

South Australia

Dangerous Substances (Dangerous Goods Transport) Variation Regulations 2015

under the *Dangerous Substances Act 1979*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Dangerous Substances (Dangerous Goods Transport) Variation Regulations 2015*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Dangerous Substances (Dangerous Goods Transport) Regulations 2008*

4—Variation of regulation 3—Scope of Act and regulations

Regulation 3(4) and (5)—delete "load of" wherever occurring and substitute in each case:

load containing

5—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of **ADG Code**—delete the definition and substitute:

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* published by the Commonwealth of Australia as in force from time to time;

- (2) Regulation 4(1), definition of **Australian Transport Council**—delete the definition

- (3) Regulation 4(1)—after the definition of **capacity** insert:

cargo transport unit means—

- (a) a road transport tank or freight vehicle; or
- (b) a railway transport tank or freight wagon; or
- (c) a portable tank; or
- (d) a bulk container; or
- (e) a freight container; or
- (f) a MEGC;

- (4) Regulation 4(1), definitions of **ICAO approved** and **IMO approved**—delete the definitions and substitute:

ICAO approved means approved in accordance with the ICAO Technical Instructions as in force from time to time;

ICAO Technical Instructions means the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* published by the International Civil Aviation Organisation as in force from time to time;

IMDG Code means the *International Maritime Dangerous Goods Code* published by the International Maritime Organisation as in force from time to time;

IMO approved means approved in accordance with the IMDG Code;

- (5) Regulation 4(1), second definition of **load**—before "transport unit" wherever occurring insert:

cargo

- (6) Regulation 4(1)—after the definition of **Special Provision** insert:

Standing Council on Transport and Infrastructure means the council of New Zealand, Commonwealth, State and Territory Ministers established on 11 June 1993 as the Australian Transport Council and subsequently restructured as the Standing Council on Transport and Infrastructure, but constituted so that it consists of only 1 Minister representing each of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory;

- (7) Regulation 4(1), definition of **transport unit**—delete the definition

6—Variation of regulation 19—Application for licence or renewal of licence

Regulation 19(3)(c)(ii)—delete "in September 2003 (ISBN 0 85588 507 6)" and substitute:

as in force from time to time

7—Variation of regulation 46—Requirements for insurance

Regulation 46—after subregulation (2) insert:

- (3) In this regulation, a requirement that the use of a road vehicle be covered by a policy of insurance or other form of indemnity is, in the case of a combination, a requirement that the use of the combination be covered by a policy of insurance or other form of indemnity.

- (4) In this regulation—

combination has the same meaning as in the *Road Traffic Act 1961*.

8—Variation of regulation 48—Instruction and training

Regulation 48(1)—after paragraph (e) insert:

- (ea) handling fumigated cargo transport units;

9—Variation of regulation 75—Consignor's duties

Regulation 75—after subregulation (3) insert:

- (4) Subregulation (3) does not apply if the marking or labelling with respect to the contents of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code.

- (5) In this regulation—
label includes a placard.

10—Variation of regulation 76—Packer's duties

Regulation 76—after subregulation (3) insert:

- (4) Subregulation (3) does not apply if the marking or labelling with respect to the contents of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code.
- (5) In this regulation—
label includes a placard.

11—Variation of regulation 77—Prime contractor's and rail operator's duties

Regulation 77—after subregulation (3) insert:

- (4) Subregulation (3) does not apply if the marking or labelling with respect to the contents of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code.
- (5) In this regulation—
label includes a placard.

12—Variation of regulation 79—Consignor's duties

- (1) Regulation 79(3)—before "transport unit" insert:

cargo

- (2) Regulation 79—after subregulation (3) insert:

- (4) Subregulation (3) does not apply if the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the cargo transport unit.

13—Variation of regulation 80—Loader's duties

Regulation 80—after subregulation (3) insert:

- (4) Subregulation (3) does not apply if the placarding of the load complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the load.

14—Variation of regulation 81—Prime contractor's and rail operator's duties

- (1) Regulation 81(3)—before "transport unit" wherever occurring insert:

cargo

- (2) Regulation 81—after subregulation (3) insert:

- (4) Subregulation (3) does not apply if the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the cargo transport unit.

15—Variation of regulation 92—Owner's duties

Regulation 92—before "transport unit" wherever occurring insert:

cargo

16—Variation of regulation 95—Prime contractor's and rail operator's duties

Regulation 95(2)—before "transport unit" wherever occurring insert:

cargo

17—Variation of regulation 97—Consignor's duties

- (1) Regulation 97—delete "load of" wherever occurring and substitute in each case:

load containing

- (2) Regulation 97(2)—before "transport unit" wherever occurring insert:

cargo

18—Variation of regulation 98—Loader's duties

- (1) Regulation 98(1)—delete "load of" and substitute:

load containing

- (2) Regulation 98(2)—before "transport unit" wherever occurring insert:

cargo

19—Variation of regulation 99—Prime contractor's and rail operator's duties

- (1) Regulation 99(1)—delete "load of" and substitute:

load containing

- (2) Regulation 99(2)—before "transport unit" wherever occurring insert:

cargo

20—Variation of regulation 100—Driver's duties

- (1) Regulation 100(1)—delete "load of" and substitute:

load containing

- (2) Regulation 100(2)—before "transport unit" wherever occurring insert:

cargo

21—Variation of regulation 101—Application of Part

Regulation 101(b)—delete "load of" and substitute:

load containing

22—Variation of regulation 102—Exceptions

Regulation 102(3)—before "transport unit" insert:

cargo

23—Variation of regulation 114—Transferor's duties

Regulation 114—after its present contents (now to be designated as subregulation (1)) insert:

- (2) If—
- (a) a person is engaged in the bulk transfer of goods that are not dangerous goods into a tank; and
 - (b) the tank is on, or part of, a vehicle; and
 - (c) the person knows, or ought reasonably to know, that the vehicle is carrying dangerous goods, or is likely to carry dangerous goods before the tank is emptied,

the person must ensure that the ullage in the tank complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.

Maximum penalty: \$2 000.

Expiation fee: \$400.

24—Variation of regulation 115—Prime contractor's and rail operator's duties

Regulation 115—after its present contents (now to be designated as subregulation (1)) insert:

- (2) If a prime contractor or rail operator—
- (a) uses a vehicle to transport a tank containing goods that are not dangerous goods; and
 - (b) at the same time uses the vehicle to also transport dangerous goods,

the prime contractor or rail operator must ensure that the ullage in the tank complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

25—Variation of regulation 116—Driver's duties

Regulation 116—after its present contents (now to be designated as subregulation (1)) insert:

- (2) If—
- (a) a road vehicle contains in a tank goods that are not dangerous goods; and
 - (b) at the same time the vehicle contains dangerous goods,

a person must not drive the vehicle if the person knows, or ought reasonably to know, that the ullage in the tank would not comply with section 10.3.1 of the ADG Code if the goods in it were dangerous goods.

Maximum penalty: \$2 000.

Expiation fee: \$400.

26—Substitution of regulation 120

Regulation 120—delete the regulation and substitute:

120—Prime contractor's duties

- (1) A prime contractor must ensure that a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if—
 - (a) the person has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods; and
 - (b) the documentation is not readily able to be located in the vehicle in accordance with Chapter 11.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (2) If these regulations or the ADG Code requires a prime contractor to create or use a document in relation to the transport of dangerous goods, the prime contractor must retain the document, or a copy of the document, for at least 3 months after the transport of the dangerous goods by the prime contractor finishes.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (3) For the purposes of subregulation (2), a document, or a copy of a document, will be taken not to be retained if—

- (a) a document or copy of a document, is not retained on paper and is not readily legible; and

- (b) a paper copy of the document or copy cannot be readily created at any time during the 3 month retention period at the request of an authorised officer.

27—Variation of regulation 127—Rail operator's duties

Regulation 127(1)—before "transport unit" insert:

cargo

28—Variation of regulation 140—Prime contractor's duties

Regulation 140—after subregulation (2) insert:

- (3) If the road vehicle is towed while still carrying dangerous goods that would require the driver of the vehicle to hold a dangerous goods driver licence, the prime contractor must ensure that the driver of the tow truck towing the vehicle—
 - (a) holds a dangerous goods driver licence that would authorise the driver of the tow truck to drive a vehicle with those dangerous goods; or
 - (b) is accompanied in the cabin of the tow truck by a person who holds a dangerous goods driver licence that would authorise the person to drive a vehicle with those dangerous goods.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

29—Variation of regulation 147—Emergency plans

- (1) Regulation 147(3)(c)—delete "Australian Transport Council" and substitute:

Standing Council on Transport and Infrastructure

- (2) Regulation 147—after subregulation (3) insert:

- (4) On becoming aware of a dangerous situation involving a placard load, the prime contractor or rail operator transporting the load must follow the procedures included in the emergency plan for dealing with a dangerous situation arising from the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

30—Variation of regulation 155—Determinations

Regulation 155(1)(e)—delete paragraph (e) and substitute:

- (e) that particular dangerous goods may be or must not be transported in or on the same cargo transport unit as other goods (whether or not those other goods are dangerous goods).

31—Variation of regulation 170—References to CAP

Regulation 170(1)(a)—delete paragraph (a) and substitute:

- (a) —
 - (i) an application for an exemption under section 36 of the Act; or
 - (ii) an application for a determination or approval under these regulations; or
 - (iii) an approval granted, a determination made or an exemption given by the Competent Authority,that the Authority considers should have effect in another participating jurisdiction;

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 19 February 2015

No 11 of 2015

MIR0040/14CS