

Transport and Other Legislation Amendment Regulation 2023

Explanatory notes for SL 2023 No. 24

made under the

State Penalties Enforcement Act 1999

Transport Infrastructure Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport and Other Legislation Amendment Regulation 2023

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

Section 490 of the *Transport Infrastructure Act 1994*

Section 171 of the *Transport Operations (Road Use Management) Act 1995*

Policy objectives and the reasons for them

New photographic detection device for speeding offences

Driving at any speed above the posted speed limit increases the risk of speed related crashes. The Camera Detected Offence Program (CDOP) utilises a combination of digital speed camera systems to detect speeding offences to discourage this dangerous behaviour and thereby improve road safety in Queensland.

To maximise the positive impacts of the program it is important to continue to introduce new camera systems to ensure camera detection of offences is as efficient and accurate as possible.

A policy objective of the *Transport and Other Legislation Amendment Regulation 2023* (the Amendment Regulation) is to enable a new speed camera system to be used in the detection of speeding offences.

Transport of dangerous goods

National model laws have been developed to ensure a nationally consistent approach to the regulation of the transport of dangerous goods by road and rail. These laws are based on the internationally accepted United Nations Recommendations on the Transport of Dangerous Goods Model Regulations (the UN MR), which are revised every two years. These laws also provide the model to give effect to the Australian Code for the Transport of Dangerous Goods by Road and Rail (the ADG Code).

The Infrastructure and Transport Ministers Meeting held on 9 December 2022 approved the 7th package of amendments to the national Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail (MSI) and approved the ADG Code edition 7.8. In accordance with the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport, states and territories are expected to amend their local legislation to reflect the latest round of changes made to the MSI.

The other policy objectives of the Amendment Regulation are therefore to:

- adopt the 7th package of nationally agreed amendments to the MSI; and
- make changes to reflect existing Queensland administrative processes in relation to dangerous goods vehicle licences.

Achievement of policy objectives

New photographic detection device for speeding offences

The Amendment Regulation amends the *Traffic Regulation 1962* to prescribe a new camera system as an approved photographic detection device for speed detection. Amendments are also being made to insert ‘data blocks’ that apply to the new camera system. These data blocks explain the codes that appear on images generated by the camera system for evidentiary purposes.

Transport of dangerous goods

The Amendment Regulation amends the *State Penalties Enforcement Regulation 2014* (the SPE Regulation), the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2018* (the DG Rail Regulation), and the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018* (the DG Road Regulation) as set out below.

Definitions

The DG Rail Regulation and the DG Road Regulation define terms relating to the transport of dangerous goods. These terms are fundamental to the requirements of the ADG Code. The primary requirements in the ADG Code are a reproduction of the international requirements of the UN MR. Some ADG Code definitions have been amended to ensure consistency with international requirements. These changes to the ADG Code definitions have resulted in the current definitions in the DG Rail Regulation and the DG Road Regulation no longer being consistent with the ADG Code. The Amendment Regulation updates these definitions in the regulations to ensure consistency with the ADG Code. There will be minimal impact, if any,

on those operating in the dangerous goods transport industry since the changes to the definitions will reflect the definitions in the ADG Code under which they operate.

Examples of the changes are set out below.

- The Amendment Regulation ensures that all the items classified as 'packaging' under the ADG Code are included in the definition.
- The Amendment Regulation clarifies that in the definition of 'portable tank', the tank capacity referred to in the definition is only to apply when the tank is being used to transport gases of UN class 2.

Minor clarifications are also being made to the following definitions:

- bulk container
- Competent Authorities Panel
- dangerous goods
- food packaging
- freight container
- inner packaging
- large packaging
- outer packaging
- overpack
- rail wagon (DG Rail Regulation only)
- tank
- tube

Definitions for intermediate packaging and rail tank wagon (DG Rail Regulation only) have also been added.

Chapter Numbering changes

Innovations in technology mean that portable tanks with fibre reinforced plastic shells can now be used to transport dangerous goods. The UN MR has introduced a new Chapter 6.9 that deals with portable tanks made with a fibre reinforced plastic shell.

The ADG Code already has a Chapter 6.9 that is unique to Australia. To maintain consistency with the UN MR, the existing Chapter 6.9 is being renumbered as Chapter 6.10. Chapter 6.9 of the UN MR is being added to the ADG Code.

All references to Chapter 6.9 in the DG Rail Regulation and the DG Road Regulation are consequently being amended to refer to Chapter 6.10.

Compliance Plate Requirements

An amendment is also being made to the provisions dealing with the requirement to attach a compliance plate to portable tanks, multiple element gas containers and tank vehicles. The

amendment reflects that compliance plates attached to a portable tank that has a shell of fibre reinforced plastic must indicate that the shell is made of this material rather than metal.

The requirements relating to the display of compliance plates on multiple element gas containers and tank vehicles have remained unchanged, although the subsections containing the respective offences are being renumbered. Consequential amendments are also being made to the SPE Regulation to reflect the renumbering of the offence provisions in the DG Road Regulation.

Transitional arrangements

The Amendment Regulation incorporates a specific transitional provision for the introduction of the ADG Code edition 7.8. For 12 months beginning 1 April 2023, a person will be able to choose to comply with either ADG Code edition 7.7 or ADG Code edition 7.8.

The Amendment Regulation also incorporates a general transitional provision that is to apply whenever changes are made to the ADG Code that have the effect of imposing a new requirement on a person or modifying an existing requirement applying to the person. The provision means that for a period of 12 months, a person will be able to choose to comply with either the new ADG Code requirement or those that currently apply. After a period of 12 months, the amended ADG Code must be complied with.

Dangerous Goods Vehicle Licences

In addition to the nationally agreed changes, the Amendment Regulation also makes changes to the DG Road Regulation to reflect existing administrative processes in relation to a dangerous goods vehicle licence. These changes provide greater clarity in the legislation and reflect an existing administrative process that benefits customers. These changes include:

- expressly specifying that the duration of a licence is 12 months, and
- providing that a reduced fee is payable for a vehicle to be added to the licence if that vehicle is added part way through the term of the licence. In those circumstances, the fee is calculated based on the number of months still left on the licence when the new vehicle is added to it.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of:

- the *Transport Infrastructure Act 1994* to establish a regime that provides for the safety of railways and persons at, on or near railways; and
- the *Transport Operations (Road Use Management) Act 1995* to provide for the effective and efficient management of road use in the State and provide a scheme for managing the use of the State's roads that will improve road safety in ways that contribute to overall transport effectiveness and efficiency.

Inconsistency with policy objectives of other legislation

The amendments are not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

New photographic detection device for speeding offences

The amendments will benefit all road users by contributing to road safety. Ongoing administrative costs associated with the operation of these camera systems will be met from the money collected from the penalties imposed for these offences. Section 117 of the *Transport Operations (Road Use Management) Act 1995* provides that all money in excess of the administrative costs must be used for road safety and associated purposes.

Transport of dangerous goods

The benefits of the amendments include maintaining nationally consistent and up-to-date laws for the transportation of dangerous goods. The cost of implementing these amendments is expected to be insignificant and will be met within existing budget allocations.

The Queensland specific administrative amendments reflect long held operational practices and are of benefit to customers.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles as required under the *Legislative Standards Act 1992*.

The amendments incorporate references to the ADG Code (sections 11, 13, 14, 17, 20, 22, 23 and 35 of the Amendment Regulation). This is a lengthy document containing the detailed and technical requirements for classifying and transporting dangerous goods by road and rail and which, where possible, gives effect to international requirements for transporting dangerous goods. The technical detail contained in the ADG Code would be inappropriate to incorporate into the DG Rail Regulation and the DG Road Regulation. It would expand the size of these regulations considerably. Stakeholders support the use of the ADG Code as they have a high level of understanding and familiarity with it. The ADG Code has also been adopted in each jurisdiction in Australia and is developed and maintained by the National Transport Commission (NTC) in consultation with each jurisdiction and industry.

The latest edition of the ADG Code, and any proposed amendments to the ADG Code, are also readily accessible by the public on the NTC's website. For these reasons, referencing the ADG Code in the DG Rail Regulation and the DG Road Regulation is believed to be appropriate and adequately considers fundamental legislative principles.

The offence provisions inserted by sections 14 and 23 of the Amendment Regulation are simply a renumbering and recasting of existing provisions. They do not introduce any new offences. In any event, the offence provisions and corresponding penalties have been reviewed to ensure that the penalties continue to be proportionate to the seriousness of the offences.

Consultation

New photographic detection device for speeding offences

No public consultation has been undertaken as the amendments simply approve a new camera system for use in the existing camera detected offence program.

In accordance with *The Queensland Government Guide to Better Regulation* (the guidelines), the Department of Transport and Main Roads (TMR) applied an agency-assessed exclusion from undertaking further regulatory impact analysis under category (g), regulatory proposals that are of a machinery nature.

Transport of dangerous goods

The NTC undertook public consultation on the 7th package of amendments to the national model laws. Feedback on the proposed amendments was invited from members of the public, including relevant industry groups. Extensive consultation also occurred through the NTC's annual legislative maintenance process, including consultation and meetings of the Competent Authorities Panel (CAP) and the Dangerous Goods Maintenance Advisory Group (MAG).

Membership of the MAG includes the NTC, the Ministerial Council, the National Heavy Vehicle Regulator, all state and territory CAP members, the Australasian Fire and Emergency Service Authorities Council Limited representing national emergency services and peak industry associations. These associations include the Australian Trucking Association, the Australian Logistics Council, Chemistry Australia, Aerosol Association of Australia Inc, Freight Trade Alliance, ACCORD (peak national body representing manufacturers and marketers of the hygiene, cosmetic and specialty product industries) and the Plastics and Chemicals Industries Association.

TMR also undertook Queensland specific stakeholder consultation on the national amendments with the following groups:

- Queensland Trucking Association Ltd;
- Transport Workers' Union of Australia;
- United Firefighters Union Queensland;
- Queensland Fire and Emergency Services; and
- Registered Training Organisations that provide dangerous goods driver licence training in Queensland.

No objections about the amendments were raised by any stakeholder.

The Office of Best Practice Regulation (OBPR) was consulted. OBPR excluded the amendments from further regulatory impact analysis on the basis that the proposed amendments had undergone a process comparable to the requirements of the guidelines in terms of analysis and consultation.