

Parliamentary Counsel’s Committee

Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail (Miscellaneous) Amendment 2022

made under the

Model Act on the Transport of Dangerous Goods by Road or Rail

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1 Name of model provisions

These model provisions are the *Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail (Miscellaneous) Amendment 2022*.

2 Amendment of Model Subordinate Instrument

Schedule 1 amends the *Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail*.

Schedule 1 Amendment of Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail

1 Clause 1.2.1 Definitions

Omit definitions *freight container*, *inner packaging*, *large packaging*, *outer packaging*, *overpack*, *packaging*, *portable tank*, *Transport and Infrastructure Council* and *tubes*. Insert instead in alphabetical order:

freight container means a container that:

- (a) is of a permanent character suitable for repeated use; and
- (b) is designed to facilitate the transport of goods by one or more modes of transport, without the need for the goods to be unloaded and reloaded when the container is transferred from one mode to another; and
- (c) is fitted with devices that permit the ready stowage and handling of the container, particularly in relation to the transfer of the container from one mode of transport to another; and
- (d) is designed in a way that facilitates the ease of loading and unloading of goods from the container; and
- (e) for a container used to transport goods other than radioactive material — has an internal volume of not less than 1 m³.

inner packaging has the meaning given in section 1.2.1 of the ADG Code.

intermediate packaging has the meaning given in section 1.2.1 of the ADG Code.

large packaging means packaging that:

- (a) consists of outer packaging that contains articles or inner packagings; and
- (b) is designed for mechanical handling; and
- (c) has:
 - (i) a net mass of more than 400 kg or a capacity of more than 450 litres; and
 - (ii) a volume of not more than 3 m³.

Ministerial Council means the body (however described) that consists of the Minister of the Commonwealth, and the Minister of each State and Territory, who is responsible, or principally responsible, for matters relating to infrastructure and transport.

outer packaging has the meaning given in section 1.2.1 of the ADG Code.

overpack means an enclosure, other than large packaging, used to contain one or more packages in a way that forms one unit for convenience of stowage and handling during transport.

Examples

- packages placed or stacked on a pallet and secured by strapping, shrink wrapping, stretch wrapping or another suitable way
- packages placed in protective outer packaging such as in a box or crate

packaging includes:

- (a) inner packaging, intermediate packaging, outer packaging, an overpack, large packaging, an IBC, an MEGC, a tank (including the tank of a tank vehicle), a bulk container or freight container, a drum barrel, a jerry can, a box and a bag; and
- (b) any other components or materials used for containing the contents of the packaging or performing another safety function in

relation to the transport of the packaging and its contents.

portable tank means a tank used for the transport of a solid, liquid or gas that:

- (a) includes a shell fitted with service equipment and structural equipment necessary for the transport of the solid, liquid or gas; and
- (b) is capable of being loaded and unloaded without removing its structural equipment; and
- (c) has stabilising components external to its shell, and is capable of being lifted when full; and
- (d) is designed primarily to be loaded on to a vehicle or vessel and is equipped with skids, mountings or accessories to facilitate mechanical handling; and
- (e) for a tank used for transporting a substance of UN Class 1 and UN Class 3 to 9 — is a multimodal tank; and
- (f) for a tank used for transporting non-refrigerated, liquefied gases of UN Class 2 — is a multimodal tank having a capacity of more than 450 litres; and
- (g) for a tank used for transporting refrigerated, liquefied gases of UN Class 2 — is a thermally insulated tank having a capacity of more than 450 litres; and
- (h) is not an item that is not considered to be a portable tank for the purposes of the ADG Code.

Note

See the definition of portable tank in section 1.2.1 of the ADG Code for the list of items that are not

considered to be a portable tank for the purposes of the ADG Code.

rail tank wagon means a rail wagon of which a tank forms an integral part.

rail wagon means a unit of rolling stock that:

- (a) is designed to carry freight by rail; and
- (b) bears a unique identifying number or alphanumeric identifier.

road tank vehicle means a road vehicle of which a tank forms part or to which a tank, other than a portable tank, is attached.

tube means a pressure receptacle of seamless or composite construction having a water capacity exceeding 150 litres but not more than 3 000 litres.

2 Clause 1.2.1, definition “ADG Code”

Omit “Transport and Infrastructure Council” from the definition. Insert instead:

Ministerial Council

3 Clause 1.2.1, definition “CAP or Competent Authorities Panel”

Omit “16 June” from the definition. Insert instead:

13 June

4 Clause 1.2.1, definition “cargo transport unit”

Omit “,” from paragraphs (a) and (b) of the definition wherever occurring.

5 Clause 1.2.1, definition “food packaging”

Omit “.” from paragraph (b) of the definition. Insert instead:

; or

- (c) plastic wrapping intended for the packaging of food.

6 **Clause 1.2.6 Meaning of *bulk container***

Omit clause 1.2.6. Insert instead:

1.2.6 Meaning of *bulk container*

- (1) A ***bulk container*** is a system for containing solid substances, including any liner or coating that:
 - (a) is designed for transporting solid substances which are in direct contact with the system; and
 - (b) is of a permanent character suitable for repeated use; and
 - (c) is designed to facilitate the transport of solid substances by one or more modes of transport, without the need for the substances to be unloaded and reloaded when transferred from one mode to another; and
 - (d) is fitted with devices that permit ready handling; and
 - (e) has a capacity of not less than 1 m³.

Examples

Freight containers, offshore bulk containers, skips, bulk bins, swap bodies, trough-shaped containers, roller containers, load compartments of vehicles and flexible containers are bulk containers.

- (2) However, an IBC, large packaging or a portable tank is not a ***bulk container***.

7 **Clause 1.2.11 Meaning of *tank***

Omit clause 1.2.11. Insert instead:

1.2.11 References to *tank*

- (1) Unless the context otherwise requires, a reference in this subordinate instrument to a ***tank*** is a reference to a portable tank, a road tank vehicle, a rail tank wagon, or a receptacle used to contain a solid, liquid or gas.
- (2) However, a reference to a tank includes an item mentioned in subclause (1) that is used to transport a gas (as defined in section 2.2.1.1 of the ADG Code) only if it has a capacity of not less than 450 litres.

8 Clause 1.2.13

Insert after clause 1.2.12:

1.2.13 Transitional arrangement if ADG Code or related instrument amended or remade

- (1) In this clause:

relevant period, for an amendment or remake mentioned in subclause (2)(a), means the period starting on the day the amendment or remake takes effect and ending on the day 12 months after that day.

requirement means a duty, obligation, requirement or restriction (however described).
- (2) This clause applies if:
 - (a) the ADG Code is amended or remade or a code, standard or rule applied or adopted by, or incorporated in, the ADG Code is amended or remade; and
 - (b) the amendment or remake has the effect of imposing a new requirement on a person, or modifying an existing requirement applying to a person, under this subordinate instrument.
- (3) The new requirement or modified existing

requirement does not apply in relation to the person until the relevant period for the amendment or remake ends.

- (4) For subclause (3), this subordinate instrument applies in relation to the person during the relevant period as if the amendment or remake had not taken effect.
- (5) This clause is subject to any other clause of this subordinate instrument that provides for when or how the new requirement or modified existing requirement applies in relation to the person.

9 Clause 2.1.1 Dangerous goods

Omit clause 2.1.1(2). Insert instead:

- (2) However, goods that satisfy the criteria set out, or referred to, in Part 2 of the ADG Code are not dangerous goods if:
 - (a) the goods are determined under clause 1.5.1(1)(a) not to be dangerous goods; or
 - (b) the goods are described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the Dangerous Goods List, and any condition included in that description is met.

10 Clause 4.5.2 Manufacturers — compliance plates — portable tanks, MEGCs and tank vehicles

Omit clause 4.5.2(1). Insert instead:

- (1) A person who manufactures a portable tank for use in the transport of dangerous goods must attach a compliance plate to the tank in accordance with:
 - (a) if the tank is not made of fibre reinforced plastic — Chapter 6.7 of the ADG Code; or

- (b) if the tank is made of fibre reinforced plastic
— Chapter 6.7 and section 6.9.2.10 of the
ADG Code.

Offence provision.

- (1A) A person who manufactures an MEGC for use in
the transport of dangerous goods must attach a
compliance plate to the MEGC in accordance
with Chapter 6.7 of the ADG Code.

Offence provision.

11 Clause 4.5.2(2)

Omit “Chapter 6.7 of the ADG Code permits”. Insert instead:
Chapter 6.7 and section 6.9.2.10 of the ADG
Code permit

12 Clause 4.5.2(3)

Omit “6.9.2.2”. Insert instead:
6.10.2.2

13 Clause 4.5.2(4)

Insert “, (1A)” after “(1)”.

14 Clauses 6.1.1–6.1.5

Omit “6.9” wherever occurring. Insert instead:
6.10

15 Clause 11.1.8 Prime contractor’s duties — retention of documents

Omit clause 11.1.8(3). Insert instead:
(3) It is a failure to comply with subclause (2) if the
prime contractor:

- (a) does not retain a legible hard copy of the document, or a legible copy of the document in electronic form, for the 3 months; or
- (b) cannot produce, at any time during the 3 months at the request of an authorised officer, a legible hard copy of the document or a legible copy of the document in electronic form.

16 Clause 14.2.2 Emergency plans

Omit “Transport and Infrastructure Council” from clause 14.2.2(1), definition *emergency plan*. Insert instead:

Ministerial Council

17 Clause 18.4.4 Grant of dangerous goods vehicle licences

Omit “6.9” in clause 18.4.4(2)(b). Insert instead:

6.10

18 Clause 18.4.6 Renewal of licences

Omit “6.9” in clause 18.4.6(2)(b). Insert instead:

6.10

19 Schedule 1 Penalties

Omit entries for clause 4.5.2(1) and clause 4.5.2(3). Insert instead:

4.5.2(1) Manufacturer’s duties — compliance plates — tanks	800	4 000
4.5.2(1A) Manufacturer’s duties — compliance plates — MEGCs	800	4 000

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4.5.2(3) Manufacturer's duties — compliance plates — tank vehicles	800	4 000
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