
MINERALS AND PETROLEUM

MP301*

Dangerous Goods Safety Act 2004

**Dangerous Goods Safety (Explosives)
Amendment Regulations (No. 2) 2009**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Dangerous Goods Safety (Explosives) Amendment Regulations (No. 2) 2009*.

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 after that day.

3. Regulations amended

These regulations amend the *Dangerous Goods Safety (Explosives) Regulations 2007*.

4. Regulation 3 amended

- (1) In regulation 3 delete the definition of *AE Code*.
- (2) In regulation 3 insert in alphabetical order:

AE Code means the *Australian Code for the Transport of Explosives by Road and Rail*, Third Edition 2009, published by the Commonwealth of Australia (ISBN 978 0 642 32747 5 or ISBN 978 0 642 32753 6) (also called the Australian Explosives Code) including (for the avoidance of doubt) its technical appendices;

5. Regulation 8 amended

Delete regulation 8(2)(a) and “or” after it and insert:

- (a) in the AE Code Appendix 2 —
 - (i) it is named in an entry in column (2) that is not an entry referred to in the AE Code Appendix 6; and

- (ii) it is classified as Class 1 in column (3);
and
 - (iii) it satisfies the criteria in any Special Provision in the AE Code Appendix 3 that is applied to it by column (6); and
 - (iv) it satisfies any criteria applied to it by column (12);
- or

6. Regulation 104 amended

Delete regulation 104(2) and (3) and insert:

- (2) Subregulation (1) does not apply —
 - (a) to the AE Code section 8.2.3(1); or
 - (b) to the AE Code section 8.3.4(2); or
 - (c) to the AE Code section 8.4.4(1) in so far as it requires the owner of a vehicle that is transporting explosives to ensure the person who is driving it is authorised to do so under the Act; or
 - (d) to the AE Code section 8.5.6(2); or
 - (e) to a person, other than the prime contractor, in respect of the transport of an explosive named in, and transported in accordance with, Schedule 7 on a vehicle that is not transporting any other explosive.
- (3) Subregulation (2)(a) and (c) do not affect the operation of regulation 97(3) or section 15 of the Act.

7. Regulation 106 amended

In regulation 106(2) delete “clause 6.4.2(2),” and insert:

section 6.4.2(2),

8. Regulation 107 amended

In regulation 107(1) in the definition of *placarded vehicle* delete “clause 3.4.1.” and insert:

section 3.4.1.

9. Regulation 110 replaced

Delete regulation 110 and insert:

110. Contravention of certain provisions of AE Code an offence

- (1) Unless subregulation (2) says otherwise, the following provisions of the AE Code apply to and in relation to the transport of an explosive by a vehicle in a mine —
 - (a) section 8.2.7(3) and —
 - (i) for the purposes of that section, Chapter 7; and
 - (ii) for the purposes of section 7.2.1(4), Chapter 6;
 - (b) section 8.3.3(1) and —
 - (i) for the purposes of section 8.3.3(1)(a), Chapter 6; and
 - (ii) for the purposes of section 8.3.3(1)(b), section 7.2; and
 - (iii) for the purposes of section 7.2.1(4), Chapter 6;
 - (c) section 8.3.6 and, for the purposes of section 8.3.6(1) and (2), section 3.4;
 - (d) section 8.3.9(1) and (2).
- (2) Despite subregulation (1), the following provisions of the AE Code do not apply to and in relation to the transport of an explosive by a vehicle in a mine —
 - (a) sections 3.4.1(3) and (4), 3.4.2 and 3.4.3;
 - (b) sections 6.1.1, 6.3, 6.4.2, 6.4.3 and 6.4.4.
- (3) If a provision of the AE Code that, by virtue of subregulations (1) and (2), applies to and in relation to the transport of an explosive by a vehicle in a mine requires a person to do or not to do an act and the person contravenes the provision, the person commits an offence.

Penalty: a level 2 fine.

10. Regulation 158 amended

In regulation 158(a) delete “*Medical Act 1894*,” and insert:

Medical Practitioners Act 2008,

11. Regulation 162 amended

In regulation 162(1)(e)(i) delete “*Medical Act 1894*,” and insert:

Medical Practitioners Act 2008,

12. Regulation 206 inserted

At the end of Part 18 insert:

206. Compliance with AE Code Second Edition a defence until 1 January 2010

(1) In this regulation —

AEC 2 means the *Australian Code for the Transport of Explosives by Road and Rail*, Second Edition 2000, published by the Commonwealth of Australia (ISBN 0 642 41486 6) including (for the avoidance of doubt) its technical appendices.

(2) It is a defence to a charge of an offence against these regulations that is constituted by a contravention of a provision of the AE Code and alleged to have occurred before 1 January 2010 to prove the act or omission alleged would not have contravened AEC 2.

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.