

Transport Legislation (Dangerous Goods) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 18

made under the

State Penalties Enforcement Act 1999

Transport Infrastructure Act 1994

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport Legislation (Dangerous Goods) Amendment Regulation 2018

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

Section 442 of the *Transport Infrastructure Act 1994*

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

Policy objectives and the reasons for them

The policy objective of the *Transport Legislation (Dangerous Goods) Amendment Regulation 2018* (amendment regulation) is to adopt the 4th package of nationally-agreed amendments to the Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail.

The amendments will reduce the regulatory burden on industry.

Achievement of policy objectives

In November 2016, the Transport and Infrastructure Council approved the 4th package of amendments to the national Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail. This model subordinate instrument is intended to provide the basis for nationally consistent legislation regarding the transport of dangerous goods by road or rail. It

does not, by itself, have any legal effect. States and territories are expected to amend their local legislation to reflect the latest round of changes made to the model subordinate instrument.

The amendment regulation implements these changes through amendments to the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008*, the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*, and the *State Penalties Enforcement Regulation 2014*.

Specifically the amendments will:

- provide that vehicles carrying certain manufactured items, such as large batteries and refrigeration devices, only need to be placarded (that is, a warning sign placed on the outside of the vehicle) when the load is 1000kg or more, rather than more than 500kg;
- remove the requirement for the Chief Executive, Department of Transport and Main Roads, to issue licence labels for dangerous goods vehicles, as licences can now be verified by authorised officers using remote access to the register of dangerous goods vehicle licences;
- replace outdated references to the Australian Transport Council with a reference to the Transport and Infrastructure Council; and
- provide that goods transported in Limited Quantities and certain *domestic consumable articles* only require vehicle placarding if the load is two tonnes or more. Further detail about this change is set out below.

Currently, the transport of less than one tonne of small individual packages containing certain dangerous goods, such as cosmetics and personal care products, is classed as a lower-risk activity than transporting a bulk quantity of dangerous goods. As such, less than one tonne of these Limited Quantities can be transported without the need for the vehicle to display a placard.

Separate provisions provide that Limited Quantities and certain articles that are frequently consumed by households can be transported between retail outlets without a placard if the load does not exceed two tonnes. These *domestic consumable articles* include domestic smoke detectors, lighters, lighter refills, party poppers and fire extinguishers.

The amendments will combine these two arrangements into a new policy which provides Limited Quantities and domestic consumable articles only require vehicle placarding if the load is two tonnes or more. In effect, the amendments lift the standard placarding threshold for Limited Quantities from one to two tonnes and remove the requirement that domestic consumable articles only qualify for the two tonne placarding threshold when being transported between retail outlets. In addition, a transitional provision will ensure that operators can continue to comply with the existing marking and labelling requirements for these goods up until 1 March 2018, at which time compliance with edition 7.5 of the Australian Code for the Transport of Dangerous Goods by Road and Rail becomes mandatory.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objective of the *Transport Infrastructure Act 1994* to establish a regime that provides for the safety of railways and persons at, on or near

railways.

The amendment regulation is also consistent with the policy objectives of the *Transport Operations (Road Use Management) Act 1995* to provide a scheme for managing the use of the State's roads that will improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness and efficiency.

The amendment regulation is also consistent with the policy objectives of the *State Penalties Enforcement Act 1999*.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The benefits of the amendments include maintaining nationally-consistent and up-to-date laws for the transportation of dangerous goods. The amendments also reduce the regulatory burden on industry.

The cost of implementing these amendments is expected to be insignificant and will be met by the existing budget allocation.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

In August and September 2013, the National Transport Commission (NTC) undertook public consultation on the amendment to set a higher placarding threshold for manufactured items, such as large batteries and refrigeration devices, as part of a larger package of amendments. No submissions were received from industry or the public about that amendment.

The NTC coordinated a significant consultation process during the development of the Limited Quantities amendments. The consultation process involved state regulators, the Aerosol Association of Australia, the Australasian Fire and Emergency Service Authorities Council, the Australian Logistics Council, the Australian Paint Manufacturers Federation, Australia Post, the Direct Selling Association of Australia, Greencap, Haztech, Heat Group, Myer, the National Retail Association, the Plastics and Chemicals Industries Association, TNT Express Australia, Toll Group, and 3M. ACCORD, which is the peak national industry association representing manufacturers and marketers of hygiene and cosmetic products, was also consulted.

The NTC engaged NERA Economic Consulting to prepare a Regulatory Impact Statement (RIS) for these and other Limited Quantities reforms which the NTC released in August 2015. The RIS incorporated feedback received from industry and from competent authorities. In July and August 2016, the NTC undertook further public consultation on the draft amendments, as part of a larger package of amendments.

As a result of submissions to the 2015 Consultation RIS on the Limited Quantities amendments, the two tonne threshold for placarding was decided on rather than an option of eight tonnes. During the further consultation conducted in July and August 2016, submissions from industry provided general support for the broader Limited Quantities reforms.

The Office of Best Practice Regulation (OBPR) has advised that the amendments relating to placarding and limited quantities appear to have undergone extensive consultation consistent with regulatory best practice principles and therefore no further assessment is required under the Queensland Government Guide to Better Regulation (the guidelines).

OPBR has also advised that the amendment to remove the requirement for the chief executive to issue licence labels appears to reduce the burden of regulation with no significant adverse impacts, and therefore no further assessment is required under the guidelines.

In accordance with the guidelines, the Department of Transport and Main Roads applied a self-assessable exclusion from undertaking further regulatory impact analysis for the amendment which replaces outdated references to the Australian Transport Council. This exclusion was based on Category G—Regulatory proposals that are of a machinery nature.