

## TASMANIA

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# **SECURITY-SENSITIVE DANGEROUS SUBSTANCES AMENDMENT BILL 2008**

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**SECURITY-SENSITIVE DANGEROUS  
SUBSTANCES AMENDMENT BILL 2008**

*(Brought in by the Minister for Infrastructure, Resources,  
Planning and Workplace Relations, the Honourable Steven  
Kons)*

**A BILL FOR**

**An Act to amend the *Security-sensitive Dangerous  
Substances Act 2005***

Be it enacted by His Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Security-sensitive  
Dangerous Substances Amendment Act 2008*.

**2. Commencement**

This Act commences on a day to be proclaimed.

**3. Principal Act**

In this Act, the *Security-sensitive Dangerous  
Substances Act 2005*\* is referred to as the  
Principal Act.

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\*No. 31 of 2005

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**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “form of regulatory authority”:

**“functions”** includes duties;

- (b) by omitting the definition of “restricted activity” and substituting the following definitions:

**“restricted activity”**, in relation to an SSDS, means –

- (a) manufacturing, importing, exporting, buying, selling, supplying, storing, using or disposing of –
- (i) if the SSDS is specified in Part 2 of Schedule 1 by reference to a quantity, that quantity of the SSDS; or
- (ii) in the case of any other SSDS, any quantity of the SSDS; or

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- (b) an activity specified in Part 3 of Schedule 1;

**“restrictive personal order”** means any of the following:

- (a) a family violence order or interim family violence order within the meaning of the *Family Violence Act 2004*;
  - (b) a police family violence order within the meaning of the *Family Violence Act 2004*;
  - (c) a restraint order or interim restraint order within the meaning of Part XA of the *Justices Act 1959*;
  - (d) an external restraint order within the meaning of Part XA of the *Justices Act 1959*;
- (c) by inserting the following definition after the definition of “SSDS permit”:

**“State”** includes Territory;

**5. Section 4 amended (What is a security-sensitive dangerous substance?)**

Section 4 of the Principal Act is amended as follows:

- (a) by omitting “A” and substituting “(1) A”;
- (b) by inserting the following subsection:
  - (2) The specification of a substance under subsection (1) may be absolute or by reference to a quantity of the substance.

**6. Section 6 substituted**

Section 6 of the Principal Act is repealed and the following sections are substituted:

**6. Act binds Crown**

- (1) This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.
- (2) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.

**6A. Application of Act**

- (1) This Act does not apply to the carrying out of a restricted activity in relation to an SSDS by –

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- (a) an authorised officer acting in the course of duty; or
  - (b) a police officer acting in the course of duty; or
  - (c) a person acting in the course of a duty that he or she is performing for or on behalf of an emergency service.
- (2) This Act does not apply to the carrying out, in Tasmania, of a restricted activity in relation to an SSDS by any of the following persons acting in the course of Commonwealth duty or at the request of or with the approval of the Commissioner of Police, an SES authority or any Minister:
- (a) a police officer of the Commonwealth or another State;
  - (b) a member of the Defence Forces of the Commonwealth;
  - (c) a civilian employee of the Commonwealth.
- (3) In this section –

**“emergency service”** means –

- (a) the State Emergency Service within the meaning of the

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*Emergency Management Act 2006; or*

- (b) the Tasmanian Ambulance Service established under the *Ambulance Service Act 1982*; or
- (c) the Tasmania Fire Service established under the *Fire Service Act 1979*; or
- (d) the Department;

**“SES authority”** means –

- (a) the Director of the State Emergency Service appointed under section 27 of the *Emergency Management Act 2006*; or
- (b) the State Emergency Management Controller referred to in section 10(1) of that Act; or
- (c) the Deputy State Emergency Management Controller referred to in section 10(2) of that Act.

**7. Section 13 amended (Applications not to be approved unless applicants are fit and proper persons)**

Section 13(2) of the Principal Act is amended by omitting paragraph (i) and substituting the following paragraphs:

- (i) whether the applicant is or has ever been subject to a restrictive personal order;
- (j) any prescribed matter.

**8. Section 14 amended (Applications not to be approved unless responsible workers are fit and proper persons)**

Section 14(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (g) “applicant” and substituting “nominee”;
- (b) by omitting paragraph (i) and substituting the following paragraphs:
  - (i) whether the nominee is or has ever been subject to a restrictive personal order;
  - (j) any prescribed matter.

**9. Section 31 amended (Cancellation and suspension of permits by Director)**

Section 31(2) of the Principal Act is amended by omitting paragraph (i) and substituting the following paragraphs:

- (i) the holder of the permit is subject to a restrictive personal order; or
- (j) the suspension is prudent or necessary having regard to a security threat.

**10. Section 41 amended (Responsible workers – revocation of status)**

Section 41(1) of the Principal Act is amended by omitting paragraph (k) and substituting the following paragraphs:

- (k) the person is subject to a restrictive personal order; or
- (l) the revocation is prudent or necessary having regard to a security threat.

**11. Section 78 amended (Exemptions)**

Section 78 of the Principal Act is amended by omitting subsection (8) and substituting the following subsection:

- (8) In this section –

**“low-scale restricted activity”** means  
an activity specified in Part 4 of  
Schedule 1.

**12. Section 83 amended (Regulations)**

Section 83 of the Principal Act is amended by inserting after subsection (5) the following subsection:

- (6) For the avoidance of doubt, where a provision of this Act refers to a prescribed quantity, the quantity that may be so prescribed includes zero.

**13. Section 84 amended (Amendment of Schedules)**

Section 84 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “any Part of” after “to”;
- (b) by inserting in subsection (1)(b) “any Part of” after “from”;
- (c) by omitting from subsection (1)(c) “item.” and substituting “item.”;
- (d) by inserting the following paragraph after paragraph (c) in subsection (1):
  - (d) adding, omitting or substituting any definition to, from or in item 1 of Part 1 of the Schedule.

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- (e) by inserting in subsection (2)(a) “any Part of” after “to”;
- (f) by inserting in subsection (2)(b) “any Part of” after “from”;
- (g) by omitting from subsection (2)(d)(iii) “paragraph.” and substituting “paragraph;”;
- (h) by inserting the following paragraph after paragraph (d) in subsection (2):
  - (e) adding, omitting or substituting any definition to, from or in item 1 of Part 1 of the Schedule.
- (i) by omitting from subsection (5) “subsection (1)” and substituting “this section”;
- (j) by inserting the following subsection after subsection (5):
  - (6) For the avoidance of doubt –
    - (a) orders under subsections (1) and (2) may be combined; and
    - (b) the specification of an SSDS in Part 2 of Schedule 1 may be absolute or by reference to a quantity of the SSDS; and

- (c) the specification of an activity in Part 3 or 4 of Schedule 1 may be of general or limited application.

**14. Section 86 repealed**

Section 86 of the Principal Act is repealed.

**15. Schedule 1 amended (Security-sensitive dangerous substances)**

Schedule 1 to the Principal Act is amended as follows:

- (a) by omitting the heading and substituting the following heading:

**SCHEDULE 1 – SECURITY-SENSITIVE  
DANGEROUS SUBSTANCES AND  
RESTRICTED ACTIVITIES**

- (b) by inserting the following definition after the definition of “ADG Code” in item 1 of Part 1:

“**AE Code**” means the *Australian Code for the Transport of Explosives by Road and Rail* published by the Commonwealth, as from time to time amended;

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- (c) by inserting the following definitions after the definition of “explosive” in item 1 of Part 1:

**“SSAN”** means an SSDS specified in Division 1 of Part 2 of this Schedule;

**“SSE”** means an SSDS specified in Division 2 of Part 2 of this Schedule;

**“Standards Australia”** means Standards Australia Limited (ABN 85 087 326 690);

- (d) by inserting the following heading after the heading to Part 2:

***Division 1 – SSAN***

- (e) by omitting items 2 and 3 from Part 2 and substituting the following items:

**2.** An ammonium nitrate emulsion that –

(a) contains more than 45% ammonium nitrate; and

(b) does not have a UN number; and

(c) is not an explosive.

**3.** An ammonium nitrate mixture that –

- (a) contains more than 45% ammonium nitrate; and
  - (b) does not have a UN number; and
  - (c) is not an explosive.
- (f) by inserting the following Division in Part 2:

***Division 2 – SSE***

- 4.** A blasting explosive within the meaning of the AE Code.
  - 5.** A blasting explosive within the meaning of AS 2187.0 published by Standards Australia, as from time to time amended.
  - 6.** A Type 3 firework within the meaning of the *Dangerous Goods (General) Regulations 1998*.
  - 7.** A propellant within the meaning of the *Dangerous Goods (General) Regulations 1998* in powder form and in a quantity greater than 5 kilograms.
- (g) by inserting the following Parts after Part 2:

**PART 3 – RESTRICTED ACTIVITIES**

- 1.** In relation to an SSAN: transporting (at any one time)

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more than 20 kilograms of the SSAN.

**2.** In relation to an SSE:

- (a) in the case of the SSE specified in item 7 of Division 2 of Part 2 of this Schedule, transporting (at any one time) more than 5 kilograms of the SSE; or
- (b) in the case of any other SSE, transporting any quantity of the SSE.

**PART 4 – LOW-SCALE RESTRICTED ACTIVITIES**

- 1.** In relation to an SSAN: acquiring, storing, handling and using (at any one time) less than 3 kilograms of the SSAN for or in connection with the purposes of an educational, research or analytical laboratory.

**16. Schedule 2 amended (Guidelines for determining legitimate need for SSDS permit)**

Schedule 2 to the Principal Act is amended as follows:

- (a) by inserting the following Part before item 1:

**PART 1 – INTERPRETATION**

**1.** In this Schedule –

“SSAN” has the same meaning  
as in Schedule 1;

“SSE” has the same meaning  
as in Schedule 1.

- (b) by inserting the following heading before  
item 1:

**PART 2 – SSAN**

- (c) by omitting from item 1 “SSDS” first  
occurring and substituting “SSAN”;
- (d) by omitting from item 2 “SSDS” first  
occurring and substituting “SSAN”;
- (e) by inserting the following Part after item  
2:

**PART 3 – SSE**

- 1.** Prima facie, the use of an SSE for  
or in connection with the carrying  
on of a business or employment  
will constitute a legitimate need  
to have an SSDS permit.