

## Relevant Legislation

Dangerous Goods Act 1985

Dangerous Goods (Explosives) Regulations 2000  
[Regulations 502&1209]

## Regulation Objectives

‘...to provide for the safety of people and property in relation to the manufacture, storage, sale, transport, use, disposal and import of explosives...’  
[Regulation 101(a)]

## Process Objective(s)

Licensing supports the objectives of the Regulations by ensuring that only suitable persons are approved to sell authorised explosives in suitable facilities in Victoria. Controlling the sale of explosives supports the Authority’s explosives licensing schemes by limiting the sale of explosives to persons who are appropriately licensed.

## Risk Profile

Explosives may only be sold by persons who hold a licence to sell explosives. However, a licence to sell is not required for the sale of general use fireworks (sparklers, party poppers, etc). Firearms dealers licensed under the Firearms Act 1996 do not require an additional licence to sell cartridge ammunition.  
[Regulation 502]

The sale of blasting explosives is restricted to persons who are licensed to sell, use or store blasting explosives or are otherwise authorised to purchase the blasting explosives. A full list of persons authorised to purchase blasting explosives can be found in Regulation 507.  
[Regulation 507]

The sale of display fireworks, Chinese firecrackers or theatrical fireworks is restricted so that the only persons who may purchase these fireworks are persons who hold a Pyrotechnician’s licence, a licence to sell the fireworks, or are otherwise authorised to purchase the fireworks.  
[Regulation 514(1)]

General requirements for sale of explosives include that:

- Packaging must conform to the Australian Explosives Code requirements.
- Explosives cannot be sold in a public place, such as a market or fair (with the exception of safety cartridges and general use fireworks).

[Regulations 503 & 504]

There are approximately 350 licences to sell explosives in Victoria.

## Applicant’s Legislative Requirements

To obtain a licence to sell explosives, an applicant must:

- Provide all the information required in the Authority’s *Application for a Licence to Sell Explosives* form and submit the form to the Authority; and  
[Regulation 122(1)(b)]

- Be at least 18 years of age; and  
[Regulation 122(2)]
- Pay the prescribed fee.  
[Regulation 122(1)(c) and Regulation 1209]

If the application is from a Natural Person, a completed Application to Conduct National Police Check and ASIO Security Assessment form and an Identification Form – Natural Person must be submitted, if these have not been provided to the Authority previously. Note that there is an additional fee associated with the conduct of the Police Checks and Security Assessment (refer Application form for details).

[Regulation 123A(1)] [Regulation 1213A] [Suitable Person Advice]

If the application is from a non-individual, other than a public company, the application must be accompanied by a nomination of at least one director who must provide proof of their identity and pass a security assessment and criminal checks as per the Authority's Suitable Person criteria.

[Regulation 123A(2-6)] [(Suitable Person Advice)]

If the application is from a non-individual, the application must be accompanied by a nomination of the person who is responsible for the security of the explosives under the licence. This person must provide proof of their identity and pass a security assessment and criminal checks as per the Authority's Suitable Person criteria.

[Regulation 123A(3-6)] [(Suitable Person Advice)]

## The Authority's Legislative & Policy Requirements

When a licence to sell explosives or licence renewal application is received, the Authority:

- Must decide on the application within a reasonable period. The Authority's aim is to decide on licence applications within 30 days of the applicant providing all the information.  
[Dangerous Goods Act Section 21(5A)] [Policy]
- May issue a licence for up to 5 years if the application is complete and correct; or  
[Dangerous Goods Act Section 21(1)] [Regulation 123(1)(b)]
- May refuse a licence, giving the reasons for refusal in writing.  
[Dangerous Goods Act Section 21(7)]

Prior to making a decision to refuse a licence the Authority will provide the applicant with the opportunity to make a submission in support of their application.

[Policy]

When refusing to renew an existing licence the Authority must notify the licence holder in writing at least 2 months before licence expiry, unless the application for renewal is received less than 2 months before expiry.

[Dangerous Goods Act Section 21(8)]

In the event that the application is incomplete:

- For minor matters, the Authority may contact the applicant by telephone to obtain whatever is necessary to finalise the application.  
[Policy]
- For major matters, the Authority will write to the applicant and request whatever is necessary to finalise the application. If the applicant does not contact the Authority within 30 days of receipt of the letter, the Authority may return the application to the applicant, or refuse the licence on the basis that the applicant has not provided the information considered necessary to assess the application.

[Policy]

The Authority:

- May impose conditions, limitations and restrictions on a licence as it thinks appropriate to ensure the safety of persons and property or to ensure compliance with the Act.  
[Dangerous Goods Act Section 23(1)]
- Delegates certain staff to make decisions on these matters under the *Dangerous Goods Act 1985* and the *Dangerous Goods (Explosives) Regulations 2000*.

## The Authority's Decision Making Criteria

If a person has fulfilled the requirements previously outlined, the licence decision making criteria to grant, or renew, a licence are:

- If the application is from a natural person, the applicant must meet the Suitable Person criteria.  
[Dangerous Goods Act Section 21(6)(b)] [Suitable Person Advice]
- If the application is from a non-individual, other than a public company, the nominated Director must provide Proof of identity, pass a Security Assessment and Criminal Checks.  
[Regulation 123A(3), (4)] [Suitable Person Advice]
- If the application is from a non-individual, the person nominated as being responsible for security of explosives must provide Proof of identity, pass a Security Assessment and Criminal Checks.  
[Regulation 123A(5), (6)] [Suitable Person Advice]
- Appropriate storage licences are applied for if explosives proposed to be held for sale exceeds small scale storage amount listed in Table 403.  
[Regulation 403(1)]
- Small scale storage is in accordance with the requirements of Division 5 of Part 4 of the Regulations.  
[Regulation 122(3)(d)]
- Appropriate systems are in place to ensure that all personnel dealing with the explosives have adequate training, procedures and safety instructions.  
[Regulation 122(3)(b)]
- Systems are in place to ensure that explosives are sold only to persons with the correct authorisations for the type of explosives.  
[Regulation 122(3)(b)]

## Suspension / Revocation

The Authority may amend, suspend or revoke a licence. Suspension or revocation may be considered when a licence holder no longer fulfils the licence criteria, or does not control risks associated with explosives, or the risk profile has changed substantially.

[Dangerous Goods Act Section 24(1)] [Suspension and Revocation Advice]

Provided there is no significant danger to persons or property, the Authority will give one month's written notice and reasons:

- When considering amendment, suspension or revocation of a licence; and invite licence holders to make representation on the possible action.  
[Policy]
- After deciding to amend, suspend or revoke a licence.  
[Dangerous Goods Act Section 24(1&4)]

Changes to licences such as correcting personal details, are not considered to be licence amendments, therefore the Authority will not give duty holders notice of such change.  
[Policy]

A licence cannot be suspended for more than six months.  
[Dangerous Goods Act Section 24(3)]

## Review & Appeal

Where it is proposed that a licence will be refused, cancelled or suspended, the Authority will ensure that a review is carried out by an Authority officer who is independent of the licence decision-making process, before the decision is finalised.  
[Policy]

Affected persons may appeal to the Victorian Civil and Administrative Tribunal within one month of receiving notification of an Authority decision to:

- Refuse a licence or licence renewal.  
[Dangerous Goods Act Section 22(1&2)]
- Amend, suspend or revoke a licence.  
[Dangerous Goods Act Section 25(1&2)]

Affected persons may apply to the Victorian Civil and Administrative Tribunal within 14 days of receiving a licence which contains a condition, limitation or restriction (other than a prescribed condition, limitation or restriction) for a review of the decision to insert the condition, limitation or restriction.  
[Dangerous Goods Act Section 23(3), (4)]

## Other Information

Applicants should contact the Licensing Branch on 1300 852 562 if the service level timeframes to finalise an application have not been met.

Records of explosives sales must be kept in accordance with the requirements in Division 2 of Part 5 of the Regulations.  
[Regulation 508]

A person who suspects that sale of explosives is not in compliance with the Regulations should contact the WorkCover Advisory Service (1800 136 089) or the Emergency Response Service (13 23 60).

Exemption from these regulations, except from the requirement to hold a licence, can be requested by written application to the Authority.  
[Regulation 115] [Exemption Advice]

## Associated Guidance

Australian Explosives Code  
Identification of Suitable Persons Advice  
Suitable Person Advice

## Forms

Application for a licence to sell explosives

Application to Conduct National Police Check and ASIO Security Assessment

Identification Form – Natural Person

Identification Form – Non-Individual

Advice documents provide a brief explanation of the main permissioning regulatory requirements and Authority policy, practice and administration in Victoria. They are intended to assist individuals to comply with Victorian legislation and are not an alternative or replacement for Victorian Acts and Regulations. It remains the responsibility of individuals to be aware of and comply with all relevant legislation, including health and safety legislation. Advice documents do not modify or discharge a person from any legal obligation imposed by the provisions of the Occupational Health and Safety Act 2004, the Dangerous Goods Act 1985 or any other applicable legislation.