

Western Australia

Dangerous Goods Safety Act 2004

**Dangerous Goods Safety (General)
Regulations 2007**

As at 23 Jun 2010

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Dangerous Goods Safety (General) Regulations 2007

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Dangerous Goods Safety (General) Regulations 2007

Part 1 — Preliminary matters

1. Citation

These regulations are the *Dangerous Goods Safety (General) Regulations 2007*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which Part 3 of the Act comes into operation.

3. Interpretation

In these regulations, unless the contrary intention appears —

Act means the *Dangerous Goods Safety Act 2004*;

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, Seventh edition, 2007, published by the Commonwealth of Australia (ISBN 1 921168 57 9) (also called the Australian Dangerous Goods Code) including (for the avoidance of doubt) its appendices;

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combustible liquid means any liquid the flashpoint of which is higher than 60°C;

flashpoint of a liquid, means the temperature at which the liquid first evolves vapour in a sufficient quantity to be ignited when tested in accordance with —

- (a) AS 2106 — *Methods for the determination of the flash point of flammable liquids (closed cup) (series)* published by Standards Australia; or
- (b) a technical standard that specifies a test that is equivalent to that specified in AS 2106;

Form, if followed by a number, means the form of that number in Schedule 2;

section means a section of the Act;

UNTC means the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria*, Fourth revised edition, published by the United Nations (ISBN 92 1 139087 7).

[Regulation 3 amended in Gazette 22 Jun 2010 p. 2781.]

Part 2 — Matters for the Act Parts 1 and 2

4. “Dangerous goods” prescribed (Act s. 3(1)(a))

(1) In this regulation —

Dangerous Goods List means the Dangerous Goods List in the ADG Code Chapter 3.2 as read with the other provisions in the ADG Code Part 3.

(2) For the purposes of paragraph (a) of the definition of “dangerous goods” in section 3(1), a substance or article is dangerous goods if —

(a) under the ADG Code, it is within any of these classes or divisions of dangerous goods —

- (i) Class 1 (explosives);
- (ii) Class 2 (gases);
- (iii) Class 3 (flammable liquids);
- (iv) Class 4 (flammable solids; substances liable to spontaneous combustion; substances which, on contact with water emit flammable gases);
- (v) Class 5 (oxidizing substances and organic peroxides);
- (vi) Division 6.1 (toxic substances);
- (vii) Class 8 (corrosive substances);
- (viii) Class 9 (miscellaneous dangerous substances and articles);

or

(b) it is named or described in Schedule 1.

(3) Without limiting the generality of subregulation (2)(a), a substance or article is dangerous goods for the purposes of paragraph (a) of the definition of “dangerous goods” in section 3(1) if —

s. 5

- (a) it is named in column 2 of the Dangerous Goods List, irrespective of whether the name is —
 - (i) a generic name; or
 - (ii) a name described as “N.O.S”;or
 - (b) it satisfies —
 - (i) the criteria set out or referred to in the ADG Code Part 2; or
 - (ii) the tests and criteria in the UNTC, for determining if goods are dangerous goods; or
 - (c) it —
 - (i) is named or described in the ADG Code Appendix A; or
 - (ii) satisfies the tests and criteria in the UNTC for determining if goods are too dangerous to transport.
- (4) Despite subregulation (3), a substance or article is not dangerous goods for the purposes of paragraph (a) of the definition of “dangerous goods” in section 3(1) if under the ADG Code, it is within any of these classes or divisions of dangerous goods —
- (a) Division 6.2 (infectious substances);
 - (b) Class 7 (radioactive material).
- (5) Despite subregulations (2)(a) and (3), a substance or article is not dangerous goods for the purposes of paragraph (a) of the definition of “dangerous goods” in section 3(1) if it is not subject to the ADG Code because of a special provision in the ADG Code Chapter 3.3 that applies to it by virtue of column 6 of the Dangerous Goods List.

5. “Dangerous goods”, how Chief Officer determines (Act s. 3(1)(b))

- (1) For the purposes of paragraph (b) of the definition of “dangerous goods” section 3(1), a determination by the Chief Officer that a substance or article is dangerous goods must —
 - (a) be in writing; and
 - (b) be published in the *Gazette*.
- (2) The Chief Officer must keep, and make available for public inspection, a register of determinations made under subregulation (1).

6. Goods too dangerous to transport (Act s. 16)

- (1) For the purposes of section 16, goods are too dangerous to transport if they are dangerous goods and —
 - (a) are named or described in the ADG Code Appendix A; or
 - (b) satisfy the tests and criteria in the UNTC for determining if goods are too dangerous to transport,unless, under this regulation, the Chief Officer has determined they are not too dangerous to transport.
- (2) For the purposes of section 16, goods are too dangerous to transport if they are dangerous goods and, under this regulation, the Chief Officer has determined they are too dangerous to transport and has not cancelled the determination.
- (3) The Chief Officer may determine that particular dangerous goods are or are not too dangerous to transport.
- (4) A determination made by the Chief Officer under this regulation may specify the circumstances under which particular dangerous goods are or are not too dangerous to transport.
- (5) The Chief Officer may amend or cancel a determination made under this regulation.

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- (6) A determination made under this regulation must —
 - (a) be in writing; and
 - (b) be published in the *Gazette*.
- (7) The Chief Officer must keep, and make available for public inspection, a register of determinations made under this regulation.

[Regulation 6 amended in Gazette 22 Jun 2010 p. 2781.]

Part 3 — Matters for the Act Part 4

7. Applying for an exemption

An application for an exemption under the Act Part 4 must —

- (a) be made in writing; and
 - (b) state the applicant's name and address; and
 - (c) state such of the following as are relevant to the application —
 - (i) the place, vehicle or thing, or the class of places, vehicles or things, to which the exemption would apply;
 - (ii) the activity relating to the storage, handling or transport of dangerous goods, or the class of such activities, to which the exemption would apply;
 - (iii) the person, or the class of person, to which the exemption would apply;
- and
- (d) state name and description and class of the dangerous goods to which the exemption would apply; and
 - (e) state the regulations and the provision of them to which the exemption would apply; and
 - (f) state the period for which the exemption is wanted; and
 - (g) state the grounds for the application; and
 - (h) whether or not the application is for an exemption to be granted under section 22, include information relevant to deciding the matters referred to in section 22(2); and
 - (i) be signed and dated by the applicant; and
 - (j) be given to the Chief Officer, even if the application is for an exemption to be granted under section 21.

s. 8

8. Dealing with an application for an exemption

On an application made under regulation 7, the Chief Officer may request the applicant to supply any other information that the Chief Officer believes is reasonably necessary to enable the Minister or the Chief Officer, as the case requires, to decide whether to grant an exemption or not.

9. Register of exemptions

(1) In this regulation —

register means the register referred to in section 23(8).

(2) The register must include the following information in respect of each exemption granted under the Act Part 4 —

- (a) who applied for it;
- (b) whichever of the following is relevant —
 - (i) the place, vehicle or thing, or the class of places, vehicles or things, to which it applies;
 - (ii) the activity relating to the storage, handling or transport of dangerous goods, or the class of such activities, to which it applies;
 - (iii) the person, or the class of person, to which it applies;
- (c) the name and description and class of the dangerous goods to which it applies;
- (d) the regulations and the provision of them to which it applies;
- (e) if it was published in the *Gazette*, the date on which it was published and the page of the *Gazette*;
- (f) the date on which it came into operation;
- (g) the period for which it is granted;
- (h) details of any amendment made to the exemption and the date it was made;

- (i) if the exemption is cancelled, the date it is cancelled.

Part 4 — Matters for the Act Part 5

10. Identity cards, prescribed details (Act s. 28)

For the purposes of section 28, the following details are prescribed for any identification card issued to a DGO —

- (a) the short title of the Act;
- (b) the name of the department of the Public Service that principally assists in the administration of the Act;
- (c) the full name of the DGO;
- (d) the signature of the DGO;
- (e) a colour photograph of the DGO;
- (f) the date on which the card is issued;
- (g) the date on which the card expires;
- (h) the signature of the Chief Officer.

Part 5 — Infringement notices

11. Prescribed offences (Act s. 56)

For the purposes of section 56, the prescribed offences are those offences prescribed for the purposes of that section by other regulations made under the Act.

12. Infringement notice, form of (Act s. 56)

For the purposes of section 56(3), the prescribed form of an infringement notice is Form 1.

13. Withdrawal of infringement notice, form of (Act s. 56)

For the purposes of section 56(7), the prescribed form of a withdrawal of an infringement notice is Form 2.

cl. 1

Schedule 1 — Specific dangerous goods

[r. 4(2)(b)]

Item	Name or description of substance or article
1.	Any substance that contains more than 45% ammonium nitrate.
2.	Sulphur in any form, despite special provision 242 in the ADG Code Chapter 3.3 and despite regulation 4(5).
3.	Any combustible liquid.

Schedule 2 — Forms

[r. 3]

1. Infringement notice (r. 12)

<i>Dangerous Goods Safety Act 2004 s. 56</i>		Infringement notice	
<i>Dangerous Goods Safety (General) Regulations 2007</i>		Number:	
Alleged offender (individual)	Family name		
	Given names		
	Address		
	Date of birth		Male/Female
	Driver's licence	No.: State/Country: Type: Class(es): Expiry date:	
Alleged offender (body corporate)	Name		
	ACN		ABN
	Address		
Description of alleged offence	Date		Time
	Place		
	Details ¹		
	Regulation contravened ²		
Modified penalty	The modified penalty for the alleged offence is \$		
Vehicle details ³	Plate. No.		State
	Licence expiry date		Vin/Chassis No.

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Schedule 2 Forms

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	Make		Colour	
	Body type			
Date of notice				
Service details [Tick one box]	This notice was served — in person by post.		Date	
Officer issuing notice	Name			
	Office			
	Signature			
Notice to alleged offender	<p>It is alleged that you have committed the above offence.</p> <p>If you want the alleged offence dealt with in court, tick the box below, post this notice to the address below, and do not pay the modified penalty above.</p> <p>If you do not wish to be prosecuted for the alleged offence in court, pay the modified penalty above within 28 days after the date on which you receive this notice.</p> <p>To pay, tick the relevant box below and post this notice and any cheque or credit card details for the modified penalty to the address below.</p> <p>If you want an extension of time to pay the modified penalty, contact the Chief Dangerous Goods Officer at the address below.</p> <p>Paying the modified penalty will not be taken to be an admission for the purposes of any civil or criminal court case.</p> <p>If you do not pay the modified penalty, you may be prosecuted in court for the alleged offence and, if convicted, you will be liable to a penalty and costs.</p>			

<p>Alleged offender's response</p> <p>[Tick one box]</p>	<p>To —</p> <p>Resources Safety</p> <p>Department of Mines and Petroleum</p> <p>Mineral House</p> <p>100 Plain Street</p> <p>East Perth WA 6004</p> <p>I want this alleged offence dealt with by a court.</p> <p>Cheque for the modified penalty enclosed.</p> <p>I want to pay the modified penalty by using a credit card. The credit card's details are:</p>
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Notes to Form 1 —

1. The details should say what the alleged offender has done that is a contravention of the law.
2. Include here the name of the regulations and the number of the regulation contravened.
3. Include vehicle details if alleged offence relates to a vehicle or to a person driving a vehicle.

[Form 1 amended in Gazette 22 Jun 2010 p. 2781.]

cl. 2

2. Withdrawal of infringement notice (r. 13)

<i>Dangerous Goods Safety Act 2004 s. 56</i>		Withdrawal of infringement notice	
<i>Dangerous Goods Safety (General) Regulations 2007</i>			
Alleged offender	Family name		
	Given names		
	Address		
Infringement notice	Number		
	Date issued		
Description of alleged offence	Date		Time
	Place		
	Details		
	Regulation contravened		
Date of this notice			
Officer issuing this notice	Name		
	Office		
	Signature		

Notice to alleged offender	<p>The above infringement notice, which was issued for the above alleged offence, has been withdrawn.</p> <p>If you have already paid the modified penalty in accordance with the infringement notice, you are entitled to a refund of the money.</p> <p>To obtain a refund post this notice to —</p> <p>Resources Safety Department of Mines and Petroleum Mineral House 100 Plain Street East Perth WA 6004</p>
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[Form 2 amended in Gazette 22 Jun 2010 p. 2782.]

Notes

¹ This is a compilation of the *Dangerous Goods Safety (General) Regulations 2007* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Dangerous Goods Safety (General) Regulations 2007</i>	31 Dec 2007 p. 7143-60	r. 1 and 2: 31 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Mar 2008 (see r. 2(b) and <i>Gazette</i> 29 Feb 2008 p. 669)
<i>Dangerous Goods Safety (General) Amendment Regulations 2010</i>	22 Jun 2010 p. 2780-2	r. 1 and 2: 22 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Jun 2010 (see r. 2(b))