

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE



No. 5 of 1988

**An Act to amend the Carriage of Dangerous Goods by Road
Act 1984 in certain particulars**

[ASSENTED TO 7TH APRIL, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Carriage of Dangerous Goods by Road Act Amendment Act 1988*.

(2) In this Act the *Carriage of Dangerous Goods by Road Act 1984* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Carriage of Dangerous Goods by Road Act 1984-1988*.

2. Amendment of s. 5. Meaning of terms. Section 5 of the Principal Act is amended by—

(a) omitting the definition “consignor”;

(b) omitting the definition “prime contractor” and substituting the following definition:—

““road” has the meaning assigned to it in the *Traffic Act 1949-1985*.”.

3. Amendment of s. 14. Determination of appeal. Section 14 of the Principal Act is amended by adding at the end thereof the following paragraph:—

“Any costs ordered to be paid may be recovered as a debt due and owing to the appellant or the Commissioner as the case may be, from the other, by action in any court of competent jurisdiction.”.

4. Amendment of s. 16. Unlicensed carriage an offence. Section 16 of the Principal Act is amended by omitting provision (b) and substituting the following provision:—

“(b) are in a quantity less than—

(i) if no quantity is prescribed in substitution therefor by Order in Council, the quantity specified in relation to the classification of dangerous goods in question, in the provisions of the Code for Marking of Vehicles and Freight Containers Used to Transport Dangerous Goods in Packages—Quantities for which Marking is Required; or

(ii) such quantity prescribed for the time being in substitution for the quantity referred to in provision (i) by the Governor in Council by Order in Council on the recommendation of the Minister.

Different quantities may be prescribed in relation to different classifications or types of dangerous goods.”.

5. Amendment of s. 17. Carrier to be indemnified by insurance. Section 17 of the Principal Act is amended by omitting the words from and including the words “to the extent of” to and including the words “carried by him.” and substituting the words “as prescribed.”.

6. Amendment of s. 18. Carriage to be by suitable vehicles. Section 18 of the Principal Act is amended by—

(a) inserting before provision (a), the following provision:—

“(a) being a motor vehicle carrying bulk dangerous goods, there exists at the time of the usage a current certificate of inspection issued under the *Motor Vehicles Safety Act 1980-1985* by an Inspector duly appointed under that Act;”;

(b) redesignating provision (a) as provision (b) and in that provision omitting the words “that is required by or pursuant to the *Motor Vehicles Safety Act 1980*” and substituting the words “other than one referred to in paragraph (a), that is required by or pursuant to the *Motor Vehicles Safety Act 1980-1985*”;

(c) redesignating provision (b) as provision (c) and in that provision omitting the expression “(a)” and substituting the expression “(a) or (b)”;

(d) redesignating provision (c) as provision (d) and in that provision omitting the words “either case referred to in paragraph (a) or (b)” and substituting the words “any case referred to in paragraph (a), (b) or (c)”.

7. Repeal of s. 19. Requirement for shipping documents. Section 19 of the Principal Act is repealed.

8. Repeal of s. 20. Mingling of explosives and flammable goods prohibited. Section 20 of the Principal Act is repealed.

9. New s. 22A. The Principal Act is amended by inserting in Part III before section 23, the following section:—

“**22A. Power of delegation.** (1) The Commissioner may, either generally or otherwise as provided by the instrument of delegation by writing signed by him, delegate—

(a) to any person;

(b) to the holder of an office, specifying its title but not the name of the holder for the time being,

all or any of his powers, authorities, functions and duties under this Act, except this power of delegation.

(2) A power, authority, function or duty so delegated, if exercised, performed or discharged, as the case may be, by the delegate, shall be exercised, performed or discharged in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms or limitations as the Commissioner thinks fit including a requirement that the delegate shall report to him upon the exercise, performance or discharge, as the case may be, of the delegated power, authority, function or duty.

(4) The Commissioner may make such and so many delegations of the same power, authority, function or duty and

to such number of persons or holders of office as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Commissioner and does not prevent the exercise of a power or authority, the performance of a duty or the discharge of a function by him.”.

10. Amendment of s. 24. Exemption from complying with Code.
Section 24 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section omitting the word “Code” and substituting the words “this Act”;

(b) omitting subsection (1) and substituting the following subsection:—

“(1) If it appears to the Minister or to the Commissioner that the public safety is not likely to be threatened, the Minister or, as the case may be, the Commissioner may by notice in writing to a person or to a representative of any association of persons or class of persons exempt that person, or persons who are members of that association or part of that class of persons, from compliance with all or any of the provisions of this Act or all or any of the provisions of the Code where its compliance is provided for by this Act.

Before an exemption is granted to a person or to persons who are members of an association of persons or part of a class of persons that person, or as the case may be the representative of that association or class of persons, shall provide the Minister or the Commissioner as the case may be with his or its address for service of a notice in writing referred to in this section.

Changes to this address during the currency of the exemption shall forthwith be notified by such person or representative as the case may be, to the Minister or the Commissioner as the case may be.”;

(c) in subsection (2), omitting the words “holder of the licence” and substituting the words “person or persons”;

(d) in subsection (3)—

(i) inserting after the word “Act” the words “or the Code”;

(ii) omitting the words “holder of the licence” and substituting the words “person or persons”;

(e) omitting subsection (4) and substituting the following subsection:—

“(4) A notice in writing referred to in this section may be given to a person or, where persons are members of an association of persons or form part of a class of persons to their representative, by leaving it at or sending it by post to the address provided under subsection (1).”.

11. New s. 30A. The Principal Act is amended by inserting after section 30, the following section:—

“30A. Evidentiary provisions. (1) In any proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the Minister, the Commissioner, a delegate of the Commissioner or an authorised officer to do an act or take any proceeding;
- (b) a signature purporting to be that of the Minister, the Commissioner, a delegate of the Commissioner or an authorised officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be certified by the Minister, the Commissioner, or an authorised officer and purporting to be a copy of a licence, a delegation, an exemption, a certificate of authorisation or other certificate under this Act shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary conclusive evidence of that licence, delegation, exemption, certificate of authorisation or other certificate and of any terms, conditions or other matters endorsed thereon;
- (d) a document purporting to be signed by the Commissioner or an authorised officer stating that at a specified time or during a specified period there was or was not in force a licence, a delegation, an exemption, a certificate of authorisation or other certificate under this Act granted or issued to a specified person or persons or in respect of a specified thing or for a specified purpose and that such licence, delegation, exemption, certificate of authorisation or other certificate was or was not subject to the terms, conditions or restrictions set out in the document, shall upon its production in that proceeding be evidence, and in the absence of evidence to the contrary, conclusive evidence of the matters contained in the document;
- (e) proof of exemption from any provision of this Act shall be upon the person who relies thereon.

(2) In a proceeding for the purposes of this Act the provisions of section 46 of the *Motor Vehicles Safety Act 1980-1985* shall apply as if that proceeding was a proceeding for the purposes of the *Motor Vehicles Safety Act 1980-1985*.”.

12. Amendment of s. 32. Regulations. Section 32 of the Principal Act is amended by—

- (a) in provision (g) of subsection (1) omitting the expressions “\$500” and “\$10” and inserting the words “40 penalty units” and “2 penalty units” respectively;

(b) inserting after subsection (1), the following subsection:—

“(1A) For the purposes of provision (g) of subsection (1), a penalty unit shall have the value assigned to a penalty unit by the *Penalty Units Act 1985*.”.