences against this Regulation

Table

Column 1	Column 2
Provision	Penalty units
Clause 17 (1)	2
Clause 17 (2)	2
Clause 105 (1)	5
Clause 105 (2)	5
Clause 112 (1)	5
Clause 112 (2)	5
Clause 112 (4)	5
Clause 120 (2)	5
Clause 120 (3)	5
Clause 124	5
Clause 138 (1)	2
Clause 139 (1)	2
Clause 139 (2)	2
Clause 139 (3)	2
Clause 152 (1)	5

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Column 1	Column 2
Provision	Penalty units
Clause 153 (1)	5
Clause 153 (2)	5
Clause 153 (5)	5

[9] Schedules 2–15

Insert after Schedule 1:

Schedule 2 Minimum standards for class 3 meat vans

(Clause 79)

1 Construction of meat van

The part of the vehicle in which abattoir meat is conveyed must:

- (a) be completely separated from any part of the vehicle used for the carriage of the driver or passengers, and
- (b) be constructed in a professional manner, and
- (c) have a floor constructed of an approved material, and
- (d) if it is not completely enclosed, be provided with a cover made of an approved material.

2 External surfaces of meat van

The external surfaces of the meat van must, at all times, be maintained in good order and condition.

Schedule 3 Minimum standards for knackereries

(Clause 88)

1 General

- (1) The knackery must:
 - (a) be situated on land that is well drained and capable of absorbing liquid effluent without run-off, and
 - (b) have paddock areas of adequate size, with adequate supplies of drinking water, for all stock likely to be held at the knackery, and

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- (c) have a supply of potable water of a quantity and under a pressure sufficient for all operating needs, and
 - (d) have a permanent supply of electricity.
- (2) The buildings must be in good condition and the surrounding areas must be in a clean and sanitary condition.

2 Stock pens

Pens and races must be provided and the pens must be:

- (a) of sufficient area to hold, at any one time, all animals likely to be slaughtered on any one day, and
- (b) graded and paved and drained to an adjoining settling pit of concrete construction, and
- (c) provided with shelter for the animals against heat and rain, and
- (d) provided with water under sufficient pressure for adequate cleaning.

3 Slaughtering and dressing areas

- (1) The slaughter building must:
- (a) have a room or rooms in which animals are to be slaughtered and dressed, and
 - (b) have a separate room or area into which unusable and condemned materials, hides and skins are to be received, and
 - (c) have floors of heavy, impervious, non-skid material that are graded and drained to enable the easy removal of water, and
 - (d) have walls of smooth, impervious, approved material, and
 - (e) have coves at wall and floor junctions of sufficient radius for adequate sanitation, and
 - (f) have ceilings constructed of approved materials and of adequate height to permit the efficient conduct of operations, and
 - (g) have all openings to the exterior effectively screened to prevent the entry of insects, rodents, birds and pests of any kind, and
 - (h) have internal doors constructed of, or lined with, approved impervious material and all doors to the exterior constructed of, or with internal surfaces lined with, approved impervious material, and

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- (i) be adequately ventilated by artificial or natural means, or both, and
 - (j) be adequately illuminated by artificial or natural means, or both.
- (2) Provision must be made for hot water to be available under adequate pressure and at a temperature of not less than 82 degrees Celsius at all places in the slaughter building where it is required for the operations that take place there.
- (3) Hand-washing facilities and facilities for the sterilisation of equipment must be provided in every room in the knackery in which carcasses are to be dressed and, except where the Food Authority otherwise approves, in every room in the knackery in which unusable or condemned material is to be handled.
- (4) A room in which animals are to be slaughtered and dressed must:
- (a) have adequate floor space, platforms, cradles, hoists, tables, sinks and other facilities so arranged as to enable the sanitary conduct of slaughtering and dressing operations and the efficient conduct of inspections by meat inspectors, and
 - (b) have an approved restraining device for the stunning of small stock, and
 - (c) be fitted with equipment enabling animals to be bled in a hanging position in an approved area, and
 - (d) have hanging rails set at a height sufficient to ensure that the lowest point of a suspended carcass does not touch the floor, and
 - (e) have equipment that is used only for handling heads, viscera and offal.
- (5) A knocking box for the stunning of large stock must be so located as to open on to a dry landing area on the slaughtering floor.
- (6) A room into which unusable and condemned material, hides and skins are to be received must:
- (a) adjoin and be easily accessible by means of a chute or doorway to the room in which animals are to be slaughtered and dressed, and
 - (b) have approved equipment for the purpose of handling only unusable and condemned material, hides and skins.
- (7) Equipment referred to in subclause (6) (b) must be identified in an approved manner.

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- (8) Provision must be made for paunch contents:
- (a) to be conveyed from the slaughter building to a remote part of the premises in a suitable container or vehicle or by other means approved for the purpose, and
 - (b) to be disposed of in a manner that does not create any kind of nuisance, provide harbourage for vermin or become a breeding place for flies.

4 Chilling facilities

A room under refrigeration must be provided having:

- (a) refrigeration equipment of a type and capacity adequate for the needs of the knackery, and
- (b) sufficient capacity to hold the maximum number of animals likely to be slaughtered on any one day, and
- (c) rails set at a height to prevent any part of a carcase touching the floor.

5 Hygiene and sanitation

- (1) Provision must be made for the disposal of unusable and condemned material in an approved manner.
- (2) Provision must be made for liquid effluent, except blood collected in a metal container, to be conducted from the slaughter building by means of impervious drains to an adequately constructed save-all that is located outside the building in an approved position.
- (3) Provision must be made for any material that may be kept on the premises to be treated in a manner to prevent offensive conditions arising from the material or the attraction of flies, cockroaches, rats or other vermin.
- (4) Where skins or hides are to be stored or treated on the premises, approved facilities must be provided.
- (5) The premises must have adequate ablution, closet and staff amenities facilities.

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Schedule 4 Operational standards for knackeries

(Clause 89)

Part 1 Slaughter and destruction**1 Prohibition on slaughter**

A person must not slaughter for animal food an animal that has been condemned for use as animal food by:

- (a) an authorised officer, or
- (b) the person undertaking the ante-mortem examination in accordance with clause 2 (1) (a).

2 Slaughter

- (1) A person must not slaughter an animal at a knackery unless:
 - (a) it has been subjected to an ante-mortem examination for signs of sickness or abnormality by the owner of the knackery, or an employee of the owner, and
 - (b) the owner of the knackery maintains a system of records that detail the following in respect of the animal:
 - (i) the species,
 - (ii) the breed and colour,
 - (iii) the sex,
 - (iv) the approximate age,
 - (v) the property of origin including, in the case of bovines, the tail tag number and, in the case of porcines, the tattoo number,
 - (vi) any symptoms of disease or abnormality noted at the ante-mortem examination or during dressing.
- (2) If the person undertaking the ante-mortem examination in accordance with subclause (1) (a) detects signs of sickness or abnormality that renders the animal unfit for use as animal food, the person must reject that animal for slaughter for animal food purposes.
- (3) The records maintained pursuant to subclause (1) (b) must be:
 - (a) retained for a period of not less than 6 months, and
 - (b) made available to an authorised officer on request.

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3 Stunning or killing

Before being bled, an equine animal, bovine animal, deer, pig, sheep or goat must first be humanely:

- (a) rendered unconscious with an electric stunner, or
- (b) rendered unconscious with a captive bolt stunner, or
- (c) killed outdoors with a firearm.

4 Post-mortem inspection of bovines

In the case of bovines:

- (a) the carcase, sides or quarters together with the head, tongue, lungs and heart must be held correlated, and
- (b) the tail tag attached to the bovine must remain attached to the carcase, and
- (c) the details recorded in accordance with clause 2 (1) (b) must remain correlated with the carcase,

until an authorised officer has carried out a post-mortem inspection.

5 Handling of animals not fit for animal food

If an animal has been condemned for use as animal food or rejected for slaughter for animal food as referred to in clause 1 or 2, the animal:

- (a) must be destroyed at the knackery where the animal is suffering, or
- (b) may be processed over the slaughter floor after all other animals suitable for animal food have been slaughtered, and the carcase must be handled in accordance with clause 7 (2).

6 Destruction of animals at knackeries

- (1) A person must not destroy an animal at a knackery unless it is stunned or killed in accordance with clause 3.
- (2) Records must be maintained for any such animal in accordance with clause 2 (1) (b) and (3).

7 Restrictions on salvaging meat from dead or destroyed animals

- (1) A person must not:
 - (a) salvage meat from a dead or destroyed animal, or

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- (b) bring an animal to a dressing floor, at a knackery if the animal was not slaughtered at the knackery unless:
 - (c) the live animal was examined for signs of sickness or abnormality by the owner of the knackery, or an employee of the owner, and
 - (d) records are maintained for the animal in accordance with clause 2 (1) (b) and (3).
 - (2) Despite subclause (1), where a dead or destroyed animal was not slaughtered at the knackery and was not subject to an examination for signs of sickness or abnormality before its death or destruction, that animal may be brought onto the slaughter floor at a knackery if:
 - (a) the dressing of such a carcass occurs after the dressing of carcasses to be used as animal food, and
 - (b) no portion of the carcass is salvaged for animal food, and
 - (c) records are maintained for the animal in accordance with clause 2 (1) (b) and (3).

8 Meat to be chilled

Only meat that is intended for use as animal food may be placed in a chiller or freezer used at a knackery for meat that is fit for use as animal food.

9 Knackeries to be kept clean

A knackery must be kept in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if it were an abattoir.

10 Clothing

- (1) Subject to this clause, a person at a knackery must wear clothes in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if the person were at an abattoir.
- (2) A person who is working at a knackery in a place where knackery animals are slaughtered, carcasses are dressed or meat is handled or stored or who is handling meat at a knackery is not required to wear headwear but must, if the person chooses to use headwear,

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use clean headwear which complies with section 5 of that Standard.

- (3) A person is not prevented from entering that part of a knackery where meat is handled or stored if he or she is not using headwear but must, if he or she chooses to use headwear, use clean headwear which complies with section 5 of that Standard.
- (4) Subject to subclause (2), a person who, at a knackery, is:
- (a) working in an area in which meat is prepared, handled or stored, or
 - (b) working in an area that handles raw by-products of the knackery, or
 - (c) penning up animals or running animals through a race, or
 - (d) employed by the knackery and required by his or her employer to be, at any time, in an area in which meat is handled or stored or in a part of a knackery that handles raw by-products of the knackery,

must, while so engaged, wear clothes in accordance with section 5 of that Standard as if he or she were at an abattoir.

11 Personal conduct and hygiene

A person at a knackery must conduct and keep himself or herself in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if the person were at an abattoir.

12 Decontamination requirements

A person at a knackery must decontaminate his or her clothes, skin and kit, steel or other equipment in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if the person were at an abattoir.

Part 2 Prohibition of introduction of meat into and removal of meat from knackeries**13 Prohibition of introduction of meat**

A person must not bring meat that is not fit for use as animal food into a knackery.

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14 Removal of meat for use as animal food

A person must not remove meat that is intended for use as animal food from a knackery if the meat is not fit for use as animal food.

15 Meat to be chilled

Meat passed by a meat safety officer as fit for use as animal food must not be removed from a knackery unless it has been well chilled.

16 Animal food required to be stained

Subject to the other provisions of this Schedule, a person must not place meat into a chiller or freezer at a knackery or remove meat from a knackery unless the meat has been stained in accordance with clause 115 of this Regulation.

17 Exception in case of heat-sterilised meat

Clause 16 does not apply to or in relation to the removal from a knackery of meat if the meat complies with clause 116 of this Regulation.

Part 3 Miscellaneous**18 Dogs and cats prohibited in knackeries**

- (1) A person must not bring a dog into, or permit a dog to remain at, a knackery except in order to work knackery animals before their slaughter.
- (2) A person must not bring a dog into, or permit a dog to remain at, places in a knackery where knackery animals are slaughtered, carcasses are dressed or meat is handled, treated or stored.
- (3) A person who keeps a dog at a knackery must, when not using the dog to work knackery animals before their slaughter, keep it:
 - (a) within a dog-proof fence, or
 - (b) tied at a kennel, provided for the purpose by the owner of the knackery.
- (4) A person must not at a knackery feed a dog any meat not passed as fit for use as animal food.
- (5) A person must not bring a cat into, or permit a cat to remain at, a knackery.

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19 Identification tags not to be removed

Any identifier that is attached to or placed on an animal, or the carcase of an animal, pursuant to the *Stock Diseases Regulation 2004* must not be removed from the animal or carcase except with the permission of a meat safety officer.

Schedule 5 Minimum standards for animal food processing plants

(Clause 95)

Part 1 Standards for class 1 animal food processing plants

1 Services

The plant must be adequately supplied with continuous hot and cold potable water of a quantity and under a pressure to enable hygienic practice.

2 Construction requirements

- (1) The plant must be constructed so that all exposed surfaces are of material that is:
 - (a) durable, and
 - (b) non-toxic, and
 - (c) smooth-surfaced and, in the case of floors, smooth-surfaced, and
 - (d) resistant to corrosion or capable of being maintained free of corrosion, and
 - (e) impervious to moisture, and
 - (f) resistant to or protected from impact, and
 - (g) easily cleaned and drained to prevent ponding of blood and, where necessary, capable of being dismantled for cleaning, and
 - (h) resistant to chipping, flaking or fraying, and
 - (i) of a finish which makes contamination clearly visible.
- (2) The plant must be constructed so that:
 - (a) the joints are effectively sealed, and

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- (b) the accumulation of dust, water, litter or waste materials on ledges and sills is minimised, including by means of adequate coving at wall to floor junctions.
- (3) All equipment and appliances used for processing purposes must be:
- (a) durable, and
 - (b) non-toxic, and
 - (c) smooth-surfaced, and
 - (d) resistant to corrosion or capable of being maintained free of corrosion, and
 - (e) impervious to moisture, and
 - (f) resistant to or protected from impact, and
 - (g) easily cleaned and, where necessary, capable of being dismantled for cleaning, and
 - (h) resistant to chipping, flaking or fraying, and
 - (i) of a finish that makes contamination clearly visible.
- (4) Chiller and freezer capacity must accommodate the total quantity of product likely to be held on the premises at any one time.
- (5) There must be provided, for the delivery of unwrapped meat to the plant, an approved entrance.
- (6) The loading bay must:
- (a) have a floor that is paved with concrete and drained, and
 - (b) be under cover.

3 Lighting

Lighting must be sufficient to enable hygienic processing, inspection and auditing.

4 Storage facilities

A store room must be provided for the storage of cleaning materials and equipment.

5 Amenities

Amenities must be constructed and located so that their use does not provide a source of contamination.

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Part 2 Standards for class 2 animal food processing plants

6 General

- (1) The design and layout of the plant and its equipment must facilitate the hygienic production of animal food and animal food products and any inspection or auditing necessary during or after production.
- (2) There must be adequate working space for the satisfactory performance of animal food processing and auditing operations.
- (3) Chiller and freezer capacity must be adequate for maximum daily production and accommodate the total quantity of product likely to be held on the plant at any one time.

7 Construction requirements

- (1) The plant must be constructed so that all exposed surfaces are of material that is:
 - (a) durable, and
 - (b) non-toxic, and
 - (c) smooth-surfaced and, in the case of floors, smooth-surfaced, and
 - (d) resistant to corrosion or capable of being maintained free of corrosion, and
 - (e) impervious to moisture, and
 - (f) resistant to or protected from impact, and
 - (g) easily cleaned and drained to prevent ponding of blood and, where necessary, capable of being dismantled for cleaning, and
 - (h) resistant to chipping, flaking or fraying, and
 - (i) of a finish that makes contamination clearly visible.
- (2) The plant must be constructed so that:
 - (a) the joints are effectively sealed, and
 - (b) the accumulation of dust, water, litter or waste materials on ledges and sills is minimised, including by means of adequate coving at wall to floor junctions.
- (3) All equipment and appliances used for processing purposes must be:
 - (a) durable, and

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- (b) non-toxic, and
 - (c) smooth-surfaced, and
 - (d) resistant to corrosion or capable of being maintained free of corrosion, and
 - (e) impervious to moisture, and
 - (f) resistant to or protected from impact, and
 - (g) easily cleaned and, where necessary, capable of being dismantled for cleaning, and
 - (h) resistant to chipping, flaking or fraying, and
 - (i) of a finish that makes contamination clearly visible.
- (4) Door openings and passage-ways must be of a size ensuring that the product does not come into contact with jambs or walls.
- (5) The plant must be constructed and maintained so as to exclude:
- (a) the entrance of any animals not intended for use in animal food processing including dogs, cats, birds, rodents and insects, and
 - (b) any harbourage for vermin, and
 - (c) environmental contaminants, including dust.

8 Supply of water

- (1) The plant must be adequately supplied with continuous hot and cold potable water at a volume and pressure to enable hygienic practice and, if ice is used, it must be produced from potable water and stored and handled in a manner that protects it from contamination.
- (2) Non-potable water, used where there is no risk of contamination of meat (for example, refrigeration or fire control) must be supplied in lines separate from the supply of potable water.

9 Lighting

Lighting must be sufficient to enable hygienic processing, inspection and auditing.

10 Ventilation

Ventilation must maintain product wholesomeness and remove excessive heat, steam and condensation and prevent the entry of odours, dust, vapour or smoke.

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11 Amenities

Unless the Food Authority otherwise approves, hand wash-basins and, where necessary, sterilisers, must be provided and be readily accessible and at appropriate locations for use during processing.

12 Storage

- (1) Processing rails or other carcass elevating devices must be of a height sufficient to ensure that there is adequate carcass clearance over, or from, operational equipment and structures not designed for contact to prevent any cross contamination.
- (2) Separate areas must be provided for processes that emit heat, steam, smoke and other contaminants to ensure that such emissions are controlled and do not jeopardise the hygienic processing of animal food and animal food products.
- (3) Where canopies are used, they must be vented to the outside of the plant and constructed to prevent drip.
- (4) Clearly identified facilities must be provided for storing and removing inedible material to prevent contamination of animal food.

Part 3 Standards for class 3 animal food processing plants**13 Site and services**

- (1) The processing plant must:
 - (a) be situated on land that is of adequate size for the immediate needs of the plant, and
 - (b) have a supply of potable water of a quantity and under a pressure sufficient for all operating needs.
- (2) The processing plant must be situated so as not, in the opinion of the Food Authority, to be likely to create a nuisance to inhabitants in the immediate vicinity of the plant.

14 General

- (1) The buildings must be in a good state of repair and plant surroundings must be in a clean and sanitary condition at all times.
- (2) Provision must be made for any material or substance that is kept on the premises to be treated in such a manner as to prevent any offensive effluvia arising from the material or substance.

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- (3) Provision must be made for any bones on the premises to:
- (a) be stored in a manner not likely to create a nuisance or to attract flies, cockroaches, rats or other vermin, and
 - (b) be disposed of at regular intervals in an approved manner.

15 Rooms to be provided

The processing plant must have:

- (a) a separate area for the skinning and washing of animals, and
- (b) a separate room or rooms for the packing, packaging, processing, boning or cutting up of animals, and
- (c) a separate room or area for the receipt of condemned materials, bones, hides and skins, and
- (d) a separate room under refrigeration with sufficient capacity to hold the maximum number of carcasses likely to be processed on the one day, and
- (e) a separate room under refrigeration with sufficient capacity for the storage of meat obtained from processing operations on the one day.

16 Construction requirements—general

All buildings must:

- (a) have floors of heavy duty non-skid material that are impervious to moisture and that are graded and drained to facilitate the removal of water, and
- (b) have walls of approved smooth material that is impervious to moisture, and
- (c) have coves at wall and floor junctions of adequate radii to promote sanitation, and
- (d) have ceilings, constructed of approved material, of adequate height to permit the efficient conduct of operations, and
- (e) have all openings effectively screened to prevent the entry of insects, rodents, birds and other pests, and
- (f) have internal door surfaces clad with an approved material that is impervious to moisture, and
- (g) have approved artificial or natural means of ventilation, and
- (h) have approved artificial or natural means of illumination, and

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- (i) have both hot and cold water distributed throughout the plant under adequate pressure and in quantities sufficient for all operating needs, and
 - (j) have a heating plant capable of furnishing hot water at a temperature of not less than 82 degrees Celsius at all hot water outlets, and
 - (k) have hand washing implements and equipment and sterilising facilities provided in every room in the processing plant in which animal food is handled and, except where otherwise approved, in every room in which condemned or unusable material is to be handled, and
 - (l) have provision for liquid effluent to be conducted by means of drains that are impervious to moisture to an adequately constructed save-all for that liquid effluent in an approved location outside the building, and
 - (m) where connection between the save-all and a public sewer is not made, have provision for drainage to be conveyed by drains that are impervious to moisture or other approved means to an approved location and an adequately prepared and maintained absorption area for that drainage, and
 - (n) if the premises are drained by connection with a public sewer, have provision for the drain to be properly trapped and protected by a grating, the bars of which must be not more than 10 millimetres apart.

17 Construction requirements—processing areas

A room or areas in which animals are flayed and processed must have:

- (a) adequate floor space so arranged as to facilitate the sanitary conduct of operations, and
- (b) adequate facilities and approved equipment for all flaying and processing operations, and
- (c) hanging rails set sufficiently high above the floor to prevent any part of a carcase from contacting the floor, and
- (d) facilities that provide for the rapid and frequent removal of all inedible material from the processing area during operations.

18 Construction requirements—condemned material room

A room or area into which inedible and condemned material, bones, hides and skins are received must:

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- (a) adjoin and be easily accessible by means of chutes or doorways to the room in which animals are processed, and
 - (b) have approved equipment for handling condemned material, hides and skins, and
 - (c) have facilities for the disposal of inedible and condemned material in an approved manner.

19 Construction requirements—cold rooms

A room under refrigeration must have:

- (a) refrigeration equipment of a type and capacity adequate for the needs of the establishment, and
- (b) in the case of a room used for the refrigeration of carcasses—hanging rails set sufficiently high above the floor to prevent any part of a carcass from contacting the floor.

20 Construction requirements—skin and hide treatment

If hides are treated on the premises, a shed with a concrete floor adequately drained must be provided for the storage and salting of hides.

21 Construction requirements—amenities

The premises must contain the following amenities for employees unless the Food Authority otherwise approves:

- (a) toilet facilities that are physically separated from other facilities,
- (b) hand wash basins,
- (c) change rooms,
- (d) a locker for each employee.

Part 4 Standards for class 4 animal food processing plants (field depots)**22 General**

The plant must be supplied with water that is:

- (a) potable, and
- (b) derived from an approved source, and
- (c) of a quantity and under a pressure sufficient for all operating needs.

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23 Construction requirements

- (1) The plant must be constructed so that all exposed surfaces are of material that is:
- (a) durable, and
 - (b) non-toxic, and
 - (c) smooth-surfaced and, in the case of floors, anti-slip, and
 - (d) resistant to corrosion or capable of being maintained free of corrosion (for example, in the case of hanging rails, by the application of edible oils), and
 - (e) impervious to moisture, and
 - (f) resistant to or protected from impact, and
 - (g) easily cleaned and drained to prevent ponding of water and blood and, where necessary, capable of being dismantled for cleaning, and
 - (h) resistant to chipping, flaking or fraying, and
 - (i) of a finish that makes contamination clearly visible.
- (2) The plant must be constructed so that:
- (a) the joints are effectively sealed, and
 - (b) accumulation of dust, water, litter or waste materials is minimised.

24 Hanging rails etc

The plant must be provided with suitable means of hanging carcasses.

25 Refrigeration requirements

The plant must be provided with adequate refrigeration to chill the carcasses placed in it.

26 Lighting

The plant must be provided with lighting that is adequate to ensure the carrying out of operations at night in a hygienic manner.

27 Disposal of waste

The plant must be provided, if the Food Authority so directs, with an approved method of disposing of solid and liquid waste.

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28 Loading facilities

The plant must be provided with approved facilities for the loading and unloading of the plant.

Schedule 6 Operational standards for animal food processing plants

(Clause 96)

Part 1 Prohibition of processing of meat for use as animal food**1 Meat unfit for use as animal food**

A person must not process for use as animal food meat that is not fit for use as animal food.

2 Meat to be inspected by authorised officer

The owner of an animal food processing plant must not, in processing meat for use as animal food, use any meat of an animal other than a game animal unless the meat or the animal from which it came has been inspected and passed as fit for use as animal food.

3 Animal food processing plants to be kept clean

An animal food processing plant must be kept in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if it were a meat processing plant.

4 Clothing—general requirements

- (1) Subject to subclause (2), a person who is working at an animal food processing plant must wear clothes in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if the person were working at a meat processing plant.
- (2) A person who is working at an animal food processing plant in a place where meat is handled, treated or stored or who is handling meat at an animal food processing plant is not required to use

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headwear but must, if the person chooses to use headwear, use clean headwear that complies with section 5 of that Standard.

- (3) Subject to subclause (4), a person must not enter that part of an animal food processing plant where meat is handled, treated or stored unless the person is clothed in accordance with section 5 of that Standard as if he or she were at a meat processing plant.
- (4) A person is not prevented from entering that part of an animal food processing plant where meat is handled, treated or stored if the person is not using headwear but must, if he or she chooses to use headwear, use clean headwear that complies with section 5 of that Standard.

5 Personal conduct and hygiene

A person at an animal food processing plant must conduct and keep himself or herself in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if he or she were at a meat processing plant.

6 Decontamination requirements

A person at an animal food processing plant must decontaminate his or her clothes, skin and kit, steel or other equipment in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if he or she were at a meat processing plant.

7 Treatment of processed meat for animal consumption

A person must place meat intended for use as animal food in a hermetically sealed glass or metal covering or an approved covering at an animal food processing plant in accordance with section 5 of AS 4696—2002, *The hygienic production and transportation of meat and meat products for human consumption* published by Standards Australia, as in force from time to time, as if the meat were intended for human consumption and as if the person were at a meat processing plant.

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Part 2 Prohibition of introduction of meat to, and removal of meat from, animal food processing plants**8 Introduction of meat**

A person must not bring meat that is not fit for use as animal food into an animal food processing plant.

9 Removal of meat

A person must not remove meat that is intended for use as animal food from an animal food processing plant if the meat is not fit for use as animal food.

10 Removal of meat in hermetically sealed covering

A person at an animal food processing plant at which meat is canned must not remove meat not required to be kept under refrigeration from such premises unless:

- (a) representative samples of each batch of meat are tested by incubating such samples for not less than 10 days at a temperature within the range 25 degrees Celsius to 45 degrees Celsius, and
- (b) the testing of the representative samples is completed and found to be satisfactory.

11 Animal food required to be stained

- (1) Subject to the other provisions of this Schedule, a person must not remove from any animal food processing plant meat that has been:
 - (a) dressed, packed or stored at the animal food processing plant, and
 - (b) passed by an authorised officer as fit for use as animal food,unless it has been stained in accordance with clause 115 of this Regulation.
- (2) Subclause (1) does not apply to or in respect of the removal from animal food processing plant of a macropod carcase with the skin intact.

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Part 3 Animals and meat condemned as unfit for use as animal food or rejected

12 Permitted dealing in animals

An animal that is unfit for meat for use as animal food may be dealt with for use other than as animal food.

13 Permitted dealing in meat

Meat that is not fit for use as animal food may be dealt with for use other than as animal food.

Part 4 Miscellaneous

14 Dogs and cats prohibited in animal food processing plants

- (1) A person must not bring a dog into, or permit a dog to remain at, an animal food processing plant.
- (2) A person must not bring a cat into, or permit a cat to remain at, an animal food processing plant.

15 Identification tags not be removed

Any identifier that is attached to or placed on an animal, or the carcase of an animal, pursuant to the *Stock Diseases Regulation 2004* must not be removed from the animal or carcase except with the permission of a meat safety officer.

Schedule 7 Minimum standards for animal food vans

(Clause 99)

Part 1 Standards for class 1 animal food vans

1 Construction

The part of the animal food van in which meat intended for use as animal food is conveyed must:

- (a) be completely separated from any part of the vehicle used for the carriage of the driver or passengers, and
- (b) be completely enclosed and fitted with dust-proof doors or lids, and
- (c) be constructed in a professional manner, and

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- (d) have a floor constructed of approved plate steel, approved aluminium checker plate, approved fibreglass or other approved material and the flooring material must be covered to the satisfaction of the Food Authority, and
 - (e) be lined on the internal surfaces (other than the floor) with stainless steel, corrosion-resistant aluminium, fibreglass or other approved material and the joins (if any) in the lining material must be effectively sealed and, where the joins run horizontally, the top sheet must overlap the exposed surface of the bottom sheet at the join by not less than 40 millimetres, and
 - (f) not have a ramp, step or tail board forming part of any internal surface.

2 Rails

- (1) The rails from which meat intended for use as animal food is to be suspended in the van are to be suspended from rail supports.
- (2) The rails must be set at such a height that, in the opinion of the Food Authority, any meat intended for use as animal food that is likely to be suspended from them will have a free space of at least 80 millimetres below the meat.
- (3) The rail supports must be of an approved material.

3 Refrigeration

If the animal food van is, in the opinion of the Food Authority, likely to be used to convey meat intended for use as animal food for journeys lasting 3 hours or more, it must, if required by the Food Authority, be fitted with an approved refrigeration system.

4 External surfaces

The external surfaces of the animal food van must, at all times, be maintained in good order and condition.

Part 2 Standards for class 2 animal food vans**5 Construction**

The part of the animal food van in which meat intended for use as animal food is conveyed must:

- (a) be completely separated from any part of the vehicle used for the carriage of the driver or passengers, and

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- (b) be completely enclosed and fitted with dust-proof doors or lids, and
 - (c) be constructed in a professional manner, and
 - (d) have a floor constructed of approved plate steel, approved aluminium checker plate, approved fibreglass or other approved material, and
 - (e) be lined on the internal surfaces (other than the floor) with stainless steel, corrosion-resistant aluminium, fibreglass or other approved material and the joins (if any) in the lining material must be effectively sealed, and
 - (f) not have a ramp, step or tail board forming part of any internal surface.

6 Refrigeration

If the animal food van is, in the opinion of the Food Authority, likely to be used to convey meat intended for use as animal food for journeys lasting 3 hours or more, it must, if required by the Food Authority, be fitted with an approved refrigeration system.

7 External surfaces

The external surfaces of the animal food van must, at all times, be maintained in good order and condition.

Part 3 Standards for class 3 animal food vans (field harvester)**8 Construction**

- (1) The hanging frame, floor and equipment must be of material that is:
 - (a) durable, and
 - (b) non-toxic, and
 - (c) smooth-surfaced, and
 - (d) in the case of surfaces that do not come into contact with exposed meat—resistant to corrosion or capable of being maintained free of corrosion (for example, mild steel is acceptable if maintained rust free), and
 - (e) in the case of surfaces that come into contact with exposed meat such as pelvic racks, spikes, hooks and the like—resistant to corrosion (for example, hot dip galvanised or stainless steel), and

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- (f) impervious to moisture, and
 - (g) resistant to or protected from impact, and
 - (h) easily cleaned and drained to prevent ponding of water and blood and, where necessary, capable of being dismantled for cleaning, and
 - (i) resistant to chipping, flaking or fraying, and
 - (j) of a finish that makes contamination clearly visible.
- (2) The hanging frame must be constructed so that:
- (a) sufficient space is provided between carcasses to allow effective cooling, being a minimum space of 270 millimetres in any direction, and
 - (b) the hanging rails are set at a height that, in the opinion of the Food Authority, enables the meat carried in the van to be suspended with adequate clearance from the floor surface, and
 - (c) sufficient racks are provided to enable all eviscerated carcasses to be transported within the hanging frame.

9 Facilities

The animal food van must be provided with:

- (a) a sufficient supply of potable water equipped with taps to enable hands and equipment to be washed throughout the whole of any period of harvesting, and
- (b) an adequate supply of a suitable agent for sanitising hands, and
- (c) if hands require drying during harvesting, hand drying facilities of a type that do not contaminate the washed hands, and
- (d) lighting that is adequate to ensure the carrying out of operations at night in a hygienic manner.

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Schedule 8 Prescribed brands for abattoir meat

(Clause 104)

Part 1 Brand for meat fit for human consumption



1 Characters to appear on brand

The brand must be completed by inserting in the space marked "A" a number allocated to the licensed premises by the Food Authority.

2 Dimensions

- (1) Unless otherwise approved by the Food Authority, the dimensions of the brand must be 50 millimetres in length and 37 millimetres in height when used on a flat surface.
- (2) The units of measurement referred to in subclause (1) may be subject to a tolerance of plus or minus 2 millimetres.

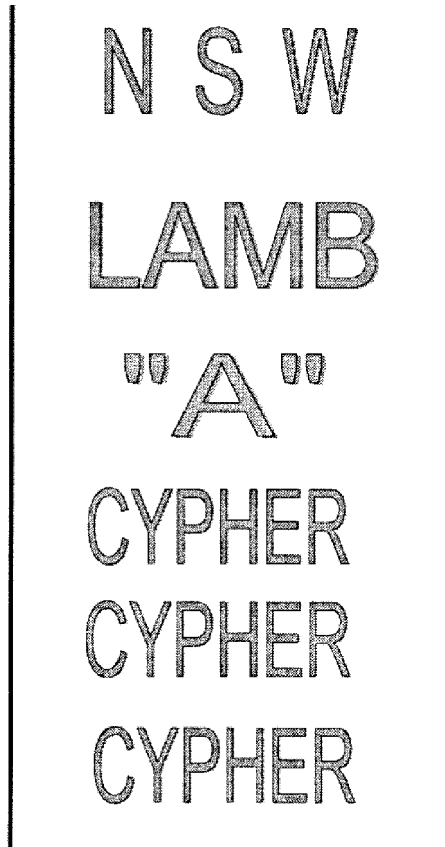
3 Ink to be used

The ink to be used must be:

- (a) red in colour, and
- (b) suitable for food application purposes.

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Part 2 Brand for lamb**4 Application of the brand**

The prescribed brand must be applied by repeating the above mark, without any break, as often as is necessary to comply with clause 106 (1) (d) of this Regulation.

5 Characters to be included in the mark

The prescribed brand must be completed:

- (a) by inserting in the space marked "A" a number allocated to the premises by the Food Authority, and

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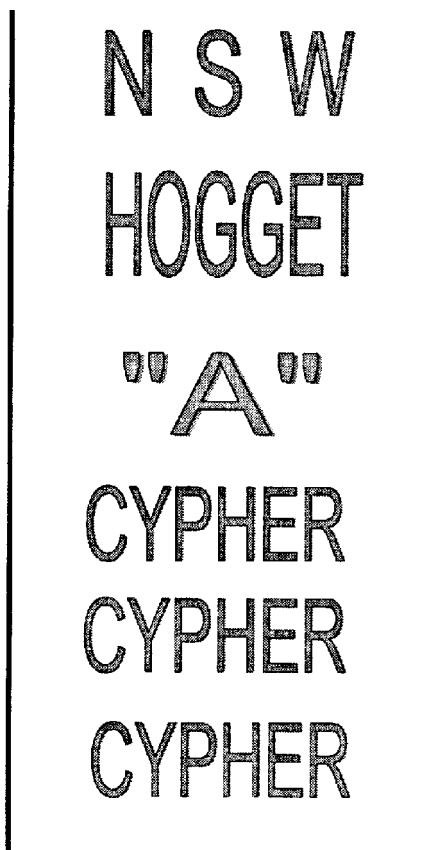
-
- (b) by inserting in one of the spaces marked “CYPHER” one of the following in relation to the owner of the licensed premises to which the number referred to in paragraph (a) relates:
 - (i) the name, or an abbreviation of the name, of the owner,
 - (ii) the trading name, or an abbreviation of the trading name of the owner,
 - (iii) the logo or an abbreviation of the logo of the owner, and
 - (c) by inserting in one of the spaces marked “CYPHER” the location or area, or an abbreviation of the location area, where the licensed premises to which the number referred to in paragraph (a) is located, and
 - (d) by inserting in one of the spaces marked “CYPHER” the name or logo, or an abbreviation of the name or logo of the person who owns the meat at the time of branding.

6 Dimensions

- (1) Unless otherwise approved by the Food Authority, the letters used in the brand must be 17 millimetres in height with a space of 9 millimetres between each row of words.
- (2) The units of measurement referred to in subclause (1) may be subject to the following tolerances:
 - (a) for dimensions not exceeding 10 millimetres—plus or minus 1 millimetre,
 - (b) for dimensions greater than 10 millimetres—plus or minus 2 millimetres.

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Part 3 Brand for hogget**7 Application of the brand**

The prescribed brand must be applied by repeating the above mark, without any break, as often as necessary to comply with clause 106 (1) (d) of this Regulation.

8 Characters to be included in the mark

The prescribed brand must be completed:

- (a) by inserting in the space marked "A" a number allocated to the premises by the Food Authority, and

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- (b) by inserting in one of the spaces marked “CYPHER” one of the following in relation to the owner of the licensed premises to which the number referred to in paragraph (a) relates:
 - (i) the name, or an abbreviation of the name, of the owner,
 - (ii) the trading name, or an abbreviation of the trading name of the owner,
 - (iii) the logo or an abbreviation of the logo of the owner, and
 - (c) by inserting in one of the spaces marked “CYPHER” the location or area, or an abbreviation of the location area, where the licensed premises to which the number referred to in paragraph (a) is located, and
 - (d) by inserting in one of the spaces marked “CYPHER” the name or logo, or an abbreviation of the name or logo of the person who owns the meat at the time of branding.

9 Dimensions

- (1) Unless otherwise approved by the Food Authority, the letters used in the brand must be 17 millimetres in height with a space of 9 millimetres between each row of words.
- (2) The units of measurement referred to in subclause (1) may be subject to the following tolerances:
 - (a) for dimensions not exceeding 10 millimetres—plus or minus 1 millimetre,
 - (b) for dimensions greater than 10 millimetres—plus or minus 2 millimetres.

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Schedule 9 Prescribed brands for game meat

(Clause 111)



1 Characters to be included in brand

The brand must be completed by inserting in the space marked “A” a number allocated to the premises by the Food Authority.

2 Dimensions of brand

- (1) The dimensions of the brand are those approved by the Food Authority in relation to the type of game meat to which the brand is to be applied.
- (2) The units of measurement approved by the Food Authority in relation to the brand may be subject to the following tolerances:
 - (a) for dimensions not exceeding 10 millimetres—plus or minus 1 millimetre,
 - (b) for dimensions greater than 10 millimetres—plus or minus 2 millimetres.

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Schedule 10 Constitution and procedure of Meat Industry Consultative Council

(Clause 129 (5))

Part 1 General

1 Definitions

In this Schedule:

Chairperson means the Chairperson of the Council.

Council means the Meat Industry Consultative Council established under clause 129 of this Regulation.

Deputy Chairperson means the Deputy Chairperson of the Council.

member means any member of the Council.

Part 2 Constitution

2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 2 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person:
 - (a) has all the functions of the member and is taken to be a member, and

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- (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
 - (4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

5 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may at any time remove a member from office.

6 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to this Regulation, to be appointed to fill the vacancy.

7 Chairperson and Deputy Chairperson

- (1) In the absence of the Chairperson, the Deputy Chairperson may, if available, act in the place of the Chairperson.

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- (2) While acting in the place of the Chairperson, the Deputy Chairperson has all the functions of the Chairperson and is taken to be the Chairperson.
 - (3) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if the person:
 - (a) is removed from office by the Minister, or
 - (b) ceases to be a member.

8 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Council, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
 the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.
- (2) A disclosure by a member at a meeting of the Council that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
 is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Council.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Council otherwise determines:
 - (a) be present during any deliberation of the Council with respect to the matter, or

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- (b) take part in any decision of the Council with respect to the matter.
- (5) For the purposes of the making of a determination by the Council under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Council for the purpose of making the determination, or
 - (b) take part in the making by the Council of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Council.

Part 3 Procedure**9 General procedure**

The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Schedule, to be as determined by the Council.

10 Quorum

The quorum for a meeting of the Council is a majority of its members, of whom one must be the Chairperson or Deputy Chairperson.

11 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) is to preside at a meeting of the Council.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present is the decision of the Council.

13 Transaction of business outside meetings or by telephone or other means

- (1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing approved in writing

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by a majority of those members is taken to be a decision of the Council.

- (2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),
 the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Council.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

14 First meeting

The Minister may call the first meeting of the Council in such manner as the Minister thinks fit.

Schedule 11 Licence fees in relation to meat food businesses

(Clause 132)

Fees prescribed for the issue or renewal of a licence

Activities authorised by licence	Number of employees	Fee \$
Abattoir, class 1,2 or 3 meat processing, operation of meat retail premises or operation of rendering plant	0 to 5	250
	More than 5 but no more than 50	500
	More than 50	2,000
Class 1, 2, 3, 4 or 5 game meat processing	0 to 5	310
	More than 5 but no more than 50	605
	More than 50	2,355

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Activities authorised by licence	Number of employees	Fee \$
Operation of knackery or class 1, 2 or 3 animal food processing	0 to 5	605
	More than 5 but no more than 50	895
	More than 50	2,650
Class 4 animal food processing		185
Operation of meat van, game meat van or animal food van		185

Schedule 12 Additional requirements relating to licences for seafood businesses

(Clause 151)

Activity	General operating conditions	Premises conditions	Vehicle conditions
Processing of seafood	Complies with Standard 3.2.2 of Food Standards Code	Complies with Standard 3.2.3 of Food Standards Code	Complies with Standard 3.2.3 of Food Standards Code
Storage of seafood	Complies with Standard 3.2.2 of Food Standards Code	Complies with Standard 3.2.3 of Food Standards Code	Complies with Standard 3.2.3 of Food Standards Code
Transportation of seafood	Complies with Standard 3.2.2 of Food Standards Code		Complies with Standard 3.2.3 of Food Standards Code
Wholesaling of seafood	Complies with Standard 3.2.2 of Food Standards Code	Complies with Standard 3.2.3 of Food Standards Code	
Harvesting or collecting of bivalve molluscs	Complies with NSW Shellfish Program Operations Manual		

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Schedule 1

Activity	General operating conditions	Premises conditions	Vehicle conditions
Depuration of bivalve molluscs	Complies with NSW Shellfish Program Operations Manual Complies with Code of Practice for Oyster Depuration in NSW	Complies with NSW Shellfish Program Operations Manual Complies with Code of Practice for Oyster Depuration in NSW	

Schedule 13 Provisions relating to members and procedure of committees

(Clause 159)

Part 1 General

1 Definitions

In this Schedule:

committee means:

- (a) the NSW Shellfish Committee, or
- (b) a local committee.

member means a member of a committee.

Part 2 Constitution

2 Terms of office of members

Subject to this Schedule, a member holds office for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Allowances for member

A member is entitled to be paid such allowances as the Food Authority from time to time determines in respect of the member.

4 Deputies

- (1) The Food Authority may, from time to time, appoint a person to be the deputy of a member, and may at any time revoke any such appointment.

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- (2) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is to be taken to be the member.
- (3) A person while acting in the place of a member is entitled to be paid such allowances as the Food Authority may from time to time determine in respect of the person.

5 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Food Authority, or
 - (d) is removed from office by the Food Authority under subclause (2), or
 - (e) is absent from 3 consecutive meetings of the committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the committee for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Food Authority may at any time remove from office all or any of the members of a committee.

6 Filling of vacancy in office of member

If the office of a member becomes vacant, a person is, subject to this Regulation, required to be appointed to fill the vacancy.

Food Amendment (Food Safety Schemes) Regulation 2005

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Schedule 1

7 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the committee, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.
- (2) A disclosure by a member of a committee at a meeting of the committee that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.
- (3) Particulars of any disclosure made under this clause must be recorded by the members of the committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the committee.
- (4) After a member of the committee has disclosed the nature of an interest in any matter, the member must not, unless the Food Authority or the other members of the committee otherwise determines or determine:
 - (a) be present during any deliberation of the committee with respect to the matter, or
 - (b) take part in any decision of the committee with respect to the matter.
- (5) For the purposes of the making of a determination by the members of the committee under subclause (4), a member of the committee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

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-
- (a) be present during any deliberation of the other members of the committee for the purpose of making the determination, or
 - (b) take part in the making by the other members of the committee of the determination.
- (6) A contravention of this clause does not invalidate any decision of the committee.
- (7) A member is taken not to have an interest in a matter for the purposes of this clause merely because the member is the holder of an aquaculture permit or aquaculture lease under the *Fisheries Management Act 1994* or is the holder of a licence.

Part 3 Procedure

8 General procedure

The procedure for the calling and holding of meetings of a committee is, subject to any direction by the Food Authority, to be determined by the committee.

9 Quorum

The quorum for a meeting of a committee is a majority of its members for the time being.

10 Presiding member

- (1) The chairperson of a committee or, in the absence of the chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the committee.
- (2) The person presiding at a meeting of a committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 Voting

A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present is the decision of the committee.

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Schedule 1

Schedule 14 Annual general licence fees for seafood businesses

(Clause 161)

Column 1	Column 2	Column 3	Column 4
Activity of seafood business	Category	Number of employees	Amount payable (\$)
Fishers with or without a vessel who do any of the following activities:	1		310
(a) capture or collect any wild seafood,			
(b) store, gill, gut or cook only wild seafood that they have captured or collected themselves.			
Finfish or crustacea aquaculture.	2	0 to 10	250
	3	11 to 50	500
	4	More than 50	2,000
Transportation of seafood by vehicle on land (except by fishers referred to in Category 1 if transporting their own catch of wild seafood to a store or processor).	5		160 per vehicle
Businesses that process seafood (including freezing, thawing and preparing sushi) or store seafood (other than as referred to in Category 1) or that do both.	6	0 to 10	250
	7	11 to 50	500
	8	More than 50	2,000

Schedule 15 Savings and transitional provisions

(Clause 177)

1 Definition

In this Schedule, *former Regulation* means any of the following Regulations:

- (a) *Food Production (Dairy Food Safety Scheme) Regulation 1999,*
- (b) *Food Production (Meat Food Safety Scheme) Regulation 2000,*

Food Amendment (Food Safety Schemes) Regulation 2005

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-
- (c) *Food (Plant Products Food Safety Scheme) Regulation 2005,*
 - (d) *Food Production (Seafood Safety Scheme) Regulation 2001.*

2 Licences

- (1) A person holding a licence under a former regulation immediately before 2 September 2005 is taken to hold a licence under this Regulation that authorises the same matters and is subject to the same terms and conditions.
- (2) A licence referred to in subclause (1) is taken to remain in force for the period for which it was originally granted or renewed (as the case may be) but may be suspended or cancelled in accordance with the provisions of this Regulation.
- (3) A person who is taken to be the holder of a licence under this Regulation and who:
 - (a) was carrying on a plants products business at the commencement of the former *Food (Plant Products Food Safety Scheme) Regulation 2005,* and
 - (b) made an application as referred to in clause 1 of Schedule 2 of that Regulation that has not been determined at the commencement of this Regulation,is taken to be the holder of a licence under this Regulation that authorises the carrying on of the business until the Food Authority determines the application.
- (4) If a person is taken to be the holder of a licence under this clause in respect of more than one activity, the Food Authority may vary a licence issued to the person, under this Regulation to include authorisations for those activities. The provisions of clause 13 (2) and (3) of this Regulation do not apply to any such variation.

3 Applications

An application for a licence made under a former Regulation is taken to have been made under this Regulation.

4 Industry consultation bodies

A council, committee or other body established under a provision of a former Regulation is taken to have been established under the corresponding provision of this Regulation.

Food Amendment (Food Safety Schemes) Regulation 2005

Amendments

Schedule 1

5 Fees

A fee that was unpaid under a former Regulation immediately before 2 September 2005 is taken to be a fee that is unpaid under this Regulation.

6 Existing authorisations

Any act, matter or thing that, immediately before the repeal of a former Regulation had effect under that Regulation and is not dealt with in another provision of this Schedule continues to have effect under this Regulation.

7 Review of decisions

A provision of a former Regulation that enabled a person to make an application to the Administrative Decisions Tribunal for a review of a decision made under that Regulation is taken to continue to apply in respect of any such decision.



New South Wales

Electricity Safety (Electrical Installations) Regulation 2005

under the

Electricity Safety Act 1945

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Safety Act 1945*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, without any substantial changes of substance (other than the omission of an expired provision), the *Electrical Safety (Electrical Installations) Regulation 1998*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) compliance of installation work with AS/NZS 3000:2000, *Electrical installations*, and exemption from the requirement for compliance (clause 6),
- (b) the commissioning of installation work (clause 7),
- (c) the notification of installation work that has been commissioned (clause 8),
- (d) the conduct of safety and compliance tests (clause 9),
- (e) the notification of the results of such tests (clause 10),
- (f) the prohibition on unqualified persons from conducting such tests (clause 11),
- (g) the maintenance requirements for consumers' installations for the purposes of section 29 of the *Electricity Safety Act 1945* (clause 12),
- (h) other minor, consequential and ancillary provisions (Part 1 and clauses 13 and 14).

This Regulation adopts AS/NZS 3000:2000, *Electrical installations* (known as the Australian/New Zealand Wiring Rules and published jointly by Standards Australia and Standards New Zealand) as in force for the time being.

This Regulation is made under the *Electricity Safety Act 1945*, including section 37 (the general regulation-making power).

Electricity Safety (Electrical Installations) Regulation 2005

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Electricity Safety (Electrical Installations) Regulation 2005

Clause 1

Preliminary

Part 1

Electricity Safety (Electrical Installations) Regulation 2005

under the

Electricity Safety Act 1945

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Electricity Safety (Electrical Installations) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Electricity Safety (Electrical Installations) Regulation 1998* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Application of Regulation

This Regulation does not apply to a consumer's installation, or to installation work, to which any of the following Acts or instruments applies:

- (a) the *Coal Mines Regulation Act 1982*, and any rules and regulations under that Act, or
- (b) the *Mines Inspection Act 1901*, and any rules under that Act.

4 Definitions

- (1) In this Regulation:

Australian/New Zealand Wiring Rules means Australian and New Zealand Standard AS/NZS 3000:2000, *Electrical installations* (known as the Australian/New Zealand Wiring Rules), as in force for the time being, published jointly by Standards Australia and Standards New Zealand.

commission, in relation to installation work, means to complete a connection between the installation work and the electricity supplied by an electrical supply main.

consumer's installation means all the electric wires, cables, appliances, fittings, insulators and apparatus installed in, on, under or over any land or premises and used for, or for purposes incidental to, the conveyance,

Clause 4	Electricity Safety (Electrical Installations) Regulation 2005
Part 1	Preliminary

measurement, control or use of electricity supplied (or intended to be supplied) by an electricity distributor, but does not include:

- (a) an electricity supply main or service line, meter or apparatus the property of an electricity distributor or retail supplier and used solely for the conveyance, measurement or control of electricity supplied to any land or premises, or
- (b) moveable electrical equipment.

Director-General means the Director-General of the Department of Commerce.

installation work means:

- (a) when used to describe an activity, the work of installing, adding to, altering, disconnecting, reconnecting or replacing a consumer's installation, and
- (b) when used to describe a thing, the electric wires, cables, appliances, fittings, insulators and apparatus arising from the work referred to in paragraph (a).

installing contractor means an electrical contractor who carries out installation work or tests (whether himself or herself or through any partner, subcontractor or employee and whether or not for fee, gain or reward).

local electricity distributor, in relation to any consumer's installation or installation work, means the electricity distributor within whose distribution district the installation is situated or the work is carried out.

moveable electrical equipment means:

- (a) any electrical appliance or apparatus (including its associated wires and fittings) connected to, or designed for connection to, an outlet socket of:
 - (i) a consumer's installation, or
 - (ii) a moveable dwelling (within the meaning of the *Local Government Act 1993*),
- (b) a moveable dwelling (within the meaning of the *Local Government Act 1993*) connected to, or designed for connection to, an outlet socket of a consumer's installation,

but does not include any appliance or apparatus connected to an outlet socket by means of wiring which is fixed in position externally to the appliance or apparatus itself.

qualified person, in relation to the testing of a particular class of installation work, means a person who holds a licence or certificate issued under the *Home Building Act 1989* which entitles the holder to perform installation work of that class without supervision and, in relation to the testing of a consumer's aerial wiring system (within the

Electricity Safety (Electrical Installations) Regulation 2005

Clause 5

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Part 1

meaning of the Australian/New Zealand Wiring Rules), includes a person who is authorised to test the local electricity distributor's overhead lines.

safe means not posing a risk to life, health or property.

safety and compliance test means a test referred to in clause 9, being a test carried out to establish that installation work operates safely and complies with the Australian/New Zealand Wiring Rules.

the Act means the *Electricity Safety Act 1945*.

- (2) Notes included in this Regulation do not form part of this Regulation.

5 Work by installing contractor

- (1) In this Regulation, a reference to something done by an installing contractor is a reference to something actually done by the installing contractor, or done by a partner, subcontractor or employee of the installing contractor.
- (2) If by this Regulation something is required to be done by an installing contractor, the requirement is sufficiently complied with if the thing is actually done by the installing contractor, or is done by a partner, subcontractor or employee of the installing contractor.

Clause 6 Electricity Safety (Electrical Installations) Regulation 2005
Part 2 Installation work

Part 2 Installation work

6 Installation work to comply with Australian/New Zealand Wiring Rules

- (1) A person who carries out installation work otherwise than in accordance with the Australian/New Zealand Wiring Rules is guilty of an offence.
Maximum penalty: 20 penalty units.
- (2) However, the Director-General may:
 - (a) by order published in the Gazette, exempt a class of persons or all persons from the operation of subclause (1) in relation to a specified provision or provisions of the Australian/New Zealand Wiring Rules, or
 - (b) by order in writing given to a specified person, exempt the person from the operation of subclause (1) in relation to a specified provision or provisions of those Rules.
- (3) Such an exemption may be given unconditionally or subject to conditions.

7 Commissioning of installation work

- (1) A person must not commission any installation work:
 - (a) unless its safe operation and compliance with the Australian/New Zealand Wiring Rules have been established by a safety and compliance test, and
 - (b) in the case of a consumer's installation in respect of which the following installation work has been carried out:
 - (i) installation work associated with the installation, addition, alteration, disconnection, reconnection or replacement of a consumer's mains (within the meaning of the Australian/New Zealand Wiring Rules) unless the work only consists of the repair of a consumer's mains,
 - (ii) installation work associated with the installation, disconnection, reconnection or replacement of a main switchboard (within the meaning of the Australian/New Zealand Wiring Rules) unless the work only consists of the alteration or repair of, or additions to, a main switchboard and its associated equipment,
 - (iii) installation work forming part of a consumer's high voltage installation (that is, a consumer's installation designed for, or operating at, a voltage over 1,000 volts (alternating current) or 1,500 volts (direct current)),

Electricity Safety (Electrical Installations) Regulation 2005

Clause 8

Installation work

Part 2

-
- (iv) installation work located in a hazardous area (within the meaning of the Australian/New Zealand Wiring Rules), unless the local electricity distributor has permitted its connection to the electricity supply main.

Maximum penalty: 20 penalty units.

- (2) This clause does not prohibit a qualified person from temporarily connecting installation work to the electricity supplied by an electricity supply main for the purpose of conducting a safety and compliance test.

8 Notification of installation work that has been commissioned

- (1) Within 14 days after the commissioning of any installation work with respect to a consumer's installation, particulars of the work are to be notified:
- (a) to the local electricity distributor, and
 - (b) to the owner of the consumer's installation.
- (2) Notice to the owner of a consumer's installation may instead be given to the occupier of the premises in which the installation is situated if the occupier is one of the parties who agreed or arranged for the relevant installation work to be carried out on the installation.
- (3) The notice:
- (a) must be in a form approved by the electricity distributor, and
 - (b) must identify:
 - (i) the person who actually carried out the installation work, and
 - (ii) the installing contractor (if any) in whose employment that person carried out the installation work, and
 - (iii) any other installing contractor who carried out the installation work through a partner or subcontractor, and
 - (c) must be signed by the person notifying the particulars.
- (4) If the particulars are not notified in accordance with this clause, each person referred to in subclause (3) (b) is guilty of an offence.
Maximum penalty: 20 penalty units.
- (5) This clause does not require notice to be given of any work that relates only to the disconnection, reconnection, replacement or repair of:
- (a) appliances, switches, lighting points or outlet sockets without an increase in their number or the electrical load imposed by them, or

Clause 9 Electricity Safety (Electrical Installations) Regulation 2005
Part 2 Installation work

- (b) switchgear or switchboard equipment (so long as any such replacement equipment has the appropriate current and performance ratings), or
 - (c) wiring or switchboard wiring (so long as any such replacement wiring has the appropriate current, insulation and performance ratings).
- (6) A person who notifies particulars for the purposes of this clause:
- (a) must keep a copy of the notice for at least 2 years from when the notice was given, and
 - (b) must produce a copy of the notice to the local electricity distributor on demand made by the distributor at any time during that 2-year period.

Maximum penalty: 10 penalty units.

9 Conduct of safety and compliance tests

A safety and compliance test must be carried out by a qualified person and must include procedures to check such of the following matters as are relevant to the installation work being tested:

- (a) that there is earth continuity and that the earth resistance is safe,
- (b) that the insulation resistance is safe,
- (c) that polarity is correct,
- (d) that there is no transposition of earthing and neutral conductors,
- (e) that there is no short circuit between conductors,
- (f) that there is no intermix between conductors of different circuits,
- (g) that switchboard equipment is correctly marked to indicate:
 - (i) the corresponding active and neutral connections for each circuit, and
 - (ii) the relationship of the equipment to the various sections of the consumer's installation,
- (h) that the consumer's installation will operate in the manner intended by the parties who agreed or arranged for it to be carried out.

10 Notification of results of safety and compliance tests

- (1) Within 14 days after the completion of any safety and compliance test on a consumer's installation, the results of the test are to be notified:
 - (a) to the local electricity distributor, and
 - (b) to the owner of the consumer's installation.

Electricity Safety (Electrical Installations) Regulation 2005

Clause 10

Installation work

Part 2

-
- (2) Notice to the owner of a consumer's installation may instead be given to the occupier of the premises in which the installation is situated if the occupier is one of the parties who agreed or arranged for the relevant installation work to be carried out on the installation.
- (3) The notice:
- (a) must be in a form approved by the local electricity distributor, and
 - (b) must identify:
 - (i) the person who actually carried out the test, and
 - (ii) the installing contractor (if any) in whose employment that person carried out the test, and
 - (iii) any other installing contractor who carried out the test through a partner or subcontractor, and
 - (c) must be signed by the person notifying the results of the test.
- (4) If the results of the test are not notified in accordance with this clause, each person referred to in subclause (3) (b) is guilty of an offence.
Maximum penalty: 20 penalty units.
- (5) This clause does not require notice to be given of any test that relates only to the disconnection, reconnection, replacement or repair of:
- (a) appliances, switches, lighting points or outlet sockets without an increase in their number or the electrical load imposed by them, or
 - (b) switchgear or switchboard equipment (so long as any such replacement equipment has the appropriate current and performance ratings), or
 - (c) wiring or switchboard wiring (so long as any such replacement wiring has the appropriate current, insulation and performance ratings).
- (6) A person who notifies the results of a test for the purposes of this clause:
- (a) must keep a copy of the notice for at least 2 years from when the notice was given, and
 - (b) must produce a copy of the notice to the local electricity distributor on demand made by the distributor at any time during that 2-year period.
- Maximum penalty: 10 penalty units.

Clause 11 Electricity Safety (Electrical Installations) Regulation 2005
Part 2 Installation work

11 Unqualified persons not to carry out safety and compliance tests

A person must not carry out a safety and compliance test on a consumer's installation of a particular class if he or she is not a qualified person in relation to work of that class.

Maximum penalty: 10 penalty units.

Electricity Safety (Electrical Installations) Regulation 2005

Clause 12

Miscellaneous

Part 3

Part 3 Miscellaneous

12 Maintenance of consumers' installations: section 29

For the purposes of section 29 (1) of the Act:

- (a) all parts of a consumer's installation are prescribed, and
- (b) the following requirements apply to the maintenance of all parts of a consumer's installation, that is, they must be maintained so as to ensure that:
 - (i) the safe and satisfactory operation of the installation is not impaired by interference or damage, and
 - (ii) the live parts of the installation remain properly insulated, or protected, against inadvertent contact with any person, and
 - (iii) the installation is not used in a manner that exceeds the operating limits imposed by its design or installation.

13 Crown bound

This Regulation binds the Crown.

14 Savings

Any act, matter or thing that, immediately before the repeal of the *Electricity Safety (Electrical Installations) Regulation 1998*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

Explosives Regulation 2005

under the

Explosives Act 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Explosives Act 2003*.

JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

Explanatory note

The object of this Regulation is to provide for those matters that may be, or that are required to be, the subject of regulations under the *Explosives Act 2003*.

The Regulation deals with the following matters:

- (a) a register of authorised and prohibited explosives (Part 2),
- (b) the classification of explosives (Part 3),
- (c) matters relating to licences under the *Explosives Act 2003*, including the types of licences, requirements for obtaining licences, certain prescribed licence conditions and certain exemptions from the requirement to have a licence (Part 4),
- (d) specific control measures relating to the handling of explosives (Part 5),
- (e) matters of a savings, transitional or administrative nature (Parts 1 and 6).

This Regulation refers to the following documents:

- (a) AS 2187, *Explosives—Storage, transport and use*, as published by Standards Australia and in force from time to time,
- (b) the *Australian Code for the Transport of Explosives by Road and Rail*, as published by the Australian Government,
- (c) the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, as published by the Australian Government.

This Regulation is made under the *Explosives Act 2003*, including section 36 (the general regulation-making power).

Explosives Regulation 2005

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Clause 1	Explosives Regulation 2005
Part 1	Preliminary

Explosives Regulation 2005

under the

Explosives Act 2003

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Explosives Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Definitions

(1) In this Regulation:

ammunition means a safety cartridge of Classification Code 1.4S for small arms, but does not include a cartridge for an explosive-powered tool.

amorces means dots of an explosive substance mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur, the explosive substance being enclosed between 2 pieces of paper or other suitable material and present in a proportion not exceeding 7.5 grams to every thousand dots.

approved means approved by the regulatory authority.

ADG Code means the *Australian Code for the Transport of Dangerous goods by Road and Rail*, as published by the Australian Government.

Australian Explosives Code means the *Australian Code for the Transport of Explosives by Road and Rail*, as published by the Australian Government.

authorised explosive means an explosive that is registered as an authorised explosive under clause 8.

blaster ball means a solid substrate ball coated with a pyrotechnic composition such that when two balls are struck together there is an ignition at the point of contact resulting in a low level noise.

bon-bon cracker means an article containing a snap that when pulled apart results in a low level noise.

Class has the same meaning as in the Australian Explosives Code.

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Classification Code of an explosive means the code assigned to the explosive under the Australian Explosives Code, comprising a combination of the number of the hazard division of the explosive and the letter of the Compatibility Group of the explosive.

Compatibility Group of an explosive means the letter, determined in accordance with the Australian Explosives Code, of an explosive that identifies the kinds of explosive substances and articles that are compatible for transport or storage purposes.

confetti bomb means a pyrotechnic device designed to project confetti and to emit a report when an igniting string is pulled and containing an explosive substance with a mass not exceeding 30 milligrams, mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur.

corresponding law means any of the following laws:

Dangerous Goods Act 1985 of Victoria

Explosives Act 1999 of Queensland

Explosives Act 1936 of South Australia

Dangerous Goods Safety Act 2004 of Western Australia

Dangerous Goods Act 1998 of Tasmania

Dangerous Goods Act of the Northern Territory

Dangerous Substances Act 2004 of the Australian Capital Territory

detonator has the same meaning as in the Australian Explosives Code.

display firework means a firework (other than a distress signal or a toy firework) consisting of a case or contrivance forming a squib, gerbe, cracker, serpent, mortar shell, lance, wheel, coloured fire, Roman candle or other article specially adapted for the production of a pyrotechnic effect or a sound effect.

distress signal means a pyrotechnic device intended for signalling, warning, rescue or like purposes and includes a signal cartridge, marine flare, landing flare, highway flare, highway fusee, line-carrying rocket, anti-hail rocket, cloud seeding rocket, avalanche rocket, smoke generator or bird scarer.

explosive-powered tool means a tool or device whereby a stud, pin, dowel, screw, rivet, spike or other object is driven against, into or through a substance by means of an explosive.

export means export from the State to another country.

firework means an article designed to produce a sound or a pyrotechnic signal or a pyrotechnic effect by the explosion or ignition of an explosive substance, including a display firework or toy firework.

hazard division—see clause 12.

Clause 3	Explosives Regulation 2005
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import means import into the State from another country.

indoor table bomb means a pyrotechnic device designed to project streamers or confetti (or both) and to emit a report when an igniting string is pulled and containing an explosive substance with a mass not exceeding 60 milligrams, mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur.

mobile processing unit means a vehicle or mobile unit used for the manufacture of explosives.

model rocket propellant device means an article that:

- (a) consists of a case in which there is a substance or substances that burn rapidly when ignited, and
- (b) with or without other articles, is intended to be part of the propulsion system of a model rocket.

NEQ means the net explosive quantity (expressed as a mass) of an explosive, exclusive of any non-explosive components.

package means the complete product of the packing of any goods for transport, and consists of the goods and their packaging

packaging means the container into which goods are received or held for transport, and includes anything that enables the container to receive or hold the goods or to be closed.

possess includes right to possess.

power device cartridge means a power device cartridge for use with an explosive-powered tool, but does not include cartridges used for rock breaking or demolition.

prohibited explosive means an explosive that is registered as a prohibited explosive under clause 8.

Proper Shipping Name has the same meaning as in the Australian Explosives Code.

secure store, in relation to explosives or explosive precursors, means a physically secure place where the explosives or explosive precursors are kept secure by lock or constant surveillance and where procedures for the following are in place:

- (a) control of access,
- (b) control of keys (if any),
- (c) documenting the movement into and out of the secure store of explosives or explosive precursors.

security sensitive ammonium nitrate means any of the following:

- (a) ammonium nitrate that is not a dangerous good of Class 1,

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Part 1

(b) ammonium nitrate emulsions, suspensions or gels containing greater than 45% ammonium nitrate,

(c) ammonium nitrate mixtures containing greater than 45% ammonium nitrate,

but does not include ammonium nitrate solutions.

security sensitive dangerous substance means any security sensitive ammonium nitrate.

Note. Other dangerous substances, apart from security sensitive ammonium nitrate, may be included as security sensitive dangerous substances in the future.

sparkler means a firework consisting of a wire or stick coated with a metallic powder in admixture with an oxidising composition.

starting pistol caps means dots of an explosive substance mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus and antimony sulfide, the explosive substance being applied to sheets of paper or other suitable material and present in a quantity not exceeding 0.5 grams per dot.

streamer cone means a pyrotechnic device designed to project streamers and to emit a report when an igniting string is pulled, and containing an explosive substance with a mass not exceeding 30 milligrams and mainly consisting of any one or more of the substances potassium chlorate, amorphous phosphorus, antimony sulfide and sulfur.

supply includes sell.

the Act means the *Explosives Act 2003*.

to store, in relation to explosives or explosive precursors, does not include to place or keep the explosives or explosive precursors concerned in or on a vehicle or vessel.

toy firework means amorce, blaster ball, confetti bomb, bon-bon cracker, sparkler, streamer cone, toy pistol cap, starting pistol cap and indoor table bomb.

toy pistol cap has the same meaning as amorce.

unauthorised explosive means an explosive that is not registered as an authorised explosive under clause 8 (and includes prohibited explosives).

unsupervised access, in relation to an explosive or explosive precursor, means access to an explosive or explosive precursor in circumstances where no other person who is authorised under a licence to store or handle the explosive or explosive precursor is present, and includes:

(a) access to a secure store of the explosive or explosive precursor, and

Clause 4 Explosives Regulation 2005

Part 1 Preliminary

- (b) access to the keys to a secure store of the explosive or explosive precursor, and
- (c) access to the explosive or explosive precursor while the explosive or explosive precursor is being transported.

UN Number or **United Nations Number** or **UN** followed by a number, in relation to dangerous goods, means the identification number shown in the ADG Code in relation to those goods.

vehicle means:

- (a) a motor vehicle within the meaning of the *Road Transport (General) Act 2005*, and
 - (b) a unit of rolling stock.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Prescription of explosives

The following are prescribed as explosives for the purposes of the Act:

- (a) dangerous goods of Class 1 within the meaning of the ADG Code,
- (b) goods too dangerous to be transported (within the meaning of the ADG Code) that can produce an explosive or pyrotechnic effect,
- (c) articles or substances that when manufactured, mixed or assembled can produce an explosive or pyrotechnic effect.

5 Prescription of explosive precursors

Security sensitive dangerous substances are prescribed for the purposes of the Act as an explosive precursor.

6 Director-General of Department of Primary Industries is regulatory authority for mines

- (1) For the purposes of section 4 of the Act, the Director-General of the Department of Primary Industries is declared to be the regulatory authority for mines, but only in relation to the following:
 - (a) the examination and inspection of explosives or explosive precursors,
 - (b) notification of loss of explosives or explosive precursors,
 - (c) notification of serious incidents,
 - (d) the investigation of breaches of the Act, this Regulation and licences under the Act,
 - (e) the appointment of inspectors under the Act in relation to mines.

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Clause 7

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- (2) In this clause, *mine* means a mine within the meaning of the *Mines Inspection Act 1901* or the *Coal Mines Regulation Act 1982* but, despite the definition of *mine* in the latter Act, does include a coal preparation plant that is a declared plant under Part 5A of that Act.

7 Persons to co-operate to discharge duties

If more than one person has a duty or responsibility with respect to a particular matter under this Regulation:

- (a) each such person retains the duty and responsibility for the matter, and
- (b) the duty or responsibility is to be discharged in a co-ordinated manner.

Clause 8	Explosives Regulation 2005
Part 2	Authorised and prohibited explosives

Part 2 Authorised and prohibited explosives

8 Authorised explosives

- (1) The regulatory authority may register an explosive as an authorised explosive or a prohibited explosive and must establish and maintain a register of:
 - (a) authorised explosives, and
 - (b) prohibited explosives.
- (2) The regulatory authority must not register an explosive both as an authorised explosive and a prohibited explosive.
- (3) The regulatory authority is to record in the register in relation to each authorised explosive details that describe the explosive including the applicant name and commercial name of the explosive and the explosive's UN Number, Proper Shipping Name and Classification Code.
- (4) The regulatory authority must from time to time, but at intervals of not less than one year, publish a copy of the register in the Gazette.
- (5) The regulatory authority may alter the registration of an explosive.

9 Handling unauthorised explosives prohibited

A person must not handle any unauthorised explosive.

Note. Unauthorised explosives include prohibited explosives—see clause 3.

Maximum penalty: 250 penalty units.

10 Falsely representing explosives as authorised

A person must not falsely represent an unauthorised explosive as being an authorised explosive.

Maximum penalty: 250 penalty units.

11 Application to have explosives registered as authorised

- (1) A person may apply to the regulatory authority to have an explosive registered as an authorised explosive.
- (2) The application must be accompanied by the approved fee.
- (3) The application must be made in writing and contain particulars of:
 - (a) the commercial name, UN Number, Proper Shipping Name and Classification Code of the explosive, and
 - (b) the nature and composition of the explosive to which it relates, including the percentage by mass or volume that each ingredient bears to the whole, and

Explosives Regulation 2005

Clause 11

Authorised and prohibited explosives

Part 2

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- (c) the results of any testing of the explosive, and
 - (d) any substance or substances desired to be approved as a substitute, or as substitutes, for a specified ingredient, and
 - (e) the method of use of the explosive.
- (4) An application is taken to have been refused if the regulatory authority has not registered the explosive within 3 months of its receipt of the application.
 - (5) An applicant must furnish to the regulatory authority such additional information in relation to the explosive as it may request.
 - (6) An applicant must supply to the regulatory authority, without charge, such sample or samples of the explosive as it may require for the purpose of testing.

Clause 12	Explosives Regulation 2005
Part 3	Classification of explosives

Part 3 Classification of explosives

12 Hazard divisions

- (1) In this Regulation, *hazard division* of an explosive means:
 - (a) the hazard division of the explosive under the Australian Explosives Code, or
 - (b) if the explosive is stored or transported with an explosive of a different hazard division under this clause—the precedence of hazard division determined in accordance with clause 78.
- (2) The hazard divisions of explosives under the Australian Explosives Code are as follows:
 - (a) hazard division 1.1—explosives that have a mass explosion hazard,
 - (b) hazard division 1.2—explosives that have a projection hazard, but not a mass explosion hazard,
 - (c) hazard division 1.3—explosives that have a fire hazard and either a minor blast hazard or a minor projection hazard, or both, but not a mass explosion hazard,
 - (d) hazard division 1.4—explosive substances and articles that present no significant hazard,
 - (e) hazard division 1.5—very insensitive explosive substances that have a mass explosion hazard,
 - (f) hazard division 1.6—extremely insensitive explosive articles that do not have a mass explosion hazard.

13 Detonators of Classification Code 1.4

All detonators of Classification Code 1.4B or 1.4S are of Classification Code 1.1B if they are not in a package that has been manufactured for the purpose of holding such detonators.

14 Classification of articles

For the purposes of this Regulation, if an explosive substance is contained within an explosive article:

- (a) the substance is taken to be a part of the article, and
- (b) the substance is taken not to be an independent explosive.

Explosives Regulation 2005

Clause 15

Licences

Part 4

Part 4 Licences

Division 1 Activities requiring licences

15 Activities requiring licences

- (1) The handling of an explosive or explosive precursor is required to be authorised by a licence under the Act.

Note. Section 6 (1) of the Act provides that it is an offence for a person to handle an explosive or explosive precursor if:

- (a) the regulations require the handling to be authorised by a licence under the Act, and
- (b) the person is not authorised to do so by a licence under the Act.
- (2) For the avoidance of doubt, if an explosive or explosive precursor is stored at a mine (whether by a mine operator or another person), the mine operator is taken to be storing the explosive or explosive precursor and is required to be authorised by a licence under the Act to do so.
- (3) Despite subclause (1), a person is not required to be authorised by a licence under the Act to handle an explosive or explosive precursor if:
- (a) the person is under the direction or control of a licensee (for example, as an employee or contractor of a licensee) who is authorised by a licence to handle the explosive or explosive precursor in the manner concerned, and
- (b) the person is handling the explosive or explosive precursor under that direction or control (for example, in the course of that employment or in accordance with the contract concerned), and
- (c) the person is supervised in the handling of the explosive or explosive precursor by a natural person who is authorised by a licence to handle the explosive or explosive precursor in the manner concerned.

- (4) Despite subclause (1), a person is not required to be authorised by a licence under the Act to handle an explosive precursor before 1 January 2006.

Note. Subclause (4) is a savings and transitional provision to allow a four month transition period before the requirement to hold a licence under the Act to handle explosive precursors (such as security sensitive ammonium nitrate) comes into force. See also clause 5 of Schedule 1 to this Regulation relating to transitional controls on the supply of security sensitive ammonium nitrate during this period.

Clause 16 Explosives Regulation 2005

Part 4 Licences

Division 2 Types of licences

16 Types of licences

The regulatory authority may grant the following types of licences:

- (a) licence to manufacture,
- (b) licence to import,
- (c) licence to supply,
- (d) licence to transport by vehicle,
- (e) licence to transport by vessel,
- (f) licence to store,
- (g) blasting explosives learner's licence,
- (h) blasting explosives user's licence,
- (i) pyrotechnician's licence,
- (j) fireworks (single use) licence,
- (k) licence to use security sensitive dangerous substances,
- (l) unsupervised handling licence.

17 Licence to manufacture

A licence to manufacture authorises the licensee to carry out the following activities:

- (a) if the licence relates to a mobile processing unit—manufacturing and transporting the explosives or explosive precursors specified in the licence in the mobile processing unit,
- (b) if the licence does not relate to a mobile processing unit—manufacturing, at the premises specified in the licence, the explosives or explosive precursors specified in the licence,
- (c) supplying (including exporting), at the premises (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (d) possessing explosives or explosive precursors for the purpose of the manufacture of other explosives or explosive precursors under the licence,
- (e) possessing explosives or explosive precursors manufactured under the licence,
- (f) possessing explosives or explosive precursors for the purpose of the disposal of the explosives or explosive precursors under the licence,

Explosives Regulation 2005

Clause 18

Licences

Part 4

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- (g) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

18 Licence to import

A licence to import authorises the licensee to carry out the following activities:

- (a) importing the explosives or explosive precursors specified in the licence into the State from another country,
- (b) supplying (including exporting), at the premises (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (c) possessing the explosives or explosive precursors for the purpose of bringing them into the State from another country,
- (d) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

19 Licence to supply

A licence to supply authorises the licensee to carry out the following activities:

- (a) supplying (including exporting), at the premises (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (b) possessing explosives or explosive precursors for the purpose of supplying them under the licence,
- (c) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

20 Licence to transport by vehicle

A licence to transport by vehicle authorises the licensee to carry out the following activities:

- (a) transporting, by means of a motor vehicle, the explosives or explosive precursors specified in the licence,
- (b) storing, at the premises and for the period specified in the licence (if any), the explosives or explosive precursors specified in the licence,
- (c) possessing explosives or explosive precursors for the purpose of transporting them under the licence.

Clause 21 Explosives Regulation 2005

Part 4 Licences

21 Licence to transport by vessel

A licence to transport by vessel authorises the licensee to carry out the following activities:

- (a) transporting, using a vessel, the explosives or explosive precursors specified in the licence,
- (b) storing, at the premises and for the period specified in the licence (if any), the explosives or explosive precursors specified in the licence,
- (c) possessing explosives or explosive precursors for the purpose of transporting them under the licence.

22 Licence to store

A licence to store explosives authorises the licensee to carry out the following activities:

- (a) storing, at the premises and for the period specified in the licence, the explosives or explosive precursors specified in the licence,
- (b) possessing explosives or explosive precursors for the purpose of storing them under the licence.

23 Blasting explosives learner's licence

A blasting explosives learner's licence authorises the licensee to possess and use explosives as part of an explosives training course, but only if the licensee is under the instruction and supervision of a person who is authorised under this Act to possess and use those explosives.

24 Blasting explosives user's licence

A blasting explosives user's licence authorises the licensee to carry out the following activities:

- (a) using, at the premises or location (if any) specified in the licence, the explosives or explosive precursors specified in the licence,
- (b) manufacturing explosives for immediate use (if that activity is specified in the licence),
- (c) possessing explosives or explosive precursors for the purpose of using them under the licence,
- (d) transporting explosives or explosive precursors for the purpose of using them under the licence,
- (e) possessing explosives or explosive precursors for the purpose of the disposal of the explosives or explosive precursors under the licence,

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Clause 25

Licences

Part 4

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- (f) if premises are specified in the licence—storing the explosives or explosive precursors at the premises.

25 Pyrotechnician's licence and fireworks (single use) licence

A pyrotechnician's licence and a fireworks (single use) licence authorises the licensee to carry out the following activities:

- (a) possessing, using, storing and transporting display fireworks,
- (b) possessing, using, storing and transporting a distress signal (otherwise than for the purpose of a distress signal),
- (c) possessing, using, storing and transporting a model rocket propellant device containing an ignitable substance or ignitable substances exceeding 62.5 grams in mass.

26 Licence to use security sensitive dangerous substances

A licence to use security sensitive dangerous substances authorises the licensee to possess, use, store, transport and dispose of security sensitive dangerous substances for the purpose specified in the licence.

27 Unsupervised handling licence

An unsupervised handling licence authorises the licensee to handle explosives or explosive precursors but only in circumstances where:

- (a) the holder of the unsupervised handling licence is under the direction or control (for example, as an employee or contractor) of another person who holds another licence under the Act (*the supervising licensee*) (not being a blasting explosives learner's licence, a fireworks (single use) licence or an unsupervised handling licence), and
- (b) the handling of the explosives or explosive precursors is of a type and manner that is authorised under the supervising licensee's licence,
- (c) the holder of the unsupervised handling licence complies with any conditions that apply to the supervising licensee's licence.

Note. An unsupervised handling licence could allow (according to its terms and conditions) an employee of a person who holds a licence to store to have unsupervised access to handle explosives or explosive precursors stored under the authority of that licence to store. An unlicensed employee would be otherwise prohibited from unsupervised handling of their employer's explosives or explosive precursors. See also the provisions relating to security plans.

Clause 28 Explosives Regulation 2005

Part 4 Licences

Division 3 Licence provisions

28 Licence to specify type and class of explosive or explosive precursor authorised to be handled and may specify other matters

- (1) A licence may specify the explosive or explosive precursor or the type or types or the class or classes of explosive or explosive precursor that is or are authorised to be handled under the licence.
- (2) A licence may specify the maximum quantity of explosive or explosive precursor that is authorised to be handled under the licence.
- (3) A licence may specify premises or a location at which the explosives or explosive precursors that are authorised to be handled under the licence must be handled.

Division 4 Applications for licences

29 Applications for licences

- (1) An application for a licence is to be:
 - (a) made in the approved form, and
 - (b) accompanied by any other documents (including photographs) specified in the approved form.
- (2) Each applicant for a licence must, if required to do so by the regulatory authority, submit a security plan in relation to the explosives or explosive precursors that are to be handled under the licence.
- (3) A security plan submitted in accordance with subclause (2) must contain the following:
 - (a) details of the facilities, systems and procedures in place for the safe and secure handling of the explosives or explosive precursors concerned,
 - (b) a list of nominated persons who hold unsupervised handling licences and are to have unsupervised access to the explosives or explosive precursors concerned,
 - (c) a list detailing any vehicles that may carry the explosives or explosive precursors concerned,
 - (d) such other information as required by the regulatory authority.
- (4) The regulatory authority may require an applicant to amend and re-submit a security plan.

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Clause 30

Licences

Part 4

Division 5 Requirements for obtaining licences**30 General requirements for obtaining a licence under the Act**

- (1) Before a licence is granted, the regulatory authority must be satisfied that:
- (a) the applicant, and if the applicant is a corporation, at least one person engaged in the management of the corporation:
 - (i) is of or above the age of 18 years, and
 - (ii) is a fit and proper person to hold the licence and is otherwise of good character, and
 - (iii) has the qualifications, experience and knowledge necessary to hold the licence, and
 - (b) in relation to a licence other than a fireworks (single use) licence—a report relating to the applicant under section 13 of the Act has been furnished to the regulatory authority, and
 - (c) if the applicant has been required to submit a security plan, the plan is appropriate for the safe and secure handling of the explosives or explosive precursors concerned, and
 - (d) in relation to a licence other than a blasting explosives learner's licence or an unsupervised handling licence—the applicant has appropriate facilities, systems and procedures in place for the safe and secure handling of the explosives or explosive precursors concerned, and
 - (e) the approved fee for the licence has been paid.
- (2) Without limiting any other reason that the regulatory authority may refuse to grant a licence to an applicant, the regulatory authority must refuse to grant a licence if a report relating to the applicant under section 13 of the Act contains a recommendation from the Commissioner of Police that the applicant should not be granted the licence on the basis of criminal or security intelligence or other information available to the Commissioner.

Note. Additional requirements for obtaining specific licences are set out in this Division.

31 Additional requirements for obtaining licence to transport by vehicle

- (1) Before a licence to transport by vehicle that relates to the transport of explosives or explosive precursors by a motor vehicle or motor vehicles is granted, the regulatory authority must be satisfied that each individual authorised by the licence to drive the motor vehicle or motor vehicles concerned:
- (a) is of or above the age of 21 years, and

Clause 32 Explosives Regulation 2005

Part 4 Licences

-
- (b) has held the appropriate driver licence in relation to the type of vehicle or vehicles to be specified in the licence for at least 12 months, and
 - (c) has at least 12 months experience driving vehicles of the type to be specified in the licence, and
 - (d) has demonstrated an adequate knowledge of:
 - (i) the nature and hazardous properties of explosives or explosive precursors of the type that is to be transported under the authority of the licence, and
 - (ii) the precautions to be taken to ensure the prevention of accidents in the transport and associated handling of explosives and explosive precursors of that type, and
 - (iii) the actions to be taken in the event of an emergency involving explosives or explosive precursors, and
 - (e) has been examined by a medical practitioner and been found not to have any medical or physical condition that would impair the individual's ability to perform the duties of a driver of a vehicle that transports explosives or explosive precursors.
- (2) For the purpose of determining whether it is satisfied as to the matters set out in subclause (1) (d) and (e), the regulatory authority may have regard to whether the applicant is the holder of a Dangerous Goods Bulk Transport Licence under the *Road and Rail Transport (Dangerous Goods) Act 1997*.

32 Additional requirements for obtaining blasting explosives user's licence

Before a blasting explosives user's licence is granted, the regulatory authority must be satisfied that the applicant is a natural person and the applicant:

- (a) has such qualifications, or has passed such examinations or practical tests, or both, as the regulatory authority determines to be necessary to enable the applicant to do the work for which the licence is required, and
- (b) has been examined by a medical practitioner and been found not to have any medical or physical condition that would impair the individual's ability to perform the duties of a blasting explosives user.

33 Additional requirements for obtaining blasting explosives learner's licence

Before a blasting explosives learner's licence is granted, the regulatory authority must be satisfied that the applicant:

- (a) is a natural person, and

Explosives Regulation 2005

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Licences

Part 4

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- (b) has been examined by a medical practitioner and been found not to have any medical or physical condition that would impair the individual's ability to perform the duties of a blasting explosives user.

34 Additional requirements for obtaining pyrotechnician's licence

- (1) Before a pyrotechnician's licence is granted, the regulatory authority must be satisfied that the applicant:
 - (a) is a natural person, and
 - (b) has completed a training course or attained a level of competence in the safe use of display fireworks that is recognised by the regulatory authority for the purposes of obtaining the licence, and
 - (c) has a legitimate reason for obtaining the licence.
- (2) A *legitimate reason* for obtaining a pyrotechnician's licence includes obtaining the licence for the purposes of any of the following:
 - (a) an organised public display (for example, a community event open to the public, whether or not for fee, organised by a community or private organisation, such as a show, fete, carnival, cultural, religious or sporting event),
 - (b) a theatrical display (for example, a film or TV special effect, an indoor or outdoor theatrical event such as a concert or another performing arts event),
 - (c) a technical non-display purpose (for example, an industrial or agricultural purpose, such as the purpose of a chimney testing device or a bird disturbing device).

35 Additional requirements for obtaining fireworks (single use) licence

- (1) Before a fireworks (single use) licence is granted, the regulatory authority must be satisfied that the applicant:
 - (a) is a natural person, and
 - (b) has a legitimate reason for obtaining the licence.
- (2) A *legitimate reason* for obtaining a fireworks (single use) licence includes obtaining the licence for the purposes of an organised public display (for example, a community event open to the public, whether or not for fee, organised by a community or private organisation, such as a show, fete, carnival, cultural, religious or sporting event).

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36 Additional requirements for licences relating to security sensitive dangerous substances

- (1) Before any licence relating to the handling of security sensitive dangerous substances is granted, the regulatory authority must be satisfied that the applicant has a legitimate reason for obtaining the licence.

Note. This provision applies to all licences that authorise a person to handle security sensitive dangerous substances, not merely the licence to use security sensitive dangerous substances as referred to in clause 16 (k).

- (2) A *legitimate reason* for obtaining a licence that authorises a person to handle security sensitive dangerous substances includes obtaining the licence for the purpose of:

- (a) use in commercial production processes, mining, quarrying, agricultural blasting, construction, civil engineering, seismic work or tunnelling, or
- (b) the commercial manufacture of fertiliser or explosives, or
- (c) education, research or analysis, or
- (d) commercial agricultural use by primary producers, or
- (e) transporting or supplying security sensitive dangerous substances for any purpose listed above,

but does not include obtaining the licence for the purpose of:

- (f) household domestic use, or
- (g) use as a fertiliser on outdoor recreation facilities (such as parks, golf courses, sports fields and the like).

37 Additional requirements for obtaining unsupervised handling licence

Before an unsupervised handling licence is granted, the regulatory authority must be satisfied that the applicant is a natural person.

Division 6 Licence conditions

38 Licensee to remain at all times eligible to be granted a licence

It is a condition of each licence that the licensee must at all times remain a person who, if applying for that licence for the first time, would be eligible to be granted that licence by the regulatory authority.

Note. This clause provides that the licensee is in breach of a licence condition if circumstances relating to the licensee change in such a respect that the licensee would not be granted a licence if applying for the first time (for example, if a qualification were revoked or the person ceased to be able to satisfy the regulatory authority that they were a fit and proper person to hold a licence or otherwise of good character). Breach of any condition may lead to suspension or cancellation of the licence under sections 20 and 21 of the Act.

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Clause 39

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39 Loss or theft of explosives or explosive precursors to be reported

- (1) It is a condition of each licence that if any explosive or explosive precursor in the possession, custody or control of the licensee is lost or stolen or is the subject of an attempted theft or any other suspicious incident that threatens the security of the explosive or explosive precursor, the licensee must immediately notify the regulatory authority and a police officer of the loss, theft or incident.
- (2) If the explosive or explosive precursor concerned was located at a mine, the licensee must also immediately notify the WorkCover Authority in addition to notifying the Director-General of the Department of Primary Industries (being the regulatory authority in relation to mines).

40 Licence to manufacture

It is a condition of each licence to manufacture that the explosives or explosive precursors concerned must be manufactured, or disposed of, only in or on:

- (a) the premises specified in the licence, or
- (b) a mobile processing unit to which the licence relates,

41 Notification of importation of explosives or explosive precursors

- (1) It is a condition of each licence to import that the licensee must give the regulatory authority notice, in accordance with this clause, and pay the notification fee fixed by the regulatory authority, on each occasion of the licensee's intention to import explosives or explosive precursors.
- (2) The notice must be given no later than 5 business days before the day on which the explosives or explosive precursors are intended to arrive in the State.
- (3) The notice must include the following information:
 - (a) the name and licence number of the licensee,
 - (b) the intended date of import of the explosives or explosive precursors,
 - (c) the identity of the vessel or aircraft in which the explosives or explosive precursors are to be imported,
 - (d) the port, facility or airport where the explosives or explosive precursors are to be received,
 - (e) the name of, and the classification assigned to, the explosives or explosive precursors,
 - (f) details of the kind and quantity of explosives or explosive precursors to be imported,

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- (g) the name of the consignee (if not the licensee) and the consignor of the explosives or explosive precursors,
 - (h) the address of the place where the explosives or explosive precursors are to be stored in the State.
- (4) If the licensee becomes aware that any of the information given in such a notice is no longer accurate, it is a condition of the licence that the licensee must give the regulatory authority notice of the relevant change of information.
- (5) The importer, the importer's agent and the consignee of the explosives or explosive precursors referred to in the notice must not transport the explosives or explosive precursors, or cause or permit the explosives or explosive precursors to be transported from the port, facility or airport where they were received to premises specified in a licence for the storage or handling of explosives unless the regulatory authority has given notice (either written or electronic) that the explosives or explosive precursors may be transported to those premises.
Maximum penalty (subclause (5)): 250 penalty units.
- (6) A notice under this clause may be given in writing or electronically.

42 Notification of export of explosives or explosive precursors

- (1) It is a condition of each licence to supply that the licensee must give the regulatory authority notice, in accordance with this clause, on each occasion of the licensee's intention to export explosives or explosive precursors.
- (2) The notice must be given no later than 5 business days before the day on which the explosives or explosive precursors are intended to be exported from the State.
- (3) The notice must include the following information:
- (a) the name and licence number of the licensee,
 - (b) the intended date of export of the explosives or explosive precursors,
 - (c) the port, facility or airport from where the explosives or explosive precursors are to be exported,
 - (d) the name of, and classification assigned to, the explosives or explosive precursors,
 - (e) details of the kind and quantity of explosives or explosive precursors to be exported,
 - (f) the name of the consignee and the consignor (if not the licensee) of the explosives or explosive precursors.

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- (4) If the licensee becomes aware that any of the information given in such a notice is no longer accurate, it is a condition of the licence that the licensee must give the regulatory authority notice of the relevant change of information.
- (5) A notice under this clause may be given in writing or electronically.

43 Licensed suppliers to supply only to authorised persons

- (1) It is a condition of each licence to supply that each person authorised under the licence (*the authorised supplier*) must not supply explosives or explosive precursors to another person (*the receiver*) unless the receiver produces to the authorised supplier:
- (a) proof of identity of the receiver (such as a passport or a motor vehicle driver licence issued in Australia that displays a photograph of the person), and
 - (b) evidence that:
 - (i) the receiver is authorised by a licence under the Act (other than an unsupervised handling licence) or otherwise authorised under a corresponding law to possess the explosives or explosive precursors, or
 - (ii) the receiver is not required to be authorised by a licence to possess the explosives or explosives precursors (for example, by virtue of clause 59), or
 - (iii) the explosives or explosive precursors are to be supplied to the receiver outside Australia.
- (2) It is a condition of each licence to supply that the licensee must keep a record, in accordance with this clause, of each supply of explosives or explosive precursors.
- (3) The record must include the following information:
- (a) the date of supply,
 - (b) the name, address and telephone number of the person to whom the explosive or explosive precursor is supplied,
 - (c) details of the licence produced to the supplier or the receiver's authority under a corresponding law to possess the explosives or explosive precursors (if required),
 - (d) the name, address and telephone number of the licensee in whose premises the explosives or explosive precursors are to be stored,
 - (e) the kind and quantity of the explosives or explosive precursors supplied.

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(4) The licensee must, whether or not the licence continues in force, keep for at least 5 years after each supply the record made in relation to a particular supply of an explosive or explosive precursor.

Maximum penalty: 100 penalty units.

(5) The licensee must make all supply records made under this clause available for examination at the direction of an inspector or police officer. The records must be made available as soon as is reasonably practicable but no later than 7 days after the direction is given.

Maximum penalty: 100 penalty units.

44 Display and advertising

(1) It is a condition of each licence to supply that the licensee must not:

- (a) display for sale any explosive on any shelf or counter or in any window or other place that is visible to the public, or
- (b) sell any explosive:
 - (i) on a road or a road related area, or
 - (ii) at a market, fair or agricultural or other show, or
 - (iii) in any other public place.

(2) Subclause (1) does not apply to the following:

- (a) power device cartridges,
- (b) distress signals,
- (c) ammunition (but only if the licensee is a licensed firearms dealer under the *Firearms Act 1996*),
- (d) life-saving appliances, including air bag inflators and seat belt pretensioners,
- (e) toy fireworks.

45 Consignment of explosives and explosive precursors

It is a condition of each licence under the Act that the licensee must not send or cause to be sent to any other person (in this clause referred to as the *consignee*) a consignment of explosives or explosive precursors unless:

- (a) the licensee is satisfied that the consignee is authorised under the Act to possess the explosives or explosive precursors, and
- (b) the licensee has given to the consignee a notice of his or her intention to send the consignment and has set out in the notice the description and quantity of the explosives or explosive precursors proposed to be sent, and

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- (c) licensee has been informed by the consignee that the consignee will be prepared to receive the explosives or explosive precursors on a specified day or within a specified period, and
 - (d) the explosives or explosive precursors are sent at such a time and by such means that in the ordinary course of transport the consignee will receive them on the specified day or within the specified period.

46 Licence to transport by vehicle

It is a condition of each licence to transport by vehicle that the licensee must transport explosives and explosive precursors in accordance with:

- (a) in relation to explosives—the applicable requirements of the Australian Explosives Code, and
- (b) in relation to explosive precursors—the applicable requirements of the ADG Code.

47 Blasting explosives user's licence

It is a condition of each blasting explosives user's licence that the licensee must ensure that any security sensitive dangerous substances possessed by the licensee are stored in a safe and secure manner.

48 Pyrotechnician's licence

- (1) It is a condition of each pyrotechnician's licence, that the licensee notify the following authorities, by the time specified in relation to the authority concerned, of an intention to use any fireworks, distress signal or model rocket propellant device:
 - (a) the regulatory authority—at least 7 working days before the fireworks, signal or device is to be used,
 - (b) the relevant local council—at least 7 working days before the fireworks, signal or device is to be used,
 - (c) Local Area Commander of Police—at least 2 working days before the fireworks, signal or device is to be used,
 - (d) NSW Fire Brigades or the NSW Rural Fire Service, whichever is appropriate—at least 2 working days before the fireworks, signal or device is to be used.

Note. The local council, Police and Fire Brigades may have other specific controls in place relating to firework displays.

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- (2) It is a condition of each pyrotechnician's licence, that if the licensee is not authorised to store any fireworks, distress signals or model rocket propellant devices under the licence, the licensee must not possess a quantity of fireworks, signals or devices greater than the quantity necessary for use at an event that has been notified to the regulatory authority under subclause (1) (a).

49 Fireworks (single use) licence

It is a condition of each fireworks (single use) licence, that the licensee notify the following authorities, by the time specified in relation to the authority concerned, of an intention to use any fireworks, distress signal or model rocket propellant device:

- (a) the regulatory authority—at least 7 working days before the fireworks, signal or device is to be used,
- (b) the relevant local council—at least 7 working days before the fireworks, signal or device is to be used,
- (c) the Local Area Commander of Police—at least 2 working days before the fireworks, signal or device is to be used,
- (d) NSW Fire Brigades or the NSW Rural Fire Service, whichever is appropriate—at least 2 working days before the fireworks, signal or device is to be used.

Note. The local council, Police and Fire Brigades may have other specific controls in place relating to firework displays.

Division 7 Exceptions from requirement to hold licence

50 General exceptions

- (1) A person is not required to be authorised by a licence in order to possess, store, use, sell or supply the following explosives:
 - (a) power device cartridges,
 - (b) distress signals,
 - (c) life-saving appliances, including air bag inflators and seat belt pretensioners,
 - (d) toy fireworks.
- (2) Despite subclause (1), a person is required to be authorised by a licence in order to possess or store explosives or explosive precursors specified in the Table to this clause if the quantity possessed or stored exceeds the quantity specified in that Table.

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Table

Column 1	Column 2
Type of explosive	Quantity
Power device cartridges	10,000 in number
Distress signals	10 kg
Life-saving appliances (including air bag inflators, air bag modules and seat belt pretensioners of hazard division 1.4) that are:	10 kg
(a) not installed in vehicles, or	
(b) not in complete vehicle components.	
Explosives of hazard division 1.4 (not being detonators or safety cartridges of Class 1.4S, percussion caps of Class 1.4S for firearms, or fireworks)	10 kg
Toy fireworks	1 tonne (including packaging)

51 Certain exceptions for ammunition

- (1) A person who is a licensed firearms dealer under the *Firearms Act 1996* is not required to be authorised by a licence in order to possess, store, sell or supply ammunition.
- (2) A person who holds a licence or a permit under the *Firearms Act 1996* (other than a firearms collector licence) that authorises the person to possess or use a firearm is not required to be authorised by a licence in order to possess, use or store:
 - (a) ammunition for that firearm, or
 - (b) percussion caps, or not more than 10kg of propellant powder for reloading purposes, for that firearm.
- (3) A person who holds an ammunition collection permit under the *Firearms Act 1996* is not required to be authorised by a licence in order to possess or store ammunition that is authorised to be possessed under the permit.

52 Licence to import—exceptions

A person is not required to be authorised by a licence to import in order to import the following explosives:

- (a) life-saving appliances, including air bag inflators, air bag modules and seat belt pretensioners,

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- (b) distress signals that are part of the safety system of a vessel or aircraft.

53 Possession and storage of certain explosives—emergency service

- (1) An emergency service is not required to be authorised by a licence in order to possess or store explosives or explosive precursors that have come into the possession of a member of the emergency service in an emergency situation (for example, ammunition or explosives that have been confiscated and stored by a police officer).
- (2) In this clause, *emergency service* includes any of the following:
- (a) the Ambulance Service of New South Wales,
 - (b) New South Wales Fire Brigades,
 - (c) the NSW Rural Fire Service,
 - (d) NSW Police,
 - (e) the State Emergency Service,
 - (f) the New South Wales Volunteer Rescue Association Incorporated,
 - (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
 - (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

54 Inspectors

An inspector is not required to be authorised by a licence to handle any explosives or explosive precursors in the course of the inspector's duties under the Act.

55 Police bomb disposal

A police bomb disposal technician is not required to be authorised by a licence in order to:

- (a) possess, use or transport explosives in the course of the technician's duties, or
- (b) possess explosives or explosive precursors (for the purpose of disposing or destroying them), or
- (c) dispose or destroy explosives or explosive precursors.

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56 Licence to transport by vehicle or vessel—exceptions

An inspector or a police officer is not required to be authorised by a licence to transport by vehicle or vessel in order to transport any explosives or explosive precursors that have been confiscated or received by, and are under the immediate supervision of, the inspector or the police officer.

57 Licence to transport by vehicle—exceptions

A person is not required to be authorised by a licence to transport by vehicle in order to transport any explosives or explosive precursors if the vehicle concerned is travelling on a private road.

Note. A person may still be required to hold a licence that authorises the person to possess the explosive or explosive precursor concerned.

58 Licence to transport by vessel—exceptions

A person is not required to be authorised by a licence to transport by vessel in order to transport any explosives or explosive precursors if the vessel concerned is proceeding on an overseas voyage or an inter-State voyage.

59 Licence to use security sensitive dangerous substances—exception

A person is not required to be authorised by a licence to use security sensitive dangerous substances in order:

- (a) to use security sensitive ammonium nitrate for educational, research or analytical purposes at a school or at a commercial laboratory, university or other research institution if the amount of security sensitive dangerous substances used does not exceed 3 kg, or
- (b) to otherwise handle security sensitive ammonium nitrate for the purposes of that use.

Division 8 Miscellaneous**60 Training blasting explosives learners**

A person (*the trainer*) must not use explosives in the course of training another person (*the trainee*) in the use of explosives unless the trainer has sighted the trainee's blasting explosives learner's licence.

Maximum penalty: 250 penalty units.

61 Licences under corresponding laws

The regulatory authority, when determining whether to grant or refuse an application for a licence under this Act is to have regard to whether the applicant holds a licence under a corresponding law.

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Part 4 Licences

62 Licence fees

The fee payable for a licence is the fee fixed for the time being by the regulatory authority to cover expenses in connection with the regulation of licences.

63 Evidence of licence to be produced

- (1) A licensee must, on demand made by a police officer or an inspector at any time:
- (a) if the licensee has the licence in his or her immediate possession—produce the licence for inspection by the police officer or inspector, or
 - (b) if the person does not have the licence in his or her immediate possession—produce it as soon as practicable (but not more than 6 hours) after the demand is made to the police officer or inspector who made the demand or to another police officer or inspector nominated by the original police officer or inspector.

Maximum penalty: 5 penalty units.

- (2) A person who is in immediate possession of an explosive or explosive precursor must, unless the person has a reasonable excuse, carry the licence, or a copy of the licence, that authorises that possession and must produce the licence, or copy, on demand being made by a police officer or an inspector.

Maximum penalty: 5 penalty units.

- (3) The onus of proving a reasonable excuse for the purposes of this clause is on the licensee.

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Clause 64

Specific control measures

Part 5

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Division 1 General

64 Security plan

- (1) If a security plan has been submitted to the regulatory authority as part of an application for a licence, the licensee must ensure that:
 - (a) the requirements of, and procedures specified in, the security plan are observed, and
 - (b) all activities under the licence are undertaken in accordance with that security plan.

Maximum penalty: 250 penalty units.

65 No unsupervised access to explosives or explosive precursors by unauthorised persons

- (1) If a security plan has been submitted to the regulatory authority as part of an application for a licence and the security plan provides that only specified persons whose names are listed in the plan are to have unsupervised access to the explosives or explosive precursors concerned, a person must not handle, or gain unsupervised access to, the explosives or explosive precursor unless the person's name is listed in the plan.
- (2) A person must not allow another person to have unsupervised access to an explosive or explosive precursor unless that other person is authorised to handle the explosive or explosive precursor concerned by a licence under the Act.
- (3) If a security plan has been submitted to the regulatory authority in relation to a licence, the licensee must not allow any other person to have unsupervised access to an explosive or explosive precursor in the possession or under the control of the licensee unless that person:
 - (a) is the holder of a licence that authorises the person to handle explosive or explosive precursor concerned, and
 - (b) is listed on the security plan as a person authorised to have unsupervised access to the explosive or explosive precursor.

Maximum penalty: 250 penalty units.

66 Emergency plan

- (1) If more than 50 kg of explosives or more than 50 tonnes of security sensitive dangerous substances, or both, are stored on premises in accordance with a licence, the licensee must ensure that a written plan

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Part 5 Specific control measures

for dealing with any emergency associated with the storage and handling of the explosives or security sensitive dangerous substances, or both, on those premises (*an emergency plan*) is:

- (a) developed, implemented and maintained, and
 - (b) communicated to:
 - (i) persons who are engaged to work at the premises and who may be exposed to risk as a result of an emergency, and
 - (ii) persons in adjacent premises, if persons or property on the adjacent premises may be exposed to risk as a result of an emergency.
- (2) In developing or reviewing the emergency plan, the licensee must:
- (a) provide a draft of the emergency plan to the Commissioner of the New South Wales Fire Brigades, and
 - (b) have regard to any written advice received from the Commissioner of the New South Wales Fire Brigades.
- (3) The licensee must provide a copy of the emergency plan to:
- (a) if the premises to which this clause applies are within a rural fire district within the meaning of the *Rural Fires Act 1997*—the NSW Rural Fire Service, or
 - (b) in any other case—the Commissioner of the New South Wales Fire Brigades.
- (4) The licensee must:
- (a) review the emergency plan:
 - (i) if there is a change in circumstances at the premises such as to raise the possibility of an emergency of a kind that is not dealt with by the plan, and
 - (ii) at intervals of not more than 5 years from the date on which the plan was developed or last reviewed.
 - (b) communicate the revised plan to the persons specified in subclause (1) (b).
- (5) This clause does not have effect until 1 September 2006. However, a person who was a licensee immediately before 1 September 2006 must develop the emergency plan before, and ensure that it is implemented on, that date.

Maximum penalty: 250 penalty units.

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Part 5

67 Responsibility of persons possessing explosives or explosive precursors

- (1) A person who has received explosives or explosive precursors under the authority of a licence must:
 - (a) place and store them in a secure store inaccessible to persons not authorised under a licence to possess those explosives or explosive precursors, or
 - (b) place and store them under his or her immediate supervision or cause them to be placed and stored by, and under the immediate supervision of, a person authorised to possess those explosives or explosive precursors under a licence.
- (2) A person who removes for use any explosives or explosive precursors from a secure store referred to in subclause (1) (a), must:
 - (a) until they are used, or placed in a secure store:
 - (i) keep them under his or her immediate supervision, or
 - (ii) cause them to be kept by, and under the immediate supervision of, another person who is authorised to possess those explosives or explosive precursors under a licence, and
 - (b) immediately after the use of any of the explosives or explosive precursors place, or cause to be placed, in a secure store, any of the explosives or explosive precursors that were not used.

Maximum penalty: 250 penalty units.

68 Misuse of explosives and explosive precursors

- (1) A person must not use, modify, or attempt to use or modify, an explosive or explosive precursor to produce an explosives effect other than that for which the particular explosive or explosive precursor was designed.

Maximum penalty: 250 penalty units.
- (2) This clause does not apply to a person who is appropriately qualified or experienced in the use of those explosives or explosive precursors, if the person is conducting research at a commercial laboratory or university or other research institution.

69 Interference with signs and labels

A person must not wilfully pull down, erase, mutilate or otherwise interfere with a sign, label or marking erected, fixed or made in relation to the control or regulation of explosives or explosive precursors.

Maximum penalty: 250 penalty units.

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70 Handling of explosives and explosive precursors in certain work

- (1) A person who carries out an activity to which any of the following standards or codes applies must ensure the activity is carried out in compliance with that standard or code:
- (a) in relation to explosives:
 - (i) AS 2187, *Explosives—Storage, transport and use*, as in force from time to time,
 - (ii) the Australian Explosives Code, and
 - (b) in relation to explosive precursors—the ADG Code.
- Maximum penalty: 250 penalty units.
- (2) A provision of this Regulation prevails over any inconsistent provision of a standard or code.

71 Fire hazards—general

A person must not:

- (a) take any substance or article or thing liable to spontaneous ignition or liable to cause fire or explosion into, or within 10 metres of, a place where explosives are stored, or
- (b) smoke or conduct any other activity that may generate an ignition source in, or within 10 metres of, a place where explosives are stored.

Maximum penalty: 250 penalty units.

72 Entry to a place specified in a licence to manufacture or licence to store explosives or explosive precursors

- (1) A person must not enter, or remain in or on, a place authorised under a licence to manufacture or store explosives or explosive precursors, or any part of, or any building in or on, such a place unless he or she is authorised to do so by the licensee or by or under an Act or a regulation.
- Maximum penalty: 250 penalty units.
- (2) If a person enters, or remains in or on, any place or part of a place, or any building contrary to subclause (1), any of the following persons may request him or her to leave the place or part of the place or the building and, if he or she fails to do so immediately after being so requested, may remove him or her by the use of such reasonable force as is necessary for the purpose:
- (a) the licensee,
 - (b) an employee of the licensee,
 - (c) a person acting with the authority of the licensee,

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- (d) an inspector,
- (e) a police officer.

73 Unauthorised use of distress signals

A person must not use a distress signal other than as a distress signal unless the person is authorised to do so by a pyrotechnician's licence or a fireworks (single use) licence.

Maximum penalty: 250 penalty units.

74 Prohibition on retail sale of distress signals, power device cartridges or ammunition

- (1) A person must not sell a distress signal, power device cartridge or ammunition by retail unless the person is satisfied the purchaser is over the age of 18 years and is a bona fide user of distress signals, power device cartridges or ammunition.

Maximum penalty: 250 penalty units.

- (2) In this clause:

bona fide user of distress signals means a person who:

- (a) is seeking to purchase the distress signals for use as a safety device on a vessel, or
- (b) holds a pyrotechnician's licence or a fireworks (single use) licence.

bona fide user of power device cartridges means a person who is seeking to purchase the power device cartridges for use with an explosive-powered tool.

bona fide user of ammunition means a person who holds a firearms licence under the *Firearms Act 1996*.

75 Serious incidents involving explosives

- (1) In this clause, ***serious incident*** means:

- (a) an uncontrolled explosion or fire, or
- (b) an incident resulting in the death of, or serious injury to, a person or in substantial damage to property, or
- (c) any other incident involving risk of an uncontrolled explosion or fire or of any such death, injury or damage.

- (2) If there is a serious incident involving or related to the handling of any explosives or explosive precursors to which a licence relates, the licensee must give the regulatory authority notice of the incident and

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give full particulars of the incident including, if it has resulted in the death of or serious injury to a person or substantial damage to property, particulars of that death, injury or damage.

Note. The regulatory authority in relation to mines is the Director-General of the Department of Primary Industries.

- (3) The notice must be given as soon as practical after the licensee becomes aware of the incident.
- (4) Notice required to be given under this clause must be given in any of the following ways:
 - (a) by electronic communication (using a mode of electronic communication approved by the regulatory authority),
 - (b) by telephone to the regulatory authority, giving such information as may be requested of the caller.
- (5) The licensee concerned must take measures to ensure that the following areas are not used, interfered with or disturbed after the serious incident:
 - (a) the area within a radius of 4 metres of the place where the serious incident occurred, and
 - (b) the area within a radius of 4 metres of a place affected by the serious incident.
- (6) Subclause (5) does not prevent any action:
 - (a) to help or remove a trapped or injured person or to remove a body, or
 - (b) to avoid injury to a person or damage to property, or
 - (c) for the purposes of any police investigation, or
 - (d) in accordance with a direction or permission of an inspector.
- (7) The requirements of subclause (5) in relation to any particular serious incident apply only for the period ending 36 hours after notice of the incident is given.
- (8) Subclause (2) does not apply to a serious incident or dangerous occurrence that has been notified under the *Occupational Health and Safety Regulation 2001*.
Maximum penalty: 250 penalty units.

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76 Explosives to be manufactured only in purpose designed and constructed buildings and areas

A person who is a holder of a licence to manufacture must not manufacture explosives, or prepare for the manufacture of explosives, in any building or any area that has not been designed and constructed to minimise the consequences of an accidental explosion.

Maximum penalty: 250 penalty units.

77 Storage of certain detonators

A person must store detonators of Classification Code 1.4 only in a package that has been manufactured for the purpose of holding such detonators.

Maximum penalty: 250 penalty units.

78 Storage or transport of explosives of more than one hazard division together

- (1) A person who stores or transports an explosive of one hazard division with an explosive of another hazard division must determine the precedence of hazard division of the explosives in accordance with subclauses (2), (3) and (4).

Maximum penalty: 250 penalty units.

- (2) The precedence of hazard division of explosives of two different hazard divisions is the hazard division determined by taking the hazard division of one explosive in the vertical hazard division column of the Table to this subclause, and the hazard division of the other explosive in the horizontal hazard division column of the Table, and reaching the place in the Table that the two columns intersect.

Table—Determination of precedence of hazard division

Hazard division	1.1	1.2	1.3	1.4	1.5	1.6
1.1	1.1	1.1	1.1	1.1	1.1	1.1
1.2	1.1	1.2	1.1	1.2	1.1	1.2
1.3	1.1	1.1	1.3	1.3	1.1	1.3
1.4	1.1	1.2	1.3	1.4	1.5	1.6
1.5	1.1	1.1	1.1	1.5	1.5	1.5
1.6	1.1	1.2	1.3	1.6	1.5	1.6

Clause 79 Explosives Regulation 2005

Part 5 Specific control measures

- (3) If explosives of more than two hazard divisions are present together, the precedence of hazard division of those explosives is determined by taking any two of those hazard divisions and determining their precedence of hazard division in accordance with subclause (2), then taking that collective hazard division and another of the hazard divisions and determining their precedence of hazard division in accordance with subclause (2) and then continuing this process until all hazard divisions present have been considered.
- (4) Different types of articles of hazard division 1.6:
 - (a) if it is proved by testing or analogy that there is no additional risk of sympathetic detonation between the articles—are to be stored or transported together as hazard division 1.6 only, or
 - (b) in all other cases—are to be treated as hazard division 1.1.

79 Explosives to be packaged and marked in accordance with the Australian Explosives Code

- (1) A person licensed to manufacture explosives must ensure that, before any explosives are supplied or used, they are packaged and marked in accordance with the applicable requirements of the Australian Explosives Code.
Maximum penalty: 250 penalty units.
- (2) A person must not import, supply, store or transport any explosive unless the explosive is packaged and marked in accordance with the applicable requirements of the Australian Explosives Code.
Maximum penalty: 250 penalty units.
- (3) The markings referred to in subclauses (1) and (2) must be in the English language.
- (4) Subclauses (1) and (2) do not apply if the explosives are:
 - (a) in the process of being manufactured or are semi-finished goods at the premises or place where they are being manufactured, or
 - (b) for use at, and are not to be transported beyond the boundaries of, the premises or place where they were manufactured, but only if the containers are clearly and conspicuously marked with the name of the contents, or
 - (c) blasting explosives that are manufactured at the place at which they are about to be used, or
 - (d) bulk explosives being transported in compliance with the provisions of the Australian Explosives Code, or

Explosives Regulation 2005

Clause 80

Specific control measures

Part 5

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- (e) distress signals, power device cartridges or ammunition that do not exceed 5 kg and are to be or are being stored or transported by a person for that person's own use.
 - (5) Subclause (2) does not prevent explosives that have been imported from being transported from an airport or a wharf to a place specified in a licence for the purposes of packaging and marking in accordance with the applicable requirements of the Australian Explosives Code.
 - (6) In this clause, *marking* includes labelling.

80 Keeping explosives in magazines

- (1) A licensee who stores explosives must ensure that:
 - (a) any explosives that are not being prepared for use, used or transported are kept in a magazine, and
 - (b) the method of storage (including the design, construction and location of the magazine) is safe, secure and fit for its purpose, and
 - (c) the provisions of AS 2187.1—1998, *Explosives—Storage, transport and use—Storage* are followed in the design, construction and use of the magazine, and
 - (d) the magazine is marked, maintained and used in a manner that provides for the safety of licensee's employees and contractors and members of the public and of property.
- (2) In this clause, *magazine* means a specially constructed store that is used exclusively for the keeping of explosives.
Maximum penalty: 250 penalty units.

81 Storage and setting of explosives

- (1) A licensee must ensure that any explosive that cannot be used, or loaded into blast holes, on the day it is prepared for use is:
 - (a) kept in closed, clean, secure containers, packagings or augers, conspicuously labelled "EXPLOSIVES", and
 - (b) kept in a safe and secure storage facility until the explosive can be used, and
 - (c) used as soon as is practicable.
- (2) A person who has set, or caused to be set, an explosive to explode must not leave the explosive unsupervised until it has exploded or been destroyed or rendered harmless.

Clause 82 Explosives Regulation 2005

Part 5 Specific control measures

- (3) An inspector may direct a person who has set, or caused to be set, an explosive to explode to:
 - (a) explode it, or
 - (b) render it harmless, destroy it or otherwise dispose of it in accordance with this Regulation,and the person so directed must not, without reasonable cause, fail to comply with the direction.
- (4) Subclauses (2) and (3) extend to apply in respect of an explosive that has failed to fire or has misfired.
- (5) Subclause (2) does not apply to or in respect of an explosive that is set to explode at a place in connection with any work to which the *Mines Inspection Act 1901* or the *Coal Mines Regulation Act 1982* applies while the explosive remains at that place.
Maximum penalty: 250 penalty units.

Division 2 Provisions relating to transport of explosives

82 Compliance with the Australian Explosives Code

- (1) A person who transports explosives must comply with any applicable provisions of the Australian Explosives Code and this Regulation.
- (2) A person must not enter into a contract, agreement or arrangement with another person by which that other person agrees to transport explosives otherwise than in accordance with this clause.
Maximum penalty: 250 penalty units.

83 Compliance with duties in Australian Explosives Code

- (1) If the Australian Explosives Code imposes a duty or responsibility but does not indicate clearly the person, or class of people, on whom that duty or responsibility falls or lies, the duty or responsibility must be observed or discharged (as the case requires) by the person undertaking the relevant activity.
- (2) If, under the Australian Explosives Code, a duty or some other form of responsibility, is placed on more than one person or class of people, the duty or obligation must be observed or discharged (as the case requires) by each person or each person in that class only in relation to those matters in respect of which the person has management or control and whether or not any other person is also responsible for undertaking the duty.

Explosives Regulation 2005

Clause 84

Specific control measures

Part 5

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- (3) A licensee under the Act, and any person who manages or supervises the transport of explosives, must ensure that any person employed, engaged or otherwise involved in the transport of explosives who is employed or engaged by the licensee or the person managing or supervising that transport:
- (a) is appropriately trained in the relevant requirements of the Australian Explosives Code, and
 - (b) as far as is practicable, complies with the applicable requirements of the Australian Explosives Code.

Maximum penalty: 250 penalty units.

84 Avoidance of fire and other risks

- (1) A person transporting explosives by vehicle must ensure that, while the explosives are being carried in or on the vehicle, they are kept away from anything, whether in or on the vehicle or elsewhere, that would be liable to cause them to ignite or explode.
- (2) A person must not smoke in or on, or within 6 metres of, a vehicle in or on which explosives are being carried and on which signs that are required by the Australian Explosives Code to be exhibited are displayed.
- (3) The person in charge of such a vehicle must take all practicable steps to ensure that subclause (2) is not contravened by any other person.

Maximum penalty: 250 penalty units.

85 Stationary vehicles deemed to be transporting explosives

For the purposes of this Regulation, a stationary vehicle (whether a motor vehicle or a unit of rail rolling stock) that holds, contains or is otherwise loaded with explosives is taken to be transporting explosives and is subject to the applicable requirements of the Australian Explosives Code unless otherwise provided by that Code.

86 Prohibition on transport of explosives by vehicles in certain areas

- (1) A person must not transport an explosive in or on a motor vehicle in a quantity greater than the maximum load limit for the explosive as set out in the Australian Explosives Code in or on any of the following areas, roads or districts:
 - (a) the area of the State west of the eastern boundary of the Newell Highway,
 - (b) the roads on a more or less direct route from the Newell Highway to the following:
 - (i) the Port of Yamba via Jackadgery,

Clause 86 Explosives Regulation 2005

Part 5 Specific control measures

- (ii) the Port of Newcastle,
- (iii) the Hunter Valley via Merriwa,
- (iv) the Woodlawn Mining District via Hay,
- (c) the roads on a more or less direct route from the Newell Highway to the following Commonwealth of Australia defence facilities:
 - (i) the Singleton Military Area,
 - (ii) Myambat (being the Defence Establishment facility) via Muswellbrook,
 - (iii) Wallangarra (being the Australian Defence Force Explosive Ordnance Depot Jennings) via Glen Innes and Tenterfield,
 - (iv) Orchard Hills (being the Defence Establishment facility),
 - (v) Williamstown (being a RAAF base),
 - (vi) Nowra (being HMAS Albatross),
 - (vii) Eden (being the Australian Defence Force Explosive Ordnance Depot Twofold Bay).
- (2) A person must not transport more than 10 tonnes of explosives of Class 1.1 or Class 1.2 in or on a vehicle in the area of the State east of the eastern boundary of the Newell Highway, except:
 - (a) on the roads referred to in subclause (1) (b) and (c), or
 - (b) with the approval of the regulatory authority.
- (3) A person must not transport explosives of Class 1.1, 1.2 or 1.5 in or on a vehicle in the following districts, on the following bridges or in the following road tunnels except with the approval of the regulatory authority:
 - (a) the Central Business Districts of Sydney, North Sydney, Penrith, Newcastle and Wollongong,
 - (b) the Sydney Harbour Bridge, the Anzac Bridge and the Gladesville Bridge,
 - (c) any road tunnels in the Greater Sydney Metropolitan Area.
- (4) The regulatory authority may not grant approval to transport more than 6 tonnes of explosives of Class 1.1 or 1.2 in or on a vehicle in the districts, on the bridges or in the road tunnels referred to in subclause (3).
- (5) A person carrying explosives of Class 1.1, 1.2 or 1.5 in or on a vehicle must bypass the Central Business Districts of Sydney, North Sydney, Penrith, Newcastle and Wollongong and the main shopping areas of any other city or of any town whenever it is practicable and no less safe to do so.

Explosives Regulation 2005

Clause 87

Specific control measures

Part 5

- (6) In this clause:

Central Business District, in relation to Sydney, North Sydney, Penrith, Newcastle and Wollongong, means the areas defined by the boundaries of postcodes 2000, 2060, 2750, 2300 and 2500, respectively.

Greater Sydney Metropolitan Area means the area constituted by the local government areas of Ashfield, Auburn, Bankstown City, Baulkham Hills, Blacktown City, Botany Bay City, Burwood, Camden, Campbelltown City, Canada Bay, Canterbury City, Fairfield City, Hawkesbury City, Holroyd City, Hornsby, Hunter's Hill, Hurstville City, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool City, Manly, Marrickville, Mosman, North Sydney, Parramatta City, Penrith City, Pittwater, Randwick City, Rockdale City, Ryde City, Strathfield, Sutherland Shire, City of Sydney, Warringah, Waverley, Willoughby City and Woollahra.

Maximum penalty: 250 penalty units.

87 Carriage of explosives on public passenger vehicles

- (1) A person must not:
- (a) carry explosives, or cause explosives to be carried, in or on a public passenger vehicle, or
 - (b) place explosives, or take explosives with him or her, in or on a public passenger vehicle.

Maximum penalty: 250 penalty units.

- (2) This clause does not apply to the following:
- (a) toy fireworks,
 - (b) police officers acting in the course of their functions,
 - (c) a member of staff of a rail authority (within the meaning of the *Transport Administration Act 1988*), in relation to railway track signals.
- (3) In this clause, **public passenger vehicle** means a vehicle or vessel that transports or may transport persons and is available for use by the public.

88 Requirements for explosives held in rail yards or sidings

If any units of rail rolling stock containing explosives are held at a rail yard or siding, the person controlling the rail yard or siding must comply with the following requirements:

- (a) the maximum amount of explosive of any hazard division (except hazard division 1.4) per unit must not exceed 40,000 kg NEQ,

Clause 89 Explosives Regulation 2005

Part 5 Specific control measures

- (b) explosives must not be kept in the rail yard or siding:
 - (i) for longer than 2 consecutive days, or
 - (ii) for longer than 4 days if a weekend or public holiday occurs between 2 consecutive working days.

Maximum penalty: 250 penalty units.

89 Separation distances in Australian Explosives Code applicable to explosives held in rail yards or sidings

If a rail vehicle containing explosives is held at a rail yard or siding, the person controlling the rail yard or siding must ensure that the vehicle is separated from any other vehicles containing explosives and placarded loads of other dangerous goods by the relevant distances specified for the separation of rail vehicles in the Australian Explosives Code.

Division 3 Disposal of explosives

90 Explosives not to be discarded

A person must not throw away, bury or discard explosives.

Maximum penalty: 250 penalty units.

91 Explosives must be disposed of safely

- (1) A person disposing of explosives must:
 - (a) ensure that the method of disposal used provides the greatest degree of safety possible, and
 - (b) ensure that the method of disposal is appropriate to the type of explosives and the condition of the explosives, and
 - (c) take adequate precautions against causing injury to any person or damage to any property, and
 - (d) if an appropriate and safe method of disposal is not known, seek and act according to the advice of the manufacturer or the regulatory authority.
 - (2) A person may render harmless, destroy or otherwise dispose of blasting explosives only in accordance with AS 2187.2—1993, *Explosives—Storage, transport and use—Use of explosives*.
- Maximum penalty: 250 penalty units.

Explosives Regulation 2005

Clause 92

Specific control measures

Part 5

92 Only licensed people may dispose of certain explosives

- (1) A person must not dispose of blasting explosives unless the person is licensed to use that type or types of blasting explosives, or the person is under the direct supervision of such a person.
- (2) A person may dispose of fireworks only in accordance with the instructions of the supplier, manufacturer or the regulatory authority.
Maximum penalty: 250 penalty units.

Clause 93 Explosives Regulation 2005

Part 6 Miscellaneous

Part 6 Miscellaneous

Division 1 Exemptions

93 Exemptions for particular persons on application

- (1) A person may apply in writing to the regulatory authority for an exemption from any provision of this Regulation.
- (2) On receipt of the application, the regulatory authority:
 - (a) may, by order in writing, exempt the person from a specified provision of this Regulation if it is satisfied that:
 - (i) the person is capable of achieving at least an equivalent level of safety and security as would be achieved if the provision had been complied with, or
 - (ii) the application of the provision to the person is inappropriate or unnecessary in the circumstances, or
 - (b) may dismiss the application.
- (3) An exemption under this clause may be given unconditionally or subject to such conditions as the regulatory authority considers appropriate and specifies in the order.
- (4) Unless withdrawn, an exemption under this clause has effect for such period (not exceeding 5 years) as is specified in the exemption. If no such period is specified, the exemption has effect for a period of 5 years after it is granted.
- (5) The regulatory authority may withdraw an exemption under this clause if it is satisfied that the withdrawal is justified on safety or security grounds.

94 Exemptions for classes of persons or things

- (1) The regulatory authority may, by order published in the Gazette, exempt any class of persons or things from a specified provision of this Regulation.
- (2) An exemption under this clause may be unconditional or subject to such conditions as the regulatory authority considers appropriate and specifies in the order.
- (3) Unless withdrawn, an exemption under this clause has effect for such period (not exceeding 5 years) as is specified in the exemption. If no such period is specified, the exemption has effect for a period of 5 years after it is granted.

Explosives Regulation 2005

Clause 95

Miscellaneous

Part 6

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- (4) The regulatory authority may, before granting an exemption under this clause, give notice of the proposed exemption to such persons or bodies as it considers appropriate.
 - (5) The regulatory authority may withdraw an exemption under this clause if it is satisfied that the withdrawal is justified on safety or security grounds.

95 Register of exemptions

- (1) The regulatory authority is required to keep and make available for public inspection a register of all exemptions granted under this Division that are in force.
- (2) The regulatory authority is not required to include in the register confidential personal information about an individual or information relating to manufacturing or commercial secrets or working processes.

96 Phasing out of former exemptions

Any exemption given, issued or made in relation to explosives under the *Dangerous Goods Act 1975* continues in force but ceases to have effect at the end of the period of 12 months after the commencement of this Regulation.

Division 2 General**97 Activities in port areas do not require a licence**

- (1) Despite clause 15, a person is not required to be authorised by a licence to handle an explosive or explosive precursor in a port operational area under the control of a port authority.
- (2) In this clause:

port authority means a body established under Part 2 or 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

port operational area means the land and sea, including the fixed facilities and vessels, located in any area defined in Schedule 1 to the *Ports Corporatisation and Waterways Management Regulation 2002* and includes any berths adjacent to such an area.

98 Specific exemption relating to manufacture and research and development involving unauthorised explosives

Clause 9 does not apply to any holder of a licence to manufacture, and any person employed or engaged by a holder of that licence, in relation to the handling of unauthorised explosives in the course of the manufacture of, or research and development into, explosives.

Clause 99 Explosives Regulation 2005

Part 6 Miscellaneous

99 Certain powers of inspectors and police officers

- (1) An inspector or police officer may direct a person to do any of the following:
- (a) to remove a hazard to an explosive or explosive precursor (such as an ignition source),
 - (b) to dispose of unsafe explosives in a safe manner,
 - (c) to remove a person from premises where that person's presence is contrary to a security plan,
 - (d) to institute immediate interim security arrangements to ensure the security of any premises,
 - (e) to do any other activity or thing that, in the opinion of the inspector or police officer, is necessary to ensure the safety or security of any persons or property arising from the handling of explosives or explosive precursors.
- (2) A person must comply with a direction under this clause.
Maximum penalty: 250 penalty units.

100 Savings and transitional provisions

Schedule 1 has effect.

101 Penalty notice offences and penalties

- (1) For the purposes of section 34 of the Act:
- (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
 - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

Explosives Regulation 2005

Savings and transitional provisions

Schedule 1

Schedule 1 Savings and transitional provisions

(Clause 100)

Part 1 Provisions consequent on enactment of the Act

1 Definition

In this Part, *former Act* means the *Dangerous Goods Act 1975*.

2 Authorised explosives

- (1) An explosive declared under section 16 of the former Act to be an authorised explosive for the purposes of Division 2 of Part 4 of that Act is taken to be an authorised explosive for the purposes of this Regulation.
- (2) The regulatory authority is to record the particulars of all such explosives in the register required to be established and maintained under clause 8 of this Regulation.

3 Inspectors

- (1) A person appointed as an inspector of dangerous goods under section 6 of the former Act and holding office on the repeal of the former Act is taken to have been appointed as an inspector under the Act.
- (2) A written authority issued to the inspector appointed under the former Act as evidence of that appointment is taken to be an identification card issued under this Act until its replacement under the Act, and may be used by the inspector even though it refers to provisions of the former Act.
- (3) Subclauses (1) and (2) do not apply a person who has been appointed as an inspector of dangerous goods under the former Act only in relation to a mine or mines.

4 Deemed refusal of application for licence: section 24 (2)

For the purposes of section 24 (2) of the Act, in relation to any application for the grant of a licence made on or after 1 September 2005 but before 1 January 2006, the application is taken to have been refused if the licence is not granted within 120 days after the application was duly made.

5 Employees and contractors of holders of existing licences and permits

A person who is under the direction or control (for example, as an employee or contractor) of a holder of an existing licence or existing permit (being a licence or permit that continues to operate after the

Explosives Regulation 2005

Schedule 1 Savings and transitional provisions

commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act) is not required to be authorised by a licence under this Act to handle explosives, but only if:

- (a) the existing licence or existing permit is still in force, and
- (b) the handling of the explosives is under the direction or control (for example, in the course of that employment or in accordance with the contract concerned) of the holder of the existing licence or existing permit.

6 Transitional provision—supply of security sensitive ammonium nitrate

- (1) This clause ceases to have effect on 1 January 2006.
- (2) A person (*the supplier*) must not supply any security sensitive ammonium nitrate to another person (*the receiver*) unless:
 - (a) the supplier is satisfied that the receiver has a legitimate reason for receiving the security sensitive ammonium nitrate, and
 - (b) the receiver produces to the supplier proof of identity of the receiver (such as a passport or a motor vehicle driver licence issued in Australia that displays a photograph of the person), and
 - (c) the receiver:
 - (i) is the holder of a shotfirer's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act, or
 - (ii) is the holder of an explosives user's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act (including any certificate of competency as a powderman in force that was taken to be an explosives user's permit), or
 - (iii) has an account with the supplier and payment for the supply is made through the account, or
 - (iv) has been supplied with security sensitive ammonium nitrate by the supplier on more than one occasion in the past.

Maximum penalty: 250 penalty units.

- (3) The supplier must keep a record, in accordance with this clause, of each supply of security sensitive ammonium nitrate.
- (4) The record must include the following information:
 - (a) the date of supply,
 - (b) the name, address and telephone number of the person to whom the security sensitive ammonium nitrate is supplied,

Explosives Regulation 2005

Savings and transitional provisions

Schedule 1

-
- (c) details of the matters referred to in subclause (2) (a), (b) and (c),
 - (d) the name, address and telephone number of the person in whose premises the security sensitive ammonium nitrate is to be stored,
 - (e) the kind and quantity of the security sensitive ammonium nitrate supplied.
- (5) The supplier must keep for at least 5 years after each supply the record made in relation to a particular supply of security sensitive ammonium nitrate.
Maximum penalty (subclauses (3)–(5)): 10 penalty units.
- (6) The supplier must make all supply records made under this clause available for examination at the direction of an inspector or police officer. The records must be made available as soon as is reasonably practicable but no later than 7 days after the direction is given.
Maximum penalty: 10 penalty units.
- (7) A *legitimate reason* for receiving security sensitive ammonium nitrate includes for the purpose of:
- (a) use in commercial production processes, mining, quarrying, agricultural blasting, construction, civil engineering, seismic work or tunnelling, or
 - (b) the commercial manufacture of fertiliser or explosives, or
 - (c) education, research or analysis, or
 - (d) commercial agricultural use by primary producers, or
 - (e) transporting or supplying security sensitive ammonium nitrate for any purpose listed above,
- but does not include receiving security sensitive ammonium nitrate for the purpose of:
- (f) household domestic use, or
 - (g) use as a fertiliser on outdoor recreation facilities (such as parks, golf courses, sports fields and the like).

7 Handling of security sensitive ammonium nitrate by certain licence holders

- (1) This clause ceases to have effect on 1 September 2006.
- (2) A person who holds any of the following permits is not required to be authorised by a licence under the Act to use any amount of security sensitive ammonium nitrate in a day, or to possess and store not more than 50 kg of security sensitive ammonium nitrate overnight, while that permit continues in force:

Explosives Regulation 2005

Schedule 1 Savings and transitional provisions

-
- (a) a shotfirer's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act,
 - (b) an explosives user's permit that continues to operate after the commencement of this clause by virtue of the operation of clause 3 of Schedule 1 to the Act (including any certificate of competency as a powderman in force that was taken to be an explosives user's permit).
- (3) A person who holds an existing licence that authorises the keeping of explosives in a magazine or the keeping of Class 5.1 dangerous goods is not required to be authorised by a licence under the Act to possess or store security sensitive ammonium nitrate while that licence continues in force.
 - (4) A person who holds an existing licence that authorises the manufacture of explosives is not required to be authorised by a licence under the Act to handle security sensitive ammonium nitrate while that licence continues in force.

8 Continuation of shotfirers authorisations

- (1) This clause ceases to have effect on 1 September 2006.
- (2) A person who, immediately before the commencement of this clause, was authorised under the *Coal Mines Regulation Act 1982* or the *Mines Inspection Act 1901* to carry out the functions of a shotfirer is not required to be authorised by a licence under the Act to handle explosives or explosive precursors while that authorisation continues in force.

Explosives Regulation 2005

Penalty notice offences

Schedule 2

Schedule 2 Penalty notice offences

(Clause 101)

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 6—in relation to an offence committed by a corporation	\$2,000
Section 6—in relation to an offence committed by an individual	\$1,000
Section 7—in relation to an offence committed by a corporation	\$2,000
Section 7—in relation to an offence committed by an individual	\$1,000
Section 8—in relation to an offence committed by a corporation	\$2,000
Section 8—in relation to an offence committed by an individual	\$1,000
Section 9	\$1,000
Section 15	\$1,000
Section 18	\$1,000
Section 23	\$200
Section 28—in relation to an offence committed by a corporation	\$2,500
Section 28—in relation to an offence committed by an individual	\$800
Section 35	\$200
Offences under this Regulation	
Clause 9	\$1,000
Clause 10	\$2,000
Clause 41 (5)	\$1,000
Clause 43 (4)	\$1,000
Clause 43 (5)	\$1,000
Clause 60	\$1,000
Clause 63 (1)	\$200
Clause 63 (2)	\$100
Clause 64	\$1,000
Clause 65	\$1,000
Clause 66	\$1,000

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Explosives Regulation 2005

Schedule 2 Penalty notice offences

Column 1	Column 2
Provision	Penalty
Clause 67	\$1,000
Clause 68	\$1,000
Clause 69	\$1,000
Clause 70	\$1,000
Clause 71	\$500
Clause 72	\$1,000
Clause 73	\$1,000
Clause 74	\$1,000
Clause 75	\$1,000
Clause 76	\$1,000
Clause 77	\$1,000
Clause 78	\$1,000
Clause 79	\$1,000
Clause 80	\$1,000
Clause 81	\$1,000
Clause 82	\$1,000
Clause 83	\$1,000
Clause 84 (1)	\$1,000
Clause 84 (2)	\$500
Clause 84 (3)	\$500
Clause 86	\$1,000
Clause 87	\$1,000
Clause 88	\$1,000
Clause 90	\$1,000
Clause 91	\$1,000
Clause 92	\$1,000
Clause 99	\$1,000



New South Wales

Human Tissue Regulation 2005

under the

Human Tissue Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Human Tissue Act 1983*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Health

Explanatory note

The object of this Regulation is to remake, with some changes as a consequence of the amendments made by the *Health Legislation Amendment Act 2004*, the provisions of the *Human Tissue Regulation 2000*. The new Regulation makes provision for or with respect to the following matters:

- (a) the certificates required to be completed before making a donation of blood or semen and the persons who are able to witness such a certificate,
- (b) the particulars required in relation to an application for authorisation to carry on a business of supplying semen, the conditions to which authorisations are subject, the qualifications of certain employees of such a business and the requirements in relation to the premises at which such business is to be carried on,
- (c) the amount of blood or semen that will give rise to a presumption that a person is carrying on a business of supplying blood or semen,
- (d) the means by which consent may be given to the removal of certain tissue,
- (e) the period for which certain tissue may be retained after being lawfully removed,
- (f) organisms and substances that are prescribed contaminants for the purposes of the Act,
- (g) the classes of medical practitioners who are eligible for appointment as “designated specialists” under the Act.

This Regulation is made under the *Human Tissue Act 1983*, including sections 5 (2) (b), 20D, 20F (6), 21A (b), 21H (2), 21I (1) and (3), 21M (b), 23 (3) (b), 24 (3), 34 (1) (b2) and 39 (the general regulation-making power).

Human Tissue Regulation 2005

Explanatory note

This Regulation comprises matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

Human Tissue Regulation 2005

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Clause 1 Human Tissue Regulation 2005

Part 1 Preliminary

Human Tissue Regulation 2005

under the

Human Tissue Act 1983

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Human Tissue Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Human Tissue Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

AS 3864—1997 means AS 3864—1997, *Medical refrigeration equipment—For the storage of blood and blood products*, published by Standards Australia, as in force on 1 September 2005.

Director-General means the Director-General of the Department of Health.

the Act means the *Human Tissue Act 1983*.

(2) Notes in this Regulation do not form part of this Regulation.

Human Tissue Regulation 2005

Clause 4

Certificates

Part 2

Part 2 Certificates

4 Certificates relating to donors

For the purposes of the definition of *certificate* in section 20D (1) of the Act, the prescribed form in relation to a donation of blood or semen is Form 1 of Schedule 1.

5 Prescribed witnesses

For the purposes of section 20D (2) of the Act, the following persons are prescribed witnesses:

- (a) medical practitioners or nurses employed where the blood is to be removed or where the semen is to be obtained or received,
- (b) persons who:
 - (i) are employed where the blood is to be removed or where the semen is to be obtained or received, and
 - (ii) have been nominated by their employer as appropriate persons to witness signatures, and
 - (iii) have been approved by the Director-General in writing as appropriate persons to witness signatures.

6 Keeping of certificates

- (1) A certificate signed for the purposes of section 20D of the Act must be retained, for a period of not less than 10 years from the date on which it was signed, by the person by whom the blood was removed or by whom the semen was obtained or received.
- (2) If the person who removed the blood, or obtained or received the semen, did so in the person's capacity as an employee or agent of some other person or body, that other person or body must retain the relevant certificate.

Maximum penalty: 2 penalty units.

Clause 7 Human Tissue Regulation 2005

Part 3 Regulation of business supplying semen

Part 3 Regulation of business supplying semen

7 Applications for authorisations

- (1) For the purposes of section 21H (2) of the Act, the prescribed particulars to be contained in or to accompany an application for an authorisation to carry on the business of supplying semen are the following:
- (a) the full name and address of the applicant,
 - (b) the type of business to be carried on,
 - (c) the proposed name of the business,
 - (d) the proposed location of the business (details of which are to include two copies of sketch plans of the premises at which it is proposed to carry on the business, drawn to a scale of at least 1:100 and showing the dimensions of each part of the premises and the use to which each part is to be put, with any proposed alterations or extensions to the premises shown by distinctive colouring or cross-hatching),
 - (e) details of the management structure of the business (including the full names of key personnel involved in its administration),
 - (f) the full name and qualifications of the person (or each person, if more than one is to be appointed) who will superintend the collection, testing, storage and supply of semen and the keeping of records relating to that collection, testing, storage and supply,
 - (g) in the case of a business to be conducted by a corporation:
 - (i) the registered number (being the Australian Company Number or Australian Registered Body Number) of the corporation, and
 - (ii) the full name and residential address of each director of the corporation, and
 - (iii) the full name and residential address of the principal executive officer of the corporation, and
 - (iv) the full name and residential address of the secretary of the corporation,
 - (h) in the case of a business to be conducted by a corporation limited by shares:
 - (i) the types of shares and the number of shares of each type issued, and
 - (ii) in the case of a private corporation, the full name of, and the number of shares held by, each shareholder, and

Human Tissue Regulation 2005

Clause 8

Regulation of business supplying semen

Part 3

-
- (iii) in the case of a public corporation, a list of the 20 largest shareholdings and of the full names of the holders of each of those shareholdings, and
 - (iv) if shares in the corporation are held by another corporation, the name of the ultimate holding company of those shares.

(2) In this clause:

ultimate holding company, in relation to a corporation, means a body corporate that is a holding company of the corporation and is not itself a subsidiary of any body corporate.

8 Qualifications for persons performing particular functions

For the purposes of section 21I (1) (c) of the Act, a person employed to superintend the collection, testing, storage or supply of semen, or the keeping of records relating to that collection, testing, storage or supply, must be a medical practitioner.

9 Requirements for premises

For the purposes of section 21I (1) (d) of the Act, premises used for carrying on the business of supplying semen must include the following:

- (a) a reception area,
- (b) an area set aside for the processing of semen for storage,
- (c) an area set aside for the storage of semen that is equipped with one or more cryo-storage vessels for the storage of semen in liquid nitrogen,
- (d) an area set aside for the secure storage of records relating to the collection, identification, testing, storage and supply of semen,
- (e) if semen is to be provided by donors at the premises, semen collection rooms,
- (f) if testing of semen for prescribed contaminants is to be carried out on the premises, a laboratory set aside for that purpose.

10 Conditions to which authorisations are subject

For the purposes of section 21I (3) of the Act, the conditions set out in Schedule 2 are prescribed in respect of an authorisation to carry on the business of supplying semen.

11 Prescribed quantity of semen

For the purposes of section 21M (b) of the Act, the prescribed quantity of semen is 1 millilitre.

Clause 12	Human Tissue Regulation 2005
Part 4	Removal of tissue after death

Part 4 Removal of tissue after death

12 Consent to removal of tissue

For the purposes of sections 23 (3) (b) and 24 (3) of the Act, the consent of a senior available next of kin of a deceased person may be given verbally if:

- (a) an audio or audio visual recording is made of the consent, and
- (b) the senior available next of kin has consented to the making of that audio or audio visual recording.

Note. This clause allows a senior available next of kin of a deceased person to consent verbally to the removal of tissue from the deceased person for transplant purposes or other purposes. Under the Act, consent may also be given in writing (for example, by facsimile or other means).

13 Retention of tissue lawfully removed

For the purposes of section 34 (1) (b2) of the Act, tissue may be retained for a period not exceeding 72 hours if the tissue was removed from the body of a person during medical, dental or surgical treatment performed as a matter of urgency in order to save the life of the person or to prevent serious damage to the health of the person.

Human Tissue Regulation 2005

Clause 14

Miscellaneous

Part 5

Part 5 Miscellaneous

14 Prescribed contaminants

The following organisms and substances are declared to be prescribed contaminants for the purposes of the Act, including for the purposes of section 20F (6):

Hepatitis B virus

Hepatitis B surface antigen

Hepatitis C virus

Hepatitis C antibody

Human T-lymphotropic virus Type-I (HTLV-I)

Human T-lymphotropic virus Type-I (HTLV-I) antibody

Human immunodeficiency virus

Human immunodeficiency virus antibody

Treponema pallidum

Treponema pallidum related antibody

15 Designated specialists

For the purposes of section 5 (2) (b) of the Act, the following classes of medical practitioners are prescribed:

- (a) Fellows of the Australasian College of Emergency Medicine,
- (b) Fellows of the Australian and New Zealand College of Anaesthetists,
- (c) Fellows of the Joint Faculty of Intensive Care Medicine of the Australian and New Zealand College of Anaesthetists and the Royal Australasian College of Physicians,
- (d) Fellows of the Royal Australasian College of Physicians,
- (e) Fellows of the Royal Australasian College of Surgeons,
- (f) Fellows of the Royal Australian College of Obstetricians and Gynaecologists.

16 Prescribed quantities of blood and blood products

For the purposes of section 21A (b) of the Act:

- (a) the prescribed quantity of blood is 1 litre, and
- (b) the prescribed quantity of blood products is, in relation to any particular kind of blood product, the quantity of blood products of that kind that is equivalent to the quantity of blood products of that kind that can be derived or extracted from 1 litre of blood.

Clause 17 Human Tissue Regulation 2005

Part 5 Miscellaneous

17 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Human Tissue Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Human Tissue Regulation 2005

Form

Schedule 1

Schedule 1 Form

Form 1 Donor certificate

(Clause 4)

(Human Tissue Act 1983, section 20D)

Questions

(Please circle your answers)

To the best of your knowledge have you:

- | | | |
|---|---|--------|
| 1 | in the last 6 months had an illness with swollen glands and a rash, with or without a fever? | Yes/No |
| 2 | ever thought you could be infected with HIV or have AIDS? | Yes/No |
| 3 | ever "used drugs" by injection or been injected, even once, with drugs not prescribed by a doctor or dentist? | Yes/No |
| 4 | ever had treatment with clotting factors such as Factor VIII or Factor IX? | Yes/No |
| 5 | ever had a test which showed you had Hepatitis B, Hepatitis C, HIV or HTLV? | Yes/No |
| 6 | in the last 12 months engaged in sexual activity with someone you might think would answer "Yes" to any of questions 1-5? | Yes/No |
| 7 | since your last donation or in the last 12 months engaged in sexual activity with a new partner who currently lives or has previously lived overseas? | Yes/No |

Within the last 12 months have you:

- | | | |
|----|--|--------|
| 8 | had male to male sex? | Yes/No |
| 9 | engaged in sexual activity with a male who you think might be bisexual? | Yes/No |
| 10 | been a male or female sex worker (e.g. received payment for sex in money, gifts or drugs)? | Yes/No |
| 11 | engaged in sexual activity with a male or female sex worker? | Yes/No |
| 12 | been injured with a used needle (needlestick)? | Yes/No |
| 13 | had a blood or body fluid splash to eyes, mouth, nose or to broken skin? | Yes/No |
| 14 | had a tattoo (including cosmetic tattooing), skin piercing, electrolysis or acupuncture? | Yes/No |
| 15 | been imprisoned in a prison or lock-up? | Yes/No |

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Human Tissue Regulation 2005

Schedule 1 Form

-
- 16 had a blood transfusion? Yes/No
- 17 had (yellow) jaundice or hepatitis or been in contact with someone who has? Yes/No

I declare that I have understood the information on this form and answered the questions in the declaration to the best of my knowledge.

Signature of donor
Name (*please print*)

Signature of witness
Name (*please print*)

Human Tissue Regulation 2005

Prescribed conditions—authorisations to carry on business of supply of semen

Schedule 2

Schedule 2 Prescribed conditions—authorisations to carry on business of supply of semen

(Clause 10)

1 General

Semen may be stored only at:

- (a) the premises specified in the authorisation, or
- (b) a pathology laboratory accredited under section 23DN of the *Health Insurance Act 1973* of the Commonwealth, or
- (c) a laboratory accredited for the storage of semen by an accrediting body of the Fertility Society of Australia, or
- (d) the premises of an exempt supplier.

2 Testing of semen and blood

- (1) All donated semen (other than semen donated solely for the purpose of its use for the artificial insemination of the donor's spouse) must be tested by culture of specimens in aerobic, anaerobic and carbon dioxide enriched environments.
- (2) If any semen is found by the tests referred to in subclause (1) to be positive for any pathogenic micro-organism, the semen must not be supplied for use for any therapeutic purpose unless that therapeutic purpose is approved by the Director-General.
- (3) Blood samples must be taken from all donors at the time of donation (or at an earlier time that is as close as practicable to that time) and at the expiry of the quarantine period referred to in clause 5, and must be tested for the prescribed contaminants using the tests approved by the Director-General.
- (4) If any blood is found by the tests referred to in subclause (3) to be positive for a prescribed contaminant:
 - (a) the donor and the referring medical practitioner must be notified of the result, and
 - (b) any stored semen, or semen subsequently obtained, from that donor must not be supplied for use for any therapeutic purpose unless that therapeutic purpose is approved by the Director-General, and
 - (c) the cryo-storage vessel containing the semen must be prominently labelled to indicate the presence of a contaminant.

Human Tissue Regulation 2005

Schedule 2 Prescribed conditions—authorisations to carry on business of supply of semen

3 Labelling of straws of semen

Each straw containing donated semen must be labelled with a code that corresponds to an entry in the records showing the donor and the date of the donation.

4 Storage and transportation of semen

All semen must be stored and transported in cryo-storage vessels containing liquid nitrogen.

5 Quarantine period

Semen must not be released for use until after the expiry of such quarantine period (if any) as may be recommended by the Fertility Society of Australia.

6 Quality assurance

A quality assurance program, approved by the Fertility Society of Australia, must be established and maintained by the authorised supplier.

7 Facilities must comply with certain requirements

The facilities provided by the authorised supplier must meet the requirements of an accrediting body of the Fertility Society of Australia.

8 Records

- (1) The following records must be maintained by the authorised supplier in respect of each donation:
 - (a) the full name and date of birth of the donor,
 - (b) the donor's written consent to the use of his semen for the artificial insemination of women,
 - (c) the results of all tests performed in accordance with clause 2 (1) and (3),
 - (d) the identification details referred to in clause 3,
 - (e) the name of the medical practitioner to whom the semen is supplied,
 - (f) any quality assurance records made for the purposes of clause 6.
- (2) The records required by subclause (1) must be retained at the premises specified in the authorisation:
 - (a) in the case of records that relate to donors aged 20 years or over at the date of donation—for a period of not less than 10 years after the date of donation, or

Human Tissue Regulation 2005

Prescribed conditions—authorisations to carry on business of supply of semen

Schedule 2

- (b) in the case of records that relate to donors aged under 20 years at the date of donation—until the donor to whom the record relates attains, or would have attained, the age of 30 years.



New South Wales

Hunter Water (General) Regulation 2005

under the

Hunter Water Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Hunter Water Act 1991*.

CARL SCULLY, M.P.,
Minister for Utilities

Explanatory note

This Regulation replaces the *Hunter Water (General) Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation deals with the following matters:

- (a) the performance of plumbing and drainage work, including the requirement for a permit to do plumbing or drainage work,
- (b) applications for, and the granting of, permits,
- (c) the remedying of defective work,
- (d) the giving of certificates of compliance by persons who have completed plumbing or drainage work,
- (e) the imposition of restrictions on the use of water in the Hunter Water Corporation's area of operations.

This Regulation refers to the *New South Wales Code of Practice Plumbing and Drainage* published by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales, and to Australian Standard SAA MP52: *Manual of Authorisation Procedures for Plumbing and Draining Products* published by Standards Australia.

This Regulation is made under the *Hunter Water Act 1991*, including sections 69 (Work for water supply, sewerage or drainage) and 70 (the general regulation-making power).

Hunter Water (General) Regulation 2005

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Hunter Water (General) Regulation 2005

Clause 1

Preliminary

Part 1

Hunter Water (General) Regulation 2005

under the

Hunter Water Act 1991

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Hunter Water (General) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Hunter Water (General) Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

approved means approved by the Corporation.

certificate of compliance means a certificate of the kind referred to in clause 15.

Corporation means Hunter Water Corporation.

defect in a water, sewerage or stormwater drainage service includes:

- (a) a construction or use of the service that does not comply with the Plumbing and Drainage Code of Practice, and
- (b) a blockage or leakage in the service.

fitting includes any pipe, apparatus or fixture used for plumbing or drainage work.

permit means a permit granted by the Corporation under this Regulation and in force.

Plumbing and Drainage Code of Practice means the *New South Wales Code of Practice Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales (available from the Corporation).

Clause 3 Hunter Water (General) Regulation 2005
Part 1 Preliminary

plumbing or drainage work means work comprising or affecting:

- (a) a water supply service pipe or its connection to a water main of the Corporation, or
- (b) a sewerage service pipe or its connection to a sewer main of the Corporation, or
- (c) a stormwater drainage service drain or its connection to a stormwater drain of the Corporation.

repair includes make good, replace, reconstruct, remove, alter, cleanse or clear.

SAA MP52 means the publication entitled *Manual of Authorisation Procedures for Plumbing and Draining Products*, published by Standards Australia.

sewerage service pipe means a pipe connecting premises to a sewer main of the Corporation, and includes the fittings connected to the pipe.

stormwater drainage service drain means a stormwater drain connecting premises to a stormwater drain of the Corporation, and includes the fittings connected to the drain.

the Act means the *Hunter Water Act 1991*.

water supply service pipe means a pipe connecting premises to a water main of the Corporation, and includes the fittings connected to the pipe.

- (2) Notes included in this Regulation do not form part of this Regulation.

Hunter Water (General) Regulation 2005

Clause 4

Plumbing and drainage work

Part 2

Part 2 Plumbing and drainage work

4 Plumbing and drainage work to comply with Code of Practice and to use only approved fittings

- (1) A person must not do any plumbing or drainage work otherwise than in accordance with the Plumbing and Drainage Code of Practice.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (2) A person must not use any fitting for plumbing or drainage work unless the fitting is approved.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

5 Corporation required to be notified of plumbing or drainage work

A person who proposes to do plumbing or drainage work must notify the Corporation at least 2 working days before commencing the work.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

6 Permit required for plumbing or drainage work

- (1) A person must not do plumbing or drainage work unless authorised by a permit to do the work.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (2) A person is not guilty of an offence under this clause if:
 - (a) the work is done in an emergency:
 - (i) to prevent waste of water, or
 - (ii) to restore a water supply that has been shut off to prevent waste of water, or
 - (iii) to free a choked pipe, or
 - (iv) to prevent damage to property, and
 - (b) the person obtains a permit for the work as soon as practicable after the work is done.
- (3) This clause does not apply to or in respect of plumbing or drainage work done by an employee of the Corporation.

Clause 7	Hunter Water (General) Regulation 2005
Part 2	Plumbing and drainage work

7 Application for permit

- (1) An application for a permit:
 - (a) must be made in an approved form, and
 - (b) must be lodged at an office of the Corporation.
- (2) An applicant must pay the fee determined by the Corporation for the issue of a permit.

8 False information in application for permit

A person must not, in or in connection with an application for a permit, provide information or produce a document that the person knows to be false or misleading in a material particular.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

9 Refusal of permits

- (1) The Corporation may refuse to grant a permit to a person who, in its opinion, has previously carried out plumbing or drainage work in contravention of the Act, any regulation under the Act or a direction under the Act or this Regulation.
- (2) The Corporation may also refuse to grant a permit to a person while any relevant information that was not supplied with the application and that has been requested by the Corporation from the applicant is outstanding.

10 Conditions of permits

- (1) The Corporation may grant a permit subject to conditions.
- (2) A person must not contravene a condition of a permit.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

11 Suspension or cancellation of permit

- (1) The Corporation may, by written notice served on the holder of a permit, suspend or cancel the permit if:
 - (a) the permit was granted on the basis of false or misleading information, or
 - (b) the holder of the permit has contravened a condition of the permit, or
 - (c) the holder of the permit has contravened the Act, this Regulation or a direction under the Act or this Regulation.

Hunter Water (General) Regulation 2005

Clause 12

Plumbing and drainage work

Part 2

-
- (2) The notice must set out the reason for the suspension or cancellation.
 - (3) The Corporation may suspend or cancel a permit at the request of:
 - (a) the holder of the permit, or
 - (b) the owner, or duly authorised agent of the owner, of the premises on which the work authorised by the permit is to be, or is being, done.

12 Corporation to be notified of damage to its works or other property

A person who, in the course of doing plumbing or drainage work, damages a work or other property of the Corporation must immediately notify the Corporation of the damage.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

13 Defective plumbing or drainage work

- (1) The Corporation may, by written notice served on a person who is carrying out (or has carried out) plumbing or drainage work, direct the person:
 - (a) to repair, as specified by the Corporation, work done otherwise than in a tradesmanlike manner, or
 - (b) to bring into conformity with the Plumbing and Drainage Code of Practice work done otherwise than in accordance with that Code, or
 - (c) to repair or replace, as specified by the Corporation, a defective fitting used in any of the work done, or
 - (d) to bring into conformity with the Corporation's approval any fitting that does not comply with the approval.
- (2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (3) If a direction is given to a person before a certificate of compliance is given for the work, the person must not continue with the work until the direction has been complied with.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (4) A direction is of no effect if it is issued more than 2 years after the work to which it relates has been completed.

Clause 14 Hunter Water (General) Regulation 2005
Part 2 Plumbing and drainage work

14 Approval of fittings

- (1) The Corporation may, before it approves a fitting of a particular kind as required under clause 4 (2):
 - (a) require:
 - (i) a fitting of that kind to be submitted to the Corporation for examination and testing, or
 - (ii) submission to the Corporation of a satisfactory result of tests of a fitting of that kind carried out by an approved person or body, and
 - (b) require fittings of that kind to be manufactured under an approved system of quality assurance.
- (2) The Corporation must not approve the construction or use of a particular kind of fitting unless it is satisfied that it complies with the requirements of SAA MP52.

15 Person to give certificate of compliance after work completed

- (1) A person who does plumbing or drainage work must, within 48 hours after completing the work:
 - (a) give the Corporation a certificate of compliance duly completed and signed by the person, and
 - (b) give a copy of the certificate to the owner of the premises on which the work was done or to which the work was connected.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (2) A certificate of compliance must be in the approved form (as supplied by the Corporation) and must certify that the plumbing or drainage work to which it relates has been completed in accordance with the Plumbing and Drainage Code of Practice.
- (3) A person must not, in a certificate of compliance, provide information that the person knows to be false or misleading in a material particular.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (4) This clause does not apply to or in respect of plumbing or drainage work done by an employee of the Corporation.

Hunter Water (General) Regulation 2005

Clause 16

Water restrictions

Part 3

Part 3 Water restrictions

16 Restrictions on use of water

- (1) If the Minister considers it necessary to do so in the case of drought or accident, or the Minister is for some other reason of the opinion that it is necessary in the public interest and for the purpose of maintaining water supply, the Minister may, by notice, regulate or restrict any one or more of the following:
 - (a) the purposes for which water may be used,
 - (b) the times when water may be used,
 - (c) the quantities of water that may be used,
 - (d) the means or methods of the use of water.
- (2) Any such notice regulating or restricting the use of water:
 - (a) is required to be published in the Gazette or in a newspaper circulating in the area of operations of the Corporation, and
 - (b) may apply to the whole of the area of operations of the Corporation or to such part of that area as is specified in the notice, and
 - (c) takes effect on the date specified in the notice (being a date that is not earlier than the date on which the notice is published), and
 - (d) has effect despite the provisions of any contract relating to the supply of water by the Corporation.
- (3) A person must not use water contrary to a notice under this Part.
Maximum penalty: 50 penalty units in the case of a corporation, 5 penalty units in any other case.

17 Cutting off supply

The Corporation may cut off or restrict the supply of water to any land if the owner, occupier or person requiring a supply of water fails to comply with a notice under this Part regulating or restricting the use of water.

Clause 18	Hunter Water (General) Regulation 2005
Part 4	Miscellaneous

Part 4 Miscellaneous

18 Exemption from certain requirements

- (1) The Corporation may exempt a person, or any specified class of persons, from any or all of the following requirements of this Regulation:
 - (a) the requirement to hold a permit authorising the doing of plumbing or drainage work,
 - (b) the requirement to notify the Corporation before doing plumbing or drainage work,
 - (c) the requirement to complete a certificate of compliance with respect to plumbing or drainage work,
 - (d) the requirement to use only approved fittings for plumbing or drainage work.
- (2) An exemption under subclause (1) (a), (b) or (c) may relate to plumbing or drainage work generally or to any specified kind or kinds of plumbing work.
- (3) An exemption under subclause (1) (d) may relate to fittings generally or to any specified kind or kinds of fitting.
- (4) The Corporation may vary or revoke any exemption under this clause.
- (5) Notice of any exemption granted under this clause, or of any variation or revocation of such an exemption, may be given in such manner as the Corporation considers appropriate.
- (6) A person in respect of whom an exemption under this clause ceases to have effect by reason of the variation or revocation of the exemption is not guilty of an offence under this Regulation as a result of the exemption having ceased to have effect unless it is established that he or she was aware of the variation or revocation of the exemption.
- (7) A person is taken to be aware of the variation or revocation of an exemption if written notice of that fact is served on the person, either personally or by post.
- (8) Subclause (7) does not affect any other means by which a person may be made aware of the variation or revocation of an exemption.

19 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Hunter Water (General) Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

Library Regulation 2005

under the

Library Act 1939

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Library Act 1939*.

BOB DEBUS, M.P.,
Minister for the Arts

Explanatory note

This Regulation replaces the *Library Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation makes provision in respect of the following matters:

- (a) the management of the State Library and of local libraries (including the maximum fee that may be charged for the late return of borrowed library material),
- (b) the conduct of users of the State Library and local libraries,
- (c) the amount used for the purposes of calculating the yearly subsidy payable to certain councils in respect of library services and related facilities provided by those councils,
- (d) the determination of local populations for subsidy purposes.

The *Library Act 1939* (***the Act***) was recently amended by the *Statute Law (Miscellaneous Provisions) Act 2005*. Among other things, the amendments replaced the definition of ***book*** with a definition of ***library material*** in view of the vast amount of non-printed material (such as paintings, films and sound recordings) that now form part of the collection of a library. Consequently, this Regulation uses the generic term ***library material***, rather than ***book***, throughout.

This Regulation also makes it clear that the maximum fee that may be charged for the late return of borrowed library material is a fee per item of library material, and not per person.

This Regulation is made under the Act, including sections 10, 13 and 15 (the general regulation-making power).

Library Regulation 2005

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Library Regulation 2005

Clause 1

Preliminary

Part 1

Library Regulation 2005

under the

Library Act 1939

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Library Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Library Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

governing body of a library means:

- (a) in the case of the State Library—the Council, or
- (b) in the case of a local library—the relevant local authority.

library means:

- (a) the State Library or, depending on the context, the premises of the State Library, or
- (b) a local library that is provided, controlled or managed by a local authority by which the Act is for the time being adopted or, depending on the context, the premises of any such library.

library staff member means:

- (a) in the case of the State Library—any officer or employee referred to in section 7 of the Act, or
- (b) in the case of a local library—any member of staff of the library.

local authority, in relation to a library or library service, means the council of the local government area in which the library is situated or in which the library service is conducted.

premises of the State Library includes any premises used by the Council from time to time as part of, or in connection with, the State Library.

Clause 3 Library Regulation 2005

Part 1 Preliminary

the Act means the *Library Act 1939*.

(2) Notes included in this Regulation do not form part of this Regulation.

Library Regulation 2005

Clause 4

Management of libraries

Part 2

Part 2 Management of libraries

Division 1 The State Library

4 State Library rules

- (1) The Council may make rules to regulate the use of any facilities, services or collections of the State Library.
- (2) The rules for the State Library may make provision with respect to the following matters:
 - (a) access to the State Library's facilities, services or collections,
 - (b) the conditions of use of the facilities, services or collections of the State Library,
 - (c) requiring persons to make undertakings in relation to the use of the facilities, services or collections of the State Library,
 - (d) any other matters relating to the use of the State Library.
- (3) The Council may require any person wishing to make use of the facilities, services or collections of the State Library to obtain the Council's consent to that use.

Division 2 Local libraries

5 Library material must not be removed unless borrower is registered

- (1) Only a person who is registered as a borrower at a local library may take library material away from that library.
- (2) The procedure for registration, including the term of registration, is to be determined by the local authority.
- (3) The local authority may refuse to register a person as a borrower at a library or may cancel a person's registration as a borrower:
 - (a) if the person is not a resident of the local government area of the local authority or of a local government area in relation to which the local authority has entered into an arrangement referred to in section 10 (3) of the Act, or
 - (b) if the person has failed to comply with the library rules for the library, or
 - (c) if, in the opinion of the local authority, the person is not a fit and proper person to be registered.

Clause 6	Library Regulation 2005
Part 2	Management of libraries

6 Local library rules

- (1) A local authority may make rules to regulate the use of its local libraries.
- (2) The rules for a local library may make provision with respect to the following matters:
 - (a) the borrowing and returning of library material,
 - (b) the charges to be imposed for library material that is returned late and for library material that is lost, damaged or destroyed,
 - (c) any other matters relating to the use of the library.
- (3) It is a condition of a person's registration as a borrower at a local library that the person must comply with the library rules in force for the library.

7 Calculating the value of library material

- (1) The maximum charge that may be imposed by the rules for a local library for library material that is lost, damaged or destroyed is the full value of the library material or, if the library material is obtainable only as part of a series (for example, a series of books or discs), the full value of the series.
- (2) The full value of the library material or series is the value determined by the local authority, being a value not exceeding the sum of the following amounts:
 - (a) the original purchase price or the replacement purchase price, whichever is the greater,
 - (b) the cost of processing the library material or series for use in the local library.

8 Fee for the late return of library material

For the purposes of the definition of *charge* in section 10 (4) of the Act, the prescribed fee for the late return of library material is the fee determined by the local authority for the library, being a fee that (whether calculated on a daily, weekly or other basis) does not exceed \$50 per item of library material.

Library Regulation 2005

Clause 9

Use of libraries and library material

Part 3

Part 3 Use of libraries and library material

9 Certain things must not be taken into a reading room

A person entering any library with any umbrella, bag, case or package, or any photographic or other equipment, must not take it beyond any vestibule of a library except with the consent of the governing body for the library.

Maximum penalty: 2 penalty units.

10 Reproduction of library material

- (1) The governing body of a library may give notice to users of the library that certain library material of the library is unsuitable for reproduction.
- (2) A person must not photograph, photocopy, trace or otherwise reproduce (whether by electronic or digital reproduction) any such library material.

Maximum penalty: 2 penalty units.

Note. See the *Copyright Act 1968* of the Commonwealth for other restrictions on making copies of **works** (as defined in that Act).

11 Damaging library material

- (1) A person must not write in or on or mark or cause any damage to any library material of any library.
Maximum penalty: 2 penalty units.
- (2) For the purposes of this clause, **damaging** library material includes tearing or otherwise mutilating or turning down or folding any leaf, sheet, page or plate of any library material.

12 Deliberate misplacing or hiding of library material

A person must not wilfully misplace or hide any library material, or any record of the library material, of any library.

Maximum penalty: 2 penalty units.

13 Noise

A person must not by speech or otherwise make any more noise in any library than is reasonably necessary for the use of the library.

Maximum penalty: 2 penalty units.

Clause 14	Library Regulation 2005
Part 3	Use of libraries and library material

14 Proper use of a library

A person must not, without the consent of the governing body for the library, use any library for any other purpose than reading, consulting or borrowing the library material of the library or using any other library service or information service.

Maximum penalty: 2 penalty units.

15 Eating and drinking prohibited

A person must not eat or drink in any library otherwise than on those parts of the premises set aside for the purpose by the governing body for the library.

Maximum penalty: 2 penalty units.

16 Animals prohibited

- (1) A person must not take any animal into any library or leave any animal in such a library unless the person has the consent of the governing body for the library.

Maximum penalty: 2 penalty units.

- (2) This clause does not prohibit a person with a disability from taking an assistance animal into a library.

- (3) In this clause:

assistance animal means an animal referred to in section 9 of the *Disability Discrimination Act 1992* of the Commonwealth.

disability has the same meaning as it has in the *Disability Discrimination Act 1992* of the Commonwealth.

17 Library users may be directed to leave

- (1) A library staff member may direct any person to leave the library, and not to re-enter the library for such period as the staff member directs, if the staff member is of the opinion that:

- (a) the person has contravened any provision of this Part, or
(b) the person's condition, conduct, dress or manner is likely to give offence to any person in the library or to interfere with any other person's use of the library.

- (2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 2 penalty units.

- (3) The period for which a person may be excluded from the library by such a direction must not exceed the maximum period determined by the governing body of the library.

Library Regulation 2005

Clause 18

Miscellaneous

Part 4

Part 4 Miscellaneous

18 Prescribed amount for subsidy

For the purposes of section 13 (4) (b) of the Act, the prescribed amount is \$1.85.

19 Determination of local population for subsidy purposes

For the purposes of section 13 (6) of the Act, the number of persons resident within the area of a local authority is the number of persons given as resident within that area in the table of the populations of local government areas most recently compiled by the Australian Bureau of Statistics before the year for which the subsidy is claimed.

20 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Library Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

Occupational Health and Safety Amendment (Dangerous Goods) Regulation 2005

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

Explanatory note

The object of this Regulation is to amend the *Occupational Health and Safety Regulation 2001* to protect the health and safety of the public from hazards arising from the storage and handling of dangerous goods.

The storage and handling of dangerous goods is currently regulated in New South Wales under the *Dangerous Goods Act 1975*. That legislation requires the keeping, conveyance and use of dangerous goods to be licensed by the WorkCover Authority. The legislation is not confined to the workplace but covers all dangerous goods wherever they are located.

The principal object of the *Occupational Health and Safety Act 2000* (the **OHS Act**) is to secure the health, safety and welfare of persons at work.

The *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003*, which is to commence on the same date as this Regulation, repeals the *Dangerous Goods Act 1975* and amends the OHS Act to permit the extension of the operation of the OHS Act to the regulation of dangerous goods, whether or not at places of work.

The National Occupational Health and Safety Commission under the *National Occupational Health and Safety Commission Act 1985* of the Commonwealth has declared a national standard relating to the storage and handling of workplace dangerous goods.

This Regulation inserts a new Chapter, Chapter 6A (Dangerous goods), into the *Occupational Health and Safety Regulation 2001*. The new Chapter adopts and applies as law in New South Wales the hazard identification and risk assessment approach for the regulation of the storage and handling of dangerous goods as outlined in the National Occupational Health and Safety Commission's national standard.

Occupational Health and Safety Amendment (Dangerous Goods) Regulation 2005

Explanatory note

The new Chapter also contains provisions relating to the manufacture and supply of dangerous goods and provisions that set out specific risk control measures that deal with the following:

- (a) the physical control of dangerous goods (eg their stability and interaction with other substances),
- (b) preparedness for emergencies involving dangerous goods,
- (c) use of plant and equipment relating to dangerous goods,
- (d) provision of information relating to dangerous goods,
- (e) the requirement to place warning placards and have and keep manifests in relation to dangerous goods,
- (f) obligations relating to serious incidents and other incidents involving dangerous goods,
- (g) notifying the WorkCover Authority of the presence of large specified quantities of dangerous goods on premises.

This Regulation refers to the following documents:

- (a) the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, as published by the Australian Government,
- (b) AS 1940—2004, *The storage and handling of flammable and combustible liquids* as published by Standards Australia and in force from time to time,
- (c) AS/NZS 1596—2002 *The storage and handling of LP Gas* as published by Standards Australia,
- (d) AS 2700S—1996 (R13), *Colour Standards for general purposes—Signal Red* as published by Standards Australia,
- (e) the *List of Designated Hazardous Substances* [NOHSC: 10005 (1999)] as published by the NOHS Commission, as in force from time to time,
- (f) the *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003 (1995)] as published by the NOHS Commission, as in force from time to time,
- (g) the International Civil Aviation Organization's *Technical Instructions for the Safe Transport of Dangerous Goods by Air*, the International Maritime Organization's *International Maritime Dangerous Goods Code* or the International Air Transport Association's *IATA Dangerous Goods Regulations*,
- (h) the *Recommendations on the Transport of Dangerous Goods* published by the United Nations.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including Part 3 (Regulations) and section 135A (Dangerous goods—extension of Act), which is inserted into the OHS Act by the *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003*.

Occupational Health and Safety Amendment (Dangerous Goods)
Regulation 2005

Clause 1

Occupational Health and Safety Amendment (Dangerous Goods) Regulation 2005

under the

Occupational Health and Safety Act 2000

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Amendment (Dangerous Goods) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Amendment of Occupational Health and Safety Regulation 2001

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

Occupational Health and Safety Amendment (Dangerous Goods)
Regulation 2005

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* approved by the Ministerial Council for Road Transport and published by the Australian Government from time to time.

chemical name of a substance means a recognised chemical name of the substance that is generally used in scientific or technical texts.

consumer package means a container that is intended for retail display and sale, and includes a container that is transported and distributed as part of a larger consolidated container that consists of a number of identical consumer packages.

emergency service includes any of the following:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) NSW Police,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

generic name of a substance means a name that describes the category or group of chemicals to which the substance belongs (for example, azo dyes or halogenated aromatic amines).

health practitioner means a health practitioner within the meaning of the *Health Care Complaints Act 1993*.

ingredient means any component of a substance, and includes any impurity that is mixed in with the substance.

LEL (lower explosive limit) means the concentration of flammable gas or vapour in air below which the gas atmosphere is not explosive.

Occupational Health and Safety Amendment (Dangerous Goods)
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Schedule 1

product name of a substance means the brand name, trade name, code name or code number specified by the supplier of the substance.

retail warehouse operator means a person who operates a warehouse at which unopened packaged goods intended for retail sale are held, but does not include a retailer.

retailer means a person who sells goods to members of the public who are not themselves engaged in any further resale of those goods.

risk phrase, in relation to a substance, means a phrase that describes the hazards of the substance, as referred to in the document entitled *List of Designated Hazardous Substances* [NOHSC: 10005 (1999)] published by the NOHS Commission, as in force from time to time.

safety phrase, in relation to a substance, means a phrase that describes the procedures for the safe handling or storage of the substance, or the use of personal protective equipment in conjunction with the substance, as referred to in the document entitled *List of Designated Hazardous Substances* [NOHSC: 10005 (1999)] published by the NOHS Commission, as in force from time to time.

[2] **Clause 3 (1)**

Omit the definition of *dangerous goods*. Insert instead:

dangerous goods, except in Chapter 6A, has the same meaning as in the ADG Code.

[3] **Clause 3 (1)**

Insert "6A," after "6," in the definition of *employer*.

[4] **Clause 9 Employer to identify hazards**

Insert after clause 9 (2) (c):

- (c1) dangerous goods (including the storage or handling of dangerous goods), and

[5] **Clause 66 Definitions**

Omit the definition of *LEL*.

[6] **Clause 82 Definitions**

Omit "the *Dangerous Goods Act 1975*," from the definition of *pressure piping*.

Occupational Health and Safety Amendment (Dangerous Goods)
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Schedule 1 Amendments

[7] Clause 82, definition of “pressure piping”

Insert “or a pipeline within the meaning of clause 3 of Schedule 3 to this Regulation” after “the *Pipelines Act 1967*”.

[8] Clause 83 Plant affecting public safety

Omit clause 83 (c) (i).

[9] Clause 83 (f)

Insert after clause 83 (e):

(f) gas cylinders.

[10] Clause 87 Designer to assess risks

Insert “, dangerous goods,” after “hazardous substances” in clause 87 (2) (e).

[11] Clause 101 Manufacturer to assess risks

Insert “, dangerous goods,” after “hazardous substances” in clause 101 (c).

[12] Clause 125 Hirer or lessor to assess risks

Insert “, dangerous goods,” after “hazardous substances” in clause 125 (1) (b).

[13] Clause 145 Definitions

Omit the definitions of *chemical name*, *consumer package*, *generic name*, *health practitioner*, *ingredient*, *product name*, *retail warehouse operator*, *retailer*, *risk phrase* and *safety phrase* from clause 145 (1).

[14] Clause 150 Manufacturer to prepare material safety data sheet

Insert before clause 150 (2) (a):

(a1) be in English, and

(a2) contain the date on which it was last reviewed or, if it has not been reviewed, the date of its preparation, and

[15] Clause 150 (7)

Insert at the end of clause 150:

(7) If a hazardous substance manufactured by a manufacturer is also dangerous goods, the MSDS prepared for the substance for the purposes of this clause:

(a) may be a single MSDS that complies with both clause 174J and this clause if it is prepared before 1 September 2006, or

Occupational Health and Safety Amendment (Dangerous Goods)
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- (b) must be a single MSDS that complies with both clause 174J and this clause if it is prepared on or after 1 September 2006.

[16] Clause 155 Supplier to provide MSDS

Insert after clause 155 (1) (a):

- (a1) on the first occasion the hazardous substance is supplied following a revision of the MSDS, and

[17] Clause 167 Employer to keep register of hazardous substances

Insert after clause 167 (3):

- (3A) The employer may keep and maintain a single register both for the purposes of this clause and for the purposes of clause 174ZW (Employer to keep register of dangerous goods).

[18] Clause 167 (4)

Omit "This clause does". Insert instead "Subclauses (1)–(3) do".

[19] Clause 174 Employer to provide information to WorkCover and emergency services

Omit clause 174 (2).

[20] Chapter 6A

Insert after Chapter 6:

Chapter 6A Dangerous goods

Note. Chapter 5 (Plant) of this Regulation, at clauses 87 and 101, also contains provisions that require designers and manufactures of plant to have regard to the risks posed by dangerous goods.

Part 6A.1 Preliminary

174A Meaning of "dangerous goods"

In this Chapter, *dangerous goods* means the following (whether or not they are packaged for transport or under pressure):

- (a) substances or articles that under the ADG Code are listed or described as:
- (i) dangerous goods of Class 2, 3, 4, 5, 6.1, 8 or 9, or
 - (ii) goods too dangerous to be transported,
- (b) C1 combustible liquids.

Occupational Health and Safety Amendment (Dangerous Goods)
Regulation 2005

Schedule 1 Amendments

174B Definitions

(1) In this Chapter:

AS 1940 means AS 1940—2004, *The storage and handling of flammable and combustible liquids*.

bulk means:

- (a) a quantity of dangerous goods in a container that has a capacity greater than the maximum container size specified for packaged dangerous goods of that type, or
- (b) solid dangerous goods that are not in a container in an undivided quantity exceeding 400 kg.

Class means the Class allocated to dangerous goods under the ADG Code.

Class label, for a Class, means the label specified in the ADG Code for the Class of dangerous goods.

C1 combustible liquid means a combustible liquid within the meaning of AS 1940 that has a flashpoint of greater than 60.5 degrees Celsius but not greater than 150 degrees Celsius.

compatible, in relation to 2 or more substances, means that if the substances interact with, or react to, each other, they will not cause, or substantially increase the likelihood of, a serious incident (within the meaning of section 87 of the Act).

container means anything in or by which dangerous goods are or have been wholly or partly encased, covered, enclosed, contained or packed (whether empty, partially full or completely full) and includes any components or materials necessary for the container to perform its containment function.

corresponding legislation means the legislation of the Commonwealth or another State or Territory that assigns a UN Number, Class, Subsidiary Risk and Packing Group to dangerous goods for their transport by road, rail, air or sea.

dangerous goods in transit means dangerous goods at premises that:

- (a) are part of a transport load that is in compliance with the relevant transport code, and
- (b) are loaded on a vehicle, vessel or aircraft or being transhipped from one vehicle, vessel or aircraft to another, and
- (c) are not intended to be at the premises for more than 5 consecutive days (not including public holidays) and have not been at the premises for more than 5 consecutive days (not including public holidays), and

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(d) are not intended to be consumed or processed at the premises and have not been consumed or processed at the premises, and

(e) are not intended for sale at the premises.

fire risk dangerous goods means dangerous goods of Class 2.1, 3, 4 or 5 or Subsidiary Risk 2.1, 3, 4 or 5, and C1 combustible liquids, that burn readily or support combustion.

food includes:

(a) a substance prepared or intended or represented as being for human consumption, and

(b) a substance intended to be an ingredient of, or additive to, a substance referred to in paragraph (a).

food packaging means:

(a) a container that contains, or is designed or intended to contain, food, or

(b) material designed or intended to be used in such a container.

free from dangerous goods, in relation to an empty container, means if the container last held:

(a) a gas or volatile liquid—the concentration of gas or vapour in the atmosphere of the container is less than the concentration listed in the document entitled *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003 (1995)] published by the NOHS Commission, as in force from time to time, or

(b) dangerous goods of Class 2.1, Class 3 or Subsidiary Risk 2.1 or 3—the concentration of those goods or their vapours in the atmosphere of the container is less than 5 per cent of the LEL (lower explosive limit) for the goods when sampled at ambient temperature, or

(c) a non-volatile liquid or solid—the container has been thoroughly cleaned.

goods too dangerous to be transported has the same meaning as in the ADG Code.

handling has the same meaning as in section 135A of the Act.

hazardous area means an area or space in which the atmosphere contains or may be reasonably be expected to contain any material or substance (including, but not limited to, combustible dusts, combustible fibres, flammable vapours, flammable liquids,

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flammable gases, flammable or combustible fumes) at a concentration that is capable of being ignited by an ignition source.

ignition source means any source of energy sufficient to ignite combustible dusts, combustible fibres, flammable vapours, flammable gases or flammable or combustible fumes and includes the following:

- (a) a naked flame,
- (b) exposed incandescent material,
- (c) hot surfaces,
- (d) radiant heat,
- (e) a spark from mechanical friction,
- (f) a spark from static electricity,
- (g) an electrical arc,
- (h) any electrical, electronic, mechanical or other equipment.

incident involving dangerous goods means an incident within the meaning of section 86 of the Act (whether or not it occurs at a place of work) that involves dangerous goods.

intermediate bulk container or **IBC** means a rigid or flexible portable packaging for the transport of dangerous goods that:

- (a) has a capacity of not more than:
 - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden or rigid plastics container—1,500 L, or
 - (ii) for solids of Packing Group I packed in a metal container—3,000 L, or
 - (iii) for solids or liquids of Packing Groups II and III—3,000 L, and
- (b) is designed for mechanical handling, and
- (c) is resistant to the stresses produced in usual handling and transport as determined by tests under the ADG Code.

MSDS means a material safety data sheet prepared in accordance with clause 174J.

package means the complete product of the packing of dangerous goods, and consists of the goods and their packaging.

packaged dangerous goods means:

- (a) Class 2 dangerous goods that are in a container with a capacity of not more than 500 L, or

Occupational Health and Safety Amendment (Dangerous Goods)
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-
- (b) goods too dangerous to be transported or dangerous goods of a Class other than Class 2 that are in a container with:
- (i) a capacity of not more than 450 L, and
 - (ii) a net mass of not more than 400 kg, or
- (c) C1 combustible liquids in a container with a capacity of not more than 450 L.

Packing Group means the packing group assigned to dangerous goods under the ADG Code.

pipework means a pipe or an assembly of pipes, pipe fittings, valves and pipe accessories used to convey dangerous goods.

pool chlorine means dangerous goods of Class 5.1, being calcium hypochlorite, sodium dichloroisocyanurate, sodium trichloroisocyanurate, potassium dichloroisocyanurate, dichloroisocyanuric acid, trichloroisocyanuric acid and other oxidising agents, in solid form, used for chlorinating water.

proper shipping name has the same meaning as in the ADG Code.

relevant transport code, in relation to dangerous goods in transit, means the ADG Code, the International Civil Aviation Organization's *Technical Instructions for the Safe Transport of Dangerous Goods by Air*, the International Maritime Organization's *International Maritime Dangerous Goods Code* or the International Air Transport Association's *IATA Dangerous Goods Regulations* as appropriate.

serious incident has the same meaning as in section 87 (1) of the Act.

storage location means any place or area where one type of dangerous goods or compatible dangerous goods are kept either in bulk or in a quantity exceeding the relevant quantity specified in the column headed "Placarding quantity" in the Table to Schedule 5 (and includes a building, structure, room, compartment, tank or other bulk container, store or receptacle in or on which dangerous goods are stored or handled either in bulk or in a quantity exceeding the relevant quantity specified in the column headed "Placarding quantity" in the Table to Schedule 5).

storing has the same meaning as in section 135A of the Act.

Occupational Health and Safety Amendment (Dangerous Goods)
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Subsidiary Risk has the same meaning as in the ADG Code.

tank means a container, other than an IBC, that is used or designed to be used to transport, store or handle dangerous goods in the form of a gas or a liquid in bulk and includes fittings, closures and any other equipment that forms part of the container.

UN Number or ***UN*** followed by a number, in relation to dangerous goods, means either of the following:

- (a) the substance identification serial number shown in Appendices 1 and 2 of the ADG Code in relation to those goods,
- (b) the number assigned to the goods by the United Nations Committee of Experts on the Transport of Dangerous goods in the document entitled *Recommendations on the Transport of Dangerous Goods* published by the United Nations from time to time.

water capacity, of a container, means the total internal volume of the container in litres of water measured at a temperature of 15 degrees Celsius.

- (2) In this Chapter, a reference to litres in relation to dangerous goods of Class 2 means the water capacity of the container that holds those dangerous goods.

174C Dangerous goods to which section 135A of the Act applies

- (1) For the purposes of this Chapter, dangerous goods within the meaning of clause 174A are declared to be dangerous goods to which section 135A of the Act applies.
- (2) However, for the purposes of Parts 6A.2–6A.4 of this Chapter and despite subclause (1), the following dangerous goods are not dangerous goods to which section 135A of the Act applies at premises that are not places of work unless the quantity of the goods at those premises exceeds any minimum quantity set out in relation to the goods in the Table to this clause.
- (3) In the Table to this clause, ***kg or L*** means, where this combination of letters immediately follows numbers, the combined total of:
 - (a) the number of kilograms of non-liquid dangerous goods, and
 - (b) the number of litres of liquid dangerous goods.

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Dangerous goods	Minimum quantity
Liquified Petroleum Gas (LP Gas) (being dangerous goods of Class 2.1)	500 L (water capacity)
Dangerous goods of Class 2.1 (other than Liquified Petroleum Gas (LP Gas))	200 L (water capacity)
Dangerous goods of Class 2.2	300 L (water capacity)
Note. Dangerous goods of Class 2.3 are not covered by this table and therefore are dangerous goods to which section 135A of the Act applies at all premises (whether or not a place of work).	
Dangerous goods of Class 3	100 L
Pool chlorine	100 kg
Sodium Hypochlorite designated by UN Number 1791	100 L
Dangerous goods of Class 9	100 kg or L
Dangerous goods of Packing Group I	5 kg or L
C1 combustible liquids	1,000 L
Any dangerous goods other than those specified above (not including dangerous goods of Class 2.3)	100 kg or L

174D Application of Chapter

This Chapter applies to:

- (a) all dangerous goods at places of work, and
- (b) dangerous goods to which section 135A of the Act applies (regardless of whether those goods are at a place of work or are for use at work).

174E Non-application of Chapter

- (1) This Chapter does not apply to the following:
 - (a) the transport of dangerous goods by road, rail, sea or air, or any associated activity or matter, to the extent to which it is regulated by the following:
 - (i) the *Road and Rail Transport (Dangerous Goods) Act 1997* or any regulation made under that Act,

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- (ii) the International Civil Aviation Organization's *Technical Instructions for the Safe Transport of Dangerous Goods by Air*,
 - (iii) the International Maritime Organization's *International Maritime Dangerous Goods Code*,
 - (iv) the International Air Transport Association's *IATA Dangerous Goods Regulations*,
- (b) dangerous goods that form part of batteries that are incorporated into plant,
 - (c) dangerous goods in a fuel container that is fitted to a vehicle, vessel or aircraft, or used in or consumed by a vehicle, vessel, aircraft, mobile plant, appliance or other device, where the goods are necessary for its propulsion or are part of, or necessary for the operation of, its equipment or accessories (but not dangerous goods being stored in a spare fuel or goods container),
 - (d) dangerous goods in a fuel container of a domestic, portable or transportable fuel burning appliance,
 - (e) dangerous goods that form part of the refrigeration system of refrigerated freight containers,
 - (f) dangerous goods in portable fire fighting equipment (such as fire extinguishers), portable safety equipment and portable medical equipment at premises for use at the premises,
 - (g) dangerous goods of Class 2.2 in portable gas cylinders that are used or intended to be used for medical purposes,
 - (h) compressed gas in pneumatic tyres,
 - (i) potable liquids in consumer packages at retail premises (for example, bottled alcoholic spirits at bottle shops),
 - (j) naturally occurring gas in an underground mine.
- (2) This Chapter does not apply to the following substances if their use is not related to a work activity:
- (a) food,
 - (b) therapeutic agents,
 - (c) cosmetics,
 - (d) tobacco and tobacco products,
 - (e) toiletries and toilet products.

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Part 6A.2 Manufacture, import and supply of dangerous goods

Note. See clause 7 (2) as to the extent of a manufacturer's duties under this Part.

Division 1 General

174F Application—importers to ensure manufacturers' responsibilities are met

A person who imports dangerous goods manufactured outside New South Wales for supply to others or for the person's own use must ensure that the responsibilities of a manufacturer under this Part are met in relation to those goods.

Note. Importing from outside New South Wales includes importing from another State or Territory of Australia.

174G Manufacturer to identify dangerous goods

- (1) A manufacturer of goods must, before the goods are handled or supplied to another person, determine in accordance with the ADG Code, or in the case of goods that are combustible liquids, in accordance with AS 1940, whether the goods are dangerous goods.

Maximum penalty: Level 4.

- (2) If a manufacturer determines that goods are dangerous goods, the manufacturer:
- (a) must determine in accordance with the ADG Code whether the goods are goods too dangerous to be transported, and
 - (b) must:
 - (i) in the case of combustible liquids—assign a classification under AS 1940 to the liquids, or
 - (ii) in relation to all other dangerous goods—assign to the goods the appropriate UN Number, Class, Subsidiary Risk and Packing Group under the ADG Code.

Maximum penalty: Level 3.

174H Packing and labelling by manufacturer

- (1) A manufacturer of dangerous goods who assigns a UN Number, Class, Subsidiary Risk and Packing Group to those goods, before the goods are supplied to another person, must ensure that the provisions of the ADG Code are complied with in relation to the condition of the goods and:

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- (a) in relation to dangerous goods in bulk—the container and placarding for the goods, and
- (b) in relation to all other dangerous goods—the packing and package labelling for the goods.

Maximum penalty: Level 4.

- (2) A manufacturer of C1 combustible liquids or goods too dangerous to be transported, before the liquids or goods are supplied to another person, must ensure that the liquids or goods are packed in packaging that is:
 - (a) of a type and in a condition that will retain the liquids or goods and will not react adversely with the liquids or goods, and
 - (b) clearly labelled with the product name of the liquids or goods.

Maximum penalty: Level 4.

- (3) A manufacturer of dangerous goods complies with subclause (1) or (2) if the dangerous goods are:
 - (a) in relation to dangerous goods in bulk—contained in containers, and are placarded, in accordance with corresponding legislation, and
 - (b) in relation to all other dangerous goods—packed, or the packages are labelled, in accordance with corresponding legislation.
- (4) Subclause (2) does not apply to C1 combustible liquids or goods too dangerous to be transported that are supplied in bulk.

174I Restrictions on supply

- (1) A person (other than the manufacturer of the dangerous goods) who supplies dangerous goods to another person must, before the goods are supplied to the other person, ensure that the provisions of the ADG Code are complied with in relation to the condition of the goods, and:
 - (a) in relation to dangerous goods in bulk—the container and placarding for the goods, and
 - (b) in relation to all other dangerous goods—the packing and package labelling for the goods.

Maximum penalty: Level 4.

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- (2) A person (other than the manufacturer of the combustible liquids or goods too dangerous to be transported) who supplies C1 combustible liquids or goods too dangerous to be transported to another person must, before the liquids or goods are supplied to the other person, ensure that the liquids or goods are packed in packaging that is:
- (a) of a type and in a condition that will retain the liquids or goods and will not react adversely with the liquids or goods, and
 - (b) clearly labelled with the product name of the liquids or goods.
- Maximum penalty: Level 4.
- (3) A supplier of dangerous goods complies with subclause (1) or (2) if the dangerous goods are:
- (a) in relation to dangerous goods in bulk—contained in containers, and are placarded, in accordance with corresponding legislation, and
 - (b) in relation to all other dangerous goods—packed, or the packages are labelled, in accordance with corresponding legislation.
- (4) Subclauses (1) and (2) do not apply to a retailer who supplies dangerous goods in a container provided by the purchaser, but only if:
- (a) the capacity of the container does not exceed 30 kg or 30 L, and
 - (b) the retailer:
 - (i) in relation to dangerous goods of Class 2—has ensured that the container is a package that meets the requirements of the ADG Code that relate to packages for the goods, and
 - (ii) in relation to all other dangerous goods—has taken all reasonable steps to ensure that the container:
 - (A) is of a type and in a condition that will retain the goods and will not react adversely with the goods, and
 - (B) is clearly marked with the product name of the goods, and
 - (C) is not a container that could be mistaken for or confused with one that is used for food.

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- (5) Subclause (2) does not apply to C1 combustible liquids or goods too dangerous to be transported that are supplied in bulk.

Division 2 Material safety data sheets

174J Manufacturer to prepare material safety data sheet

- (1) A manufacturer of dangerous goods must prepare a material safety data sheet (*MSDS*) for the dangerous goods before the dangerous goods are supplied to another person.
Maximum penalty: Level 4.
- (2) The MSDS must:
- be in English, and
 - contain the date on which it was last reviewed or, if it has not been reviewed, the date of its preparation, and
 - clearly identify the dangerous goods to which it relates, and
 - set out the following information in relation to the dangerous goods to which it relates:
 - their recommended uses,
 - their chemical and physical properties,
 - any relevant health-hazard or physical-hazard information,
 - information concerning the precautions to be followed in relation to their safe storage and handling,
 - if applicable, the proper shipping name, UN Number, Class, Subsidiary Risk and Packing Group,
 - in the case of goods too dangerous to be transported, the name of the goods as specified in Appendix 5 to the ADG Code,
 - in the case of C1 combustible liquids, the appropriate classification under AS 1940, and
 - set out the name, and Australian address and telephone numbers (including an emergency number), of the manufacturer.
- (3) The manufacturer must review and revise the MSDS as often as is reasonably necessary to keep it up to date and, in any event, at intervals not exceeding 5 years.
Maximum penalty: Level 4.

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- (4) If the dangerous goods manufactured by a manufacturer are also a hazardous substance, the MSDS prepared for the dangerous goods for the purposes of this clause:
- (a) may be a single MSDS that complies with both clause 150 and this clause if it is prepared before 1 September 2006, or
 - (b) must be a single MSDS that complies with both clause 150 and this clause if it is prepared on or after 1 September 2006.

174K Manufacturer to provide MSDS

- (1) A manufacturer of dangerous goods must provide a copy of a current MSDS for the dangerous goods:
- (a) to any person who supplies the dangerous goods for use, and
 - (b) to any person who claims to be associated with the handling or storage of the dangerous goods and who asks to be provided with a copy of the MSDS, and
 - (c) to any medical practitioner or health practitioner who requires it for the purpose of providing emergency medical treatment.

Maximum penalty: Level 3.

- (2) This clause commences on 1 September 2006.

174L Manufacturer to disclose ingredients to medical practitioner

- (1) If an MSDS or label does not disclose the chemical name of an ingredient of dangerous goods, the manufacturer of the dangerous goods must disclose the chemical identity of the ingredient to any medical practitioner or health practitioner who applies to the manufacturer for the disclosure of that information for the purpose of the management of the practitioner's patient.
- (2) The manufacturer must immediately respond to the application but, on or after supplying any information, may require the medical practitioner or health practitioner concerned to sign a written undertaking that he or she will use the information only for the purpose for which it has been provided.

Maximum penalty: Level 3.

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174M Supplier to provide MSDS

- (1) A person who supplies dangerous goods must ensure that a current MSDS in relation to the goods prepared by the manufacturer is provided:
- (a) on the first occasion the dangerous goods are supplied, and
 - (b) on the first occasion the dangerous goods are supplied following a revision of the MSDS, and
 - (c) at any other time, to any person who claims to be associated with the storage or handling of the dangerous goods and who asks to be provided with a copy of the MSDS, and
 - (d) to any medical practitioner or health practitioner who requires it for the purpose of providing emergency medical treatment.
- Maximum penalty: Level 4.
- (2) Subclause (1) (a) and (b) do not apply to a supplier who is a retailer if:
- (a) the dangerous goods are packaged dangerous goods supplied in a consumer package with a capacity that does not exceed 30 kg or 30 L, or
 - (b) the dangerous goods are supplied in a container provided by the purchaser with a capacity that does not exceed 30 kg or 30 L, or
 - (c) the retailer is supplying fuel to the fuel tank of a vehicle, vessel or aircraft.
- (3) This clause commences on 1 September 2006.

Part 6A.3 Obligations of occupiers

Division 1 Preliminary

174N Definitions

In this Part:

controller of dangerous goods premises means the controller of premises at or in which dangerous goods to which section 135A of the Act applies are stored or handled.

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controller of premises includes:

- (a) a person who has only limited control of the premises concerned, and
- (b) a person who has, under any contract or lease, an obligation to maintain or repair the premises concerned.

occupier means the following:

- (a) if dangerous goods are stored or handled at an employer's place of work—the employer,
- (b) a controller of dangerous goods premises.

Division 2 Hazard identification and risk assessment

174O Duties in relation to dangerous goods

- (1) An occupier must ensure that all persons (including members of the public) are not exposed to risks to their health and safety arising from dangerous goods at the occupier's premises.

Maximum penalty: Level 4.

Note. Other general laws and specific legislation may provide that occupiers have obligations with regard to dangerous goods that relate to risks to property or the environment, both inside and beyond the premises of the occupier, arising from those goods.

- (2) Nothing in this clause is to be construed:
 - (a) as conferring a right of action in any civil proceedings in respect of any contravention, whether by act or omission, of this clause, or
 - (b) as conferring a defence to an action in any civil proceedings or as otherwise affecting a right of action in any civil proceedings.

Note. Section 10 (2) of the Act provides that person who has control of any plant or substance used by people at work must ensure that the plant or substance is safe and without risks to health when properly used.

174P Extension of hazard identification and risk assessment provisions

- (1) Division 1 (General duties of controllers of premises) of Part 4.2 of Chapter 4 of this Regulation extends to controllers of dangerous goods premises (regardless of whether or not the premises are a place of work or are used for work).

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- (2) A reference in Chapter 2 (Places of work—risk management and other matters) and Division 1 (General duties of controllers of premises) of Part 4.2 of Chapter 4 of this Regulation to occupational health and safety (however expressed) includes, where the hazard concerned is a hazard that arises from dangerous goods, a reference to public health and safety.
- (3) For the avoidance of doubt:
 - (a) when complying with clause 11 or 36, an occupier, when considering how to control a risk associated with the storage and handling of dangerous goods (where it is not reasonably practicable to eliminate the risk), must control the risk by taking the measures set out in clause 5, and
 - (b) clauses 6 and 8 apply in relation to duties and responsibilities of occupiers and other persons at dangerous goods premises that are not places of work.

174Q Risk assessment

- (1) An occupier must review each risk assessment conducted for the purposes of clause 10 or 35 at the times required by clause 12 or 37, but in any case each risk assessment must be reviewed at least once every 5 years.
- (2) The occupier must:
 - (a) if the occupier is an employer, make a record of each risk assessment and any review of a risk assessment by:
 - (i) making a notation in the register of dangerous goods kept under clause 174ZW if no specific measures are necessary to control the risks associated with the storage or handling of dangerous goods, or
 - (ii) preparing a report on the risk assessment if specific measures are necessary to control the risks associated with the storage or handling of the dangerous goods, and
 - (b) if the occupier is not an employer, make a record of each risk assessment and any review of a risk assessment, and
 - (c) keep a copy of that record while the risk assessment is current or being reviewed.

Maximum penalty: Level 4.

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Division 3 Particular risk control measures

Subdivision 1 Stability and interaction with dangerous goods

174R Stability of dangerous goods

- (1) An occupier must ensure, so far as is reasonably practicable, that the dangerous goods at the occupier's premises do not inadvertently become unstable, decompose or change so as to:
 - (a) create a hazard that is different from the hazard originally created by the dangerous goods, or
 - (b) increase the risk associated with the dangerous goods.Maximum penalty: Level 4.
- (2) Without limiting subclause (1), the occupier must ensure that:
 - (a) if the stability of the dangerous goods is dependent on the maintenance of levels of stabilisers, those levels are maintained as specified by the manufacturer of the dangerous goods, and
 - (b) if the dangerous goods are required to be stored or handled with a particular temperature range specified by the manufacturer, they are stored or handled within that temperature range.
- (3) Subclause (2) does not apply in relation to dangerous goods that are about to be used in a manufacturing process.
- (4) In this clause, *stabiliser* means any substance (including any diluent, inhibitor, desensitiser, phlegmatizer, solvent, wetting agent or adulterant) added to, or present in, dangerous goods that overcomes the chemical instability inherent in the dangerous goods.

174S Separation of dangerous goods

- (1) Without affecting the generality of clauses 11 and 36, an occupier must ensure that the risk to other dangerous goods storage or handling areas and to persons and property at or beyond the premises that arises from an incident involving dangerous goods:
 - (a) is eliminated, or
 - (b) if it is not reasonably practicable to eliminate the risk, is controlled so far as is reasonably practicable by separation.Maximum penalty: Level 4.

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- (2) In this clause, *separation*, in relation to the separation of dangerous goods from a person, property or thing, means the physical separation of the dangerous goods from the person, property or thing, by either distance or a physical barrier.

174T Preventing interaction with other substances

An occupier must ensure that dangerous goods on the occupier's premises that are not compatible with other substances (including other dangerous goods) are stored or handled separately from the other substances so that a loss of containment or any other interaction cannot cause a serious incident.

Maximum penalty: Level 4.

174U Ignition sources in hazardous areas

- (1) An occupier must ensure that ignition sources in any hazardous area within the occupier's premises:
- (a) are eliminated, or
 - (b) if it is not reasonably practicable to eliminate those ignition sources, the risk arising from those sources is controlled.

Maximum penalty: Level 4.

- (2) An occupier must identify any hazardous area that is within, or arises as a result of dangerous goods stored or handled at, the occupier's premises.

Maximum penalty: Level 4.

174V Atmospheric emissions

An occupier must ensure that any risk produced by atmospheric emissions from dangerous goods that are toxic, corrosive, flammable, explosive or asphyxiant:

- (a) is eliminated, or
- (b) if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Maximum penalty: Level 4.

Note. The obligation imposed by this clause is in addition to any obligations under Division 5 of Part 4.3 of Chapter 4.

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174W Preventing contamination of food and personal products

An occupier must ensure that dangerous goods on the occupier's premises cannot contaminate food, food packaging or personal use products.

Maximum penalty: Level 4.

174X Containers for dangerous goods in bulk

An occupier of premises at which dangerous goods in bulk in a container are present must ensure that:

- (a) the container and any associated pipework are provided with stable foundations and supports, and
- (b) any pipework or equipment connected to the container is installed so as to prevent excessive stress on the container, pipework or equipment, and
- (c) the container and any associated pipework are protected from deterioration.

Maximum penalty: Level 4.

174Y Containment of spills

- (1) An occupier must ensure that, in each place at the occupier's premises where dangerous goods are stored or handled, provision is made for containment of spills or leaks so as:
 - (a) to eliminate the risk from any spill or leak of dangerous goods, or if it is not reasonably practicable to eliminate the risk, reduce it so far as is reasonably practicable, and
 - (b) so far as is reasonably practicable, to contain safely within the premises the dangerous goods that have been spilled or leaked and any effluent arising from an incident.
- (2) In the case of dangerous goods containment, any area or receptacle intended to contain spills or leaks must not be shared with any other substances, including other dangerous goods, that are not compatible with the dangerous goods to be contained.
- (3) In the event of a spill or leak of dangerous goods, the occupier must ensure that:
 - (a) immediate action is taken to reduce any risk associated with the spill or leak so far as is reasonably practicable, and
 - (b) the dangerous goods and any resulting effluent are, as soon as reasonably possible, cleaned up and disposed of or otherwise made safe.

Maximum penalty: Level 4.

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174Z Transfer of dangerous goods

- (1) An occupier must ensure that any risk associated with the transfer of dangerous goods within, to or from the occupier's premises is eliminated, or if it is not reasonably practicable to eliminate the risk, is controlled so far as is reasonably practicable.
- (2) In eliminating or controlling a risk in accordance with subclause (1), the occupier must, as relevant, have regard to:
 - (a) the need for measures to:
 - (i) control spills and leaks, and
 - (ii) minimise static electricity, and
 - (iii) control vapour generation, and
 - (b) the suitability of pipework, attachments and associated safety systems at the premises with the risk elimination or control measures proposed.

Maximum penalty: Level 4.

174ZA Impact protection

An occupier must ensure, as far as is reasonably practicable, that any containers, pipework, attachments, equipment containing, or associated with, of dangerous goods on the occupier's premises are protected from physical damage resulting from activities in or on the premises, including impacts, imposed loads and mechanical stress.

Maximum penalty: Level 4.

Subdivision 2 Preparedness for emergencies

174ZB Fire protection

- (1) An occupier must ensure that:
 - (a) the occupier's premises are provided with a fire protection system that:
 - (i) has been designed and constructed having taken account of any risk assessment of the premises, and
 - (ii) is designed and constructed to take account of:
 - (A) the types and quantities of dangerous goods and the conditions under which they are stored and handled, and
 - (B) other materials and substances that make up the premises or are stored or handled at the premises, and

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(iii) is compatible with the dangerous goods and the other materials and substances and is effective in the control of incidents involving the types and quantities of dangerous goods and other materials and substances, and

- (b) the fire protection system is:
- (i) properly installed, tested and maintained, and
 - (ii) at all times accessible to persons on the premises and to the relevant emergency services, and
 - (iii) capable of being used, without adaptation or modification, with the equipment used by the New South Wales Fire Brigades and the NSW Rural Fire Service.

Maximum penalty: Level 4.

- (2) The occupier must, if any of the components of the fire protection system are rendered inoperative, ensure that:
- (a) the implications of any of the components of the system being unserviceable or inoperative are assessed, and
 - (b) alternative measures are taken to control, to the same level of effectiveness, those risks that were controlled by the system when functioning fully, and
 - (c) the fire protection system is returned to full operation as soon as is reasonably practicable.

Maximum penalty: Level 4.

- (3) If the implications of the system becoming unserviceable or inoperative, as assessed by the occupier under subclause (2) (a), include a significant reduction in the effectiveness of the fire protection system, the occupier must notify the relevant emergency services of the condition of the fire protection system.

Maximum penalty: Level 4.

- (4) In determining the alternative measures required under subclause (2) (b) the occupier must have regard to the need for:
- (a) the provision of alternative fire protection measures, and
 - (b) a reduction of the quantities of dangerous goods stored or handled at the premises, and
 - (c) stopping or reducing the processes used for the storage and handling of dangerous goods at the premises, and
 - (d) modifications to systems of work at the premises.

Maximum penalty: Level 4.

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- (5) In this clause, *fire protection system* includes fixed or portable fire detection, fire suppression and fire fighting equipment.

174ZC Planning for emergencies

- (1) This clause applies in relation to premises where dangerous goods are stored and handled in quantities that exceed the relevant quantities specified in the column headed “Manifest quantity” in the Table to Schedule 5.
- (2) An occupier of premises to which this clause applies must ensure that a written plan for dealing with any emergency associated with the storage and handling of dangerous goods on those premises (an *emergency plan*) is:
- (a) developed, implemented and maintained, and
 - (b) communicated to:
 - (i) persons who are engaged by the occupier to work at the premises and who may be exposed to risk as a result of an emergency, and
 - (ii) persons in control of adjacent premises to the extent that the emergency plan applies to those person, if persons or property on the adjacent premises may be exposed to risk as a result of an emergency.

Maximum penalty: Level 4.

- (3) In developing or reviewing the emergency plan, the occupier must:
- (a) provide a draft of the emergency plan to the Commissioner of the New South Wales Fire Brigades, and
 - (b) have regard to any written advice received from the Commissioner of the New South Wales Fire Brigades.

Maximum penalty: Level 4.

- (4) The occupier of the premises must provide a copy of the emergency plan to:
- (a) if the premises to which this clause applies are within a rural fire district within the meaning of the *Rural Fires Act 1997*—the NSW Rural Fire Service, or
 - (b) in any other case—the Commissioner of the New South Wales Fire Brigades.

Maximum penalty: Level 4.

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- (5) The occupier must review the emergency plan:
- (a) if there is a change in circumstances at the premises, or any adjacent premises, such as to raise the possibility of an emergency of a kind that is not dealt with by the plan, and
 - (b) at intervals of not more than 5 years from the date on which the plan was developed or last reviewed.
- Maximum penalty: Level 4.
- (6) The occupier must communicate the revised plan to the persons specified in subclause (2) (b).
Maximum penalty: Level 4.
- (7) This clause commences on 1 September 2006.

Subdivision 3 Safety equipment and safe access

174ZD Safety equipment

- (1) An occupier must ensure that, where safety equipment is required to control an identified risk in relation to the storage or handling of dangerous goods (including personal protective equipment and clean up equipment such as neutralisers, decontaminants and associated equipment), that equipment is provided, maintained and accessible to persons authorised to be on the premises.
- (2) A person must not wilfully damage or make ineffective any safety equipment referred to in subclause (1).
Maximum penalty: Level 4.

174ZE Safe access

An occupier must ensure that safe means of access to and from and within the occupier's premises are provided and maintained.
Maximum penalty: Level 4.

Subdivision 4 Plant, equipment and containers

174ZF Cleaning or decommissioning plant, equipment and containers

- (1) An occupier must ensure that any plant, equipment or container that was used in connection with dangerous goods and:
 - (a) is to be disposed of, or
 - (b) has not had dangerous goods placed in or taken from it for a continuous period of 12 months,
 is made free from dangerous or otherwise made safe.

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- (2) If a dangerous goods container has been made free from dangerous goods and the container is to be reused for a purpose other than its original purpose, the occupier must ensure that any references, signs, symbols or warning relating to the dangerous goods that it formerly contained are removed or obliterated.
- (3) If an underground, partially underground or fully mounded tank (other than an LPG tank) has been used to contain dangerous goods and 2 years have elapsed since any dangerous goods were last put in or taken from the tank, the occupier of the premises in which it is situated (or in the case of a LPG tank, the owner of the tank) must:
 - (a) remove any remaining dangerous goods from, and abandon, the tank in compliance with AS 1940, and
 - (b) within 7 days of the abandonment, notify WorkCover in the approved form of the abandonment.

Maximum penalty: Level 4.

Note. See clause 174ZZE for obligations in relation to LPG tanks.

Subdivision 5 Provision of information

174ZG Occupier to obtain MSDS

- (1) For all dangerous goods stored or handled on an occupier's premises, the occupier:
 - (a) must obtain from the supplier of the goods an MSDS before or on the first occasion on which they are supplied, and
 - (b) must ensure that the MSDS is readily accessible to any person at the premises who could store or handle the goods, and
 - (c) must ensure that the MSDS is not altered, otherwise than where it is appropriate that an overseas MSDS be reformatted by the occupier.
- (2) The provisions of subclause (1) (a) and (b) do not apply to:
 - (a) dangerous goods in transit, and
 - (b) dangerous goods that are supplied to a retailer, retail warehouse operator or transport warehouse operator in a consumer package that:
 - (i) holds less than 30 kg or 30 L of the goods, and
 - (ii) is intended for retail sale, and

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- (iii) is not intended to be opened on the premises of the retailer or operator.

Maximum penalty: Level 4.

- (3) This clause commences on 1 September 2006.

174ZH Occupier to ensure containers are labelled and enclosed systems are identified

- (1) An occupier must ensure that packaged dangerous goods at the occupier's premises, including those supplied to or produced within the occupier's premises, are labelled in accordance with the ADG Code, and that the labels are not removed, defaced or altered.

Maximum penalty: Level 4.

- (2) Without limiting subclause (1), an occupier must ensure that any such label:

- (a) clearly identifies the dangerous goods, and
(b) provides basic health and safety information about the dangerous goods, including any relevant risk phrases and safety phrases.

Maximum penalty: Level 4.

- (3) However:

- (a) a container into which dangerous goods are transferred for use within the next 12 hours need only be labelled with the product name and the relevant risk phrases and safety phrases, and
(b) a container into which dangerous goods are transferred for immediate use need not be labelled, so long as it is cleaned immediately after it has been emptied of the dangerous goods.

- (4) An occupier must ensure that the identity of any dangerous goods contained in an enclosed system at the occupier's premises (such as a pipe or piping system, or a process or reactor vessel) is notified to a person who could handle the dangerous goods.

Maximum penalty: Level 1.

- (5) This clause does not apply to dangerous goods in transit.

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Subdivision 6 Placards

174ZI Commencement of Subdivision

This Subdivision commences on 1 September 2006.

174ZJ Outer warning placards

- (1) If the quantities of dangerous goods stored and handled at an occupier's premises exceed the relevant quantities specified in the column headed "Placarding quantity" in the Table to Schedule 5, the occupier must ensure that a "HAZCHEM" outer warning placard as specified in Schedule 6 is displayed at the entrances to the premises that emergency services would use or be likely to use in the event of an emergency.

Maximum penalty: Level 4.

- (2) Subclause (1) does not apply to retail service stations.

174ZK Other placarding requirements

- (1) An occupier must ensure that the following are placarded in accordance with this clause:
 - (a) any container or other form of storage of dangerous goods in bulk,
 - (b) any storage location of packaged dangerous goods.

Note. See the definition of "storage location" in clause 174B.
- (2) Subclause (1) does not apply to any of the following:
 - (a) dangerous goods in bulk in any container, including an IBC, that is intended for transport and marked in accordance with the ADG Code,
 - (b) C1 combustible liquids in bulk in a quantity not exceeding 10,000 L that are separated from other dangerous goods,
 - (c) dangerous goods of Class 2.1 or 3 or C1 combustible liquids, that are stored in an underground tank at a retail service station where the goods are used to refuel vehicles.
- (3) The dimensions, design, layout and content of a placard must be in accordance with Schedule 6 or the ADG Code.
- (4) A placard must be kept clean, in good order and unobstructed.

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- (5) A placard required by subclause (1) or by clause 174ZJ must be located:
- (a) so that it is clearly legible by persons approaching the premises, bulk container or other form of storage or storage location (as appropriate), and
 - (b) so that it is separate from any other sign or writing which contradicts, qualifies or distracts attention from the placard.
- (6) A placard required by subclause (1) (a) must be located on or adjacent to each bulk container or other form of storage.
- (7) A placard required by subclause (1) (b) must be located:
- (a) at the entrance to any building in which the dangerous goods are stored, and
 - (b) within a building referred to in paragraph (a), at the entrance to each room or other closed or walled section of the building in which the dangerous goods are stored, and
 - (c) adjacent to any external storage location where the dangerous goods are stored.
- (8) If the dangerous goods to which placards apply are permanently removed from the premises, the occupier must remove the placards.
Maximum penalty: Level 4.

174ZL Different location permitted

- (1) An occupier of premises that are required to be placarded may place placards in locations different from those specified in this Part if the relevant emergency services agree with the placards being in those different locations.
- (2) The occupier must ensure that the agreement of the relevant emergency services is in writing and is readily available for inspection by WorkCover.

174ZM Revision

An occupier must ensure that all placards required by this Subdivision are revised as soon as reasonably practicable after any change to the type or quantity of dangerous goods stored at the occupier's premises that requires different information to be displayed.

Maximum penalty: Level 4.

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Subdivision 7 Manifests

174ZN Manifest to be maintained

- (1) An occupier of premises where dangerous goods are stored and handled in quantities that exceed the relevant quantities specified in the column headed "Manifest quantity" in the Table to Schedule 5 must keep a manifest of dangerous goods, that contains the information and site plans required by Schedule 7, readily available for use by an inspector or the emergency services.
- (2) The occupier must ensure that a copy of the manifest is kept, and is readily accessible, at the main entrance to the occupier's premises unless the occupier and the Commissioner of the New South Wales Fire Brigades or the NSW Rural Fire Service, as appropriate, have agreed to a different location for keeping a copy of the manifest.
- (3) The occupier must ensure that the manifest is revised as soon as possible after a change in any of the information specified in Schedule 7.
- (4) This clause does not apply in relation to dangerous goods in transit.
Maximum penalty: Level 4.
- (5) This clause commences on 1 September 2006.

Subdivision 8 Serious incidents and other incidents

Note. Sections 86 and 87 of the Act, and clauses 341, 341A and 342 of this Regulation, make provision for the notification to WorkCover of serious incidents and certain other incidents at places of work and for the non-disturbance of plant and areas surrounding the place of a serious incident.

174ZO Response to serious incidents and other incidents

- (1) An occupier must respond to a serious incident or other incident involving dangerous goods at the occupier's premises by ensuring that:
 - (a) immediate action is taken to assess and control any risk associated with the serious incident or other incident, including making any plant or equipment associated with the serious incident or other incident and the surrounding area safe so far as is reasonably practicable, and
 - (b) only persons essential to carrying out the action referred to in paragraph (a) remain in the vicinity of the serious incident or other incident, and

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- (c) the risk to each person engaged by the occupier at the premises to carry out the action referred to in paragraph (a) is reduced so far as is reasonably practicable.

Maximum penalty: Level 4.

- (2) Clauses 341–343 extend to controllers of dangerous goods premises and to premises on or in which dangerous goods to which section 135A of the Act applies (regardless of whether or not the premises are a place of work or are used for work).

Note. Sections 86 and 87 of the Act apply to premises on or in which dangerous goods to which section 135A of the Act applies are stored or handled (regardless of whether or not the premises are a place of work or are used for work): see section 135A (3) (c) of the Act.

- (3) The obligations of the occupier under subclause (1) (b) and (c) do not apply in respect of members of the emergency services responding to the serious incident or other incident.

174ZP Investigation of serious incidents and other incidents

An occupier must ensure that:

- (a) any serious incident or other incident involving dangerous goods occurring at the premises is investigated and that the investigation, so far as possible, determines the cause or likely cause of the serious incident or other incident, and
- (b) a record of the investigation is:
- (i) made, and
 - (ii) kept for at least 5 years, and
 - (iii) readily available, on request, to WorkCover.

Maximum penalty: Level 4.

174ZQ Risk assessment and control following serious incidents and other incidents

An occupier of premises where a serious incident or other incident involving dangerous goods has occurred must:

- (a) review the risk assessment carried out in accordance with this Regulation, taking into account the results of the investigation into the serious incident or other incident, and
- (b) if the review identifies deficiencies in any risk control measures, alter those measures or implement new measures.

Maximum penalty: Level 4.

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174ZR WorkCover may request information

- (1) WorkCover may request any information from an occupier in relation to:
 - (a) the cause or effect of a serious incident or other incident that has occurred on the occupier's premises, and
 - (b) any action taken by the occupier as a result of the serious incident or other incident.
- (2) A request for information must:
 - (a) be in writing, and
 - (b) specify a reasonable period within which the occupier must respond.
- (3) The occupier must provide the requested information:
 - (a) in writing, and
 - (b) within the period specified by WorkCover.Maximum penalty: Level 4.
- (4) This clause does not apply to a serious incident or other incident at premises that are not a place of work.

Subdivision 9 Notification

174ZS Notification to WorkCover

- (1) An occupier of premises where dangerous goods are stored and handled in quantities that in total exceed or are likely to exceed the relevant quantities specified in the column headed "Manifest quantity" in the Table to Schedule 5 must ensure that WorkCover is notified of the presence of those dangerous goods.
- (2) A notification to WorkCover under subclause (1) must:
 - (a) be given within 14 days after the obligation to notify arises, and
 - (b) be accompanied by a fee in such amount as WorkCover may determine as the appropriate amount to cover expenses in connection with the processing and review of notifications required by this clause, and
 - (c) include the following information:
 - (i) the name of the occupier (and any other occupiers of the premises concerned),
 - (ii) the address of the premises where the dangerous goods are stored and handled,

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- (iii) the occupier's contact details,
 - (iv) the nature of the principal activities involving the dangerous goods,
 - (v) the Class, Packing Group and the maximum quantity of the dangerous goods stored and handled in bulk or as packaged dangerous goods,
 - (vi) descriptions and details and the maximum quantity of any C1 combustible liquids stored and handled in bulk or as packaged dangerous goods,
 - (vii) the product name and the maximum quantity of goods too dangerous to be transported,
 - (viii) any other documents or information specifically requested by WorkCover.
- (3) The occupier must ensure that WorkCover is provided with further notification, containing the information required under subclause (2), every 12 months, or at such longer intervals as are specified by WorkCover.
 - (4) On receiving a notification under this clause, WorkCover must send the occupier a written acknowledgment of the notification.
 - (5) WorkCover may give any information contained in a notification to a relevant local government council and the emergency services.
 - (6) This clause does not apply in relation to dangerous goods in transit.
Maximum penalty: Level 4.

Subdivision 10 Miscellaneous

174ZT Security at premises

An occupier must, so far as is reasonably practicable, prevent:

- (a) access to dangerous goods on the occupier's premises by unauthorised persons, and
- (b) unauthorised activities occurring on those premises.

Maximum penalty: Level 4.

174ZU Lighting

An occupier must ensure that lighting is provided that:

- (a) does not create excessive glare or reflection, and

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- (b) is adequate to allow persons to move safely within the occupier's premises, and
- (c) facilitates safe access to and egress from the premises, including emergency exits.

Maximum penalty: Level 4.

Part 6A.4 Obligations of employers

174ZV Employer to retain records of induction and training

An employer must retain records in a suitable form of all induction or other training required by clause 13 to be provided to employees who are likely to store or handle dangerous goods at the employer's place of work for at least 5 years after the date of creation of the record.

Maximum penalty: Level 1.

174ZW Employer to keep register of dangerous goods

- (1) An employer must ensure that a register is kept and maintained for all dangerous goods stored or handled at the employer's place of work.
- (2) The employer must ensure that the register includes:
 - (a) a list of all dangerous goods used at the employer's place of work, and
 - (b) the relevant MSDS (if any) for each of those dangerous goods, and
 - (c) any notations required under clause 174ZX.
- (3) The employer must ensure that the register is readily accessible to all employees who may store or handle dangerous goods while at the employer's place of work.
- (4) This clause does not apply to the following dangerous goods:
 - (a) dangerous goods that are supplied to a retailer or retail warehouse operator in a consumer package holding less than 30 kg or 30 L of the dangerous goods, that is intended for retail sale and that is not intended to be opened on the premises of the retailer or operator,
 - (b) dangerous goods in transit.

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- (5) The employer may keep and maintain a single register both for the purposes of this clause and for the purposes of clause 167 (Employer to keep register of hazardous substances).
Maximum penalty: Level 1.
- (6) This clause commences on 1 September 2006.

174ZX Employer to record risk assessments

- (1) An employer must record the results of a risk assessment relating to the storage or handling of dangerous goods by:
- (a) making a notation in the register of dangerous goods kept under clause 174ZW if no specific measures are necessary to control the risks associated with the dangerous goods, or
 - (b) preparing a report on the risk assessment if specific measures are necessary to control the risks associated with the dangerous goods.
- Maximum penalty: Level 3.
- (2) The employer must ensure that any risk assessment report prepared in relation to dangerous goods that are stored or handled at the employer's place of work is readily accessible to any employee or other person working at the employer's place of work who could store or handle the dangerous goods.
Maximum penalty: Level 1.
- (3) This clause commences on 1 September 2006.

Part 6A.5 Specific provisions applying to all dangerous goods to which section 135A of Act applies

174ZY Application

This Part applies to all dangerous goods to which section 135A of the Act applies (regardless of whether or not they are at a place of work).

174ZZ Self-service fuel dispensing units

- (1) A person who keeps dangerous goods, being vehicle fuel, for sale or supply by means of a self-service fuel dispensing unit must, in relation to the unit, comply (or cause compliance) with the provisions of this clause.

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- (2) Instructions for the operation of the unit, and a statement of the requirements of subclauses (8) and (9), must be clearly displayed on or immediately adjacent to it.
- (3) The unit and the area surrounding it must be adequately illuminated when the unit is in operation.
- (4) A person (an *operator*) must be appointed to control and supervise from a control point the safe operation of the unit when it is in operation for the sale of fuel.
- (5) Subclause (4) does not apply to a premises at which one or more coin or card operated self-service fuel dispensing units are located during such times (if any) as the premises are not staffed.
- (6) A person must not be appointed as an operator unless he or she:
 - (a) is a competent and reliable person of or over the age of 18 years, and
 - (b) is fully conversant with the manner of operation of the unit by the users and the system employed for the sale of fuel by means of the unit.
- (7) The person referred to in subclause (1) must take all practicable steps to ensure that the self-service fuel dispensing unit is not operated by a person under 16 years of age.
- (8) When a vehicle is standing near a self-service fuel dispensing unit, the driver of the vehicle must ensure that its engine:
 - (a) is stopped before the fuel tank is opened, and
 - (b) remains stopped while the fuel is being dispensed into the vehicle.
- (9) A person must not smoke, create a spark or introduce any other ignition source within 3 metres of a self-service fuel dispensing unit (including the nozzle of a hose that is part of such a unit). For the purposes of this subclause, the normal movement of a vehicle does not constitute the introduction of an ignition source.
Maximum penalty: Level 4.

174ZZA Fuel dispensing units generally

- (1) When a vehicle is standing near a fuel dispensing unit, the driver of the vehicle must ensure that its engine:
 - (a) is stopped before the fuel tank is opened, and
 - (b) remains stopped while the fuel is being dispensed into the vehicle.

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- (2) A person must not smoke, create a spark or introduce any other ignition source within 3 metres of a fuel dispensing unit (including the nozzle of a hose that is part of such a unit). For the purposes of this subclause, the normal movement of a vehicle does not constitute the introduction of an ignition source.

Maximum penalty: Level 4.

174ZZB Positioning of liquefied gas cylinders

A person must not keep, convey or use a cylinder containing dangerous goods of Class 2.1, being liquefied flammable gas, unless the cylinder is positioned so that the safety relief device communicates directly with the vapour space in the cylinder.

Maximum penalty: Level 4.

174ZZC Valves

- (1) A person who keeps a cylinder or other container containing dangerous goods of Class 2 must, unless it is connected by permanent piping to a consuming device, ensure that its valve is kept securely closed at all times except when the container is being filled or goods are being taken from it.
- (2) If piping or a pipeline is equipped with one or more excess flow valves, a person must not convey dangerous goods of Class 2 by means of the piping or pipeline unless each valve is set for the minimum diameter of that part of the piping or pipeline that the goods would enter through the valve without first passing through another such valve.

Maximum penalty: Level 4.

174ZZD Filling of balloons and other containers

- (1) A person must not:
- (a) fill a balloon or other collapsible container with flammable, toxic or anaesthetic gas, or
 - (b) keep, convey, sell or use a balloon or other collapsible container that contains any such gas.
- (2) This clause does not prevent an activity carried out for the purposes of or in connection with scientific research or for any medical purpose.

Maximum penalty: Level 4.

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174ZZE Decommissioning of LPG tanks

If an LPG tank has been used to contain dangerous goods and 2 years have elapsed since any dangerous goods were last put in or taken from the tank, the owner of the tank must:

- (a) remove any remaining dangerous goods from, and abandon, the tank in compliance with AS/NZS 1596—2002 *The storage and handling of LP Gas*, and
- (b) within 7 days of the abandonment, notify WorkCover in the approved form of the abandonment.

Maximum penalty: Level 4.

[21] Clause 228 Responsibility of principal contractor to keep register of hazardous substances

Insert after clause 228 (3) (but before the maximum penalty amount):

- (4) The principal contractor, if also required to keep and maintain a register of hazardous substances or dangerous goods under clause 167 or 174ZV, may keep and maintain a single register for the purposes of this clause and for the purposes of those clauses.

[22] Clause 341 Notification of incidents—additional incidents to be notified

Insert “(within the meaning of the ADG Code)” after “dangerous goods” wherever occurring in clause 341 (e) and (j) (ii).

[23] Clause 356 False or misleading information in applications

Insert “or 174ZR” after “clause 117” in clause 356 (2) (b).

[24] Schedule 2 Penalty notices

Insert in appropriate order under the heading **Offence under this Regulation:**

Clause 174K	600
Clause 174M	600
Clause 174O	1,000
Clause 174Q	200
Clause 174S	1,000
Clause 174U	1,000
Clause 174Z	1,000
Clause 174ZC	1,000
Clause 174ZF (3) (b)	600

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Clause 174ZG	600
Clause 174ZN	200
Clause 174ZO	600
Clause 174ZP (a)	600
Clause 174ZP (b)	200
Clause 174ZR	600
Clause 174ZS	600
Clause 174ZT	600
Clause 174ZV	200
Clause 174ZW	200
Clause 174ZX	200
Schedule 3, clause 4—in relation to clause 261 (3) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 263 (1) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 264 (1) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 265 (a) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 265 (b) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 267 (1) of the <i>Dangerous Goods (General) Regulation 1999</i>	220
Schedule 3, clause 4—in relation to clause 268 (1) of the <i>Dangerous Goods (General) Regulation 1999</i>	220
Schedule 3, clause 4—in relation to clause 276 (3) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 278 (1) of the <i>Dangerous Goods (General) Regulation 1999</i>	550

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Schedule 3, clause 4—in relation to clause 278 (2) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 293 (2) of the <i>Dangerous Goods (General) Regulation 1999</i>	550
Schedule 3, clause 4—in relation to clause 331 of the <i>Dangerous Goods (General) Regulation 1999</i>	550

[25] Schedule 3 Savings and transitional provisions

Insert at the end of the Schedule:

3 Saving of certain Dangerous Goods Regulation provisions relating to pipelines

- (1) Despite the repeal of the *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999*, the following provisions (which relate to pipelines) continue to have effect:
 - (a) clauses 192, 193 and 198 of that Regulation,
 - (b) for the purpose of those clauses, the definition of *pipeline* in section 4 of that Act.
- (2) Contravention of a provision referred to in subclause (1) is an offence against this clause.
Maximum penalty: Level 4.
- (3) The provisions referred to in subclause (1) do not apply to:
 - (a) the transport of any dangerous goods by road or rail, or
 - (b) any associated activity or matter,
 to the extent to which the transport, activity or matter is regulated by the *Road and Rail Transport (Dangerous Goods) Act 1997* or any regulations under that Act.

4 Saving of Dangerous Goods Regulation relating to ports

- (1) Despite the repeal of the *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999*, the provisions of Part 11 (Special requirements relating to ports) of that Regulation continue to have effect.
- (2) Contravention of a provision referred to in subclause (1) is an offence against this clause.
Maximum penalty: Level 4.

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- (3) For the purposes of section 108 (9) (b) (Penalty notices for certain offences) of the Act, a member of staff of a Port Corporation (within the meaning of the *Ports Corporatisation and Waterways Management Act 1995*) to whom the Port Corporation issued written authorisation for the purposes of the *Dangerous Goods (General) Regulation 1999* is declared to be an authorised officer in relation to an offence against this clause:
- (a) that relates to the contravention of a provision of Part 11 of the *Dangerous Goods (General) Regulation 1999* that was prescribed by that Regulation as an offence for which a penalty notice may have been served, and
 - (b) that is committed in an area where a Port Corporation exercises port safety functions to which an operating licence held by it under that Act applies.

5 Other Dangerous Goods Regulation savings and transitional provisions

- (1) Despite the repeal of the *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999*, clause 99 (Notices and labels to be exhibited at depots) of that Regulation continues to have effect until 1 September 2006.
- (2) A person who held a licence under the *Dangerous Goods Act 1975* immediately before the repeal of that Act is not required to comply with clause 174ZS (Notification to WorkCover) of this Regulation until whichever of the following dates is the earlier:
 - (a) the date of the day after the day on which that licence would have expired,
 - (b) the date of the day that is 12 months after the date of repeal of that Act.

[26] Schedule 4 Application of Regulation to mines

Insert after Part 9:

Part 9A Dangerous goods

10A Application of provisions about dangerous goods to mines

Chapter 6A applies to a mine.

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[27] Schedules 5–7

Insert after Schedule 4:

Schedule 5 Quantities of dangerous goods

(Clauses 174ZC, 174ZJ, 174ZN and 174ZS)

- 1 For the purposes of the Table below, the placarding quantity or manifest quantity is equal to the total of the quantities determined in accordance with items 2 and 3.
- 2 In relation to:
 - (a) packaged dangerous goods in a container that are:
 - (i) non-liquid dangerous goods (other than Class 2 dangerous goods)—the quantity is to be determined by the net mass in kilograms of the goods in the container, and
 - (ii) liquid dangerous goods (other than Class 2 dangerous goods)—the quantity is to be determined by the net capacity of the container, and
 - (iii) Class 2 dangerous goods—the quantity is to be determined by the water capacity of the container, and
 - (b) dangerous goods in bulk that are:
 - (i) non-liquid dangerous goods (other than Class 2 dangerous goods)—the quantity is to be determined by the mass in kilograms that the container is designed to hold, and
 - (ii) liquid dangerous goods (other than Class 2 dangerous goods)—the quantity is to be determined by the design capacity of the container in litres, and
 - (iii) Class 2 dangerous goods—the quantity is to be determined by the water capacity of the container, and
 - (iv) solid dangerous goods not in a container—the quantity is to be determined by the undivided mass in kilograms, and
 - (c) dangerous goods that are articles or things—the quantity is to be determined by the net quantity of that part of the article or thing that is in itself dangerous goods.

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- 3** In the Table below, **kg or L** means, where this combination of letters immediately follows numbers, the combined total of:
- the number of kilograms of non-liquid dangerous goods (other than Class 2 dangerous goods), and
 - the number of litres of liquid dangerous goods (other than Class 2 dangerous goods), and
 - the water capacity of containers of Class 2 dangerous goods,
- in accordance with item 2.
- 4** For the purposes of the Table below, **separately**, in relation to the storage or handling of dangerous goods separately from other dangerous goods, means the physical separation of the dangerous goods from other dangerous goods, by either distance or a physical barrier

Table

Group	Description of dangerous goods	Packing Group	Placarding quantity	Manifest quantity
1	Class 2			
	Class 2.1	Not Applicable	500 L	5,000 L
	Class 2.2 Subsidiary Risk 5.1	Not Applicable	2,000 L	10,000 L
	Other Class 2.2	Not Applicable	5,000 L	10,000 L
	Class 2.3	Not Applicable	50 L	500 L
	Aerosols	Not Applicable	5,000 L	10,000 L
	Cryogenic Fluids	Not Applicable	1,000 L	10,000 L
2	Class 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1 or 8	I	50 kg or L	500 kg or L
		II	250 kg or L	2,500 kg or L
		III	1,000 kg or L	10,000 kg or L

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Group	Description of dangerous goods	Packing Group	Placarding quantity	Manifest quantity
		Mixed Packing Groups in a single Class with the quantity of each Packing Group below the specified quantity for the Packing Group.	1,000 kg or L	10,000 kg or L
3	Class 9	II	1,000 kg or L	10,000 kg or L
		III	5,000 kg or L	10,000 kg or L
		Mixed Packing Groups in Class 9 with the quantity of each Packing Group below the specified quantity for the Packing Group.	5,000 kg or L	10,000 kg or L
4	Mixed Classes of dangerous goods where none of the Classes, types or Packing Groups (if any) present exceeds the quantities specified for the relevant quantity in Item 1, 2 or 3 of this Table.	Not Applicable	5,000 kg or L—The quantity applies only if the placarding quantity for an individual Class that is present is 5,000 kg or L.	10,000 kg or L

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Group	Description of dangerous goods	Packing Group	Placarding quantity	Manifest quantity
			2,000 kg or L—The quantity applies only if the placarding quantity for all of the Classes present is 2,000 kg or L or less.	
5	C1 combustible liquids stored and handled with fire risk dangerous goods where none of the Classes, types or Packing Groups (if any) present exceeds the relevant quantities in Item 1, 2 or 3 of this Table.	Not Applicable	1,000 kg or L	10,000 kg or L
6	Goods too dangerous to be transported that are not kept in a laboratory.	Not Applicable	Any quantity	Any quantity
7	C1 combustible liquids in bulk stored and handled separately from other dangerous goods.	Not Applicable	10,000 L	100,000 L

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Group	Description of dangerous goods	Packing Group	Placarding quantity	Manifest quantity
	C1 combustible liquids stored and handled in packages separately from other dangerous goods.	Not Applicable	50,000 L	100,000 L
	C1 combustible liquids in bulk and in packages stored and handled separately from other dangerous goods provided the quantity in bulk is 10,000 L or less.	Not Applicable	50,000 L	100,000 L

Note. For the purposes of item 3 in the Table, where Class 9 dangerous goods do not have a Packing Group assigned to them, they are deemed to be assigned to Packing Group III.

Schedule 6 Placarding requirements

(Clauses 174ZJ and 174ZK)

1 Outer warning placard

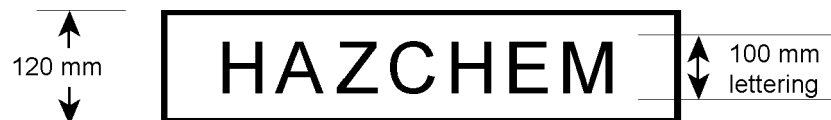
- (1) The placard must have:
 - (a) the form shown in Figure 1, and
 - (b) dimensions not less than those shown in Figure 1.
- (2) The placard must display the word “HAZCHEM” in red letters not less than 100 mm high and of the style shown in Figure 1, on a white or silver background.
- (3) For the purposes of subclause (2), **red** means the colour Signal Red in accordance with AS 2700S—1996 (R13), *Colour Standards for general purposes—Signal Red*.

Occupational Health and Safety Amendment (Dangerous Goods)
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Schedule 1

Figure 1—Form and dimensions of an outer warning placard

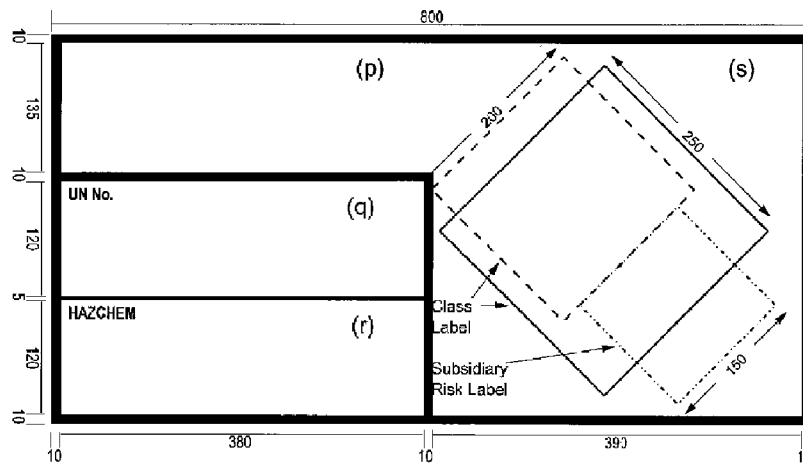


- 2 Placard for dangerous goods in bulk of Class 2.1, 2.2, 2.3, 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 8 or 9**
- (1) The placard must have:
 - (a) the form shown in Figure 2, and
 - (b) dimensions not less than those shown in Figure 2.
 - (2) The placard must contain the following information:
 - (a) in space (p) in Figure 2, the proper shipping name,
 - (b) in space (q) in Figure 2, the UN Number,
 - (c) in space (r) in Figure 2, the Hazchem Code for the dangerous goods specified in the ADG Code,
 - (d) in space (s) in Figure 2, the Class label and Subsidiary Risk label, if any.
 - (3) For the purposes of subclause (2) (d):
 - (a) the Class label and the Subsidiary Risk label, if any, must have the form and colouring specified in the ADG Code, and
 - (b) if there is more than one Subsidiary Risk label, the width of the right hand portion of the placard may be extended.
- 3 Placard for dangerous goods in bulk that are goods too dangerous to be transported**
- (1) The placard must have:
 - (a) the form shown in Figure 2, and
 - (b) dimensions not less than those shown in Figure 2.
 - (2) The placard must contain the following information:
 - (a) in space (p) in Figure 2, the name for the goods specified in Appendix 5 of the ADG Code,
 - (b) space (q) in Figure 2 must be left blank,
 - (c) space (r) in Figure 2 must be left blank,
 - (d) in space (s) in Figure 2, the label specified in Figure 4.

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Schedule 1 Amendments

Figure 2—Template for a placard for dangerous goods (other than C1 combustible liquids) in bulk



Notes.

- 1 The numerals and letters used for showing the proper shipping name or name of the goods, UN Number and Hazchem Code must be:
 - (a) black on a white background, except where a letter of the Hazchem Code is white on a black background, and
 - (b) at least 100 mm high, except where the proper shipping name requires 2 lines to be used, in which case the lettering must be at least 50 mm high.
- 2 An Emergency Information Panel of a size and layout in accordance with the ADG Code for the dangerous goods that contains the information required by clause 2 or 3 may be used as a placard for a storage of dangerous goods in bulk instead of the placards referred to in clause 2 (1) or 3 (1).

4 Placard for packaged dangerous goods

- (1) The placard must have the form shown in Figure 3 and be of sufficient size to accommodate the labels to be displayed on it.
- (2) The placard must have a white or silver background.
- (3) The placard must display:
 - (a) for dangerous goods present in the storage location, other than goods too dangerous to be transported:
 - (i) the corresponding Class label for each Class of dangerous goods present in a quantity that exceeds the quantity specified in the column headed

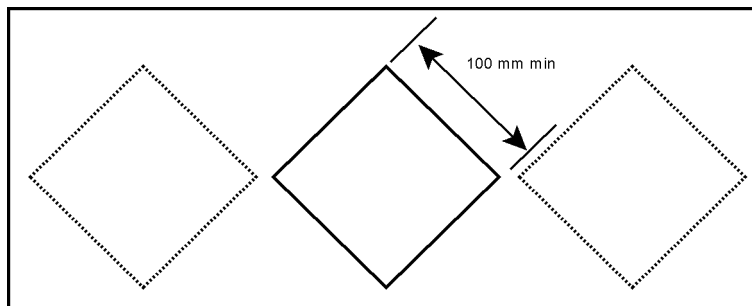
Occupational Health and Safety Amendment (Dangerous Goods)
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Amendments

Schedule 1

-
- “Placarding quantity” in the Table to Schedule 5,
and
- (ii) if the total quantity of mixed Classes of dangerous goods exceeds the mixed Classes quantity specified in Item 4 of the Table to Schedule 5:
 - (A) a Class label for each Class of dangerous goods present that exceeds 50% of the quantity specified for the Class in Item 1, 2 or 3 of the Table, or
 - (B) if no other Class label is required, a mixed Class label, and
 - (iii) for C1 combustible liquids and fire risk dangerous goods in an aggregate quantity exceeding 1,000 L— a Class 3 Class label, and
- (b) for goods too dangerous to be transported present in the storage location, the label specified in Figure 4.

Figure 3—Form and dimensions of a placard for storages of packaged dangerous goods

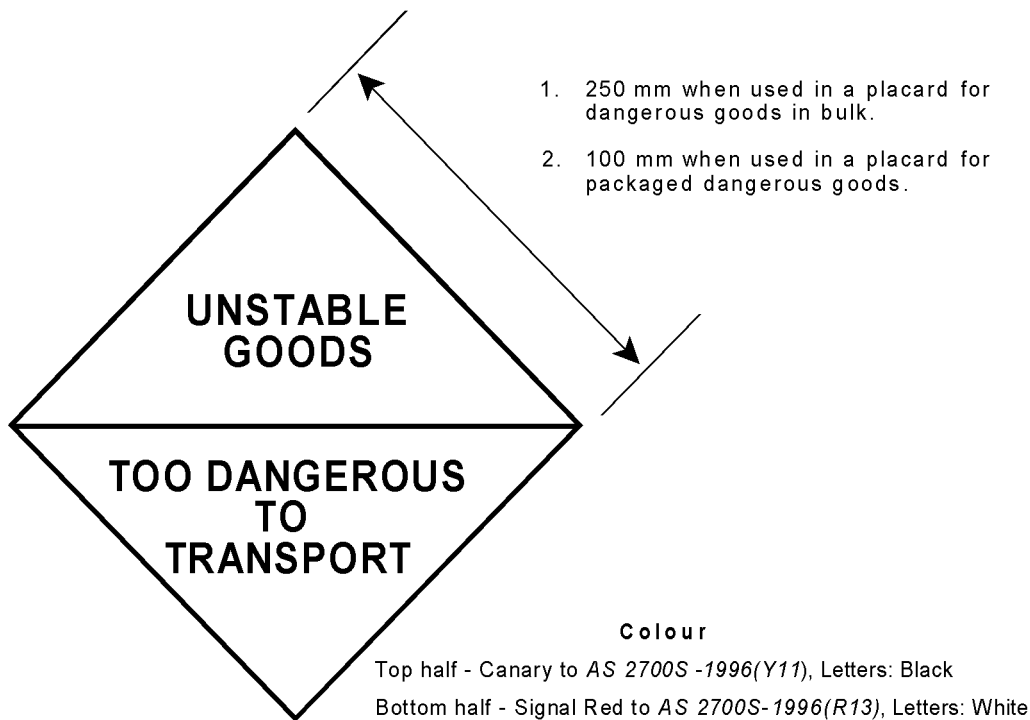


Note. The Class label, mixed Class label and the label required by clause 4 (3) must have sides at least 100 mm long.

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Figure 4—Form of a label for goods too dangerous to be transported



5 Placard for C1 combustible liquids (in bulk and in packages)

A placard for C1 combustible liquids in bulk and in packages must display the words “COMBUSTIBLE LIQUID” as shown in Figure 5 in black letters in the style shown, not less than 100 mm high and on a white or silver background.

Figure 5—Placard for C1 combustible liquids



Occupational Health and Safety Amendment (Dangerous Goods)
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Schedule 1

Schedule 7 Information to be contained in a manifest

(Clause 174ZN)

1 General information

- (1) The name of the occupier of the premises.
- (2) The address of the premises.
- (3) The date when the manifest was prepared or last revised.

2 Emergency contacts

Contact information for at least 2 persons (or for one person if that person is available at all times) who may be contacted in the event of an emergency for information as to the nature and quantity of dangerous goods likely to be on the premises.

3 Summary information about Classes of dangerous goods

A summary list that specifies the maximum quantity of:

- (a) each Packing Group of each Class of dangerous goods that has Packing Groups, and
- (b) each Class of dangerous goods that does not have Packing Groups, and
- (c) C1 combustible liquids, and
- (d) each type of goods too dangerous to be transported, that the premises may store or handle.

4 Dangerous goods stored in bulk other than in IBCs

- (1) In relation to each container (other than an IBC) and each other form of storage of dangerous goods in bulk at the premises:
 - (a) the identification number or code, and
 - (b) the type and capacity.
- (2) In relation to dangerous goods that are:
 - (a) dangerous goods other than C1 combustible liquids or goods too dangerous to be transported—the proper shipping name, the UN Number and Class of the dangerous goods, and
 - (b) C1 combustible liquids—the product name and the statement “Combustible Liquid”, and

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Schedule 1 Amendments

- (c) goods too dangerous to be transported—the name of the goods specified in Appendix 5 of the ADG Code and the statement “Goods too dangerous to be transported”.

5 Packaged dangerous goods

In relation to each storage location that contains packaged dangerous goods or dangerous goods in IBCs, and that is required to be placarded in accordance with Subdivision 6 of Division 3 of Part 6A.3:

- (a) the identification number or code for the storage location, and
- (b) for dangerous goods of Packing Group I or Class 2.3 that are likely to be kept in the storage location:
 - (i) the proper shipping name of the dangerous goods that are assigned to a Class, and
 - (ii) the Class, and
 - (iii) the maximum quantity of each of the dangerous goods that may be stored or handled in the storage location, and
- (c) for goods too dangerous to be transported that are likely to be kept in the storage location:
 - (i) the name of the dangerous goods specified in Appendix 5 of the ADG Code, and
 - (ii) the statement “Goods too dangerous to be transported”, and
 - (iii) the maximum quantity of each of the dangerous goods that may be stored or handled in the storage location, and
- (d) for other dangerous goods that are likely to be kept in the storage location:
 - (i) for dangerous goods with an assigned Class—the Class for the dangerous goods, and
 - (ii) for C1 combustible liquids—the statement “Combustible Liquid”, and
 - (iii) in any case, the maximum quantity of each Class and the maximum quantity of C1 combustible liquids that may be stored or handled in the storage location.

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Schedule 1

6 Dangerous goods in manufacture

In relation to each location where dangerous goods are manufactured:

- (a) the identification number or code of the manufacturing location, and
- (b) for dangerous goods with an assigned Class—the Class of each type of dangerous goods and the maximum quantity of each Class that can be handled in the location, and
- (c) for goods too dangerous to be transported—the statement “Goods too dangerous to be transported” and the maximum quantity of those goods that can be handled in the location, and
- (d) for C1 combustible liquids—the statement “C1 combustible liquid” and the maximum quantity of C1 combustible liquids that can be handled in the location.

7 Dangerous goods loaded onto vehicle, vessel or aircraft

If, in relation to any dangerous goods loaded onto a vehicle, vessel or aircraft at the premises, there are dangerous goods shipping documents that comply with the ADG Code available for the goods, the information required by clauses 3, 4 and 5 may be provided in the form of a compilation of those shipping documents.

8 Plan of premises

A plan of the premises that:

- (a) shows the location of:
 - (i) the containers and other forms of storage of dangerous goods in bulk referred to in clause 4, and
 - (ii) the storage locations for packaged dangerous goods and dangerous goods in IBCs referred to in clause 5, and
 - (iii) the locations where dangerous goods are manufactured referred to in clause 6, and
- (b) includes a description in words of the location of:
 - (i) the items referred to in paragraph (a), and
 - (ii) areas where dangerous goods loaded onto a vehicle, vessel or aircraft may be located, and
- (c) provides the identification number or code for the items referred to in paragraph (b), and

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- (d) provides a legend for the identification numbers and codes referred to in paragraph (c), and
- (e) shows the location of:
 - (i) the main entrance and the other points of entry to the premises, and
 - (ii) essential site services, including fire services and isolation points for fuel and power, and
 - (iii) the manifest, and
 - (iv) all drains on the site, and
- (f) describes the nature of the occupancy of adjoining sites or premises.

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Regulations (*Continued*)



New South Wales

Public Authorities (Financial Arrangements) Regulation 2005

under the

Public Authorities (Financial Arrangements) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Authorities (Financial Arrangements) Act 1987*.

MICHAEL COSTA, M.P.,
Minister for Finance

Explanatory note

This Regulation replaces the *Public Authorities (Financial Arrangements) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) the purchase, surrender, transfer, transmission and payment of securities by authorities under the *Public Authorities (Financial Arrangements) Act 1987*,
- (b) the powers of investment conferred on authorities by that Act,
- (c) the prescription of certain entities as authorities for the purposes of that Act.

This Regulation is made under the *Public Authorities (Financial Arrangements) Act 1987*, including section 43 (the general power to make regulations), section 24 and Schedule 4.

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Public Authorities (Financial Arrangements) Regulation 2005

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Clause 1

Preliminary

Part 1

Public Authorities (Financial Arrangements) Regulation 2005

under the

Public Authorities (Financial Arrangements) Act 1987

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Public Authorities (Financial Arrangements) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Public Authorities (Financial Arrangements) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

approved form, when used in connection with any instrument given to or issued by an authority, means a form approved by the authority.

authorised officer, in relation to any matter, means:

- (a) an employee of an authority who is authorised in writing by the authority in relation to that matter, or
- (b) an employee of a registry who is so authorised, or
- (c) an officer of the Public Service who is authorised in writing by the Treasurer in relation to the matter.

business day means:

- (a) in relation to a registry—a day on which the registry is open for business, or
- (b) in any other case—a day on which banks are open for business.

death certificate means a certificate certifying the registration of the relevant death and issued under the *Births, Deaths and Marriages Registration Act 1995*, or (if the death occurred elsewhere than in New South Wales) under a similar law of the jurisdiction in which death occurred.

Clause 4	Public Authorities (Financial Arrangements) Regulation 2005
Part 1	Preliminary

duly certified copy, in relation to a document, means a copy of the document that is certified by a legal practitioner or a justice of the peace as being a true copy.

inscribed stock register means a register established by an authority for purposes relating to the inscription of stock.

joint owner of inscribed stock means a person, alive or deceased, whose name is registered in an authority's inscribed stock register as being one of a number of joint owners (however described) of the authority's inscribed stock.

owner of inscribed stock means the person named as the owner of the stock in the inscribed stock register of the authority that issued the stock.

registrar for an authority means a person (including a corporation) appointed by the authority to be the registrar of stock, assistant registrar of stock, deputy registrar of stock or assistant deputy registrar of stock at the registry of the authority.

registry of an authority means a registry established for the inscription of stock and issue of debentures of the authority.

the Act means the *Public Authorities (Financial Arrangements) Act 1987*.

- (2) Notes included in this Regulation do not form part of this Regulation.

4 Authorities included in definition of "authority"

- (1) The entities listed in Part 1 of Schedule 1 are prescribed as being within the definition of **authority** in section 3 (1) of the Act.
- (2) The prescribing of any such entity is subject to any limitation specified in Part 1 of Schedule 1 in relation to that authority.

5 Entities excluded from definition of "authority"

- (1) The entities listed in Part 2 of Schedule 1 are prescribed as not being within the definition of **authority** in section 3 (1) of the Act.
- (2) The prescribing of any such entity is subject to any limitation specified in Part 2 of Schedule 1 in relation to that authority.
- (3) The exclusion of an entity from the definition of **authority** in section 3 (1) of the Act does not affect any guarantee relating to a financial arrangement that was entered into under the Act by the entity, or any other right or liability that arose under any such financial arrangement, before the exclusion of that entity from that definition.
- (4) An entity that is prescribed as not being within the definition of **authority** in section 3 (1) of the Act for the purposes of a provision of the Act that confers or imposes any function on an authority is also

Public Authorities (Financial Arrangements) Regulation 2005

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Part 1

prescribed as not being within the definition of *authority* in section 3 (1) of the Act for the purposes of section 2B of the Act in relation to the exercise of that function by the entity.

6 Entities excluded from definition of “controlled entity”

The entities listed in Part 3 of Schedule 1 are prescribed as not being within the definition of *controlled entity* in section 3 (1) of the Act.

Clause 7	Public Authorities (Financial Arrangements) Regulation 2005
Part 2	Securities

Part 2 Securities

Division 1 Preliminary

7 Application of Part

This Part applies to inscribed stock issued within Australia only.

8 Loan certificates

- (1) A loan certificate issued by an authority must be in an approved form.
- (2) An authority's registrar must keep a register of loan certificates in which the registrar must enter, in respect of each loan certificate issued by the authority:
 - (a) the number and date of issue of the certificate, and
 - (b) the amount of the loan, and
 - (c) particulars of the certificate holder, and
 - (d) particulars of the terms of the loan.

9 Establishment of registry

An authority that issues securities must establish a registry at such place or places as the authority may from time to time determine.

10 Business hours of registry

A registry:

- (a) if it is established at a bank, must be open during the normal banking hours of the bank, or
- (b) if it is established at an institution other than a bank or at the office of the authority, must be open during the ordinary business hours of the institution or the authority.

Division 2 Purchase of securities

11 Application to purchase certain securities

- (1) Application to purchase inscribed stock or debentures of an authority by public tender must be made in an approved form and in accordance with the conditions contained in a prospectus for the issue of the stock or debentures that accompanies the form of application.
- (2) Application to purchase inscribed stock or debentures or loan certificates of an authority otherwise than by public tender must be made in an approved form.

Public Authorities (Financial Arrangements) Regulation 2005

Clause 12

Securities

Part 2

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- (3) An application for the purchase of an authority's stock on a joint account must set out the names in the order in which they are to appear in the inscribed stock register of the authority.
 - (4) An authority's registrar must not issue any debentures of the authority unless overdue interest coupons are detached, cancelled and forwarded to an authorised officer of the authority, together with particulars of the debentures from which they were detached.

12 Inscription of stock

- (1) For the inscription of stock, an authority's registrar must, at each registry for the authority, keep an inscribed stock register in an approved form and must enter in that register:
 - (a) the name of each owner of stock inscribed at the registry, and
 - (b) the amount of stock owned, and
 - (c) the date of issue, and
 - (d) particulars of the terms of the loan (including any conditions restricting the transfer of the stock).
- (2) Except with the approval of an authority, stock of the authority must be inscribed only in amounts of \$100 or multiples of \$100.

13 Record of debentures

- (1) An authority's registrar must keep a record of debentures of the authority showing:
 - (a) the serial number, denomination and date of issue or receipt of each debenture, and
 - (b) whether the debentures were sold to the public, issued in exchange for stock or other debentures, or issued for other purposes.
- (2) As soon as practicable after the end of each month, an authority's registrar must provide an authorised officer of the authority with such particulars relating to transactions in debentures during that month as the authorised officer requires.

14 Trusts

- (1) Trusts are not to be recognised for the purposes of this Regulation and executors, administrators and trustees must not be registered in an inscribed stock register as such, but in their individual names without reference to any trusteeship.
- (2) The person whose name is registered in an inscribed stock register as the owner of any stock is taken to be the owner of the stock, and has power

Clause 15 Public Authorities (Financial Arrangements) Regulation 2005

Part 2 Securities

to dispose of and transfer the stock and give effectual receipts for any money paid to the person by way of consideration for the disposal or transfer.

- (3) Subject to the provisions of this Regulation relating to the disposal and transfer of inscribed stock and notice of trusts, equitable interests may be enforced against the owners of inscribed stock in the same manner as in respect of any other personal property.

15 Stock owned by corporation

- (1) An authority's stock may be inscribed in the name of a corporation, but the authority's registrar must first be furnished with a copy of the certificate of incorporation or other instrument evidencing establishment of the corporation, together with a certified specimen of the seal of the corporation and a duly authenticated copy of any articles of association, regulations or other documents governing the affixing of the seal.
- (2) Transactions by a corporation in respect of an authority's stock may be effected by any person on behalf of the corporation if a power of attorney authorising that person to act for the corporation has been executed and the authority's registrar acts under clause 41.
- (3) An authority's stock may be inscribed in the name of a friendly society or trade union that the authority's registrar is satisfied is registered under the laws of any State or of the Commonwealth or any of its Territories, or any branch of a friendly society or trade union so registered, subject to the registrar having been first supplied by the friendly society, trade union or branch with a certificate in an approved form that contains the names and signatures of the 2 or more persons appointed by the friendly society, trade union or branch concerned for the purposes of subclause (4).
- (4) Certificates, receipts and other documents relating to stock inscribed in the name of a friendly society, trade union or branch may be issued only to such person as the friendly society, trade union or branch appoints in that behalf.
- (5) No transactions in relation to stock inscribed under subclause (3) may be effected unless they are authorised by the persons appointed or purporting to be so appointed by the friendly society, trade union or branch in an approved form.

16 Change of name

- (1) If the name of the owner, jointly or otherwise, of an authority's stock is changed and the authority's registrar is notified of the changed name in writing signed by the owner of the stock and accompanied by a certified

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Securities

Part 2

copy of any deed poll or marriage certificate evidencing the change of name, the registrar must make the necessary alteration in the inscribed stock register of the authority.

- (2) Notification of an alteration must be given in the approved form.

17 Mistake in inscription of stock

In the event of an authority's stock being inscribed incorrectly owing to a mistake in a request for inscription or transfer of the stock, the inscription may be corrected if a statutory declaration by the purchaser or transferee, explaining how the mistake arose, is lodged with the registrar.

18 Specimen signature

An authority's registrar must take such steps as are necessary to immediately secure specimen signatures of all owners of securities that are not redeemable by the bearer.

19 Inspection of inscribed stock register

On satisfying an authority's registrar as to the owner's identity, an owner of the authority's stock (whether in a sole account or joint account) may, during the business hours of the registry, inspect the owner's account of the stock in the inscribed stock register of the authority.

20 Certificate of ownership of stock

- (1) An authority's registrar must, on a request made in an approved form, issue a certificate in an approved form of the ownership of stock.
- (2) A request under this clause may be signed by, and the certificate issued to, a person on behalf of the owner if the registrar so approves.

Division 3 Surrender, transfer and transmission of securities

21 Surrender of stock certificates

In addition to allotment letters, receipts and other relevant registry documents, an authority's registrar may require stock certificates to be surrendered in support of any subsequent operation by the owner or the owner's attorney on stock inscribed in the books of the registry of the authority.

22 Transfer of stock

- (1) Transfer of an authority's stock may be made from one person to another by means of an approved form.

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Part 2 Securities

- (2) A transfer of an authority's stock must be executed by both the transferor and the transferee, each of whom must be notified by the authority's registrar, in an approved form, of the completion of the transaction.
- (3) An authority may issue inscribed stock subject to conditions restricting the transfer of the stock, and the power of the owner of the inscribed stock to transfer the stock is subject to any such conditions.

23 Transmission otherwise than on death

- (1) A person on whom an owner's (including a joint owner's) interest in inscribed stock has devolved by operation of law (otherwise than as a result of the owner's death) may apply to the registrar of the relevant authority to be registered as the owner of the inscribed stock.
- (2) Such an application must be made in the approved form and must be accompanied by:
 - (a) in the case of bankruptcy, an office copy of the relevant sequestration order, or
 - (b) in any other case, the relevant vesting order.
- (3) On registering the applicant as the owner of the inscribed stock, the authority's registrar must forward to the applicant a notice to that effect in an approved form.

24 Transmission on death otherwise than to surviving joint owner

- (1) A person on whom an owner's (other than a joint owner's) interest in inscribed stock has devolved by operation of law as a result of the owner's death may apply to the registrar of the relevant authority to be registered as the owner of the inscribed stock.
- (2) Such an application must be made in the approved form and must be accompanied by:
 - (a) a probate copy of the deceased owner's will, or
 - (b) letters of administration of the deceased owner's estate.
- (3) The registrar may waive the requirement for documents referred to in subclause (2) if instead the applicant:
 - (a) provides each of the following documents:
 - (i) an original or a duly certified copy of the relevant death certificate or, where there is no such certificate, such other evidence of the deceased owner's death as may be acceptable to the registrar,
 - (ii) if there is a relevant will, an original or a duly certified copy of the will,

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- (iii) a statutory declaration made by the applicant in accordance with subclause (4),
 - (iv) any other document the registrar may require, and
 - (b) if the face value of the inscribed stock exceeds \$10,000, provides security to the satisfaction of the registrar against any liability that the authority may incur as a consequence of the transmission of the stock in accordance with the application.
- (4) A statutory declaration referred to in subclause (3) (a) (iii) must state the following:
- (a) that the applicant knew the deceased owner,
 - (b) that the deceased owner lived under the name specified in the declaration,
 - (c) that the deceased owner lived at the address specified in the declaration,
 - (d) that the applicant is not aware of any claim against the estate of the deceased owner that remains unsatisfied,
 - (e) that the applicant does not intend to apply for a grant of probate or letters of administration in respect of the estate of the deceased owner.
- (5) On registering the applicant as the owner of the inscribed stock, the authority's registrar must forward to the applicant a notice to that effect in an approved form.

25 Transmission on death to surviving joint owner

- (1) A person on whom a joint owner's interest in inscribed stock has devolved by operation of law as a result of the joint owner's death may apply to the registrar of the relevant authority to be registered as the owner of the inscribed stock.
- (2) Such an application must be made in the approved form and must be accompanied by the following:
 - (a) an original or a duly certified copy of the relevant death certificate or, where there is no such certificate, such other evidence of the deceased owner's death as may be acceptable to the registrar,
 - (b) any other document the registrar may require.
- (3) On registering the applicant as the owner of the inscribed stock, the authority's registrar must forward to the applicant a notice to that effect in an approved form.

Clause 26 Public Authorities (Financial Arrangements) Regulation 2005
Part 2 Securities

26 Verification of signatures

An authority's registrar may require the signatures of persons who claim transmission of the authority's stock under clause 23, 24 or 25 to be verified to the registrar's satisfaction by a statutory declaration by a disinterested person approved by the registrar.

27 Transfer of stock—close of books

- (1) A transfer of an authority's stock must not be registered during any period in which the books of the authority are closed for transfers of the stock concerned.
- (2) An authority may close its books for transfers of inscribed stock during such periods as it determines from time to time and may do so for different periods for different inscribed stock.

28 Striking of balance for payments

The balance for payments on inscribed stock is to be struck on a day determined by the authority that issued the stock.

Division 4 Payments

29 Payments on stock

- (1) Payments on inscribed stock issued by an authority are to be made:
 - (a) to the owner of the stock or, if there is more than one owner registered in relation to the stock, to the owner whose name appears first on the inscribed stock register, and
 - (b) in such manner as is determined from time to time by the authority.
- (2) Interest on debentures issued by an authority is to be paid:
 - (a) in the case of debentures issued with coupons attached, on presentation of the coupons at a place designated on the coupons, or
 - (b) in the case of debentures issued without coupons attached, in accordance with the terms of the debentures.

30 Payments to order

Payments on inscribed stock may be made by the registrar of the authority that issued the stock to and in favour of any person if a direction in an approved form is given for the purpose:

- (a) by the owner of the stock, or

Public Authorities (Financial Arrangements) Regulation 2005

Clause 31

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Part 2

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- (b) if there is more than one owner registered in relation to the stock, by the owner whose name appears first on the inscribed stock register.

31 Variation of instructions

Directions in relation to payments on inscribed stock (unless withdrawn in writing) remain in force even though the stock may have been added to, partly sold or withdrawn.

32 Change of address

A change of address of a person to whom payments are to be made by an authority must be notified at once in writing to the authority's registrar.

33 Legal disability of joint owner of stock

Payments on stock inscribed in the name of a person of diminished legal incapacity (such as a minor or mentally ill person) jointly with the names of other persons of full legal capacity may be made as directed by those other persons, and without the concurrence of the person of diminished legal incapacity, on sufficient proof of that person's incapacity being lodged with the registrar of the authority that issued the stock.

34 Minority of sole owner of stock

Payments on inscribed stock and debentures in the name of a minor otherwise than in a joint account may be made (at the discretion of the registrar of the authority that issued the stock or debentures) to the guardian of the minor and the receipt of the guardian is a valid discharge.

Division 5 Miscellaneous

35 Form of debentures

Debentures must be in an approved form.

36 Debentures not collected personally

- (1) If necessary, arrangements may be made by an authority's registrar for the delivery through a bank or other channel of debentures or loan certificates that cannot be handed personally to the owner at the authority's registry.

Clause 37 Public Authorities (Financial Arrangements) Regulation 2005
Part 2 Securities

- (2) A receipt must be obtained and attached to the relevant application, together with any relevant allotment letter, official receipt or other relevant registry document required by the registrar in exchange for the debentures or loan certificates.

37 Stock exchanged for debentures

- (1) On application made in an approved form for the issue of debentures or loan certificates of an authority in exchange for inscribed stock of the authority, the authority's registrar must debit the account concerned in the inscribed stock register, and issue debentures of the same currency and rate of interest, and for the amount of stock debited.
- (2) A receipt in an approved form must be given for debentures or loan certificates handed over at a registry.
- (3) A notification of the issue of debentures or loan certificates of an authority in exchange for stock of the authority must be given in an approved form to the person in whose name the stock is inscribed.

38 Certain exchanges prohibited

Debentures or loan certificates must not be issued in exchange for inscribed stock if the stock is inscribed in the name of a person of diminished legal incapacity (such as a minor or mentally ill person) jointly with other persons of full legal capacity.

39 Exchange of debentures

On application in an approved form, debentures of an authority may be surrendered at a registry for the authority in exchange for other debentures of the same amount, of the same currency and bearing the same rate of interest.

40 Debentures exchanged for stock

- (1) On application in an approved form for the inscription of stock in exchange for debentures or loan certificates, an authority's registrar:
- (a) must inscribe stock of the same currency and rate of interest as, and for the same amount as, the debentures or loan certificates surrendered, and
 - (b) must forward a notification of inscription, in accordance with an approved form, to the person in whose name the stock is inscribed, and
 - (c) must issue a receipt, in an approved form, for the surrendered debentures or loan certificates.

Public Authorities (Financial Arrangements) Regulation 2005

Clause 41

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Part 2

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- (2) A debenture of an authority surrendered under this clause with interest coupons attached must, after cancellation, be forwarded by the registrar to an authorised officer of the authority.

41 Registrar to be satisfied as to power of attorney

- (1) An authority's registrar may only act on a power of attorney if:
- (a) a copy of the power of attorney attested by the Registrar-General, or verified by a person approved by the registrar, has been lodged with the registrar, and
 - (b) the registrar is satisfied that the power of attorney has been properly sealed and executed and duly stamped, that the signatures to it are genuine and that the powers contained in it have not been revoked.
- (2) If the registrar is not satisfied as to any matter referred to in subclause (1) (b), the registrar:
- (a) must cause a notice of dealing, in an approved form, to be forwarded to the owner of the stock concerned at the owner's registered address, and
 - (b) must not act further in the case until satisfied that the matter is in order.

42 Inspection of power of attorney

A power of attorney under which it is proposed to deal with an authority's stock must be left at a registry for the authority for scrutiny at least 2 business days before it is to be acted on, and must be entered in a register kept by the authority.

43 Execution under seal

A form required under this Regulation to bear the seal of a corporation must be sealed and witnessed in accordance with the articles of association, regulations or other relevant documents of the corporation, and an authority's registrar may require proof that any document has been so sealed.

44 Registrar to take certain precautions

If a party to a transaction is not personally known to an authority's registrar, or if the registrar is doubtful as to the genuineness of a signature, or for any other reason the registrar is not satisfied as to the genuineness of a transaction, the registrar:

- (a) must cause a notice of dealing, in an approved form, to be forwarded to the party, and

Clause 45 Public Authorities (Financial Arrangements) Regulation 2005

Part 2 Securities

- (b) must not register the transaction until satisfied that the matter is in order.

45 Short term securities—promissory notes, bank bills of exchange

- (1) If an authority obtains financial accommodation by the issue of a promissory note or bank bill of exchange, the promissory note or bank bill of exchange:
 - (a) must comply with the *Bills of Exchange Act 1909* of the Commonwealth, and
 - (b) may be issued in a denomination determined by the authority, and
 - (c) must specify a point of payment at maturity, and
 - (d) must specify a serial number, its date of issue and its maturity date, and
 - (e) must be signed by 2 authorised officers of the authority.
- (2) If there is a paying agent for a promissory note or bank bill of exchange issued by an authority, an authorised officer of the authority must inform the paying agent of its amount, serial number and maturity date and of the names of the authorised officers who signed it.
- (3) An authority that issues a promissory note or bank bill of exchange must enter in a register of negotiable securities the following details:
 - (a) its face value,
 - (b) its selling price,
 - (c) its serial number,
 - (d) the date of its issue,
 - (e) if relevant, the name of the acceptor.
- (4) On the return to an authority of a promissory note or bank bill of exchange issued by it and paid at maturity, 2 authorised officers of the authority:
 - (a) must check it against the register of negotiable securities, and
 - (b) must destroy it or witness its destruction, and
 - (c) must note its destruction in that register.

46 Security

- (1) A person who prints a document for issue by an authority must, as soon as practicable after it is printed, provide the authority with a return specifying the serial number of the document.

Public Authorities (Financial Arrangements) Regulation 2005

Clause 47

Securities

Part 2

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- (2) A person having custody of:
 - (a) printing plates to be used for the production of negotiable securities to be issued by an authority, or
 - (b) any documents to be so issued,must keep them in an adequately secured area.
 - (3) Settlement of a sale or purchase of negotiable securities of an authority must not be effected outside the security area of the authority unless 2 authorised officers of the authority are present.
 - (4) An authority must cause a copy to be kept of each negotiable security issued by it.

47 Secrecy

- (1) No person (other than a person immediately engaged in the work of an authority's registry, an accredited officer of the Auditor-General or a person duly authorised in writing by the authorised officer of the authority) is to be given access to any of the books, forms or other records used or kept for the purposes of this Regulation.
- (2) A person must not divulge any information coming to his or her knowledge in the course of his or her duties, except as authorised by this Regulation or the authorised officer of the authority or as required by law.

48 Procedure

In all matters relating to procedure and the duties of an authority's registrar, the directions of an authorised officer of the authority must be followed.

Clause 49	Public Authorities (Financial Arrangements) Regulation 2005
Part 3	Investment powers

Part 3 Investment powers

49 Investment powers of authorities

For the purposes of section 24 of the Act:

- (a) an authority referred to in Schedule 2 is declared to have, in respect of all funds of or under the control of the authority, the investment powers described in Part 2 of Schedule 4 to the Act, and
- (b) an authority referred to in Schedule 3 is declared to have, in respect of all funds of or under the control of the authority, the investment powers described in Part 3 of Schedule 4 to the Act, and
- (c) an authority referred to in Schedule 4 is declared to have, in respect of all funds of or under the control of the authority, the investment powers described in Part 4 of Schedule 4 to the Act.

50 Additional investment powers

- (1) For the purposes of clause 2 (c) of Schedule 4 to the Act, the investments specified in Part 1 of Schedule 5 are prescribed as investments that are authorised for an authority so specified.
- (2) For the purposes of clause 3 (f) of Schedule 4 to the Act, the investments referred to in Part 2 of Schedule 5 are prescribed as investments that are authorised for an authority so specified.
- (3) For the purposes of clause 4 (1) (l) of Schedule 4 to the Act, the investments referred to in Part 3 of Schedule 5 are prescribed as investments that are authorised for an authority so specified.

51 Prescribed rating agencies

For the purposes of Schedule 4 to the Act, the following are prescribed rating agencies:

- (a) Standard & Poor's (Australia) Pty Ltd,
- (b) Moody's Investors Service, Inc,
- (c) Fitch Australia Pty Ltd.

52 Eligible entities

For the purposes of the definition of *eligible entity* in clause 1 of Schedule 4 to the Act, the following ratings are prescribed:

- (a) "AAA", "AA+", "AA", "AA-", "A+" or "A" given by Standard & Poor's (Australia) Pty Ltd,

Public Authorities (Financial Arrangements) Regulation 2005

Clause 53

Investment powers

Part 3

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- (b) “Aaa”, “Aa1”, “Aa2”, “Aa3”, “A1” or “A2” given by Moody’s Investors Service, Inc,
 - (c) “AAA”, “AA+”, “AA”, “AA–”, “A+” or “A” given by Fitch Australia Pty Ltd,
 - (d) in the case of an entity that had a rating prescribed by paragraph (a), (b) or (c) at the time that a particular investment was made with the entity, and only in respect of any such investment with that entity—any other rating given to the entity by a prescribed rating agency, but only for a period of 3 months after the entity has ceased to have a rating prescribed by paragraph (a), (b) or (c).

53 Eligible ratings

For the purposes of the definition of *eligible rating* in clause 1 of Schedule 4 to the Act, the following ratings are prescribed:

- (a) “AAA”, “AA+”, “AA”, “AA–”, “A+”, “A”, “A1+” or “A1” given by Standard & Poor’s (Australia) Pty Ltd,
- (b) “Aaa”, “Aa1”, “Aa2”, “Aa3”, “A1”, “A2” or “Prime–1” given by Moody’s Investors Service, Inc,
- (c) “AAA”, “AA+”, “AA”, “AA–”, “A+”, “A”, “F1+” or “F1” given by Fitch Australia Pty Ltd,
- (d) in the case of an investment that had a rating prescribed by paragraph (a), (b) or (c) at the time the investment was made, and only in respect of such an investment—any other rating given to the investment by a prescribed rating agency, but only for a period of 3 months after the investment has ceased to have a rating prescribed by paragraph (a), (b) or (c).

Clause 54	Public Authorities (Financial Arrangements) Regulation 2005
Part 4	Miscellaneous

Part 4 Miscellaneous

54 Statutory guarantee

- (1) Any financial accommodation obtained by an authority from the Treasury Corporation (otherwise than in a form specified in section 22A (1) (a) or (b) of the Act) is prescribed for the purposes of section 22A (1) (c) of the Act.
- (2) This clause applies to financial accommodation whenever obtained.

55 Activities excluded from meaning of joint venture (Department of Education and Training and TAFE Commission)

- (1) For the purposes of section 22K of the Act, the following activities are prescribed as not being within that section:
 - (a) an activity carried on jointly by the Department of Education and Training and an agency of the Commonwealth or of this or any other State or Territory,
 - (b) an activity carried on jointly by the TAFE Commission and an agency of the Commonwealth or of this or any other State or Territory,
 - (c) an activity carried on jointly by the Department of Education and Training and another person (other than an agency of the Commonwealth or of this or any other State or Territory) where the Department of Education and Training contributes less than \$1,000,000,
 - (d) an activity carried on jointly by the TAFE Commission and another person (other than an agency of the Commonwealth or of this or any other State or Territory) where the TAFE Commission contributes less than \$1,000,000,
 - (e) an activity carried on jointly by the TAFE Commission, the Department of Education and Training and another person (other than an agency of the Commonwealth or of this or any other State or Territory) where the TAFE Commission and the Department of Education and Training make a combined contribution of less than \$1,000,000.
- (2) For the purpose of subclause (1), *contribution* includes (but is not limited to) the following:
 - (a) the amount of any financial contribution,
 - (b) the approximate value of any goods or materials (including land or premises) that are supplied or provided,
 - (c) the approximate value of any service that is supplied or provided.

Public Authorities (Financial Arrangements) Regulation 2005	Clause 56
Miscellaneous	Part 4

(3) This clause is repealed on 1 July 2006.

56 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Public Authorities (Financial Arrangements) Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Public Authorities (Financial Arrangements) Regulation 2005

Schedule 1 Definitions of “authority” and “controlled entity”

Schedule 1 Definitions of “authority” and “controlled entity”

(Clauses 4, 5 and 6)

Part 1 Entities included in definition of “authority”

Ambulance Service of New South Wales
 Area health service constituted under the *Health Services Act 1997*
 Aus Health International Pty Limited
 Clinical Excellence Commission
 Commissioner of Police, but only for the purposes of Part 2A of the Act
 Crown Solicitor’s Office
 Health Administration Corporation
 HealthQuest
 Lands Administration Ministerial Corporation
 Minister administering the *Environmental Planning and Assessment Act 1979* (a corporation)
 Minister administering the *Heritage Act 1977* (a corporation)
 Minister administering the *Tweed River Entrance Sand Bypassing Act 1995*, but only for the purposes of functions exercised in connection with the carrying into effect of that Act
 Ministerial Corporation for Industry
 NSW Businesslink Pty Limited
 NSW Self Insurance Corporation
 Registry of Births, Deaths and Marriages
 SRA Locomotive Securities Limited
 Statutory health corporation constituted under the *Health Services Act 1997*
 TAFE Commission
 Talamba Pty Limited
 Trustee of the Home Purchase Assistance Fund
 Water Administration Ministerial Corporation

Part 2 Entities excluded from definition of “authority”

Agricultural industry services committee constituted by the *Agricultural Industry Services Act 1998*
 Banana Industry Committee
 FSS Trustee Corporation, but only for the purposes of section 25 of the Act
 Marketing board constituted under the *Marketing of Primary Products Act 1983*

Public Authorities (Financial Arrangements) Regulation 2005

Definitions of "authority" and "controlled entity"

Schedule 1

Marketing committee constituted under the *Marketing of Primary Products Act 1983*

New South Wales Aboriginal Land Council

New South Wales Grains Board, but only for the purposes of Part 2C of the Act

New South Wales Treasury Corporation, but only for the purposes of section 25 of the Act

Rice Marketing Board, but only for the purposes of Part 2C of the Act

SAS Trustee Corporation, but only for the purposes of section 25 of the Act

Part 3 Entities excluded from definition of "controlled entity"

Agricultural industry services committee constituted by the *Agricultural Industry Services Act 1998*

Banana Industry Committee

Marketing board constituted under the *Marketing of Primary Products Act 1983*

Marketing committee constituted under the *Marketing of Primary Products Act 1983*

New South Wales Grains Board

Rice Marketing Board

Public Authorities (Financial Arrangements) Regulation 2005

Schedule 2 Authorities having Part 2 investment powers

Schedule 2 Authorities having Part 2 investment powers

(Clause 49 (a))

Building Insurers' Guarantee Corporation
Country Energy
Fair Trading Administration Corporation
Forestry Commission
Freight Rail Corporation
Health Administration Corporation
Hunter Water Corporation
Mine Subsidence Board
Minister administering the *Environmental Planning and Assessment Act 1979* (a corporation)
New South Wales Land and Housing Corporation
Newcastle Port Corporation
Northern Sydney and Central Coast Area Health Service
Port Kembla Port Corporation
Rail Corporation New South Wales
Rail Infrastructure Corporation
Rental Bond Board
Roads and Traffic Authority
Royal Alexandra Hospital for Children
Sporting Injuries Committee
State Rail Authority
Sydney Ports Corporation
Sydney South West Area Health Service
Sydney West Area Health Service
Transport Infrastructure Development Corporation
Waste Recycling and Processing Corporation

Public Authorities (Financial Arrangements) Regulation 2005

Authorities having Part 3 investment powers

Schedule 3

Schedule 3 Authorities having Part 3 investment powers

(Clause 49 (b))

Delta Electricity

Electricity Tariff Equalisation Ministerial Corporation

EnergyAustralia (except for such funds in respect of EnergyAustralia as are referred to in Schedule 4)

Eraring Energy

Integral Energy Australia

Macquarie Generation

New South Wales Lotteries Corporation

Sydney Water Corporation

TransGrid

Public Authorities (Financial Arrangements) Regulation 2005

Schedule 4 Authorities having Part 4 investment powers

Schedule 4 Authorities having Part 4 investment powers

(Clause 49 (c))

EnergyAustralia, in respect of such funds of or under the control of EnergyAustralia as are determined by the Treasurer

FSS Trustee Corporation

Liability Management Ministerial Corporation, in respect of money in the General Government Liability Management Fund that is not immediately required for the purposes of the Fund

Luna Park Reserve Trust, in respect of such funds of or under the control of the Trust as are determined by the Treasurer

NSW Self Insurance Corporation

Residual Business Management Corporation

SAS Trustee Corporation

Treasury Corporation

Trustees of the Parliamentary Contributory Superannuation Fund, in respect of any funds for which an approved funds manager is engaged by the authority as referred to in section 25 of the Act to act in relation to the management of those funds

WorkCover Authority

Workers' Compensation (Dust Diseases) Board

Public Authorities (Financial Arrangements) Regulation 2005

Authorities having additional investment powers

Schedule 5

Schedule 5 Authorities having additional investment powers

(Clause 50)

Part 1 Additional powers for authorities having Part 1 investment powers

1 Authorities generally

The following additional investments are prescribed in respect of any authority that is authorised to exercise the investment powers described in Part 1 of Schedule 4 to the Act:

Investment in an Hour-Glass investment facility of the Treasury Corporation (being a unit trust scheme within the meaning of the *Duties Act 1997*).

2 Sydney Harbour Foreshore Authority

The following additional investments are prescribed in respect of the Sydney Harbour Foreshore Authority:

Investment, made on terms and conditions approved by the Treasurer, in connection with the operations of the Australian Technology Park.

3 Minister for Primary Industries

The following additional investments are prescribed in respect of the Minister for Primary Industries:

Any loan, made on terms and conditions approved by the Treasurer, to the New South Wales Grains Board (constituted by the *Grain Marketing Act 1991*) in connection with the making of payments to producers in accordance with that Act before 30 June 2002 for grain vested in the Board so long as the total amount of the loans under this clause does not exceed \$13,000,000.

4 Department of Lands

The following additional investment is prescribed in respect of the Department of Lands:

Investment of \$1 in one share in PSMA Australia Limited, being an incorporated joint venture of the Public Sector Mapping Agencies.

Public Authorities (Financial Arrangements) Regulation 2005

Schedule 5 Authorities having additional investment powers

5 TELCO

The following additional investment is prescribed in respect of the New South Wales Government Telecommunications Authority:

Investment in 2,800,000 shares in Smart Internet Technology CRC Pty Limited (ACN 096 139 427).

6 Delta Electricity Australia Pty Ltd

The following additional investment is prescribed in respect of Delta Electricity Australia Pty Ltd (ACN 074 408 923):

Investment, made on terms and conditions approved by the Treasurer, in connection with the Sunshine Electricity Joint Venture.

7 Department of Education and Training

The following additional investments, not exceeding a total investment of \$5,000,000, are prescribed in respect of the Department of Education and Training:

- (a) investments in the equity, whether as shares or otherwise, of a corporation, whether or not incorporated in Australia, made on terms and conditions approved by the Treasurer,
- (b) investments, where the funds to be invested are subject to a trust, as approved by the trustee of the trust and made on terms and conditions approved by the Treasurer,
- (c) investments, where the funds to be invested are a deposit received in respect of a contract or a tender, as authorised or permitted by the contract or the tender.

8 TAFE Commission

The following additional investments, not exceeding a total investment of \$5,000,000, are prescribed in respect of the TAFE Commission:

- (a) investments in the equity, whether as shares or otherwise, of a corporation, whether or not incorporated in Australia, made on terms and conditions approved by the Treasurer,
- (b) investments, where the funds to be invested are subject to a trust, as approved by the trustee of the trust and made on terms and conditions approved by the Treasurer,
- (c) investments, where the funds to be invested are a deposit received in respect of a contract or a tender, as authorised or permitted by the contract or the tender.

Public Authorities (Financial Arrangements) Regulation 2005

Authorities having additional investment powers

Schedule 5

9 Public Trustee

The following additional investments are prescribed in respect of the Public Trustee:

Any investment in bonds that have an eligible rating and that are issued by an authorised deposit-taking institution or by an eligible entity.

10 Department of Primary Industries

The following additional investments are prescribed in respect of the Department of Primary Industries:

- (a) investment, made on terms and conditions approved by the Treasurer, in Australian Co-operative Foods Limited (ABN 65 010 308 068),
- (b) investment, made on terms and conditions approved by the Treasurer, in Norco Co-operative Ltd,
- (c) investment, made on terms and conditions approved by the Treasurer, in Ricegrowers' Co-operative Limited (ABN 55 007 481 156),
- (d) investment, made on terms and conditions approved by the Treasurer, in the Rice Marketing Board.

11 Landcom

The following additional investment is prescribed in respect of Landcom:

Investment, made on terms and conditions approved by the Treasurer, in connection with a joint venture relating to property development at Little Bay.

12 Cancer Council

The following additional investments are prescribed in respect of the New South Wales Cancer Council:

- (a) any investment in a unit trust scheme within the meaning of the *Duties Act 1997*,
- (b) in the case of funds of or under the control of the Council comprising property the subject of a gift, devise or bequest to the Council—investment in such manner as will enable the property to be retained by the Council in the form that the property was gifted, devised or bequeathed,
- (c) investment in such manner as may be necessary to enable the Council to act as provided by section 11 (3) of the *New South Wales Cancer Council Act 1995*.

Public Authorities (Financial Arrangements) Regulation 2005

Schedule 5 Authorities having additional investment powers

13 Cancer Institute (NSW)

The following additional investments are prescribed in respect of the Cancer Institute (NSW):

- (a) investment in a unit trust scheme within the meaning of the *Duties Act 1997*,
- (b) in the case of funds of or under the control of the Institute comprising property the subject of a gift, devise or bequest to the Institute—investment in such manner as will enable the property to be retained by the Institute in the form that the property was gifted, devised or bequeathed,
- (c) investment in such manner as may be necessary to enable the Institute to act as provided by section 16 (3) of the *Cancer Institute (NSW) Act 2003*.

Part 2 Additional powers for authorities having Part 2 investment powers**14 Rental Bond Board**

The following additional investments are prescribed in respect of the Rental Bond Board:

- (a) inscribed stock issued out of a trust managed by RESIMAC Limited for the provision of residential accommodation,
- (b) deposits with or loans to the Trustee for the time being of the Home Purchase Assistance Fund (within the meaning of the *Housing Act 2001*),
- (c) investments in a residential accommodation unit trust (within the meaning of section 7C of the *Landlord and Tenant (Rental Bonds) Act 1977*),
- (d) investments in any scheme approved by the Minister for Housing for the provision of residential accommodation.

15 Land and Housing Corporation

The following additional investments are prescribed in respect of the New South Wales Land and Housing Corporation:

- (a) investments in property acquired under the restructuring scheme as defined in the *HomeFund Restructuring Act 1993*,
- (b) investments in RESIMAC Limited property mortgages,
- (c) deposits with the Home Purchase Assistance Fund as defined in the *Housing Act 2001*,

Public Authorities (Financial Arrangements) Regulation 2005

Authorities having additional investment powers

Schedule 5

-
- (d) investment, made on terms and conditions approved by the Treasurer, in connection with a joint venture relating to property development at 46–48 Ocean Street, Bondi.

16 Roads and Traffic Authority

The following additional investment is prescribed in respect of the Roads and Traffic Authority:

Investment, made on terms and conditions approved by the Treasurer, in shares in ARRB Group Limited.

Part 3 Additional powers for authorities having Part 3 investment powers

17 Delta Electricity

The following additional investment is prescribed in respect of Delta Electricity:

Investment, made on terms and conditions approved by the Treasurer, in Delta Electricity Australia Pty Ltd (ACN 074 408 923).



New South Wales

Public Finance and Audit Regulation 2005

under the

Public Finance and Audit Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Finance and Audit Act 1983*.

MICHAEL COSTA, M.P.,
Minister for Finance

Explanatory note

The object of this Regulation is to remake, without any changes of substance, the *Public Finance and Audit Regulation 2000*. That Regulation will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with matters relating to the keeping of accounts by Departments and statutory bodies.

This Regulation relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Public Finance and Audit Act 1983*, including section 64 (the general regulation-making power).

Public Finance and Audit Regulation 2005

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Public Finance and Audit Regulation 2005

Clause 1

Preliminary

Part 1

Public Finance and Audit Regulation 2005

under the

Public Finance and Audit Act 1983

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Public Finance and Audit Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Public Finance and Audit (General) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Australian Accounting Standards means a statement of accounting standards issued by the National Councils of the Institute of Chartered Accountants in Australia and CPA Australia.

Department means a person, group of persons or body specified in Column 1 of Schedule 3 to the Act.

financial statements means:

- (a) in relation to a Department, the financial statements of the Department referred to in section 45E of the Act, or
- (b) in relation to a statutory body, the financial statements of the body referred to in section 41B of the Act.

statutory body means a statutory body referred to in Division 3 of Part 3 of the Act.

the Act means the *Public Finance and Audit Act 1983*.

(2) In this Regulation, any question as to whether a matter relating to financial statements is material is to be determined having regard to the Australian Accounting Standards.

(3) Notes in the text of this Regulation do not form part of this Regulation.

Clause 4	Public Finance and Audit Regulation 2005
Part 2	Departments

Part 2 Departments

4 Certification

For the purposes of section 45F (1B) of the Act, the following matters are required to be included in a statement required under that subsection:

- (a) a statement as to whether, in the opinion of the Department Head, the financial statements have been prepared in accordance with the provisions of the Act, this Regulation and the Treasurer's directions,
- (b) a statement as to whether the Department Head is aware, as at the date on which the Department Head signs the statement, of any circumstances that would render any particulars included in the financial statements misleading or inaccurate.

5 Exemptions

- (1) The Treasurer may, on application by a Department Head made at any time, grant an exemption from any or all of the provisions of clause 4, in relation to the financial statements of the Department for a particular financial year.
- (2) An exemption may be granted subject to such conditions as the Treasurer may determine.
- (3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the Department Head of the Department in respect of which the exemption was granted.
- (4) Details of an exemption, and the reasons for the exemption, must be included as a separate note in the notes to the financial statements for the financial year in which the exemption applies.

Public Finance and Audit Regulation 2005

Clause 6

Statutory bodies

Part 3

Part 3 Statutory bodies

6 Accounting standards

Except as may be provided by the Act, this Regulation and the Treasurer's directions, the financial statements of a statutory body must be prepared in accordance with the Australian Accounting Standards, as adapted and modified to enable the provisions of those standards to apply to statutory bodies.

7 Income and expenditure information

- (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 1 of Schedule 1 must be shown separately in the financial statements of a statutory body which include an income and expenditure statement.
- (2) Any such particular may, except in so far as Part 1 of Schedule 1 otherwise provides, be included in the financial statements by way of note or otherwise.
- (3) The requirements of this clause are in addition to any other matters necessary to exhibit a true and fair view of the financial position and transactions of the body.

8 Balance sheet information

- (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 2 of Schedule 1 must be shown separately in the financial statements of a statutory body whose financial statements include a balance sheet.
- (2) Any such particular may, except in so far as Part 2 of Schedule 1 otherwise provides, be included in the financial statements by way of note or otherwise.
- (3) The requirements of this clause are in addition to any other matters necessary to exhibit a true and fair view of the financial position and transactions of the body.

9 Rounding off

If appropriate, all amounts shown in the financial statement of a statutory body may be expressed by reference to the nearest \$1,000.

Clause 10 Public Finance and Audit Regulation 2005

Part 3 Statutory bodies

10 Exclusion of budget information from certain financial statements submitted for certification

- (1) The financial statements of a statutory body submitted under section 41A of the Act to the Auditor-General for verification and certification must not include or be accompanied by a budget of the statutory body or any budget information.
- (2) Subclause (1) does not apply to the financial statements of a statutory body if the statutory body is required by or under the Act (including by a condition of exemption granted under the Act or a direction of the Treasurer under the Act) to include a budget or budget information in those statements.

11 Certification

For the purposes of section 41C (1B) of the Act, the following matters are required to be included in a statement required under that subsection:

- (a) a statement as to whether, in the opinion of the person or persons who are to sign the statement, the financial statements have been prepared in accordance with the provisions of the Act, this Regulation and the Treasurer's directions,
- (b) a statement as to whether each person who is to sign the statement is aware, as at the date on which the person signs the statement, of any circumstances that would render any particulars included in the financial statements misleading or inaccurate.

12 Exemptions

- (1) The Treasurer may, on application by a statutory body made at any time, grant an exemption from any or all of the provisions of this Part (this clause excepted), in relation to the financial statements of the body for a particular financial year.
- (2) An exemption may be granted subject to such conditions as the Treasurer may determine.
- (3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the statutory body to which the exemption was granted.
- (4) Details of an exemption, and the reasons for the exemption, must be included as a separate note in the notes to the financial statements for the financial year in which the exemption applies.

Public Finance and Audit Regulation 2005

Clause 13

Miscellaneous

Part 4

Part 4 Miscellaneous

13 Prescribed investments

- (1) For the purposes of section 20 (e) of the Act, the following investments are prescribed:
- (a) a promissory note made by:
 - (i) a statutory body constituted under an Act of the Commonwealth or a State, or
 - (ii) an eligible company,
 - (b) a loan of money on the security of a letter of credit which is confirmed by an authorised deposit taking institution,
 - (c) an advance to an authorised deposit taking institution or an eligible company secured by such legally enforceable documents or other security as the Secretary of the Treasury or an officer of the Treasury authorised by the Secretary for the purpose may approve,
 - (d) future contracts traded on the Sydney Futures Exchange Limited,
 - (e) forward rate agreements complying with the publication of the Australian Bankers' Association entitled *The Australian Dollar Forward Rate Agreements Recommended Terms and Conditions*,
 - (f) option contracts traded on the Sydney Futures Exchange Limited,
 - (g) option contracts with an authorised deposit taking institution or an eligible company or with a statutory body constituted under an Act of the Commonwealth or of a State,
 - (h) securities the repayment of which is guaranteed by the Government of a State,
 - (i) deposits with the New South Wales Treasury Corporation, including investments in an Hour-Glass investment facility of the Treasury Corporation (being a unit trust scheme within the meaning of the *Duties Act 1997*),
 - (j) the purchase and sale prior to, and at, maturity of an investment prescribed by any of the preceding paragraphs.
- (2) The Treasurer may:
- (a) nominate the prescribed investments, if any, in which money must be invested, and
 - (b) determine the amount of money that must be invested in each prescribed investment so nominated.

Clause 14 Public Finance and Audit Regulation 2005

Part 4 Miscellaneous

(3) In this clause:

eligible company means:

- (a) a company that is accredited with a rating of between “AAA” and “AA” by Standard & Poor’s (Australia) Pty Ltd or is accredited with a rating of between “Aaa” and “Aa” by Moody’s Investors Service Inc, or
- (b) a company whose liabilities are unconditionally guaranteed by a company to which paragraph (a) applies.

14 Definitions of “authority” and “officer of an authority”

- (1) For the purposes of the definition of **authority** in section 4 (1) of the Act, the Police Service is prescribed.
- (2) For the purposes of the definition of **officer of an authority** in section 4 (1) of the Act, a member of the Police Service is a prescribed person in relation to the Police Service.
- (3) For the purposes of the definition of **officer of an authority** in section 4 (1) of the Act, a person specified in Column 2 of the Table to this subclause is a prescribed person in relation to the authority specified opposite the person in Column 1 of the Table.

Table

Column 1	Column 2
Department of Ageing, Disability and Home Care	The President and Deputy President of the Guardianship Tribunal under the <i>Guardianship Act 1987</i>
Department of Health	An employee of an area health service specified in Schedule 1 to the <i>Health Services Act 1997</i>
Department of Health	An employee of a public hospital within the meaning of the <i>Health Services Act 1997</i>
Department of Local Government	An employee belonging to the Department of Gaming and Racing

- (4) For the purposes of the definition of **officer of an authority** in section 4 (1) of the Act, the persons holding the positions in the Central Corporate Services Unit, Department of Commerce that are specified in Part A of the Table to this subclause are prescribed as officers in relation to the authorities specified in Part B of that Table, but only for the purposes of exercising functions under sections 12 and 13 of the Act.

Public Finance and Audit Regulation 2005

Clause 14

Miscellaneous

Part 4

Table

Part A

Manager, Financial Services
 Team Leader
 Senior Budget/Finance Officer
 Senior Finance Officer
 Finance Officer
 Senior Accounts Officer
 General Manager
 Manager, Accounting Services
 Client Services Manager
 Accountant
 Treasury Reporting Supervisor
 Senior Support Officer
 Support Officer
 Accounts Payable Supervisor
 Accounts Receivable Supervisor
 Banking Supervisor
 Assistant Accountant

Part B

The Treasury
 The Cabinet Office
 Premier's Department
 Parliamentary Counsel's Office
 Department of Aboriginal Affairs
 Aboriginal Housing Office
 Ministry for the Arts
 Heritage Office
 Department of State and Regional Development
 Independent Pricing and Regulatory Tribunal
 Minister administering the *Heritage Act 1977* (a corporation)
 Commission for Children and Young People
 Ministerial Corporation for Industry
 Small Business Development Corporation of New South Wales
 Festival Development Corporation
 Office of the Children's Guardian
 Department of Energy, Utilities and Sustainability
 Ministry for Science and Medical Research
 Natural Resources Commission

- (5) For the purposes of the definition of *officer of an authority* in section 4 (1) of the Act, a public servant employed in the Department of Housing is a prescribed person (in addition to the persons referred to in

Clause 14	Public Finance and Audit Regulation 2005
Part 4	Miscellaneous

subclause (4)) in relation to the Aboriginal Housing Office, but only for the purposes of exercising functions under sections 12 and 13 of the Act.

- (6) For the purposes of the definition of *officer of an authority* in section 4 (1) of the Act, an officer of the Department of Community Services is a prescribed person in relation to the Department of Ageing, Disability and Home Care, but only for the purposes of exercising functions under sections 12 and 13 of the Act.
- (7) For the purposes of the definition of *officer of an authority* in section 4 (1) of the Act, the following are prescribed persons in relation to the State Rail Authority, but only for the purposes of exercising functions under sections 12 and 13 of the Act:
- (a) an employee of RailCorp New South Wales,
 - (b) an employee of Transport Infrastructure Development Corporation,
 - (c) a member of staff of the Ministry of Transport.
- (8) For the purposes of the definition of *officer of an authority* in section 4 (1) of the Act, the persons holding the positions in the Shared Services Group that are specified in Part A of the Table to this subclause are prescribed as officers in relation to the authorities specified in Part B of that Table, but only for the purposes of exercising functions under sections 12 and 13 of the Act.

Table

Part A

Director VSA Shared Services
 Manager VSA Finance Services
 Senior Accountant
 Systems Accountant
 Accountant and Client Service Officer
 Compliance Accountant
 Accounts Supervisor
 Manager VSA HR Services
 Employee Services Manager
 HR Client Services Officer
 Learning and Development Coordinator
 Payroll Services Coordinator/System Administrator
 OHS Coordinator
 Manager VSA IT Services
 IT Contract and Client Service Manager
 IT Project and Client Service Coordinator

Public Finance and Audit Regulation 2005

Clause 14

Miscellaneous

Part 4

Part B

Tourism New South Wales
 Royal Botanic Gardens and Domain Trust
 Centennial Park and Moore Park Trust

- (9) In subclause (8):
Shared Services Group means the Shared Services Group, established under the Co-operation Agreement, for the VSA Shared Services Arrangement, Version 4, dated 1 August 2002, between Tourism New South Wales, Royal Botanic Gardens and Domain Trust and the Centennial Park and Moore Park Trust.
- (10) For the purposes of the definition of ***officer of an authority*** in section 4 (1) of the Act, an officer of NSWbusinesslink is a prescribed person in relation to the Department of Ageing, Disability and Home Care, the Department of Community Services, the Department of Housing and the Home Care Service of New South Wales, but only for the purposes of exercising functions under sections 12 and 13 of the Act.
- (11) For the purposes of the definition of ***officer of an authority*** in section 4 (1) of the Act, a member of staff of the Department of Environment and Conservation is a prescribed person in relation to the Environment Protection Authority and the Royal Botanic Gardens and Domain Trust (in addition to the persons referred to in subclause (8)), but only for the purposes of exercising functions under sections 12 and 13 of the Act.
- (12) For the purposes of the definition of ***officer of an authority*** in section 4 (1) of the Act, an officer of the Treasury is a prescribed person in relation to the Liability Management Ministerial Corporation and the Electricity Tariff Equalisation Ministerial Corporation, but only for the purposes of exercising functions under sections 12 and 13 of the Act.
- (13) For the purposes of the definition of ***officer of an authority*** in section 4 (1) of the Act, the persons holding the public offices specified in the Table to this subclause are prescribed as officers in relation to the Office of the Director of Public Prosecutions, but only for the purposes of exercising functions under sections 12 and 13 of the Act.

Table

Director of Public Prosecutions
 Deputy Director of Public Prosecutions
 Solicitor for Public Prosecutions
 Senior Crown Prosecutor
 Deputy Senior Crown Prosecutor
 Crown Prosecutor

Clause 15	Public Finance and Audit Regulation 2005
Part 4	Miscellaneous

- (14) For the purposes of the definition of *officer of an authority* in section 4 (1) of the Act, the persons holding the positions in the Department of Primary Industries specified in the Table to this subclause are prescribed as officers in relation to the Game Council of New South Wales, but only for the purposes of exercising functions under sections 12 and 13 of the Act:

Table

Director, Finance and Administration
 Director, Human Resources
 Human Resources Manager
 Finance Manager
 Administration Operations Manager
 Finance Officer, Reporting
 Accounts Payable/Accounts Receivable Manager
 Management Accounting Officer
 Business Management Accountant
 P-Card Administrator
 Assistant Finance Officer
 Budget Accountant

15 Payment of accounts

- (1) This clause applies to a contract entered into by or on behalf of an authority for the supply of goods or services (or both) to the authority.
- (2) The Head of an authority must nominate the holder of a position within the staff establishment of the authority to be the accounts complaints officer for the authority.
- (3) An order form issued by an authority must include:
- a statement to the effect that, if a payment is not made within the time determined in accordance with subclause (4), the supplier should take the matter up with the accounts complaints officer for the authority, and
 - the telephone number of the accounts complaints officer, and
 - a statement that the Head of the authority may award penalty interest if the payment is not made within the time determined in accordance with subclause (4).
- (4) The Head of an authority is to ensure that:
- if a contract to which this clause applies provides for the time of a payment and the contract is properly performed by the supplier—the payment is made by that time, or
 - if a contract to which this clause applies does not provide for the time of a payment and the contract is properly performed by the

Public Finance and Audit Regulation 2005

Clause 16

Miscellaneous

Part 4

supplier—payment is made by the end of the month following the month in which an invoice or statement from the supplier is received.

- (5) If a payment is not made within the time determined in accordance with subclause (4), the Head of the authority (or a person appointed by the Head of the authority) may direct that the supplier be paid interest on the amount not paid within that time, from that time until the time of payment and at a rate of up to 20% per annum, unless a greater amount is payable under the contract in respect of the default in payment.
- (6) An interest payment under this clause must be met from within the authority's approved budget.

16 Persons, groups, bodies, entities declared not to be statutory bodies

For the purposes of section 39 (1B) of the Act, the following persons, groups of persons, bodies or entities are declared not to be statutory bodies for the purposes of Division 3 of Part 3 of the Act:

- (a) New South Wales Non-Budget Long Service Leave Pool,
 (b) New South Wales Structured Finance Activities.

17 Prescribed statutory bodies under Division 4 of Part 3 of the Act

- (1) For the purposes of section 44 (1) of the Act, the following persons, groups of persons or bodies are prescribed for the purposes of Division 4 of Part 3 of the Act:
- (a) Agricultural Scientific Collections Trust,
 (b) The trustees for the time being of The Art Gallery of New South Wales Foundation,
 (c) The trustees for the time being of each state recreation area reserved under the *National Parks and Wildlife Act 1974*,
 (d) Dumaresq-Barwon Border Rivers Commission,
 (e) C B Alexander Foundation,
 (f) Australia Day Council (New South Wales),
 (g) Area health services within the meaning of the *Health Services Act 1997*,
 (h) Trustees of the Farrer Memorial Research Scholarship Fund,
 (i) Trustee of the Home Purchase Assistance Fund,
 (j) Minister administering the *Environmental Planning and Assessment Act 1979* (a corporation),
 (k) Minister administering the *Heritage Act 1977* (a corporation),
 (l) NSW Insurance Ministerial Corporation,

Clause 17 Public Finance and Audit Regulation 2005

Part 4 Miscellaneous

- (m) Ambulance Service of New South Wales,
- (n) UNILINC Limited,
- (o) Office of the Minister for Public Works and Services,
- (p) Uniprojects Pty Limited,
- (q) Universities Admissions Centre (NSW & ACT) Pty Limited,
- (r) Cowra Japanese Garden Maintenance Foundation Limited,
- (s) Cowra Japanese Garden Trust,
- (t) Belgenny Farm Agricultural Heritage Centre Trust,
- (u) The trustees for the time being of each superannuation scheme established by a trust deed as referred to in section 127 of the *Superannuation Administration Act 1996*,
- (v) Bligh Park Estate Joint Venture,
- (w) Gosford City Council, being a Water Supply Authority listed in Schedule 3 to the *Water Management Act 2000*,
- (x) Wyong Council, being a Water Supply Authority listed in Schedule 3 to the *Water Management Act 2000*,
- (y) Kings Bay Five Dock Project, being the joint venture for the development of an Urban Design Project at Five Dock,
- (z) Superannuation Services Company Pty Limited,
- (aa) Blacksmiths Project Joint Venture, being the joint venture for the development of an Urban Design Project at Blacksmiths,
- (ab) West Pennant Hills Project Joint Venture,
- (ac) Quakers Hill Project Joint Venture,
- (ad) Oatlands Project Joint Venture,
- (ae) East Fairfield Project Joint Venture,
- (af) Stormwater Trust,
- (ag) Jannali Project Joint Venture,
- (ah) Zetland Project Joint Venture,
- (ai) Games Information Services Pty Ltd,
- (aj) The Australian Institute of Asian Culture and Visual Arts Limited,
- (ak) State Super Financial Services Ltd,
- (al) Valley Commerce Pty Ltd,
- (am) Buroba Pty Ltd,
- (an) Elsun Pty Limited,
- (ao) The Brett Whiteley Foundation,

Public Finance and Audit Regulation 2005

Clause 17

Miscellaneous

Part 4

-
- (ap) Coffs Harbour Technology Park Ltd,
 - (aq) Eif Pty Limited,
 - (ar) Little Bay Joint Venture, being the joint venture relating to property development at Little Bay between Landcom and Little Bay Developments Pty Ltd,
 - (as) NSW Fire Brigades Superannuation Pty Limited,
 - (at) NSW Businesslink Pty Limited.
- (2) For the purposes of section 44 (1) of the Act, the following funds or accounts are prescribed for the purposes of Division 4 of Part 3 of the Act:
- (a) ICAC Superannuation Fund,
 - (b) Public Sector Executives Superannuation Plan,
 - (c) University of Sydney Professorial Superannuation Scheme,
 - (d) University of Sydney Short Term Academic and Other Special Appointments Superannuation Scheme,
 - (e) Macquarie University Professorial Superannuation Scheme,
 - (f) University of Newcastle Staff Superannuation Scheme,
 - (g) Waste Planning and Management Fund,
 - (h) First State Superannuation Fund,
 - (i) the superannuation fund amalgamated under the *Superannuation Administration Act 1991* and continued to be amalgamated under the *Superannuation Administration Act 1996*,
 - (j) State Super Personal Retirement Plan established by State Super Personal Retirement Plan Trust Deed dated 3 April 1990,
 - (k) State Super Investment Fund established by State Super Investment Fund—Cash Fund Constitution dated 22 November 1991, State Super Investment Fund—Capital Stable Fund Constitution dated 22 November 1991, State Super Investment Fund—Balanced Fund Constitution dated 22 November 1991 and State Super Investment Fund—Growth Fund Constitution dated 24 April 1997,
 - (l) State Super Allocated Pension Fund established by State Super Allocated Pension Fund Trust Deed dated 23 November 1993,
 - (m) State Super Fixed Term Pension Plan established by State Super Fixed Term Pension Plan Trust Deed dated 14 July 1999,
 - (n) Energy Investment Fund,
 - (o) Crown Employees (NSW Fire Brigades Fire Fighting Staff Death and Disability) Superannuation Fund.

Clause 18 Public Finance and Audit Regulation 2005

Part 4 Miscellaneous

- (3) For the purposes of section 45 of the Act:
- (a) any trustee of the ICAC Superannuation Fund is prescribed in relation to the Trustees of that Fund, and
 - (b) any trustee of the Public Sector Executives Superannuation Plan is prescribed in relation to the Trustees of that Plan.

18 Particular audit of the NSW Treasury Managed Fund

For the purposes of section 44 (1) of the Act, the NSW Treasury Managed Fund is prescribed for the purposes of Division 4 of Part 3 of the Act.

19 Statutory authorities liable to pay dividends to Consolidated Fund

For the purposes of section 59B of the Act, the statutory authorities specified in Schedule 2 to the Act are prescribed.

20 Authorised communication concerning Powercoal

- (1) The Auditor-General is authorised to communicate to the Treasurer and to any person authorised by the Treasurer for the purposes of this clause any matter or thing that has come to the knowledge of the Auditor-General in respect of Powercoal Pty Ltd in the exercise of the functions of the Auditor-General under the Act and the prescribed requirements.
- (2) Any such communication is authorised for the purposes of section 38 (2) (d) of the Act.

21 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Public Finance and Audit Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Public Finance and Audit Regulation 2005

Information to be included in financial statements of statutory bodies

Schedule 1

Schedule 1 Information to be included in financial statements of statutory bodies

(Clauses 7 and 8)

Part 1 Income and expenditure information

- 1 The amount of emoluments or other benefits paid or due and payable, directly or indirectly, to members or directors (however described) of the body, but not including amounts paid by way of salary to full-time members or directors of the body.
- 2 The total amounts paid or becoming payable to consultants engaged by the statutory body (other than the Public Trustee or the Senate or Council of a university) during the financial year.

Part 2 Balance sheet information

- 3 The description and amount of loans, advances or money otherwise due to the body by members or directors (however described) of the body, or officers or employees of the body holding executive decision-making positions, or relatives of those members, directors, officers or employees, but not including loans, advances or money otherwise due for the purpose of carrying out official duties, such as travelling advances and the like.
- 4 The description and amount of loans, advances or money otherwise due to the body by a corporation, a director of which is a member or director (however described) of the body, or an officer or employee of the body holding an executive decision-making position.



New South Wales

Protected Estates Amendment (Missing Persons) Regulation 2005

under the

Protected Estates Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protected Estates Act 1983*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to amend the *Protected Estates Regulation 2003* to enable the Protective Commissioner to take into account relevant information provided by the Commissioner of Police for the purpose of being satisfied that a protected missing person is alive and terminating management of that person's estate by the Protective Commissioner.

This Regulation is made under the *Protected Estates Act 1983*, including sections 38A (2) and 81 (the general regulation-making power).

Clause 1 Protected Estates Amendment (Missing Persons) Regulation 2005

Protected Estates Amendment (Missing Persons) Regulation 2005

under the

Protected Estates Act 1983

1 Name of Regulation

This Regulation is the *Protected Estates Amendment (Missing Persons) Regulation 2005*.

2 Amendment of Protected Estates Regulation 2003

The *Protected Estates Regulation 2003* is amended as set out in Schedule 1.

Protected Estates Amendment (Missing Persons) Regulation 2005

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 2)

Clause 10A

Insert after clause 10:

10A Information that missing person is alive

For the purposes of section 38A (2) of the Act, the Protective Commissioner may take into account any relevant information provided by the Commissioner of Police for the purposes of being satisfied that a protected missing person is alive.



New South Wales

Protection of the Environment Operations (Penalty Notices) Amendment (Clean Air) Regulation 2005

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

The object of this Regulation is to amend the *Protection of the Environment (Penalty Notices) Regulation 2004* as a consequence of the repeal of the *Clean Air (Plant and Equipment) Regulation 1997* and the transfer of its provisions to the *Protection of the Environment Operations (Clean Air) Regulation 2002*.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including section 295 (the general power to make regulations) and section 221 (penalty notices and related proceedings).

Clause 1 Protection of the Environment Operations (Penalty Notices) Amendment
 (Clean Air) Regulation 2005

Protection of the Environment Operations (Penalty Notices) Amendment (Clean Air) Regulation 2005

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Amendment (Clean Air) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004

The *Protection of the Environment Operations (Penalty Notices) Regulation 2004* is amended as set out in Schedule 1.

Protection of the Environment Operations (Penalty Notices) Amendment
(Clean Air) Regulation 2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Schedule 1 Penalty notice offences

Omit the matter relating to the *Clean Air (Plant and Equipment) Regulation 1997*.

[2] Schedule 1

Insert at the end of the matter relating to the *Protection of the Environment (Clean Air) Regulation 2002*, in Columns 1, 2 and 3, respectively:

Clause 37	2A	\$600
Clause 48 (1)	2A	\$600
Clause 48 (2)	2A	\$600
Clause 53 (2)	2A	\$600
Clause 54 (2)	2A	\$600
Clause 54 (3)	2A	\$600
Clause 54 (4)	2A	\$600
Clause 55 (1)	2A	\$600
Clause 55 (2)	2A	\$600



New South Wales

Transport Administration (General) Regulation 2005

under the

Transport Administration Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Transport Administration Act 1988*.

JOHN WATKINS, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to replace, without alteration to its general substance but with some re-ordering of its Parts and the omission of certain spent provisions, the provisions of the *Transport Administration (General) Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) traffic control on land that is vested in Rail Corporation New South Wales, Sydney Ferries or the State Transit Authority (Part 2),
- (b) Western Sydney Buses (Part 3),
- (c) leases, licences and other arrangements relating to the Australian Rail Track Corporation and the staff of that Corporation (Part 4),
- (d) penalty notices (Part 5 and Schedule 1),
- (e) formal, miscellaneous and ancillary matters (Parts 1 and 6).

This Regulation is made under the *Transport Administration Act 1988*, including section 119 (the general regulation-making power) and the other sections referred to in the Regulation.

Transport Administration (General) Regulation 2005

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Transport Administration (General) Regulation 2005

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Clause 1	Transport Administration (General) Regulation 2005
Part 1	Preliminary

Transport Administration (General) Regulation 2005

under the

Transport Administration Act 1988

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Transport Administration (General) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Transport Administration (General) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

drive includes ride or draw a vehicle and ride or lead an animal.

former Regulation means the *Transport Administration (General) Regulation 2000*.

RailCorp land means land vested in RailCorp.

relevant Authority means:

- (a) RailCorp, in relation to RailCorp land, or
- (b) the STA, in relation to STA land, or
- (c) Sydney Ferries, in relation to Sydney Ferries land.

RTA means the Roads and Traffic Authority.

STA means the State Transit Authority.

STA land means land vested in the STA.

Sydney Ferries land means land vested in Sydney Ferries.

the Act means the *Transport Administration Act 1988*.

Transport Administration (General) Regulation 2005

Clause 3

Preliminary

Part 1

traffic control device means a sign, signal, marking or other device:

- (a) that is in or similar to the form of a prescribed traffic control device under the *Road Transport (Safety and Traffic Management) Act 1999*, and
- (b) that is erected, displayed or marked on RailCorp, Sydney Ferries or STA land by order of the relevant authority.

traffic control officer means:

- (a) a police officer, or
- (b) a person or a member of a class of persons appointed in writing by the chief executive officer of RailCorp, in relation to RailCorp land, or
- (c) a person or a member of a class of persons appointed in writing by the Chief Executive of the STA, in relation to STA land, or
- (d) a person or a member of a class of persons appointed in writing by the chief executive officer of Sydney Ferries, in relation to Sydney Ferries land.

vehicle includes a bicycle, but does not include any vehicle used on railway lines.

- (2) Notes included in this Regulation do not form part of this Regulation.

Clause 4	Transport Administration (General) Regulation 2005
Part 2	Traffic control

Part 2 Traffic control

4 Traffic control devices

- (1) Words appearing on a traffic control device have the same meanings as they have on prescribed traffic control devices under the *Road Transport (Safety and Traffic Management) Act 1999*.
- (2) The words “receipt and delivery zone” on a traffic control device have the same meaning as “loading zone” has in Rule 179 of the *Australian Road Rules*.

5 Powers of traffic control officers and duties of drivers

- (1) The driver of a vehicle on RailCorp, Sydney Ferries or STA land must give to a traffic control officer such information regarding the standing or parking of the vehicle on the land as the officer requires.
Maximum penalty: 2 penalty units.
- (2) A traffic control officer may direct the driver of a vehicle standing or parking on RailCorp, Sydney Ferries or STA land:
 - (a) that the vehicle not stand or be parked in an area or a part of an area on the land, or
 - (b) that the vehicle be removed from an area or a part of an area on the land, or
 - (c) that the vehicle be moved to a particular position, stand or be parked in a particular location or join a particular line of vehicles on the land, or
 - (d) otherwise relating in any way to the standing or parking of the vehicle on the land.
- (3) The driver of a vehicle to whom such a direction is given must not fail to comply with the direction.
Maximum penalty: 2 penalty units.

6 Parking of vehicles only in parking areas

- (1) A person must not cause a vehicle to stand or be parked on RailCorp, Sydney Ferries or STA land:
 - (a) on which there is no traffic control device erected, displayed or marked, or
 - (b) on which there is no other sign erected, displayed or marked by order of the relevant Authority permitting the standing or parking of vehicles.
Maximum penalty: 2 penalty units.

Transport Administration (General) Regulation 2005

Clause 7

Traffic control

Part 2

-
- (2) This clause does not prohibit:
- (a) the standing of a vehicle while it is actually engaged in taking up or setting down goods, or while any person is actually entering or alighting from it, or
 - (b) the standing or parking of a vehicle as directed or authorised by a traffic control officer.

7 Parking contrary to traffic control devices

- (1) A person must not, on RailCorp, Sydney Ferries or STA land, cause a vehicle to stand or be parked in contravention of the direction appearing on, or represented by, any traffic control device that is erected, displayed or marked on that land.
Maximum penalty: 2 penalty units.
- (2) This clause does not prohibit the standing or parking of a vehicle as directed or authorised by a traffic control officer.

8 False representation

A person must not falsely represent:

- (a) that he or she or any other person is a traffic control officer exercising the powers of a traffic control officer under this Regulation, or
- (b) that a notice or sign is erected, displayed or marked on RailCorp, Sydney Ferries or STA land by order of the relevant Authority, or
- (c) that a direction relating to the standing, waiting or parking of a vehicle on RailCorp, Sydney Ferries or STA land has been given by a traffic control officer.

Maximum penalty: 2 penalty units.

9 Prescribed traffic control facilities

For the purposes of paragraph (b) (ii) of the definition of *traffic control facility* in section 45E (1) of the Act, the road transport legislation within the meaning of the *Road Transport (General) Act 1999* is prescribed.

Clause 10	Transport Administration (General) Regulation 2005
Part 3	Western Sydney Buses

Part 3 Western Sydney Buses

10 Definitions

In this Part:

Liverpool-Parramatta Transitway means the transitway service operating between Liverpool and Parramatta.

transitway service has the same meaning as it has in the *Passenger Transport Act 1990*.

Western Sydney Buses means the body corporate of that name constituted under section 33 of the Act by the former Regulation.

11 Continuation of Western Sydney Buses

The body corporate with the corporate name of Western Sydney Buses is continued in existence by this Regulation.

12 Functions of Western Sydney Buses

- (1) Western Sydney Buses has all the functions of the STA with respect to the operation of the Liverpool-Parramatta Transitway.
- (2) The provisions of section 24 (Miscellaneous functions of STA) of the Act apply to and in respect of Western Sydney Buses in the same way as they apply to and in respect of the STA, but only so as to confer functions on Western Sydney Buses for the purpose of enabling it to exercise its functions under subclause (1).

Note. Section 33 (Public subsidiary corporations) of the Act provides that a public subsidiary corporation has such of the functions of the State Transit Authority as are specified in the regulations or delegated to it under the Act. Western Sydney Buses is such a corporation.

13 Manager

- (1) The Chief Executive of the STA is to appoint a person as the Manager of Western Sydney Buses. That person must be a person who is employed under section 60 of the Act.
- (2) The affairs of Western Sydney Buses are to be managed and controlled by the Manager in accordance with the policies of the STA and the directions of the Chief Executive Officer of the STA.
- (3) Any act, matter or thing done in the name of, or on behalf of, Western Sydney Buses by the Manager is taken to have been done by Western Sydney Buses.

Transport Administration (General) Regulation 2005

Clause 14

Western Sydney Buses

Part 3

14 Ministerial control

- (1) The provisions of section 29 (Ministerial control) of the Act apply to and in respect of Western Sydney Buses in the same way as those provisions apply to and in respect of the State Transit Authority.
- (2) In its application to and in respect of Western Sydney Buses, section 29 of the Act is to be read as if a reference in that section to the Chief Executive of the State Transit Authority included a reference to the Manager of Western Sydney Buses, so that the Manager of Western Sydney Buses has the same obligations as the Chief Executive of the State Transit Authority to ensure compliance with directions under that section with respect to Western Sydney Buses.

15 Staff

- (1) Such staff as are necessary for the purposes of this Part may be employed under sections 60 (Employment of staff) and 61 (Salary, conditions etc of staff) of the Act.
- (2) Western Sydney Buses may arrange for the use of the services of any staff or facilities of the STA. A person whose services are made use of under this clause remains a member of staff of the STA.
- (3) Section 60 of the Act applies in respect of Western Sydney Buses as if Western Sydney Buses formed part of the State Transit Authority, so as to authorise the employment of staff to enable Western Sydney Buses to exercise its functions.

16 Financial provisions

- (1) The provisions of Divisions 2 (Financial provisions relating to State Transit Authority) and 4 (Financial provisions relating to Authorities generally) of Part 8 of the Act apply to and in respect of Western Sydney Buses as if a reference in those provisions to the State Transit Authority or to an Authority included a reference to Western Sydney Buses, but not so as to authorise or require the establishment of any fund in addition to the State Transit Authority Fund.
- (2) For the purposes of the application of section 76 (Payment of dividend to Treasurer) of the Act to Western Sydney Buses, the reference in that section to the Minister is taken to be a reference to the STA.

17 Sale, lease or other disposal of land

Section 100 (Sale, lease or other disposal of land) of the Act applies in respect of Western Sydney Buses so as to authorise Western Sydney Buses to sell, lease or otherwise dispose of any of its land, with the approval of the Minister.

Clause 18	Transport Administration (General) Regulation 2005
Part 3	Western Sydney Buses

18 Protection from liability

The provisions of section 112 (Personal liability of certain persons) of the Act apply to and in respect of Western Sydney Buses as if a reference in those provisions to the Chief Executive of the State Transit Authority included a reference to the Manager of Western Sydney Buses.

19 Application of other provisions of Act to Western Sydney Buses

The following provisions of the Act apply to and in respect of Western Sydney Buses in the same way as they apply to and in respect of the State Transit Authority:

- (a) section 30 (STA to supply information to Minister),
- (b) section 35 (Delegation of functions of STA),
- (c) section 115 (Recovery of charges etc by transport authority).

20 Application of other Acts to Western Sydney Buses

- (1) The provisions of or made under any Act other than the *Transport Administration Act 1988* apply to and in respect of Western Sydney Buses as if a reference in those provisions to the State Transit Authority included a reference to Western Sydney Buses, except as provided by subclause (2).
- (2) The provisions of or made under the following Acts apply to and in respect of Western Sydney Buses as if Western Sydney Buses formed part of the STA and as though the exercise of functions by and operations of Western Sydney Buses were the exercise of functions by and operations of the STA:
 - (a) *Public Finance and Audit Act 1983*,
 - (b) *Public Authorities (Financial Arrangements) Act 1987*,
 - (c) *Annual Reports (Statutory Bodies) Act 1984*.

21 Effect of transfer of assets, rights and liabilities

- (1) This clause applies to the transfer to or by Western Sydney Buses of any asset, right or liability under section 33 (5) of the Act, unless the instrument of transfer provides that this clause is not to apply to the transfer.
- (2) The following provisions have effect in relation to a transfer of any asset, right or liability:
 - (a) the asset vests in the transferee by virtue of this clause and without the need for any transfer, conveyance or assignment,

Transport Administration (General) Regulation 2005

Clause 21

Western Sydney Buses

Part 3

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- (b) the right or liability becomes by virtue of this clause the right or liability of the transferee,
 - (c) all proceedings relating to the asset, right or liability commenced before the transfer by or against the transferor pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
 - (d) any act, matter or thing done or omitted to be done in relation to the asset, right or liability before the transfer by, to or in respect of the transferor is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
 - (e) a reference in any instrument made under any Act (other than the *Transport Administration Act 1988*) or in any document of any kind to the transferor is (to the extent that it relates to the asset, right or liability, but subject to this clause) to be read as, or as including, a reference to the transferee.
- (3) The operation of this clause is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to a contract or instrument, or as causing or permitting the termination of any contract or instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
 - (d) as an event of default under any contract or instrument.
- (4) No attornment to the transferee by a lessee from the transferor is required.

Clause 22 Transport Administration (General) Regulation 2005

Part 4 ARTC arrangements

Part 4 ARTC arrangements

22 Interpretation

(1) In this Part:

local government rate means a rate levied by a council under the *Local Government Act 1993*, but does not include a charge levied by a council on land.

temporary member of staff of ARTC means a member of staff of a rail authority who is temporarily placed with ARTC under Division 5 of Part 8A of the Act.

transferring rail authority means the rail authority from which a temporary member of staff of ARTC is temporarily placed with ARTC under Division 5 of Part 8A of the Act.

work injury damages has the same meaning as it has in section 88ZA of the Act.

(2) Other words and expressions used in this Part have the same meanings as they have in Part 8A of the Act.

23 Exemptions from duty

(1) Duty under the *Duties Act 1997* is not chargeable in respect of any of the following arrangements, or any variation of any such arrangement:

- (a) a lease or licence or other agreement under section 88B of the Act,
- (b) a memorandum of understanding to enter into an agreement for a lease or licence under section 88B of the Act,
- (c) an agreement under section 88C of the Act,
- (d) an arrangement under section 88D of the Act or a memorandum of understanding to enter into any such arrangement,
- (e) an agreement for the sale by a rail authority to ARTC of plant, machinery, equipment, stores or consumables,
- (f) an agreement under section 88U of the Act and any associated agreement between a rail authority and ARTC,
- (g) an agreement between New South Wales, the Commonwealth and ARTC relating to the leasing of, and other arrangements for, the NSW rail network,
- (h) any other agreement entered into by ARTC and a rail authority with each other, or by ARTC and a rail authority with New South Wales or the Commonwealth (or both of them), to give effect to an ARTC arrangement,

Transport Administration (General) Regulation 2005

Clause 24

ARTC arrangements

Part 4

- (i) any other agreement entered into by a rail authority with New South Wales or the Commonwealth to give effect to an ARTC arrangement.
- (2) Duty under the *Duties Act 1997* is not chargeable in respect of an application for registration of a motor vehicle by ARTC if the application results from a transfer of ownership of the vehicle to ARTC in connection with an ARTC arrangement and the transfer occurs not later than 2 September 2005.

Note. The provision equivalent to clause 23 (2) was inserted in the former Regulation on 3 September 2004 and contained the proviso that the transfer occur "not later than 12 months after the commencement of this subclause".

24 Exemptions from land tax and rates

- (1) This clause applies to land subject to an ARTC lease or licence (being land that is not otherwise exempt from land tax or local government rates) if:
 - (a) rail infrastructure facilities are installed in, on or over the land or it is vacant land, or
 - (b) the land is used primarily for railway purposes.
- (2) To avoid doubt, this clause applies to land referred to in subclause (1) that is leased by ARTC to another person.
- (3) In this clause, *railway purposes* include:
 - (a) the operation and maintenance of the NSW rail network, and
 - (b) stations and platforms, and
 - (c) office buildings used in association with railway purposes, and
 - (d) purposes ancillary to any railway purposes,
 but do not include rolling stock maintenance facilities, freight centres or depots or related facilities.
- (4) Land tax is not payable by ARTC in relation to land to which this clause applies.
- (5) Local government rates are not payable in relation to land to which this clause applies.

25 Limitation on liability of ARTC for common law damages

- (1) For the purposes of section 88ZA (2) of the Act, the provisions of the *Workers Compensation Act 1987* set out in subclause (3) (*the applied common law provisions*) apply both to work injury damages recoverable from ARTC, and to work injury damages recoverable from the transferring rail authority, by or in respect of a temporary member of staff of ARTC.

Clause 26 Transport Administration (General) Regulation 2005

Part 4 ARTC arrangements

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- (2) The provisions so apply as if ARTC were an employer of the member of staff in addition to the transferring rail authority.
 - (3) The applied common law provisions are as follows:
 - (a) Divisions 1, 2 and 3 of Part 5,
 - (b) section 151Z.
 - (4) Sections 151A, 151C, 151D and 151Z of the *Workers Compensation Act 1987* apply to or in respect of ARTC as if it were an employer liable to pay compensation under that Act.
 - (5) Section 151I of the *Workers Compensation Act 1987* applies to work injury damages recoverable from ARTC as if the following subsection were inserted after section 151I (3):
 - (4) In awarding damages in respect of an injured or deceased worker, the court is to reduce the amount otherwise payable under this section by ARTC by the amount of any damages recovered or recoverable from the transferring rail authority.

26 ARTC to be endorsed on self-insurer licences

- (1) For the purposes of section 88ZA (1) (d) and (e), (3) and (4) of the Act, section 211A of the *Workers Compensation Act 1987* applies to ARTC as if it were a wholly owned subsidiary of any rail authority that has employees who are temporary members of staff of ARTC.
- (2) For that purpose, section 211A (1) of that Act is modified to require the WorkCover Authority to endorse the name of ARTC on a self-insurer licence granted to any such rail authority, if requested to do so by the rail authority and ARTC.
- (3) On endorsement on the self-insurer licence, ARTC has all the functions under that Act of a wholly owned subsidiary that is endorsed on the self-insurer licence of a rail authority, but only to the extent that they relate to temporary members of staff of ARTC.
- (4) Any such endorsement is taken to have effect on and from the first date on which employees of the rail authority became temporary members of staff of ARTC.
- (5) In this clause:

rail authority means Rail Infrastructure Corporation, the State Rail Authority or RailCorp.

self-insurer licence means a licence in force under Division 5 of Part 7 of the *Workers Compensation Act 1987*.

Transport Administration (General) Regulation 2005

Clause 27

ARTC arrangements

Part 4

27 Entitlements of former rail authority employees to recognition of past service

- (1) This clause applies to members of staff of ARTC who:
- (a) became employees of ARTC on or after 1 June 2004 and not later than 30 days after the commencement of the operation of the first lease between ARTC and a rail authority under Part 8A of the Act, and
 - (b) were employed by a rail authority not more than 30 days before being so employed by ARTC, and
 - (c) have been declared by the rail authority or the chief executive of the rail authority to be surplus to the rail authority's requirements and to be eligible for the benefit of this clause.

Note. The first lease under Part 8A of the Act between ARTC and a rail authority commenced on 5 September 2004.

- (2) Despite subclauses (3)–(5), a member of staff who elected to cash out his or her leave entitlements under clause 10F of the former Regulation does not retain any rights to any such leave entitlements. However, previous service is to be taken into account for the purposes of an entitlement to long service leave in respect of future service.
- (3) Continuous service of a member of staff with one or more rail authorities is taken, for all purposes, as service with ARTC.
- (4) In particular, without limiting the operation of subclause (3), a member of staff retains any leave entitlements accrued in previous employment with one or more rail authorities.
- (5) A person's entitlement to any such leave is to be calculated:
 - (a) for the part of any period during which that leave accrued or was accruing before employment with ARTC commenced—at the rate of accrual for the time being applicable to the person before that day, and
 - (b) for the part of the period that occurred after that commencement—at the rate of accrual for the time being applicable to the person after that day.
- (6) In this clause:

leave entitlements means entitlements to annual leave, extended leave, long service leave, sick leave and public holidays.

28 Applications for positions with rail authorities by former rail authority staff

- (1) This clause applies to the filling of any vacant position in a rail authority if the applicants eligible to apply for the vacancy are limited to the staff of the rail authority or rail authorities.

Clause 29 Transport Administration (General) Regulation 2005

Part 4 ARTC arrangements

- (2) Any former member of staff of a rail authority to whom clause 27 applies is eligible to apply for a vacancy to which this clause applies as if the person were a member of staff of the rail authority that has the vacancy.
- (3) Any former member of staff who applies for a vacant position to which this clause applies has the same rights of appeal against the filling of the position as the person would have if the person were a member of the rail authority that has the vacancy.
- (4) This clause does not apply to a person who is no longer employed by ARTC or if, at the time the vacancy is first advertised, a period of 3 years or more has elapsed since the person was first employed by ARTC.

29 ARTC staff who become employees of rail authorities

- (1) This clause applies to a member of staff of ARTC to whom clause 27 applies who:
 - (a) resigns as a member of staff of ARTC, and
 - (b) becomes a member of staff of a rail authority (*the new employer*) not more than 30 days after ceasing to be a member of staff of ARTC.
- (2) Continuous service of a member of staff with one or more rail authorities or ARTC is taken, for all purposes, as service with the new employer.
- (3) In particular, without limiting the operation of subclause (2), a member of staff retains any rights to annual leave, extended leave or long service leave and sick leave accrued in previous employment with one or more rail authorities and ARTC.
- (4) A person's entitlement to any such leave is to be calculated:
 - (a) for the part of any period during which that leave accrued or was accruing before employment with the new employer commenced—at the rate of accrual for the time being applicable to the person before that day, and
 - (b) for the part of the period that occurred after that commencement—at the rate of accrual for the time being applicable to the person after that day.
- (5) This clause does not apply to a person if, at the time the relevant vacancy is first advertised or the person commences employment with the new employer (whichever occurs first), a period of 3 years or more has elapsed since the person was first employed by ARTC.

Transport Administration (General) Regulation 2005

Clause 30

Penalty notices

Part 5

Part 5 Penalty notices

30 Penalty notice offences

For the purposes of section 117 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

31 Authorised officers: section 117

A traffic control officer (other than a police officer) is declared to be an authorised officer for the purposes of section 117 of the Act.

32 Removing or damaging a penalty notice

A person must not, without reasonable excuse, remove or deface, destroy or otherwise damage any notice left on or attached to a motor vehicle under section 117 (3) (b) of the Act.

Maximum penalty: 2 penalty units.

Clause 33 Transport Administration (General) Regulation 2005

Part 6 Miscellaneous

Part 6 Miscellaneous

33 Obstructing an officer

A person must not obstruct or hinder a traffic control officer in the exercise of any power conferred by this Regulation.

Maximum penalty: 4 penalty units.

34 Delegation to authorised persons: section 40

The following classes of persons are prescribed for the purposes of section 40 of the Act:

- (a) officers of the RTA,
- (b) officers of the STA,
- (c) staff of Sydney Ferries.

35 Additional classes of persons to whom RTA may delegate functions: section 50

- (1) The following classes of persons are prescribed for the purposes of section 50 of the Act:

- (a) chairpersons of regional traffic committees,
- (b) councils, councillors of councils and the staff of councils,
- (c) declared authorities and the members and staff of those authorities,
- (d) persons employed in the Public Service of New South Wales under the *Public Sector Employment and Management Act 2002*,
- (e) authorities of the Commonwealth, the members and staff of those authorities and the staff of Departments of the Commonwealth.

- (2) In this clause:

council has the same meaning as it has in the *Local Government Act 1993*, and includes an administrator for a council appointed under that Act.

councillor has the same meaning as it has in the *Local Government Act 1993*.

declared authority means a declared authority to which Part 6.4 of the *Public Sector Employment and Management Act 2002* applies.

regional traffic committee means a committee established by the RTA to provide advice on traffic and associated matters.

Transport Administration (General) Regulation 2005

Clause 36

Miscellaneous

Part 6

36 Transfer of assets, rights and liabilities associated with Office of Co-ordinator General of Rail

- (1) For the purposes of the definition of *rail authority* in section 94 (6) of the Act, the Crown, in respect of any of its assets, rights or liabilities under any contract or other arrangement entered into on its behalf by the Office of Co-ordinator General of Rail, is a rail authority.
- (2) In this clause:
Crown includes the New South Wales Government.

37 Exemption of light rail sub-lease from certain duties

For the purposes of section 104T of the Act, the sub-lease between the Transport Administration Corporation as sub-lessor and the Pymont Light Rail Company Pty Limited as sub-lessee registered at the Land Titles Office with the number 3589935 and commencing on 11 August 1997 and terminating on 10 February 2028 is exempt from liability for the payment of duty under the *Duties Act 1997*.

38 Transport districts: section 108

For the purposes of section 108 of the Act, the boundaries of the transport districts are as follows:

- (a) the boundaries of the Metropolitan transport district are the boundaries of the area comprising the County of Cumberland (excluding any area within the City of Wollongong) and the Parish of Cowan in the County of Northumberland,
- (b) the boundaries of the Newcastle transport district are the boundaries of the area comprising the City of Newcastle, the Parishes of Teralba and Kahibah, that part of the Parish of Wallarah in the City of Lake Macquarie and the area of Kooragang Island,
- (c) the boundaries of the Wollongong transport district are the boundaries of the area comprising the whole of the City of Wollongong.

39 Interpretation of references to SRA in certain environmental planning instruments

- (1) The references in clause 10 of *State Environmental Planning Policy No 7—Port Kembla Coal Loader* to the Chief Executive of the State Rail Authority are to be read as references to the chief executive officer of RailCorp or a nominee of the chief executive officer of RailCorp.

Clause 40	Transport Administration (General) Regulation 2005
Part 6	Miscellaneous

- (2) The references in:
- (a) clause 34A (2) of *Sydney Regional Environmental Plan No 5—(Chatswood Town Centre)*, and
 - (b) Part 2 of the Table to clause 15, clause 20A and clause 52 of *Sydney Regional Environmental Plan No 26—City West*,
- to the State Rail Authority are taken to include references to RailCorp.

40 Exemption of RailCorp from certain State taxes

- (1) State tax is not chargeable in respect of the following:
- (a) land owned by, or leased to, RailCorp and used primarily for railway purposes (other than land subject to a lease or licence by RailCorp to another person),
 - (b) any other matter or thing done by RailCorp in the exercise of its functions (other than a matter or thing relating to land or a dealing with land).
- (2) RailCorp is not liable for payment of the parking space levy under the *Parking Space Levy Act 1992* in respect of any premises owned by, or leased to, RailCorp (other than premises subject to a lease or licence by RailCorp to another person).
- (3) This clause is repealed at the end of 18 December 2005.
- (4) In this clause:
- railway purposes* includes the following:
- (a) the operation and maintenance of the NSW rail network,
 - (b) stations and platforms,
 - (c) office buildings used in association with railway purposes,
 - (d) rolling stock maintenance facilities,
 - (e) freight centres and depots,
 - (f) related facilities,
 - (g) purposes ancillary to other purposes set out in this definition.
- State tax* means duty under the *Duties Act 1997* or any other tax, duty, rate, fee or other charge imposed by or under any Act or law of the State, other than pay-roll tax.

41 Savings

- (1) The person appointed under clause 19D of the former Regulation as the Manager of Western Sydney Buses and holding office as such on the commencement of this clause is taken to have been appointed under clause 13 of this Regulation.

Transport Administration (General) Regulation 2005

Clause 41

Miscellaneous

Part 6

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- (2) Any act, matter or thing that, immediately before the repeal of the former Regulation, had effect under that Regulation is taken to have effect under this Regulation.

Note. Among other things, the former Regulation declared several light rail routes for the purposes of section 104N (2) of the Act. The repeal of that Regulation does not affect those declarations.

Transport Administration (General) Regulation 2005

Schedule 1 Penalty notice offences

Schedule 1 Penalty notice offences

(Clause 30)

Part 1 Offences under the Transport Administration Act 1988 and this Regulation

Column 1 Provision	Column 2 Penalty
Section 116 of the Act and clause 6 (1) (a) of the Regulation	\$70
Section 116 of the Act and clause 6 (1) (b) of the Regulation	\$70
Section 116 of the Act and clause 7 (1) of the Regulation	\$70

Part 2 Offences under this Regulation

Column 1 Provision	Column 2 Penalty
Clause 5 (1) (a)	\$50
Clause 5 (1) (b)	\$50
Clause 5 (3)	\$50
Clause 6 (1) (a)	\$70
Clause 6 (1) (b)	\$70
Clause 7 (1)	\$70
Clause 32	\$50
Clause 33	\$100



New South Wales

Transport Administration (Staff) Regulation 2005

under the

Transport Administration Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Transport Administration Act 1988*.

JOHN WATKINS, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to replace, without substantial alteration, the provisions of the *Transport Administration (Staff) Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the appointment of officers of the State Rail Authority, including advertising of vacancies, outside appointments, merit appointments, appeals and reviews, appointment on probation and provisional appointments (Part 2, Division 1),
- (b) the conditions of employment of officers of the State Rail Authority, including sick leave entitlements and outside employment restrictions (Part 2, Division 2),
- (c) disciplinary proceedings against officers of the State Rail Authority, including punishments that may be imposed, temporary suspension, proceedings against officers convicted of serious criminal offences, procedure and appeals (Part 2, Division 3),
- (d) miscellaneous matters relating to officers of the State Rail Authority, including appeal rights and return of property to the Authority on termination of employment (Part 2, Division 4),
- (e) the appointment of officers of the State Transit Authority, including advertising of vacancies, outside appointments, merit appointments, appeals and reviews, appointment on probation and provisional appointments (Part 3, Division 1),
- (f) the conditions of employment of officers of the State Transit Authority, including sick leave entitlements, outside employment restrictions and retirement of officers on medical grounds (Part 3, Division 2),

Transport Administration (Staff) Regulation 2005

Explanatory note

- (g) disciplinary proceedings against officers of the State Transit Authority, including punishments that may be imposed, temporary suspension, proceedings against officers convicted of serious criminal offences, procedure and appeals (Part 3, Division 3),
- (h) miscellaneous matters relating to officers of the State Transit Authority, including appeal rights and return of property to the Authority on termination of employment (Part 3, Division 4),
- (i) temporary suspension of officers of the Roads and Traffic Authority (Part 4),
- (j) formal matters and savings (Parts 1 and 5).

This Regulation is made under the *Transport Administration Act 1988*, including section 119 (the general regulation-making power) and the other sections referred to in the Regulation.

This Regulation deals with matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Transport Administration (Staff) Regulation 2005

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Transport Administration (Staff) Regulation 2005

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Transport Administration (Staff) Regulation 2005

Clause 1

Preliminary

Part 1

Transport Administration (Staff) Regulation 2005

under the

Transport Administration Act 1988

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Transport Administration (Staff) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

appointment includes appointment by way of promotion, transfer or regression.

disciplinary appeal means an appeal under clause 16 or 32.

promotion means the appointment of a person to a position with a greater maximum salary than the maximum salary for the position held by the person immediately before the appointment.

regression means the appointment of a person to a position with a lesser maximum salary than the maximum salary for the position held by the person immediately before the appointment.

RTA means the Roads and Traffic Authority.

RTA officer means an officer or employee of the RTA.

salary includes wages or other remuneration.

SRA means the State Rail Authority.

SRA officer includes an employee of the SRA, but does not include a casual or temporary employee.

STA means the State Transit Authority.

Clause 3 Transport Administration (Staff) Regulation 2005

Part 1 Preliminary

STA officer includes an employee of the STA, but does not include a casual or temporary employee.

transfer means the appointment of a person to a position with the same maximum salary as the maximum salary for the position held by the person immediately before the appointment.

Transport Appeal Board means a Transport Appeal Board constituted under the *Transport Appeal Boards Act 1980*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Transport Administration (Staff) Regulation 2005

Clause 4

SRA staff

Part 2

Part 2 SRA staff

Division 1 Appointment of SRA officers

4 Advertising of vacancies

- (1) Unless the SRA otherwise determines, vacancies in SRA officers' positions must be advertised before they are filled.
- (2) Vacancies may be advertised either within the service of the SRA or both within and outside the service of the SRA.
- (3) In deciding to appoint a person to a vacant SRA officer's position that has been advertised, the SRA may select only a person who has duly applied for appointment to the vacant position.
- (4) The SRA may do any one or more of the following:
 - (a) extend the time stipulated in an advertisement for lodging applications for a vacant position,
 - (b) decline to appoint any of the applicants for a vacant position that has been advertised,
 - (c) re-advertise a vacancy.
- (5) Despite subclause (3), if:
 - (a) there are no applicants for a vacant SRA position that has been advertised, or
 - (b) the SRA has declined to appoint any applicant to the position, the SRA may fill the position as if it had not been advertised.

5 Appointments from within or outside service of SRA

- (1) The SRA may appoint to any SRA officer's position in the service of the SRA:
 - (a) a person already engaged in that service, or
 - (b) a person not engaged in that service.
- (2) The SRA may arrange competitive examinations or take other measures for determining suitability for appointment to vacant SRA officers' positions.

6 Merit appointments

- (1) This clause applies to appointments to fill any vacancy in an SRA officer's position.
- (2) For the purpose of determining the merit of persons eligible for appointment to a position, the SRA must have regard to:

Clause 7 Transport Administration (Staff) Regulation 2005

Part 2 SRA staff

-
- (a) the nature of the duties of the position, and
 - (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.
- (3) If a vacant SRA officer's position has been advertised, the SRA must, subject to clause 4 (5), select from among the applicants eligible for appointment the applicant who, in the opinion of the SRA, has the greatest merit.
 - (4) If a vacant SRA officer's position has not been advertised, the SRA:
 - (a) may appoint any person who is not an SRA officer, or
 - (b) may appoint an SRA officer by way of promotion, if the officer has, in the opinion of the SRA, the greatest merit of the SRA officers eligible for promotion, or
 - (c) may appoint an SRA officer by way of transfer or regression.
 - (5) This clause applies to positions advertised within the service of the SRA as well as to positions advertised both within and outside the service of the SRA.

7 Promotion appeals

- (1) For the purposes of this clause, an appointment to a position is ***subject to appeal*** if:
 - (a) the appointment is to an SRA officer's position with a maximum salary that is below the minimum salary for the position of senior officer, class 1, and
 - (b) the vacancy in the position was advertised.
- (2) An SRA officer may appeal to a Transport Appeal Board against the appointment of an SRA officer to a position that is subject to appeal.
- (3) An appeal may be lodged only by an SRA officer who was an unsuccessful applicant for the vacant position.
- (4) Despite subclause (1), a decision to appoint:
 - (a) an SRA officer to a position that was not advertised (or that the SRA filled under clause 4 (5) as if it had not been advertised), or
 - (b) a person who is not an SRA officer to any position,
 is not subject to appeal to a Transport Appeal Board.
- (5) The only ground on which an SRA officer may, under this clause, appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the officer selected.

Note. Part 3 of the *Transport Appeal Boards Act 1980* applies to appeals to a Transport Appeal Board.

Transport Administration (Staff) Regulation 2005

Clause 8

SRA staff

Part 2

8 Appointment on probation

- (1) Every person appointed to the service of the SRA as an SRA officer must, in the first instance, be appointed on probation for a period of 6 months or such shorter period as the SRA determines.
- (2) In a particular case, the SRA may make an appointment without probation.
- (3) The SRA may, during the period of probation, extend the period of probation, but the total period of probation may not exceed 12 months.
- (4) A period of leave (with or without pay) must not be included in calculating a period of probation under this clause.
- (5) The SRA may, during or after the period of probation, confirm the SRA officer's appointment or discharge the officer from the service of the SRA.
- (6) A decision to discharge an SRA officer is not subject to appeal to a Transport Appeal Board.

9 Provisional appointments

- (1) The SRA may make provisional appointments of SRA officers by way of promotion, transfer or regression.
- (2) An SRA officer provisionally appointed to a position may act in that position until the appointment is confirmed.
- (3) The provisional appointment of an SRA officer to a position that is subject to appeal (within the meaning of clause 7) must not be confirmed:
 - (a) until the period for lodging an appeal has expired, and
 - (b) if an appeal is lodged within that period—until the appeal has been determined or withdrawn.

Division 2 Conditions of employment

10 Sick leave

- (1) Except as otherwise provided by any industrial agreement, award or other instrument to which the SRA is a party, SRA officers and other employees of the SRA are entitled to receive and accrue the same sick leave entitlements as persons employed in the Public Service of New South Wales under the *Public Sector Employment and Management Act 2002* and the regulations made under that Act.
- (2) This clause does not apply to any class of casual or temporary employees determined by the SRA.

Clause 11 Transport Administration (Staff) Regulation 2005

Part 2 SRA staff

11 Employment outside official duties

- (1) An SRA officer must not, except with the permission of the SRA:
 - (a) hold any paid office or engage in any paid employment, or
 - (b) carry on any business or engage in the private practice of any profession,
outside the duties of the officer's position.
- (2) The SRA may by notice in writing given to the SRA officer concerned, withdraw any such permission at any time.
- (3) For the purposes of this clause, an SRA officer is taken to hold a paid office or engage in paid employment even though:
 - (a) the officer does not accept payments to which the officer is entitled for the officer's services, or
 - (b) the officer accepts only an honorarium or allowance for the officer's services.
- (4) An SRA officer who contravenes this clause is taken to be guilty of misconduct for the purposes of disciplinary proceedings.

Division 3 Disciplinary proceedings against SRA officers

12 Punishments in disciplinary proceedings

- (1) The SRA may impose any one or more of the following punishments in disciplinary proceedings against an SRA officer:
 - (a) a caution or reprimand,
 - (b) a fine of an amount not exceeding \$100,
 - (c) reduction in position, rank or grade and pay,
 - (d) suspension from duty without pay,
 - (e) dismissal.
- (2) Instead of dismissing an SRA officer, the SRA may allow the officer to resign.
- (3) The SRA may deduct a fine imposed on an SRA officer from the officer's salary.
- (4) This Division must not be construed as requiring the taking of disciplinary proceedings in order that the SRA may dispense with the services of an SRA officer or other employee of the SRA.

Transport Administration (Staff) Regulation 2005

Clause 13

SRA staff

Part 2

13 Suspension of SRA officer pending disciplinary proceedings

- (1) An SRA officer may be temporarily suspended from duty:
 - (a) by the SRA, or
 - (b) by any other SRA officer who is senior in position, rank or grade, pending the institution or determination of disciplinary proceedings against the officer.
- (2) The SRA may at any time terminate any such suspension.
- (3) The SRA may withhold the payment of salary to an SRA officer suspended from duty.

14 SRA officers convicted of serious criminal offences

- (1) The SRA may take disciplinary proceedings against an SRA officer who is convicted of a serious criminal offence.
- (2) For the purposes of this clause, *serious criminal offence* means an offence committed in New South Wales that is punishable by imprisonment for 6 months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

15 Procedure in disciplinary proceedings

- (1) An SRA officer who is subject to disciplinary proceedings is entitled to be notified in writing by the SRA of the particulars of the alleged behaviour giving rise to the proceedings.
- (2) A formal hearing is not required to be held before the person or body investigating the alleged behaviour, but the SRA officer the subject of the proceedings may make representations to that person or body.

16 Disciplinary appeals to Transport Appeal Board

An SRA officer may appeal to a Transport Appeal Board against:

- (a) a decision of the SRA to impose a punishment referred to in clause 12 (1) (b)–(e) in disciplinary proceedings against the officer, or
- (b) a decision to suspend the officer temporarily under clause 13.

Division 4 Miscellaneous

17 Appeals to Transport Appeal Board—general

An appeal does not lie to a Transport Appeal Board against any decision of the SRA or an SRA officer or other employee of the SRA unless a right to make the appeal is expressly conferred by this Part.

Clause 18 Transport Administration (Staff) Regulation 2005

Part 2 SRA staff

18 Return of property on termination of employment

- (1) An SRA officer or other employee of the SRA whose employment is terminated or suspended must, on the last day of the person's duty before the termination or suspension, return any property belonging to the SRA that is in the person's possession at that time.
- (2) In this clause, *termination* means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

Transport Administration (Staff) Regulation 2005

Clause 19

STA staff

Part 3

Part 3 STA staff

Division 1 Appointment of STA officers

19 Advertising of vacancies

- (1) Unless the STA otherwise determines, vacancies in STA officers' positions must be advertised before they are filled.
- (2) Vacancies may be advertised either within the service of the STA or both within and outside the service of the STA.
- (3) In deciding to appoint a person to a vacant STA officer's position that has been advertised, the STA may select only a person who has duly applied for appointment to the vacant position.
- (4) The STA may do any one or more of the following:
 - (a) extend the time stipulated in an advertisement for lodging applications for a vacant position,
 - (b) decline to appoint any of the applicants for a vacant position that has been advertised,
 - (c) re-advertise a vacancy.
- (5) Despite subclause (3), if:
 - (a) there are no applicants for a vacant STA position that has been advertised, or
 - (b) the STA has declined to appoint any applicant to the position, the STA may fill the position as if it had not been advertised.

20 Appointments from within or outside service of STA

- (1) The STA may appoint to any STA officer's position in the service of the STA:
 - (a) a person already engaged in that service, or
 - (b) a person not engaged in that service.
- (2) The STA may arrange competitive examinations or take other measures for determining suitability for appointment to vacant STA officers' positions.

21 Merit appointments

- (1) This clause applies to appointments to fill any vacancy in an STA officer's position.
- (2) For the purpose of determining the merit of persons eligible for appointment to a position, the STA must have regard to:

Clause 22 Transport Administration (Staff) Regulation 2005

Part 3 STA staff

- (a) the nature of the duties of the position, and
 - (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.
- (3) If a vacant STA officer's position has been advertised, the STA must, subject to clause 19 (5), select from among the applicants eligible for appointment the applicant who, in the opinion of the STA, has the greatest merit.
- (4) If a vacant STA officer's position has not been advertised, the STA:
- (a) may appoint any person who is not an STA officer, or
 - (b) may appoint an STA officer by way of promotion, if the STA officer has, in the opinion of the STA, the greatest merit of the STA officers eligible for promotion, or
 - (c) may appoint an STA officer by way of transfer or regression.
- (5) This clause applies to positions advertised within the service of the STA as well as to positions advertised both within and outside the service of the STA.

22 Promotion appeals and reviews

- (1) For the purposes of this clause, an appointment to a position is ***subject to appeal*** if:
- (a) the appointment is to an STA officer's position with a maximum salary that is below the minimum salary for the position of senior officer, band A, and
 - (b) the vacancy in the position was advertised or, if not advertised, the appointment was made by promotion.
- (2) An STA officer may apply for a review by the STA of the appointment of an STA officer to a position that is subject to appeal.
- (3) An application for such a review may be made only:
- (a) in the case of a vacancy that is advertised—by an STA officer who was an unsuccessful applicant for the vacant position, or
 - (b) in the case of a vacancy that is not advertised—by an STA officer who was seeking promotion to the vacant position but who was not selected.
- (4) An application for such a review must be made within 5 days of the STA notifying its decision on the vacancy to the unsuccessful applicant or in a notice circulated among STA officers seeking promotion, as the case requires.

Transport Administration (Staff) Regulation 2005

Clause 23

STA staff

Part 3

-
- (5) An STA officer entitled to apply for such a review may appeal to a Transport Appeal Board against the appointment concerned, but only if:
 - (a) the officer applied for the review and the application was not successful, or
 - (b) the officer applied for the review and the review was not completed within 15 days after the application was made.
 - (6) Despite subclause (1), the decision to appoint to any position a person who is not an STA officer is not subject to review under this clause or to appeal to a Transport Appeal Board.
 - (7) The only ground on which an STA officer may, under this clause, seek a review or appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the STA officer selected.

23 Appointment on probation

- (1) Every person appointed to the service of the STA as an STA officer must, in the first instance, be appointed on probation for a period of 3 months.
- (2) In a particular case, the STA may make an appointment without probation.
- (3) The STA may, during the period of probation, extend the period of probation, but the total period of probation may not exceed 6 months.
- (4) A period of leave (with or without pay) must not be included in calculating any such total period of 6 months.
- (5) The STA may, during or after the period of probation, confirm the STA officer's appointment or discharge the officer from the service of the STA.
- (6) A decision to discharge an STA officer is not subject to appeal to a Transport Appeal Board.

24 Provisional appointments

- (1) The STA may make provisional appointments of STA officers by way of promotion, transfer or regression.
- (2) An STA officer provisionally appointed to a position may act in that position until the appointment is confirmed.
- (3) The provisional appointment of an STA officer to a position that is subject to appeal (within the meaning of clause 22) must not be confirmed:

Clause 25 Transport Administration (Staff) Regulation 2005

Part 3 STA staff

- (a) until the period for lodging an appeal has expired, and
- (b) if an appeal is lodged within that period—until the appeal has been determined or withdrawn.

Division 2 Conditions of employment

25 Sick leave

- (1) Except as otherwise provided by any industrial agreement to which the STA is a party, STA officers and other employees of the STA are entitled to receive and accrue the same sick leave entitlements as persons employed in the Public Service of New South Wales under the *Public Sector Employment and Management Act 2002* and the regulations made under that Act.
- (2) This clause does not apply to any class of casual or temporary employees determined by the STA.

26 Employment outside official duties

- (1) An STA officer must not, except with the prior written permission of the STA:
 - (a) hold any paid office or engage in any paid employment, or
 - (b) carry on any business or engage in the private practice of any profession,
outside the duties of the officer's position.
- (2) The STA may, by notice in writing given to the STA officer concerned, withdraw any such permission at any time.
- (3) For the purposes of this clause, an STA officer is taken to hold a paid office or engage in paid employment even though:
 - (a) the officer does not accept payments to which the officer is entitled for the officer's services, or
 - (b) the officer accepts only an honorarium or allowance for the officer's services.
- (4) An STA officer who contravenes this clause is taken to be guilty of misconduct for the purposes of disciplinary proceedings.

27 Retirement of officers on medical grounds

If an STA officer becomes, as the result of the onset of a specified infirmity of body or mind, unable to carry out the inherent requirements of the officer's duties, the STA may cause the officer to be retired.

Transport Administration (Staff) Regulation 2005

Clause 28

STA staff

Part 3

Division 3 Disciplinary proceedings against STA officers

28 Punishments in disciplinary proceedings

- (1) The STA may impose any one or more of the following punishments in disciplinary proceedings against an STA officer:
 - (a) a caution or reprimand,
 - (b) a fine of an amount not exceeding \$100,
 - (c) reduction in position, rank or grade and pay,
 - (d) suspension from duty without pay,
 - (e) dismissal.
- (2) Instead of dismissing an STA officer, the STA may allow the officer to resign.
- (3) The STA may deduct a fine imposed on an STA officer from the officer's salary.
- (4) This Division must not be construed as requiring the taking of disciplinary proceedings in order that the STA may dispense with the services of an STA officer or other employee of the STA.

29 Suspension of STA officer pending disciplinary proceedings

- (1) An STA officer may be temporarily suspended from duty:
 - (a) by the STA, or
 - (b) by any other STA officer who is senior in position, rank or grade, pending the institution or determination of disciplinary proceedings against the officer.
- (2) The STA may at any time terminate any such suspension.
- (3) The STA may withhold the payment of salary to an STA officer suspended from duty.

30 STA officers convicted of serious criminal offences

- (1) The STA may take disciplinary proceedings against an STA officer who is convicted of a serious criminal offence.
- (2) For the purposes of this clause, *serious criminal offence* means an offence committed in New South Wales that is punishable by imprisonment for 6 months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

Clause 31	Transport Administration (Staff) Regulation 2005
Part 3	STA staff

31 Procedure in disciplinary proceedings

- (1) An STA officer who is subject to disciplinary proceedings is entitled to be notified in writing by the STA of the charge and of the particulars of the charge.
- (2) A formal hearing is not required to be held before the person or body investigating the matter the subject of any such charge, but the STA officer charged may make representations to that person or body.

32 Disciplinary appeals to Transport Appeal Board

An STA officer may appeal to a Transport Appeal Board against:

- (a) a decision of the STA to impose a punishment referred to in clause 28 (1) (b)–(e) in disciplinary proceedings against the officer, or
- (b) a decision to suspend the officer temporarily under clause 29.

Division 4 Miscellaneous

33 Appeals to Transport Appeal Board—general

An appeal does not lie to a Transport Appeal Board against any decision of the STA or an STA officer or other employee of the STA unless a right to make the appeal is expressly conferred by this Part.

34 Return of property on termination of employment

- (1) An STA officer or other employee of the STA must, within 7 days of the termination or suspension of the person's employment, return any property belonging to the STA that is in the person's possession at the time of that termination or suspension.
- (2) In this clause, *termination* means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

Transport Administration (Staff) Regulation 2005

Clause 35

RTA staff

Part 4

Part 4 RTA staff

35 Temporary suspension

- (1) An RTA officer may be temporarily suspended from duty by the RTA pending:
 - (a) the institution or determination by the RTA of disciplinary action against the officer, or
 - (b) the determination by a court of any charge against the officer for a serious criminal offence.
- (2) The RTA may remove a suspension at any time.
- (3) If:
 - (a) disciplinary action is instituted by the RTA against an RTA officer, or
 - (b) an RTA officer is charged with having committed a serious criminal offence,any salary payable to the officer while the officer is suspended from duty is (if the Chief Executive of the RTA so directs) to be withheld.
- (4) Salary so withheld may (if the Chief Executive so directs) be subsequently paid to the RTA officer whatever the result of the disciplinary action or charge.
- (5) In this clause:

disciplinary action includes:

 - (a) disciplinary interviews or inquiries in connection with the conduct of an officer of the RTA, and
 - (b) disciplinary charges against an officer of the RTA, whether made orally or in writing.

serious criminal offence means an offence committed in New South Wales that is punishable by imprisonment for 6 months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

Clause 36 Transport Administration (Staff) Regulation 2005

Part 5 Miscellaneous

Part 5 Miscellaneous

36 Saving

Any act, matter or thing that, immediately before the repeal of the *Transport Administration (Staff) Regulation 2000*, had effect under that regulation is taken to have effect under this Regulation.



New South Wales

Youth and Community Services Regulation 2005

under the

Youth and Community Services Act 1973

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Youth and Community Services Act 1973*.

JOHN DELLA BOSCA, M.L.C.,
Minister for Disability Services

Explanatory note

The object of this Regulation is to remake, with no changes in substance, the *Youth and Community Services Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the forms of applications for a licence under Part 3 of the *Youth and Community Services Act 1973* and for the Minister's consent to the replacement of a licensed manager by another person.

This Regulation is made under the *Youth and Community Services Act 1973*, including sections 11, 14 and 32 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

Youth and Community Services Regulation 2005

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Youth and Community Services Regulation 2005

Clause 1

Youth and Community Services Regulation 2005

under the

Youth and Community Services Act 1973

1 Name of Regulation

This Regulation is the *Youth and Community Services Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Youth and Community Services Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Youth and Community Services Act 1973*.
- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes included in this Regulation do not form part of this Regulation.

4 Form of application for licence: section 11

The prescribed form of application for a licence under Part 3 of the Act is Form 1.

5 Form of application for change of licensed manager: section 14

The prescribed form of application for the Minister's consent to the replacement of the licensed manager by another person is Form 2.

Youth and Community Services Regulation 2005

Schedule 1 Forms

Schedule 1 Forms

(Clause 3 (2))

Form 1 Application for licence

(Clause 4)

(Youth and Community Services Act 1973)

Disability Licensing Adviser:

Address:

Phone:

1 Person or business applying for a licence to control a residential centre

Name of the organisation, business or proprietor/s applying for a licence:

Registered address:

Postal address [*“as above”, if same*]:

Telephone:

Fax:

2 Premises to be licensedName [*if applicable*]:

Address and postcode of the premises to be licensed:

Telephone:

3 Owners of premises

Name and address of the owner/s of the premises:

4 Person to conduct the Centre (Licensed Manager)

Name of the person/s to be authorised to have day to day management of the premises.

Name:

Qualifications:

Suitability of the nominated Licensed Manager

- (1) The proposed licensee must enclose information explaining why the person nominated as manager is considered to be a person with suitable character, experience and competence to manage a centre accommodating persons with disabilities.
- (2) The person nominated as manager should enclose the names and contact numbers of two persons/referees who can be contacted by the Department of Ageing, Disability and Home Care regarding the

Youth and Community Services Regulation 2005

Forms

Schedule 1

nominated manager's suitability to manage a residential centre for people with disabilities.

- (3) The person nominated as manager must complete the attached "Criminal Record Check" authorisation form.

5 The maximum number to be accommodated

The maximum number of persons to be accommodated in the residential centre according to the requirements of the *Youth and Community Services Act 1973*.

Maximum number:

6 Compliance with the requirements of the local Council

The applicant must provide the Department of Ageing, Disability and Home Care with the following:

- (1) A copy of Council's development consent for the premises nominated in this application.
- (2) A copy of any Orders given by the Council currently applying to those premises.

7 List of documents to be supplied

The following documents and information must be supplied with your application before it will be processed:

- (1) A floor plan, to scale, showing the dimensions and use of each room.
- (2) A copy of the site plan.
- (3) A full explanation of the services to be provided at the premises.
- (4) A written "ENTRY" and "EXIT" criteria for residents using this service.
- (5) A written list of what you will be expecting from residents using this service, by way of behaviour, tasks, needs and the like.
- (6) A copy of the "Menu" for a two or four week period.
- (7) A complete list of staff positions, job descriptions, hours and days of work.
- (8) Information requested in item 4 relating to the person nominated to be approved as the Licensed Manager.
- (9) A written list of the criteria used by you when appointing staff, to ensure that staff have adequate knowledge and understanding of the needs of people with disabilities and the ability to deal with these residents in a fair, just and appropriate manner.
- (10) A copy of Council's development consent for the premises, as requested in item 6 (1).
- (11) A copy of any Orders currently applying to the premises as requested in item 6 (2).
- (12) A list of all proposed fees and charges for services.

Youth and Community Services Regulation 2005

Schedule 1 Forms

-
- (13) If applicable, a copy of the constitution, memorandum of articles or the like of the organisation or business applying for the licence.
 - (14) If applicable, a complete list of directors of the company.
 - (15) If applicable, a copy of the lease relating to the premises.
 - (16) A "Criminal Record Check" authorisation form completed and signed by each staff person.

8 Name and signature of person completing this applicationName [*please print*]:

Position:

Signature:

Date:

Form 2 Application for a change of licensed manager

(Clause 5)

(Youth and Community Services Act 1973)

Disability Licensing Adviser:

Address:

Phone:

1 Licensee

Name of the licensee:

Registered address:

Postal Address [*as above*, *if same*]:

Telephone:

Fax:

2 Licensed premisesName [*if applicable*]:

Address and postcode of the premises to be licensed:

Telephone:

3 Person nominated to conduct the Centre (Licensed Manager)

Name of the person/s to be authorised to have day to day management of the premises.

(1) Name:

Qualifications:

Youth and Community Services Regulation 2005

Forms

Schedule 1

(2) Suitability of the Licensed Manager

- (a) The licensee must enclose information explaining why the person nominated as manager is considered to be a person with suitable character, experience and competence to manage a centre accommodating persons with disabilities.
- (b) The person nominated as manager should enclose the names and contact numbers of two persons/referees who can be contacted by the Department of Ageing, Disability and Home Care regarding the nominated manager's suitability to manage a residential centre for people with disabilities.
- (c) The person nominated as manager must complete the attached "Criminal Record Check" authorisation form.

4 List of documents to be supplied

The following documents and information must be supplied with your application before it will be processed:

- (1) Information requested in item 3 (2) relating to the person nominated to be approved as the Licensed Manager.
- (2) A "Criminal Record Check" authorisation form completed and signed by the person nominated as manager.

5 Name and signature of person completing this application

Name [*please print*]:

Position:

Signature:

Date:

Other Legislation



STORAGE AND HANDLING OF DANGEROUS GOODS



CODE OF PRACTICE 2005

WorkCover. **Watching out for you.**

Disclaimer

This publication contains information regarding occupational health, safety, injury management or workers compensation. It includes some of your obligations under the various workers compensation and occupational health and safety legislation that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

This publication may refer to WorkCover NSW administered legislation that has been amended or repealed. When reading this publication you should always refer to the latest laws. Information on the latest laws can be checked at www.legislation.nsw.gov.au or contact (02) 9238 0950 or 1800 463 955 (NSW country only).

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What is an approved industry code of practice?

An approved industry code of practice is a practical guide to employers and others who have duties under the *Occupational Health and Safety Act 2000* (the OHS Act) and the *Occupational Health and Safety Regulation* (OHS Regulation) with respect to occupational health, safety and welfare.

An industry code of practice is approved by the Minister administering the OHS Act. It comes into force on the day specified in the code or, if no day is specified, on the day it is published in the NSW Government Gazette. An approved industry code of practice may be amended from time to time (or it may be revoked) by publication in the Gazette.

An approved industry code of practice should be observed unless an alternative course of action that achieves the same or a better level of health, safety and welfare at work is being followed.

An approved industry code of practice is intended to be used in conjunction with the requirements of the OHS Act and the OHS Regulation but does not have the same legal force. An approved industry code of practice is advisory rather than mandatory. However, in legal proceedings under the OHS Act or OHS Regulation, failure to observe a relevant approved industry code of practice is admissible in evidence concerning an offence under the OHS Act or OHS Regulation.

A WorkCover Authority inspector can draw attention to an approved industry code of practice in an improvement or prohibition notice as a way of indicating the measures that could be taken to remedy an alleged contravention or non-compliance with the OHS Act or OHS regulation. Failure to comply with an improvement or prohibition notice without reasonable excuse is an offence.

In summary an approved industry **CODE OF PRACTICE**

- Gives practical guidance on how health, safety and welfare at work can be achieved.
- Should be observed unless an alternative course of action that achieves the same or a better level of health, safety and welfare in the workplace is being followed.
- Can be referred to in support of the preventive enforcement provisions of the OHS Act or OHS Regulation.
- Can be used as evidence to support a prosecution for failing to comply with or contravening the OHS Act or OHS Regulation.

Foreword

This code of practice provides comprehensive practical guidance on the safe storage and handling of substances and articles classified as dangerous goods, apart from explosives, infectious substances and radioactive substances.

This code of practice outlines control measures focussed on physically containing the hazards and risks posed by dangerous goods. Personal exposure risks are covered in the NSW *Code of practice for the control of workplace hazardous substances*.

In 2003 a review of the regulation of dangerous goods led to major reform. The regulation of the storage and handling of most classes dangerous goods will now come within the *Occupational Health and Safety Regulation 2001*, under the *Occupational Health and Safety Act 2000*. Explosives will come under the *Explosives Act 2003* and the *Explosives Regulation 2005*. The previous legislation, the *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999*, will be repealed.

The effect of these reforms is to place dangerous goods within a risk management framework, consistent with all other types of hazards found within workplaces. This Code of practice provides advice on applying this risk management framework to dangerous goods. These principles are extended to include aspects of public safety.

This Code of practice also incorporates a number of Australian Standards applying to dangerous goods. Formerly, compliance with these Australian Standards was mandatory. In the new arrangements compliance with these Standards is recommended; these Standards having the evidentiary status of codes of practice.

This Code of practice applies to workplaces regardless of quantities stored, handled or used. However, the guidance is provided in relation to quantities so that those workplaces with small quantities do not necessarily need to observe all chapters. This code of practice applies to non-workplaces where the quantities of dangerous goods stored or handled are above certain amounts.

This new legislation is based upon the *National Standard for the Storage and Handling of Dangerous Goods* declared by the *National Occupational Health and Safety Commission* in 2001.

This code of practice is based upon a similar code produced by the State of Victoria, and the national code declared by the National Occupational Health and Safety Commission (NOHSC).

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CHAPTER 1 – ESTABLISHMENT

1.1 Title

This is the *Code of practice for the storage and handling of dangerous goods*.

1.2 Purpose

This code of practice provides practical guidance to occupiers of premises on the safe storing and handling of dangerous goods, so that all persons (including members of the public) are not exposed to risks to their health and safety arising from dangerous goods at the occupier's premises.

This will assist employers, self-employed persons, and controllers of premises meet their legal obligations to store and handle dangerous goods without risk to the health and safety of workers and the community.

1.3 Scope

This code of practice applies to risks to all persons, including workers and the public, arising from dangerous goods that are stored or handled:

- at places of work
- at premises that are not workplaces where dangerous goods or combustible liquids are in quantities above those shown in Appendix 1.

The term "handled" is broadly defined and includes all aspects of use (see the definition in section 1.10).

This code of practice does not apply to the following:

- Dangerous goods in Class 1 (explosives), Class 6.2 (infectious substances) or Class 7 (radioactive substances).
- Pipelines when extending across the boundary of a premises, which are regulated under the *Pipelines Act 1967*.
- Dangerous goods during transport when subject to the regulations for road, rail, sea or air transport, and port operational areas.
- Gas installations to the extent covered by the *Dangerous Goods (Gas Installations) Regulation 1998* under the *Gas Supply Act 1996*.
- Dangerous goods when in: fuel tanks or batteries in systems connected to and essential for the operation of plant, vehicles or boats; portable fire fighting equipment or portable gas cylinders medical for medical purposes, when deployed for use; pneumatic tyres; or refrigeration equipment of less than 12 litres water capacity in use.
- Naturally occurring gas in an underground mine.
- Personal use products, such as food, therapeutic agents, cosmetics, tobacco and toiletries, where the use is not related to a work activity.

Other specific legislation or codes of practice may apply to some of the above matters excluded from the code of practice.

Personal exposure risks (except to biological or radio-active hazards) are covered in the *NSW Code of practice for the control of workplace hazardous substances*.

This code of practice does not provide detailed guidance on supplier obligations for dangerous goods and hazardous substances. Manufacturers and importers should consult the most recent editions of the following two codes, published by the *National Occupational Health and Safety Commission* (NOHSC):

- *National code of practice for the preparation of material safety data sheets*
- *National code of practice for labelling workplace chemicals (hazardous substances and dangerous goods).*

These are available on the web site: www.nohsc.gov.au.

1.4 Commencement

This code of practice takes effect on 1 September 2005.

1.5 Authority

This is an industry code of practice approved by the Minister for Commerce, and the Minister for Mineral Resources where it relates to mines, under section 43 of the *Occupational Health and Safety Act 2000*.

1.6 Other relevant legislation

The *Electricity Safety (Electrical Installations) Regulation 1998* provides that all electrical installations must comply with AS/NZS 3000 SAA Wiring rules which references other standards relevant to hazardous areas related to dangerous goods (eg see section 9.8 ignition sources in hazardous areas).

The transfer and handling of dangerous goods at all premises, such as deliveries of goods and loading or unloading of vehicles, must comply with the provisions of: *Road and Rail Transport (Dangerous Goods) (Rail) Regulation 1999*; and the *Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998*. These NSW Regulations bring into force the ADG code in relation to the transport of dangerous goods (except explosives). Transport is defined widely and includes packing, loading and unloading of dangerous goods and the transfer to and from a vehicle for the purpose of their transport.

Pipelines are covered under the *Pipelines Act 1967* and the *Pipelines Regulation 2000* which incorporates AS/NZS 2885 *Pipelines – Gas and liquid petroleum*; and the *Gas Supply (Safety and Operating Plans) Regulation 1997*.

Protection of the environment is covered by other laws, notably the *Protection of the Environment Operations Act 1997* and Regulations and is not specifically addressed in this code of practice. However, the control measures described here will also serve to protect the environment.

1.7 Incorporation of Australian Standards and other publications as part of this code of practice

1.7.1 Australian Standards

The following Australian Standards, as amended from time to time, and relevant to the storage and handling of dangerous goods, are incorporated to form part of this code of practice as provided by section 41(2) of the *Occupational Health and Safety Act 2000*:

AS 1020 Control of undesirable static electricity

AS 1319 Safety signs for the occupational environment

AS 1345 Piping

AS 1375 SAA industrial fuel-fired appliances code

AS 1530 Methods for fire tests on building materials, components and structures. Specification of fire ratings

AS/NZS 1596 The storage and handling of LP Gas

AS 1692 Tanks for flammable and combustible liquids

AS 1697 SAA Gas pipeline code

AS/NZS 1768 Lightning protection

AS/NZS 1850 Portable fire extinguishers

AS/NZS 1851 Maintenance of fire protection equipment (Part 1 Portable fire extinguishers and fire blankets, Part 2 Fire hose reels)

AS 1894 The storage and handling of non-flammable cryogenic and refrigerated liquids

AS 1915 Electric equipment for explosive atmospheres – battery operated vehicles

AS 1939 Degrees of protection provided by enclosures of electrical equipment (IP code)

AS 1940 The storage and handling of flammable and combustible liquids

AS/NZS 2022 Anhydrous Ammonia – Storage and handling

AS/NZS 2106 Determination of flashpoint of flammable liquids (closed cup)

AS 2118 Automatic fire sprinkler systems

AS/NZS 2430.3 Classification of hazardous areas (all parts)

AS 2441 Installation of fire hose reels

AS 2507 The storage and handling of agricultural and veterinary chemicals

AS 2658 LP gas – portable and mobile appliances

AS 2714 The storage and handling of hazardous chemical materials – Class 5.2 substances (organic peroxides)

AS 2832 Guide to cathodic protection of metals (all parts)

AS 2896 Medical gas systems – installation and testing of non-flammable medical gas pipeline systems

AS/NZS 2906 Fuel containers – portable – plastics and metal

AS/NZS 2927 The storage and handling of liquefied chlorine gas

AS 3780 The storage and handling of corrosive substances

AS/NZS 3833 The storage and handling of mixed classes of dangerous goods in packages and intermediate bulk containers

AS 3961 *Liquefied natural gas – storage and handling*
AS 4041 *Pressure piping*
AS/NZS 4081 *The storage, handling and transport of liquid and liquefied polyfunctional isocyanates*
AS 4289 *Oxygen and acetylene gas reticulation systems*
AS 4326 *The storage and handling of oxidising substances*
AS 4332 *The storage and handling of gases in cylinders*
AS/NZS 4452 *The storage and handling of toxic substances*
AS/NZS 4681 *Storage and handling of Class 9 (Miscellaneous) dangerous goods*
AS 4745 *Code of practice for handling combustible dusts*
AS 5601 *Gas installations*

1.7.2 Other documents

The following document, as amended from time to time, and relevant to the storage and handling of dangerous goods, is incorporated to form part of this code of practice as provided by section 41(2) of the *Occupational Health and Safety Act 2000*:

ALPGA standard: *AG 901 Code of Practice for NGV Refuelling Stations*

1.8 Other relevant approved industry codes of practice

The following Australian Standards are also approved industry codes of practice, adopted by the *Code of Practice for Technical Guidance* (2001), and may be relevant:

AS 1716 *Respiratory protective devices*
AS 2337 *Gas cylinder test stations* (all parts)
AS 2359 *Powered industrial trucks* (all parts), including part 12 *Hazardous areas*
AS 3873 *Pressure equipment – Operation and maintenance*.

1.9 Mandatory design standards

The design of most types of pressure equipment and gas cylinders must comply with the following standards:

AS 1210-1997: *Pressure vessels*
AS 1228-1997: *Pressure equipment – boilers*
AS 2971-1987: *Serially produced pressure vessels*
AS /NZS 3509-1996: *LP Gas vessels for automotive use*
AS 3892-2001: *Pressure equipment – Installation*
AS 4343-1999: *Pressure equipment – hazard levels*
AS 4458-1997: *Pressure equipment – manufacture*
AS 2030.1-1999: *The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Part 1: Cylinders for compressed gases other than acetylene*
AS 2030.2-1996: *The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Part 2: Cylinders for dissolved acetylene*

AS 2030.4-1985: *The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Part 4: Welded cylinders – insulated*

The design standards above are required by clause 94 and schedule 1; and clauses 103 (manufacturer's duty), 107 (design registration) and 113 (item registration) of the *Occupational Health and Safety Regulation 2001*. Certain design standards are also mandatory under legislation described in section 1.6 above.

1.10 Definitions

Definitions are taken from the OHS Act or from the OHS Regulation, or from other relevant legislation or Australian Standards. Where developed specifically for this code of practice, this is indicated in a note.

The following terms used in this code of practice have these meanings:

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* approved by the Australian Transport Council and published by the Australian Government from time to time.

Notes: This is adopted into law in transport legislation and the OHS Regulation. This is the source of the definition and classification of dangerous goods and a list of deemed dangerous goods.

area includes a volume, place and a location.

Note: This definition has been developed for this specific code of practice.

article means an item (other than a fluid or particle) which is formed to a specific shape, surface or design, has an end use that depends in whole or in part on its shape, design or surface, and which undergoes no change in chemical composition or physical state during the end use except as an intrinsic part of that end use.

bulk means:

- (a) a quantity of dangerous goods in a container that has a capacity greater than the maximum container size specified for packaged dangerous goods of that type, or
- (b) solid dangerous goods that are not in a container in an undivided quantity exceeding 400 kg.

Notes: The maximum sizes of packages are determined by the ADG Code. This means that a container over the following capacities is a bulk container – 500L for gases, and 450L container capacity or 400kg mass (which ever is the lesser) for solids and liquids, including a C1 combustible liquid. An example of (b) is a pile not otherwise contained. The volume for gases is the water capacity of the container. A bulk container is an item of plant.

Note: all bulk storage requires placards.

bund means an embankment or wall, which may form part of the perimeter of a compound, designed to contain spills of liquids – both the bund and the compound floor must be sufficiently impervious to retain spillage or leakage.

Class means the Class allocated to the dangerous goods under the ADG Code.

Class label, for a Class, means the label specified in the ADG Code for the Class of dangerous goods.

C1 combustible liquid means a combustible liquid within the meaning of AS 1940 *The storage and handling of flammable and combustible liquids*, that has a flash point of greater than 60.5 degrees Celsius but not greater than 150 degrees Celsius.

C2 combustible liquid means a combustible liquid within the meaning of AS 1940 *The storage and handling of flammable and combustible liquids*, that has a flash point of greater than 150 degrees Celsius.

combustible material means any type of combustible material, and includes without limitation C2 combustible liquids and empty combustible containers, such as paper bags, fibre board drums and boxes, plastic containers and liners for containers, and wooden boxes and barrels.

Note: this definition has been adopted for this specific Code of practice.

compatible, in relation to 2 or more substances, means the substances will not react together to cause, or substantially increase the likelihood of, a serious incident (within the meaning of section 87 of the OHS Act).

competent person for any task means a person who has acquired through training, qualification or experience, or a combination of them, the knowledge and skill to carry out that task.

confined space, in relation to a place of work, means an enclosed or partially enclosed space that:

- (a) is not intended or designed primarily as a place of work, and
- (b) is at atmospheric pressure while persons are in it, and
- (c) may have an unsafe atmosphere with potentially harmful contaminants, and unsafe level of oxygen or stored substances that may cause engulfment, and
- (d) may (but need not) have restricted means of entry and exit.

Examples of confined spaces are as follows:

- (a) storage tanks, tank cars, process vessels, boilers, pressure vessels, silos and other tank like compartments,
- (b) open-topped spaces such as pits or degreasers,
- (c) pipes, sewers, shafts, ducts and similar structures,
- (d) shipboard spaces entered through a small hatchway or access point, cargo tanks, cellular double bottom tanks, duct keels, ballast and oil tanks and void spaces (but not including dry cargo holds).

Note: this definition does not apply below ground in a coal mine.

consumer package means a container that is intended for retail display and sale, and includes a container that is transported and distributed as part of a larger consolidated container that consists of a number of identical consumer packages.

container means anything in or by which dangerous goods are or have been wholly or partly encased, covered, enclosed, contained or packed (whether empty, partially full or completely full) and includes any components or materials necessary for the container to perform its containment function.

Note: a container is an item of plant.

controller of dangerous goods premises means the controller of premises at or in which dangerous goods to which section 135A of the Act applies are stored or handled. A controller of premises includes: (a) a person who has only limited control of the premises concerned, and (b) a person who has, under any contract or lease, an obligation to maintain or repair the premises concerned.

Note: Section 135A of the OHS Act and clause 144D of the OHS Regulation apply workplace provisions to non-workplaces when dangerous goods are handled or stored over the quantities specified – see Appendix 1.

dangerous goods means the following (whether or not they are packaged for transport or under pressure):

- (a) substances or articles defined under the ADG Code as:
 - (i) dangerous goods of Class 2, 3, 4, 5, 6.1, 8 or 9, or
 - (ii) goods too dangerous to be transported,
- (b) C1 combustible liquids.

Notes: Gases are dangerous goods whether or not packaged for transport or under pressure, despite the ADG Code definition of the sub-Classes in Class 2. However, goods that are classified as dangerous goods solely for the purposes of air transport are not dangerous goods for the purposes of this code of practice. AS 1940 provides the criteria for C1 combustible liquids (see the definition above). Many dangerous goods are also classified as hazardous substances. The meaning of dangerous goods in parts of the OHS Regulation other than chapter 6A differs by excluding C1 and including classes 1, 6.2 and 7.

emergency service includes any of the following:

- (a) the Ambulance Service of NSW,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) NSW Police,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

employee means an individual who works under a contract of employment or apprenticeship.

employer means a person who employs persons under contracts of employment or apprenticeship.

Note: The term "employer" when used in most parts of the OHS Regulation includes a self-employed person (for example, in relation to their duties to others at the workplace).

fire brigade means the New South Wales Fire Brigades or the NSW Rural Fire Service, whichever is appropriate.

fire protection system includes fire detection, fire suppression and fire fighting equipment, which may be fixed or portable.

fire risk dangerous goods means dangerous goods of Class 2.1, 3, 4, 5 or Subsidiary Risk 2.1, 3, 4, 5, and C1 combustible liquids, that burn readily or support combustion.

food includes:

- (a) a substance prepared for or intended or represented as being for human or animal consumption, and
- (b) a substance intended to be an ingredient of, or an additive to, a substance referred to in paragraph (a).

food packaging means:

- (a) a container that contains, or is designed or intended to contain, food, or
- (b) material designed or intended to be used in a container that is designed or intended to contain food.

gas cylinder means a particular rigid pressure vessel, exceeding 0.1 kg but not exceeding 3,000 kg water capacity, without openings or integral attachments on the shell other than at the ends, designed for the storage and transport of gas under pressure.

goods too dangerous to be transported has the same meaning as in the ADG Code.

Note: These are goods that are extremely unstable or have other characteristics making them unsuitable for transport. They are named in appendix 5 of the ADG code. Some meet the classification criteria in the ADG Code, and some are dangerous for transport for other reasons.

handling, in relation to dangerous goods, includes conveying, manufacturing, processing, possessing, using, preparing for use, treating, dispensing, packing, selling, offering for sale, supplying, transferring, loading and unloading, rendering harmless, abandoning, destroying and disposing of dangerous goods.

hazard means anything (including work practices or procedures) that has the potential to harm the health or safety of a person.

Notes: For dangerous goods and hazardous substances, this primarily includes the intrinsic property of the substance (or substance contained in an article), or method of containment (eg a substance at high temperature or a gas under pressure). In this Code of practice, it also includes hazards impinging on the safety of the dangerous goods (see chapter 6).

hazardous area means an area or space in which the atmosphere may contain or may be reasonably expected to contain any material or substance (including but not limited to combustible dusts, combustible fibres, flammable liquids, flammable vapours, flammable gases, flammable or combustible fumes) at a concentration that is capable of being ignited by an ignition source.

Note: flammable liquids cover aerosols or sprays of flammable liquid.

hazardous substance means a substance that:

- (a) is listed in the *List of Designated Hazardous Substances*, or
- (b) fits the criteria set out in the *Approved Criteria for Classifying Hazardous Substances*, as published by the National Occupational Health and Safety Commission.

Notes: The criteria and list are updated from time to time. While these categories overlap with dangerous goods classifications, they essentially cover personal exposure risks from substances that have chemical health effects. Many dangerous goods will also be hazardous substances.

hot work means work that involves an ignition source or heat source.

ignition source means a source of energy sufficient to ignite combustible dusts, combustible fibres, flammable vapours, flammable gases or flammable or combustible fumes, and includes the following:

- (a) a naked flame,
- (b) exposed incandescent material,
- (c) hot surfaces,
- (d) radiant heat,
- (e) a spark from mechanical friction,
- (f) a spark from static electricity,
- (g) an electrical arc,
- (h) any electrical, electronic, mechanical or other equipment.

incident means any incident listed below occurring at or in a place of work is, if it is an incident that presents a risk to health or safety and is not immediately threatening to life:

- (a) an injury to a person (supported by a medical certificate) that results in the person being unfit, for a continuous period of at least 7 days, to attend the persons usual place of work, to perform his or her usual duties at his or her place of work or, in the case of a non-employee, to carry out his or her usual activities,
- (b) an illness of a person (supported by a medical certificate) that is related to a work process and results in the person being unfit, for a continuous period of at least 7 days, to attend the persons usual place of work or to perform his or her usual duties at that place of work,
- (c) damage to any plant, equipment, building or structure or other thing that impedes safe operation,
- (d) an uncontrolled explosion or fire,
- (e) an uncontrolled escape of gas, dangerous goods or steam,
- (f) a spill or incident resulting in exposure or potential exposure of a person to a notifiable or prohibited carcinogenic substance,
- (g) removal of workers from lead risk work due to excessive blood lead levels,
- (h) exposure to bodily fluids that present a risk of transmission of blood-borne diseases,
- (i) the use or threatened use of a weapon that involves a risk of serious injury to, or illness of, a person,
 - (i1) a robbery that involves a risk of serious injury to, or illness of, a person
 - (i2) electric shock that involves a risk of serious injury to a person,
- (j) any other incident that involves a risk of:
 - (i) explosion or fire, or
 - (ii) escape of gas, dangerous goods or steam, or
 - (iii) serious injury to, or illness of, a person, or
 - (iv) substantial property damage.

Notes: Notification of incidents is required by section 86 of the OHS Act and defined in clause 341 of the OHS Regulation. "Serious incident" is also defined (see below) in clause 344 of the OHS Regulation. "Place of work" is extended to non-workplaces where dangerous goods are stored or handled in quantities exceeding those shown in appendix 1 of this code of practice.

incompatible means those substances that are not compatible. See the definition of compatible.

IBC (intermediate bulk container) means a rigid or flexible portable packaging for the transport or storage of dangerous goods that:

- (a) has a capacity of not more than:
 - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden or rigid plastics or wooden container – 1,500 litres, and
 - (ii) for solids of Packing Group I packed in a metal container – 3,000 litres, and
 - (iii) for solids or liquids of Packing Groups II and III – 3,000 litres.
- (b) is designed for mechanical handling, and
- (c) is resistant to the stresses produced in usual handling and transport.

location – see "storage location".

must indicates a mandatory requirement (a requirement of an Act or Regulation).

MSDS means material safety data sheet.

occupier of premises

occupier, in relation to premises where dangerous goods are stored or handled, means the following:

- (a) if dangerous goods are stored or handled at an employer's place of work – the employer, or
- (b) a controller of dangerous goods premises.

Note: Controller of dangerous goods premises is defined above.

OHS Act means the *Occupational Health and Safety Act 2000*.

OHS Regulation means *Occupational Health and Safety Regulation 2001*.

Note: this Regulation is automatically repealed every five years, unless the repeal is postponed and replaced by a regulation with a new date.

package means the complete product of the packaging of the dangerous goods, and consists of the goods and their packaging. Packaging is the container in which the goods are received or held for transport, and includes anything that enables the container to receive or hold the goods or to be closed.

Note: when provided for use at work, packaging is an item of plant.

packaged dangerous goods means dangerous goods:

- (a) Class 2 dangerous goods that are in a container with a capacity of not more than 500L; or
- (b) goods too dangerous to be transported or dangerous goods of another Class that are in a container with
 - (i) a capacity of not more than 450L, and
 - (ii) a container with a net mass of not more than 400kg, or
- (c) C1 combustible liquids in a container with a capacity of not more than 450L.

Note: Volumes are water capacity of the container.

Packing Group means the Packing Group allocated to the dangerous goods under the ADG Code.

Notes: This is often abbreviated PG. It is a classification assigned to some classes of dangerous goods based on the degree of hazard – I being the highest and III the lowest level of hazard. It does not apply to gases.

PG – see Packing Group.

person includes an individual, a corporation, and a body corporate or politic.

pipework means a pipe or assembly of pipes, pipefittings, valves and pipe accessories.

pipeline means pipework that crosses the boundary of a particular premises. A pipeline begins and ends at the nearest fluid or slurry control point (along the axis of the pipeline) to the boundary of the premises concerned.

place of work means any premises where persons work.

Note: Section 135A of the OHS Act and clause of the OHS Regulation extend workplace provisions to non-workplaces when dangerous goods are handled or stored over the quantities shown in appendix 1.

plant includes any machinery, equipment or appliance.

Note: Generally speaking, dangerous goods are usually contained within an item of plant. Plant includes things such as: articles, pipework, road tankers and associated transfer equipment. Section 135 of the OHS Act extends plant provisions to non-workplaces for pressure equipment (including gas cylinders).

premises includes any place, and in particular includes:

- (a) any land, building or part of any building, or
- (b) any vehicle, vessel or aircraft, or
- (c) any installation on land, on the bed of any waters or floating on any waters, or
- (d) any tent or moveable structure.

protected work means any:

- (a) dwelling house,
- (b) government or public building, church, chapel, college, school, hospital, theatre or public hall,
- (c) shop, factory, warehouse, store or other building or any timber yard, in which any person is employed or engaged in a trade, business or profession,
- (d) building or structure in or about which persons are usually present or from time to time assemble, or
- (e) reservoir used for the supply of reticulated water to the public.

public place means any place other than private property, open to the public, which the public has the right to use and which includes a public road.

reasonably practicable – this is not defined in legislation, but see the advice in section 8.2.

relevant transport code, means the ADG Code, the International Civil Aviation Organization's *Technical Instructions for Safe Transport of Dangerous Goods by Air*, the International Maritime Organization's *International Maritime Dangerous Goods Code*, or the International Air Transport Association's *IATA Regulations* as appropriate.

Note: see the definition of "transit" below.

retail warehouse operator means a person who operates a warehouse at which unopened packaged goods intended for retail sale are held, but does not include a retailer.

retailer means a person who sells goods to members of the public who are not themselves engaged in any further resale of those goods.

risk means the likelihood of an injury or illness occurring and the likely severity of the injury or illness that may occur.

Note: Risk includes risks to the health and safety of any workers and any member of the public, both on the premises and outside of the premises where the dangerous goods are stored or handled, and regardless of whether the premises is a workplace.

self-employed person means a person who works for gain or reward otherwise than under a contract of employment or apprenticeship, whether or not employing others.

Note: Self-employed persons have the same duties as employers in some clauses of the OHS Regulation.

segregation means separation from other substances (including dangerous goods) so that a loss of containment cannot cause a serious incident.

separation in relation to the separation of dangerous goods from a person, property or thing, means the physical separation of the dangerous goods from the person, property or thing, by either distance or a physical barrier.

Note: See also segregation.

serious incident means either an incident that has resulted in a person being killed or any of the following incidents at or in relation to a place of work:

- (a) an injury to a person that results in an amputation of a limb,
- (b) the placing of a person on a life-support system,
- (c) any incident listed below that presents an immediate threat to life:
 - (i) the loss of consciousness of a person caused by impact of physical force, exposure to hazardous substances, electric shock or lack of oxygen,
 - (ii) any major damage to any plant, equipment, building or structure,
 - (iii) an uncontrolled explosion or fire,
 - (iv) an uncontrolled escape of gas, dangerous goods or steam,
 - (v) imminent risk of explosion or fire,
 - (vi) imminent risk of an escape of gas, dangerous goods or steam,
 - (vii) a spill or incident resulting in exposure or potential exposure of a person to a notifiable or prohibited carcinogenic substance,
 - (viii) entrapment of a person in a confined space,
 - (ix) collapse of an excavation,
 - (x) entrapment of a person in machinery,
 - (xi) serious burns to a person.

Notes: This is defined in section 87 of the OHS Act and clause 344 of the OHS Regulation. "Incident" is defined above and in clause 341 of the OHS Regulation. "Place of work" is extended to non-workplaces where dangerous goods are stored or handled in quantities exceeding those shown in appendix 1 of this code of practice.

should means a recommendation.

Note: Such recommendations have the legal standing of evidence accorded to codes of practice by section 46 of the OHS Act.

source of ignition – see ignition source.

stability refers to chemical stability and reactivity unless the context demands otherwise.

Notes: In some contexts, this includes physical or mechanical stability of plant. This definition has been developed for the specific purposes of this code of practice.

storage location means any place or area where one type of dangerous goods or compatible dangerous goods are kept either in bulk or in a quantity exceeding the relevant quantity specified in the column headed "Placarding quantity" in the Table to Schedule 5 [of the OHS Regulation] (and includes a building, structure, room, compartment, tank or other bulk container, store, or receptacle in or on which dangerous goods are stored in bulk or handled above the "Placarding quantity" in the Table to schedule 5).

Note: Schedule 5 of the OHS Regulation is shown in appendix 2 of this Code of practice.

storing includes storing as a bailee or in any other capacity.

Subsidiary Risk has the same meaning as in the ADG Code.

Notes: Subsidiary Risk is a secondary hazard of a substance or article as assigned by the ADG Code, the primary hazard being indicated by the Class.

substance means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour, and includes dangerous goods.

Notes: Dangerous goods includes articles. This definition has been developed for the specific purposes of this code of practice.

tank means a container, other than an IBC, that is used, or designed to be used, to transport or store dangerous goods in the form of a gas or a liquid in bulk and includes fittings, closures and any other equipment that forms part of the container.

Note: *bulk* and *IBC* are defined above.

transfer means the movement of dangerous goods including from place to place within a premises or into or from a container or package, and includes pumping, dispensing, and decanting.

Note: this definition has been developed for this specific code of practice.

transit means dangerous goods at premises that:

- (a) are part of a transport load in compliance with the relevant transport code, and
- (b) are loaded on a vehicle, vessel or aircraft, or being transhipped from one vehicle, vessel or aircraft to another, and
- (c) are not intended to be at the premises for more than 5 consecutive days (not including public holidays) and have not been at the premises for more than 5 consecutive days (not including public holidays), and
- (d) are not intended to be consumed or processed at the premises and have not been consumed or processed at the premises, and
- (e) are not intended for sale at the premises.

Note: see also the definition of "relevant transport code".

transport, in relation to dangerous goods, includes:

- (a) the packing, loading and unloading of the goods, and the transfer of the goods to or from a road vehicle or rail wagon, for the purpose of their transport; and
- (b) the marking of packages and unit loads containing dangerous goods, and the placarding of containers, vehicles and rail wagons in which dangerous goods are transported; and
- (c) other matters incidental to transport.

use plant means work from, operate, maintain, inspect or clean plant.

water capacity, of a container, means the total internal volume of the container in litres of water measured at a temperature of 15 degrees Celsius.

Notes: The volumes of gas containers are usually measured in terms of water capacity. The reference to litres in relation dangerous goods of class 2 means the water capacity of the container that holds those dangerous goods.

worker means any person working or engaged in the storage or handling of dangerous goods at a particular premises, and includes an employee or a self-employed person.

Note: This definition has been developed for the specific purposes of this code of practice. Premises is defined above.

workplace – see place of work.

CHAPTER 2 – PLANNING TO IMPLEMENT THIS CODE OF PRACTICE

This code of practice does not go into details as to who bears the obligations, but describes the steps that should be taken to ensure health and safety, and thereby comply with the law. The person (individual or corporation) who has the obligation to comply with legislation, and make use of the advice in this code of practice, will vary with circumstances. For full details of legal obligations, the OHS Act and the OHS Regulation need to be consulted.

This chapter focuses on implementing safety by planning and applying risk management principles to the use of dangerous goods, including the storage and handling of containers.

2.1 The risk management approach of this code of practice

“Risk management” is a way of organising efforts to determine safe systems of handling and storage. Following this procedure will help identify safety issues unique to the nature of your particular premises.

2.1.1 Steps in risk management

Risk management involves the following four steps:

1. Identifying all hazards. This includes examining all activities, work processes, plant, substances, work environment, layout and condition of the premises, and any other factors that may affect safety. Specifically include the dangerous goods classification of container contents, and any dust or gas hazards that may arise from the nature of the substances and articles in use, handled or stored. This is explained in chapter 3, with further technical details in chapter 6.
2. Secondly, assessing the risks. Risk is a combination of the likelihood and the severity of any harm that the hazards might give rise to. Factors contributing to the risk should also be identified. It helps to prioritise risks so that the most serious ones can be tackled first. This should include an evaluation of the effectiveness of existing control measures. With dangerous goods, the quantity stored and in use is one indicator of the level of risk: the greater the quantity the greater the risk. Risk assessment is explained in chapter 7.
3. Thirdly, eliminating or reducing the risk(s) identified in step 2, by applying the “hierarchy of control” measures (detailed below in section 2.3). Controls are outlined in chapter 8 and detailed in chapters 9 to 11. Identify any record keeping necessary to ensure controls are maintained.
4. Finally, to ensure that safety is maintained, monitor and review the control measures to ensure they are working, and respond to changes in work practices, activities or other conditions. Supervision is essential to ensure workers and the public follow correct practices.

The first 3 steps must be carried out before work commences – this Code will help you do this. If there are only small quantities in packages at the premises, this process can be simplified as explained in section 2.1.4 below.

Employers must consult with employees about these steps – see section 2.2.

2.1.2 Key risks to assess

Experience indicates the following risks are important and should be examined in the risk assessment, where relevant to the type of handling or storage:

- escape or spillage of goods
- fires or explosions resulting from the nature of the dangerous goods

- chemical reactions between incompatible goods, or self-reacting goods
- related issues such as confined spaces entry
- associated plant and equipment, such as that used for bulk handling and transfer of goods or in a manufacturing process (eg sources of ignition).

If monitoring and reviewing indicates on-going problems, this could indicate a need to re-design the relevant aspect of the handling and storage system. Controlling the risk of injury usually also controls the risks to property and the environment.

You should write down your risk management activities and reasons for selecting controls. A record of the risk assessment must be kept by the occupier of the premises where the dangerous goods are stored or handled (see section 7.3).

Further guidance on the principles of risk management can also be found in WorkCover's *Workplace Safety Kit*, *Small Business Safety Starter Kit*, and in general terms in the *Code of Practice on Risk Assessment*.

2.1.3 Steps to take

A stepwise process needs to be developed, for example:

- (1) Decide who will do it.
- (2) Identify the dangerous goods in use and storage and the associated hazards.
- (3) Identify areas and persons at risk.
- (4) Review information, including relevant MSDS and other sources of advice such as relevant Australian Standards.
- (5) Identify external hazards and how these could impinge on the dangerous goods.
- (6) Estimate risks in each situation.
- (7) Reach conclusions about risks.
- (8) Identify and evaluate suitable control measures.
- (9) Adopt control measures.
- (10) Review the effectiveness of control measures.

2.1.4 How this code of practice is organised

An analysis of the hazards and risks with the particular type of dangerous goods at your premises will indicate which sections of this code of practice are relevant. The Class category assigned to the goods is a key indicator of the hazard. Chapter 3 provides advice on identifying dangerous goods and obtaining information – this advice is essential, regardless of the classification and quantities of goods.

The total quantity stored and in use is a key indicator of risk. For example, some aspects of this code may not be relevant to your premises if you have low quantities in packages. A systematic application of risk management should indicate relevant control measures, using this code as a guide.

For relatively low quantities of dangerous goods, chapter 4 provides advice on what is termed “small” quantities in this code (similar to the term “minor storage” used in a number of Australian Standards). These “small” quantities are defined as being below the placard levels in schedule 5 of the OHS Regulation, shown in appendix 2 of this code of practice. For retail premises, chapter 5 provides advice in relation to consumer packages in “small” quantities (but not bulk).

For premises that exceed these "small" quantities, further detailed guidance on identifying hazards is provided in chapter 6, and details of risk assessment are provided in chapter 7. Chapter 8 gives a detailed explanation of applying the hierarchy of control. Chapters 9 to 11 provide information on specific control measures and references to relevant Australian Standards.

Over certain quantities, the OHS Regulation requires certain additional steps and chapters 12 to 17 provide additional advice about:

- notification of the premises details to WorkCover
- placards for storage areas
- manifests listing the dangerous goods at the premises
- written emergency plans.

2.2 Employers obligation to consult with employees about risk management

A duty for employers to consult with employees is provided by sections 13 to 19 of the OHS Act. Details of consultation arrangements are provided in chapter 3 of the OHS Regulation. This does not apply to self-employed persons, but coordination with other duty holders may – see section 2.6.

A suitable method of consultation must be put in place. Further advice on consultation with employees and setting up suitable arrangements is provided in the *WorkCover Code of practice: OHS consultation*.

Employers should consult with employees about implementing this code of practice. It may help if hazardous substances issues (such as exposure of workers to atmospheric contaminants) are discussed at the same time. For example, when discussing the physical risk of the flammability of the vapour produced by a substance, it may be appropriate to also discuss inhalation and toxicity risks.

2.2.1 When to consult

Whenever employers undertake a risk assessment or determine control measures, they must consult with employees as part of this process and take their views into account.

As examples, consultation should take place when:

- (a) Evaluating the safety issues as part of the process of purchasing a new type of dangerous goods or plant to be used with dangerous goods. This includes such matters as the safety features of the plant used with dangerous goods, its location and compatibility with other plant or equipment in the workplace.
- (b) Developing safe work procedures for related tasks, such as decanting, loading, unloading and using bulk handling equipment.
- (c) Developing inspection and maintenance procedures.
- (d) Developing emergency procedures to address risks such as fires and explosions.
- (e) Investigating the causes of injuries, accidents or other incidents (such as "near misses") that may arise.
- (f) Considering modifications to the containers of dangerous goods or associated plant.

2.2.2 Topics for discussion

When undertaking consultation employers should share all relevant safety information with employees. This must include information provided by the manufacturer or supplier of goods and plant, health and safety issues that may arise from the use of goods or plant, and how these issues will be addressed. Employees should be given sufficient time to consider this information and discuss any issues they may have with their employer.

Examples of particular topics to discuss during consultation include:

- selection of suitable Personal Protective Equipment (PPE), when chosen as a control measure
- best ways of communicating health and safety information, including providing information to contractors or other workers at the site
- effective ways of providing signage
- establishing administrative procedures such as hazard and accident reporting.
- accessing emergency response procedures for the site
- coordination with contractors and other workers at the site (eg vehicle drivers loading or unloading).

2.2.3 Information to make available

The following information should be made available to OHS Representatives during consultation (including the information that must be made available to relevant employees):

- labels on containers and MSDS (see chapter 3)
- the register of substances (ie both dangerous goods and hazardous substances, see section 3.5)
- any written risk assessment reports
- any relevant manufacturer's information relating to the use of plant
- the emergency plan (where one is required by the OHS Regulation)
- the manifest for the premises (where one is required by the OHS Regulation).

2.3 Preventing accidents and injuries – elimination and the hierarchy of control

2.3.1 Legal obligation to apply the hierarchy of control

After identifying the hazards and assessing the risks, the key step is to determine the safeguards or work systems that are needed to keep people safe. As indicated above, employers must involve employees when making these decisions.

The hierarchy of control must be followed when choosing control measures recommended in this code of practice. Many of the measures will be those described in relevant Australian Standards (see the list in section 1.7). Premises where the controls were adopted from the relevant Australian Standards prescribed in the old (repealed) dangerous goods Regulation will largely be conforming with this code of practice. The hierarchy of control is detailed in chapter 8; however the principles are outlined in sections 2.3.2 and 2.3.3 below.

2.3.2 Eliminating the risk

The first consideration is to keep people from being exposed to a hazard in the first place. This is called eliminating the risk.

For example, the risk associated with using a paint with a flammable solvent can be eliminated by:

- using a non-flammable solvent (eg changing to a “water-based” paint), or
- using a different system (eg powder coating instead of painting).

Elimination of the hazard gives the best level of safety, and must be adopted unless it is not reasonably practicable. If elimination is not reasonably practicable, then the following hierarchy of controls must be considered (see 2.3.3 below).

2.3.3 Controlling the risk

Controlling dangerous goods occurs at three levels:

Level 1. Containment – the first level of control is to contain the dangerous goods to prevent escape. Effective containment will eliminate some risks.

Level 2. Spill or leak control – these are the controls that function if an escape does occur to contain or limit the effects of the escape (eg bunding to limit the spread of a liquid; warning devices that detect a gas leak).

Level 3. Fire control and emergency response – these are the steps to be taken if containment fails, and in case the level 2 controls fail to prevent a serious incident.

The hierarchy of control measures is listed below in order of effectiveness. Work through the sequence, starting with (a) which represents the highest level. Determine the control from the highest level reasonably practicable, and develop each control measure for each risk identified. The term “reasonably practicable” is explained in section 8.2.

- (a) Substituting the system of work, substance or plant for something less hazardous (eg change the type or reducing quantities of goods kept on site).
- (b) Isolating the hazard (eg introduce a restricted work area or enclosing the system, separate goods from other hazards or segregate incompatible substances).
- (c) Introducing engineering controls (eg forced ventilation to remove fumes).
- (d) Administrative controls – examples are:
 - modifying the system of work (eg changing the times at which certain tasks are done);
 - hazard warning signs, specific training and work instructions.
- (e) Personal protective equipment (PPE), such as eye, respiratory and hand protection to protect the worker.

In some situations a combination of control measures may be needed.

Administrative controls require frequent reviews of the risks and systems of work. Workers should be trained to implement all relevant controls. When adopting administrative controls, training of workers about each control is important to ensure that workers know how to implement these. Supervision is necessary to ensure that workers use controls.

2.3.3 Using PPE as a control measure

PPE should only be used when other control measures are not reasonably practicable, or when, after implementing other controls, a residual risk remains. PPE may be necessary as part of emergency procedures.

However, the need to use PPE typically used in the industry such as hard hats, respirators, gloves, eye protection and safety boots should be carefully considered.

Where the chosen measures to control risks include the use of PPE, the employer (or self-employed person) must provide each person at risk with the PPE, and provide training on its use and maintenance (OHS Regulation, clause 15). Careful supervision and monitoring are needed to ensure that workers use and maintain PPE properly.

Any new control measures should be evaluated to ensure that they are effective and that new hazards are not introduced (directly or indirectly).

A further explanation of using the hierarchy of control is provided in chapter 8.

2.4 Planning to deal with serious incidents – emergency procedures, fires and confined spaces entry

Employers, self-employed persons and occupiers must provide for emergencies.

Fire risks of dangerous goods should be identified, especially those related to the dangerous goods classification – see the definition of “fire risk dangerous goods” in section 1.10. Any confined spaces at the premises (including those associated with plant) should be identified.

Emergency procedures, including fire fighting, should be developed on the basis of the needs indicated by the risk assessment. This would include an assessment of:

- (a) the nature and quantity of the dangerous goods stored or handled;
- (b) the types and likelihood of emergencies;
- (c) the fire protection and other emergency equipment provided;
- (d) the physical features of the premises;
- (e) access to the premises (workplace) by emergency services;
- (f) the number of people likely to be on the premises or on adjoining premises.

Relevant emergency contact telephone numbers need to be displayed in prominent locations or provided to workers (eg on an emergency response card).

The following matters should be considered when planning to deal with emergencies and controlling fires:

- (a) developing a site emergency plan, including procedures for alerting the fire brigade and cooperation with the fire brigade;
- (b) the provision of fire fighting equipment, location and access to this;
- (c) suitable fire, heat and smoke detection systems;
- (d) maintenance of fire fighting equipment;
- (e) provision of an adequate water supply;
- (f) safe isolation and emergency stop procedures;
- (g) control of access to the premises or affected area during the emergency;
- (h) extra equipment and measures for entry into a confined space for rescue; and
- (i) PPE and self-contained breathing apparatus that may be needed.

The above measures need to be included in staff training and instruction (see chapter 17), and developed in consultation with employees.

Additional measures must be considered where the quantity of dangerous goods exceeds the “manifest” level shown in Appendix 2. Details are provided in chapters 12 and 14.

2.5 Training and instruction for workers

Employers and self-employed persons must provide suitable training, instruction, information and supervision, to ensure workers' health and safety (OHS Regulation, clauses 13 and 14).

Information can also be provided in training, and is covered in section 2.8. Information and training must be commensurate with the risks. Information and training needs for each worker should be determined in the risk assessment process and through consultation with workers.

Everyone should be trained to follow systems of work and work practices that enable them to perform their work safely. Training should include matters covered in this Code of practice where relevant. Make sure that only those who have had adequate training and instruction are permitted to carry out the work.

Relevant training needs to be considered for those workers who carry out specific tasks, such as operating, maintaining or cleaning plant.

Managers and supervisors also need training relevant to the dangerous goods in the areas they supervise. Those with the tasks of assessing risks and implementing control measures may also need appropriate training.

Further guidance is provided in chapter 17 of this Code of practice.

2.6 Control and coordination of contractors and other persons working at the site

At some locations, more than one organisation or party may be working. Examples are where a principal engages contractors, labour hire workers or persons working in a partnership.

Controllers of premises, plant or substances (who themselves are not working at the site) also have responsibilities. An example is where a corporation engages a contract packer at a separate site and provides (and retains ownership of) the goods to be packed. Another example is strata title factory units, where the lessor and the lessee both have duties.

2.6.1 Coordination

Coordination of health and safety efforts is also essential. Clause 8 of the OHS Regulation provides that, if more than one person has a responsibility with respect to a particular occupational health and safety matter:

- (a) each person retains responsibility for the matter, and
- (b) the responsibility is to be discharged in a co-ordinated manner.

Providing information in the form of signs, labels and MSDS (see chapter 3) is an important part of this coordination.

2.6.2 Contractors

In order to adequately ensure both the protection of contractors who work at the site (even if only occasionally), and to ensure contractors protect others, it is important to adopt procedures, such as:

- permit to work systems (eg for hazardous areas);
- isolation and tagging procedures to prevent inadvertent starting or energising of plant; and
- providing adequate information and training about storage containers and associated hazards and risks, and emergency systems established (such as fire alarms).

Health and safety issues should be considered at the time of preparing tender documents and when evaluating tenders. The need for risk assessments and safe work method statements prepared by contractors should be considered at an early stage to ensure that the work is carried out safely.

Supervision or evaluation may be necessary to ensure contractors carry out appropriate procedures, including implementing this Code of practice.

2.6.3 Premises where there are several occupiers

At some premises there may be several occupiers and consequently several persons may have duties that must be coordinated. Examples are strata title factory units, partnerships, joint ventures and where a person leases part of a premises.

In such cases the duties must be coordinated as described in section 2.6.1. Owners of premises should check if other persons at the premises are using dangerous goods and whether the premises is suitable in terms of the premises related control measures described in this code of practice.

2.7 Regular cleaning, maintenance and inspections

Risks can be reduced through regular checks, inspection, maintenance and cleaning programs.

Inspection of plant must be carried out by a competent person (OHS Regulation clause 137(e)). If the operation or condition of plant presents an immediate risk to health or safety, the plant must be withdrawn from operation until the risk is eliminated or, if this is not practicable, controlled (OHS Regulation clause 136(3)(n)).

Arrange for a comprehensive and detailed examination of storage containers and associated plant and pipework by a competent person at intervals recommended by the manufacturer. This may need to be more frequent in harsh environments such as near seawater, or where factors could cause deterioration or damage, such as the nature of the stored material, corrosion, chemical reaction, fatigue, vibration, heat or ultra violet light.

Further advice on maintenance and inspection is provided in section 9.10 *Regular cleaning, maintenance and inspections*.

2.8 Information and signage

The key information provided to workers includes placards and signs in the work area and premises.

Signage is an important way of providing information. The OHS Regulation requires signage for certain risks. For example, an employer must ensure that all relevant information on emergency procedures relating to plant is displayed in a manner that can be readily observed by persons who may be exposed to risks arising from the operation of plant (OHS Regulation CI 144(2)).

Lighting should be sufficient for persons to read labels, placards and signs where necessary.

Further information on:

- Labels and material safety data sheets (MSDS) is provided in chapter 3.
- Signage (such as placarding) is provided in chapter 15.

2.9 Design of new premises or plant

This code of practice should be observed at the design stage when planning a new plant, facility, or premises; or modifying an existing premises, facility or plant.

All premises, structures and plant should be designed and manufactured for use with the specific dangerous goods that will be handled or stored. All safety aspects of the design, commissioning, operation, testing, maintenance, repair and decommissioning should be anticipated and planned at the design stage. This enables control mechanisms to be incorporated into the design. The costs of control measures may well be lower if incorporated into a safe design rather than by adapting inappropriately designed plant or premises.

The design process should follow the principles of the hierarchy of control (see section 2.2 and chapter 8), and specific control measures (see chapters 9 and 10). See section 9.12 for advice on the design of buildings and areas. The designer of plant must identify, assess and control any hazards or risks. Any dangerous good necessary for the use of the plant should be specified, and warnings provided in relation to unsuitable goods.

If a structure or plant that was not designed and built for use with the particular dangerous goods, is subsequently introduced, additional care is required to ensure suitability and that risks are controlled.

Take account of any external factors in the layout of the premises, such as whether the location and type of fire protection meets with operational requirements of the fire brigade. If you intend to store substantial quantities of dangerous goods, engaging the advice of the fire brigade will assist in designing a suitable fire protection system. Australian Standards relevant to the goods that will be stored also provide advice on safety precautions and fire protection (see chapter 12).

Further advice on design of premises and storage is provided in chapter 9.

2.10 Security of the site and storage area

Because of the hazards associated with dangerous goods, access to premises and work areas needs to be controlled and restricted to those persons having a legitimate purpose.

Occupiers of premises have a duty, so far as is reasonably practicable, to prevent

- access to the occupier's premises by unauthorised persons
- unauthorised activities occurring on those premises.

2.10.1 Factors to assess

Security systems and procedures should be developed on the basis of the risk assessment. The following factors should be considered:

- The need to ensure the security of personnel, dangerous goods, processes, equipment, plant, buildings, records and information systems.
- The location of the premises in relation to the access from the surrounding community and roads.
- The likelihood of mischief or sabotage.
- The integrity and reliability of the security system and possible requirements for backup support for systems and security personnel.

2.10.2 Controlling access

Where it is necessary to control access of people to the premises, the access control system should include the following:

- a means to identify the extent of access to be permitted for each person
- the means to account for everyone on site at any given time
- the issuing of restricted access passes to visitors, or prohibiting unaccompanied access.

Depending on the size of the premises and the risks identified in section 2.10.1 above, security measures where dangerous goods are kept might include the following:

- fencing or enclosing the storage areas (but providing safe access and egress)
- providing locks on doors, windows and other openings to buildings, rooms, compartments or shipping containers
- continuously supervising areas
- performing security checks on vehicles entering or leaving the premises
- limiting access by visitors, customers, contractors or employees to particular areas.

2.11 Serious incidents and other incidents – investigation and reporting

2.11.1 Obligation to respond to an incident and investigate the cause

The terms “serious incidents” and “incidents” are described in the definitions in section 1.10. These must be reported to WorkCover

Important for dangerous goods are those incidents or risks sometimes called “near misses”. These include the following:

- an uncontrolled explosion or the risk of an explosion or fire
- an uncontrolled escape of dangerous goods, or the risk of an escape
- damage to any plant, equipment, building or structure or other thing that impedes safe operation.

Even when no person is injured, any uncontrolled escape or risk of escape of dangerous goods, or damage arising from dangerous goods must be reported to WorkCover (OHS Regulation clause 341).

In relation to dangerous goods, the OHS Regulation (clause 174ZO) provides that:

An occupier must respond to a serious incident or other incident involving dangerous goods at the occupier’s premises by ensuring that:

- (a) immediate action is taken to assess and control any risk associated with the serious incident or other incident and the surrounding area so far as is reasonably practicable, and
- (b) only persons essential to carrying out the action referred to in paragraph (a) remain in the vicinity of the serious incident or other incident, and
- (c) the risk to each person engaged by the occupier at the premises to carry out the action referred to in (a) is reduced so far as is reasonably practicable.

This clause does not apply to an emergency service responding to the serious incident or other incident.

The OHS Regulation (clause 174ZP) provides that:

An occupier must ensure that:

- (a) any serious incident or other incident occurring at the premises is investigated and that the investigation, so far as is possible, determines the cause or likely cause of the serious incident or other incident, and
- (b) a record of the investigation is:
 - (i) made, and
 - (ii) kept for at least 5 years, or the life of the facility or premises, and
 - (iii) readily available, on request, to WorkCover.

If a serious incident has occurred, the plant involved and an area of the place within 4 metres must not be disturbed for 36 hours or a period specified by an inspector in an investigation notice (OHS Act section 87).

2.11.2 Setting up a system

The immediate response to an incident should be provided for in the emergency plan. Advice on emergency plans is provided in chapter 14.

A system developed for investigating incidents (including serious incidents) on the premises should include the following:

- procedures for staff to report incidents
- means of recording incidents
- the allocation of responsibility for investigation of incidents to a responsible person
- provision for the investigation of the causes of incidents, and keeping records of these investigations
- follow up action to address the causes of incidents and the introduction of control measures to prevent a recurrence
- reporting arrangements to WorkCover NSW and your workers compensation insurance agent (see details on the WorkCover web site: www.workcover.nsw.gov.au).

The site or plant must not be disturbed for at least 36 hours (unless varied by an inspector's notice) in the event of a serious incident (OHS Act section 87).

2.12 Reporting incidents internally

2.12.1 Principles

A system for workers to report incidents should be established within the workplace and organisation.

Each incident should be investigated to determine its cause or likely cause. The risk assessment should be reviewed, having regard to the results of the investigation, and risk control measures revised accordingly.

The system for reporting should be:

- prepared in consultation with employees (or their representatives);
- documented so that it is readily understood by people who may be affected;
- able to inform supervisors, employees, representatives and other relevant persons of the results of the investigation.

2.12.2 Records of incident investigations

Consider including the following matters when recording a serious incident:

- (a) Were on-site or off-site emergency plans activated?
- (b) Did the leak or spill have the potential to cause fire, explosion or release of toxic or corrosive materials?
- (c) Did the leak or spill have the potential to cause any of the following effects:
 - acute or chronic human health effects?
 - environmental harm?
 - damage to plant or equipment?
- (d) Would the leak or spill affect the quantity or quality of effluent discharged into the sewers?
- (e) Did the leak or spill need to be reported to WorkCover and/or the Department of Environment and Conservation?

2.13 Access and egress (emergency exits)

Safe access to and egress from premises, or part of the premises including plant, is always required for all persons who may come to the premises or work there (OHS Regulation, clause 174ZF). This may include the need for emergency exits, and provisions for exit from work areas, including storage locations and the inside of bunded areas.

Do not store dangerous goods where they could hinder escape from the building, work area, or premises in the event of a leak, spill or fire. Clear access should be readily available to emergency services and for emergency equipment (eg for fire fighting and clean-up of spills).

Ensure access by observing the following:

- keeping internal routes clear at all times
- keeping external routes clear for vehicular access (including emergency vehicles)
- keeping doors and gates unlocked when they may be required as exit points
- having doors and gates opening outwards where appropriate
- providing easy egress from work areas including bunded areas
- keeping areas clear where fire brigade connections are necessary for fire fighting, such as water, foam or gas inlets or outlets.

2.14 Supervision

Supervision is an important way of ensuring workers adhere to the safe working procedures laid down. The OHS Regulation (clause 14) requires that employees be supervised by a competent person.

It is important to observe and consult with employees to find out how the job is actually done. People do not always work "by the book" and may devise their own methods of work. Also, find out what happens during cleaning, maintenance and breakdowns, and during staff absences or shortages. Where a difference is detected between the system of work set out and the way it is implemented, it is important to examine the reason and amend the procedures if necessary to ensure safety.

Supervision is also a way of ensuring that persons who are rendered incapable by drugs or intoxication do not increase risks by working with dangerous goods. All sites should have a drugs and alcohol policy.

Young persons may need close supervision due to their possible immaturity and lack of experience.

2.15 Items you do not need to include when implementing this code of practice

Some items containing dangerous goods are not covered by this code of practice. In general this includes dangerous goods installed for use in some items plant where covered by legislation other than the OHS legislation. It also includes some applications of a minor nature.

Examples are:

- fuel in the fuel tank of a vehicle or self-propelled plant
- acid in a lead-acid battery that is in use in an item of plant or a vehicle
- portable medical oxygen cylinders when deployed for use
- air in a tyre
- domestic size fridges and air-conditioning units.

However, work with such items still needs to be evaluated in terms of health and safety. Actions such as refuelling a vehicle or charging a battery have intrinsic risks that need to be assessed, and are covered by the handling aspects of this code of practice.

CHAPTER 3 – IDENTIFYING DANGEROUS GOODS, OBTAINING INFORMATION AND PROVIDING INFORMATION

It is essential that relevant OHS information is obtained and passed on to relevant persons. Key information is in the form of labels on containers, placards on storage areas and material safety data sheets (MSDS). Where there is no such information available – eg goods created and used within the workplace or emissions – then equivalent information needs to be obtained.

3.1 Steps to follow

To identify hazards it is important to identify all the substances and goods that are classified as dangerous goods at the premises, and make a list.

Step 1 – Identification of containers of dangerous goods and emissions

The first step is to identify where the dangerous goods are located and the forms they take. Substances and goods can appear in a variety of forms. Look through your premises and include an examination of:

- containers or packages such as cans, bottles or packets
- large tanks
- gas cylinders
- contents of process vessels or vats
- stockpiles
- emissions such as vapours, mists, dusts, fumes, gases
- by products (including stockpiles)
- wastes.

In each case, identify the substances, products or emissions involved.

Look at each job or task separately. As examples, consider:

- handling containers in the storage area
- mixing, diluting and measuring – eg when decanted for use
- use such as spraying – where the substance may become airborne
- handling and loading or unloading vehicles
- the form of storage – eg is it in a tank, packages on pallets, bags?
- using dangerous goods with or in plant – eg process vessels, vats
- generation of dusts or fumes by the work.

Step 2 – Check the classification – are they dangerous goods and/or hazardous substances

Identify which of the substances and goods you use, handle, store or emit are classified as either or both:

- dangerous goods
- hazardous substances.

For substances *supplied* to your premises, identify the type from the

- labels on packages or signs (eg placards) on bulk containers
- Material Safety Data Sheets (MSDS) you have obtained from the supplier.

Some articles will also be classified as dangerous goods – eg some types of batteries.

It is the duty of the supplier to provide information in the form of correct labels on packages or containers. Dangerous goods have a “diamond” label. If the dangerous goods also have a Subsidiary Risk then this is also a second “diamond” symbol on the label or placard. For help in identifying dangerous goods from the characteristic “diamond” labels consult the WorkCover publication: *Reading Labels and Material Safety Data Sheets*.

Records in the form of stock lists and inventories could be useful, particularly if inventory is marked with the category of hazardous substance or dangerous good at the time of purchase.

The hazards of dusts and other emissions from items not covered by a label should also be considered. When diluted for use, the classification of some goods may change. However, this does not necessarily mean that the hazards or risks have been eliminated – spraying a dilute solution may still cause hazards. For example, acids that are dangerous goods of Class 8 may no longer be classified as dangerous goods when very dilute, but may be classified as hazardous substances due to the potential to damage skin.

Step 3 – Make a list

Having identified the dangerous goods (and hazardous substances), then write these down in a list. This will help to form a register in step 4. The register is the list (inventory) plus the relevant MSDS (for substance supplied). For further details see section 3.5.

Include any additional dangerous goods or hazardous substances created on the premises such as dusts and fumes, on the register (even if these goods or substances are not manufactured with the intent of them leaving the premises).

Step 4 – Obtain MSDS or equivalent information

It is the duty of the supplier to provide you with information in the form of a Material Safety Data Sheet (MSDS) for each type of dangerous goods or hazardous substance supplied for use at work. MSDS for any new dangerous goods or hazardous substances supplied to you in the future will also need to be placed in the Register when you obtain them.

Retailers of consumer packages are not obliged to provide MSDS – however MSDS may be available from the manufacturer or importer for the dangerous goods obtained through retail outlets.

Step 5 – Obtain health and safety information

Step 5 is a review of the information on the label, MSDS or from other sources (such as the supplier of plant). For each chemical, goods or substance find out:

- the type of hazard;
- recommended control measures;
- any relevant control conditions necessary to maintain stability;
- any risks arising from incompatibility with other goods.

The type and degree of the hazard is indicated on the label and in the MSDS for substances supplied to your premises. If the substance is an emission, by-product or waste then you will need to classify it, using the appropriate criteria.

You may also need information on any control conditions specified in the MSDS, which should include information and specifications such as temperatures and proportions and limits for every ingredient that stabilizes the dangerous goods. These include: phlegmatizers; diluents; solvents; wetting agents; stabilizers; and inhibitors.

3.2 Plant used with dangerous goods

If the dangerous goods are to be used with plant, check the plant manufacturer's instructions provided by the supplier of the item of plant. If the plant is leased, the hirer or lessor also has obligations – see division 3 of chapter 5 of the OHS Regulation. Occupiers should not vary the type of goods used with the plant without an assessment by a competent person.

Suppliers of plant must provide you with the following information relating to safe use (OHS Regulation, Clause 105):

- (a) the purpose for which the plant was designed,
- (b) testing or inspection to be carried out,
- (c) knowledge, training or skill necessary for persons undertaking testing and inspection of the plant,
- (d) commissioning and use (see details below),
- (e) systems of work necessary for the safe use of the plant,
- (f) emergency procedures, and
- (g) any documents relating to testing and inspection.

The information to be provided in item (d) above (commissioning and use) includes all of the following:

- installation
- commissioning
- operation
- maintenance
- inspection
- cleaning
- transport
- storage
- dismantling of the plant, if the plant is capable of being dismantled.

Further advice on specific aspects is provided in chapters 9, 10 and 11 on control measures.

3.3 Providing information to workers

3.3.1 Legal requirement

Information must be provided to workers in the form of the following:

- labels on containers, including those when substances are decanted into another container
- ready access to relevant MSDS
- placards on bulk storage locations
- other signs where relevant.

For non-workplaces, this obligation for dangerous goods falls on the occupier (ie the controller of the premises). The labelling and MSDS obligations are in clauses 162, 163, 174ZH and 174ZI of the OHS Regulation. Placards are required by clauses 174ZJ to ZM of the OHS Regulation and are explained in chapter 15.

3.3.2 Labelling goods within workplaces and other premises

Labelling is a key element of establishing a safe method of work. The objective is to allow substances to be used safely and without risks to health.

The identification of all dangerous goods and hazardous substances being handled or stored is the first step in hazard identification for the risk assessment (see chapters 6, and 7), and an opportunity to ensure all are properly labelled.

All containers of dangerous goods or hazardous substances supplied to, used in, or handled on the premises must be appropriately labelled. This includes wastes. The employer must ensure that the label is not removed, defaced or altered.

As a minimum, the OHS Regulation specifies that the label clearly identifies the substance and provides basic health and safety information including the relevant risk and safety phrases. This should be in accordance with the ADG Code, with the exception of C1 combustible liquids and Goods Too Dangerous To Be Transported.

Guidance for the labelling of packages (containers of a size less than bulk) is provided in the national *Code of practice for the labelling of workplace substances* (see this on the web site – www.nohsc.gov.au). Normally the containers supplied to the premises will be correctly labelled and additional labelling will not be necessary. However, substances transferred to another container and substances produced and used within the premises must be labelled – see advice in 3.3.3 below.

Consumer products used occasionally in the workplace should not require additional labelling, if they are labelled according to the SUSDP (*Standard for the Uniform Scheduling of Drugs and Poisons*) by the supplier (in addition to the dangerous goods label). However, if consumer products are frequently used then the employer should examine the need for additional OHS information.

Labelling (called placarding) of bulk containers is covered in chapter 15.

3.3.3 Labelling of containers and of transferred substances

Where a substance is transferred to another container (eg decanted), the type of labelling required will depend on whether the substance is consumed immediately or over a longer period of time, and on the size of the container. Even when no labelling or minimal labelling is required, it is important to consider ways of ensuring that workers cannot make mistakes by mis-identifying substances.

The time periods to consider are:

- (a) A container into which a dangerous goods is transferred for immediate use need not be labelled, providing it is cleaned immediately after it has been emptied (see 3.3.4).
- (b) A container into which a dangerous goods is transferred for use within the next twelve hours needs only to be labelled with the product name and any relevant risk and safety phrases. A symbol in the form of the relevant dangerous goods “diamond” can serve as a risk phrase.

- (c) Where not consumed immediately or within the next twelve hours, the container into which the dangerous goods is transferred must be labelled to clearly identify the dangerous goods and carries basic health and safety information about the substance, including any relevant risk and safety phrases.
- (d) Where labelling is required but the container into which the substance is transferred is very small (eg a laboratory test tube), a practical method for labelling should be established. For example, the label may be attached to supporting apparatus, such as a test tube rack. Alternatively, a tag may be used to provide the information. A fixed or moveable sign could be placed adjacent to the work area. This could include a key or code to indicate the contents of the small container.

3.3.4 Cleaning

The objective of cleaning is to ensure that there is no residue that could still present a risk to health or safety. The container must be free from dangerous goods, which means, if the container immediately before it was empty held:

- (a) a gas or volatile liquid – the concentration of gas or vapour in the atmosphere of the container is now less than the concentration listed in the *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003], or
- (b) dangerous goods of Class 2.1, class 3, or Subsidiary Risk 2.1 or 3 – the concentration of those goods or their vapours in the atmosphere of the container is now less than 5 per cent of the LEL for the goods when sampled at ambient temperature, or
- (c) a non-volatile liquid or solid – the container has been thoroughly cleaned.

LEL means the lower explosive limit, which means the concentration of flammable gas or vapour in air below which the gas atmosphere is not explosive.

For gases of Class 2.2 in cylinders, when at atmospheric pressure the container can be regarded as “free from dangerous goods” since any risk is minimal.

The risk of a flammable atmosphere inside the container should be determined. Methods of cleaning include chemical neutralisation, curing or deactivation to the extent necessary to ensure there is no risk to health or safety.

The *National Code of practice for the labelling of workplace substances (hazardous substances and dangerous goods)* provides further detailed guidance on how to do this labelling. The risk and safety phrases are provided in the *List of Designated Hazardous Substances* and the *Approved Criteria Classifying Hazardous Substances*. The dangerous goods “diamond” labels also count as risk phrases (ie you can have a symbol instead of a word).

When diluted some substances will no longer be classified as hazardous or dangerous. However, labelling should still be maintained in case of hazards that may arise during the use of the substance. For example, if a spray is released, exposure standards could be exceeded and/or a flammable atmosphere created.

3.3.5 Unlabelled containers

If a container does not have a label or is improperly labelled, action should be taken to correctly label the container as outlined above.

If the contents of the container are not known, this should be clearly marked on the container, for example, ‘Caution do not use: unknown substance’. Such a container should be stored in isolation until its contents can be identified and properly labelled if dangerous or hazardous. If the contents cannot be identified, they should be disposed of in an acceptable manner in consultation with the relevant waste management authority.

If an employee finds a container that does not have a proper label, the employer should be advised immediately.

3.4 Material Safety Data Sheets (MSDS)

MSDS are a key source of information and are important for the task of risk assessment.

3.4.1 Worker access to MSDS

At each premises, workers (including employees) must have ready access to copies of MSDS for the dangerous goods and hazardous substances used. Practical ways of making MSDS accessible should be discussed in consultation with employees (see chapter 2, section 2.2.2). The OHS Regulation (Clause 162(1)(b)) requires that copies of MSDS must be readily accessible to employees who are required to use or handle the hazardous substance or dangerous goods. Employees who are supervising others working with the hazardous substance or dangerous goods should also have ready access to MSDS.

Access to MSDS may be provided in a number of ways including:

- Paper copy collections of MSDS.
- Microfiche copy collections of MSDS with microfiche readers open to use by all employees.
- Computerised MSDS databases (eg cd rom or on line).

In each case, the employer should ensure that:

- The current MSDS are available.
- Any storage or retrieval equipment is kept in good working order.
- Employees are trained in how to access the information.
- Where information is displayed on a screen, there are means of obtaining a paper copy of that information.

For dangerous goods at non-workplaces, these obligations extend to the occupier of the premises.

3.4.2 Alteration of MSDS

An MSDS obtained from a supplier must not be altered, except where the MSDS is provided from overseas and does not provide adequate information. If an employer wishes to add additional information to the supplier's MSDS, it should be appended to the MSDS. However, it should be clearly marked to indicate that the appended information is not part of the original MSDS. Specific workplace information may be added in this manner and is not considered to be an alteration to the MSDS.

3.4.3 MSDS requirements in laboratories and pharmacies

MSDS must be provided by suppliers of laboratory reagents and pharmaceuticals. MSDS are not required for subsequent preparations, laboratory samples or reaction intermediates, or for retail pharmacies (see 3.4.4 below).

MSDS are required where a laboratory or pharmacy manufactures a dangerous goods or a hazardous substance and supplies this for use at work (eg in a hospital).

3.4.4 Retailers and retail warehouse operators

Retailers and retail warehouse operators are exempt from the requirement to hold MSDS outlined above, for goods intended for retail sale. The exemption applies to consumer packages held on their premises, which hold less than 30 kilograms or 30 litres and which are handled in an unopened state.

Retailers are also exempt for dangerous goods supplied:

- in a container provided by the purchaser (e.g. a jerry can for dispensed kerosene or a propane when refilling a portable gas cylinder), or
- fuel for a vehicle.

However, if the container is opened (for example for repacking) then an MSDS must be obtained and made available to employees and other workers.

3.4.5 Transit

MSDS are not required for dangerous goods in transit. The *Emergency Procedure Guide* provides sufficient information.

3.5 Registers of substances at the premises

3.5.1 Requirement

Employers must keep a register providing a listing of all dangerous goods and hazardous substances that are used or produced in the premises – see step 3 in section 3.1 (OHS Regulation, clauses 167 and 174ZW). The register is useful as a source of information and as a management tool. This is not the same as the manifest (see chapter 16), although in some situations the manifest could be used to perform the same role. A register or manifest is not required for dangerous goods in transit since the shipping documents are sufficient for this function.

On construction sites (where the value of the work is over \$250,000, or where a demolition or asbestos removal licence is required), the principal contractor must keep a register of all dangerous goods and hazardous substances on the site (OHS Regulation, clause 228). Sub-contractors on construction sites must provide the principal contractor with relevant information held by each sub-contractor. The Principal contractor must also keep records of risk assessments.

3.5.2 Minimum information needed in a register

The Regulation requires that the minimum information that must be included in a register is a list of all dangerous goods present, together with the MSDS for all dangerous goods for which an MSDS is required under the Regulation (ie the supplied substances and goods). The same document may also contain a list of hazardous substances together with the MSDS for all hazardous substances that have been supplied.

Include all substances, even those such as emissions and dusts generated, since the risks arising from these must be assessed.

The completion of simple and obvious assessments should also be noted in the register (see advice on small quantities in chapter 4, and retail in chapter 5 of this code of practice).

3.5.3 Keeping the register up to date

The register must contain entries for all dangerous goods (and hazardous substances) currently used or produced in the premises. Make sure that the current MSDS is also in the register. MSDS expire after 5 years, so check that they are up to date.

The register should be updated as new dangerous goods or hazardous substances are introduced to the premises and the use or production of existing dangerous goods is discontinued.

3.5.4 Access to the register

Employers must ensure that employees who handle or store dangerous goods have ready access to the Register (OHS Regulation clause 174ZW(3)). Those employees who could be exposed to a hazardous substance must also have access to the Register (OHS Regulation clauses 167(3)).

Employee representatives, and relevant public authorities should also have ready access. Practical ways of doing this should be discussed in consultation with employees. The register can either be located centrally or kept in the premises to which it pertains. It may be in electronic form, but this must be accessible to relevant employees. For example, screen based equipment must be accessible, or paper printouts made available.

3.5.5 Retailers and retail warehouse operators

Retailers and retail warehouse operators are exempt from the register and MSDS provisions of the Regulation for goods in consumer packages intended for retail sale (OHS Regulation, sub-clauses 174M and 167(4)). The exemption applies to consumer packages held on their premises, which hold and which are handled in an unopened state, or a container provided by the purchaser of less than 30 kilograms or 30 litres.

3.5.6 Transit

A register is not required for dangerous goods in transit. The shipping documents provide sufficient information.

3.6 Identification of dangerous goods and hazardous substances in vessels and in enclosed systems

Hazardous substances and dangerous goods in a workplace contained in an enclosed system, such as a pipe or piping system, or a process or reactor vessel, must be identified to persons who may be exposed to the contents (OHS Regulation, clauses 173 and 174H(4)). Bulk storages or processes containing dangerous goods must be signed and placarded – see chapter 15. Pipes containing dangerous goods should be identified and distinguished.

Suitable means of identification include colour coding in accordance with Australian Standard AS 1319 *Safety Signs for the Occupational Environment*, or Australian Standard AS 1345 *Identification of the Contents of Piping, Conduits and Ducts*. Identification such as this should be used in conjunction with suitable work practices such as permit to work systems.

Where the contents of a reaction vessel undergo chemical changes during the manufacturing process it is not possible to accurately label or placard the vessel. In such cases a system for providing relevant information should be established. This could be in the form of batch sheets or written instructions. These should outline the feedstock ingredients and any information regarding the reaction intermediates that arise, in order to provide information about the hazards and risks that may arise during the process.

When process vessels are used as bulk storage vessels and contain dangerous goods, they must be placarded to indicate the hazards arising from the contents.

In addition, vessels used in electroplating must be labelled with the name of the substance in the vessel, even if the substance is not a dangerous goods or hazardous substance (OHS Regulation clause 193).

3.7 Additional information about dangerous goods or hazardous substances and associated plant and equipment

Employers should make other relevant information available to employees and employee OHS representatives. This will be necessary for dangerous goods or hazardous substances produced in the workplace for which a MSDS is not required. Information should be obtained about health effects, precautions for use and safe handling.

Employers should also provide relevant information to employees and employee OHS representatives on plant and equipment used with a dangerous goods or hazardous substance, such as exhaust ventilation systems. The employer should make available information about the use for which the equipment is designed and the conditions necessary for its safe use. Health and safety information provided by the supplier of plant must be passed on to employees.

3.8 NICNAS summary reports

Where they have been produced and are applicable, summary reports produced under the *Industrial Chemicals (Notification and Assessment) Act 1989* (Cwlth) should be made available on request to employees and employee representatives. Suppliers must provide these reports (OHS Regulation, Clause 157).

Note that the reports produced under this program are for chemicals developed since 1989 or for what are known as "priority existing chemicals". For other chemicals they will not be available.

3.9 Enclosed and confined spaces, unsafe atmosphere

Any area where there is a risk of exposure to atmospheric contaminants or an unsafe level of oxygen must be isolated and appropriate warning signs must be provided (OHS Regulation, Clause 54). Confined spaces must be identified and entry of unauthorised persons prevented (Clause 75).

Many dangerous goods are hazardous substances and have personal exposure standards that must not be exceeded (OHS Regulation, clause 51). For further advice see the *Code of practice for the control of workplace hazardous substances*, and the NOHSC Standard: *Adopted Exposure Standards for Atmospheric Contaminants in the Occupational Environment*.

3.10 Information available to the public

Providing information, eg in signs, to members of the public is an important control measure and mandatory in some situations.

Where there is a risk to a visitor (eg a customer), or where the presence of a visitor may increase risk, visitors should be informed about:

- the hazards to which they may be exposed while on the premises
- appropriate safety measures to be applied while on the premises
- actions to take in any emergency, such as when the emergency procedure or plan is activated while they are on the premises.

The need for a formal system of providing safety information will depend on factors such as:

- the nature and severity of the hazards and risks
- the degree of access to areas of risk
- extent of supervision that will be provided.

Methods of providing safety information to visitors or customers, at relevant parts of the premises, may include:

- appropriately placed signs
- giving verbal instructions
- providing written information such as a safety card
- showing a video.

MSDS are not required for retail sales – see section 3.5.5.

An alternative control measure is to prevent the public accessing areas of risk (see security in section 2.10).

3.11 Goods too dangerous to be transported

Goods too dangerous to be transported are not classified and assigned Class numbers, etc, under the ADG Code. They are listed in Appendix 5 of the ADG Code. Since they cannot be transported they cannot be supplied. They include very self-reactive substances including some organic peroxides, explosives and explosive related material.

More common substances in this category include aluminium dross when wet or hot; charcoal when wet; and coal briquettes or coke when hot. When stored or handled in open atmosphere, they do not normally show the properties of goods too dangerous to be transported.

When mixed with stabilizers or diluents some of the substances in this category are classified in either the ADG code or the Explosives Code, and may be transported under suitable conditions. However, if the goods have lost the stabilizer or diluent they may become to goods too dangerous to be transported.

3.12 Providing information to other workplaces

If you supply dangerous goods or hazardous substances to other workplaces then you must provide information in the form of labels and MSDS. A summary of advice on supplier duties is provided in the *WorkCover Guide: Suppliers of chemicals and substances to workplaces: Guide to the legal obligations of suppliers including the supply of hazardous substances and dangerous goods* (catalogue # 453). Dangerous goods must be supplied in packages or containers meeting the requirements of the relevant transport code.

Suppliers of plant used with dangerous goods must pass on information relating to safe use.

Retailers are exempt from the requirement to pass on MSDS for consumer packages. However, this exemption does not apply to trade sales (ie sales where the goods are clearly intended for use at work).

CHAPTER 4 – STORAGE AND HANDLING OF SMALL QUANTITIES

This chapter applies to premises, and areas of premises, where relatively small quantities of dangerous goods are stored and handled. The term “handling” includes all aspects of use.

As an alternative, the “minor storage” conditions of the Australian Standard relevant to the Class or classes of dangerous goods stored or handled can be used as guidance. Those listed in section 1.7 have equivalent status as an approved industry code of practice.

4.1 Quantities to which this chapter applies

This chapter covers the handling and storage of dangerous goods on the premises:

- in packages in aggregate quantities below the “placarding quantity” (see Appendix 2)
- or to “manufactured product” in packages under the quantities shown in section 4.15
- not in “bulk”.

If only relatively small quantities of dangerous goods are stored or handled on the premises, this chapter will help simplify the task of assessing risks and determining controls. Essentially, having a relatively small quantity is a key control measure reducing risk. However, this principle does not necessarily apply to personal exposure risks or risks resulting from emissions.

Employers should consult with employees about implementing the recommended control measures.

Advice on the storage of less than one tonne of agricultural chemicals on farms and other agricultural premises is provided in the *Code of practice for the safe use and storage of chemicals (including pesticides and herbicides) in agriculture*.

Advice for users of pesticides on storing and handling small quantities is provided in the *Code of practice for the safe use of pesticides including herbicides in non-agricultural workplaces*.

4.2 Steps to take

Storage of dangerous goods should be in a designated area, location or cabinet within the premises. In some cases, dispersal of goods around the premises could reduce the fire load.

Step 1 – Prepare a list of all the dangerous goods in each storage area that includes for each of the dangerous goods:

- (a) the name;
- (b) the Class, Subsidiary Risk and Packing Group; and
- (c) a summary of the hazards identified in the MSDS.

This could be based on the register you are required to keep (see section 3.5).

Step 2 – Assess risks by reviewing the MSDS for each of the dangerous goods for information on the following risks (based on Class and/or Subsidiary risk):

- (a) fire and explosion risks of flammable gases (Class or Subsidiary Risk 2.1) or liquids (Class or Subsidiary Risk 3), flammable or combustible solids (Class or Subsidiary Risk 4) or combustible liquids (C1);
- (b) fire risks of oxidizing agents (Class or Subsidiary Risk 5);

- (c) toxic risks (Class or Subsidiary Risk 2.3 or 6); and
- (d) corrosive risks (Class or Subsidiary Risk 8).

If you have flammable goods, identify any potential ignition sources – see section 4.7.

Step 3 – To control risk implement the following measures:

- (a) Minimise quantities kept at any one time.
- (b) Substitute the dangerous goods with other goods of a lower risk.
- (c) Follow the MSDS and label instructions on handling and storage.
- (d) Ensure the plant you are using is suitable for the purpose (eg examine the plant manufacturers instructions or information provided on plant safety).
- (e) Train workers to follow the procedures in this chapter.
- (f) Observe the recommendations in this chapter.

Step 4 – Document your control measures – this could be a notation on the register or on the MSDS.

4.3 Storage and handling of packages

A package is any type of container of a size or capacity less than bulk. Often goods used, handled or stored are in the packages delivered following transport and delivery to the premises and so meet the ADG Code requirements.

Observe the following control measures:

- (a) Keep packages closed when not in immediate use.
- (b) Store on surfaces resistant to attack by spilt contents (eg if storing acid, the shelving should be acid resistant).
- (c) Stow packages in a manner that minimises the risk of falling or being dislodged.
- (d) Ensure that leakages from packages cannot adversely affect other dangerous goods or other substances in the storage area. Liquid dangerous goods should not be stored above solid dangerous goods that are in paper or absorbent packaging. Store glass containers at lower levels to minimise the risk of breakages.
- (e) Ensure any special control conditions are observed to ensure stability (eg maintain stabilizers or refrigeration, keep packages dry).
- (f) Where an aggregate volume of 100 L or more (or 50 kg or more) of aerosols or other types of small disposable cylinders are stored together, enclose the storage area (for example with mesh) to reduce the risk of projectiles in the event of a fire.
- (g) Contain or repackage any leaking package.

4.4 Transfer of dangerous goods for use

Where dangerous goods are transferred, for example by pumping, decanting or dispensing to fill other containers or moved from place to place, reduce the risks from spills and other risks by observing the following:

- (a) The place where the transfer is carried out should be: set aside for the purpose; not within the storage area but adjacent to it; free of obstructions with sufficient room to allow the transfer to be carried out and to hold the containers and associated equipment.
- (b) Provide spill containment with the capacity to hold the contents of the largest container.

- (c) The transfer should be done in a manner that minimises the generation of any vapours or dusts, and avoids splashing or spillage.
- (d) If flammable vapours or dust may escape, ensure no ignition sources are nearby. If generation of static electricity is possible, provide electrical bonding for containers and transfer equipment. Avoid the use of non-conducting plastic or rubber funnels or hoses.
- (e) Keep equipment for clean up and any necessary decontamination materials close by.
- (f) The intended container should be suitable – eg it cannot be damaged by the dangerous goods. Some plastics containers are unsuitable because they can be softened or made brittle by the dangerous goods. Vapour pressure is an important issue, especially for plastics drums.
- (g) The container may need to be labelled – see section 3.3.3 in chapter 3.
- (h) If flammable goods are transferred or used, the area should be free of combustible waste.
- (i) Consider fire risks from other storage areas of combustible materials – such as packaging, wood, plastics or pallets.
- (j) Keep packages closed when not in use.
- (k) Do not use plastic taps on containers for transferring flammable liquids since they can melt in a fire. Self-closing metal taps or hand-operated dispensing pumps are preferable.
- (l) Dispensing equipment should be suitable for the task.
- (m) Plastics containers should not be used for flammable liquids unless of an approved type and suitable. Use of plastics should be limited since plastics containers can melt in a fire and increase risks.

Transfer of liquids by gas or air pressure should be avoided where reasonably practicable. If unavoidable, prevent over pressure of any component by suitable pressure control. It should be impossible to detach any component or the container while under pressure.

4.5 Segregation

Dangerous goods that are incompatible with other substances (including dangerous goods) should be segregated to prevent risks arising from contact or mixing. Segregation may be achieved by use of an impervious barrier or a suitable distance to prevent contamination – 1.5 m should be sufficient for solids or liquids, or 3m for gases in most cases. This will depend on the height of the storage and the nature of the goods (a barrier may not be sufficient for gases). The barrier should be sufficiently high and extend far enough to prevent any leakage or spillage reaching the other goods.

MSDS give advice on compatibility. A compatibility chart is provided in appendix 8. However, some substances within the same Class may be incompatible, for example acids (Class 8) have a reaction hazard with alkali (Class 8).

Other examples of compatibility risks are:

- Class 5.1 oxidizing agents with Class 3 flammable liquids, combustible liquids or Class 4.1 flammable solids have a fire and explosion hazard
- cyanide salts react with acids to produce a toxic gas
- different types of solid pool chlorine, eg calcium hypochlorite and isocyanurate products have a reaction and fire hazard.

Segregation from food, food packaging and personal hygiene products is essential in order to avoid contamination.

4.6 Separation

Dangerous goods should be kept separate from people or property at or beyond the boundaries of the premises, either by distance or a barrier. Barriers need to be impervious to the dangerous goods and prevent travel over the barrier or around the ends. If flammable goods are stored, the barrier needs to have a suitable level of fire resistance (fire rating).

4.7 Sources of heat or ignition

Typical ignition sources include the following:

- (a) electrical equipment, including: power points, switches, electric motors, battery chargers, transformers, fuse boards, fans, air conditioners, fridges and other equipment with thermostats, computers, and telephones unless they have appropriate explosion protection;
- (b) direct fired heaters (and pilot flames) – eg running on gas, liquid or solid fuel;
- (c) naked flames or fires (matches, blow torches, barbecues, radiant gas heaters, incinerators);
- (d) sparks from grinders;
- (e) heat or flame from welding;
- (f) ignition system and electrical components of machines including internal combustion engines such as lawn mowers, pumps and generators;
- (g) hot surfaces such as heaters, exhausts and soot particle emissions.

External lights above 3 m from ground level are not usually a risk.

Include maintenance operations in your consideration of possible risks from ignition sources.

Keep ignition sources away from flammable or combustible dangerous goods (ie goods of Class or Subsidiary risk of 2.1, 3, 4, or C1). Naked flames should be kept at least 5 m from any such goods. Store dangerous goods away from sources of heat (eg heating appliances), since this may increase vapour pressure or deteriorate packaging. For flammable or combustible goods, heat can increase the risks. If flammable or combustible liquids are heated, the auto-ignition temperature should be considered in order to avoid spontaneous combustion.

If the dangerous goods can generate flammable or explosive atmospheres, any electrical equipment used (eg stirrers) should have appropriate explosion protection (eg rated as intrinsically safe or flameproof).

4.8 Spill control and clean-up

Identify and prevent any potential flow of spilt or escaping solid or liquid dangerous goods to other parts of the premises that could create a risk, or go beyond the boundaries of the premises. Possible means include bunding, or the provision of channels and utilising the slope of the land. Containment should have sufficient capacity to contain any potential spillage – at least the capacity of the largest container kept.

Keep equipment and materials for clean up at the premises to deal with spills or leaks, including absorbent material, neutralising or decontaminating material.

Any spills or leaks should be cleaned up immediately. Contaminated or spilt dangerous goods should not be returned to their original packaging, except for the purposes of disposal or where this will not increase the risk.

Waste generated during clean-up needs to be: handled, stored, labelled, and disposed of in a safe manner in accordance with this code and environmental legislation.

4.9 Ventilation

Provide the storage area with adequate natural or mechanical ventilation sufficient to prevent the generation of a flammable or harmful atmosphere. The use of unventilated shipping containers as permanent storage is not appropriate. The storage area for gas cylinders needs ventilation, even though valves are kept closed, as a precaution against leaking valves.

The level and type of ventilation necessary depends on the nature of the goods and how they are being stored or used. Ventilation is not necessary where an assessment of the risks indicates that the likelihood of the generation of a flammable or harmful atmosphere in the storage or work area is negligible (eg it is always open to the outside air). With gases, asphyxiation due to the displacement of oxygen is a risk – see section 4.14 for advice on storing gas cylinders.

If you intend to rely on natural ventilation, to ensure that airflow will be sufficient to maintain a safe atmosphere, vents should meet the following criteria:

- (a) Vents should be positioned near floor level and near ceiling level. Most dangerous gases and vapours are denser than air and will vent through the floor level vents, with the high level vents allowing fresh air to circulate.
- (b) The ventilation should be directly to the outside and not into another room.
- (c) The minimum vent area (including the spacing of vents) needs to ensure effective airflow. Allow at least 1 square metre of vent area for each 50 square metres of floor area.
- (d) Ensure vents are not obstructed, either inside or outside the store, by packages or other material (eg provide guards).

4.10 Personal protective equipment (PPE)

Ensure suitable personal protective equipment (PPE) is used when people handle dangerous goods (use the MSDS as a guide). Maintenance and cleaning of PPE is necessary. PPE must be provided by the employer and replaced when necessary.

See section 8.11 for further advice on selection of PPE.

4.11 Fire prevention and protection

Keep storage and handling areas free of combustible material, waste and refuse. In the case of storage or work outdoors, the surrounding area should be free of combustible vegetation for a distance of at least 3 metres.

A supply of water should be readily available for emergency use to fight fires where necessary.

A portable fire extinguisher should be provided, appropriate to the type and quantity of dangerous goods, near the place where the dangerous goods are being stored or handled. This is in addition to normal building fire protection required by the Building Code of Australia.

4.12 Decommissioning

Ensure that any container or plant that has been used to store or handle dangerous goods, and that is no longer required for that purpose, is cleaned free of dangerous goods or otherwise made safe.

4.13 Use and transport of small gas cylinders

Small gas cylinders are widely used and often carried in vehicles such as vans to work sites. The greatest risks involved flammable gases, but risks can also arise with other types of gas.

4.13.1 Small gas cylinders defined

“Small” in this sub-section generally means a cylinder or receptacle of less than 25 Litres internal water capacity. Examples are:

- barbecue, heating and camping cylinders (eg 4.5 and 9 kg of LP Gas), sometimes used with torches (eg for vinyl laying)
- other cylinders for trade use (eg from 0.34 kg up to E size acetylene and oxygen cylinders, which have a water capacity of 23 L) often used with detachable fittings such as torches
- cartridges and aerosols designed for use with attached equipment (which can be very small, such as 170 g or 306 mL).

4.13.2 Hazards of gas cylinders in enclosed spaces such as vehicles

Explosions and fires have occurred when flammable gas has leaked from cylinders and has ignited inside enclosed areas or vehicles. The build up of gas in an enclosed space can reach an explosive mixture with the oxygen in the air.

Leaks may occur from the main valve, from connections, from equipment used with the cylinder (eg a torch) or from a relief valve following normal expansion of liquid gas due to changes in temperature.

Gases that are denser than air (ie heavier) can easily accumulate inside a vehicle, especially when the windows are wound up.

Risks arise in enclosed spaces for the following reasons:

- (a) Since all gases in cylinders are under pressure, any damage to the cylinder may result in injury from a sudden discharge of gas, or from fragments of metal if the cylinder disintegrates.
- (b) Gas leaks may also cause asphyxiation if oxygen in the air is displaced. Be aware that the early effects are drowsiness and tiredness, which may cause you to have a driving accident. This could occur even with small amounts of some gas, such as cryogenic gas or “dry ice”.
- (c) Toxic (poisonous) gases (Class 2.3) (such as pesticides or ammonia), can cause health risks.
- (d) Leaks from oxygen cylinders may support a fire or an explosion in enclosed spaces such as inside a vehicle.

4.13.3 Transport precautions – provide ventilation

A number of serious accidents have occurred when cylinders and associated equipment have been transported or kept inside cars or vans.

Possible ignition sources inside a vehicle include the electrical system such as electric motors for wipers and aeriels, the engine ignition system, remote locking, cigarette lighters, radio cassettes and CD players. Matches and butane lighters can also be ignition sources. Explosions can occur when activating the remote locking system from outside the vehicle, particularly when the cylinder has been kept inside the vehicle for some time, such as overnight.

Cylinders of flammable gas, such as LP Gas (LPG or propane) or acetylene, should never be left in the boot of a car, or in an unventilated van (unless a suitable vented compartment is used, see 4.13.4). If transported in the passenger compartment of a car, the car windows should be kept open to provide cross flow and through flow ventilation.

Cylinders should be restrained to prevent movement, and kept upright if containing a flammable gas, except if other factors such as the restraint method, small size or design allow the cylinder to be horizontal (eg those for forklifts or permanent gases). The restraint should be strong enough to prevent the cylinder moving in the event of a vehicle collision. Cylinders should be unloaded immediately on arrival at the destination (unless a purpose built ventilated compartment or cabinet is used inside the vehicle).

Vehicles, such as vans, should not be used for the permanent storage of cylinders, unless suitable ventilation is always provided. Tradespeople who regularly use a variety of gases and associated equipment, should install and use a purpose built compartment or cabinet. Such a compartment will allow any leaking gas to be released out of the vehicle (see advice in 4.13.4 below), reducing risks.

An open vehicle such as a utility provides the best ventilation and avoids the risks of gas accumulation. However, the gas cylinder must be secured from theft and movement during transport. A closed toolbox is not suitable if gas can accumulate inside it. A compartment with its own door opening from the outside, mounted along or under the vehicle's tray is suitable, providing the cylinder remains correctly positioned (upright or appropriately positioned, see above).

Note that carrying a cylinder by mounting it on the vehicle body (external to the profile) is not a solution, due to the need to protect the cylinder and valve from collision damage.

If the vehicle carrying the cylinder is parked in an enclosed garage, the garage may not provide adequate ventilation of leaking gas.

4.13.4 Compartments (cabinets) suitable for use in vehicles

Various designs of storage compartments are available for use in vehicles. A key feature is ventilating any escaping gas to outside the vehicle and away from any potential ignition source, such ducting pipework. It is important to ensure that any venting is not obstructed and any piping used for drainage or ventilation remains intact and is not damaged during use. The cylinders must be secured upright. The method of restraint (of both the cylinder and the cabinet itself) must be capable of securing the cylinder in the event of a vehicle accident (that is, it must be able to resist sudden deceleration). If access to the compartment is from inside the vehicle, the door to the compartment must provide a gas tight seal.

4.13.5 Using the gas

When assembling or attaching equipment to be used with the gas, make sure all connections are gas tight. For example, check that all seals are clean and in good order. You can check for leaks from connections and valves by brushing on soapy water and looking for bubbles.

Some of these portable appliances and heaters (such as patio heaters) are designed only for outdoor use and should not be used indoors due to gas emissions.

4.13.6 Returning cylinders to the vehicle, refilling or exchange

Close the main cylinder valve (if it has one) and deactivate the pressure regulator (if fitted). Disconnect any equipment, appliance or attachments from the cylinder or cartridge. Some designs rely on the removal of the attachments to close the main valve. Do not rely on the valves on torches or other equipment to prevent the leak of gas.

You should have a supply of spare seals, so you can renew the seal when re-connecting attachments next time you use the gas.

Check for leaks from valves and connections by applying soapy water and looking for bubbles. Check areas such as valve openings, screw threads (including where the valve attaches to the cylinder body) and bleeder valves. Smell alone is not a reliable test (even though LP Gas is odorized). Replace any removable valve protection cap, valve outlet cap or plug, and keep this in place on the cylinder at all times when the cylinder is not in use or being filled.

Similar care is also needed when returning the “empty” cylinder to the gas supplier such as a service station for refilling or exchange. Do not leave valves open on empty cylinders – contamination by oxygen entering the cylinder can create additional risks.

Every time you obtain gas, the supplier should test each cylinder for leaks following filling. You should ask for this to be done if you have not observed the testing.

4.14 Storage and use of gas cylinders

Gas cylinders require periodic testing – at least every 10 years for dry gases and more frequently for damp or corrosive gases – check with the gas supplier if you need advice. The last test date is stamped on the cylinder near the valve, on the “collar”, or on the footing of some small cylinders (eg LP Gas cylinders). If outside the “test period”, it must not be refilled before it is re-tested (and receive a new date stamp). However, it is permissible to use up the cylinder’s contents after its test period has expired, prior to testing. Alternatively it could be replaced with a new cylinder. Testing stations can give advice on disposal of a used cylinder if you wish to replace it. Owners of cylinders should keep records of testing and test dates.

4.14.1 Storing gas cylinders

The following precautions should be observed when storing gas cylinders:

- (a) Ensure the storage area is well ventilated. Gas cylinders should not be stored in an unventilated enclosed space. For example, an unventilated garage or shed is not suitable. Cylinders connected to portable gas equipment such as outdoor heaters (eg patio heaters) or mobile barbecues should not be stored inside a building, unless adequate ventilation is assured. Where possible keep gas cylinders outdoors.
- (b) Do not keep cylinders of flammable gas near an ignition source.
- (c) Keep main valves closed when the cylinder is not in use or connected for use. This is in addition to turning off the valve on any pressure regulator used with the cylinder. Replace any removable valve protection cap, valve outlet cap or plug, and keep this in place on the cylinder at all times when the cylinder is not in use.
- (d) For cylinders containing liquefied gas, keep the cylinder in a position so that the pressure-relief valve is in contact with the vapour (not the liquid) inside the cylinder. Usually this means keeping the cylinder upright.

- (e) Protect the cylinder from falling, damage and excessive temperature rise.
- (f) Do not allow combustible material or waste to accumulate in or around areas where the cylinder is kept.
- (g) Do not store the cylinder in a location that could jeopardise the escape of people from the building in the event of a fire (eg keep the cylinder away from doors and passages).
- (h) If an oxidizing gas is stored (eg oxygen), keep at least three metres away from a flammable gas cylinder (unless part of a set).

Consider the use of piped gas as a control measure to avoid the need to move and store gas cylinders, if the gas is used in a fixed location.

4.14.2 Using gas cylinders with appliances and pipework

If arranging for a fixed installation, observe the following:

- the installation work should be carried out by a certified installer if LP Gas, CNG or natural gas, otherwise by a competent person
- check that it has been done in a workman like manner (eg keep a certificate of compliance provided by the installer)
- obtain a certificate of completion signed by the installer and keep this in a safe place
- train workers in the use of the appliance.

4.15 Paint and glue (manufactured product) of Class 3 in packages

The precautions in this chapter apply to “manufactured product” of Class 3 (ie flammable liquids) such as paint or glue, in packages under the following quantities and situations, providing they are not opened (except for the tinting of paint):

- in a factory, PG II and PG III under 2,000L in total
- in a warehouse or shop, PG II under 2,000 L
- in a warehouse or shop, PG II and PG III under 10,000 L in total.

“Manufactured product” refers to a mixture of flammable liquid and solid material, with high viscosity and minimal solvent separation. The full definition is provided in the ADG code. Examples are polishes, adhesives, surface coatings (paint, lacquers and varnishes) and roofing sealants (such as “liquid bitumen”). Certain products, such as stains, are not classified as “manufactured product” since the viscosity is too low.

However, these quantities do not apply to any associated flammable solvent unless additional suitable precautions are taken. Over these quantities, or for solvent, additional features are needed (see chapters 9 and 10) – these are fully explained in AS 1940.

4.16 Pool Chlorine

Apply the advice in section 5.6 for the storage and handling of pool chlorine.

4.17 Organic peroxides (Class 5.2)

The following advice applies to less than 20 L (or 20 kg) in packages of less than 5 L or 5 kg. Above these quantities consult AS 4326 and chapter 10.

Organic peroxides are very reactive chemicals. They may need specialised handling and storage conditions and should be kept at recommended storage temperatures. Check the MSDS or supplier for information. While usually liquids, some organic peroxides are mixed as pastes (phlegmatized).

4.17.1 Storage conditions

Observe the following conditions for storage of organic peroxides:

- (a) Temperature control is important (see 4.17.2 below).
- (b) Keep all packages on sealed or laminated hardwood or coated metal shelves, free from rust or corrosion.
- (c) If stored in a cabinet or refrigerator, the door must be free to open to release any pressure build-up (eg use magnetic or friction door catches).
- (d) Do not keep with food or drinks.
- (e) Do not store within 3 m or any other dangerous goods, metal fillings, dust or combustible material.
- (f) When handling open containers, wear a face shield or goggles, gloves and apron.
- (g) Have an eye wash kit ready for immediate use.

4.17.2 Temperature control

The following conditions should be observed in order to control temperature:

- keep the storage area below 35°C
- keep out of full sunlight
- do not allow any room heaters or anything too warm to touch either inside or near the storage
- check the storage temperatures required (eg consult the MSDS) and keep all packages within the temperature range specified for all of the organic peroxides kept (eg by refrigeration).

Ordinary refrigerators and room air conditioners may be ignition sources. If stored in a refrigerator or another cooling device is used, consideration should be given to the likelihood of a spill. If a spill could result in flammable vapours, then the refrigerator or other cooling device may need to be suitable for hazardous areas.

The likelihood of a spill and the adverse consequence can be minimised by the following:

- store on a solid shelf
- keep container size small
- ensure lids are replaced tightly.

4.18 Laboratories

AS 2243 *Safety in laboratories* (all parts) offers further advice on safe storage and handling of dangerous goods and other substances in laboratories.

4.19 Carbon disulphide

Carbon disulphide is very volatile, highly flammable, and also has a low ignition temperature that makes it readily combustible. Consequently, special precautions are necessary. Vapours are easily ignited by surfaces such as a light bulb, a warm steam pipe or a hot exhaust pipe and such heat sources should be avoided. Surface temperatures of plant and other equipment should not exceed 80^o Celsius – check the auto-ignition temperature in the MSDS. Special explosion protection is needed if any electrical equipment is used near the carbon disulphide, such as ceiling lights, exhaust fans, or forklifts.

Store in a well ventilated area or in a flammable liquids cabinet conforming to AS 1940.

CHAPTER 5 – RETAIL STORAGE AND RETAIL SALES

5.1 Application of this chapter – retail defined

This chapter applies only to retail outlets, including sales of consumer packages and situations where customers provide a container for refilling. Typically this involves the display of consumer packages for sale, and temporary storage of deliveries of packages unloaded from vehicles.

“Retail” means the sale of goods in consumer packages to members of the public who are themselves not engaged in any further resale of those goods. A consumer package is a container intended for retail display and sale, holding less than 30 kg or 30 L, which is not intended to be opened on the retail premises.

This chapter does not apply to any of the following:

- a retail warehouse
- trade sales – ie the sale of goods intended for workplaces that are not part of normal retail sales
- dangerous goods in bulk containers at retail outlets
- retail outlets where individual storage areas contain packages exceeding the total quantities at the level requiring placarding (see Appendix 2), apart from paint and glue (for advice see section 4.1.5)
- bottled potable flammable liquids, such as spirits or flavourings at the retail premises
- fuel dispensing, which is covered in chapter 11 (see section 11.5 for flammable liquids such as petrol and section 11.7 for gas dispensing, and 11.6 for self-service operation, 11.8 for LP Gas decanting) – however this chapter covers some other aspects of dangerous goods at service stations (eg see 5.7 for pool chlorine).

Employers should consult with employees about applying the control measures outlined in this chapter. The control measures should be included in training for workers.

5.2 Providing information – MSDS and labels

There are exceptions for retailers to the general rules about material safety data sheets (MSDS), see the advice provide in section 3.5.5.

Retailers need not pass on MSDS to customers for the following dangerous goods:

- unopened consumer packages if less than 30 kg or L capacity
- fuel dispensing (eg into a vehicle)
- when purchasers provide their own container (including a gas cylinder) – see section 5.5.

Workers in the retail area need sufficient information to deal with emergencies, such as signage and training (see sections 2.5 and 2.6).

Retailers do not need to apply labels to packages provided for refilling by a purchaser of the dangerous goods (see section 5.5. below).

5.3 Risk assessment

The starting point is making a list of dangerous goods (and the register if you have employees), and the information obtained when observing the advice in chapter 3 (*Identifying dangerous goods, obtaining information and providing information*).

Identify and document the broad risks associated with the storage and handling of dangerous goods and hazardous substances at the particular retail premises. The documentation could be a notation in the register.

If you do not have MSDS, then you need sufficient health and safety information – eg from the label or other information from the manufacturer or supplier, to deal with emergencies. For example: should a package burst open, or another risk such as a fire occurs. It is the duty of suppliers to provide packages correctly labelled so that dangerous goods can be identified.

If you open containers on the premises, or decant or dispense dangerous goods, this increases the risks.

Hazards are indicated by the Class or Subsidiary Risks shown on the label or MSDS for each type of dangerous goods.

5.3.1 Typical risks in retail

Typical risks in retail are:

- fire and explosion risks associated with flammable gases (Class 2.1 or Subsidiary risk 2.1), flammable liquids (Class 3 or Subsidiary risk 3); and Class or Subsidiary risk 4.1, 4.2 or 4.3
- fire risks from combustible liquids (these will not be labelled with an indication of this risk)
- fire risks resulting from oxidizing agents of Class (or Subsidiary risk) of 5.1 or 5.2
- toxic risks from Class or Subsidiary Risk 6.1 (all of these are also hazardous substances)
- corrosion risks from Class or Subsidiary Risk 8 (all of these are also hazardous substances).

When documenting the risks, describe how the risk might arise during all stages of the retail operation. For example, the risk assessment may identify a fire risk from spilled methylated spirits if ignition occurs after a 1 litre bottle falls from a shelf and breaks open.

5.3.2 Identify ignition sources

If flammable goods are stored or handled, identify any potential ignition sources. Typical ignition sources include the following:

- electrical equipment (unless protected or intrinsically safe) – such as: switches, electric motors, transformers, fuse boards, fans, air conditioners, fridges and other equipment with thermostats, power tools, fans, air conditioners, battery chargers, computers, telephones, electric heaters and internal combustion engines such as mowers, pumps and generators
- naked flames – such as: torches for brazing or shrink wrapping, pilot flames in heaters, heaters using gas, liquid or solid fuels, incinerators and barbeques.

Consider exceptional or infrequent circumstances such as maintenance and repairs at the premises, for example these may involve additional ignition sources such as when welding. Extra precautions may be needed at such times.

External lights above 3 m from ground level are not usually a risk.

5.4 Controlling risks for goods on display in consumer packages

This does not include the storage of goods immediately following the unloading of a delivery – see chapter 13 (temporary storage).

Follow the procedures in chapter 4 (small quantities), such as minimising quantities kept on the premises. Additional controls to observe include the following:

- (a) Keep dangerous goods away from other goods that could become contaminated in the event of a spill or leak. This is particularly important with goods such as personal products or food (including animal feed). Consider using an impervious barrier or a suitable separation distance (usually 1.5 m would be sufficient).
- (b) Keep dangerous goods away from incompatible substances or products.
- (c) Do not store packages of liquid dangerous goods above solid dangerous goods in paper or absorbent packaging.
- (d) Stow packages in such a way that will prevent the packages from falling or being dislodged and being damaged.
- (e) Packages should not be opened on the premises (with the exceptions of the tinting of paint). If the customer provides a package for refilling, see section 5.5 below.
- (f) Keep equipment and sufficient materials for clean up at the premises to deal with spills or leaks. Absorbent, neutralising or decontaminating material may be necessary. The quantities of clean-up material should be based on the size of the largest packages kept at the premises (ie the volume and spread of the potential spill).
- (g) Any spills or leaks should be cleaned up immediately. Contaminated or spilt dangerous goods should not be returned to their original packaging except for the purposes of disposal or where this will not increase the risk. Waste generated during clean-up needs to be disposed of in a safe manner and in accordance with environmental legislation.
- (h) Keep ignition sources (eg flames, heaters) away from the areas where flammable or combustible dangerous goods are kept. Naked flames from direct fired heaters and any flames associated with maintenance work (eg oxy-acetylene torches) should be kept at least five metres from the goods.
- (i) Additional fire extinguishers (additional to the normal premises requirements of the *Building Code of Australia*) may need to be kept near the dangerous goods storage area or area where decanting takes place.
- (j) If containers are not opened, ventilation will not be required as a control measure, except for gases (Class 2, see 4.14 for advice).
- (k) Spillage containment would not usually be required in retail unless the quantities of potential spills could spread to other parts of the premises or outside the premises and create a risk.

5.5 Decanting or dispensing into a customer's package

Examples are dispensing or decanting of flammable liquids such as kerosene or mineral turpentine into a package provided by the customer.

Ignition sources are a potential hazard. Further guidance for flammable liquids is provided in Australian Standard AS 1940 (see section 1.7 of this code of practice).

Procedures for gas dispensing are covered in chapter 11, section 11.8, of this code of practice.

The retailer is not required to apply a label to the package provided by a customer for refilling.

5.6 Pool chlorine

5.6.1 Types of pool chlorine

Dry Pool Chlorine is a dangerous goods of Class 5.1 (oxidizing substances), Packaging Group II (medium hazard rating). The term dry pool chlorine includes calcium hypochlorite, sodium dichloroisocyanurate, sodium trichloroisocyanurate, potassium dichloroisocyanurate, trichloroisocyanuric acid, dichloroisocyanuric acid and other oxidizing agents, in solid form, used for chlorinating swimming pool water, or other chlorinating uses.

A significant hazard of dry pool chlorine is that it will burst into flame on contact with oil, a flammable liquid or small amounts of water. It may cause combustible materials to burn more vigorously than normal. Consequently, dry pool chlorine should be kept away from flammable (eg fuels) and combustible liquids (eg oils), corrosives, and powdered metal. It should not come into contact with any source of heat. If sold at a service station the precautions in section 5.7 should be observed.

Liquid Pool Chlorine is a dangerous goods of Class 8 (corrosive). The Packing Group depends on available chlorine – PG II if between 5% and up to 16% and PG I if 16% or over. A significant hazard of liquid pool chlorine is that on contact with acid it releases the poisonous gas chlorine.

5.6.2 Dry pool chlorine storage indoors

Some types of dry pool chlorine are incompatible with each other. Calcium hypochlorite must not be permitted to come in contact with other dry pool chlorines such as dichloroisocyanuric acid, trichloroisocyanuric acid, sodium dichloroisocyanurate and trichloroisocyanurate. If incompatible pool chemicals are allowed to come into contact, they may dangerously interact to produce heat, explode, or release toxic gas. However, separation distances are not necessary between different types of dry pool chlorine or from dry acid (sodium hydrogen sulfate).

The storage area should be cool, dry, and well ventilated, since protection from the sun and moisture is essential. Liquids such as liquid pool chlorine, clarifiers, acids, paints, and algaecides should not be kept vertically above containers of dry pool chlorine (ie do not put these on shelves above the dry pool chlorine).

If more than 250 kg of solid pool chlorine is kept on the premises observe the advice in section 10.14.2.

5.6.3 Storage outdoors

Dry pool chlorine stored in the open air should be kept in weatherproof packages and protected from the weather, by waterproof sheeting or other means, on a paved area.

5.6.4 Repacking solid pool chlorine

Should you repack or dispense dry pool chlorine, observe the following additional precautions:

- provide additional separation distances or barriers from the repacking area to the retail sales area and to the storage area
- use dangerous goods approved packages of a capacity not exceeding 20 kg complying with the ADG Code
- ensure packages are labelled in accordance with the ADG Code
- Electrical wiring and electrical equipment in the repacking area must be suitable – all electric wiring and equipment in the area should conform to AS 2236 – *Dust-excluding ignition-proof enclosure of electrical equipment*
- do not use flame guns or heat for shrink-wrapping.

5.6.5 Liquid pool chlorine

Keep containers of liquid pool chlorine away from other classes of dangerous goods with which they might react (eg acids). Reaction with other types of pool chlorine is covered under dry pool chlorine, above.

If you have more than 1,000 L in packages refer to section 10.19.2.

5.7 Pool chlorine at service stations – additional precautions

Pool chlorine is sometimes sold at a service station in proximity to selling fuel for motor vehicles. The hazards and types of pool chlorine are described in section 5.6 above. However, because of the proximity of fuel and other dangerous goods, observe the additional precautions in 5.7.1 and 5.7.2 below.

5.7.1 How to keep dry pool chlorine at a service station

To avoid the additional risks associated with fuel and other goods sold at a service station, dry pool chlorine should be kept in accordance with the following conditions:

- (a) No more than 100 kg kept on display at any time.
- (b) The pool chlorine should not be displayed in a driveway for vehicles such as the forecourt.
- (c) Keep packages under cover, and in a cool dry place, out of the sun.
- (d) The pool chlorine should be kept separated from all combustible material by at least a distance of 5 metres, or a liquid-tight wall. It must not be stored next to or underneath any liquids, paint, grease, car batteries or any thing that burns easily (eg fire lighters).
- (e) The pool chlorine must be in approved packages, of no more than 5 kg each.
- (f) Packages should not be opened on the premises.
- (g) No repacking of pool chlorine is appropriate on the premises, unless additional precautions are taken (see 5.6.4).
- (h) At least one 9 kg fire extinguisher must be kept near the storage. You should already have extinguishers if you sell petrol.
- (i) A sign 'DANGER - NO SMOKING' in letters at least 50 mm high, and the Class 5.1 Oxidizing Agent symbol (black on yellow background 'diamond') should be displayed near the storage area. The length of the side of the Class symbol must be at least 100 mm.

5.7.2 Separation distances for dry pool chlorine at a service station

Observe all of the following separation distances with Dry pool chlorine:

- 3 m from any source of ignition
- 3 m from an *above* ground storage of Class 3 dangerous goods of up to 5,000 L, and 5 m if more than 5,000 L
- 5 m from LP Gas storage (eg a decanting cylinder)
- 3 m from dangerous goods of any other Class (eg car batteries)
- 3 m from combustible materials
- 3 m from a public place
- 3 m from a vent or fill pipe for an underground tank containing Class 3 or combustible dangerous goods (eg petrol, diesel).

It may be convenient to use empty containers for display, and store the dry pool chlorine in a separate area.

Where more than 100 kg of dry pool chlorine is kept at a Service Station, a storage area should be set up separate from the display area and separate from other dangerous goods or combustible liquids (eg fuel, oil) – see section 10.13.2.

5.8 LP Gas dispensing and decanting

LP Gas dispensing (eg autogas) and decanting from a cylinder into a customer's gas cylinder is covered in chapter 11, sections 11.6 and 11.8.

Above ground LP Gas tanks require placarding (see chapter 15).

Note that autogas must not be decanted into small gas cylinders in place of propane because it is a blend of different LP Gas components – autogas contains a greater proportion of butane and is unsuitable with equipment, such as burners, that are not designed for its use. However, burners on hot air balloons and some road resurfacing equipment may be especially designed for use with autogas.

5.9 Fuel dispensing – eg petrol

Dispensing of flammable liquid fuels is covered in chapter 11, sections 11.5 and 11.7.

Notices are required to notify customers of procedures and requirements – see chapter 11.

5.10 Temporary storage

If goods are kept in a storage area after being unloaded from a transport vehicle and before being placed in the display area, refer to the guidance in chapter 13 of this code of practice.

Goods should not be kept in temporary storage for a long period since this will increase risks at the premises.

5.11 Placarding

If the total quantity (aggregate) of the dangerous goods on the premises exceeds the "Placarding Quantity" in schedule 5 of the Regulation (see Appendix 2) then you must have further signage in the form of placards (see chapter 15). Placarding is not required for underground tanks at service stations (OHS Regulation clause 174ZK).

5.12 Manifests, emergency plans and investigating incidents

A system of investigating incidents involving dangerous goods must be established.

If the total quantity (aggregate) of the dangerous goods on the premises exceeds the "Manifest Quantity" in schedule 5 of the Regulation (see Appendix 2) there are additional requirements to carry out the following:

- prepare a manifest;
- prepare a written emergency plan;
- notify WorkCover (most underground tanks at service stations must be notified).

Further advice is provided in chapters 14, 15 and 16.

CHAPTER 6 – IDENTIFYING HAZARDS ASSOCIATED WITH THE STORAGE AND HANDLING OF DANGEROUS GOODS

This chapter applies to premises where the dangerous goods stored or handled are above the “placard quantities” shown in appendix 2 of this Code of practice.

6.1 Properties of the dangerous goods other than the classification

Having identified the principal classifications (Class) and any “Subsidiary Risk” of the substances on the premises (see chapter 3), the next step is to identify other relevant hazards, including physical and chemical properties of the goods. These depend on the nature of the substance and on other hazards present in the premises. The Material Safety Data Sheet (MSDS) will provide additional information for dangerous goods supplied to your premises, however, for dangerous goods created and used on the premises, comparable information will need to be sought.

Examples of additional properties that may need to be taken into account include the following:

- the physical state of the goods (eg a gas, liquid or powdered solid?)
- relevant physical properties and possibility of hazardous atmospheres or atmospheric contaminants – (is it likely to melt or vaporise at normal temperatures; what is the vapour pressure?)
- flashpoint and fire point
- chemical properties such as reactivity, chemical energy, solubility and combustion products
- concentration
- presence of contaminants
- physical characteristics such as particle size, electrical conductivity.

As examples, some metals in the form of a solid block do not present a hazard, but in the form of a finely divided powder can be readily ignited or react strongly with a common substance such as water. A liquid spill may spread further than a spill of a solid, so if you have flammable liquids, then any source of ignition nearby is a hazard.

6.2 Control conditions necessary to maintain stability

An occupier must ensure that the stability of dangerous goods is maintained, to avoid inadvertently creating any new hazards or increase risks, such as becoming unstable, decomposing or changing specification (OHS Regulation clause 174R).

Identify and apply any control conditions specified by the manufacturer needed to ensure stability of the dangerous goods, such as the following:

- maintaining the levels of stabilisers such as phlegmatizers, diluents, solvents, wetting agents, desensitisers, inhibitors and/or other adulterants that are necessary
- controlling temperature levels if required so that the goods are stored within any control temperature range specified by the manufacturer
- keeping the dangerous goods and the packaging dry, unless the packages themselves are impervious to moisture.

This does not apply where the dangerous goods are about to be used in a manufacturing process.

6.3 Hazards external to the goods

Having identified the hazards intrinsic to the dangerous goods, the next step is to identify hazards that are external to the goods.

This includes all other substances, structures, plant, systems of work and activities:

- used in the storage and handling of dangerous goods
- not directly involved with the dangerous goods but that could impinge on safety.

“Plant” is defined broadly and includes any machinery, equipment or appliance. This includes tanks, pressure vessels or packages used to contain the goods and associated plant such as pipework or pumps.

For example, a high boiling point oil may create a fire hazard if sprayed (eg a fine leak from a high pressure oil pipeline or piping).

Examples include the identification of all:

- physical components or characteristics that have the potential to cause harm
- hazardous chemical and physical effects created in a manufacturing or handling process (see section 6.5 below)
- systems of work, including normal operating procedures and the possibility of unusual operating conditions
- correct procedures and operating parameters, and checking that they are being adhered to, including checking that the type of dangerous goods used is appropriate to the item of plant
- possibilities of operator error.

Consider the following hazard sources:

- plant used or moved on the premises (eg ignition sources from engines)
- vehicle movements on the premises
- deliveries of dangerous goods
- transfer of dangerous goods between containers on the premises.
- visitor access
- personnel movements in normal and emergency situations
- fire hazards including buildings, concentrations of combustible material and uncontrolled vegetation
- weather conditions such as temperature extremes, wind, lightning, or rainfall including the potential for flooding.

Employees often are aware of these hazards and employers should consult with employees during the identification process.

6.4 Other premises and public places

Risks may arise from hazards external to the premises. For example, an adjacent timber yard with stacks of wood is an external fire risk – in the event of the timber catching fire, this hazard could impinge on the dangerous goods.

External hazards include the following:

- any dangerous goods or incompatible substances stored at other adjacent premises or public places

- activities, facilities or installations on neighbouring premises that could create a hazard (eg an ignition source)
- the effects of infrastructure such as a road, rail line, airport, pipeline, power line, radio transmitter or telephone tower
- fire hazards (including concentrations of combustible material or uncontrolled vegetation on neighbouring premises or public areas).

6.5 Chemical and physical reactions with other substances

Physical reactions include dilution, dissolution, abrasion, phase change, leaching and absorption. Chemical reactions are those that result in a chemical change in one or more of the goods when they come into contact.

Consider the following hazards:

- physical reaction from incompatible substance coming into contact (eg rapid heating generated by acid mixing with water, causing a steam explosion)
- chemical reaction resulting from contact with other substances (eg an oxidizing agent such as pool chlorine coming into contact with an oil such as brake fluid).

6.6 Past incidents – type and characteristics

Incident information, such as past accidents or spills, contributes to knowledge about the risks.

Find out:

- the type of incidents that have occurred when storing and handling dangerous goods at your premises, or other similar premises storing and handling similar types of dangerous goods
- knowledge about the cause of these incidents
- any information that is available about the effectiveness of controls and about how controls could be improved.

6.7 Toxicity, health hazards and controlling exposure

If you have identified toxicity or other health hazards and risks, further advice on the control of individual exposure to hazardous substances is also provided in the NSW *Code of Practice for the Control of Workplace Hazardous Substances*.

Many dangerous goods have personal exposure standards that must not be exceeded (OHS Regulation, Clause 51) – see the *Code of practice for the control of workplace hazardous substances*, and the NOHSC Standard: *Exposure Standards for Atmospheric Contaminants in the Occupational Environment*.

See chapters 10 and 11 for advice on containment of atmospheric risks.

6.8 Food and personal use products

Occupiers must ensure that dangerous goods cannot contaminate food, food packaging or personal use products on the premises. “Occupiers must ensure that dangerous goods cannot contaminate food, food packaging or personal use products on the premises (OHS Regulation clause 174W).”

The risk assessment should include the location of the storage of such products. Spill protection (see section 9.7) should ensure that contamination is not possible.

CHAPTER 7 – RISK ASSESSMENT

This chapter applies to premises where the dangerous goods stored or handled are above the “placard quantities” shown in appendix 2 of this Code of practice. In general, risks will be proportional to the overall quantity of dangerous goods stored or handled.

The legal obligations for risk assessment are in clause 174Q of the OHS Regulation. At premises where there are several occupiers, each must ensure the responsibilities are discharged in a coordinated manner. To achieve this, the occupiers will need to discuss with each other their risk assessments and the determination of control measures applying to the premises as a whole.

7.1 Assessing dangerous goods risks

7.1.1 The nature of “risk”

The next step in the risk management process is to assess the risks associated with the hazards that have been identified in chapters 3 and 6. Risks often arise from the unintended escape of dangerous goods or unintended consequences during handling.

Section 7 of the OHS Act provides that risks include those attributable to the following:

- the manner of conducting an undertaking
- the plant or substances used for the purposes of an undertaking
- the condition of the premises, or any part of the premises used for the purposes of an undertaking.

Risk is a combination of the likelihood of an injury or illness occurring and the likely severity of this. Put another way, it is the likelihood that a hazard will result in an incident, and how serious that incident will be.

The risk assessment should include the following:

- the extent of the risk to people (both workers and the public) both at the premises and beyond
- the extent of the risk to other dangerous goods, other substances, plant or buildings both at the premises and beyond
- identification of the factors contributing to the risk (see section 7.1.5)
- determination of the extent and type of controls necessary – controls should be commensurate with risk
- the priorities for implementing control measures
- identification of records that need to be kept.

When assessing risks to buildings, the consequences for the health and safety of persons in buildings, or as a result of danger arising from buildings (eg the spread of a fire or a building collapse) must be considered.

Employers must consult with all relevant employees during this risk assessment process and share information. Employers and self-employed persons must keep records of the risk assessment and review the risk assessment at least every five years, or when indicated by other factors (see section 7.4 below).

7.1.2 Goods and applications for which a detailed risk assessment is not required

Certain goods and articles are not covered by the dangerous goods chapter of the OHS Regulation where they are used in common items such as an item of plant or vehicle. This is because the hazards and risks were taken into account in the design of the plant or vehicle and additional measures are not required. However, the general provisions of other chapters of the OHS Regulation may still apply.

As examples, a detailed risk assessment is not required for the following:

- dangerous goods that are in a battery or fuel tank fitted to plant or a vehicle (or vessel or aircraft) where necessary for the propulsion or operation of the vehicle (up to 250 litres)
- up to 20 litres or kg of dangerous goods in equipment or accessories in fixed plant (eg a battery)
- dangerous goods in a refrigeration system of a freight container
- compressed gas in pneumatic tyres
- potable liquids in consumer packages at a retail premises.

So you do not need to include a single battery in use, but if a battery is being re-charged, or a bank of batteries is used for power, this needs to be included.

The above items are also not included in the calculation of the quantities of dangerous goods to which the various schedules of the Regulation apply.

However, these items may also need to be considered when identifying ignition sources.

7.1.3 Consequences to assess

In assessing the consequences of a possible incident, consider the potential for the following:

- injury and illness to people at the premises
- “knock-on” effects involving increased risks to (or from) other dangerous goods or substances at the premises
- injury and illness to people outside the premises – eg could “protected works” be affected, including nearby facilities such as factories, schools, child and aged care facilities, theatres, shopping centres or residences?
- risks to dangerous goods stored or handled at the premises from hazards outside the premises.

The control of the risk of injury will also help to control risks to property and the environment.

In estimating risk it may be useful to review historical information (ie past incidents – see section 6.6) at the premises or other similar premises. It may also be necessary to estimate the frequency with which some tasks are carried out. Include vehicles carrying dangerous goods that are frequently parked at the premises (eg overnight) in the risk assessment and determination of control measures.

7.1.4 Quantitative risk assessment

Risk assessments may be qualitative or quantitative or a mixture of both. The choice will depend on the hazards, the risk, the complexity of the processes being evaluated, the availability and reliability of data and the ability to develop acceptable risk criteria.

In simpler cases a qualitative assessment may be sufficient, particularly if the guidance in Australian Standards is used.

Quantitative risk assessment may be used where there is reliable data, for example where failure rates are well known. Quantitative risk assessment may be the technique of choice when trying to make a determination between two control measures.

In many cases semi-quantitative techniques may be used. This means that the assessment has qualitative and quantitative components.

In some cases it may be effective to use a highly structured risk assessment such as a Hazard and Operability Study (HAZOP).

7.1.5 Key risk factors

Factors contributing to the risk need to be identified.

Central to risk assessment is an analysis of the following factors:

- (a) Failure of containment leading to spillage or leakage of goods (eg failure of plant containing the goods, including pipe connections during transfer).
- (b) Fires and explosions resulting from the nature of the dangerous goods.
- (c) Fire load of other substances, including storages of combustible liquids and other combustible materials.
- (d) Incompatibility of goods (ie they may react with each other or other substances).
- (e) Plant used with or near the goods (eg heat or ignition sources), including the materials the plant is made from (see also section 9.3 for controls on associated plant).
- (f) The buildings near or in which the dangerous goods are stored or handled, including the materials the buildings are constructed from and the potential fire load.
- (g) The generation of hazardous atmospheres (eg flammable atmospheres and the risk of explosions) or atmospheric contamination (eg risk of toxicity).
- (h) Manufacturing processes, including the temperatures and pressures the goods are subjected to, physical processes such as separation, mixing, absorption, changes of state and chemical reaction.
- (i) Confined or enclosed spaces increasing risks.
- (j) Occasional work such as repairs and maintenance should be included in the risk assessment since this may introduce new hazards and increase risks.

These risk factors should be considered with regard to industry knowledge and practice, such as that reflected in relevant Australian Standards.

The site plan that accompanies the manifest (see chapter 16) is also a useful tool when assessing risks and deciding on controls, particularly in relation to matters such as separation distances and spillage containment (bundling).

7.2 Generic risk assessment

If the same dangerous goods and similar work processes are used in a number of different locations then it may be possible to develop a generic risk assessment applying to all locations, providing all relevant factors and variables are taken into account. By doing this, the number of assessments can be minimised and unnecessary duplication of effort avoided. For example, in a factory where Class 3 flammable liquids are packaged in three identical packaging lines, the one assessment can apply to all three.

However, you need to ensure that the generic assessment is valid in each situation or area to which it is intended to apply.

Similarly, a generic assessment undertaken by a trade association as a model to be used by members at a number of sites could be applied, providing all factors are taken into account by the occupier of each site.

The application of the relevant Australian Standard listed in section 1.7 for the storage and handling of the dangerous goods in question is a generic assessment. In many instances, the risk controls identified in Australian Standards have been formulated following analysis of particular hazards and their risks and will be sufficient, providing the control measures stated in the Standards are implemented. These need to be directly applicable to the storage and handling situation, and you need to ensure no other hazards impinge (eg there are sufficient separation distances from other dangerous goods).

However, if the situations are not similar, and persons in different premises or areas may be subjected to different risks, a generic assessment may not apply, or may need to be supplemented by a further risk assessment.

7.3 Recording the outcomes of the risk assessment

If no specific measures are necessary to control risks, make a notation in the register (eg on the MSDS). However, if specific control measures are necessary, the risk assessment must be documented, and a copy kept while the risk assessment is being reviewed.

The risk assessment records should include the following:

- date of the assessment
- name(s) of the assessor(s)
- name(s) of people who provided specialist advice
- the premises, storage location, area or process to which the record relates
- the dangerous goods involved in the storage or handling work activity and the particular hazards
- the sources of information reviewed or used to make decisions (eg relevant MSDS, Australian Standards)
- identified risks (including the likelihood of possible consequences)
- controls necessary to reduce risks to an acceptable level and how decisions about the control were made, such as a determination of what was reasonably practicable
- the existing controls in place (and if they are sufficiently effective)
- any controls that need to be introduced.

Separate records may be needed for each storage location or process. For simple risk assessments, the record may be a notation in the register accompanying the relevant MSDS.

The risk assessment should include the reasons for determining controls (see chapter 8) and a determination of what was reasonably practicable in the circumstances. The record of the risk assessment will be useful when subsequently reviewing the assessment, or when changes could result in the need for a new assessment (see below). A site plan is a helpful part of the record since key aspects such as separation distances are shown. This could be the same plan accompanying the manifest (see chapter 16).

The record of the result of the assessment must be accessible to any person engaged to work at the premises who could be exposed to the risk, and to any relevant OHS representative (including the consultative process).

7.4 Reviewing and revising the risk assessments

There are circumstances when a risk assessment may no longer adequately apply and needs to be reviewed, and revised when necessary. New controls may be required. Consult with relevant employees during the review process.

7.4.1 Legal requirement

Clauses 12, 37 and 174Q of the OHS Regulation requires that a risk assessment and control measures to be reviewed when either:

- there is evidence that the assessment is no longer valid
- injury or illness results from exposure to a hazard to which the risk assessment relates
- a significant change is proposed in the place of work or in work practices or procedures to which the risk assessment relates
- five years has elapsed.

The review must take into account the results of any investigation into a serious incident or incident at the premises.

The review is an opportunity to check that control measures conform to accepted industry standards. If the review identifies any deficiencies in any control measures, the measures must be altered or new measures implemented to ensure effective control.

7.4.2 Changes triggering a review of the risk assessment

The risk assessment should be reviewed when any of the following occurs:

- (a) A new dangerous goods is introduced.
- (b) The quantities of dangerous goods at the site change.
- (c) The goods are moved to a different location at the site.
- (d) A process or plant is modified. (eg a different type of dangerous goods is used)
- (e) New information on the hazards or risks becomes available – eg revised information from the supplier, workers identify new hazards.
- (f) Monitoring indicates inadequate control – eg escape of goods is detected.
- (g) Incidents have occurred.
- (h) New or improved control measures become available or reasonably practicable.
- (i) Changes in dangerous goods on a neighbouring property – eg affecting a change to separation distances.
- (j) Changes to the premises, structures or buildings such as:
 - putting openings into firewalls or screen walls (eg for windows, doors, ducts, or vents) that may allow vapours to escape and increase the need for separation distances
 - changes that will reduce the fire containment rating or fire resistance level

- placing roofs over open storage areas or loading docks (fire may plume and spread under a roof and fire fighting becomes more difficult)
- changes that affect spillage containment.

If it is known in advance that circumstances may change, the risk assessment should take the projected change into account. This will help ensure that the assessment will still be applicable after the changes take place. You also need to consider this if purchasing new products or plant, moving to new premises or changing production schedules (eg increase in quantities used).

Changes may also need to be reflected in changes to the manifest, (see section 16.2) and the notification to Workcover (including the site plan – see section 16.2.6).

7.5 Competency of the persons carrying out the risk assessment

The process of assessing risks and determining control measures (see chapter 8) should be carried out by a competent person. If the occupier lacks the necessary expertise, they should engage a person with suitable demonstrated competence to carry out this task. The occupier should provide that person with all the necessary information and access to the premises, so that the nature and extent of existing or proposed storage and handling of dangerous goods can be determined.

A competent person for a task is defined as a person who “has acquired through training, qualifications or experience, or a combination of them, the knowledge and skills to carry out that task” (OHS Regulation, clause 3).

The competency required will vary with the complexity of the task, which depends on the goods present in each actual circumstance.

In the simpler situations, such as the small quantities in chapter 4 or retail in chapter 5, a person capable of interpreting an MSDS, such as a supervisor, should be able to assess risks and determine control measures, using this code of practice.

In cases where the quantity of dangerous goods exceeds the placard level, but remains below the “manifest” level, a greater degree of experience and knowledge may be required, such as knowledge of the relevant Australian Standard and experience in risk assessment would be appropriate.

Where the goods are above the “manifest” level, or where incompatible goods are kept in the same location, or where processing occurs; additional knowledge and experience in areas such as hazardous areas classification and the protection of associated electrical equipment may be needed.

In cases where technical knowledge and skills are required, a competent person would be a member of a recognised body, for example the *Australian Institute of Dangerous Goods Consultants*, or a chemical engineer (especially if a qualitative method will be used). Where the dangerous goods are used with plant, the risk assessor should also be competent in relation to the hazards and risks associated with each item of plant.

CHAPTER 8 – DETERMINING CONTROL MEASURES AND APPLYING THE HIERARCHY OF CONTROL

This chapter applies to workplaces and to non-workplaces where the dangerous goods stored or handled are above the placarding quantities shown in schedule 4 of the OHS Regulation (see appendix 2 of this Code of practice).

8.1 Principles of control

Having assessed the risks, the next step is to determine appropriate control measures.

The objective of control is to achieve the requirement that all persons (including members of the public) are not exposed to risks to their health and safety arising from dangerous goods at the occupier's premises (OHS Regulation clause 1740).

The "hierarchy of control" must be applied (OHS Regulation, clauses 11(2) and 5). This was briefly described in section 2.3. The determination of appropriate measures depends on an assessment of what is "reasonably practicable" in the circumstances (see advice in section 8.2 below).

The controls for dangerous goods occur on three levels:

- 1) containment of the goods to prevent spills or leaks;
- 2) spill containment and measures to mitigate risks resulting from spills or leaks;
- 3) emergency response including fire fighting when other controls have failed.

While the first level is the most important, control measures need to be selected for each of these levels, should the controls at the level above fail.

Employers must consult with all relevant employees when deciding on controls and share information relating to choosing controls.

8.2 Determining the controls to be used – what is reasonably practicable?

When determining the control that is "reasonably practicable" the following factors (a) to (d) should be taken into account.

(a) The likelihood and severity of the hazard or risk in question

This is based on the risk assessment – how likely is it that the storage and handling of dangerous goods will result in injury to people or the likelihood of property damage that could impact on people? How serious are the injuries or damage likely to be and how many people could be affected?

(b) State of knowledge about the hazard or risk and ways of removing or mitigating the hazard or risk

Take into account what is known about the hazards or risks and the methods of control. What do manufacturers and suppliers know about the hazards and risks? What do other workplaces with similar dangerous goods and processes do to control risks (ie what are the usual controls used in the industry or in engineering practice)? What information can industry professionals and organisations, and other sources provide?

(c) The availability and suitability of ways to remove or mitigate the hazard or risk

Are the control measures you have identified available? Are they suitable for the premises and the workers involved?

(d) *Cost of implementing control measures*

Are the costs of the control measures commensurate with the benefits gained? Time and money invested in selecting and implementing control measures should result in the elimination or significant reduction of risks.

The assessment and weighing of the above factors is an objective test of what was reasonably practicable in the circumstances of the case under consideration. For example, the determination of control measures should be undertaken with regard to industry practice, such as that shown in relevant Australian Standards or other established industry practices. Relevant Australian Standards include those listed in section 1.7 of this code of practice.

8.3 Eliminating or controlling risk through design

Elimination must be considered first; and other controls subsequently determined if elimination is not reasonably practicable. This should be done at the design stage. Reducing the quantities held is also a way of reducing risk (see section 8.4).

Controllers of premises have an obligation to ensure that hazards are identified during the design of the premises and before the premises are provided for use as a place of work (OHS Regulation, clause 34).

8.3.1 Applying design principles

Premises, plant, processes, systems of work and activities should be designed to eliminate any risks associated with the dangerous goods, or if this is not reasonably practicable, reduce the risk.

Isolation and engineering controls should be incorporated into plant and structures at the design stage.

Good design is the most effective way to reduce risks. Consideration at the design stage helps to reduce costs, particularly high operational costs caused by poorly set-out premises and costs created by complex systems of work to cope with the constraints of poorly designed premises. An effective design process means that potential problems can be anticipated and solved before they become real “bricks and mortar” problems.

When laying out premises, any external factors such as the risks to and from adjacent premises should be taken into account. If you intend to establish a fire protection system, the advice of the Fire Brigade should be requested to determine whether the location and type of fire protection system meets with operational requirements of the Fire Brigade – see chapter 12.

8.3.2 Designing a process with low risk

One of the factors determining the level of risk is the decision on the actual physical or chemical process to be used. Chemical reactions usually involve raw materials, intermediates and finished products. Where there is a choice of chemical reactions available, each possible reaction pathway will have inherent hazards and risks associated with it. Other factors include the complexity of the process, the plant used, efficiency, by products, cost, reliability, and energy demand.

Similarly, there may be a choice in relation to the physical processes that are available to achieve the same end product. Some processes involve high temperatures and pressures while alternatives may involve lower temperatures and pressures (eg evaporation compared to freeze drying). For each of the options, the process hazards should be identified and their relative risks assessed. The processes resulting in the lowest overall risk should be selected (subject to practicability).

8.3.3 Location of storage and handling areas

Dangerous goods should be kept only in a designated storage location observing the separation and segregation principles described in section 8.7.

One of the most effective design factors is locating the dangerous goods in such a way as to minimise risk factors. Factors include the following:

- a location well away from other hazards and other sensitive facilities (such as “protected works”)
- sufficient area to allow for the isolation of incompatible dangerous goods, and for spill and firewater retention
- ease of access such that transfer and transport risks are minimised
- located above potential flood levels.

When determining if more than one type or class of dangerous goods can be kept or used in the storage or handling area, risk factors relating to compatibility need to be considered (see section 8.7.8).

8.3.4 Design of buildings and storage areas

Buildings should be designed, selected and maintained in a manner that recognises the risks associated with any dangerous goods stored or handled in or near the buildings. Fire risks are of particular importance in building design and suitability.

Generally structures such as buildings should have the following characteristics:

- be constructed of non-combustible materials
- not have spaces where dangerous goods could unintentionally accumulate
- protect dangerous goods from direct sunlight
- if gases are stored, have roofs designed so that gases cannot accumulate beneath roofs or in roof voids
- have adequate ventilation to prevent the build-up of a hazardous atmosphere (see section 9.9).

The *Building Code of Australia* requirements for design may not be sufficient and the relevant dangerous goods Class or type specific Australian Standard should be consulted.

Storage areas should be paved and vegetation should be kept clear.

Shipping containers are not suitable unless especially adapted for the storage of dangerous goods. Many containers have wooden floors that may absorb substances and create hazards and not retain spills or leaks. Shipping containers need to be adapted to provide the features of suitable storage areas, including ventilation and spillage containment.

8.3.5 Design and selection of plant used with dangerous goods

When selecting plant ensure that it is suitable for use with dangerous goods. Plant must only be used in accordance with the plant manufacturer’s instructions. If these instructions are not available, suitable instructions must be developed by a competent person (OHS Regulation clause 135(a)).

8.4 Quantity reduction

Occupiers should consider reducing risks by reducing the quantity of dangerous goods stored or handled on the premises. Reducing the levels of inventories of dangerous goods held usually leads to an overall reduction of risk.

Examples include the following:

- (a) Careful attention to inventory levels through effective stock control, such as the use of just-in-time ordering and supply arrangements.
- (b) Prompt disposal of dangerous goods not needed, including waste.
- (c) Using a continuous handling or manufacturing process rather than a batch process.
- (d) Selecting chemical conversion processes that have a high conversion rate and result in less recycling or stockpiling of materials.
- (e) Using just-in-time manufacturing – ie handling only those dangerous goods necessary for the production shift rather than stock piling the supply for several shifts in the manufacturing area.
- (f) Ordering a smaller package size. This will also reduce manual handling risks.

However, you need to ensure that other risks are not increased. For example, ensure that increased vehicle movements or any increased handling does not create further risks.

In some circumstances reduction may not be practicable, such as in warehousing and contract storage.

8.5 Elimination

The most effective method of risk control is the elimination of the hazard at the source. Consider this when compiling or checking your register or manifest of dangerous goods (see chapter 16). Elimination must be considered first, and controls determined (in the order of 8.6 to 8.10) only if elimination is not reasonably practicable.

Examples of elimination include using the following:

- a physical process rather than a chemical process to clean an object – eg cleaning by the use of ultra-sound, steam or high pressure water rather than using a solvent
- water based paints or glues rather than flammable solvent based material
- clips, clamping, bolts or rivets instead of an adhesive
- electrolysis to produce a gas in-situ rather than supply from a cylinder.

8.6 Substitution

8.6.1 Lesser hazard

Occupiers of premises must consider controlling risks by substituting dangerous goods of a high hazard with goods of a lower hazard.

Examples include the following substitutions:

- a substance not classified as a dangerous goods – eg degreasing with detergent instead of a chlorinated or volatile solvent
- a combustible liquid instead of a Class 3 flammable liquid – eg using dieseline rather than petrol or kerosene
- a substance with a higher numerical Packing Group number, such as substituting PG III for PG II goods (PG refers to Packing Group).
- a less hazardous propellant in an aerosol, such as carbon dioxide (Class 2.2) instead of LP Gas (Class 2.1)

- a Class 2.2 (non-flammable, non-toxic gas) as a refrigerant rather than Class 2.3 (toxic gas, such as ammonia) or Class 2.1 (flammable gas such as LP Gas)
- a dangerous goods of a single hazard rather than goods with a subsidiary hazard – ie a single Class without a Subsidiary risk rather than the same Class with a Subsidiary risk.

8.6.2 Work methods with lesser risk

Using a work method that has a lesser risk is another method of substitution.

Examples include the following:

- wrapping palletised goods by stretch wrapping rather than flame heat shrink where there is a fire or combustion risk
- using a pallet cage rather than stretch wrap where the static electricity generated during the wrapping or unwrapping of the plastics film may be a hazard
- using a solid substance in a paste or pellet form rather than a dusty powder
- applying paint by brush or roller rather than from an aerosol can
- transferring packages by conveyor rather than forklift in hazardous areas
- using non-sparking tools in a hazardous area.

8.7 Separation

An occupier must ensure that risks are reduced by separation, where it is not reasonably practicable to eliminate the risks (OHS Regulation clause 174S).

Separation means the physical separation of the dangerous goods from a person, property or thing by either distance or a physical barrier. Include vehicles carrying dangerous goods that are frequently parked at the premises (eg overnight) in the separation distances.

8.7.1 Principles of separation

Physical separation is the principal method of controlling risks by separating one hazard from another. This achieves both the purpose of protecting other areas from the dangerous goods and the dangerous goods from hazards arising in these other areas. Many Australian Standards refer to “protected works” and define this in terms of different types of “occupancies”, buildings or structures.

Distances, or the use of effective barriers (such as fire rated walls or vapour barriers), or a combination of these, may achieve separation. The types of barriers used will depend on the nature of the risks to be isolated.

Examples of separation include the following:

- distancing the dangerous goods from people, other dangerous goods or protected works, pipelines, and other property, such that interaction is not possible
- decanting in a fume cupboard to control emissions
- storing incompatible dangerous goods in separate buildings; separated by a sufficient distance so that interaction is impossible and a serious incident in one area will not involve the other
- installing a screen wall that is a vapour barrier and has an appropriate fire resistance level (FRL).

8.7.2 Determining separation distances

When determining suitable separation distances consider the following factors:

- the hazards of the dangerous goods (ie Class and Subsidiary Risk) and the risks posed to other storage areas
- the quantity of dangerous goods in each location
- any other activities in the work area that may increase the risk
- any other existing control measures that will reduce the risk.

Separation distances are measured around barriers, which may be vapour barriers, screen walls or fire walls (see section 8.7.5).

8.7.3 Separation from property on adjoining premises (including “protected works”).

For most dangerous goods, recommended minimum separation distances are specified in the relevant Australian Standard listed in section 1.7 of this code of practice. Some of these will apply only to storage and not to areas where the dangerous goods are used. These standards apply a variety of distances, depending on Class, Packing Group, quantity, and other factors.

Consider applying the following alternatives for deciding distances:

- the appropriate Class standard (eg AS 1940 for Class 3)
- AS/NZS 3833 for mixed classes
- a risk assessment and the application of other control measures.

8.7.4 Separation distances from on-site facilities

The determination of separation distances from on-site facilities (eg plant) is similar to that in 8.7.3 for off-site facilities, except that where the occupier can apply other control measures to the facilities, a risk assessment may indicate lesser distances.

8.7.5 Applying barriers

Separation distances between incompatible goods may be measured around screen walls and vapour barriers, provided they give equivalent protection as the separation distance.

To determine if barriers are effective, instead of or in conjunction with separation distances, consider the following factors:

- the types of hazards exhibited by the dangerous goods and the risks they pose to the barrier
- the length and height of the vapour barrier required and its effectiveness in varied climatic conditions
- appropriate fire resistance levels (FRL), especially for flammable goods, including the potential heat load from internal or external fires
- structural strength necessary to withstand weather
- structural strength or weakness necessary to minimise the consequences of any overpressure resulting from a serious incident (such as an explosion, unless weakness is a control measure).

8.7.6 Separation from ignition sources

An occupier must ensure that ignition sources in any hazardous area within the premises are eliminated, or if that is not reasonably practicable, the risk arising from an ignition source is controlled (OHS Regulation clause 174U).

Where flammable goods are handled or stored, identify any potential ignition sources.

Typical ignition sources include the following:

- sparks from electrical equipment (unless protected or intrinsically safe) – such as: switches, electric motors, transformers, fuse boards, fans, air conditioners, fridges and other equipment with thermostats, power tools, fans, air conditioners, battery chargers, computers, telephones, electric heaters and internal combustion engines (eg mowers, pumps and generators)
- naked flames – such as: torches for brazing or shrink wrapping, pilot flames in heaters, heaters using gas, liquid or solid fuels, incinerators and barbeques
- incandescent or heated material, hot surfaces or other sources of radiant heat
- heat from friction
- sparks from a mechanical source
- sparks from static electricity.

External lights above 3 m from ground level are not usually a risk.

For dangerous goods with a flammability or explosion hazard, distances determined from AS 2430.3 should be regarded as a minimum. Further advice is found in the Class or type specific Australian Standards listed in section 1.7.

For all other dangerous goods, ignition sources should be kept away as far as reasonably practicable even from those without a flammability hazard, due to the potential adverse impact of fires.

8.7.8 Segregation within a storage area

An occupier must ensure that dangerous goods are stored and handled separately from other incompatible substances and dangerous goods, so that loss of containment cannot cause a serious incident (OHS Regulation clause 174T).

Segregation means separation from other substances (including dangerous goods) so that a loss of containment cannot cause a serious incident.

If several types of dangerous goods are to be held in the one storage location, incompatibility is an important risk to be considered. Incompatible goods should be segregated. Signage of locations with the appropriate dangerous goods symbol (“diamond”) and marking (eg lines painted on the ground) helps to maintain this. Normally the location should be used for one Class only. Other goods or items (apart from safety equipment) should not be kept in the location.

Advice on the segregation of packages of incompatible dangerous goods is provided in AS 3833 *The storage and handling of mixed classes of dangerous goods in packages and intermediate bulk containers* (an approved industry code of practice).

Administrative controls in the form of systems and procedures are needed to ensure segregation is always maintained.

8.8 Engineering controls

8.8.1 Principles

Engineering controls are measures that change the physical characteristics of structures, plant and processes to reduce the risk associated with the dangerous goods.

Effective containment of dangerous goods is an important control, specified in the OHS Regulation (clause 174Y). Occupiers are required to provide spill containment that will eliminate the risk of any spill or leak. If that is not reasonably practicable, control measures must reduce the risk so far as is reasonably practicable. Any dangerous goods that have spilled or leaked, and any effluent arising from an incident must be safely contained within the premises so far as is reasonably practicable. It may not be reasonably practicable to contain gases that have leaked.

Engineering controls include ensuring the effectiveness and integrity of the following:

- valves
- pipework and connections
- tanks and pressure vessels
- packages
- containment of firewater.

Consider using engineering controls to achieve the following:

- minimising the generation of dangerous goods or release to the atmosphere
- containing or suppressing dangerous goods, including controlling vapours or dusts
- eliminating, confining or controlling hazardous processes or plant that may pose a risk to the dangerous goods
- protecting the dangerous goods from external hazards and environmental factors such as rain and sunshine
- limiting the area of contamination in the event of spills or leaks.

8.8.2 Types of engineering controls

Types of engineering controls include the following:

- (a) Totally or partly enclosing the dangerous goods, or external hazard.
- (b) Adequate ventilation to eliminate flammable or toxic atmospheres (see further advice in section 9.9).
- (c) Blanketing exposed liquid surfaces with an inert atmosphere or sparging (bubbling gas through the liquid from below).
- (d) Automating processes to eliminate human error.
- (e) Fitting sensors and controls for liquid levels, pressure and temperature – for example to reduce the risk of overflow, uncontrolled reaction, to minimise loss or the formation of hazardous atmospheres.
- (f) Fitting control devices, alarms or shut down devices.
- (g) Installing appropriately rated (protected) electrical plant and circuitry to minimise ignition hazards.
- (h) Providing spill control to contain the largest foreseeable spill and to confine spills to avoid risks such as contact with incompatible goods or to limit spread in order to assist fire control (see further advice in section 9.7).
- (i) Constructing effective barriers between incompatible goods.

- (j) Installing detection systems and alarms for hazardous atmospheres and fires.
- (k) Installing suitable devices to protect installations from external hazards – such as a crash barrier to protect a storage tank from damage by moving vehicles.
- (l) Installing suitable fire control systems, including fire suppression devices such as monitors (see chapter 12).

8.9 Administrative controls

Administrative controls are systems of work or safe work practices that eliminate or reduce risk. They consist of properly designed and implemented work practices and procedures.

Administrative controls rely on people to implement them and diligently follow all the agreed work practices and procedures. To assist implementation, the complexity of such controls should be minimised. Workers are more likely to follow procedures if they have been fully consulted when developing and establishing them.

The controls should be matched to the skills and capabilities of the workers who will implement them. Training is an important component of ensuring workers have full knowledge of the correct procedures.

Supervision must be sufficient to ensure that workers follow these procedures. Supervision must be by a competent person.

Examples of administrative controls include the following:

- (a) Safe work procedures that describe the correct methods for performing all work activities, documenting these procedures, and training workers to use them.
- (b) Operating procedures that ensure that the integrity of structures and plant is maintained at all times.
- (c) Establishing inspection, maintenance, repair, testing and cleaning procedures to ensure other controls are maintained, and to ensure these procedures do not create risks.
- (d) Controlling access to the storage and handling areas, for example preventing the use of the area as a thoroughfare.
- (e) Where there is a fire or explosion risk, prohibiting the carriage and use of matches, lighters or spark producing tools.
- (f) Regular housekeeping, including cleaning of contamination from walls and surfaces, dust and drip removal from work areas.
- (g) Keeping lids on containers when not in immediate use.
- (h) Procedures for spill clean up and decontamination.
- (i) Procedures for waste disposal (including disposal of clean-up waste and contamination).
- (j) Developing and rehearsing emergency procedures.
- (k) Procedures to ensure the provision and use of appropriate PPE.
- (l) Procedures for “hot work” in or around the storage or handling area, such as welding or grinding (including work by contractors), such as using “permit to work” systems.

8.10 Personal protective clothing and equipment (PPE)

8.10.1 Principles of using PPE

Personal protective equipment (PPE) includes items such as overalls, aprons, gloves, dust masks, respirators, self-contained breathing apparatus, footwear, goggles or face shields, hard hats, and fully encapsulated suits.

The use of PPE relies on the users following instructions and procedures correctly. Consequently, a greater level of supervision may be required than for other procedures.

Even where not adopted as a regular control measure, PPE may still need to be readily accessible in the event of a failure of containment or an emergency (eg a serious incident).

PPE may be necessary in any of the following circumstances:

- where it is not reasonably practicable to achieve adequate control by other means
- where other controls could fail (eg where urgent action is required because of plant failure)
- during infrequent maintenance operations where the short duration of exposure to risk makes other control measures impracticable.

Employers must consult with employees about establishing the PPE program and the selection and use of appropriate PPE.

8.10.2 Sources of information to help selection

Check that the protective equipment used has the appropriate Australian Standard number on the label. Various standards not only provide specifications but also indicate the type to be selected.

Use labels and MSDS (material safety data sheets) as a guide. If in doubt as to suitability ask the supplier of the dangerous goods for a recommendation suitable for the intended use and circumstances. Also check the specifications provided by the supplier of the PPE. Preferably obtain this advice in writing.

8.10.3 Eye protection

The eyes are the most vulnerable parts of the body to chemical or physical damage, and the most difficult to repair surgically. In any area where there is the possibility of flying objects or where chemicals might splash, appropriate eye protection should be worn. This could be in the form of safety glasses, goggles, a face shield, or full-face respirator. Splashes are most likely when mixing, pouring and transferring and under eye protection may be necessary. If a worker normally wears ordinary spectacles it may be necessary to wear coverall safety glasses or a face shield over the top.

Australian Standard AS1336 *Recommended Practices for Eye Protection in the Industrial Environment* gives the requirements for the selection of the correct type of eye protection, which should conform to AS 1337 (*Eye Protection for Industrial Application*), or where radiation protection is required, AS 1338 (*Filters for Eye Protection*)

8.10.4 Gloves, aprons and other equipment

Gloves may be necessary when decanting or preparing chemicals, or during maintenance and cleaning. Gauntlet gloves are usually appropriate to protect the lower arms and prevent splashes entering the glove. Check the MSDS, or the supplier for glove type. Rubber gloves are usually not sufficient. PVC, chloroprene rubber or nitrile rubber will be appropriate for certain chemicals, but confirm with the glove supplier on suitability of the glove for the dangerous goods used.

Select gloves that conform to Australian Standard AS 2161 *Protective Gloves and Mittens*.

Aprons, coats or overalls should be worn when there is a chance of a spill or splash, for example, during decanting or cleaning. Hairnets to control long hair may be appropriate in certain situations, such as when using naked flames or rotating machinery.

8.10.5 Respiratory protection

In some situations, respiratory protection will be necessary. An example is the use of a volatile solvent, where the solvent label specifies the use of a respirator or protective equipment. Sometimes the labels will use phrases such as avoid inhalation of vapour or dusts. Consult MSDS for information.

Select respirators that conform to Australian Standard AS/NZS 1716 *Respiratory Protective Devices* (which is an approved industry code of practice).

Respirators should be used, stored and maintained in accordance with the Australian Standard AS/NZS 1715 *Selection, Use and Maintenance of Respiratory Protective Equipment*. A respiratory program conforming to section 7 of AS 1715 would ensure maximum efficiency of the respirators.

Combined filters may be necessary (eg for both particles and vapour) depending on the type of dangerous goods used.

8.10.6 Footwear

Footwear is an important safety item. Good soles provide a sound grip reducing injuries from slipping. Footwear can also protect your feet from mechanical or chemical damage, especially where splashes are possible. Open footwear such as sandals is not appropriate.

Where impacts, cuts or chemical spills are possible, the footwear should conform to AS 2210 *Occupational Protective Footwear Part 2 Specification*, which provides information on the suitability of footwear, sole designs and materials for different types of surfaces (Part 1 provides information on selection, care and use).

8.10.7 Hearing protection

Select hearing protectors that conform to AS/NZS 1270 *Acoustics – hearing protectors*, which is an approved industry code of practice.

8.10.8 Suitability of PPE

Consult the MSDS (material safety data sheet) for advice on appropriate PPE.

When choosing PPE ensure that all of the following points are observed:

- (a) The specification provides the required level of protection from the risks associated with the particular work task (see selection in 8.11 below).
- (b) It meets an appropriate Australian Standard (or other recognised Standard) – look for the standard on the label or supplier's information.
- (c) It is suitable for the individual's size and build.
- (d) The wearer's need for mobility, dexterity, clear vision, communication and comfort are all considered, including factors such as heat stress.
- (e) It is used in accordance with the manufacturer's directions.
- (f) It is readily available, clean and in fully operational condition.
- (g) Employees are trained in the use of the PPE, including the selection, maintenance and when to discard disposable PPE.

- (h) The employees wear the PPE as intended.
- (i) Any necessary maintenance, such as cleaning, is carried out.
- (j) The likelihood of a secondary injury risk due to wearing PPE, such as skin rash or heat stress or dehydration caused by unsuitable clothing in hot conditions, has been assessed.

8.11 Safety showers and eye wash facilities

The need for safety showers, eyewashes or other washing facilities will depend on the actual risk. This may be necessary in addition to appropriate PPE.

For example, the requirements where packages are opened and substances handled with a risk of spills and splashes will be different from those in stores where the closed packages are handled – however, the risk could still be accidental breakage or puncture by forklift tines.

Corrosives and toxic substances will need to be removed immediately following accidental contact with clothing or areas of the body.

Where the packages are opened, consider the need for the following facilities:

- a safety shower conforming to ANZSI Z 358.1 or a plunge bath – however, where risk is lower, such as in a service station where batteries are handled, a domestic shower may be adequate (eg as part of the usual facilities).
- eye wash facilities conforming to ANZSI Z 358.1
- water for hand washing.

The facilities should be reasonably accessible – eg less than 10 m away, but not within 2m from the store or work area to avoid possible contamination of the facility itself.

In work areas where the packages are always closed, water for hand washing should at least be conveniently provided.

Wash facilities should also be considered in areas where tankers are connected via hoses, pipes or valves, or other transfer from bulk storage is undertaken, at a suitable distance – eg between 2 and 7 m distance from the transfer point.

General hygiene is also necessary and you should check if other facilities such as toilets and showers are adequate for workers to decontaminate.

8.12 Maintaining and reviewing controls

An employer must ensure that all measures (including procedures and equipment) that are adopted to eliminate or control risks to health and safety are properly used and maintained (OHS Regulation sub-clause 11(3)).

When incidents are reported, controls should be reviewed (see section 2.11).

Once control measures are in place, you should check that they have been implemented correctly and monitor their effectiveness. Regular reviews of effectiveness may be necessary.

Maintenance of control measures should include the following:

- frequent inspections
- visual checks to ensure that the controls are being applied
- testing and preventive maintenance of engineering controls and PPE.

CHAPTER 9 – CONTROL MEASURES GENERALLY APPLYING TO DANGEROUS GOODS

9.1 Scope of this chapter

In general, this chapter applies to the storage or handling of quantities above the placard quantity in appendix 2 of this Code of practice, or in bulk.

This chapter provides general examples of risks and typical controls, which may or may not be applicable for the dangerous goods handled or stored at a particular premises. The need for these controls should be indicated by the risk assessment. These controls are in addition to any specific measures indicated in subsequent chapters.

9.2 Maintaining control conditions to ensure stability

Some dangerous goods are highly reactive, self-reactive or unstable except when kept under controlled conditions. Information about the required level of stabilisers and/or other control temperatures is provided in the MSDS (material safety data sheet) or other information from the manufacturer or supplier. These control conditions should have been identified at the hazard identification stage – see section 6.2.

Dangerous goods must be stored or handled within the particular temperature range specified by the manufacturer (OHS Regulation clause 174R(2)(b)).

Maintain any recommended control conditions, including temperature and any specifications such as proportions and limits for ingredients that stabilize the dangerous goods.

Sufficient stocks of stabilizers should be on hand, allowing for potential supply shortages. Check containers for accidental loss of phlegmatizers or stabilizers, such as might leak from damaged packages.

If it is necessary to maintain a control temperature, ensure sufficient back up or contingency plans in the event of a failure of the cooling plant (eg failure of the refrigeration system).

If the dangerous goods react with water it is essential that the goods be kept dry.

Emergency plans should take into account procedures when control conditions are not maintained or fail – see chapter 14.

9.3 Controls for associated plant

Examples of plant used with dangerous goods include:

- storage tanks
- pipework, and associated valves and pumps
- mixing vats
- dryers
- filters
- pressure vessels such as tanks
- gas cylinders.

The hazards and risks associated with the plant itself that could impinge on safety with dangerous goods must be controlled. When planning to use or commission plant, all the hazards and risks associated with the installation must be identified so that appropriate control measures can be incorporated. Employer duties for installation, erection and commissioning are described in clause 135 of the OHS Regulation.

Plant should be:

- commissioned only after it has undergone appropriate testing and procedures developed, with regard to the designer's or manufacturer's instructions, to ensure it can be operated safely
- operated only by personnel who have received appropriate training
- maintained and repaired to ensure that no additional hazards or risks arise due to wear and tear or breakdown (see section 9.10).

Portable and mobile appliances powered by LP Gas (apart from engines and vehicles) should conform to *AS 2658 Liquefied petroleum (LP) gas portable and mobile appliances*.

Where industrial trucks such as forklifts are used in or near stores of flammable gases or liquids, hazardous areas must be identified. Each forklift used must be suitable for the zone within the hazardous area – see the advice in Appendix 8.

9.4 Bulk containers

Bulk containers are those containing dangerous goods that are larger than those classified as packages. Bulk containers are those with a capacity of more than 450 L or 400 kg for either liquids or solids, and 500 L for gases (volumes are based on water capacity of the container).

Where dangerous goods are stored in a bulk container, an occupier must ensure all of the following:

- the container and any associated pipework are provided with stable foundations and supports
- any pipework or equipment connected to the container is installed so as to prevent excessive stress on the container, pipework or equipment
- the container and any associated pipework are protected from deterioration (such as corrosion) (OHS Regulation clause 174X).

Deterioration of bulk containers and associated pipework from causes such as chemical reaction, impact, vibration, heat and ultraviolet light should also be considered.

9.5 Underground and mounded tanks

9.5.1 Risks

Placing tanks underground, or covering with mounds, helps to protect them from some risks, but can pose other risks.

Consider the following risks related to underground, partly underground or mounded tanks:

- failure of the structure, usually from corrosion, allowing the gradual escape of dangerous goods into the water table
- spills from above ground pipework and filling points
- risks arising from abandoned underground tanks when they cease to be used.

Underground seepage of a flammable or toxic liquid can accumulate and penetrate into low lying areas such as telecommunication pits and building basements. These risks may not become evident until after heavy rain has raised the watertable and displaced the dangerous goods accumulated in the soil around the tank.

9.5.2 Controls for underground tanks

Techniques are available to monitor the integrity of underground tanks and to detect leaks. They include inventory monitoring, sampling pits and electronic measures. Corrosion protection often requires specialist advice. Cathodic protection requires approval by the Department of Energy, Utilities and Sustainability under the *Electricity Safety (Corrosion Protection) Regulation 2003*.

Guidance on underground tank installations for petroleum products can be found in Australian Institute of Petroleum CP4 *Code of practice for the Design, Installation and Operation of Underground Petroleum Storage Systems*.

9.6 Protection from impact and other damage

Occupiers must ensure that containers of dangerous goods, and any pipework, attachments or other equipment, are protected from physical damage arising from activities in or on the premises. This includes the risk of impacts, imposed loads or mechanical stress (OHS Regulation clause 174ZB).

For example, guard against impact by vehicles, mobile plant, or boats. Mechanical handling equipment for moving containers, including forklifts or overhead lifting grabs can cause damage to containers, either through mishandling or indirectly by moving the containers into other objects (such as projecting railings, structures or pipes).

The most effective ways to protect containers, their pipework, pumps and attachments from impact is to locate the containers away from trafficable areas or prevent vehicle access. Where vehicles come close to containers or items such as pumps, the need for physical barriers such as railings, bollards or stanchions should be considered.

9.7 Spill containment

9.7.1 Principles of spill containment

Measures must be put in place to control the risks arising from the spill or leak of dangerous goods (OHS Regulation clause 174Y). See also section 8.8.2 in relation to applying this as an engineering control, in terms of the hierarchy of control.

The dangerous goods that have been spilled or leaked must be contained safely within the premises so far as is reasonably practicable.

Containment should be considered for any location where dangerous goods are stored or handled. All spills or leaks should be contained within a limited area and within the premises – risks to adjacent premises or public places should be eliminated. Any area or receptacle designed to contain goods spilt from a tank must not be shared with spill containment for substances that are not compatible.

In the event of a spill or leak of dangerous goods, the occupier must ensure that the following actions are taken:

- any risk associated with the spill or leak is immediately reduced as far as reasonably practicable
- the dangerous goods and any resulting effluent are cleaned up and disposed of or otherwise made safe, as soon as reasonably possible.

9.7.2 Extent of containment

Factors that will determine the extent of measures needed for spill containment include the following:

- for a liquid, whether it is mobile or viscous
- for a solid, whether it will melt in a fire or dissolve in firewater
- the quantity of the dangerous goods and the need to contain the size of the largest container or largest spill possible
- the consequences of a spill
- the need to contain or manage firewater (or other extinguishing materials) resulting from an incident
- compatibility with other goods that could be spilt
- the need to avoid containing excessive rainwater.

9.7.3 Design

Consider applying the following options for spill containment for liquids:

- Providing drains to a purpose built on-site catchment, such as an interceptor or remote impounding basin
- Grading the surface so that all spills are contained by the contours
- Bunding the area to form a compound (see section 9.7.4 below)
- Using double walled containers
- Enclosing a tank with a partial or full height bund (in relation to the tank height).

The risks associated with the operation of the containment system should be considered at the design stage and included in the risk assessment. For example, a high bund wall around a package store would usually necessitate long or steep ramps being provided for forklift trucks. Such ramps can cause load instability, so another method of spill control may be more appropriate. For bunded stores, gently sloping floors away from entries may avoid the need for ramps. However, such slopes need to be minimised to avoid instability of materials handling equipment (eg forklifts) when placing loads in high-rise stacking (see also 9.7.5 – Draining to sumps and tanks).

Check the following factors to ensure the effectiveness of the containment method:

- (a) The spill containment system is sufficiently impervious, and can hold the dangerous goods until the spill is cleaned up.
- (b) The materials used in construction (or for absorption) are compatible with the dangerous goods and appropriate to avoid contamination of ground water or soil.
- (c) Spill containment areas are separated where the goods are not compatible or where the spread of the dangerous goods increases risks.
- (d) The capacity of any compound is sufficient for the volume of liquid to be contained (including a margin for firewater and rainwater).
- (e) Any bund wall or barrier should be high enough to catch all leaks.
- (f) Absorbent materials, barriers and booms are provided where needed to contain a spill outside the areas where physical containment is provided or to assist clean up.
- (g) Contaminated firewater can be removed during an incident if needed.
- (h) Means are available for removing any rainwater that may accumulate in the area or compound when necessary.

If the design and location of the spill containment system may affect emergency services such as the fire brigade, consult with the emergency services authority.

9.7.4 Bunding

A bund is an embankment or wall, which may form part of the perimeter of a compound, designed to contain spills of liquids. Both the bund and the compound floor must be sufficiently impervious to retain spillage or leakage.

Bunding has the advantage that it can be retrofitted to existing buildings and installations.

For package stores and the transfer of dangerous goods, portable (ie self-contained) bunds may be suitable as additional containment. Plastic is an unsuitable material for a portable bund since it can melt in a fire, and may be chemically incompatible.

Bunding is a suitable method for above ground bulk storage installations. Where flammable goods are stored, hazardous areas may need to be determined (see section 9.8).

Suitable material for bund walls include the following:

- Concrete kerbing, preferably reinforced and integrally constructed with the flooring. If separate, it must be firmly anchored or adhered, sealed and able to withstand any traffic damage.
- Brick or concrete block walls are only appropriate where they are protected from damage by material handling operations, such as forklift traffic.
- Steel angles or other sections firmly anchored to the floor and sealed (usually with a silicone based sealant).

Temporary bund materials include the following alternatives:

- Raised earthen walls, preferably with an impervious membrane, unless contingency plans are in place for the recovery or disposal of contaminated earth after a spill.
- Bags of sand or other compatible material.

Bunds in unroofed areas should be provided with additional capacity to hold rainwater and run off, with a system for the removal of the rainwater. Rainwater should not be allowed to accumulate. Bund valves should not be left open to permanently drain rainwater. If water is to be pumped out, do not use a petrol powered pump inside a bund of a flammable liquid tank – to avoid an ignition source, use a pneumatically driven pump. Electric or engine driven pumps should not be used inside a bund or associated hazardous area without a hot work permit.

The height of the bund wall needs to include allowance for liquid squirting from a tank, or the highest package, not just leaks at ground level. The closer the wall to the tank or packages, the higher the wall needs to be. Spillage deflectors such as shields or double skinned tanks could also be used, if high enough to capture a leak from the top of the tank.

The need for easy egress from the banded should be considered, especially in an emergency – eg stairs if the bund is higher than 1 m.

Ensure rubbish does not accumulate inside the bund – eg remove dead trees and shrubs. Brush cutters and lawn mowers are potential ignition sources and should not be used near flammable liquid or gas tanks, especially during transfer. A hot work permit system may be necessary. Bund areas may require individual hazardous area zoning assessment. There may be circumstances where a banded area may also be a confined space, for example if the bund walls are high or the tank is in a pit, and special procedures are necessary if workers enter this space.

9.7.5 Draining into sumps and tanks

Draining spilled liquids to an underground sump or tank, or to an external pit, avoids the access problems associated with bunds. However, the drain network, pit, tank or sump themselves become a potential source of hazards. Possible incompatibility of goods drained to the sump should be included in the risk assessment. Design needs to be to a suitable standard. Underground or covered sumps or pits should be designs to the standards for underground tanks.

Generally, each such containment system should be exclusively for the effluent from one store or work area, unless all the dangerous goods or combustible liquids are compatible and effective provision is made to prevent flashback through drain pipes.

Since such systems are usually out of sight, controls are needed to ensure they are fully available for use when required. These systems should be prevented from collecting rainwater.

9.7.6 Further advice

Further advice on spill containment is provided in the Australian Standards listed in section 1.7 relevant to the storage and handling of each class.

9.8 Ignition sources in hazardous areas

An occupier must ensure that ignition sources in any hazardous areas within the occupier's premises are eliminated, or if that is not practicable, the risks arising from those sources are controlled (OHS Regulation clause 174U). This includes controlling the risk of the hazardous zone originating in the premises extending across boundaries to other premises.

9.8.1 Identifying hazardous areas

Hazardous areas are those areas where flammable or combustible gases, vapours, dusts, fumes and mists may be present in a flammable or explosive concentration. Examples are areas where these are generated or evolved. The risk is that an explosive mixture with air can form in certain proportions.

It is important to identify the hazards contributing to the risk, such as the following:

- flammable vapours or gas evolving from dangerous goods
- oxidizing agents that may aggravate the risk of fire or reaction
- ignition sources including static electricity
- accumulation of combustible dust.

Combustible dusts may be "stirred up" by air currents or mechanical action and form an explosive dust/air combination. Undetected dust deposits are often found in ventilation ducts and on top of girders and plant – as little as 30 gm of combustible dust suspended in a cubic metre of air may be flammable. Substances that are not classified as dangerous goods may generate combustible dusts, and become an ignition source – as examples, coal dust and many food products, such as flour and nut shells. See also section 9.9.1 on "safe atmospheres".

The extent of the hazardous area needs to be determined in all areas where the flammable dangerous goods or those with a dust explosion hazard are stored or handled, or drain into spill control compounds. This includes identifying those dangerous goods in Class or Subsidiary Risk 2.1, 3, 4, or 5.

An occupier should identify hazardous areas by using one or more of the following methods:

- AS/NZS60079.10 Electrical apparatus for explosive gas atmospheres, Classification of hazardous areas, irrespective of the source of ignition
- AS/NZS61241.10 Electrical apparatus for use in the presence of combustible dust, Classification of areas where combustible dusts are or may be present, irrespective of the source of ignition
- AS/NZS 2430.3 2004 parts 1 to 9: Classification of hazardous areas – Examples of area classification
- appropriate modelling and calculations.

Advice on the risk assessment of combustible dusts is provided in AS 4745 *Code of practice for handling combustible dusts*.

The next step is the identification of ignition sources.

9.8.2 Identifying ignition sources

Ignition sources in hazardous areas must be eliminated or if this is not reasonably practicable, controlled (OHS Regulation clause 174U).

An ignition source is any source of energy sufficient to ignite a flammable or combustible atmosphere. Heat sources can increase the evolution of vapour or cause auto ignition (self-ignition).

Examples of ignition sources include the following:

- naked flames, including blow torches, shrink wrapping equipment, stoves, heaters using gas, liquid or solid fuels, pilot lights, dryers, cigarettes, lighters, matches, incinerators or barbecues
- static electricity (see 9.8.5 below)
- heat from appliances or from chemical or biological reactions
- heat from friction
- sparks from moving parts, such as fan blades rubbing nearby surfaces
- sparks from grinding, welding or metal to metal impact from tools or plant
- internal combustion engines, especially the high voltage ignition system – eg lawn mowers, pumps or generators
- heated surfaces including hot exhausts or hot carbon particles from the exhaust
- electric equipment not rated for the hazardous area, such as power points, switches, lighting, appliances, fans, any equipment with a thermostat such as air conditioners, power tools and battery powered forklift trucks
- radio transmitters and mobile phones
- oily material that may self-ignite, such as seed cake from seed oil extraction, oily rags or waste.

Potential ignition sources outside of the hazardous area should also be considered in relation to spills or leaks. Flammable liquid vapours are heavier than air and tend to flow by gravity along natural channels and drains.

9.8.3 Controlling ignition sources – electrical equipment in hazardous zones

The ignition risks of electrical equipment located within a hazardous area can be controlled by providing wiring, switching and equipment protection suitable for use in the particular hazardous zone.

Guidance on electrical protection systems is provided in AS 1482 *Electrical equipment for explosive atmospheres – Protection by ventilation*.

All electrical installations must comply with AS 3000 *Electrical wiring rules*, which is mandatory under the *Electricity Safety (Electrical Installations) Regulation 1998* (this references AS 1939 *Degrees of protection provided by enclosures for electrical equipment*).

Other relevant Australian Standards relating to electrical equipment include: AS 1826 *Electrical equipment for explosive atmospheres – Special protection – type of protection S*, and AS 2431 *Electrical equipment for explosive atmospheres – Encapsulated apparatus – Type of protection M*.

9.8.4 Restrictions on possession of ignition sources

As an administrative control, procedures should be established to ensure that people do not take any substance or article with the potential to be an ignition source into or near a hazardous area – 3 m is a suitable minimum separation distance.

Where an ignition source is required in an operation in or adjacent to a hazardous area, a formal “hot work permit” system should be used. Some Australian Standards, such as AS 1940, provide detailed guidance on “hot work” in areas where dangerous goods are stored or handled. The work permit should clearly identify the limit of the work area and prohibit entry into the hazardous area.

9.8.5 Static electricity

Static electricity may be generated by movement such as the following:

- pouring, pumping, stirring and high velocity flow, particularly dry powders and liquids of low electrical conductivity, eg most petroleum products
- dry streams of gas, eg air or hydrogen
- personnel, especially when wearing, putting on or removing clothing and footwear of low conductivity – some protective clothing, eg those made of synthetic fibres, may not be static resistant and care should be taken in its selection
- application and removal of plastic wrap
- particulate or aerosol spray, eg spray painting or the rapid discharge of a carbon dioxide extinguisher
- moving plant.

Observe the following to reduce risks from the discharge of static electricity:

- all tanks, pipework, transfer systems (including decanting) and process plant associated with dangerous goods should be electrically bonded to each other and earthed, or otherwise protected (see AS 1020 for advice)
- use anti-static additives in non-conductive liquids
- workers should wear conductive clothing and footwear
- avoid the use of non-conducting plastics or rubber hoses, containers or funnels.

9.9 Ventilation and the control of atmospheres

An occupier must ensure that any atmospheric emissions from dangerous goods that are toxic, corrosive, flammable, explosive or asphyxiant are eliminated, or if that is not reasonably practicable, reduced so far as is reasonably practicable (OHS Regulation clause 174V).

An employer (or self-employed person) must also ensure that for toxic substances that no person at a place of work is exposed to an airborne concentration of an atmospheric contaminant over the limits prescribed in the *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* (OHS Regulation clauses 50 to 53).

The above provisions do not necessarily apply to nuisance odours, which may be smelt at levels below those presenting a health or safety risk.

9.9.1 Safe atmospheres

Ventilation is a means of maintaining a safe atmosphere by the introduction or recirculation of air; by natural, forced or mechanical means. Maintaining a safe atmosphere in the storage and handling area is an important control measure. Recirculation should be avoided unless precautions are taken to detect and avoid harmful contamination, prevent accumulation of contaminants. Recirculation should only be used where temperature control is required.

A safe atmosphere is one in which all of the following conditions are met:

- there is a safe oxygen level for breathing (19.5% to 23.5 % by volume at normal atmospheric pressure)
- the concentration of atmospheric contaminants are below the limits set in the relevant exposure standards
- the concentration of flammable or combustible gases, vapours, mists, fumes and dusts is below 5% of the lower explosion limit (LEL)
- the build-up of heat and extremes of temperature is avoided, since this may change risks.

To maintain a safe atmosphere, testing and monitoring may be required, consistent with the risks identified in the risk assessment. See section 9.9.6 in relation to persons working in a confined space.

Advice on the control of worker exposure to atmospheric contaminants is provided in the *Code of practice for the control of workplace hazardous substances*. The *Code of practice: working in hot or cold environments* may also need to be consulted.

9.9.2 Design considerations

A ventilation system should operate exclusively for the particular building, room or space. Where this is not achievable, the system may be linked to another area provided that there is not an increased risk from any incompatible goods, or any other hazard. Ensure that air-conditioning or ventilation does not spread flammable or harmful vapours to other areas or rooms. Separate systems may be required.

Local exhaust ventilation may remove airborne contaminants before they reach the breathing zone of personnel in the area. This is usually more effective than an increase in general ventilation: general dilution ventilation should only be considered for contaminants of low toxicity and where the quantity of contaminants evolved is small.

Ventilation systems should be suitable for the types of dangerous goods on the premises. For example, where there are dangerous goods with vapours denser than air, fumes should be removed from the lowest point (just above any spill containment) and fresh air introduced from above. The exhaust system and ducting should be resistant to attack by the vapours, mists or dusts being exhausted. The risk of fire propagation can be dealt with by self-closing fire dampers, but the risk of spreading flammable but not yet ignited vapours, toxic vapours or dusts must also be considered.

Vents that may exhaust flammable atmospheres should be located away from any potential ignition sources. Fresh air should be drawn from a source uncontaminated by exhaust air or other pollutants.

Exhaust air discharged where it will not cause other risks and in compliance with environmental legislation concerning discharges to atmosphere. Environmental standards for airborne contaminants are prescribed in relation to public health by Regulations under the *Protection of the Environment Operations Act 1997*. To protect the environment it may be necessary to fit some mechanism to clean the exhaust of atmospheric contaminants prior to discharge to the atmosphere. Suitable mechanisms may include filtration (for particulates), absorbents, catalysts, scrubbers or burners.

Administrative controls are necessary to ensure that vents remain unobstructed by goods or material.

Most of the Australian Standards covering individual and mixed Class storage and handling provide further advice on ventilation.

9.9.3 Mechanical ventilation

Inlet and outlet vents should usually be located on opposite sides of the storage area at low levels to provide airflow across the floor.

Where both inlet and exhaust are mechanically assisted, capacities and rates should be adjusted to ensure that the pressure inside the store never exceeds that outside, and airflow into any adjoining work areas and offices from the store is prevented.

9.9.4 Local exhaust ventilation

Mechanical extraction of atmospheric contaminants at their source is usually more effective than the provision of general ventilation. This may be necessary to prevent exposures of workers or the public.

Extraction vents should have sufficient capacity under all atmospheric conditions. Discharge points should be located so as to prevent further contamination of the storage or handling areas, or other work areas.

Extraction ducting should not be linked to multiple items of plant if there is any risk of fire spreading through the ducting. Provision against flashback may be necessary.

AS 1482 *Electrical protection for explosive atmospheres – Protection by ventilation* provides further advice.

9.9.5 Natural ventilation

Most vapours from dangerous goods are denser than air and may accumulate near floor level. To prevent build up of hazardous concentrations, vents should be provided at a level immediately above any spill containment, on the opposite sides of a room or space, to provide for airflow across the storage or handling area. High level ventilation may be necessary for temperature control (eg roof vents to allow the escape of warm air).

Vents in a screen wall may negate any fire protection or vapour barrier effects.

9.9.6 Purging and work in confined spaces

Purging is used to displace an atmospheric contaminant from an enclosed space. For example, purging may involve the use of an inert gas such as nitrogen to clear flammable gases or vapours before work commences. The risks associated with the gases removed from the space also need to be considered, or exhausted to a location where they do not present a hazard.

Interiors of bulk containers, such as tanks, that have held dangerous goods will usually be confined spaces and special procedures are required if workers need to enter inside containers or vessels prescribed in the OHS Regulation clauses 66 to 78. Because of the possibility of reduced oxygen levels or residual contamination, safe entry procedures are necessary. Atmospheric sampling, monitoring, or the use of breathing apparatus may be required.

Following purging, the confined space should be adequately ventilated and retested. The reduction in hazard may be temporary, for example flammable gases absorbed into the walls of a steel tank or from deposits may leach out and recreate the flammable atmosphere. Since contaminants may build up again, consider whether it will be necessary to re-purge the space.

Purging should be undertaken in a manner that will not cause rupture or collapse of the container due to pressure differentials. Avoid damage to the container by over-pressure or a vacuum. Pressure relief valves must be operational. Condensing steam may cause a tank collapse if vents are blocked. Note that the use of oxygen or gas mixtures with oxygen in a concentration greater than 21% is prohibited for purging or ventilation of a confined space, due to the risk of fires or explosions (OHS Regulation sub-clause 70(2)).

9.10 Regular cleaning, maintenance and inspections

9.10.1 Keeping risks low

Regular checks, inspection, maintenance and cleaning programs are essential for maintaining control measures and keeping risks low. All plant must be subject to appropriate checks, tests and inspections necessary to minimise risks to health and safety (OHS Regulation clause 136(3)(m)).

A safety check should be carried out on all containers regularly, or at the beginning or each season or work period if the container is not in continuous use. Check that maintenance schedules recommended by the manufacturer of plant are kept.

Arrange for a comprehensive and detailed examination of storage containers and associated plant by a competent person at intervals recommended by the manufacturer, or more frequently in harsh environments such as near seawater or where factors such as the nature of the stored material could cause corrosion.

If a container or any other item of plant presents an immediate risk, it must not be used (OHS Regulation clause 136(3)(n)) until the risk is eliminated, or if this is not practicable, controlled.

Maintenance or repair of plant may involve "hot work" processes that generate heat or introduce ignition sources, such as welding or grinding. The risk of fire and explosion must be controlled. A formal "hot work permit" system should be implemented (for examples of a written authority, see appendix H of AS/NZS 2865 *Safe working in a confined space*, and AS 1674.1 *Safety in welding and allied processes – Fire precautions* in relation to welding).

9.10.2 Key areas for inspection and maintenance

Examine containers and associated plant in accordance with the manufacturer's instructions (operator's manual) to ensure they are in a safe operating condition, prior to use and on a regular basis. Where use of a container or plant is seasonal or periodic, an inspection should take place at the beginning of each season or work period. Intervals for comprehensive inspection will be determined by the type of product stored and any external environmental factors.

The following items should be included in a regular inspection and maintenance program, where relevant:

- filling devices, valves and control mechanisms used for transfer
- any safety devices fitted to plant
- air or dust filters, and dust control system for operation, cleanliness and integrity
- pressure relief valves for correct operation
- electrical equipment, including leads and cables
- warning signs and labels for wear and fading
- operation of any warning devices and high level detection systems.

The structural integrity of bulk containers and associated plant should be checked for fatigue and failure.

Evidence of structural problems includes visual checks for the following:

- damage to metalwork, bolts or welds such as surface corrosion
- damage to supports of containers or tanks
- settlement, cracking, or damage to concrete; footings, foundations, slabs or exposed plinths
- corrosion of access points such as ladders, stairs, walkways and platforms, including fixing at attachment points
- damage to dust or fluid seals, and the integrity of dust control systems
- any visible bulging or distortion of containers.

Pressure equipment must be inspected in accordance with *AS 3788 Pressure equipment – In service inspection* (OHS Regulation sub-clause 140(1)(a)). *AS 3873 Pressure equipment – operation and maintenance* provides further advice and should be observed (it is an approved industry code of practice – see section 1.8).

Faults that could cause heat or sparks, such as over-heated bearings or slipping drive belts need immediate attention if the stored goods is flammable or combustible.

Arrange for remedial work to be carried out by a competent person if any fault is observed (see below).

9.10.3 Remedial work

All maintenance and repair work should be carried out by a competent person, and in accordance with the designer's or manufacturer's instructions, including the time periods for inspection and maintenance (OHS Regulation clause 137).

Ensure that all electrical work is carried out only by qualified and licensed persons and to appropriate standards. The appropriate protection is especially critical if electrical equipment is used in a hazardous zone.

Repairs carried out must keep plant within its design limits (if modified see section 9.10.6 below).

9.10.4 Cleaning

Regular cleaning is essential to reduce hazards resulting from dusts and combustible materials, especially before starting plant. Some dusts are combustible or can form an explosive atmosphere and these risks should be identified.

A regular cleaning program should include removing dust deposits from any exposed surfaces or accumulated material inside a container (e.g. by internal cleaning).

Dust hazards, fire risks and explosion risks may arise during cleaning, and any equipment used (eg vacuum systems for dust removal) should be suitable for use in such an atmosphere.

Safe work procedures should be established for cleaning or clearing any plant. When plant and equipment is being cleaned, it should be isolated to prevent operation. A lockout and tagging system should be considered.

9.10.5 Records

Keeping records of maintenance, inspections and repairs will help to confirm that the maintenance program is carried out regularly.

Records must be kept for some types of pressure vessels and boilers (OHS Regulation, clauses 131 and 143).

9.10.6 Modifications to plant

Consult the manufacturer or supplier, or an appropriately qualified engineer, before carrying out structural modifications to plant (including a container).

If contracted out by an employer (or self-employed person), they must ensure that the person engaged to design the plant modification is provided with all the relevant information about the matters relating to the plant that may affect health and safety (OHS Regulation, clause 144(3)).

A person modifying a design takes on the legal obligations of a designer and manufacturer. A number of Australian Standards provide advice in relation to plant or containers used with dangerous goods.

9.10.7 Cleaning of decommissioned containers

Any container that has contained dangerous goods must be cleaned when decommissioned and before it is disposed of.

Specific advice is provided in AS 1940, in other Australian Standards and industry codes for underground tanks – see section 10.8.3 of this code of practice. See also section 10.21 for decommissioning, abandonment and disposal.

When decommissioning containers, consider including the following procedures:

- control risks arising from any mechanical cutting, oxy-acetylene cutting, grinding or any other activities involving heat or friction
- safe storage or disposal of any waste generated
- if persons are required to work inside the container, follow confined space entry procedures (see section 9.9.6).

9.11 Working inside buildings on plant (including tanks and tankers that have contained flammable goods)

Care is needed in relation to work, such as repair and maintenance work, on a tank or tank vehicle (tanker), which has contained flammable goods (Class or Subsidiary Risk 2.1 or 3 of PG I or II), if it is inside a building that is enclosed on more than two sides, due to the risks of hazardous atmospheres.

If the work involves the actual tank or ancillary plant that has contained flammable goods, or "hot work" near the tank or plant, the tank should be gas free. A hot work permit system should be used, including a gas free certificate and possibly continuous monitoring. This usually involves an examination by a competent person to determine it is gas free.

9.12 Buildings

The design and choice of appropriate buildings is an important control measure, especially in relation to fires. Building design is covered in section 8.3.4.

9.13 Gas installations for plant

The work of installing gas supply for stationary engines, such as auto gas and CNG, is governed by the *Dangerous Goods (Gas Installations) Regulation 1999* under the *Gas Supply Act 1996*.

CHAPTER 10 – CONTROLS FOR SPECIFIC DANGEROUS GOODS

10.1 Using this chapter

This chapter provides advice on specific classes and types of dangerous goods, to be interpreted in addition to the previous more general chapters. Following the identification of dangerous goods in chapter 3, and the advice in chapters 6 to 9, check through this chapter for specific advice on the Class or Subsidiary Risk of the dangerous goods stored or handled at the premises.

Most of the Australian Standards referenced in this chapter have approved code of practice status. When determining control measures conformity with the relevant Australian Standard should be verified.

This chapter applies to storage above the placard quantities (see appendix 2, this includes all bulk tanks) and to the handling of any quantity where containers are opened.

10.2 Mixed classes of dangerous goods in packages

As alternatives to the Class specific Australian Standards indicated in this chapter, the following two Australian Standards provide general advice for the storage of packages applicable to a wide range of situations:

- AS/NZS 3833 *The storage and handling of mixed classes of dangerous goods in packages and intermediate bulk containers*
- AS/NZS 2507 *The storage and handling of agricultural and veterinary chemicals* (applies to dangerous goods broadly described as agricultural, particularly at warehouses, including toxic substances of Class 6).

10.3 Gas cylinders (Class 2 dangerous goods)

Used or “empty” cylinders should be treated with the same precautions as for “full” cylinders, since residual hazards remain.

10.3.1 Testing and maintenance of gas cylinders

Occupiers must ensure cylinders are inspected and tested in accordance with AS 2030 (OHS Regulation sub-clauses 140(2)). A person who hires or leases gas cylinders must ensure they are inspected and maintained in accordance with AS 2030 (OHS Regulation sub-clause 129(b)).

Gas cylinders require periodic testing – at least every 10 years for dry gases and more frequently for damp or corrosive gases – check with the gas supplier if you need advice. The last test date is stamped on the cylinder near the valve or on the “collar”, or on the footing of some small cylinders. If outside the “test period”, it must not be refilled before it is re-tested (and receive a new date stamp). However, it is permissible to use up the cylinder’s contents after its test date has expired, prior to testing. Alternatively it could be replaced with a new cylinder. Testing stations can give advice on disposal of a used cylinder if you wish to replace it. Owners of cylinders should keep records of testing and test dates.

Gas suppliers can advise on suitable test stations. Test stations should observe AS 2337 (an approved industry code of practice – see section 1.8) for inspections and tests.

10.3.2 Storage and handling of gas cylinders – general

In general, it is good practice to ensure the following:

- any cap provided for use with a cylinder is kept in place on the cylinder at all times when the cylinder is not being filled and not connected for use
- the cylinder valve is kept securely closed when not in use, including when “empty” (unless the cylinder is connected by permanent piping to a consuming device)
- any removable valve protection cap or valve outlet gas tight cap or plug is kept in place on the cylinder at all times (unless the cylinder is being filled or connected for use)
- keep the cylinder secured against unintended movement, such as falling over
- do not lubricate valves or attempt repair of leaks – if the valve is not closing properly, immediately remove the cylinder to a safe area outdoors and call the gas supplier
- have a water hose or fire extinguisher handy to put out any small fire close to the cylinder – a water spray can also be used to keep the cylinder cool in the event of a fire.

A cylinder of Class 2.1 liquefied flammable gas must always be positioned so that the safety relief device communicates directly with the vapour space within the cylinder (OHS Regulation clause 174ZZA). Keep the cylinder upright, unless of a design where other positions are permitted – this depends on the position and operation of the relief device. If in doubt check the manufacturer’s or supplier’s instructions.

Part 5.2 of AS 4332 *The storage and handling of gases in cylinders* provides additional advice on general precautions.

10.3.3 Gases in cylinders – specific standards

Where Class 2 dangerous goods are stored and handled, observe the relevant Australian Standard, especially in relation to separation distances and ventilation.

The following Australian Standards should be observed for the storage of the following gases in cylinders:

- anhydrous ammonia (Class 2.3) – AS 2022
- cryogenic fluids – AS 1894
- chlorine liquefied – AS 2927
- natural gas liquefied AS 3961
- petroleum gas liquefied (LP Gas) – AS 1596
- where several types of gas are stored observe the relevant parts of AS 4332 *The storage and handling of gases in cylinders*.

AS 4332 does not apply to cylinders connected for use (except for “minor storage”), gases in Dewar flasks or other containers not covered by AS 2030, or part of a fire control system.

Additional advice can be found in the following:

- for portable or mobile oxy-fuel gas systems – AS 4839 *The safe use portable and mobile oxy-fuel gas systems for welding, cutting, heating and allied processes*
- cylinders of oxygen and acetylene that are connected to a reticulation system – AS 4289 *Oxygen and acetylene gas reticulation systems*.

10.4 Storing aerosols and small disposable cylinders

Disposable cylinders are also known as cartridges, cartouches, receptacles and refills. Included in this section are:

- UN 1057 Lighters or Lighter Refills (cigarettes, containing flammable gas)
- UN 1950 Aerosols (non-refillable receptacles with contents under pressure and fitted with a release device)
- UN 2037 Receptacles, Small, Containing gas (Gas Cartridges) (without a release device, non-refillable)
- UN 3150 Devices, Small, Hydrocarbon Gas Powered, or Hydrocarbon Gas Refills For Small Devices (with release device).

“Aerosols” mean non-refillable receptacles made of metal, glass or plastics containing gas compressed, liquefied or dissolved under pressure and fitted with a release device allowing the contents to be ejected as a gas or as solid or liquid particles in suspension in a gas or liquid.

If the quantity of aerosols or disposable cylinders kept exceeds 100 kg net, it is recommended that they be kept either:

- in groups of not more than 100 kg net and at least 6m from each other
- in, or directly ventilated to, the open air and separated by at least 3 m from any combustible material.

If more than 1,000 kg of aerosols or disposables of Class 2.1 (flammable) or 2.3 (toxic) are kept within an imaginary sphere of 5 metres diameter, the following conditions should be observed:

- adequate ventilation to allow the safe dispersal of gas or vapours that might escape from leaking containers
- in an enclosure preventing the projection of containers if involved in a fire
- at least 5 metres from any other Class of dangerous goods (other than aerosols) or any combustible material
- at least 3 metres from any fixed ignition source (other than electric ceiling lighting).

See section 11.11 for advice on filling small gas cylinders, disposable cylinders and aerosols.

10.5 Storage and handling of gases in bulk (such as tanks)

10.5.1 Item registration of vessels such as tanks

Bulk containers of gas (tanks, receivers and other vessels) need to be item registered with WorkCover, renewable annually (OHS Regulation, clauses 113-119). This applies to both storage and use of gas (eg it applies to receivers and heat exchangers fitted to plant). Registration is not required for some low hazard applications – vessels in hazard level D according to AS 4343, vessels not requiring internal inspection under AS/NZS 3788, and serially produced vessels under AS 2971. Automotive LP Gas vessels are item registered as part of the vehicle registration process.

As part of this item registration, you need to know the design registration number. The manufacturer or importer must also register the design with WorkCover or another jurisdiction under a recognised equivalent law. There are mandatory design standards for pressure vessels – see section 1.9.

10.5.2 Standards to observe for gas in tanks

The following Australian Standards should be observed for specific gases in bulk, such as tanks:

- anhydrous ammonia (Class 2.3) – AS 2022
- cryogenic fluids – AS 1894
- chlorine liquefied – AS 2927
- natural gas liquefied – AS 3961
- petroleum gas liquefied (LP Gas) – AS 1596.

These Standards are adopted as approved industry codes of practice in NSW (see section 1.8).

10.5.3 Unodorized liquefied petroleum gas (LP Gas) or dimethyl ether – Class 2.1 (flammable)

Unodorized LP Gas is particularly hazardous due to the absence of any discernable odour. Dimethyl ether (DME) is also often used as a propellant.

The following control measures are recommended:

- (a) Keep the storage and handling of un-odorized LP Gas or DME to a minimum, and restrict uses to those for which no less hazardous alternative is available (eg aerosol propellant).
- (b) The area where it is stored and handled should be well ventilated, or in a room designed for that purpose fitted with explosion ventilation, or in the open.
- (c) Even a small leak, if undetected, may result in the accumulation of any explosive atmosphere. Gas detection equipment should be installed to detect gas where an explosive atmosphere could develop and provide automatic alarm above 25% of the lower explosive limit. The gas detector should emit an audible sound and have a visual display.

See also the advice in section 10.4.2 on filling aerosols and other disposable containers.

10.5.4 Toxic gas in tanks (bulk) – separation distances

Where a type specific standard is available, the conditions and separation distances in the standard should be observed (eg AS 2022 for ammonia and AS 2927 for chlorine, see section 10.5.2).

For some toxic gases there are no relevant Australian Standards. Examples are mixtures of hydrogen and carbon monoxide or other gases, such as those produced by coke ovens. For tanks of such toxic gases (Class or Subsidiary Risk 2.3), the separation distances in the following table should be observed:

Separation distances applying to tanks of toxic gas where a type specific Australian Standard does not apply		
Quantity of toxic gas (Class 2.3 or Subsidiary Risk 2.3) – actual volume (not water capacity)	Up to: 600 cubic metres (STP) if compressed gas, or 2,000 kg or L if liquefied	Over: 600 cubic metres (STP) if compressed gas, or 2,000 kg or L if liquefied
Separation from exposure to:	Separation distance (metres):	
Public place	15	30
Protected work	30	60
Another store of dangerous goods (except toxic gas)	15	25

10.6 Reticulation of gas (eg piping) within premises

The following Australian Standards should be observed in relation to gas reticulation through pressure piping within a premises:

- oxygen – AS 4289 (unless medical oxygen)
- medical oxygen – AS 2896 *Medical gas systems – Installation and testing of non-flammable medical gas pipeline systems*
- acetylene – AS 4289.

These Standards are adopted as approved codes of practice in NSW (see section 1.7).

Pipework related to gas fuelled engines such as auto gas and CNG is governed by the *Gas Installations Regulation* under the *Gas Supply Act 1996*.

10.7 Flammable liquids in packages (Class 3 and Sub-Risk 3 dangerous goods)

10.7.1 General

Australian Standard AS 1940 provides useful advice on storage and handling of flammable liquids including aspects such as package stores, tank design, pipework and valves. Advice on safe blending of flammable liquids and package filling is provided in Appendix M of AS 1940.

Sections 10.8.2 to 10.8.5 below summarise aspects relevant to specific situations.

Since the Packing Group indicates the flammability risk, storage conditions are determined by Packing Group (PG). Typical examples are: diethyl ether is in PG I, ethanol solution above 70% concentration is in PG II, petrol is in PG II and household kerosene is in PG III. Oils are usually combustible liquids – you need to know which are classified as C1 by AS 1940. Check the MSDS for the Packing Group – generic names such as “mineral turpentine”, “paint thinners” or “white spirit” may have widely varying specifications and flashpoints.

10.7.2 Packages – up to 850 L of flammable liquids

A flammable liquids cabinet (conforming to AS 1940) is the simplest method for storing small quantities of packages, up to 850L in total. Dispersal of cabinets around the premises may reduce the potential fire load.

10.7.3 Package stores – up to 4000 L of flammable liquids

The cheapest and simplest way of storing packages is usually in an external store (ie external to the work area and other buildings). It should have all of the following features:

- (a) A concrete floor.
- (b) A liquid tight bund of concrete or masonry at least 200 mm high (or higher if necessary).
- (c) Ventilation is provided in the building walls above the bund height, by either being:
 - open on all sides, enclosed with mesh (to keep drums from falling out)
 - semi-enclosed with ventilation (either gaps at the top and bottom on 3 or 4 sides covered with mesh)
 - enclosed with 2 vents on opposite walls each of an area 0.15 m^2 for each 2 metres of wall length.
- (d) Appropriate signage is displayed (see chapter 15).

Suitable minimum separation distances for the package store are:

- 8 m from ignition sources, and 15 m from any operation that could produce sparks such as cutting or welding, unless barriers are used
- 5 m from all buildings and fire hazards such as combustible materials on the premises or adjacent premises
- if packages are not opened: 3 m from the boundary of the premises or ignition sources protected by barriers
- if packages are opened, such as for filling or transfer: 5 m from any car park or temporary ignition sources, 8 m from the boundary of the premises and fixed ignition sources protected by barriers.

10.7.4 Ethanol solutions and potable liquids

Ethanol solutions include potable liquids (such as beverages, flavours and fragrances). Solutions above 24% and up to 70% are assigned to Packing Group III even if their flashpoints are below 23°C. Solutions above 70% are in PG II. Solutions below 24% by volume are not classified as dangerous goods.

Because they are readily miscible with water, sufficient dilution with water during fire fighting will remove the flammable danger of the alcohol solution. Consequently, for spillage control, dilution may be preferable to containment (but consider environmental protection and disposal). An adequate sprinkler deluge system should provide effective fire protection.

Adequate ventilation in the storage and handling areas is necessary to avoid flammable or explosive atmospheres, and the personal exposure of workers to alcohol vapour to avoid intoxication.

Potable liquids in consumer packages at a retail outlet are excluded from this code of practice.

10.7.5 Paint, glue and other “manufactured product” in packages

The term “manufactured product” applies to substances containing a flammable solvent. The definition and tests are in the ADG code. This definition is based on three criteria: containing at least 10% non-volatile material, less than 3% solvent separation and of a suitable viscosity. Typical examples are paint and glue. Check with the MSDS or supplier to determine the classification as “manufactured product”.

Due to viscosity and low degree of solvent separation, the risks with “manufactured product” are lower than other flammable liquids. AS 1940 provides certain variations depending on the size of the package (where unopened), the Packing Group and the type of premises.

However, solvents are frequently used and kept with the “manufactured product”. Unless separated, these variations do not apply and the same storage conditions should be applied to the “manufactured product” as to the solvent (i.e. as specified in section 10.8 above or AS 1940).

“Minor storage” rules in AS 1940 apply to manufactured product for:

- Under 2,000 L in a factory
- Under 2,000 L of PG II in a warehouse or shop
- Under 10,000 L of PG III (including up to 2,000L PG II in the same area) in a warehouse or shop.

Under these quantities no special precautions are recommended apart from the general advice in section 4.3 of chapter 4.

Over those quantities a special store is recommended, conforming to AS 1940, or the advice in section 10.7.3 above.

10.8 Bulk flammable and combustible liquids (tanks)

10.8.1 General

Bulk flammable liquids (Class 3 or Subsidiary Risk 3) and combustible liquids should be stored and handled in accordance with AS 1940.

10.8.2 Carbon disulphide

Carbon disulphide is very volatile, highly flammable, and also has a low ignition temperature that makes it readily combustible. Vapours are easily ignited by surfaces such as a light bulb, a warm steam pipe or a hot exhaust pipe and such heat sources should be avoided. Surface temperatures of plant and other equipment should not exceed 80^o Celsius – check the auto-ignition temperature in the MSDS. Special explosion protection is needed if any electrical equipment is used near the carbon disulphide, such as ceiling lights, exhaust fans, or forklifts.

Packages should be stored in a well ventilated area. Do not store re-opened containers.

Where carbon disulphide is kept in tanks, observe all of the following:

- tanks should be constructed of welded mild steel
- the tank(s) should be within a pit or enclosure, impervious to water and carbon disulphide
- the pit or enclosure should be filled with water to a volume at least equal to that of the tank (or aggregate of all tanks)
- the ullage space in the tank(s) should be filled with water or an inert gas.

Some fire fighting foams may be ineffective. Use dry chemical, carbon dioxide or other inert gas on small fires.

10.8.3 Abandoning or removing underground tanks of flammable and combustible liquids

Dangerous goods must be removed prior to abandoning underground, partially underground or fully mounded tanks (OHS Regulation clause 174ZG). Placards and signs relating to the dangerous goods must also be removed.

If 2 years have elapsed since dangerous goods were put in or taken from the tank that is mounded, partly underground or underground, then it must be abandoned (after removing the dangerous goods) in accordance with AS 1940 *The storage and handling of flammable liquids*, and WorkCover notified within 7 days.

Any work on existing or abandoned underground tanks or associated pipework is potentially dangerous and can cause explosions unless suitable procedures are adopted. Tar like deposits and oily rust and sludge may have accumulated in the tank and pipe work. Flushing with water will not remove them and vapour testing does not detect this. Exposure to the air, sunlight and normal temperatures, or work involving heat (eg use of grinders or oxy-acetylene cutting), is likely to release vapours that can explode.

One of the following options should be adopted:

- (a) Remove the tank from the ground and transport to a disposal area.
- (b) Fill the tank with an inert solid material such as concrete or sand.
- (c) If it is intended that the tank be used again (within two years), fill the tank with water and a corrosion inhibitor.

For options (a) or (b) above, the following work procedures should be observed:

- (a) The work should be carried out only by a competent person, complying with AS 1940, the Australian Institute for Petroleum (AIP) Code of Practice CP 22 *The Removal and Disposal of Underground Petroleum Storage Tanks*, and with the appropriate work permit. Appropriate equipment to handle the vapour hazards is necessary.
- (b) Equipment that can produce a spark or flame, such as an oxy-acetylene torch, electric welder or an angle grinder should not be used without a strict procedure covered by a permit to work ("hot work" permit).
- (c) Empty the tank of all flammable or combustible liquid.
- (d) The tank should be "gas freed" (usually by purging – see Appendix L of AS 1940).
- (e) All associated pipework should be disconnected and made safe so that no flammable or combustible liquid remains. The pipes should be removed.
- (f) If the tank is to be removed, check to ensure it is in suitable condition to withstand lifting and transport.
- (g) Dry rust or scale may ignite when dry – keep it wet until disposed of.
- (h) Gas freeing is a specialist task. Any testing for flammable vapours tests only one part of the tank at any one time. A "gas free" certificate may no longer be valid some time later or if the circumstances change. It is not a substitute for a work permit.
- (i) WorkCover must be notified in order to cancel the tank's location on the SCID database.

If a tank will be converted to use with non-dangerous goods, see the procedures in sections 9.10.7 and 10.21 and cleaning in 3.3.4.

A list of appropriate contractors may be obtained from the Petroleum Industry Contractors Association (www.pica.net.au). Contactors are usually listed in the "Yellow Pages" telephone directory under "Petrol pumps and marketing equipment".

10.9 Class 4 dangerous goods – general provisions for flammable solids; substances liable to spontaneous combustion, and substances that in contact with water emit flammable gases.

10.9.1 Hazards and risks of Class 4

Class 4 includes flammable solids and liquids (Class 4.1); substances liable to spontaneous combustion, (Class 4.2); and substances that in contact with water emit flammable gases (Class 4.3).

Class 4 dangerous goods have a broad range of physical and chemical properties. While most of Class 4 are solids, some can be liquids. Guidance on handling and storage cannot be readily categorised.

When deciding on measures to control the flammability risks, consider all of the following factors:

- non-combustible materials in the construction of buildings and storage areas
- fire protection
- separation distances (or barriers such as fire resistant screen walls)
- ignition and heating sources need to be controlled (eg electrical equipment should be suitable for hazardous zones)
- the need for ventilation.

10.9.2 Packages of Class 4

Areas where packaged dangerous goods of Class 4 are stored or handled should be ventilated. If the goods can generate a flammable gas or vapour, or form combustible dusts, explosion vents or doors should also be considered.

If the dangerous goods are sensitive to light, heat or temperature changes, the packages should be protected from exposure to weather and from direct sunlight.

Where the stability of the dangerous goods is reliant on the dangerous goods being wetted with liquids, such as stabilizers, phlegmatizers or diluents, observe the following measures:

- The packages should be inverted gently as often as necessary to prevent the goods in the upper section of the packages from drying out.
- Avoid prolonged storage by putting stock control measures in place.
- Check the concentration of any inhibitor present often enough to ensure that the concentration stays within the recommended levels set by the manufacturer (but do not open sealed packages to do this).

10.9.3 Tanks containing Class 4

Tanks for Class 4 dangerous goods should be designed and operated to ensure the following:

- prevent moisture from entering the tanks
- ensure valves and fittings are readily accessible, easily operated and operate as designed
- provide remote operation for primary shut off valves at the tank.

10.10 Class 4.1 flammable solids

10.10.1 Nitrocellulose film and other nitrocellulose products – handling and storage

Nitrocellulose film is in Class 4.1 (UN 2557). Spontaneous combustion is a significant risk.

When working upon or keeping more than 25kg of nitrocellulose observe all of the following precautions:

- (a) Minimise the amount of material introduced into the work area and worked upon at any one time.
- (b) The work area should be constructed on non-combustible materials.
- (c) The work area should have at least two outward opening doors for easy escape if fires occur.
- (d) All furniture and apparatus should be positioned to allow unimpeded egress.
- (e) Eliminate all ignition sources.
- (f) All electrical wiring and equipment must be suitable for use in hazardous areas.
- (g) Guard or enclose heating elements and other electrical equipment to prevent ignition or decomposition of any nitrocellulose products. Such guards and enclosures should be angled at 45° or more to the horizontal to prevent dust accumulation.
- (h) The temperatures of any surfaces and equipment (including enclosures) should not exceed 100° Celsius.
- (i) Install automatic sprinklers.
- (j) Waste material should not be allowed to accumulate and should be placed in metal waste bins marked "Flammable waste".
- (k) Display signs with suitable warning of hazards and precautions (such as "No smoking").

10.11 Class 4.2 – substances liable to spontaneous combustion

10.11.1 General

Limiting the possibility of fire is an important control measure for substances liable to spontaneous combustion (Class 4.2).

If the dangerous goods will ignite on exposure to air (eg phosphorus UN 1381 or UN 2447) establish a method to contain any spillage so that air cannot come into contact with the spilt dangerous goods.

10.11.2 Agricultural products in Class 4.2

Some fibrous material containing oil falls into Class 4.2. Typical examples are cotton meal and some types of animal fodder, including by-products of oil extraction such as seed cake.

Examples are:

- UN 1364 oily cotton waste, including cotton hulls and lint from cotton gins
- UN 1363 Copra (dried coconut kernels)
- UN 1373 Fibres, animal or vegetable with oil
- UN 1374 Fish meal (fish scrap) unstabilized (Class 9, UN 2216 if stabilized)
- UN 1386 Seed cake, if more than 1.5% oil and up to 5%, and not more than 11% moisture (classified as UN 1373 if more than 5% oil content)
- UN 2217 Seed cake, if not more than 1.5% oil and not more than 11% moisture
- UN 3088 Self-heating solid, organic, not elsewhere specified.

Recommendations on the bulk storage of the above types of Class 4.2 is covered in the *Code of practice for the safe use of bulk solids containers and flatbed storage including silos, field bins and chaser bins*.

10.12 Class 4.3 – substances that in contact with water emit flammable gases

Some grain fumigants may be classified as Class 4.3, or may fall into another Class in some forms. For example, the grain fumigant aluminium phosphide in the form of crystals is Class 4.3 (PG I, UN 1397), but in the form of waxed pellets it is Class 6.1 (PG II or III, UN 3048).

Other examples are: sodium metal, some metal powders and calcium carbide (used to produce acetylene gas).

10.12.1 Fire protection for Class 4.3

The hazard of Class 4.3 is that they evolve flammable or toxic gases on contact with water and may ignite spontaneously. This makes fire fighting with water particularly risky and an alternative fire fighting medium must be considered. Fire protection for the storage or handling area should be determined in consultation with the fire brigade.

10.12.2 Lithium aluminium hydride (UN 1411)

Lithium aluminium hydride (ethereal) UN 1411 should be kept as if it were a flammable liquid, but not with other flammable liquids due to its reactivity.

10.13 Class 5.1 dangerous goods – oxidizing agents

10.13.1 Hazards and risks

The hazard with oxidizing agents is that they are reactive and support combustion (while not being classified as flammable). Oxidizing agent may react with a wide range of substances, including flammable or combustible liquids such as petrol, kerosene, vegetable oil, engine oil, brake fluid, paint or grease.

Factors to consider when using or storing oxidizing agents (Class 5.1 or Subsidiary Risk 5.1) include the following:

- oxidizing agents should be kept away from combustible or readily oxidizable materials, sulfur and powdered metal
- store so that they cannot come into contact with a source of heat
- ensure that any heating equipment cannot heat the goods to within 15^o Celsius of their decomposition temperature
- the risk of dust explosions and the need for protection of electrical equipment should be assessed.

10.13.2 Storage

When storing packages observe all of the following precautions:

- (a) Place on clean pallets, racks or shelves to allow detection of leaks, to prevent contact with other substances, and to make clean up easier. Spillages may ignite on contact with timber. Old and weathered pallets should not be used.
- (b) Keep packages closed.
- (c) Protect from heat.
- (d) The store should be at least 5m from any fuel containers, combustible material or incompatible substances.
- (e) Do not park any vehicles (eg forklifts) nearby – the hot engine, fuel or oil leaks could cause a reaction.
- (f) Do not store any liquids above oxidizing agents.
- (g) Do not allow accumulation of dust anywhere – keep surfaces clean.
- (h) Clean up spillages and dispose of waste, dust, or dried floor washings. Do not mix substances in the waste bin (they might react).

If oxidizing agents are repacked, then the risks arising from any packing plant need to be controlled. For example, any electrical equipment needs to be suitable, such as being dust proof and easily cleaned. Dry powders on electrical equipment may cause overheating and so this equipment should be kept clean to minimise this risk.

Additional requirements for those Class 5.1 that are explosive precursors, such as ammonium nitrate, is provided in the *Explosives Regulation 2004*. A licence from WorkCover is required to handle ammonium nitrate.

Advice on the storage and handling of pool chlorine in retail (including service stations) is provided in chapter 5, section 5.6.

Further class specific advice is provided in AS 4326 (see section 1.7).

10.13.3 Solid (dry) pool chlorine

For less than 250kg of dry pool chlorine see section 5.6.

If more than 250 kg of solid (dry) pool chlorine is kept on the premises, observe the following conditions:

- (a) The chlorine should be kept at least 5m away from, or be separated by a liquid tight wall (masonry or concrete) at least 0.5m higher than the goods on either side, from the following:
 - o stored or waste combustible or readily oxidizable materials, including paper, cardboard (eg discarded packaging), or cloth
 - o flammable or combustible liquids, corrosives such as acids and caustics, and other dangerous goods of Class 5, and any other substance such as sulfur or powdered metal that could cause decomposition.
- (b) 10m away from any solid ammonium salt (such as sulphate of ammonia) or separated by a liquid tight wall.
- (c) At least 2m separation between dry pool chlorine and hydrochloric acid and/or liquid pool chlorine.
- (d) The storage area should be kept clean and combustible waste material must not be allowed to accumulate.

10.14 Class 5.2 – organic peroxides

Organic peroxides are capable of self-reaction and stabilizers are usually necessary. Some are classified as “Goods too dangerous to be transported”.

10.14.1 Storage of packages

The following precautions apply to more than 20 L or kg and up to 500 L or kg of organic peroxides in packages:

- (a) Keep the packages in a specifically designated and designed cabinet, room or shed.
- (b) Keep a clear 5 m safety zone opposite the cabinet or storeroom doors and blow out panels.
- (c) No other buildings, chemicals or emergency escape exits should be in the storage area. It may be useful to outline the area with yellow paint on the floor or ground.
- (d) Cabinet doors should have only friction or magnetic catches (to allow any pressure build up to escape).
- (e) Do not keep anything else in the organic peroxides store. Do not allow accumulation of waste, dirt, dust or metal filings on the floor (these could react with spillages).
- (f) Do not allow ignition sources inside, or outside within 3 m of the storage area or door to the store.
- (g) Keep packages on sealed or laminated hardwood or coated metal shelves free from rust or corrosion.
- (h) A space of at least 100mm should be kept clear between the packages and the floor, ceiling, or walls (eg fit a guard to prevent contact).
- (i) Do not stack packages on any shelf higher than 1.3 m.
- (j) Have an eyewash kit readily accessible for use in the case of splashes or spills.
- (k) If opening packages, take them at least 3 m clear of the store. Reseal all packages before returning them to the store.

10.14.2 Temperature control

Since temperature control is important observe the following precautions:

- Keep organic peroxides below 35°C and out of direct sunlight
- Do not allow any room heaters or anything warm to touch either inside or near the storage area

- Check the MSDS for the recommended temperature
- Keep the store within the recommended temperature range for the types of organic peroxides present
- If cooling or refrigeration is required, obtain expert advice – air conditioners and unmodified refrigerators are potential ignition sources.

Further specific advice is provided in AS 2714.

10.15 Toxic substances – Class 6.1 and Subsidiary Risk 6.1

Observe the Australian Standard most relevant to the circumstances:

- general advice for toxic substances is provided in AS 4452, however AS 1940 should also be observed for goods of Subsidiary Risk Class 3 (flammable)
- agricultural and veterinary chemicals – AS 2507
- liquid and liquefied polyfunctional isocyanates – AS 4081
- in situations of storing packages of several Classes of dangerous goods – AS 3833.

10.16 Class 6.2 Infectious substances – blood borne viruses

Advice on handling material that may be contaminated with human blood-borne viruses is provided in the *National Code of Practice for the control of work-related exposure to hepatitis and HIV (blood-borne) viruses*, published by the National Occupational Health and Safety Commission. This is an approved industry code of practice in NSW.

10.17 Class 7 Radioactive material

Radioactive material is covered by the *Radiation Control Act 1990*, and the *Radiation Control Regulation 2003*, administered by the Department of Environment and Conservation.

10.18 Class 8 dangerous goods – corrosives

10.18.1 General

Note that corrosives may be either alkaline or acidic and these two categories are incompatible.

The advice provided in the following Australian Standards should be observed where relevant:

- specific to Class 8 – AS 3780, and for Class 8 with a Subsidiary Risk of Class 3 (flammable) also observe AS 1940
- in situations of storing packages of several classes of dangerous goods – AS 3833 (see section 1.7).

Eyewash and safety showers should be readily accessible where corrosives are handled or transferred (see section 8.12).

10.18.2 Pool chlorine – liquid, Class 8

If you have more than 1,000 L of pool chlorine Class 8 in packages, they should be kept at least 5 m from other dangerous goods with which they might react. An alternative is to have a liquid tight wall separating the goods.

A bund (ie some form of containment) is recommended around the storage area if the amount held adds up to more than 1,000 L. For packages, the bund should hold at least 25% of the total volume of liquid stored. For storage tanks of 1,000 L or more, a bund that will hold 100% of the tank volume is recommended. The Australian Standard AS 3780 *The Storage and Handling of Corrosive Substances* gives more advice on the design of the storage facility and transfer to bulk tanks.

For pool shops, where other hazards are not present (if other dangerous goods are not kept in the shop area), a bund is not essential where not more than 2,000 L is stored if the tank valves are frequently checked to ensure that they are in good order and not leaking.

10.19 Class 9 dangerous goods – miscellaneous hazards

10.19.1 General control measures

Advice for Class 9 is provided in the Class specific standard AS 4681. If the goods are environmentally hazardous, spillage containment specified in AS 4452 and the minor storage provisions of AS 4452 should also be observed.

In general, the storage area should be at least 5 metres away from any of the following:

- building or office where people may be present
- storage of any other Class of dangerous goods
- accumulation of flammable or combustible material
- any public place.

The need for adequate ventilation should be considered.

10.19.2 Elevated temperature liquids and solids

This section covers:

- UN 3256 Elevated Temperature Liquid, Flammable, N.O.S. with flashpoint above 60.5°C, at or above its flash point
- UN 3257 Elevated Temperature Solid, N.O.S., at or above 240°C.

In the case of liquids that quickly solidify or have a high viscosity at ambient temperature, kerbing or trenches should provide adequate bunding or drainage to ensure containment of spills.

Spillages should be directed away from other dangerous goods, places where persons might be present, wooden structures, accumulations of flammable or combustible material and public places. Contact with water (even if in pipes) may cause a violent steam explosion.

Appropriate signage should warn of the hazards and be visible to emergency services (eg “building contains molten zinc vat”, or “hot bitumen – do not use water jets, spray only”).

Special consideration should be given to any liquid handled near or above its flashpoint, including hazardous area classification (see section 9.8).

Hot liquids, without a flashpoint or below flashpoint, may also be dangerous goods of Class 9 (UN 3257) and their separation distance from on-site facilities and other “protected works” may need temperature measurement and health flux calculations to be included in the risk assessment.

Many processes use heat transfer oil in a sealed recirculating system. It is quite often above its flashpoint. The supplier's MSDS may not indicate that it is a dangerous goods since it is not transported hot. One of the hazards is fire starting in insulation that has been soaked in the oil either by a small leak or by poor practice.

10.19.3 Polymeric beads (UN 2211) and plastic moulding (UN 3314)

Polymeric beads (UN 2211) and plastic moulding (UN 3314) are likely to release flammable vapours and large quantities should be kept in well-ventilated areas away from ignition sources.

10.19.4 Dry ice (UN 1845)

The carbon dioxide released by evaporating ice is an asphyxiant. Store and use only in well ventilated areas. Do not touch unless wearing insulating gloves.

10.19.5 Ammonium nitrate fertilizer

Ammonium nitrate should be kept away from flammable or combustible material such as petrol, diesel, oil, sulfur, grain or hay dust, charcoal or any type of dry pool chlorine. Once ignited by a spark or friction it may smoulder and eventually burst into flame. Frequently check pallets or stacks of bags, or large quantities, for signs of internal self-heating.

The purchase, transport, storage and handling of nitrate fertilizers with more than 45% ammonium nitrate (excluding solutions) are controlled under the *Explosives Act 2003* and *Explosives Regulation 2005*, and a licence from WorkCover is required. This includes UN numbers: 1942, 2067, 2068, 2069, 2070, 2071, 2072, 3375 and 3379.

10.20 Combustible liquids

While the flammability hazards of combustible liquids are lower than for flammable liquids, they can add to the total fire load. Combustible liquids may have low autoignition temperatures (possibly lower than some flammable liquids) and fires can result from contact with hot surfaces.

Some combustible liquids have a reactive risk and are incompatible with some dangerous goods – for example brake fluid will catch fire if in contact with granular pool chlorine.

AS 1940 provides further advice that should be observed. Where heated combustible liquids are handled see the advice in section 10.19.2 of this Code of practice.

10.21 Decommissioning, abandonment and disposal

Risks associated with abandonment and disposal of plant and dangerous goods must be identified and controlled, including environmental risks.

An occupier must ensure that any plant, equipment or container that was used in connection with dangerous goods and that is no longer intended to be used, or is to be disposed of, is made free from dangerous goods or otherwise made safe (OHS Regulation sub-clause 174ZG(1)).

Used containers should be cleaned so they are free of dangerous goods, unless arrangements have been made for refilling, refurbishment, or other procedures to make them safe (see section 3.3.3). Advice on the standards for cleaning is provided in section 3.3.4.

Labelling should be retained on used packages that are not free of dangerous goods to identify the hazard. Labels should be removed or obliterated from containers made free of dangerous goods.

Decommissioned plant may present immediate or future risks (eg from residues) and the following should be carried out:

- identification of possible residual or resultant hazards and risks
- provision of appropriate fire protection where necessary
- ventilation to prevent build up of a hazardous atmosphere
- containment of any effluent.

Advice on the disposal of tanks and packages formerly containing flammable liquids is provided in AS 1940. Abandonment of underground, partly underground and mounded tanks is covered in section 10.8.3.

For an LP Gas tank, if 2 years have elapsed since any dangerous goods were last put in or taken from the tank, the OHS Regulation (clause 174ZZE) requires that the owner must:

- remove any remaining dangerous goods from, and abandon, the tank in compliance with AS/NZS 1596 - 2002 *The Storage and handling of LP Gas*
- notify WorkCover within 7 days in the approved form.

CHAPTER 11 – CONTROLS DURING TRANSFER

This chapter applies to the transfer of any quantity of dangerous goods. This covers all forms of movement of the dangerous goods.

11.1 Transfer of dangerous goods

Transfer refers to the movement of dangerous goods from place to place; either within a premises, between premises, or to or from the premises. This may be by any means, such as a container, pipework, pipeline or vehicle such as a tanker. Transfer includes movement into or from a container, package or vehicle, including pumping, dispensing and decanting.

An occupier must ensure that any risk associated with the transfer of dangerous goods is eliminated, or if that is not reasonably practicable, controlled so far as is reasonably practicable (OHS Regulation sub-clause 174Z(1)).

11.1.1 Risks during transfer

Transfer generally poses risks greater than static storage, since the goods are either unconfined at some stage of the transfer process (such as when pouring or pumping from one container to another), or plant failure could occur. Unsuitable facilities or inadequate procedures for filling or unloading tanks or tanker vehicles may cause overfilling with consequent risks, including serious injury to operators.

Consider the following additional risks during transfer:

- increased vapour levels in the area around the transfer
- generation of static electricity in non-conductive flammables
- overflow, leakage or spillage – eg if open vats are being filled
- spillage or leakage away from any spill containment, such as where the transfer is by pipework or pipeline.

The risk assessment should evaluate how the following factors affect the above risks:

- the hazards associated with the particular dangerous goods
- flow or transfer rates and quantities
- external hazards and nearby activities (eg ignition sources).

11.1.2 Transfer control measures

Clause 174Z of the OHS Regulation required occupiers to have regard to the need to:

- control spills and leaks
- minimise static electricity
- control vapour generation
- ensure suitability of pipework, attachments and associated safety systems.

Control measures that should be considered for transfer include the following:

- (a) Overflow protection equipment on receiving vessels or containers.
- (b) Flow and pressure regulators on pipework and pumps.
- (c) Interlocking of valves and switches.
- (d) Ensuring the compatibility of connections for hoses, couplings, fittings and vapour recovery.

- (e) Ensuring the continuity of connections for earthing and electrical or electronic data controls.
- (f) Systems for detecting losses from pipework and fittings, such as static pressure loss detectors, external sensors or measurement.
- (g) Control of static electricity in non-conductive flammable or combustible liquids or finely divided combustible powders by using bonding and earthing conductors between tanks, vehicles and pumps.
- (h) Isolating valves (see section 11.2).
- (i) Emergency shut down (see section 11.3).
- (j) Control of vapour emissions (see the list below).
- (k) Control of ignition sources when flammable goods are transferred (see section 9.8).

Vapour emissions during transfer can be minimised through means such as the following:

- using enclosed systems
- opening lids of containers for the minimum possible period
- minimising the surface area of liquids exposed
- avoiding splash filling of liquids
- minimising the temperature of liquids
- providing extraction ventilation.

When decanting into a container, labelling is required – see chapter 3, section 3.3.3.

For further advice on transfer of goods consult the relevant Class or type specific Australian Standard.

11.1.3 Laws relating to loading and unloading vehicles or wagons

Laws relating to the loading and unloading of transport vehicles or wagons at the premises are contained in the transport legislation and the ADG code, and refer to various Australian Standards. The relevant parts of AS 2809 *Road tank vehicles for dangerous goods* must be complied with.

Transfer operation, as defined in the ADG code, means the process of transferring dangerous goods in bulk into or from a tank vehicle, bulk container or freight container.

Transfer includes all of the following:

- the connection of any hose or other equipment to the tank vehicle, bulk container or freight container
- the connection of any hose or other equipment to a storage container
- the movement of the goods into or from the tank vehicle, bulk container or freight container
- any other activity directly connected with the transfer of the goods.

The procedures for loading and unloading described in chapter 10 of the ADG code are mandatory. This sets standards for items such as hose assemblies. Transfer of flammable liquids (Class 3 or Subsidiary Risk 3 dangerous goods) must be in accordance with AS 1940. The ADG code contains specifications for pumps used. Procedures in AS 1596 for LP Gas are mandatory.

There are some special provisions for the transfer of Class 3 (or Subsidiary Risk 3) at a farm, mine site, or into a tank classified as “minor storage”.

11.2 Tank isolating valves

It is important that valves have position indicators to indicate the valve position – ie open or closed. The lack of a position indicator on isolating valves has caused spills and accidents. The valve position should be clearly visible from a distance, eg from outside the bunded area (except for cryogenic vessels covered by AS 1894).

Suitable valves include:

- rising spindle (the spindle protruding above the wheel indicates the valve is open)
- quarter turn valves – the status is indicated by the handle position (parallel to the pipe to indicate “open”).

Other important points are:

- Lockable valves should only be lockable in the closed position.
- Detachable handles should not be used. If an unavoidable requirement, the handle should only be detachable in the closed position. Reattachment should only be possible in a manner that indicates the correct position.
- Brass valves are unsuitable on large flammable or combustible liquid tanks since they may melt in a fire.

11.3 Pump emergency shutdown switches

Quick shut down of pumps is an important safety measure to control spills or fires. Pumps used to transfer dangerous goods into or out of tanks should have emergency shut down switches.

The emergency shutdown switch should be located so that the following can be performed:

- (a) it can be readily and conveniently operated
- (b) it is close to the normal position of the operator (eg the tanker driver)
- (c) the operator can reach it to stop the transfer before a spillage gets out of control in an emergency (eg even if a pump seal failure sprays corrosive or burning liquid or the transfer hose ruptures)
- (d) it is not inside the bunded area, in the pump seal “spray zone” or on the far side of the tank (or tanker) away from the operator and other controls
- (e) access is never obstructed.

Additional control measures for fixed locations include the following:

- (a) It may be useful to mark the area with yellow paint and a “keep clear” sign.
- (b) Provide an appropriate sign – eg “Emergency Pump Shutdown” with letters at least 100mm high.
- (c) Make sure gloved hands can operate the switch – mushroom type push buttons are usually used.
- (d) If several buttons are used (eg start/stop/reset) then make sure the stop button is unmistakable even in poor lighting.
- (e) If the operator has to attend to related tasks away from the normal position (eg to manually gauge the tank), transfer should be stopped.

11.4 Tanker loading and unloading procedures

This applies to filling tanks (ie over 400 L), fixed or removable (dismountable), carried on vehicles.

11.4.1 Bottom loading

Bottom loading refers to hoses connected to the tanker compartments' bottom connections. Bottom loading should be protected by an automatic overfill system.

Bottom loading systems should include all of the following controls:

- a preset meter with automatic slow start and slow finish control
- a dry break hose coupling
- automatic overfill cut-off for each compartment
- integrated electrostatic bonding
- vapour discharge with controls accessible from ground level
- drive away prevention interlock.

For flammable or combustible liquids, further technical details are provided in the Australian Institute of Petroleum (AIP) *Code of practice CP 6 – Vehicle Bottom Loading and Vapour Recovery*.

11.4.2 Top loading

Top loading must use either hoses (connected liquid tight), or a hose and spear (in contact with the bottom of the tank) through an open hatch. If loading is controlled manually (ie without a preset meter) a "dead man's handle" should always be used. This is a self-closing valve (usually spring loaded) that has to be pulled continuously to allow the liquid to flow. It is not sufficient to have only the pump stop button to stop the transfer.

Flammable and combustible liquids should never be "splash filled" into a container or tank, due to the risk of ignition by static electrical discharge. These liquids should be loaded through a hose and spear that discharges below the level of the liquid as it fills the tank and allows static electricity to be conducted away.

11.4.3 Pumping flammable fuel from vehicles to above ground tanks

Suitable separation distances between vehicles and above ground tanks should be established to reduce risks in the event of a fire. The tanker must be positioned so it can be promptly driven away in the forward direction should a spill or fire occur.

11.5 Fuel dispensing into fuel tanks of vehicles, vessels, aeroplanes and powered plant – general advice

Dispensing here means fuelling a vehicle, engine or gas container from a dispensing unit, such as a bowser. This includes retail at service stations.

This covers general advice for the dispensing of fuels such as Class 3 liquids or Class 2.1 gases and includes retail sale. Examples of typical liquid fuels are petrol and kerosene, and gaseous fuels include LP Gas and Compressed Natural Gas (CNG). Additional advice specific to LP Gas and CNG is provided in the next section (11.6).

Potential sources of ignition during dispensing should be eliminated by the following procedures:

- any vehicle engine should be stopped while the dispensing operation takes place for the vehicle
- all practical steps taken to ensure ignition sources have been eliminated within 3 metres of the vehicle (or other engine) fuel tank filling point or dispenser, including the nozzle, apart from the necessary movement of other vehicles
- prominent appropriate signage advising of the above steps, such as "Stop engine – no smoking".

Steps should be taken to prevent unauthorised access to dispensers and to prevent any person under the age of 16 years using a dispenser. See also the advice in section 11.7.3.

11.6 LP Gas and CNG dispensing

Gas cylinders, such as barbeque cylinders, should not be filled from a dispenser. Exceptions to this are cylinders such as forklift cylinders that have been especially designed to be filled from a dispenser (not all cylinders are so designed, and these must be filled by decanting).

Further advice is provided in AS 1425, AS 1596 and AS 3961 (see section 1.7).

For a CNG (compressed natural gas) refuelling station, the ALPGA standard *AG 901 Code of Practice for NGV Refuelling Stations* should be observed (see section 1.7).

11.7 Dispensing of fuels at service stations

Flammable fuels (both liquid and gas) are commonly dispensed at service stations. Safety is primarily the responsibility of the occupier of this premises.

11.7.1 Consol operation at self-service stations (OHS Regulation clause 174ZZ)

Fuels are often sold to the public by dispensing through self-service units, controlled from a central consol at a service station.

In addition to the points in 11.5 and 11.6 above, for a self-service dispensing unit (other than at an unstaffed service station) the person who keeps the dangerous goods for sale must comply (or cause compliance) with the following:

- instructions for the operation of the dispensing unit (including those covered in section 11.7.3 below) must be clearly displayed on or immediately adjacent to it
- the unit and the area surrounding it must be adequately illuminated
- a consol operator must be appointed to control and supervise from a control point the operation of the dispensing unit when it is in operation for the sale of fuel
- the consol operator must be a trustworthy person over the age of 18 years
- the consol operator must be fully conversant with the operation of the dispensing unit by the users and the system employed for the sale of fuel.

To be able to respond to emergencies promptly, the occupier should ensure that the operator has an unobstructed view of the dispensing units. For example, the windows overlooking the forecourt should not be obstructed with racks of goods for sale or advertising posters, unless other means are used – such as closed circuit TV or mirrors.

Training of the consol operator should include the manner of operation of the dispensing unit, safety cut-off procedures to prevent the flow of fuel, the location of fire fighting equipment, and other emergency procedures such as fire extinguisher operation.

11.7.2 Duties of consol operator

The consol operator should ensure safety by controlling the activities of all persons dispensing fuel, such as:

- ensuring fuel is not supplied unless the person using the dispenser follow all procedures correctly, including those described in 11.7.3 below
- taking all necessary steps to prevent the flow of fuel through the unit in the event of a spill or other risk such as a fire
- taking all practicable steps to ensure that the self-service dispensing unit is not operated by a person under 16 years of age.

Further advice is provided for liquid fuels in section 6.2.5 of AS 1940, and for LP Gas in section 9.3.3 of AS 1596.

11.7.3 Obligations on drivers and other persons where fuel is dispensed (OHS Regulation clause 174ZZ).

The following obligations are placed on drivers and other persons at the premises where the fuel is dispensed, such as service stations:

- when a vehicle is standing near a self-service fuel dispensing unit, the driver must ensure that its engine is stopped before the fuel tank is opened, and remains stopped while the dangerous goods are being dispensed into the vehicle
- a person must not introduce an ignition source within 3 metres of a fuel-dispensing unit (including the nozzle of the hose that is part of the unit) while in operation, apart from the normal movement of vehicles (eg a vehicle moving to the other side of the dispensing unit).

11.8 LP Gas decanting

11.8.1 General procedures for decanting LP Gas from a cylinder

Filling cylinders and fuel containers by decanting from a cylinder is a common procedure for both retail sales and on-site use of LP Gas. Decanting means the filling of cylinders without the use of a pump; usually from a larger cylinder.

Small cylinders should never be filled from the autogas dispenser units – adaptors should not be used since autogas (a mixture of butane and propane) is different from the LP Gas, mainly propane, used in small gas cylinders. Note that forklift fuel cylinders may be of one type or the other – use only the gas specified for that forklift.

The procedures described in AS 1596 (see section 1.7) should be observed.

To minimise decanting risks, the following precautions based on AS 1596 are emphasised:

- do not place cylinders on a non-conductive stand, such as a milk crate – metal stand, or placing the cylinder on the ground, will allow static electricity to escape
- do not overfill cylinders. LPG expands considerably when a cylinder gets warmer – an overfilled cylinder could leak or burst, with a consequent explosion
- do not decant fill any portable cylinders over 25 L (10 kg) or fuel tanks (eg forklift cylinders) over 50 L (22 kg)
- do not fill date expired cylinders
- do not fill damaged, dented or corroded cylinders

- do not allow untrained or young persons to fill cylinders
- do not allow self-service by retail customers (ie the general public).

11.8.2 Position of the decanting cylinder

A risk is created during filling since a considerable quantity of gas is released from the cylinder being filled. This gas is denser than air and can accumulate in low areas such as drains or maintenance pits. The characteristic smell may not reach nose level.

Distances from ignition sources is a key risk factor. The position and procedures in AS 1596 (section 7) should be followed. In relation to sources of ignition, the following can be excluded: fuel dispensers, overhead lights, vehicles, and electrical installations more than 0.5 m above the top to the decanting cylinder.

11.9 Pipework

Pipework should be labelled to conform with AS 1345 in order to provide appropriate safety information.

The material used for piping and pipework, whether metal, rubber or plastics, should be compatible for the intended use, the type of dangerous goods, pressure and location.

11.10 Handling packages

Shrink-wrapping of loads using torches is not usually appropriate with dangerous goods due to the fire hazard.

Packages should not be stacked too high to avoid falls, breakages of containers and resultant spills.

Advice on controlling the ignition hazards posed by forklifts and other industrial trucks is provided in Appendix 8.

11.11 Filling gas cylinders, disposable containers and aerosols

11.11.1 General procedures

AS 2030 should be observed when filling gas cylinders.

The ADG code requirements for gas cylinders, including design and labelling, must be followed when preparing cylinders for transport.

Filling LP gas cylinders and other containers by decanting from another cylinder is covered in section 11.7.

11.11.2 Filling disposable containers and charging aerosols with liquefied flammable gas

Disposable containers are filled once only and are not refilled.

Disposable cylinders are also known as cartridges, cartouches, receptacles and refills. Included in this section are:

- UN 1057 Lighters, or Lighter Refills (cigarettes, containing flammable gas)
- UN 1950 Aerosols (non-refillable receptacles with contents under pressure and fitted with a release device)

- UN 2037 Receptacles, Small, Containing gas (Gas Cartridges) (without a release device, non-refillable)
- UN 3150 Devices, Small, Hydrocarbon Gas Powered, or Hydrocarbon Gas Refills For Small Devices (with release device).

Aerosols mean non-refillable receptacles made of metal, glass or plastics containing gas compressed, liquefied or dissolved under pressure and fitted with a release device allowing the contents to be ejected as a gas or as solid or liquid particles in suspension in a gas or liquid.

In this section, "charging area" means the area within a building where aerosols or disposable cylinders are filled with a liquefied flammable gas (Class 2.1).

The charging area should be separated from any other part of the building by a vapour tight wall, that may have only a doorway, and openings of not more than 0.1 square metre to allow the passage of containers to and from the charging area. The door should open in both directions and be closed as far as reasonably practicable during charging. An explosion blow-out panel should be provided in any unattended charging room.

The charging area (including any pressure vessels and plant) should have mechanical ventilation such that the following are observed:

- it is separated from the ventilation system for any other area and the ducting does not pass through any other area
- the concentration of any escaping gas is kept less than 25% of the lower explosive limit
- escaping gas does not flow through any doorway or opening
- the discharge from the ventilation system is above any roof, or part of a roof measured 10 m laterally.

Gas detectors should be used to detect leaks from the charging plant and pipework. The gas detector should function at above 25% of the lower explosive limit of the gas and produce a sound and visible signal and shut off any gas flow into the area.

The gas piping connected to plant used for charging (charging machine) should have a manual shut-off valve and excess flow valve at the point where the piping enters a flexible connection to the charging plant. The shut-off valve and its purpose should be clearly identified by signage at or near the valve.

Once filled, the aerosol or disposable container must be tested in accordance with section 3.8.2 of the ADG Code: the container is tested immediately for leakage by immersing in water that is at a temperature of 55° Celsius, and safely disposed of if found to be leaking. An alternative method can be used if it is of equivalent effectiveness.

Also see the advice in section 10.5.3 regarding un-odorised LP Gas.

CHAPTER 12 – FIRE PROTECTION

Fire protection is an essential element of the control measures for the risks of flammable or combustible dangerous goods. The need for fire protection and the appropriate fire protection system must be determined from the risk assessment.

The “fire protection system” includes fire detection, fire suppression and fire fighting equipment, which may be fixed or portable.

12.1 Provision of a fire protection system

Occupiers must ensure that appropriate fire protection and fire fighting method (including equipment) is provided, installed, and maintained (OHS Regulation clause 174ZC). This is in addition to any fire protection required by the *Building Code of Australia* (BCA). The BCA does not cover the risks involving dangerous goods and does not deal with matters such as tanks or open air storage. A person assessing fire protection should have relevant competencies.

At premises where there are several occupiers, fire protection needs to be coordinated to ensure it is effective for the whole premises.

Fire protection and the fire fighting method must be designed and constructed for the types and quantities of dangerous goods and the conditions under which they are stored and handled. These conditions include the materials that any buildings, plant or structures are made from, such as fire rating and combustibility. The need to use water deluge systems to keep tanks cool should be considered.

Fire fighting equipment, including the media used, must be compatible with the dangerous goods, and effective in the control of incidents involving the types and quantities of dangerous goods (OHS Regulation clause 174ZC(1)(a)(iii)).

The design and construction of the fire protection for each area where dangerous goods are stored and handled, and for the premises as a whole, should take into account the relevant Australian Standard listed in section 1.7 of this code of practice, including any class or type specific Standard. This should also be determined in relation to the emergency plan (chapter 14).

The effectiveness of the system needs to be evaluated if any changes or modifications are made to:

- the building or structures on the premises
- the types or quantities of dangerous goods stored or handled at the premises
- plant or processes associated with the storage or handling of dangerous goods
- the fire protection system itself.

The fire brigade should be consulted when designing or altering the system, including whether to directly link alarm systems for large installations to the fire brigade.

12.2 Designing the fire protection system

The fire protection system design should take into account all of the following risk factors:

- chemical and physical properties of the dangerous goods
- any particular hazards of the dangerous goods
- quantities being stored and handled at each location on the premises
- storage configurations, such as height of shelving and density

- the total fire load of the area being protected
- the location of the storage location or handling area in relation to other storage or handling areas
- design, type of construction and total floor area of the building, storage location or handling area
- the type of operations in each handling area or storage location
- the extent of containment of the dangerous goods
- chemical and physical processes during use or processing
- transfer and transport systems, including the location of transport vehicles
- the impact of hazards external to the storage and handling area, including those beyond the boundaries of the premises
- the personnel available to operate the fire protection system and their capability
- the need to also protect facilities external to the premises
- environmental considerations including the containment of contaminated fire water
- the need for the fire protection system itself to remain operational in the event of a fire.

Fire fighting media (such as water, foam or dry agent) must be suitable and compatible with the dangerous goods. For example, sprinklers and water-based extinguishers should not be used with dangerous goods of Class 4.3 (dangerous when wet).

12.3 Water supply

The water supply for fire fighting should be sufficient to supply both fire fighting equipment at the premises and any additional equipment that may need to be used by the fire brigade.

Where water supply is not available (or adequate) from the main water supply, it may be necessary to provide additional water storage and/or pumps, or an alternative source. The adequacy of water supply should be checked with the fire brigade.

Booster systems may be needed to provide sufficient pressure for large-scale fire fighting. This may require either the installation of fixed or portable pumping equipment, or an appropriate number of booster connections and feed hydrants, together with a hard standing area for fire brigade pumping equipment.

Pumps should always have sufficient fuel (eg for 6 hours) and starter batteries should be regularly checked to ensure they are charged ready for use.

12.4 Fire alarm systems

Fire alarm systems should be designed and installed to achieve the following:

- automatic systems should be capable of being manually activated at clearly identified manual alarm activation points at convenient and safe locations near work areas
- an alarm signal distinguishable from other signals to allow ready recognition, and be clearly audible throughout the storage location and premises
- where high noise levels or the use of PPE may prevent the recognition of an alarm signal, an effective alternative alarm system is also installed, such as a visual system
- the system remains operable when the main power supply fails.

Further advice is provided in AS 1603 *Automatic fire detection and alarm systems* (all parts), and AS 1670 *Fire detection, warning, control and intercom systems* (all parts).

12.5 Fire fighting equipment

All fire protection and detection equipment should conform to appropriate Australian Standards

12.5.1 Compatibility with equipment used by the fire brigade

Equipment such as couplings, fire fighting media, hose reels, hydrants and monitors should be selected and installed in consultation with the fire brigade to ensure compatibility.

Check the following:

- fire fighting equipment at the premises is capable of being used with the equipment used by the fire brigade, without adaptation or modification (eg all fittings and couplings need to be compatible)
- the pressure ratings of fire mains and ancillary equipment are consistent with the pressures that may be imposed by the connection of the fire brigade's equipment
- fire fighting foam or any special fire protection medium, if used, is compatible with the fire fighting media used by the fire brigade.

12.5.2 Location of fire fighting equipment

Fire fighting equipment should be located to achieve the following:

- all dangerous goods and other items being protected can be directly reached by the fire fighting medium, with particular attention to high rack storage
- it is readily accessible in the event of an incident, preferably adjacent to exit doors or on exit routes
- it is in a conspicuous position.

12.5.3 Identification of fire fighting equipment

All fire fighting equipment should be marked and labelled in conformity with the relevant Australian Standard.

Where necessary to assist with the identification of fire fighting equipment and location, additional signs should be installed, in conformance with *AS 1319 Safety signs for the occupational environment*.

12.6 Equipment that may be needed

12.6.1 Fire hose reels

Fire hose reels should conform to AS 1221 and be installed to AS 2441, and to the requirements of the fire brigade and the *Building Code of Australia*.

Locate sufficient hose reel systems so that:

- there is one on every storey of a building used to store and handle dangerous goods where the total floor area exceeds 300 square metre
- every location in the building can be reached by at least one hose, allowing for all obstacles
- it is possible to reach all installations, including the top of rack storage.

Provide hose reels with the following:

- a sufficient hose length
- conspicuous signage (including the type if foam is used)
- protection by a cabinet or other means, if the hose reel is in an environment where it may be damaged.

12.6.2 Fire hydrants

Fire hydrants can be substituted for the hose reels identified in section 12.6.1 above. However, this is not appropriate in situations where only a single person is available to operate the equipment (including offices, hospitals and one person operations).

The hose connections for fire hydrants must have fittings that allow connection to the fire brigade's mobile appliances without the need for adaptors.

Guidance for the selection, installation and location of fire hydrants can be found in AS 2419 *Fire hydrant installations* (all parts). Where flammable or combustible liquids are stored and handled detailed guidance can be found in AS 1940 (see section 1.7).

Hydrants should be equipped with hose, branch and nozzle, except where it is not appropriate and prudent to do so, such as where susceptible to theft or where there are no personnel properly trained to operate them.

Hydrants external to buildings should provide appropriate coverage and be located convenient to exit doors and easily visible, with appropriate identification signs.

12.6.3 Monitors

Monitors may be appropriate where fire control requires large quantities of fire or cooling water to be directed at a fixed installation, with minimum exposure of fire fighters.

The following factors should be taken into account when specifying and locating monitors:

- the design water flow capacity – an allowance on 50% over any calculated capacity should be provided to take into account potential adverse wind conditions
- the type of nozzle that is required, such as fixed or variable and the need to supply foam as well as water
- the location relative to the installation being protected
- the anticipated heat flux at the monitor location – in situations where the heat flux is likely to exceed 2 kW/m^2 the provision of radiant heat protection for personnel operating the monitor should be considered.

Monitors should be installed in accordance with the manufacturer's specifications and would normally be located 15-30 metre from the facility to be protected. If monitors are required to be closer to the facility, or where the expected heat flux is excessive, protection of personnel should be taken into account. This would normally necessitate the provision of remote control.

12.6.4 Automatic sprinkler systems

Where fire sprinkler systems are required, they should be installed in accordance with AS 2118 *Automatic sprinkler systems* (all parts).

Where foam systems are required, the advice of suppliers and the fire brigade, or other guidance, may be necessary.

12.7 Portable fire extinguishers

12.7.1 Principles

Portable fire extinguishers should be suitable for the fire risks involved, in conformance with appropriate Australian Standards.

Check the following factors for fire extinguishers:

- located in a readily accessible position
- identified so they are clearly visible
- protected (eg from vehicle collision)
- unobstructed and readily available
- not adversely affected by hazardous or climatic conditions
- regularly inspected, serviced, pressure tested and recharged as necessary (see the manufacturer's or supplier's instructions).

12.7.2 Location of fire extinguishers

Extinguishers should be wall mounted on a hook or bracket, or an unlocked cabinet, at a suitable height and with signage. Where the extinguisher could be subject to unauthorised interference, the cabinet may be locked providing it has a glass panel that can be broken to remove the extinguisher in the event of a fire.

All storage areas of dangerous goods need protection, but the number of extinguishers necessary will be greater for fire risk goods.

AS 2444 *Portable fire extinguishers and fire blankets – selection and location* provides further guidance.

12.7.3 Suitability of extinguishers

Foam extinguishers should be suitable for the particular dangerous goods. As examples:

- alcohol compatible foam should be used for alcohols or other water miscible solvents (eg polar solvents)
- carbon dioxide extinguishers may protect electrical equipment, and will minimise clean up and damage to equipment, but have a poor “knock-down”, short discharge range, and may be ineffective where there is significant air movement – dry powder or vaporising liquid may be more effective
- carbon dioxide and acidic extinguishers, such as those based on ammonium phosphate, should not be used where cyanides are present
- carbon dioxide should not be used on fires involving magnesium or titanium metals.

Where powder type and foam extinguishers are likely to be used together, they should be compatible.

12.8 Responding to failure of the fire protection system

Emergency plans should include a consideration of requirements in the event of a failure of fire protection equipment.

In the event that any of the components of the fire protection or fire fighting equipment are rendered inoperative, the occupier must ensure the following:

- (a) the implications of the inoperability are assessed;

- (b) alternative measures are taken to control, to the same level of effectiveness, those risks that were controlled when the equipment was functioning fully;
- (c) action is taken to return this equipment to full operation. (OHS Regulation sub-clause 174ZC(2)).

In determining the alternatives under item (b) above, the occupier must have regard to the need for all of the following:

- i. provision of alternative fire protection measures;
- ii. reduction of the quantities of dangerous goods;
- iii. stopping or limiting the processes used for the storage and handling of dangerous goods;
- iv. modifications to systems of work. (OHS Regulation sub-clauses 174ZC (4) and (4)).

Examples of alternative actions that should be considered to control the risks during the inoperable period include the following:

- ceasing all or part of the work or operations in the area affected by the failure if the risk is high
- providing temporary fire protection systems or equipment until repairs are completed
- in a simple case, such as failure of a fire extinguisher or a hose reel, the equipment should be serviced or replaced.

If the effectiveness of the fire protection system has been significantly reduced, the occupier must notify the Fire Brigade of the condition of the system (clause 174ZC(3)). Determination of "significantly reduced" should be based on the risk assessment and emergency plan. For example, one faulty portable fire extinguisher in an area where normally three are provided would not be a "significant reduction". Advice should be obtained from the fire brigade on alternative protection measures.

Prompt steps should be taken to ensure that the faults are corrected and the system brought back into full operation.

12.9 Maintenance

Fire protection systems and equipment should be inspected and tested at regular intervals to ensure that it is always fully operational.

All fire protection equipment should be properly maintained. Various parts of AS 1851 *Maintenance of fire protection equipment* provides further advice on maintenance and inspection.

CHAPTER 13 – TRANSIT AND TEMPORARY STORAGE

Practicable measures need to be adopted to control risks where dangerous goods are kept temporarily. This chapter provides advice on temporary storage and transit storage for any quantity above the placard quantity in appendix 2 (which includes all bulk containers).

13.1 Temporary storage areas

Temporary storage is short-term storage where the dangerous goods are held at a location, outside of the usual storage area, while awaiting further transfer, held in an area waiting for loading onto a vehicle, or following delivery (unloading). This applies to premises where other dangerous goods are permanently stored and handled, other than for the purposes of transport (ie other than transit storage).

Examples of temporary storage include the following:

- awaiting loading for dispatch after removal from the usual storage area (e.g. being assembled into transport loads)
- being placed into storage after receipt and unloading
- infrequent short-term storage after delivery prior to dilution for use, or consumption during use
- transfer between areas within a premises for a specific purpose such as manufacturing
- loaded onto a vehicle, vessel or aircraft prior to or after transport.

The quantities of dangerous goods in a temporary storage location, and the duration of the storage, should be kept to a minimum.

Control measures should ensure that an incident occurring in a temporary storage location is not likely to adversely affect the permanent storage or process area, or any other operations. Risks to other storage and handling areas should be considered.

Consider the need for the following precautions within the temporary storage area:

- appropriate segregation
- readily available equipment for containment and clean-up of spills and leakages
- emergency response as part of the plan for the premises (chapter 14)
- PPE for personnel in the area
- fire protection as part of the fire protection system for the premises (chapter 12).

13.2 Transit storage areas

Transit storage is defined in section 1.10 and refers to temporary storage of dangerous goods during transport where the goods will not be at a premises where dangerous goods are stored or handled, other than as part of the process of transport.

Transit storage refers to loads on vehicles or wagons, where the dangerous goods that comprise the load comply with the relevant transport legislation and code (whether for road, rail, air or sea). Transit storage would include vehicles at ports, rail yards and truck depots.

To apply the transit storage provisions, all of the following conditions at the premises must be met. The dangerous goods:

- (a) are part (or all) of a transport load in compliance with the relevant transport code including the provision of shipping documents;
- (b) are loaded on a vehicle, vessel or aircraft, or being transhipped from one to another vehicle, vessel or aircraft;
- (c) will not be at the premises for more than five working days (excluding public holidays);
- (d) will not be consumed or processed at the premises;
- (e) are not intended for sale at the premises.

Transit storage areas are where dangerous goods are not kept permanently during transport, while awaiting further transport or being re-assembled into transport loads, for example at ports, rail yards, airports or truck depots. This does not apply to premises where dangerous goods are manufactured or stored, since these have additional risks, for example where the goods are unloaded for storage or use.

Examples of transit storage include the following areas:

- inside a building (eg a transport depot) where packages or intermediate bulk containers are transferred
- outdoor, where loaded freight or tank containers are held prior to transport
- where loaded vehicles (including trailers and rail wagons) are held during transit, such as ports, rail yards or truck depots.

13.3 Placarding for transit or temporary storage

Additional placards are not required for transit storage since the load is placarded.

If dangerous goods are frequently kept temporarily at a location on the premises in quantities above the placard threshold then placarding is required (see chapter 15).

13.4 Control measures for transit and temporary storage areas

Ensure the following control measures are implemented for transit storage:

- (a) The length of time that dangerous goods are held does not exceed five consecutive working days (apart from public holidays).
- (b) All dangerous goods that are assembled in loads ready for transport are packaged or contained, marked, stowed, secured, placarded, segregated and documented in accordance with the ADG Code.
- (c) Incompatible dangerous goods are segregated according to the particular transport mode in the ADG Code.
- (d) Dangerous goods are kept apart from foodstuffs (including stock feed) so as to avoid any potential contamination.
- (e) Control ignition sources where relevant to fire or explosion risk.
- (f) Suitable fire protection is provided.
- (g) Materials for localising, controlling and cleaning up spills or leakages are readily available.
- (h) Precautions for the transit storage in the relevant Class or type specific Australian Standard should be observed – for example, advice for flammable liquids is provided in section 3.9 of Australian Standard AS 1940.

CHAPTER 14 – EMERGENCY PLANS, PREPAREDNESS AND PROCEDURES

The purpose of the emergency plan is to minimise the effects of any incident or serious incident that may occur and involve the dangerous goods. Typical incidents include a loss of containment of the dangerous goods or when control measures have failed.

In this chapter, the term “incident” includes a “serious incident” (see the definitions in section 1.10). Examples would be a loss of containment of the dangerous goods leading to a spread of liquid or vapour through the premises and possibly into adjacent premises or public places.

14.1 Legal obligations

An employer or self-employed person must make arrangements for emergencies (regardless of the size of the premises or quantities of dangerous goods), in relation to the matters over which they have control (clause 17 OHS Regulation).

Where the quantity of dangerous goods at the premises exceeds the “Manifest quantity” in column of schedule 5 of the OHS Regulation (see appendix 2), then occupiers must prepare a *written* emergency plan and review this at least every five years (OHS Regulation clause 174ZD). At these quantities, a manifest must be prepared and WorkCover must also be notified (see chapter 16).

14.2 Developing the emergency plan

The emergency plan for the premises should be developed using the risk assessment as a basis for determining the requirements at the premises, and a consideration of a response to the incidents (including serious incidents) that could occur. It may be appropriate to develop this in conjunction with the plan for fire protection (see chapter 12).

Essential considerations when developing the emergency plan, prior to determining the contents (see section 14.3 below) are as follows:

(a) Arrangements must be made for all of the following:

- the safe and rapid evacuation of persons
- emergency communications
- appropriate medical treatment of injured persons.

(b) At a fixed place of work, the following must be provided:

- adequate arrangements for shutting down and evacuation in the event of an emergency
- details of the arrangements for evacuation kept on display in appropriate locations
- one or more persons appointed and appropriately trained to oversee any such evacuation and, if appropriate, the use of on-site fire fighting equipment.

(c) In making the arrangements in (b) above, the following characteristics of the place of work must be taken into account:

- the nature of the hazards present
- the size and location
- the number, mobility and capability of persons present.

(d) The plan should consider all of the following:

- the worst-case credible scenario (ie the most serious incident possible)
- the more likely events (all possible incidents)
- sufficient flexibility so that an emergency response can be varied or graduated according to the severity and type of incident
- an individual plan if necessary for each building or storage location at the premises.

14.3 Contents of the emergency plan

The written emergency plan should include the matters described in the following table, based on the considerations in section 14.2.

Contents of the emergency plan

Topic	Details
Site and hazard information	<ol style="list-style-type: none"> 1. Name, location, address and nature of operations. 2. Detailed map of the facility and surrounding area. 3. Inventory of dangerous goods at the site (this could be a copy of the manifest or register). 4. Maximum and minimum number of persons expected at the site. 5. Infrastructure likely to be affected by a serious incident. 6. Emergency planning assumptions. 7. Description of measures to control the consequence of each hazard and major incident.
Command structure and personnel	<ol style="list-style-type: none"> 8. Details of emergency contact personnel. 9. Allocation of personnel for implementing the plan. 10. Arrangements for "mutual aid" between adjacent premises.
Notifications	<ol style="list-style-type: none"> 11. Procedures for providing early warning or alarm of an incident. 12. Details of on-site and off-site warning systems. 13. Contact details for the emergency services. 14. Details of on-site communications systems.
Resources	<ol style="list-style-type: none"> 15. Details of emergency resources on-site. 16. Arrangements for obtaining additional external resources.
Procedures	<ol style="list-style-type: none"> 17. Procedures for safe evacuation and mustering of personnel. 18. Details of control points and procedures for essential services. 19. Procedures for containment of any incident. 20. Procedures for decontamination following an incident.

Australian Standards relevant to the Class of dangerous goods stored also provide guidance on emergency plans (eg Appendix N of AS 1940).

14.4 Developing the plan (premises above manifest quantities)

This section applies if the quantities of the dangerous goods stored and handled on the premises exceed the "Manifest Quantities" shown in Appendix 2.

In developing the emergency plan, the advice of the fire brigade must be sought – a copy must be lodged with the Commissioner of the NSW Fire Brigades (ie at a central point and not with the local fire brigade). Regard must be had to any written advice from any emergency service.

If an emergency may impact beyond the perimeter of the premises, the persons with control of adjacent premises should be consulted about how the plan would be implemented, especially any requirement for the evacuation of persons from the premises.

It may also be necessary to consult with the local counter-disaster organisation and other authorities responsible for environment and planning as well as local government to ensure consistency with emergency planning legislation – eg State Emergency Disaster Plans ('DISPLANS').

14.5 Implementing, communicating and maintaining the plan (premises above Manifest quantities)

This section applies if the quantities of the dangerous goods stored and handled on the premises exceed the "Manifest quantities" shown in Appendix 2.

14.5.1 Communicating the plan

The contents of the emergency plan must be communicated to all people who may be exposed to a risk as a result of a serious incident (emergency), including the following:

- employees
- contractors and sub-contractors who may be present from time to time
- persons in control of adjacent premises to the extent that it is relevant.

The plan should be in a readily accessible and understandable form. It may need separate sections applicable to each group above and made relevant to their circumstances. This could be either a hard copy or in a computer format. The location of the emergency plan should be known to supervisors, contractors and employees, and discussed with emergency services whenever there is a review or update. A copy should be made available to the fire brigade and other relevant emergency services.

14.5.2 Reviewing the plan

The occupier must review the emergency plan:

- if there is a change in circumstances at the premises or adjacent premises so that the plan no longer complies
- at intervals of not more than 5 years from the date on which the plan was developed or last reviewed.

The emergency plan should be tested once devised and then after each modification and at regular intervals. Simulated emergencies and other exercises should systematically attempt to involve all people likely to be involved in a serious incident or incident. These exercises should include practical drills.

Plans should be updated when any of the following occurs:

- there is a change in circumstances on or off the premises leading to a change in risks
- updated information on risks becomes available
- a deficiency in the plan is identified.

14.6 Emergency procedures

Emergency procedures should be developed to cover all foreseeable emergencies such as the following:

- fires and explosions
- spillages of dangerous goods
- release of gas or vapour
- uncontrolled reactions
- risks external to the actual dangerous goods (such as a fire on adjacent premises or vehicle collision).

The procedures should be brief and displayed in a sign or made readily available (eg as a pocket card for workers – see appendix 6).

The procedures required will depend on the nature of the premises. However, as a minimum they should describe procedures for:

- raising the alarm
- contact details of emergency services (eg Fire Brigade and/or Ambulance), and/or local council or Department of Environment and Conservation
- immediate actions to be taken by the worker.

14.7 Emergency equipment – escape of dangerous goods

Equipment required to contain and clean up any escape, spill or leak of dangerous goods must be kept on the premises and be accessible at all times (OHS Regulation clauses 174ZE).

Consider the need for the following items:

- over packs such as oversized drums for containing leaking packages
- absorbent material (suitable for the goods likely to be spilled)
- booms, plates and/or flexible sheeting for preventing spillage from entering drains and waterways
- neutralising agents such as lime or soda ash
- suitable pumps and hoses for removal of spilled liquids
- hand tools such as mops, buckets, squeegees and bins
- suitable PPE for the workers undertaking clean up or other emergency related tasks such as closing valves.

Establish a procedure for the regular checking, maintenance and replenishment of this equipment to ensure it is serviceable.

14.8 Responding to an emergency

Immediate action should be taken to assess and control any risk associated with an emergency, including fire protection.

Only people who are essential to the tasks of assessing and controlling the risk associated with the emergency should be permitted to remain in the vicinity of the emergency. The procedures and plan should specify those essential personnel.

Serious incidents, emergencies and other incidents should be investigated – see advice in chapter 2, sections 2.11 and 2.12, of this Code of practice.

CHAPTER 15 – PLACARDING AND SIGNAGE

15.1 Application

This chapter applies to premises where dangerous goods are stored or handled in quantities in bulk, or in packages above the “Placarding quantity” in Appendix 2. This includes dangerous goods in process vessels. The legal obligations for placarding are contained in clauses 174ZJ to 174ZM of the OHS Regulation.

Transit storage locations do not require placarding since the load or vehicle signs and placards are sufficient.

15.2 Principles

Placards provide visual warning of the hazards associated with the storage of dangerous goods at the premises. This is particularly important for emergency services such as the fire brigade.

Placards must be displayed if the dangerous goods are stored in bulk, or in packages over certain quantities – see the “placarding quantity” and rules in Appendix 2. To determine this, the total quantity of dangerous goods on the premises of each class, sub-class and packing group needs to be calculated, as well as the quantities in each storage location. Individual vehicles parked while loaded for transport should be included in the calculations of the quantities, unless the dangerous goods are in transit (see the definition of “transit”).

Placards are of three types:

- an “outer” warning placard, known as the “HAZCHEM” placard, on the outside approaches to the premises
- placards at each location of dangerous goods in bulk (eg tanks)
- placards at each location where packages stored and handled.

Placards are not required in the following circumstances:

- in an IBC or bulk container intended for transport and marked in accordance with the ADG code
- C1 combustible liquids in a quantity not exceeding 10,000 litres
- dangerous goods of Class 2.1 or 3, or combustible liquids stored in an underground tank at a retail outlet where the goods are used to refuel vehicles (eg at a service station)
- dangerous goods in transit, since a sufficient placard or marking is provided under the appropriate transport code (C1 does not require a placard for transport).

Placards must be kept legible and unobstructed. Placards need to be visible from all normal approaches to the storage location, and/or the main entrance. This is so that the placards are readily visible to emergency services when approaching the location where the goods are stored or handled.

15.3 Types of placards

15.3.1 Outer warning placards

The premises must be marked by a “HAZCHEM” Outer Warning Placard if the *total* quantity of dangerous goods stored or handled at the *premises* exceeds the “Placarding Quantity” on the premises for any item shown in appendix 2. An outer placard may be needed even when no specific storage location in the premises requires a placard.

These Outer Warning Placards must be displayed at all road and rail entrances to the premises where emergency services may gain entry. Usually this will be at the main road entrance. However, if the premises consists of buildings back from the street, such that the placard at the street entrance would be not be effective, the Outer Warning Placard should be displayed at each entrance of the building that may be used by the emergency services. If in doubt, consult with the fire brigade about the location.

15.3.2 Bulk storage

Placards are required for each bulk storage location, even where the quantity does not exceed the "placard quantity" in appendix 2.

The quantities defining "bulk" are:

- for gases – a container of more than 500L "water capacity" (usually a tank)
- for liquids – a container of more than 450L capacity (or a mass of more than 450Kg)
- for solids – more than 450kg (or more than 450L container capacity), which includes uncontained solids such as a pile on the ground.

Placards for bulk storage are essentially the same as the full size Emergency Information Panel (EIP) required by the ADG code for bulk transport, with the emergency contact details removed. A bulk container, vehicle or an IBC marked in accordance with the ADG code is acceptable (apart from combustible liquids).

The placard must be located on or adjacent to the bulk container (such as a tank) or storage. Underground tanks and the associated pipework do not require a placard if at a retail service station.

Examples of placards and the dimensions are shown in Appendix 3.

15.3.3 Packaged dangerous goods

Placards must be displayed on or near each storage location for packaged dangerous goods, if the quantity in the storage location exceeds the "placard" quantity specified in appendix 2. This quantity should be calculated as the maximum likely (rather than as a minimum) and include factors such as a possible extra load delivered to meet peak demand or before a holiday.

The groupings of Classes, Sub-risks and compatibilities of packages in each storage location are dictated by the principles of separation and segregation (see section 8.7 of this Code of practice).

For existing stores of packaged dangerous goods, the signs required under the previous regulations for dangerous goods are usually sufficient.

The Class label (and/or mixed Class labels) should be grouped together. Grouping need not be in a horizontal line – it can be vertical or diagonal. If there is regular variation in the type of dangerous goods it may be convenient to use frames for slip-in/slip-out labels (eg the type commonly used on vehicles). Vehicles and loads marked in accordance with the ADG Code placards are acceptable.

CHAPTER 16 – MANIFESTS AND NOTIFICATION OF PREMISES TO WORKCOVER

16.1 Application

This chapter describes additional requirements for premises where dangerous goods are stored and handled in relatively large quantities, above the “Manifest quantities” in Appendix 2. A written emergency plan in is also required at these levels (see chapter 14).

16.2 Preparing a manifest and plan of the premises

16.2.1 Legal requirement

A manifest must be prepared when the quantity of dangerous goods on the premises exceeds the quantities listed in schedule 7 of the OHS Regulation (see appendix 2 for quantities, and details of the contents in appendix 4), as required by clause 174ZN of the OHS Regulation. The manifest covers the whole premises.

This includes goods loaded onto vehicles, except dangerous goods in transit since there are shipping documents.

The manifest must be readily available to the emergency services and an inspector.

16.2.2 Purpose of manifests

The purpose of the manifest is to provide emergency services with information on the quantity, type and location of dangerous goods on the premises, to enable them to respond appropriately in a serious incident.

The manifest could also serve the purpose of the list of dangerous goods for the Register (see section 3.5), and form the basis for notification to Workcover (see section 16.3).

16.2.3 Location of the manifest

The manifest must be kept on the premises in a place easily accessible to the emergency services. It should be located near the Outer Warning Placard at the front of the premises (see chapter 15), unless otherwise agreed with the fire brigade. It should be housed in a holder of substantial waterproof construction. Typically this would be at the main vehicular entrance to the premises.

16.2.4 Contents of the manifest

The manifest is a document that includes the following information:

1. general information – the name of the occupier of the premises, the address of the premises, and the date when the manifest was prepared or last amended
2. emergency contact information for at least 2 people who may be contacted in the event of a serious incident
3. a summary information about the classes and Packing Groups (if any) of the dangerous goods at the premises
4. information about dangerous goods stored in bulk, other than IBCs
5. information about packaged goods and IBCs
6. information about dangerous goods in processes such as manufacture

7. dangerous goods loaded onto vehicles, vessels or aircraft (except when in transit)
8. a plan of the premises.

For dangerous goods in transit, items 3, 4 and 5 may be in the form of shipping documents (as provided by the ADG Code).

The manifest must be revised when there is a change in any of the above information.

Details of the contents and a sample manifest are provided in appendix 4.

16.2.5 Plan of the premises

The purpose of the plan is to identify the places, buildings and structures on the site where the dangerous goods are stored or handled. It should be easy for emergency personnel to read and considered when the emergency plan is being developed (see chapter 14). The plan can also be used as a tool in the risk assessment process. The items included on the plan should be relevant to the risks and include matters significant to the emergency response. For example, the drains included on the plan should be those related to spill control or those along which spilt liquids or gases could travel. Underground sewer pipes, for example, would not be relevant.

The plan should be on a scale that adequately illustrates the details required.

Details of the requirements and an example are provided in Appendix 4.

16.3 Notifying details of your premises to Workcover

Information provided to WorkCover is kept on an electronic database that enables the fire brigade to access information on sites during emergencies. This includes access to information about the hazards in premises adjacent to or near a fire so that an appropriate response can be quickly developed.

The occupier of premises where dangerous goods are stored and handled in quantities that exceed, or are likely to exceed, the relevant quantities specified in the column headed "Manifest quantities" in the table in Appendix 2 of this Code of practice (schedule 5 of the OHS Regulation), must ensure WorkCover is notified.

The quantity is the total quantity on the premises, including that loaded onto vehicles. This does not apply to dangerous goods in transit.

This must be done within 14 days of the obligation arising, with a further notification at least every year.

The information that must be provided to WorkCover includes:

- the name of the occupier
- the address of the premises where the dangerous goods are stored and handled
- the occupier's contact details
- the nature of the principal activities involving the dangerous goods
- the Class and maximum quantity of the dangerous goods stored and handled in bulk or as packaged dangerous goods
- descriptions, details and maximum quantity of any C1 combustible liquids stored and handled in bulk or as packaged dangerous goods
- the product name and the maximum quantity of goods too dangerous to be transported.

Notification forms can be obtained from WorkCover that will guide you through the details of the information required – phone 13 10 50 or look at the WorkCover web site – www.workcover.nsw.gov.au. The form is known as the Dangerous Goods Notification Form DGN 1.

Requirements and procedures for notifying incidents to Workcover are provided in chapter 2, sections 2.11 and 2.12.

CHAPTER 17 – TRAINING

Training programs should be developed and assessed in consultation with employees. Training needs should be identified in the risk assessment process.

17.1 Induction training

All new employees must receive induction training covering the following elements (OHS Regulation clause 13(1)):

- arrangements for the management of occupational health and safety, including arrangements for reporting hazards to management
- health and safety procedures relevant to the work of the employee, including the use and maintenance of risk control measures
- how to access any health and safety information that the employer is required to make available to each employee
- any other induction training relevant to the place of work, having regard to the competence, experience and age of the new employee.

17.2 Training topics

Consideration should be given to the following topics in training, as a minimum, where relevant to the job:

- (a) The types and quantities of dangerous goods and combustible liquids at the premises, work location, and the correct manner in which they are stored and used.
- (b) Safe work methods to be used on the job, including matters described in this Code of practice.
- (c) The safe use of any tools, plant and associated equipment, and dangerous goods or hazardous substances to be used on the job, such as fire protection measures and eliminating sources of ignition.
- (d) Administrative procedures for controlling risks, such as ensuring permit to work systems are followed.
- (e) The correct use, care and storage of personal protective equipment (PPE) including any relevant hygiene issues.
- (f) Dust, gas and fire risks that may be present and the controls adopted, including procedures to follow if equipment such as dust extraction fails.
- (g) Hazardous areas and restrictions on ignition sources, especially vehicles and portable items.
- (h) Recognition of plant failures or other system failures that could lead to an escape of dangerous goods.
- (i) Emergency and evacuation procedures (including recognising the fire alarm, fire fighting measures and the location of fire fighting equipment and other emergency equipment), confined spaces entry procedures and rescue of entrapped persons.
- (j) How to observe any administrative controls, such as restrictions on entry into areas, and warning signs, including signs attached to containers, controls or valves.
- (k) The dangerous goods classification or hazardous substances classification (if any) of substances used, stored or handled; and any other relevant safety, or health risks (eg dusts or emissions) arising from work, handling or storage.
- (l) Security measures, signs and procedures (see also section 2.12).

- (m) The dangers of the containers of dangerous goods as confined spaces, and the confined spaces entry procedures (if entry is planned, or could be required for emergency rescue).
- (n) How to access health and safety information, such as the register and/or the manifest, reading labels, signs, placards, and material safety data sheets.

The risk assessment process may indicate other training topics that are relevant and necessary.

17.3 Outcomes of training

The outcomes of training include the ability of workers to demonstrate an understanding of the following matters, where relevant to the particular job:

- an understanding of the dangerous goods classification system
- safe work practices relating to the storage and handling of dangerous goods at the premises
- how to interpret information provided on labels, signs and placards
- how to locate a Material Safety Data Sheet (MSDS) and how to use this information, and where to obtain any other relevant information
- the nature of the hazards and risks associated with the duties being performed
- measures used to control the risks and how to apply these
- proper use, cleaning and replacement of PPE
- emergency procedures
- first aid and incident reporting procedures to be followed in the case of illness, injury, incident or serious incident.

17.4 Reviewing training

To ensure training remains effective, it should be reviewed regularly to identify any need for further training. Employees should be consulted so they can help identify training needs.

Training should be reviewed when the risk assessment is reviewed (see chapter 7).

Information, instruction and training should be evaluated to ensure that the content is clearly understood by workers. Evaluation could take the form of on-the-job observation and through consultation. Refresher training should be provided as required.

17.5 Training records

Records of training must be kept for 5 years, in a suitable form, for those employees who are likely to store or handle dangerous goods (OHS Regulation, clause 174ZV).

APPENDIX 1 – NON-WORKPLACES – QUANTITIES ABOVE WHICH THIS CODE OF PRACTICE APPLIES

The quantities in the following table are the quantities above which this Code of Practice and the OHS Regulation apply to non-workplaces.

Class and type of dangerous goods	Threshold quantity above which OHS legislation applies
Liquefied Petroleum Gas (LP Gas) in cylinders (being dangerous goods of Class 2.1)	500 L water capacity of containers
Class 2.1, other than LP Gas (eg acetylene in cylinders)	200 L water capacity of containers
Class 2.2 (eg oxygen or air in cylinders)	300 L water capacity of containers
Class 2.3 (eg pesticide gas)	any quantity (ie this code of practice applies to a non-workplace where any class 2.3 is stored or handled)
Class 3, not in Packing Group 1 (eg petrol, kerosene)	100 L
Pool chlorine (ie solid pool chlorine of Class 5.1)	100 kg
Sodium hypochlorite designated by UN number 1971 (ie liquid pool chlorine of Class 8)	100 L
Class 9	100 kg
Any Class of dangerous goods in Packing Group 1	5kg or 5 L
C1 Combustible liquids (eg diesel fuel)	1,000 L
Any other dangerous goods not covered above	100 kg or 100 L

Notes:

- for gases the volume is the water capacity of the container (such as a cylinder) in litres, and not the total volume of gas when released from pressure
- where the quantity is expressed as litres or kilograms, the number of litres or kilograms when added must not exceed the overall threshold for either litres or kilograms.

APPENDIX 2 – QUANTITIES AT WHICH NOTIFICATION, PLACARDS AND MANIFESTS ARE REQUIRED UNDER SCHEDULE 5 OF THE OHS REGULATION.

1. For the purposes of the Table below, the placarding quantity or manifest quantity is equal to the total of the quantities determined in accordance with items 2 and 3.
2. In relation to:
 - (a) packaged dangerous goods in a container that are:
 - i) non-liquid dangerous goods (other than Class 2 dangerous goods) – the quantity is to be determined by the net mass in kilograms of the goods in the container,
 - ii) liquid dangerous goods (other than Class 2 dangerous goods) – the quantity is to be determined by the net capacity of the container,
 - iii) Class 2 dangerous goods – the quantity is to be determined by the water capacity of the container, and
 - (b) dangerous goods in bulk that are:
 - i) non-liquid dangerous goods (other than Class 2 dangerous goods) – the quantity is to be determined by the mass in kilograms that the container is designed to hold,
 - ii) liquid dangerous goods (other than Class 2 dangerous goods) – the quantity is to be determined by the design capacity of the container in litres,
 - iii) Class 2 dangerous goods – the quantity is to be determined by the water capacity of the container,
 - iv) solid dangerous goods not in a container – the quantity is to be determined by the undivided mass in kilograms, and
 - (c) dangerous goods that are articles or things – the quantity is to be determined by the net quantity of that part of the article or thing that is in itself dangerous goods.
3. In the table below, kg or L means, where this combination of letters immediately follows numbers, the combined total of:
 - (a) the number of kilograms of non-liquid dangerous goods (other than Class 2 dangerous goods), and
 - (b) the number of litres of liquid dangerous goods (other than Class 2 dangerous goods), and
 - (c) the water capacity of containers of Class 2 dangerous goods,in accordance with item 2.
4. For the purposes of the Table below, separately, in relation to the storage or handling of dangerous goods separately from other dangerous goods, means the physical separation of the dangerous goods from other dangerous goods, by either distance or a physical barrier.

Table

Group	Description of dangerous goods	Packing Group	Placarding quantity	Manifest quantity
1	Class 2			
	Class 2.1	Not Applicable	500 L	5,000 L
	Class 2.2, Subsidiary Risk 5.1	Not Applicable	2,000 L	10,000 L
	Class 2.3	Not Applicable	50 L	500 L
	Aerosols	Not Applicable	5,000 L	10,000 L
	Cryogenic fluids	Not Applicable	1,000 L	10,000 L
2	Class 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1 or 8	I	50 kg or L	500 kg or L
		II	250 kg or L	2,500 kg or L
		III	1,000 kg or L	10,000 kg or L
		Mixed Packing Groups in a single Class with the quantity of each Packing Group below the specified quantity for the Packing Group.	1,000 kg or L	10,000 kg or L
3	Class 9	II	1,000 kg or L	10,000 kg or L
		III	5,000 kg or L	10,000 kg or L
		Mixed Packing Groups in Class 9 with the quantity of each Packing Group below the specified quantity for the Packing Group.	5,000 kg or L	10,000 kg or L
4	Mixed Classes of dangerous goods where none of the Classes, types or Packing Groups (if any) present exceeds the quantities specified for the relevant quantity in Item 1, 2 or 3 of this Table.	Not Applicable	5,000 kg or L – The quantity applies only if the placarding quantity for an individual Class that is present is 5,000 kg or L. 2,000 kg or L – The quantity applies only if the placarding quantity for all of the Classes present is 2,000 kg or L or less.	10,000 kg or L

5	C1 combustible liquids stored or handled with fire risk dangerous goods where none of the Classes, types or Packing Groups (if any) present exceeds the quantities in Items 1, 2 or 3 of this Table.	Not Applicable	1,000 kg or L	10,000 kg or L
6	Goods to dangerous to be transported that are not kept in a laboratory.	Not Applicable	Any quantity	Any quantity
7	C1 combustible liquids in bulk stored and handled separately from other dangerous goods.	Not Applicable	10,000 L	100,000 L
	C1 combustible liquids stored and handled in packages separately from other dangerous goods.	Not Applicable	50,000 L	100,000 L
	C1 combustible liquids in bulk and in packages stored and handled separately from other dangerous goods provided the quantity in bulk is 10,000 L or less.	Not Applicable	50,000 L	100,000 L

Note. For the purposes of item 3 in the Table, where Class 9 dangerous goods do not have a Packing Group assigned to them, they are deemed to be assigned to Packing Group III.

APPENDIX 3 – REQUIREMENTS FOR PLACARDS UNDER SCHEDULE 6

The purpose of this appendix is to illustrate the form of placards required by the OHS Regulation, schedule 6.

Schedule 6 Placarding requirements

(Clauses 174ZJ and 174ZK)

1 Outer warning placard

- (1) The placard must have:
 - (a) the form shown in Figure 1, and
 - (b) dimensions not less than those shown in Figure 1.
- (2) The placard must display the word “HAZCHEM” in red letters not less than 100 mm high and of the style shown in Figure 1, on a white or silver background.
- (3) For the purposes of subclause (2), *red* means the colour Signal Red in accordance with AS 2700S—1996 (R13), *Colour Standards for general purposes—Signal Red*.

Figure 1—Form and dimensions of an outer warning placard



2 Placard for dangerous goods in bulk of Class 2.1, 2.2, 2.3, 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 8 or 9

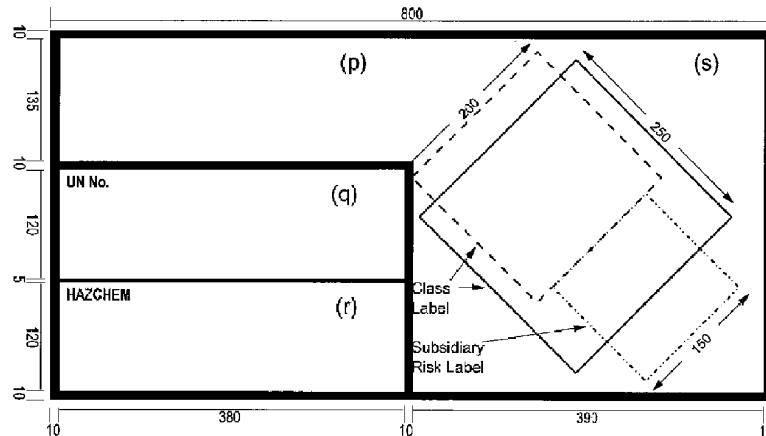
- (1) The placard must have:
 - (a) the form shown in Figure 2, and
 - (b) dimensions not less than those shown in Figure 2.
- (2) The placard must contain the following information:
 - (a) in space (p) in Figure 2, the proper shipping name,
 - (b) in space (q) in Figure 2, the UN Number,
 - (c) in space (r) in Figure 2, the Hazchem Code for the dangerous goods specified in the ADG Code,
 - (d) in space (s) in Figure 2, the Class label and Subsidiary Risk label, if any.
- (3) For the purposes of subclause (2) (d):
 - (a) the Class label and the Subsidiary Risk label, if any, must have the form and colouring specified in the ADG Code, and
 - (b) if there is more than one Subsidiary Risk label, the width of the right hand portion of the placard may be extended.

3 Placard for dangerous goods in bulk that are goods too dangerous to be transported

- (1) The placard must have:
 - (a) the form shown in Figure 2, and
 - (b) dimensions not less than those shown in Figure 2.

- (2) The placard must contain the following information:
 - (a) in space (p) in Figure 2, the name for the goods specified in Appendix 5 of the ADG Code,
 - (b) space (q) in Figure 2 must be left blank,
 - (c) space (r) in Figure 2 must be left blank,
 - (d) in space (s) in Figure 2, the label specified in Figure 4.

Figure 2—Template for a placard for dangerous goods (other than C1 combustible liquids) in bulk



Notes.

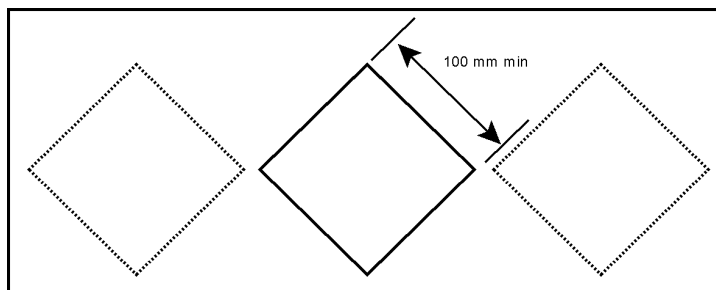
- 1 The numerals and letters used for showing the proper shipping name or name of the goods, UN Number and Hazchem Code must be:
 - (a) black on a white background, except where a letter of the Hazchem Code is white on a black background, and
 - (b) at least 100 mm high, except where the proper shipping name requires 2 lines to be used, in which case the lettering must be at least 50 mm high.
- 2 An Emergency Information Panel of a size and layout in accordance with the ADG Code for the dangerous goods that contains the information required by clause 2 or 3 may be used as a placard for a storage of dangerous goods in bulk instead of the placards referred to in clause 2 (1) or 3 (1).

4 Placard for packaged dangerous goods

- (1) The placard must have the form shown in Figure 3 and be of sufficient size to accommodate the labels to be displayed on it.
- (2) The placard must have a white or silver background.
- (3) The placard must display:
 - (a) for dangerous goods present in the storage location, other than goods too dangerous to be transported:
 - (i) the corresponding Class label for each Class of dangerous goods present in a quantity that exceeds the quantity specified in the column headed “Placarding quantity” in the Table to Schedule 5, and
 - (ii) if the total quantity of mixed Classes of dangerous goods exceeds the mixed Classes quantity specified in Item 4 of the Table to Schedule 5:
 - (A) a Class label for each Class of dangerous goods present that exceeds 50% of the quantity specified for the Class in Item 1, 2 or 3 of the Table, or
 - (B) if no other Class label is required, a mixed Class label, and

- (iii) for C1 combustible liquids and fire risk dangerous goods in an aggregate quantity exceeding 1,000 L— a Class 3 Class label, and
- (b) for goods too dangerous to be transported present in the storage location, the label specified in Figure 4.

Figure 3—Form and dimensions of a placard for storages of packaged dangerous goods



Note. The Class label, mixed Class label and the label required by clause 4 (3) must have sides at least 100 mm long.

APPENDIX 4 – INFORMATION THAT MUST BE CONTAINED IN A MANIFEST UNDER SCHEDULE 7

These details are taken from schedule 7 of the OHS Regulation, which applies to premises where the quantities are above the “Manifest level” shown in appendix 2 of this Code of practice.

These requirements are illustrated in appendix 5 by a “Sample Manifest Form” and a “Sample Plan of Premises”.

The following information is to be contained in a manifest.

1. General information

- (1) The name of the occupier of the premises.
- (2) The address of the premises.
- (3) The date when the manifest was prepared or last revised.

2. Emergency contacts

Contact information for at least 2 persons (or for one person if that person is available at all times) who may be contacted in the event of an emergency for information as to the nature and quantity of dangerous goods likely to be on the premises.

3. Summary information about Classes of dangerous goods

A summary list that specifies the maximum quantity of:

- (a) each Packing Group of each Class of dangerous goods that has Packing Groups, and
 - (b) each Class of dangerous goods that does not have Packing Groups, and
 - (c) C1 combustible liquids, and
 - (d) each type of goods too dangerous to be transported,
- that the premises may store or handle.

4. Dangerous goods stored in bulk other than in IBCs

- (1) In relation to each container (other than an IBC) and each other form of storage of dangerous goods in bulk at the premises:
 - (a) the identification number or code, and
 - (b) the type and capacity.
- (2) In relation to dangerous goods that are:
 - (a) dangerous goods other than C1 combustible liquids or goods too dangerous to be transported – the proper shipping name, the UN Number and Class of the dangerous goods, and
 - (b) C1 combustible liquids – the product name and the statement “Combustible Liquid”, and
 - (c) goods too dangerous to be transported – the name of the goods specified in Appendix 5 of the ADG Code and the statement: “Goods too dangerous to be transported”.

5. Packaged dangerous goods

In relation to each storage location that contains packaged dangerous goods or dangerous goods in IBCs, and that is required to be placarded in accordance with Subdivision 6 of Division 3 of Part 6A.3:

- (a) the identification number or code for the storage location, and
- (b) for dangerous goods of Packing Group I or Class 2.3 that are likely to be kept in the storage location:
 - i) the proper shipping name of the dangerous goods that are assigned to a Class, and
 - ii) the Class, and
 - iii) the maximum quantity of each of the dangerous goods that may be stored or handled in the storage location, and
- (c) for goods to dangerous to be transported that are likely to be kept in the storage location:
 - i) the name of the dangerous goods specified in Appendix 5 of the ADG Code, and
 - ii) the statement "Goods to dangerous to be transported", and
 - iii) the maximum quantity of each of the dangerous goods that may be stored or handled in the storage location, and
- (d) for other dangerous goods that are likely to be kept in the storage location:
 - i) for dangerous goods with an assigned Class – the Class for the dangerous goods, and
 - ii) for C1 combustible liquids – the statement "Combustible Liquid", and
 - iii) in any case, the of each Class and the maximum quantity of C1 combustible liquids that may be stored or handled in the storage location.

6. Dangerous goods in manufacture

In relation to each location where dangerous goods are manufactured:

- (a) the identification number or code of the manufacturing location, and
- (b) for dangerous goods with an assigned Class – the Class of each type of dangerous goods and the maximum quantity of each Class that can be handled in the location, and
- (c) for goods to dangerous to be transported – the statement "Goods to dangerous to be transported", and the maximum quantity of those goods that can be handled in the storage location, and
- (d) for C1 combustible liquids – the statement "C1 combustible Liquid", and the maximum quantity of the C1 combustible liquids that may be handled in the location.

7. Dangerous goods loaded onto vehicle, vessel or aircraft

If, in relation to any dangerous goods loaded onto a vehicle, vessel or aircraft at the premises, there are dangerous goods shipping documents that comply with the ADG Code available for the goods, the information required by clauses 3, 4 and 5 may be provided in the form of a compilation of those shipping documents.

8. Plan of premises

A plan of the premises that:

(a) shows the location of:

- i) the containers and other forms of storage of dangerous goods in bulk referred to in clause 4, and
- ii) the storage locations for the packaged dangerous goods and dangerous goods in IBCs referred to in clause 5, and
- iii) the locations where dangerous goods are manufactured referred to in clause 6, and

(b) includes a description in words of the location of:

- i) the items referred to in paragraph (a), and
- ii) areas where dangerous goods loaded onto a vehicle, vessel or aircraft may be located, and

(c) provides the identification number or code for the items referred to in paragraph (b), and

(d) provides a legend for the identification numbers and codes referred to in paragraph (c), and

(e) shows the location of:

- i) the main entrance and other points of entry to the premises, and
- ii) essential site services, including fire services and isolation points for fuel and power, and
- iii) the manifest, and
- iv) all drains on the site, and

(f) describes the nature of the occupancy of adjoining sites or premises.

APPENDIX 5 – SAMPLE MANIFEST FORM

Dangerous goods and combustible liquids manifest

1. GENERAL INFORMATION

Occupier:

Address of premises:

.....

Date of preparation:

Site Plan Number:

2. EMERGENCY CONTACTS

NAME	POSITION	TELEPHONE
		B/H A/H
		B/H A/H
		B/H A/H

3. SUMMARY INFORMATION ABOUT CLASSES OF DANGEROUS GOODS

Class	Packing Group	Maximum quantity
2.1	NA	3,000 L
3	II	52,000 L
3	III	36,075 L
4.1	I	50 kg
5.1	II	18,000 L
6.1	III	15,000 kg
8	II	14,100 L
C1	NA	29,000 L

4. BULK STORAGE

Tank Id No.	Dangerous goods					Tank	
	Name	Class	Sub Risk/s	UN No.	PG	Type	Capacity
DG T1	Petrol	3	n/a	1203	II	u/g	30,000 L
DG T2	Combustible liquid	C1	n/a	n/a	n/a	u/g	29,000 L
DG T3	LP Gas	2.1	n/a	1075	n/a	a/g	3,000 L
DG T4	Hydrogen Peroxide	5.1	8	2014	II	a/g	18,000 L

u/g — underground

a/g — aboveground

n/a — not applicable

5. PACKAGE STORAGE LOCATIONS**5.1 Packaged dangerous goods of Packing Group I or Class 2.3**

Storage location	Dangerous goods					Quantity	
	Name	Class	Sub Risk	UN No.	PG	Average	Maximum
PS1	Sodium Picramate	4.1		1349	I	20 kg	50 kg

5.2 Other packaged dangerous goods

Storage location	Class	Sub Risk(s)	Packing Group	Average Quantity	Maximum Quantity
PS2	6.1		III	10,000 kg/L	15,000 kg
PS3	3		II	15,000 L	20,000 L
	3		III	15,000 L	25,000 L
	3	8	III	600 L	1,000 L
	C1			15,000 L	20,000 L
	C2			4,000 L	8,000 L
PS4	8		II	8,000 kg/L	12,000 L

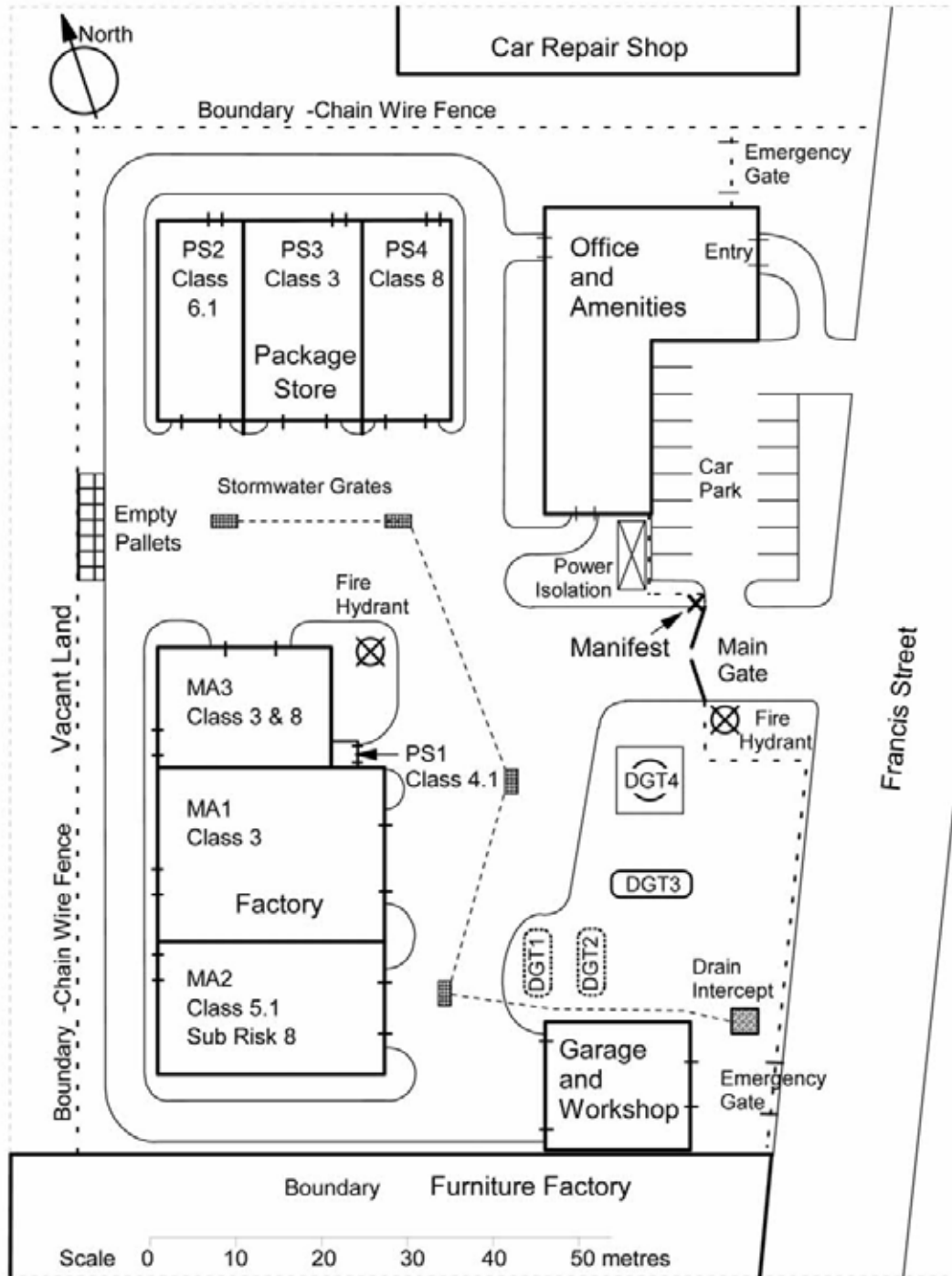
6. MANUFACTURING LOCATIONS

Location	Class	Sub Risk(s)	Packing Group	Max. Quantity
MA1	3		II	2,000 L
	3		III	10,050 L
	C2			2,000 L
MA2	5.1	8	II	1,500 L
MA3	3		II	200 L
	3		III	25 L
	8		II	100 L
	8		III	2,000 L

7. DANGEROUS GOODS LOADED ONTO VEHICLES

Loaded vehicles are not kept at the site.

8. SAMPLE PLAN OF PREMISES



APPENDIX 6 – SAMPLE EMERGENCY PROCEDURES POCKET CARD

For a Transport Depot where dangerous goods are handled – could readily be adapted for other premises

Outside

<p>FIRE PROCEDURES</p> <p><i>On hearing Alarm:</i></p> <ul style="list-style-type: none"> • Make safe whatever you are doing • Ensure all roadways and emergency accesses in your area are clear • Move as quickly as possible to your designated assembly area • Have your name checked off immediately on arrival • Watch out for emergency vehicles • Avoid moving through smoke and any signs of emergency activity • Follow instructions from Area Wardens • Take contractors and visitors with you <p><i>If you discover a fire:</i></p> <ol style="list-style-type: none"> 1. Make sure alarm is raised 2. If possible, move materials in danger away from the fire to stop it spreading 3. Avoid breathing smoke or fumes 4. Fight the fire using extinguisher or hose reel if trained to do so 5. If not involved in fire fighting, keep away and go to assembly area <p>NO HEROICS!</p>	<p style="text-align: center;">[Company Details]</p> <p>SITE EMERGENCY PROCEDURES</p> <p><i>Emergencies include:</i></p> <ul style="list-style-type: none"> • FIRE • COLLISION • Any INJURY to persons • CHEMICAL SPILL or LEAK • Any other incident threatening life, health, property or the environment <p><i>In any Emergency:</i></p> <ol style="list-style-type: none"> 1. Raise the alarm 2. Notify your Supervisor 3. Warn anyone in danger 4. Then give whatever assistance it is safe for you to give 5. If not involved with the Emergency, keep away from the scene. <p>NEVER PUT YOURSELF AT RISK</p>
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Inside

<p>CHEMICAL EMERGENCY <i>If you discover a DANGEROUS GOODS or Chemical Spill or Leak:</i></p> <ul style="list-style-type: none"> • Keep away until positively identified • Keep upwind • Avoid all contact with material • Avoid breathing gas, fumes, mist or dust • Immediately notify Supervisor • Warn nearby persons • Keep all ignitions sources away <p>Assess if it is a serious incident, based on type and quantity of leaking substance</p> <p>Raise alarm if serious incident</p> <p>Obtain information from:</p> <ul style="list-style-type: none"> • Manifest • Shipping Documentation • Labels and Placards • EPG or HB76 • MSDS <p>Observe HAZCHEM precautions</p> <p>Stop leakage if safe to do so</p> <p>Prevent spillage from entering drains</p>	<p>HAZCHEM INTERPRETATION</p> <table border="1" style="width: 100%;"> <tr> <th colspan="2">NUMBER</th> </tr> <tr> <td style="text-align: center;">1</td> <td>Water Jets</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Water Fog</td> </tr> <tr> <td style="text-align: center;">3</td> <td>Foam</td> </tr> <tr> <td style="text-align: center;">4</td> <td>Dry Agent</td> </tr> </table> <table border="1" style="width: 100%;"> <tr> <th colspan="2">FIRST LETTER</th> <th rowspan="6" style="writing-mode: vertical-rl; text-orientation: mixed;">DILUTE</th> </tr> <tr> <td style="text-align: center;">P</td> <td>V Full Protective Clothing*</td> </tr> <tr> <td style="text-align: center;">R</td> <td>Full Protective Clothing*</td> </tr> <tr> <td style="text-align: center;">S</td> <td>V Breathing Apparatus</td> </tr> <tr> <td style="text-align: center;">S</td> <td>V Breathing Apparatus for Fire Only</td> </tr> <tr> <td style="text-align: center;">T</td> <td>Breathing Apparatus</td> </tr> <tr> <td style="text-align: center;">T</td> <td>Breathing Apparatus for Fire Only</td> <th rowspan="6" style="writing-mode: vertical-rl; text-orientation: mixed;">CONTAIN</th> </tr> <tr> <td style="text-align: center;">W</td> <td>V Full Protective Clothing*</td> </tr> <tr> <td style="text-align: center;">X</td> <td>Full Protective Clothing*</td> </tr> <tr> <td style="text-align: center;">Y</td> <td>V Breathing Apparatus</td> </tr> <tr> <td style="text-align: center;">Y</td> <td>V Breathing Apparatus for Fire Only</td> </tr> <tr> <td style="text-align: center;">Z</td> <td>Breathing Apparatus</td> </tr> <tr> <td style="text-align: center;">Z</td> <td>Breathing Apparatus for Fire Only</td> </tr> </table> <table border="1" style="width: 100%;"> <tr> <th colspan="2">SECOND LETTER</th> </tr> <tr> <td style="text-align: center;">E</td> <td>Consider Evacuation</td> </tr> </table> <p>Note V: Danger of violent reaction or explosion * Full Protective Clothing includes Breathing Apparatus</p>	NUMBER		1	Water Jets	2	Water Fog	3	Foam	4	Dry Agent	FIRST LETTER		DILUTE	P	V Full Protective Clothing*	R	Full Protective Clothing*	S	V Breathing Apparatus	S	V Breathing Apparatus for Fire Only	T	Breathing Apparatus	T	Breathing Apparatus for Fire Only	CONTAIN	W	V Full Protective Clothing*	X	Full Protective Clothing*	Y	V Breathing Apparatus	Y	V Breathing Apparatus for Fire Only	Z	Breathing Apparatus	Z	Breathing Apparatus for Fire Only	SECOND LETTER		E	Consider Evacuation
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T	Breathing Apparatus																																										
T	Breathing Apparatus for Fire Only	CONTAIN																																									
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X	Full Protective Clothing*																																										
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SECOND LETTER																																											
E	Consider Evacuation																																										

Note – this will be revised in the next edition of the ADG code

APPENDIX 7 – INDICATION OF COMPATIBILITY BASED ON CLASS

This Appendix may be used for guidance as to compatibility between the different classes of dangerous goods, in the absence of more detailed compatibility information about specific products, which should be available from MSDS.

CLASS	2.1	2.2	2.3	3	4.1	4.2	4.3	5.1	5.2	6.1	8	9
2.1 Flammable Gas	A	E	C	B	B	D	B	D	D	C	B	B
2.2 Non-flammable Non-toxic Gas	E	A	B	E	E	E	E	B	E	B	B	B
2.3 Toxic Gas	C	B	A	C	C	C	C	C	C	B	B	B
3 Flammable Liquid	B	E	C	A	B	D	B	D	D	C	B	B
4.1 Flammable Solid	B	E	C	B	A	D	B	D	D	C	B	B
4.2 Spontaneously Combustible	D	E	C	D	D	A	B	D	D	C	B	B
4.3 Dangerous When Wet	B	E	C	B	B	B	A	D	D	C	D	B
5.1 Oxidizing Agent	D	B	C	D	D	D	D	A	D	F	D	F
5.2 Organic Peroxide	D	E	C	D	D	D	D	D	G	F	D	F
6.1 Toxic	C	B	B	C	C	C	C	F	F	A	B	B
8 Corrosive	B	B	B	B	B	B	D	D	D	B	G	B
9 Miscellaneous Dangerous Goods	B	B	B	B	B	B	B	F	F	B	B	A

In this table, combustible liquids should be included with Class 3.

Letters A–G have the following meaning:

- A. – Most dangerous goods of the same Class have similar primary hazards and are usually considered to be compatible.
- B. – With a few exceptions which should be indicated on MSDS, goods of these two classes are usually non-reactive with each other. However in an emergency such as a spill, leak or fire, the presence of the second Class may lead to different hazards or increased risk such that additional control measures are required.
- C. – While goods of these two classes are usually non-reactive with each other, a fire involving the fire risk goods may lead to the release of large clouds of toxic gases or vapours.
- D. – Goods of these two classes are likely to interact with each other in such a way as to significantly increase risk. In some cases, interaction may result in fire or evolution of toxic vapours. For those that do not interact, a fire involving one may be violently accelerated by the presence of the other. These classes should not be kept in the same area unless it can be demonstrated that the risks are fully controlled.
- E. – D, if the Class 2.2 has a Subsidiary Risk 5.1. –B, otherwise.
- F. – D, if the Class 6.1 or 9 is a fire risk substance. –B, otherwise.
- G. – D, if one material is a concentrated, strong acid and the other is a concentrated, strong alkali. –A, otherwise.

APPENDIX 8 – FORKLIFTS AND INDUSTRIAL TRUCKS IN HAZARDOUS AREAS

This Appendix provides guidance on the design and protection of industrial trucks such as forklifts operating in hazardous areas, and situations where protection may be necessary.

Risks with forklifts and other industrial trucks

Industrial trucks used in hazardous areas present a fire hazard in dangerous goods storage and handling areas where flammable or explosive atmospheres may be present, unless protected. The following guidance addresses a number of specific design and construction issues to assist in reducing the risk. As a general rule, these guidelines should be regarded as the minimum standard to apply, unless the particular risk assessment shows this to be unnecessary.

LP Gas and petrol powered forklifts are not suitable as they cannot be protected. Diesel forklifts can be flame proofed – they can be recognised by a water wash box in the exhaust pipe. Battery electric forklifts can be flame proofed, but battery chargers and the charging process are not and so cannot be carried out in a hazardous area.

As an alternative, a manually operated pallet lifter could be used to move pallets in and out of the store to a position outside the hazardous area where an ordinary forklift can pick up the load.

Where protection may not be necessary

A forklift (or other industrial truck) may not need special protection if the risks are not great. Examples are where there are small amounts (eg “minor” storage quantities below the placard level), or the liquids are stored in a flammable liquids cabinet.

For example, the following situation of stored packages of flammable liquids would not require protection if all the following criteria are met:

- the flammable liquids are in small packages (less than 1 L) and are a small proportion of the goods stored
- the flammable liquids are viscous (eg paint or glue)
- the packages are not opened in the area
- the packages are robust and unlikely to be accidentally damaged by the forklift
- the packages are secured onto a pallet (eg by strapping or shrink wrapping)
- the pallets are stored on racks or shelves
- access is easy – there is plenty of room for the forklift to gain access and the pathway to the goods is short and direct
- no packing group (PG) I are kept in the area
- ventilation of the area is good
- public access is restricted when the forklift is in use.

See Appendix D of AS 1940 for further advice on the use of non-explosion protected forklift trucks and vehicles in flammable liquids package stores.

Zone 1 hazardous areas as defined in as 2430.3

An industrial truck used in a zone 1 hazardous area (as defined in AS 2430.3) should conform to the following:

- if battery operated – the requirements of AS 1915 *electrical equipment for explosive atmospheres – battery operated vehicles*
- if powered by a compression ignition internal combustion engine (ie Diesel) – the recommended provisions shown below.

A Diesel powered truck (ie with an compression ignition internal combustion engine) should have all of the following features:

- (i) all electrical equipment is removed from the truck or is protected by approved flame proofing, pressurising or purging, or a combination of any or all of these methods, or by other approved means;
- (ii) adequate flame paths are provided on all inlet and exhaust connections;
- (iii) all joints in the inlet and exhaust lines, including the attachments of the inlet and exhaust manifold to the engine block, have at least 12 mm sealing paths. Gaskets, if used, should be of copper 1.5 mm in thickness or of other suitable material;
- (iv) a flame trap is fitted in the air inlet line to the engine;
- (v) a strangler is fitted in the air inlet line to the engine with controls that are within easy reach of the operator of the truck when the operator is at the operating positions;
- (vi) a water wash box or other effective flame trap is provided for quenching exhaust gases;
- (vii) if a water wash box is provided, it contains sufficient water to allow 8 hours' operation without refilling. It should have a low-level cut-off switch such that if the water level in the box drops to a level which renders the water wash inoperative, the motor will automatically stop and cannot be restarted until the water is replenished;
- (viii) precautions are taken to ensure that the maximum temperature reached by any part of the truck that may come into contact with the atmosphere outside the truck does not at any time exceed 200 degrees Celsius when the truck is in operation;
- (ix) all components of the truck are of sufficient strength to withstand an internal explosion of a mixture of propane and air giving the highest explosion pressure possible for such a mixture; and
- (x) precautions are taken to ensure that mechanical sparks cannot be produced in the engine compartment of the truck during normal operations.

Zone 2 hazardous area as defined in as 2430.3

If an industrial truck is used in a zone 2 *hazardous area*, the occupier should ensure that the truck conforms with either that described above for a zone 1 *hazardous area*, or conform to the requirements described below.

The minimum requirements for zone 2 are as follows:

- If powered by an electric motor, the truck is not equipped with a motor or any other electrical equipment capable of arcing or sparking; or if equipped with arcing and sparking equipment, it is protected to eliminate the likelihood of it causing any ignition.

- If powered by a compression ignition internal combustion engine (ie Diesel), the truck should comply with the requirements for a Zone 1 *hazardous area*: parts (v) strangler, (vi) flame trap, (vii) temperature protection and (x) spark prevention, described above. It should also be fitted with a switch kept open at all times the truck is used in the hazardous zone to isolate all electrical equipment that may arc or spark.

APPENDIX 9 – CHECKLIST – CONTROL MEASURES FOR EACH STORAGE LOCATION FOR QUANTITIES ABOVE THE “PLACARD LEVEL” AND BELOW THE “MANIFEST LEVEL”.

For each storage area use the following checklist as a guide to applying the requirements. “Yes” means that a control measure is applied; “revise” means that a measure needs to be implemented. “NA” means it does not apply in your particular case.

Class(es) stored and location:				
	Control measure	Yes	Revise	NA
1	The storage location is identified with the appropriate placard (with diamond sign and notices)			
2	The placards are clearly visible from all approaches			
3	Spillage containment is provided: (a) for packages – 25% of the total (b) in tanks or IBCs – 100% of the total (plus rain water allowance if outside) (c) bund walls of an appropriate height.			
4	Any dangerous goods of other classes or sub-risk are separated? (See footnote)			
5	Any material that burns easily is separated? (See footnote)			
6	Any substance that could react with the dangerous goods in the storage area (eg acids are separated from alkali) is separated? (See footnote)			
7	Food or packaging for food is separated? (See footnote)			
8	Is ventilation adequate?			
9	Is temperature control required?			
10	Are additives required to be maintained to ensure stability and is a procedure in place?			
11	An appropriate fire extinguisher or method provided in or near the storage area?			
12	All packages marked with appropriate labelling?			
13	A register of goods kept with appropriate MSDS (material safety data sheets)?			

Notes:

- “separated” means the edge of the bund wall of the storage area for liquids, or the nearest package for solids is at least 5 metres away from the following (5 to 8), or by a suitable barrier (liquid proof and fire proof)
- combustible material includes combustible liquids, waste paper, rags, hay, sawdust, dry grass, shrubs and overhanging tree branches.

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WorkCover NSW 92-100 Donnison Street Gosford NSW 2250
Locked Bag 2906 Lisarow NSW 2252 WorkCover Assistance Service **13 10 50**
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WORKCOVER NSW

Register of Authorised Explosives and Prohibited Explosives in New South Wales

Under the

Explosives Act 2003 and the *Explosives
Regulation 2005*

September 2005

REGISTER OF EXPLOSIVES

The publication of this Register, containing a List of Authorised Explosives and Categories of Prohibited Explosives for NSW, is approved by Jon Blackwell, Chief Executive Officer, WorkCover Authority of NSW in accordance with Section 4(1) of the *Explosives Act 2003* and Clause 8 of the *Explosives Regulation 2005*.

Jon Blackwell
Chief Executive Officer
WorkCover Authority of NSW
Dated 24 August 2005

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1. INTRODUCTION

The *Explosives Act 2003* and the *Explosives Regulation 2005* (the Regulation) set out safety and security requirements for handling explosives and security sensitive dangerous substances (SSDS). The Legislation establishes a cradle to grave licensing regime throughout the supply chain. After granting a licence, WorkCover may impose conditions or vary or revoke any of the conditions to which the licence is subject.

The *Explosives Regulation 2005* references the following documents:

- *AS2187 – Explosives: Storage, Transport and Use*
- *The Australian Explosives Code*
- *The Australian Dangerous Goods Code*

The Regulation requires that all activities involving the handling of explosives are carried out in accordance with these documents. However, in the event of any conflicting requirements, the Regulation prevails over the Standard or Codes.

The Regulation provides in clause 8 that WorkCover as the **Regulatory Authority** may register an explosive as an **Authorised Explosive**. Clause 9 of the Regulation makes it an offence to “handle any unauthorised explosive” and under clause 10 it is an offence to falsely represent an explosive as authorised. There is a formal application process to be followed to register explosives as authorised explosives which can be ascertained by contacting the Dangerous Goods Unit within WorkCover directly.

This document contains a list of all the explosives which are currently authorised for use in New South Wales and is published every 12 months. The document also references the Commonwealth **DEOCL** List of Defence Explosive Ordnance which are deemed to be part of the list. WorkCover has the authority under clause 8 of the Regulation to record **Prohibited Explosives** and these are shown at the end of the document under specific categories.

Queries should be directed to WorkCover via the website – www.workcover.nsw.gov.au, or by telephone to the WorkCover Advisory Service, on 13 10 50.

2. LIST OF AUTHORISED EXPLOSIVES

The List of Authorised Explosives is derived from the Electronic Register maintained by the Dangerous Goods Unit within WorkCover. It replaces the previous list that was published in the Government Gazette on 20 April 2001.

2.1 Index

The Index shows the headings for the sections of the full listing by UN Number, Classification Code, Proper Shipping Name and page number for ease of reference.

UN No.	Classification Code	Proper Shipping Name	Page
0012	1.4S	CARTRIDGES FOR WEAPONS, INERT PROJECTILE or CARTRIDGES, SMALL ARMS	4
0014	1.4S	CARTRIDGES FOR WEAPONS, BLANK or CARTRIDGES, SMALL ARMS, BLANK	6
0027	1.1D	BLACK POWDER (GUNPOWDER), granular or as a meal	6
0028	1.1D	BLACK POWDER (GUNPOWDER), COMPRESSED or BLACK POWDER	6
0029	1.1B	DETONATORS, NON-ELECTRIC for blasting	6
0030	1.1B	DETONATORS, ELECTRIC for blasting	7
0042	1.1D	BOOSTERS without detonator	7
0043	1.1D	BURSTERS, explosive	9
0044	1.4S	PRIMERS, CAP TYPE	9
0055	1.4S	CASES, CARTRIDGE, EMPTY, WITH PRIMER	10
0059	1.1D	CHARGES, SHAPED without detonator	10
0065	1.1D	CORD, DETONATING, flexible	10
0066	1.4G	CORD, IGNITER	11
0081	1.1D	EXPLOSIVE, BLASTING, TYPE A	11
0082	1.1D	EXPLOSIVE, BLASTING, TYPE B	12
0084	1.1D	EXPLOSIVE, BLASTING, TYPE D	13
0101	1.3G	FUSE, NON-DETONATING	13
0103	1.4G	FUSE, IGNITER, tubular, metal clad	13
0105	1.4S	FUSE, SAFETY	13
0131	1.4S	LIGHTERS, FUSE	13
0144	1.1D	NITROGLYCERIN SOLUTION IN ALCOHOL with more than 1% but not more than 10% nitroglycerin	13
0150	1.1D	PENTAERYTHRITOL TETRANITRATE (PETN)	13
0160	1.1C	POWDER, SMOKELESS	13
0161	1.3C	POWDER, SMOKELESS	14
0173	1.4S	RELEASE DEVICES, EXPLOSIVE	15
0174	1.4S	RIVETS, EXPLOSIVE	15
0191	1.4G	SIGNAL DEVICES, HAND	15
0193	1.4S	SIGNALS, RAILWAY TRACK, EXPLOSIVE	15
0197	1.4G	SIGNALS, SMOKE	15
0238	1.2G	ROCKETS, LINE-THROWING	16
0240	1.3G	ROCKETS, LINE-THROWING	16
0241	1.1D	EXPLOSIVE, BLASTING, TYPE E	16
0242	1.3C	CHARGES, PROPELLING, FOR CANNON	20
0255	1.4B	DETONATORS, ELECTRIC for blasting	20
0267	1.4B	DETONATORS, NON-ELECTRIC for blasting	20
0275	1.3C	CARTRIDGES, POWER DEVICE	20
0276	1.4C	CARTRIDGES, POWER DEVICE	20
0286	1.1D	WARHEADS, ROCKET with bursting charge	20
0288	1.1D	CHARGES, SHAPED, FLEXIBLE, LINEAR	20
0312	1.4G	CARTRIDGES, SIGNAL	20
0323	1.4S	CARTRIDGES, POWER DEVICE	20
0325	1.4G	IGNITERS	21
0332	1.5D	EXPLOSIVE, BLASTING TYPE E	21
0333	1.1G	FIREWORKS	22
0334	1.2G	FIREWORKS	22
0335	1.3G	FIREWORKS	22
0336	1.4G	FIREWORKS	22
0337	1.4S	FIREWORKS	22
0338	1.4C	CARTRIDGES FOR WEAPONS, BLANK or CARTRIDGES, SMALL ARMS, BLANK	23
0339	1.4C	CARTRIDGES FOR WEAPONS, INERT PROJECTILE or CARTRIDGES, SMALL ARMS	23

0342	1.3C	NITROCELLULOSE, WETTED with not less than 25% alcohol, by mass	23
0349	1.4S	ARTICLES, EXPLOSIVE, N.O.S.	23
0351	1.4C	ARTICLES, EXPLOSIVE, N.O.S.	23
0360	1.1B	DETONATOR ASSEMBLIES, NON-ELECTRIC for blasting	23
0361	1.4B	DETONATOR ASSEMBLIES, NON-ELECTRIC for blasting	24
0367	1.4S	FUZES, DETONATING	24
0368	1.4S	FUZES, IGNITING	24
0381	1.2C	CARTRIDGES, POWER DEVICE	24
0405	1.4S	CARTRIDGES, SIGNAL	24
0428	1.1G	ARTICLES, PYROTECHNIC for technical purposes	24
0431	1.4G	ARTICLES, PYROTECHNIC for technical purposes	24
0432	1.4S	ARTICLES, PYROTECHNIC for technical purposes	24
0439	1.4S	CHARGES, SHAPED, without detonator	25
0454	1.4S	IGNITERS	25
0483	1.1D	CYCLOTRIMETHYLENETRINITRAMINE; (CYCLONITE; HEXOGEN; RDX), DESENSITIZED	25
0499	1.3C	PROPELLANT, SOLID	25

2.2. Listing by UN Number

This comprises the full listing of all items in the Electronic Register shown by UN Number, Proper Shipping Name, Classification Code and the Commercial or Trade Name of the Authorised Explosive.

UN Number	Proper Shipping Name, Classification Code Commercial or Trade Name
0012	<p>CARTRIDGES FOR WEAPONS, INERT PROJECTILE or CARTRIDGES, SMALL ARMS, Class 1.4</p> <p>AGUILA SAFETY CARTRIDGES AMMUNITION .303 150 GRAIN SP BELMONT BRAND AMMUNITION .308 150 GRAIN RNSP BELMONT BRAND AQUILLI SAFETY CARTRIDGES FOR RIFLES BAIKAL CARTRIDGES FOR PISTOLS BAIKAL CARTRIDGES FOR RIFLES BAIKAL SHOTSHELL CARTRIDGES BENTLEY RIMFIRE CARTRIDGES FOR PISTOLS BENTLEY RIMFIRE CARTRIDGES FOR RIFLES BIRDFRITE BOAR BRAND SHOTSHELL CARTRIDGES BROWNING SHOTSHELL CARTRIDGES CANUCK SHOTSHELL CARTRIDGES CARCANO SAFETY CARTRIDGES FOR PISTOLS CARCANO SAFETY CARTRIDGES FOR RIFLES CCI LAWMAN SAFETY CARTRIDGES CCI RIMFIRE CARTRIDGES FOR PISTOLS CCI SHOTSHELL CARTRIDGES COBRA SAFETY CARTRIDGES COMPANHIA BRAZILIA DE CARTOUCHES SAFETY CARTRIDGES FOR PISTOLS COMPANHIA BRAZILIA DE CARTOUCHES SAFETY CARTRIDGES FOR RIFLES COMPANHIA BRAZILIA DE CARTOUCHES SAFETY SHOTSHELL CARTRIDGES COOPPAL SHOTSHELL CARTRIDGES DANARMS SHOTGUN CARTRIDGES DOMINION RIMFIRE CARTRIDGES FOR PISTOLS DOMINION RIMFIRE CARTRIDGES FOR RIFLES DOMINION SAFETY CARTRIDGES FOR RIFLES DOMINION SHOTSHELL CARTRIDGES DU PONT (REMINGTON) SAFETY CARTRIDGES EAGLE BRAND SHOTSHELL CARTRIDGES ECLIPSE SHOTSHELL CARTRIDGES ELEY INTERNATIONAL 12 GAUGE GAME CARTRIDGES ELEY INTERNATIONAL 12 GAUGE SKEET CARTRIDGES ELEY INTERNATIONAL 12 GAUGE TRAP CARTRIDGES ELEY RIMFIRE CARTRIDGES ELEY SHOTSHELL CARTRIDGES EX-MILITARY SAFETY CARTRIDGES FEDERAL RIMFIRE CARTRIDGES FOR PISTOLS FEDERAL RIMFIRE CARTRIDGES FOR RIFLES FEDERAL SAFETY CARTRIDGES FOR PISTOLS FEDERAL SAFETY CARTRIDGES FOR RIFLES FEDERAL SHOTSHELL CARTRIDGES FIOCCHI SAFETY CARTRIDGES FOR RIFLES FIOCCHI SHOTSHELL CARTRIDGES FN SAFETY CARTRIDGES FOR RIFLES GECO SAFETY CARTRIDGES FOR PISTOLS HAWK SHOTSHELL CARTRIDGE HIRTENBURG CARTRIDGES FOR PISTOLS AND REVOLVERS HIRTENBURG CARTRIDGES FOR RIFLES HIRTENBURG CARTRIDGES FOR SHOTGUNS HIRTENBURG SAFETY CARTRIDGES FOR PISTOLS HIRTENBURG SAFETY CARTRIDGES FOR RIFLES</p>

<p> HORNADY SAFETY CARTRIDGES FOR PISTOLS HORNADY SAFETY CARTRIDGES FOR RIFLES HULL COMPETITION SHOTSHELL CARTRIDGES IMPERIAL RIMFIRE CARTRIDGES IMPERIAL SAFETY CARTRIDGES FOR PISTOLS IMPERIAL SAFETY CARTRIDGES FOR RIFLES IMPERIAL SHOTSHELL CARTRIDGES INTERARMS SAFETY CARTRIDGES FOR RIFLES JAKMATCH TRAINING CARTRIDGES LAPUA RIMFIRE CARTRIDGES FOR PISTOLS LAPUA SAFETY CARTRIDGES FOR PISTOLS AND REVOLVERS LAPUA SAFETY CARTRIDGES FOR RIFLES MAIONCHI SHOTGUN CARTRIDGES MIRAGE SAFETY CARTRIDGES MUSGRAVE BRAND CARTRIDGES MYRA SAFETY CARTRIDGES FOR RIFLES NORINCO RIFLE CARTRIDGES NORMA RIMFIRE CARTRIDGES NORMA SAFETY CARTRIDGES FOR PISTOLS NORMA SAFETY CARTRIDGES FOR RIFLES NYCLAD SAFETY CARTRIDGES FOR PISTOLS PETERS BLUE MAGIC SHOTSHELL CARTRIDGES PMC 22/250 CENTERFIRE RIFLE CARTRIDGES PMC 30/30 CENTERFIRE RIFLE CARTRIDGES REMINGTON SAFETY CARTRIDGES FOR PISTOLS REMINGTON SAFETY CARTRIDGES FOR RIFLES REMINGTON SHOTSHELL CARTRIDGES RIVER BRAND SAFETY CARTRIDGES FOR RIFLES ROTTWEIL SHOTSHELL CARTRIDGES RWS FLOBERT CARTRIDGES 9 MM SHOTSHELL RWS FLOBERT CARTRIDGES BB CAPS RWS FLOBERT CARTRIDGES CB CAPS RWS RIMFIRE CARTRIDGES RWS SAFETY CARTRIDGES FOR RIFLES S.M.I. SHOTGUN CARTRIDGES SAKO SAFETY CARTRIDGES FOR PISTOLS SAKO SAFETY CARTRIDGES FOR RIFLES SCORPIO SHOTSHELL CARTRIDGES SELLIER AND BELLOT .22 RIMFIRE CARTRIDGES SELLIER AND BELLOT FLOBERT RIMFIRE CARTRIDGES SELLIER AND BELLOT SAFETY CARTRIDGES FOR PISTOLS AND REVOLVERS SELLIER AND BELLOT SAFETY CARTRIDGES FOR RIFLES SELLIER AND BELLOT SHOTSHELL CARTRIDGES SIERRA SAFETY CARTRIDGES FOR PISTOLS SIERRA SAFETY CARTRIDGES FOR RIFLES SLB BRAND SHOTSHELL CARTRIDGES SMITH AND WESSON SAFETY CARTRIDGES FOR PISTOLS SMITH AND WESSON SAFETY CARTRIDGES FOR RIFLES STIRLING RIMFIRE CARTRIDGES FOR PISTOLS STIRLING RIMFIRE CARTRIDGES FOR RIFLES STIRLING SAFETY CARTRIDGES FOR RIFLES SUN EXTRA SUN SUPPER SUPER SAFETY CARTRIDGES FOR RIFLES UNIVERSAL SHOTSHELL CARTRIDGES VALCARTIER SAFETY CARTRIDGES FOR RIFLES VALCARTIER SHOTSHELL CARTRIDGES VOSTOK CARTRIDGES FOR PISTOLS VOSTOK CARTRIDGES FOR RIFLES WEATHERBY SAFETY CARTRIDGES FOR PISTOLS WEATHERBY SAFETY CARTRIDGES FOR RIFLES WINCHESTER RIMFIRE CARTRIDGES FOR PISTOLS AND REVOLVERS WINCHESTER RIMFIRE CARTRIDGES FOR RIFLES WINCHESTER SAFETY CARTRIDGES FOR PISTOLS WINCHESTER SAFETY CARTRIDGES FOR RIFLES WINCHESTER SHOTSHELL CARTRIDGES X-DOUBLE-X SAFETY CARTRIDGES FOR PISTOLS X-DOUBLE-X SAFETY CARTRIDGES FOR RIFLES ZAPPER CARTRIDGES, RIMFIRE ZASTAVA SAFETY CARTRIDGES </p>

0014	<p>CARTRIDGES FOR WEAPONS, BLANK or CARTRIDGES, SMALL ARMS, BLANK, Class 1.4S</p> <p>COX SUBMARINE GUN AMMUNITION PAX 22 RWS .22 LONG RIFLE BLANKS, BLACK POWDER RWS FLOBERT CARTRIDGES, ALUMINIUM BLANK RWS FLOBERT CARTRIDGES, COPPER BLANK SELLIER AND BELLOT START CARTRIDGES STEAMBRIDGE GUN RENTALS SAFETY BLANK AMMUNITION</p>
0027	<p>BLACK POWDER (GUNPOWDER), granular or as a meal, Class 1.1D</p> <p>BLACK POWDER MEAL A, MINING, 2FG, 3FG, 4FA, 5FA, 7FA CURTIS AND HARVEY BLACK POWDER CANISTER 4 CURTIS AND HARVEY BLACK POWDER CANISTER 6 GOEX GUNPOWDER GUN POWDER NOBEL BLACK POWDER F NOBEL BLACK POWDER FFF</p>
0028	<p>BLACK POWDER (GUNPOWDER), COMPRESSED or BLACK POWDER, Class 1.1D</p> <p>BLASTING POWDER</p>
0029	<p>DETONATORS, NON-ELECTRIC for blasting, Class 1.1B</p> <p>8D PLAIN DETONATOR ANOLINE DELAY DETONATOR AUSTIN ADP DELAYS C.I.L. ANODET DELAY DETONATORS C.I.L. CORDLINE DELAYS CAPPED SAFETY FUSE CARRICK NO 8 DETONATORS CORDLINE DELAY DETONATOR DETALINE STARTERS DETA SLIDE DETLINE DETONATING RELAY CONNECTOR DETONATORS (EX INDIA) DRC DETONATOR DU PONT "DETALINE" MS IN-HOLE DELAYS DU PONT "DETALINE" MS SURFACE DELAYS DU PONT "DETALINE" STARTERS DU PONT "DETALINE" SYSTEM DU PONT BLASTING CAPS DU PONT MS CONNECTORS FOR DETONATING CORD ETI PLAIN NO 8 DETONATOR ETINEL NON-ELECTRIC DETONATOR IN HOLE DELAYS LONG LEAD HD NONEL PRIMADETS, LLHD NOBEL "NONEL" DETONATOR NOBEL DETONATING RELAY CONNECTORS NOBEL DETONATORS NO. 6 NOBEL DETONATORS NO. 8 NOBEL SLIDER PRIMER MKIII DELAY DETONATOR NONEL GT 1 CONNECTOR NONEL GT DETONATORS NONEL GT2 CONNECTOR NONEL GT2 CONNECTOR, SILINE DELAY SYSTEM NONEL HD PRIMADETS NONEL LEAD IN LINE NONEL LP PRIMADETS NONEL MS CONNECTORS NONEL MS PRIMADETS NONEL NOISELESS LEAD-IN LINE</p>

	<p>NONEL NOISELESS TRUNKLINE DELAYS NONEL SYSTEM PLAIN DETONATOR No 8 (SELIER & BELLOT) PLAIN DETONATORS NO 8 - HERICA STARTERS SURFACE DELAYS TEC PLAIN NO 8 DETONATOR</p>
0030	<p>DETONATORS, ELECTRIC for blasting, Class 1.1B</p> <p>ACUDET (DUPONT) BULLET HITS - F SERIES BULLET HITS-CD 100 SERIES BULLET HITS-CD SERIES BULLET HITS-PMD IA BULLET HITS-T12 SERIES CARRICK R DETONATOR SERIES COAL MINE DELAY DETONATORS (DUPONT PERMITTED) DAVEYDET SHORT DELAY ELECTRIC DETONATORS DU PONT "SSS SEISMOGRAPH" ELECTRIC BLASTING CAPS DU PONT ACUDET DELAY ELECTRIC BLASTING CAPS DU PONT ELECTRIC BLASTING CAPS DU PONT MILLISECOND DELAY ELECTRIC BLASTING CAPS ELECTRIC BLASTING CAPS ELECTRIC DETONATORS NO 8 ELECTRIC DETONATORS NO 8 (LP & MS SERIES) ELECTRIC INSTANTANEOUS II DETONATORS ELECTRIC SUPER SEISMICDET INSTADET IRECO ELECTRIC SUPER S.P. IREDET SUPER SP MS DELAY DETS MERCURY FULMINATE IGNITERS MS DELAY (DUPONT) NITRO BICKFORD INSTANTANEOUS ELECTRIC DETONATOR NITRO NOBEL HALF SECOND DELAY ELECTRIC, TYPE VA, DETONATORS NITRO NOBEL MILLISECOND DELAY ELECTRIC, TYPE VA, DETONATORS NOBEL (L-SERIES) SHORT DELAY DETONATORS NOBEL ELECTRIC DETONATORS NO. 8 NOBEL HALF SECOND NO. 6 DETONATORS NOBEL HALF SECOND NO. 8 STAR DETONATORS NOBEL MAGNADET NOBEL SEISMIC DETONATORS NOBEL SHORT DELAY CARRICK DETONATORS NOBEL SUBMARINE DETONATORS PRIMER DELAYS (AUSTIN) ROCK STAR DETONATORS (AUSTIN) SSS SEISMIC CAPS (DUPONT) TECNEL SEISMIC ELECTRIC DETONATOR TEKEX-PM (and OP) ELECTRIC DETONATORS (delay numbers 0 - 7)</p>
0042	<p>BOOSTERS, without detonator, Class 1.1D</p> <p>400 g AFRICAN BOOSTER ANZOMEX POWER PLUS PRIMERS, VARIOUS ANZOMEX PRIMERS, VARIOUS ANZOMEX SLIDER PRIMER AUSTIN DELAY PRIMERS AUSTIN GOLD NUGGETS AUSTIN ORANGE CAP AUSTIN ORANGE CAP, RED CAP, BROWN CAP AND GREEN CAP AUSTIN PURPLE CAP AUSTIN WHITE CAP BESTON BST CAST BOOSTER PCA 1/1 (454 G) BESTON BST CAST BOOSTER PCA 1/3 (150 G) BESTON BST CAST BOOSTER PCA 2/1 (908 G) BESTON BST CAST BOOSTER PCA 3/2 (681 G) BESTON BST CAST BOOSTER PCA 3/4 (340 G) BOOSTER, PLASTIC, CORDED 4g and BOOSTER, PLASTIC, CORDED, 10g</p>

<p> BST150, BST225, BST340, BST400, BST450, BST680, BST900, BST1200 CAST BOOSTERS CBS SUPERPRIME BOOSTERS DETADRIVE BOOSTERS DETAPRIME BOOSTERS DETEX150, DETEX225, DETEX340, DETEX4000, DETEX450, DETEX680, DETEX900 DOUBLEDET DOUBLEDET (ENAEX) DU PONT "DETADRIVE" BOOSTERS DU PONT DETAPRIME PRIMERS DU PONT HDP PRIMERS DU PONT HDP-1C 1LB LOW PROFILE PRIMER DU PONT HDP-20 2LB PRIMER DU PONT TOVEX PP DU PONT TOVEX PUMPEX DU PONT TROJAN LP8 PRIMER DU PONT-DETLIDE-EXPLOSIVE DETONATOR DU-PONT-HDP 12 PRIMER DYNOPRIME EXELPRIME 600 HDP 1 (AUSTIN) HDP 12 (AUSTIN) HDP 120 HDP 150 (AUSTIN) HDP 150 (ICI) HDP 150 GM BOOSTER, HDP 400 GM BOOSTER HDP 150g and HDP 400g (ENAEX) HDP 20 (AUSTIN) HDP 3 (AUSTIN) HDP 400 (AUSTIN) HDP 400 (ICI) HDP 400 LP (AUSTIN) HDP 450 (ADI) HDP 450 (AUSTIN) HDP 450 (ICI) HDP 900 HDP NDS CAST BOOSTER HDP400 L.P. (ICI) HDPIP (AUSTIN) JOHNSON PRIMABOOST MEGAPRIME CAST BOOSTER 150, 160, 175, 225, 340, 400, 450, 680, 900, 1200 GRAM MEGAPRIME CAST BOOSTERS 79, 150, 185, 225 and 400 GRAMS NOBEL "ANZOMEX" POWER PLUS "W" PRIMER NOBEL "ANZOMEX" POWER PLUS 1 KG PRIMER NOBEL "ANZOMEX" POWER PLUS PRIMERS NOBEL "ANZOMEX" PRIMERS NOBEL "ANZOMEX" SLIDER MK. II PRIMERS NOBEL ANZOMEX PRIMER NOBEL MAGNAPRIMER NOBEL MINISEIS P NOBEL PRIME PENTEX CAST BOOSTERS 150, 160, 175, 225, 340, 400, 450, 680, 900, 1200 GRAM PENTEX H BOOSTER PENTEX PPP BOOSTER PENTO-SEIS PENTO-SEIS EX QDC2 BOOSTER RINGPRIME RINGPRIME (ENAEX) RIOBOOSTER 150 RIOBOOSTER 340 RIOBOOSTER 400 SLIP ON BOOSTER, S.O.B. ST PRIMERS (ST 2100 AND ST3100) STOPEPRIME TROJAN 16L TWINPLEX TROJAN BOOSTER 150 GRAMS TROJAN BOOSTER 16 ROZDET TROJAN BOOSTER 400 GRAMS TROJAN CONE C10 </p>
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	TROJAN CONE C20 TROJAN LP 8 TROJAN SUPER PRIMERS BOOSTERS TROJAN SUPERPRIME UEE BOOSTERS 26, 150, 250, 400, 450 GRAMS
0043	BURSTERS, explosive, Class 1.1D DRAW POINT IMPACTOR
0044	PRIMERS, CAP TYPE, Class 1.4S C.I.L. PRIMERS NO 8 1/2 (ANVILLED) CAP TYPE PRIMERS, U.S. TYPE FOR SHOTGUN SHELLS CCI LARGE PISTOL PRIMERS (ANVILLED) CCI LARGE RIFLES PRIMERS (ANVILLED) CCI PERCUSSION CAPS CCI SHOTSHELL PRIMERS (ANVILLED) CCI SMALL PISTOL PRIMERS (ANVILLED) CCI SMALL RIFLES PRIMERS (ANVILLED) DU PONT HI-SCORE NO 209 SHOTSHELL PRIMERS ELEY 206 BATTERY POCKET SHOTSHELL PRIMERS ELEY E.B. TOP HAT CAPS ELEY SHOTSHELL PRIMERS FEDERAL LARGE PISTOL PRIMERS FEDERAL LARGE RIFLE MAGNUM PRIMERS FEDERAL LARGE RIFLE MATCH PRIMERS FEDERAL LARGE RIFLE PRIMERS FEDERAL SHOTSHELL PRIMERS FEDERAL SMALL PISTOL PRIMERS FEDERAL SMALL RIFLE MATCH PRIMERS FEDERAL SMALL RIFLE PRIMERS FIOCCHI 6.45/2 HOLE PRIMERS (ANVILLED) FIOCCHI CARTUCCE ROSSE PRIMERS 6.45 MM (BATTERY CUP TYPE) FIOCCHI RIFLE PRIMERS NO 380 .303 (BERDAN TYPE) FIOCCHI SHOTSHELL PRIMERS (ANVILLED) NO G47F FIOCCHI SHOTSHELL PRIMERS NO 465 (209/TI) (BERDAN TYPE) IMPERIAL .22 HORNET CAPS (BERDAN TYPE) IMPERIAL SHOTSHELL CAPS (BERDAN TYPE) IMPERIAL SHOTSHELL PRIMERS (BATTERY CUP TYPE) IMPERIAL SMALL RIFLE PRIMERS-BOXER TYPE (ANVILLED) KEMIRA OY PRIMERS NORMA LARGE PISTOL PRIMERS NORMA LARGE RIFLE PRIMERS NORMA SMALL PISTOL PRIMERS NORMA SMALL RIFLE PRIMERS PERCUSSION CAPS FOR ATLAS STARTER CARTRIDGES (BATTERY CUP TYPE) PMC PISTOL PRIMERS, LARGE PMC PISTOL PRIMERS, SMALL PMC RIFLE PRIMERS, LARGE PMC RIFLE PRIMERS, SMALL REMINGTON LARGE MAGNUM PRIMERS REMINGTON LARGE PISTOL PRIMERS REMINGTON LARGE RIFLE PRIMERS REMINGTON SMALL PISTOL PRIMERS REMINGTON SMALL RIFLE PRIMERS RWS LARGE PISTOL PRIMERS (ANVILLED) RWS LARGE PISTOL PRIMERS (BERDAN TYPE) RWS LARGE RIFLE PRIMERS (ANVILLED) RWS LARGE RIFLE PRIMERS (BERDAN TYPE) RWS MUSKET CAPS RWS PERCUSSION CAPS FOR MUZZLE LOADERS RWS SHOTSHELL PRIMERS RWS SMALL PISTOL PRIMERS (ANVILLED) RWS SMALL PISTOL PRIMERS (BERDAN TYPE) RWS SMALL RIFLE PRIMERS (ANVILLED) RWS SMALL RIFLE PRIMERS (BERDAN TYPE) SELLIER AND BELLOT PISTOL PRIMERS

	<p>SELLIER AND BELLOT RIFLE PRIMERS SELLIER AND BELLOT SHOTSHELL PRIMERS VIHTAVOURI LARGE PISTOL PRIMERS VIHTAVOURI LARGE RIFLE MAGNUM PRIMERS VIHTAVOURI LARGE RIFLE PRIMERS VIHTAVOURI SHOTSHELL PRIMERS (BATTERY CUP TYPE) VIHTAVOURI SMALL PISTOL PRIMERS VIHTAVOURI SMALL RIFLE MAGNUM PRIMERS VIHTAVOURI SMALL RIFLE PRIMERS WINCHESTER (WLP) LARGE PISTOL PRIMERS (ANVILLED) WINCHESTER (WLR) LARGE RIFLE PRIMERS (ANVILLED) WINCHESTER (WSP) SMALL PISTOL PRIMERS (ANVILLED) WINCHESTER (WSR) SMALL RIFLE PRIMERS (ANVILLED) WINCHESTER SHOTSHELL PRIMERS (BATTERY CUP TYPE)</p>
0055	<p>CASES, CARTRIDGE, EMPTY, WITH PRIMER, Class 1.4S</p> <p>IMPACT FUSE ASSEMBLY</p>
0059	<p>CHARGES, SHAPED without detonator, Class 1.1D</p> <p>AET FC 115 BALLISTIC DISC, AET BD-260 BALLISTIC DISC, AET BD-318 BALLISTIC DISC, AET BD-514 GO INTERNATIONAL SHAPED CHARGES HEMISPHERICAL SHAPED CHARGE, AET HSC-300 AND AET HSC-53 POWERCONE SHAPED CHARGE BLASTING DEVICE WHACKER SHAPED CHARGE</p>
0065	<p>CORD, DETONATING, flexible, Class 1.1D</p> <p>400 PLASTIC A CORD ATLAS NO. 18 ATLAS NO. 25 AUSTIN DETONATING CORD AUSTIN FS SEISMIC CORD BESTCORD DETONATING CORD CORDTEX DETACORD DETALINE CORD DU PONT "DETALINE" CORD DU PONT SPECIAL 25 DU PONT SPECIAL 30 DU PONT SPECIAL 40 DU PONT SPECIAL 50 DU PONT-SPECIAL 18 DETONATING CORD DYNO SPECIAL 50 AA E-CORD ENSIGN BICKFORD PRIMACORD 1P ENSIGN BICKFORD PRIMACORD 4/54 LOW NOISE ENSIGN BICKFORD PRIMACORD, BOOSTER CORD ENSIGN BICKFORD PRIMACORD, DETONATING CORD, REINFORCED ENSIGN BICKFORD PRIMACORD, E CORD ENSIGN BICKFORD PRIMACORD, QUARRY CORD ENSIGN BICKFORD PRIMACORD, SCUFLEX ENSIGN BICKFORD PRIMACORD, STRIP MINE SPECIAL ENSIGN-BICKFORD DETACORD ENSIGN-BICKFORD PRIMACORD, DETACOREL ENSIGN-BICKFORD PRIMACORD, HD-PRIMALINE ENSIGN-BICKFORD PRIMACORD, RX-PRIMALINE ENSIGN-BICKFORD PRIMALINE EZICORD Series FLEXICORD GEOFLEX 20 GEOFLEX 40</p>

	<p> KEV CORD KEV CORD (CBS) LINE 50 DETONATING CORD NITRO NOBEL BONOCORD NOBEL "ANOLINE" NOBEL "AQUAFLEX" NOBEL "GEOFLEX" NOBEL "POWERCORD" NOBEL "SHEARCORD" NOBEL ANZOMEX SLIDERLINE NOBEL BLUE CORD NOBEL CORDLINE NOBEL FLEXICORD NOBEL PREMIUM "CORDTEX" NOBEL PREMIUM RIBCORD NOBEL REDCORD NOBEL RIBCORD NOBEL SLIDERCORD NOBEL STRIPCORD NOBEL TRUNKCORD NOBEL TUFFCORD NOBEL UNILINE POWERFLEX 5 PRIMACORD - 40 RDX NYLON RIBBON PRIMAFLEX PROFILER REDCORD RX PRIMALINE SHEARCORD SPECIAL 18 (AUSTIN) SPECIAL 18AA (ICI) SPECIAL 25 (AUSTIN) SPECIAL 25A (IDL) SPECIAL 25AA (EB) SPECIAL 25AA (ICI) SPECIAL 30 (AUSTIN) SPECIAL 40 (AUSTIN) SPECIAL 50 (AUSTIN) SPECIAL 50AA (ICI) TEC HARSEIM DETONATING CORD SPECIAL 18T TEC HARSEIM DETONATING CORD SPECIAL 25T TEC HARSEIM DETONATING CORD SPECIAL 50T TOTAL CORD 3.6 G/M TOTAL CORD 5.0 G/M TRUNKCORD UEE (RIOCORD) DETONATING CORD 3G, 6G, 12G, 20G, 40G, 100G UEE (RIOCORD) DETONATING CORD 6GP, 6GT, 3GT UNIFLEX 3.6 WASACORD 10 g/M XT PRIMACORD </p>
0066	<p> CORD, IGNITER, Class 1.4G </p> <p> CVA CANNON FUSE DU PONT IGNITACORD NOBEL IGNITER CORD-FAST NOBEL IGNITER CORD-SLOW NOBEL THERMALITE IGNITER CORD WANO IGNITER CORD </p>
0081	<p> EXPLOSIVE, BLASTING, TYPE A, Class 1.1D </p> <p> EXPLOSIVO DE SEGURIDAD NO 20 SR KINEPAK SERIES 1/3S, 1/2S, 1BB, 1S and 1P K-PIPE CHARGE LARVIKIT NOBEL "ANZITE" BLUE NOBEL "ANZITE" RED </p>

	<p>NOBEL "ANZITE" YELLOW NOBEL "AQUAMEX" NOBEL "DYNAGEX" NOBEL "DYNAGEX" C NOBEL "EXACTEX" NOBEL "GEOPHEX" NOBEL "HYDROBEL" NOBEL "HYDROPRUF" NOBEL "MONOGRAIN" NOBEL "MORCOL" NOBEL "PLASTERGEL" NOBEL "QUARIGEL" NOBEL A.N. GELATINE DYNAMITE "75" NOBEL A.N. GELATINE DYNAMITE "95" NOBEL A.N. GELIGNITE "60" NOBEL A3 MONOBEL NOBEL AJAX NOBEL DP 13 NOBEL HIGEL NOBEL QUARRY MONOBEL NOBEL SEMIGEL NOBEL SN GELIGNITE "50" NOBEL SN GELIGNITE "60" WINCOAL A (P5) YELLOW TUBE CHARGE</p>
0082	<p>EXPLOSIVE, BLASTING, TYPE B, Class 1.1D</p> <p>ALUMINIUM/AMMONIUM NITRATE/FUEL OIL MIXTURE (ALANFO) AMEX LD SERIES AMMONIUM NITRATE/FUEL OIL MIXTURE (ANFO) ANFO-HD ANFO-P ANFO-PS 50/50 ANFO-PS 60/40 ANFO-PS 70/30 ANFO-PS 80/20 BEST-SPLIT BLASTLITE DANFO DANFO-E1 DU PONT NITRAMON DU PONT NITRAMON PRIMERS ECONOTRIM EZICHARGE HX HEAVY ANFO IMPACT SERIES LIFTER NITREX NOBEL "ALAMEX" NOBEL "AMEX" NOBEL "AMEX" HD NOBEL "AMEX" LD NOBEL "AMEX" SD NOBEL "ENERGAN 2600 SERIES" NOBEL "SEISMEX" NOBEL "SEISMEX" PRIMERS NOBEL POWERGEL 2655 NOBEL POWERGEL 2675 NOBEL SUNDERITE NOBEL TRIMONITE PRILL BLENDED ANFO RIOMAX SANFOLD 30 SANFOLD 50 SANFOLD 70 SIMEX SOFTLOAD THROWMAX</p>

	XTREME Z-BAR EDGE & Z-BAR LIFTER
0084	EXPLOSIVE, BLASTING, TYPE D, Class 1.1D DETASHEET C1/C2 DU PONT DETASHEET JOHNSON TNC NOBEL "METABEL"
0101	FUSE, NON-DETONATING, Class 1.3G NOBEL INSTANTANEOUS FUSE NOBEL SAFETY INSTANTANEOUS FUSE QUICKMATCH
0103	FUSE, IGNITER, tubular, metal clad, Class 1.4G NOBEL DELAY ELEMENT ROD
0105	FUSE, SAFETY, Class 1.4S AILSA SAFETY FUSE ENSIGN BICKFORD SAFETY FUSE NOBEL SAFETY FUSE, BUFF NOBEL SAFETY FUSE, ORANGE SUPERIOR NOBEL SAFETY FUSE, YELLOW PLASTIC COATED SAFETY FUSE EX WASAGCHEMIE UNIKORD SAFETY FUSE
0131	LIGHTERS, FUSE, Class 1.4S PAINS-WESSEX PORTFIRE PHOENIX FUSE LIGHTER
0144	NITROGLYCERIN SOLUTION IN ALCOHOL with more than 1% but not more than 10% nitroglycerin, Class 1.1D NITROGLYCERINE SOLUTION IN ALCOHOL
0150	PENTAERYTHRITOL TETRANITRATE (PETN), Class 1.1D NOBEL PETN
0160	POWDER, SMOKELESS, Class 1.1C AR 2051 AR 2201 AR 2202 AR 2205 AR 2206 AR 2207 AR 2208 AR 2209 AR 2211 CANADIAN RIFLE POWDER 4740 DU PONT "HI SKOR" 700-X DU PONT HI-SKOR 800X DU PONT IMR 3031 DU PONT IMR 4064 DU PONT IMR 4198 DU PONT IMR 4227

	<p>DU PONT IMR 4320 DU PONT IMR 4350 DU PONT IMR 4831 DU PONT IMR 4895 DU PONT PB DU PONT SR 4756 DU PONT SR 4759 DU PONT SR 7625 HERCULES "2400" HERCULES BLUE DOT HERCULES BULLS EYE HERCULES GREEN DOT HERCULES HERCO HERCULES RED DOT HERCULES RELODER 7 HERCULES RIFLE POWDER HERCULES UNIQUE JAPANESE SMOKELESS POWDER NC JAPANESE SMOKELESS POWDER NN JAPANESE SMOKELESS POWDER NY-100 JAPANESE SMOKELESS POWDER NY-300 JAPANESE SMOKELESS POWDER NY-500 JAPANESE SMOKELESS POWDER SS JAPANESE SMOKELESS POWDER WW NOBEL PISTOL POWDER NO. 2 NOBEL PISTOL POWDER NO. 3 NOBEL REVOLVER POWDER NO. 1 NOBEL RIFLE POWDER NO. 0 NOBEL RIFLE POWDER NO. 1 NOBEL RIFLE POWDER NO. 2 NOBEL RIFLE POWDER NO. 3 NOBEL SHOTGUN POWDER, NO. 60 NOBEL SHOTGUN POWDER, NO. 62 NOBEL SHOTGUN POWDER, NO. 64 NOBEL SHOTGUN POWDER, NO. 78 OLIN PROPELLANT BALL POWDER, PISTOL POWDER NO. 231 OLIN PROPELLANT BALL POWDER, PISTOL POWDER NO. 296 OLIN PROPELLANT BALL POWDER, RIFLE POWDER N. 748 OLIN PROPELLANT BALL POWDER, RIFLE POWDER NO. 680 OLIN PROPELLANT BALL POWDER, RIFLE POWDER NO. 760 OLIN PROPELLANT BALL POWDER, RIFLE POWDER NO. 785 OLIN PROPELLANT BALL POWDER, SHOTSHELL POWDER NO 540 OLIN PROPELLANT BALL POWDER, SHOTSHELL POWDER NO. 442 OLIN PROPELLANT BALL POWDER, SHOTSHELL POWDER NO. 452AA OLIN PROPELLANT BALL POWDER, SHOTSHELL POWDER NO. 473AA OLIN PROPELLANT BALL POWDER, SHOTSHELL POWDER NO. 571 UEE SHOTGUN POWDER PSB VECTAN AI VECTAN D20</p>
<p>0161</p>	<p>POWDER, SMOKELESS, Class 1.3C</p> <p>AC 9001 AP-100 AP-70 AP-70N (or UNIVERSAL, as an alternative name) AR 2052 AR 2205 AR 2206 AR 2208 AR 2208BD AR 2210 AR 2211 AR 2212 AR 2213SC and AR 2213 AR 2214 AR 2215 AR 2216 AR 2217</p>

	AR 2218 AR 2219 AR 2220 AR 4005 AS25BP AS-30N AS-40N AS85N BENCHMARK 1 BENCHMARK 2 BS-NACO CLAYS FNH 016 FNH 025 FNH P0.6 M1.034 M6.029 MULWEX AS-30 NH.033 NQM.07 OLIN PROPELLANT BALL POWDER, WC232
0173	RELEASE DEVICES, EXPLOSIVE, Class 1.4S FIRE EXTINGUISHER ACTUATORS, ALL TYPES TOTAL FIRE EXTINGUISHER ACTUATORS
0174	RIVETS, EXPLOSIVE, Class 1.4S SAFETY CARTRIDGE, ALL TYPES
0191	SIGNAL DEVICES, HAND, Class 1.4G KILGORE INTERNATIONAL ORANGE SMOKE CG-3234 OLIN 15 MINUTE SAFETY FLARE OLIN 5 MINUTE RED SAFETY FLARE OLIN HAND, ORANGE SMOKE DISTRESS SIGNAL PAINS-WESSEX FLARESMOKE PAINS-WESSEX HANDFLARE PAINS-WESSEX HANDFLARE MARK II PAINS-WESSEX HANDSMOKE PAINS-WESSEX HANDSMOKE MARK II PAINS-WESSEX NAVIGATION HANDFLARE PAINS-WESSEX NAVIGATION HANDFLARE MARK II PAINS-WESSEX NAVIGATION HANDFLARE MARK VI PAINS-WESSEX PINPOINT MARK VI RES-Q-STAR SCHERMULY DAY AND NIGHT SIGNAL SCHERMULY HANDFLARE SCHERMULY HANDFLARE MARK II SCHERMULY HANDSMOKE SCHERMULY HANDSMOKE MARK II SCHERMULY NAVIGATION HANDFLARE SCHERMULY NAVIGATION HANDFLARE MARK II SCHERMULY NAVIGATION HANDFLARE MARK VI SCHERMULY PINPOINT MARK VI STANDARD RAILWAY FUSE CORP. 15 MINUTE RED MARINE DISTRESS SIGNAL SURVIVAL SYSTEMS MODEL 20R DISTRESS SIGNAL 7 SECOND RED FLARE SURVIVAL SYSTEMS SPORTSMAN'S SMOKE SIGNAL
0193	SIGNALS, RAILWAY TRACK, EXPLOSIVE, Class 1.4S RAILWAY TRACK SIGNALS RAILWAY TRACK SIGNALS, PLASTICS CASE
0197	SIGNALS, SMOKE,

	<p>Class 1.4G</p> <p>ASTRA WHITE SMOKE GENERATOR-TYPE 487 PAINS-WESSEX BUOYSMOKE PAINS-WESSEX FIRESMOKE PAINS-WESSEX LIFESMOKE PAINS-WESSEX MANOVERBOARD PAINS-WESSEX SAFESMOKE PAINS-WESSEX SHELLSMOKE SCHERMULY FIRESMOKE SCHERMULY LIFESMOKE MARK II SCHERMULY MANOVERBOARD SCHERMULY SAFESMOKE</p>
0238	<p>ROCKETS, LINE-THROWING, Class 1.2G</p> <p>SCHERMULY 30 MM ROCKET SCHERMULY 41 MM ROCKET</p>
0240	<p>ROCKETS, LINE-THROWING, Class 1.3G</p> <p>SCHERMULY SPEEDLINE</p>
0241	<p>EXPLOSIVE, BLASTING, TYPE E, Class 1.1D</p> <p>AQUACHARGE AQUACHARGE COAL AQUACHARGE ECLIPSE 550 AQUACHARGE ECLIPSE 551 AQUACHARGE EXTRA AQUAMAX AUSX PRESPLIT BEST-TRIM BREAKRITE BS330 DANFO DETAGEL DETAGEL CONTINUOUS PRESPLIT DETAMAX HEAVY ANFO 001 DETAMAX HEAVY ANFO 101 DETAMAX HEAVY ANFO 201 DETAMAX HEAVY ANFO 251 DETAMAX HEAVY ANFO 301 DETAMAX HEAVY ANFO 351 DETAPOWER GU DETAPOWER RU 5 DU PONT ANFO-HD DU PONT DANFO E1 DU PONT TOVEX 100 DU PONT TOVEX 200 DU PONT TOVEX 300 DU PONT TOVEX 442 DU PONT TOVEX 472 DU PONT TOVEX 473 DU PONT TOVEX 500 DU PONT TOVEX 505 DU PONT TOVEX 550 DU PONT TOVEX 600 DU PONT TOVEX 650 DU PONT TOVEX 700 DU PONT TOVEX 800 DU PONT TOVEX 90 DU PONT TOVEX COAL EMULSION DU PONT TOVEX DX DU PONT TOVEX EX 50 DU PONT TOVEX EX 50A DU PONT TOVEX EX 80</p>

<p> DU PONT TOVEX EXTRA-R DU PONT TOVEX HIDRIVE DU PONT TOVEX P DU PONT TOVEX PX DU PONT TOVEX S DU PONT TOVEX SDX DU PONT TOVEX SEISMOPAC DU PONT TOVEX SI DU PONT TOVEX T1 DU PONT TOVEX TR DYNOLITE II DYNOSPLIT DYNOSPLIT L.D. EMULAN EMULAN 3000, 4000, 5000 AND 6000 EMULITE 100 EMULITE 100G EMULITE 100M EMULITE 105 EMULITE 130 EMULITE 130G EMULITE 150 EMULITE 150G EMULITE 100W EMULITE 200G EMULITE 300G EMULITE 415 P1 RATING EMULITE 416 P1 RATING EMULITE 417 P1 RATING EMULITE 890 ENERGAN ADVANTAGE SERIES ENERGAN COAL SERIES ENERGAN EAGLE ENERGAN ECLIPSE 600 SERIES ENERGAN ECLIPSE 601 SERIES ENERGAN EXTRA SERIES ENERGAN GOLD 2600 SERIES ENERGAN NOVA 2600 SERIES ENERGAN VE SERIES ENERGAN XTREME SERIES FLEXIGEL SERIES HANDIBULK DRY HANDIBULK SERIES (Handibulk, Handibulk Supawet, Supawet GT, Supawet ES, Dry & Supadry) HANDIBULK SUPADRY HANDIBULK SUPAWET HANDIBULK SUPERWET SERIES HANDIBULK WET HEAVY ANFO HN HEAVY ANFO NITRO NOBEL EMULAN NITRO NOBEL EMULITE 100 NITRO NOBEL EMULITE 1200 NITRO NOBEL EMULITE 200 NITROGEL NOBEL "AQUAPOUR" NOBEL "BOWGEL" 16 NOBEL "ENERGAN" NOBEL "HYDROMEX" NOBEL "IREGEL" 306 NOBEL "IREGEL" 326 NOBEL "IREGEL" 376 NOBEL "IREGEL" 446 NOBEL "IREGEL" 606 NOBEL "IREGEL" 614 NOBEL "IREGEL" 616 NOBEL "IREGEL" 674 NOBEL "IREGEL" 694 NOBEL "IREGEL" 734 NOBEL "IREGEL" 746 NOBEL "MOLANAL" A </p>

<p> NOBEL "MOLANAL" D NOBEL "MOLANITE" 103 NOBEL "MOLANITE" 104 NOBEL "MOLANITE" 110 NOBEL "MOLANITE" 80 NOBEL "MOLANITE" 80B NOBEL "MOLANITE" 95 NOBEL "MOLANITE" 95B NOBEL "POWERGEL" 1501 NOBEL "POWERGEL" 1511 NOBEL "POWERGEL" 2131 NOBEL "POWERGEL" 2151 NOBEL "POWERGEL" 2510 NOBEL "POWERGEL" 2931 NOBEL "POWERGEL" 2941 NOBEL "POWERPAC" NOBEL BARRABA SLURRY NOBEL DPBS 400/34 NOBEL POWERGEL P NOBEL POWERGEL PERIMETER NOBEL POWERGEL SEISMIC NOBEL SINGLETON SLURRY NOVALITE SERIES POWERBULK DRIVE POWERBULK VE POWERGEL ADVANTAGE SERIES POWERGEL BACKCUT POWERGEL BREAKER POWERGEL BUSTER POWERGEL CLEAR POWERGEL CLEAR X POWERGEL COAL 4880 POWERGEL COAL SERIES POWERGEL DEEP 2800 SERIES POWERGEL DEEP 8000 SERIES POWERGEL DEEP SERIES POWERGEL ECLIPSE 500 SERIES POWERGEL ECLIPSE 501 SERIES POWERGEL EXTRA 4500 SERIES POWERGEL EXTRA SERIES POWERGEL GOLD 2500 SERIES POWERGEL INTERBURDEN 4870 POWERGEL MAGNUM POWERGEL MAGNUM 11 POWERGEL MAGNUM 3151 POWERGEL MAGNUM 365 POWERGEL MARATHON 2700 SERIES POWERGEL NOVA 2500 SERIES POWERGEL PERIMETER 3000 POWERGEL PERMITTED 3000 POWERGEL POWERFRAG POWERGEL POWERPRIME POWERGEL PULSAR 3131 POWERGEL PYROMEX POWERGEL SEISMIC POWERGEL TOPLOAD 2740 POWERGEL TRIMEX 3000 POWERGEL VE POWERGEL VULCAN 2900 SERIES POWERGEL XTREME SERIES POWERMITE (IRECO) POWERMITE PRO POWERPAC 3000 POWERSHEAR POWERSPLIT W RAZORBACK RED-X RIOFLEX+ RIOGEL EP RIOGEL F </p>

<p> RIOGEL G RIOLIFT RIOPRIME RIOSPLIT SABRE SCALEX 30 AND SCALEX 50 SLURRAN 916 TITAN 1000 GASED SERIES TITAN 1000 HEAVY ANFO SERIES TITAN 2000 EMULSION/ANFO BLEND SERIES FROM 40% TO 50% ANFO TITAN 2000 GASED SERIES TITAN 2000 HEAVY ANFO SERIES TITAN 2000 SOLID SENSITISED BLEND SERIES TITAN 2000s TITAN 2100 EMULSION - GASED TITAN 2100 EMULSION ANFO BLENDS - GASED TITAN 2100 EMULSION ANFO BLENDS - SOLID SENSITISED TITAN 2100 HEAVY ANFO SERIES TITAN 3000 EMULSION/ANFO BLEND SERIES FROM 40% TO 50% ANFO TITAN 3000 GASED SERIES TITAN 3000 HEAVY ANFO SERIES TITAN 3000 SOLID SENSITISED BLEND SERIES TITAN 3000S TITAN 4000 GASED SERIES TITAN 4000 HEAVY ANFO SERIES TITAN 5000 EMULSION/ANFO BLEND SERIES IN RATIO FROM 70:30 TO 50:50 TITAN 5000 HEAVY ANFO BLENDS TITAN 6000 GASED SERIES TITAN 6000 HEAVY ANFO SERIES TITAN 6100 EMULSION - GASED TITAN BLASTLITE TOVEX 100 TOVEX 150 TOVEX 200 TOVEX 200 (PERMITTED) TOVEX 300 TOVEX 472 TOVEX 473 TOVEX 500 TOVEX 505 TOVEX 550 TOVEX 600 TOVEX 650 TOVEX 700 TOVEX 800 TOVEX 90 TOVEX 90 BAK PAK TOVEX C.E. (COAL EMULSION) TOVEX DX (DRIVEX) TOVEX EX 30 TOVEX EX 50 TOVEX EX 50A TOVEX EX 80 TOVEX EXTRA PLUS 40 TOVEX EXTRA-R TOVEX HI DRIVE TOVEX P TOVEX PP TOVEX PUMPEX TOVEX PX (POURVEX) TOVEX QUARRY MASTER TOVEX S TOVEX S1 TOVEX SDX TOVEX SDX (MINER PAK) TOVEX SEISMOPAC TOVEX SUPER QUARRY MASTER TOVEX T.R. TOVEX T-1 </p>
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0242	<p>CHARGES, PROPELLING, FOR CANNON, Class 1.3C</p> <p>INCREMENT CHARGE ASSEMBLIES</p>
0255	<p>DETONATORS, ELECTRIC for blasting, Class 1.4B</p> <p>CARRICK R DETONATOR SERIES DETONATORS - ELECTRONIC, DYNATRONIC DYNADET-TE-INSTANTANEOUS ELECTRIC DETONATOR ELECTRIC INSTANTANEOUS II DETONATORS HOTSHOT ELECTRONIC DETONATOR MAGNASEIS SEISMIC DETONATOR PBS 2000 ELECTRONIC DETONATOR (I-KON SYSTEM) ROZDET SMI 100 ELECTRONIC BLASTING SYSTEM (UNITRONIC DETONATOR SYSTEM)</p>
0267	<p>DETONATORS, NON-ELECTRIC for blasting, Class 1.4B</p> <p>TEC No 8 PLAIN DETONATOR (1.4B)</p>
0275	<p>CARTRIDGES, POWER DEVICE, Class 1.3C</p> <p>BLUE THUNDER J180T, J460T, J800T, K1100T BOE-30A (75mm WHITE LIGHTNING Prop, 669g, HxD: 5.25"x2.55") BOE-30A (98mm BLUE THUNDER Prop, 1176G, HxD: 6.00"x3.37") WHITE LIGHTNING J90W, J275W, J415W, K550W, K458W, L952W, M1419W, M1939W</p>
0276	<p>CARTRIDGES, POWER DEVICE, Class 1.4C</p> <p>HILTI CARTRIDGES, CENTRE-FIRE (CASCADE) HILTI CARTRIDGES, CENTRE-FIRE (DYNAMIT NOBEL) HILTI CARTRIDGES, CENTRE-FIRE (FIOCCHI)</p>
0286	<p>WARHEADS, ROCKET with bursting charge, Class 1.1D</p> <p>PENGUIN MK 2 MOD 7 WARHEAD SECTION WDU-32/B</p>
0288	<p>CHARGES, SHAPED, FLEXIBLE, LINEAR, Class 1.1D</p> <p>CHARGE CUTTING LINEAR (CCL) SERIES, 250 G/M TO 2700 G/M LINEAR CUTTING CHARGE L12-RDXC-LSC</p>
0312	<p>CARTRIDGES, SIGNAL, Class 1.4G</p> <p>FIREBALL 12 GAUGE PAINS-WESSEX 25 MM VERY CARTRIDGE PAINS-WESSEX 38 MM VERY CARTRIDGE SCHERMULY 25 MM VERY CARTRIDGE SCHERMULY 38 MM VERY CARTRIDGE SCHERMULY SMOKE PUFF VERY CARTRIDGE</p>
0323	<p>CARTRIDGES, POWER DEVICE, Class 1.4S</p> <p>15 MM PCF CARTRIDGE WITH 16 GRAMS OF PROPELLANT 15 MM PCF CARTRIDGE WITH 8 GRAMS OF PROPELLANT ACVOKE CABLE SPIKING GUN, SAFETY BLANKS AMPACK INDUSTRIAL CARTRIDGES AUTOMATED BOULDER BUSTER SYSTEM BOULDER BUSTER CARTRIDGE CARTRIDGES, FIRE EXTINGUISHER ACTUATING, ALL TYPES</p>

	<p>ESSIG RB100 ROCKBREAKER FIRE EXTINGUISHER ACTUATORS HILTI CARTRIDGES, RIMFIRE (CASCADE) HILTI CARTRIDGES, RIMFIRE (DYNAMIT NOBEL) HILTI CARTRIDGES, RIMFIRE (FIOCCHI) HILTI DX10 KILN GUN SHELLS M.S.A. RAIL PUNCH CARTRIDGES METRON FIRE EXTINGUISHER ACTUATORS NONEX SAFETY CARTRIDGE POWER UNIT PC RAMSET CARTRIDGES REMINGTON STUD DRIVER CARTRIDGES SCHERMER BOLT STUNNER CARTRIDGE T+ COUPLINGS TEMPLE COX CARTRIDGES</p>
0325	<p>IGNITERS, Class 1.4G</p> <p>BULLET HIT-M16 BULLET HIT-M17 DIRECTIONAL SHORT CIRCUITORS-DSC SERIES LONG AND SHORT HOWARD FUSE IGNITERS OMNI SHORT CIRCUITORS-OSC SERIES SCHERMULY INTERNATIONAL IGNITERS SCHERMULY SPEEDLINE IGNITERS</p>
0332	<p>EXPLOSIVE, BLASTING TYPE E, Class 1.5D</p> <p>ANRUB AUSX SLX600 DETAPOWER 400S PACKAGED DETAPOWER HI II INHIBITED HEAVY ANFO DETAPOWER MATRIX SENSITISED P1,P2,P3,P4 DETAPOWER P4 SERIES DETAPOWER RU1 DETAPOWER RU2 DETAPOWER RU3 DETAPOWER RU4 DETAPOWER SERIES DU PONT TOVEX E DU PONT TOVEX EL DU PONT TOVEX EXTRA EMULAN 6500 EMULAN 7000 EMULAN 8000 EMULAN 9000 EMULITE 200 EMULITE 300 EMULITE 850 EMULITE MATRIX, SENSITISED (1220) FIX EMULSION GX-20 SLURRAN, BULK FORMULATION GX-20 SLURRAN, PACKAGE FORMULATION ISANOL NOBEL "POWERGEL" 1511 (SEE COMMENT) NOBEL POWERGEL 2901 SERIES POWERBULK UH POWERGEL 2500 UB POWERGEL 2500 UBX RIOFLEX RIOFLEX CN RIOFLEX SN RIOGEL TTX (BULK) TITAN 1000 EMULSION ANFO BLENDS TITAN 2000 EMULSION/ANFO BLEND SERIES WITH UP TO 40% ANFO TITAN 3000 EMULSION/ANFO BLEND SERIES WITH UP TO 40% ANFO TITAN 4000 EMULSION ANFO BLENDS</p>

	<p>TITAN 5000 EMULSION/ANFO BLENDS WITH UP TO 30% ANFO TITAN 6000 EMULSION ANFO BLENDS TITAN 6000 SOLID SENSITISED EMULSION TITAN 6100 SOLID SENSITISED EMULSION TOVEX BE TOVEX BE 70 TOVEX BE LD TOVEX E TOVEX EL TOVEX EXTRA TOVEX EXTRA L/D</p>
0333	<p>FIREWORKS, Class 1.1G</p> <p>AIRBUST-NIGHT MAROONS; SALUTES (FOTI'S) MAROONS; SALUTES (HOWARS SONS)</p>
0334	<p>FIREWORKS, Class 1.2G</p> <p>PAINS-WESSEX AERIAL BOMB BLASTS PAINS-WESSEX MAROONS PAINS-WESSEX PARAROCKET MARK I PAINS-WESSEX PARAROCKET MARK III PAINS-WESSEX THUNDER FLASH ROCKETS (FOTI'S) ROCKETS (HOWARD & SONS) RUBBER BALL CHARGE SCHERMULY PARAROCKET MARK I SCHERMULY PARAROCKET MARK III SCHERMULY ROCKET 2 STAR SHELLS, AERIAL (FOTI'S) SHELLS, AERIAL (HOWARD & SONS)</p>
0335	<p>FIREWORKS, Class 1.3G</p> <p>ARCING MATCH FIREWORKS EACH CONTAINING MORE THAN 40 G OF FIREWORKS COMPOSITION FLASH PAPER LE MAITRE PYROFLASH CARTRIDGES SPARKLING STAR COMPOSITION</p>
0336	<p>FIREWORKS, Class 1.4G</p> <p>4 OZ GERBS - 8 TYPES 8 OZ GERBS - AMBER 8 OZ GERBS - FLITTER 8 OZ GERBS - GOLD 8 OZ GERBS - GOLD TO SILVER 8 OZ GERBS - GREEN 8 OZ GERBS - RED 8 OZ GERBS - SHIMMER 8 OZ GERBS - SILVER CENTURI MODEL ROCKET MOTORS COX ASTRA ROCKET ENGINE (NOT EXCEEDING 12.5 G COMPOSITION) ESTES MODEL ROCKET MOTORS (NOT EXCEEDING 12.5 G COMPOSITION) FLASH POTS ICE FOUNTAIN - LARGE ICE FOUNTAIN - SMALL PAINS-WESSEX THEATRE FIRES SHOPGOODS FIREWORKS, WITH UP TO 40 G OF FIREWORK COMPOSITION IN EACH SMOKE POTS FOR STAGE USE</p>
0337	<p>FIREWORKS, Class 1.4S</p>

	AMORCES (TOY CAPS, BEING PAPER STRIPS OR DISCS, OR PLASTIC CUPS) IGNITION TAPES JEX STARTING PISTOL CAPS STARTING PISTOL CAPS STRAITLINE STARTING PISTOL CAPS THERMIT INGITERS WESTRAK IGNITION TAPES
0338	CARTRIDGES FOR WEAPONS, BLANK or CARTRIDGES, SMALL ARMS, BLANK, Class 1.4C RAMSET RP-4, PELLETS
0339	CARTRIDGES FOR WEAPONS, INERT PROJECTILE or CARTRIDGES, SMALL ARMS, Class 1.4C WINCHESTER 8 GAUGE INDUSTRIAL CARTRIDGES
0342	NITROCELLULOSE, WETTED with not less than 25% alcohol, by mass, Class 1.3C NITROCELLULOSE C1
0349	ARTICLES, EXPLOSIVE, N.O.S., Class 1.4S 1.4S PROPELLANT SAMPLE PACKAGE 27.5 MM PCF SAFETY CARTRIDGE 42 MM (60 GRAMS) PCF SAFETY CARTRIDGE NONEL EXTENDALINE SHOCKLINE STATNAMIC IGNITER
0351	ARTICLES, EXPLOSIVE, N.O.S., Class 1.4C 38 mm P38R-A-1G, P38R-A-2G, P38R-A-3G, P38R-A-4G, P38R-A-5G, P38R-A-6G 42 MM PCF CARTRIDGE WITH 100 GRAMS OF PROPELLANT 60 MM PCF CARTRIDGE WITH 100, 200 AND 300 RGAMS OF PROPELLANT BLUE THUNDER reload kit up to 62.5g Prop, 8.3g Delay charge, 1.4g Ejection charge WHITE LIGHTNING reload kit up to 62.5g Prop, 8.3g Delay charge, 1.4g Ejection charge
0360	DETONATOR ASSEMBLIES, NON-ELECTRIC for blasting, Class 1.1B EXEL CONNECTADET 6 DETONATOR EXEL CONNECTADET DETONATORS EXEL DETONATORS (MS & LP SERIES) EXEL DEVELDEDET DETONATOR EXEL ENDURADET DETONATOR EXEL GOLDET 6 DETONATORS EXEL GOLDET DETONATORS EXEL LEAD IN LINE EXEL LLHD DETONATORS EXEL MS CONNECTOR EXEL TRUNKLINE DELAY M.D. NONEL M.S. CONNECTOR NOBLE "SILINE" DELAY DETONATORS NONEL LEAD IN LINE NONEL LP PRIMADET NONEL MS CONNECTOR NONEL MS PRIMADET NONEL SLHD NONEL SUPER "CLIPDET" NONEL SUPER "DOUBLEDET" NONEL SUPER "SNAPDET" NONEL SUPER "SNAPLINE" NONEL SUPER L.P NONEL SUPER M.S NONEL UB SURFACE DELAYS

	<p>NONEL UNIDET NONEL WITH NPED DET. PRIMADET NON-ELECTRIC DETONATORS, LONG PERIOD (LP) SERIES PRIMADET NON-ELECTRIC DETONATORS, MILLISECOND (MS) SERIES PRIMADET NON-ELECTRIC DETONATORS, NOISELESS LEAD-IN-LINE SERIES PRIMADET NON-ELECTRIC DETONATORS, EZ TRUNKLINE DELAY (EZTL) SERIES SLIDER PRIMER DETONATOR ASSEMBLY SNAPLINE UNITEC SNAP CLIP</p>
0361	<p>DETONATOR ASSEMBLIES, NON-ELECTRIC for blasting, Class 1.4B</p> <p>EZ TRUNKLINE DELAY (EZTL) PRIMADET NONELECTRIC DETONATOR RIOTECH MS AND TLD CONNECTORS RIOTECH TRUNKLINE DELAY DETONATORS TECNEL NON-ELECTRIC MS AND TLD CONNECTORS TECNEL TRUNKLINE DELAY DETONATOR TTC, 17ms, 25 ms, 42 ms, 65 ms, 84 ms</p>
0367	<p>FUZES, DETONATING, Class 1.4S</p> <p>NOBEL NONEL TUBE</p>
0368	<p>FUZES, IGNITING, Class 1.4S</p> <p>NOMATCH IGNITER</p>
0381	<p>CARTRIDGES, POWER DEVICE, Class 1.2C</p> <p>ROCKTEK DPI CARTRIDGE (Authorization expired 31 July 2000)</p>
0405	<p>CARTRIDGES, SIGNAL, Class 1.4S</p> <p>BIRDFRITE MK 2 GOLDEN BURST STAGE FLASH STAGE FRIGHT FLASH STAGE FRIGHT SMOKE</p>
0428	<p>ARTICLES, PYROTECHNIC for technical purposes, Class 1.1G</p> <p>THEATRICAL MAROONS GIANT</p>
0431	<p>ARTICLES, PYROTECHNIC for technical purposes, Class 1.4G</p> <p>GERBES GLITTER CASCADES MAROONS MICRODETS MICRODETS - NON FRAGMENTING MINI GERBS - 8 TYPES PYRONEX CHARGES - ELECTRIC (25g, 75g and 150g) SILVERJET CARTRIDGE SILVERJET CARTRIDGE - REDUCED HEIGHT STATNAMIC CHARGE STREAMER BURST THEATRICAL MAROONS LARGE THEATRICAL MAROONS MEDIUM THEATRICAL MAROONS SMALL</p>
0432	<p>ARTICLES, PYROTECHNIC for technical purposes, Class 1.4S</p>

	<p>30 SEC COLOURED SMOKE - 5 TYPES 7 SEC COLOURED SMOKE (5 TYPES) AIRBURSTS ALADDIN SMOKES AMBER FLASH AMBER STAR COLOURED FIRE COLOURED FIRE CARTRIDGE AMBER COLOURED FIRE CARTRIDGE BLUE COLOURED FIRE CARTRIDGE GREEN COLOURED FIRE CARTRIDGE MAUVE COLOURED FIRE CARTRIDGE RED COLOURED FIRE CARTRIDGE WHITE COLOURED SMOKE FLASH-PAPER STRING COTTON GOLDEN STAR CARTRIDGE GREEN FLASH GREEN STAR GUNFLASH LARGE CONFETTI - COLOURED LARGE CONFETTI - WHITE LARGE GLITTER BLUE LARGE GLITTER GOLD LARGE GLITTER GREEN LARGE GLITTER RED LARGE GLITTER SILVER PHANTOM FLAMES QUIKDRAW PROPELLING CHARGE RED FLASH RED STAR ROBOTICS SILVER STAR CARTRIDGE - LARGE SILVER STAR CARTRIDGE - MEDIUM SILVER STAR CARTRIDGE - SMALL SKORPION ANTI-THEFT DEVICE SMOKE PUFF - PYROPOT STREAMER CARTRIDGE STREAMER CARTRIDGE - LARGE THEATRICAL FLASH CARTRIDGE - LARGE THEATRICAL FLASH CARTRIDGE - MEDIUM THEATRICAL FLASH CARTRIDGE - SMALL</p>
0439	<p>CHARGES, SHAPED, without detonator, Class 1.4S</p> <p>EXEL CONNECTALINE</p>
0454	<p>IGNITERS, Class 1.4S</p> <p>DE LA MARE ELECTRIC SQUIBS DU PONT IGNITACORD CONNECTORS IGNITION TAPES (THERMIT IGNITERS) NOBEL BEANHOLE CONNECTORS FOR FAST IGNITER CORD NOBEL ELECTRIC FUSES NOBEL IGNITER CORD CONNECTORS NOBEL MULTIPLE SAFETY FUSE IGNITERS NOBEL SLOTTED CONNECTORS FOR SLOW IGNITER CORD PCF CARTRIDGE IGNITER RIO TINTO IGNITERS</p>
0483	<p>CYCLOTRIMETHYLENETRINITRAMINE; (CYCLONITE; HEXOGEN; RDX), DESENSITIZED, Class 1.1D</p> <p>HLX SHEET EXPLOSIVE RDX COMPOSITION A3 RDX COMPOSITIONS TR1, TR1SG AND TR2 RDX, DESENSITISED, (CXM-7)</p>
0499	<p>PROPELLANT, SOLID,</p>

	Class 1.3C PYRODEX FINES, SELECT, OVERS, P, RS, CTG & EXTRUDED P, EXTRUDED RS
The DEOCL Listing of Defence Explosive Ordnance, as amended from time to time, is deemed to be incorporated in this List.	

3. AUTHORISED COMMONWEALTH EXPLOSIVES

3.1 Commonwealth Defence Explosives Arrangements

On 3 May 2004 the Ordnance Safety Group, within the Commonwealth Department of Defence, was renamed the Directorate of Ordnance Safety (DOS). The DOS is the technical regulator of Explosive Ordnance storage and transport activities within the Australian Defence Organisation. It also conducts audits of compliance in accordance with Explosive Ordnance safety policy and regulations throughout Defence. These audits are independent of the monitoring authorities within Defence Groups. Technical regulation includes development of Defence policy covering the storage, transport and handling of Explosive Ordnance.

This activity includes the resolution of the complex Commonwealth and State regulatory issues surrounding the transport and storage of Commonwealth explosives, the development of Defence Instructions and participation in the development of the *Australian Explosives Code*. Another important activity of DOS is the compilation of the **Defence Explosive Ordnance Classification Listing (DEOCL)**, which is maintained by Defence and issued at regular intervals on a restricted basis.

3.2 Civilian Contractors

Increasingly defence ordnance is handled by civilian contractors. Under a long term Australian Defence Force contract the ADI Company manufactures rifle ammunition, grenades, aircraft bombs, anti missile shells, large calibre ammunition, demolition charges and training and practice products. Also the company has a 10 year contract to warehouse, maintain and distribute the Australian Defence Forces explosive ordnance. These civilian contractors, because they are not defence personnel or Commonwealth employees, come under the NSW explosives regulatory regime. This makes it necessary to formally recognise the DEOCL list of Explosive Ordnance (which contains over 2400 line items) as explosives authorised under NSW legislation.

3.3 DEOCL List

Accordingly, the **DEOCL** listing of Explosives Ordnance, (as amended from time to time), is now recognised in NSW as forming part of the **List of Authorised Explosives** under Clause 8 of the *Explosives Regulation 2005*.

4. CATEGORIES OF PROHIBITED EXPLOSIVES

The following categories of explosives are prohibited in NSW unless an exemption has been granted by WorkCover under clause 93 or 94 of the *Explosives Regulation 2005* or specific approval given on the appropriate licence or fireworks notification form.

4.1 Safety Cartridges

A safety cartridge or other munitions is prohibited where:

- a) the bullet is not firmly fixed in the cartridge case, or
- b) the bullet has a split or cracked case, or
- c) the bullet has a case that is liable to split or rupture when fired in a properly constructed weapon of a chambering and calibre appropriate to a cartridge of its class, or
- d) the bullet or other projectile explodes, or contains an incendiary or tracer composition, or contains a lachrymatory, nauseating or toxic substance

but does not include:

- e) a safety cartridge in 4.1 (a)(b) and (c) held under a collector's licence issued by the police if the cartridges are kept separate from cartridges for use or for supply.
- f) a safety cartridge for use by the Police Service, the Commonwealth or a State or Territory of the Commonwealth, or by the Armed Services, or
- g) the importing, with the approval in writing of the Regulatory Authority, of a safety cartridge having a bullet or other projectile that contains an incendiary or tracer composition, or
- h) a safety cartridge having a bullet or other projectile approved in writing by the Regulatory Authority.

4.2 Fireworks

A firework is prohibited where the firework:

- a) contains a composition of a chlorate in admixture with sulfur, a sulfide or phosphorus (other than amorces, a streamer cone or a confetti bomb), or
- b) is of such construction that firework composition can escape from it, or

- c) can explode en masse, or
- d) explodes either wholly or in part (other than amorces, a snap for a bon-bon cracker, a streamer cone or a confetti bomb), or
- e) on ignition may project through the air in an erratic or unpredictable flight, or
- f) is a toy firework that contains arsenic or a compound of arsenic as an ingredient of its composition, or
- g) does not have displayed on it instructions in the English language relating to the manner in which it should be ignited and the manner in which it is designed to behave, or
- h) ignites in less than 3 seconds, or more than 15 seconds, after its wick or touch paper has been ignited in accordance with the instructions displayed on it, or
- i) after having been set up and ignited in accordance with the instructions displayed on it, behaves otherwise than in accordance with those instructions, or
- j) can be ignited or discharged by means other than the lighting of a wick, touch paper or by electric initiation, other than a distress signal, amorces, snaps for bon-bon crackers, streamer cones, model rocket propellant devices and confetti bombs, or
- k) is a rocket other than a distress signal.

Not withstanding the above

- l) fireworks are permitted, other than 4.2 (b) and (c), if they are for the purpose of use outside the State if they are exported as soon as practicable to that other State or Territory and evidence of an authority to import from that other State or Territory has been received and a copy is forwarded to the NSW Regulatory Authority, prior to the release of the fireworks, or
- m) fireworks are permitted, other than 4.2 (b), (c), (e), (f) and (i) if they are or have been nominated and received on the authority of a pyrotechnician's licence, or
- n) fireworks are permitted, other than 4.2 (b) to (j) if they are or have been nominated and received on the authority of a fireworks (single use) licence.

4.3 Distress Signals

A distress signal is prohibited if it does not comply with AS 2092 (*Pyrotechnic marine distress flares and signals for pleasure craft*) or an equivalent International Standards Organisation standard.

4.4 Model Rockets

A model rocket propellant device is prohibited if it:

- a) contains a composition of a chlorate in admixture with sulfur, a sulfide or phosphorus, or
- b) is of such construction that ignitable substances can escape from it, or
- c) may explode either wholly or in part, or
- d) contains an ignitable substance or ignitable substances exceeding 15 grams in mass.

but does not include:

- e) a model rocket propellant device containing an ignitable substance or ignitable substances not exceeding 62.5 grams in mass received by a person who is a member of a recognised model rocket club, or
- f) a model rocket propellant device containing an ignitable substance or ignitable substances exceeding 62.5 grams in mass received by a person who is a member of a recognised model rocket club and holds a pyrotechnicians licence.

4.5 Liquid Oxygen Explosive Mixtures

A liquid oxygen explosive mixture, which is a mixture of liquid oxygen and a carbonaceous material and is known as a liquid oxygen explosive, is prohibited unless the mixture is created for immediate use as an integral part of a manufacturing process and that process is approved in writing by the Regulatory Authority.

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