Explosives Transport Amendment Regulations 2011 (No. 1)'

Select Legislative Instrument 2011 No. 89

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Explosives Act 1961.

Dated 16 June 2011

QUENTIN BRYCE
Governor-General

By Her Excellency’s Command

STEPHEN SMITH
Minister for Defence
1 **Name of Regulations**

These Regulations are the *Explosives Transport Amendment Regulations 2011* (No. 1).

2 **Commencement**

These Regulations commence on the day after they are registered.

3 **Amendment of Explosives Transport Regulations 2002**

Schedule 1 amends the *Explosives Transport Regulations 2002*.

**Schedule 1 Amendments**

(regulation 3)

[1] **Regulation 3, note 2**

*substitute*

*Note 2*  The following State and Territory laws relating to dangerous goods apply to the transport of Commonwealth explosives so far as they may operate concurrently with the laws of the Commonwealth:

(a) *Explosives Act 2003* (NSW);
(b) *Dangerous Goods Act 1985* (Vic);
(c) *Dangerous Goods Safety Act 2004* (WA);
(d) *Dangerous Goods (Road and Rail Transport) Act 2010* (Tas);
(e) *Dangerous Substances Act 2004* (ACT);
(f) *Dangerous Goods (Road and Rail Transport) Act* (NT).

[2] **Regulation 5, definition of AE Code or Australian Explosives Code, including the note**

*substitute*

*AE Code* or *Australian Explosives Code* means the third edition of the *Australian Code for the Transport of Explosives*...
by Road and Rail endorsed by the Workplace Relations Ministers’ Council on 3 April 2009.


[3] Regulation 5, definition of List of Authorised Commonwealth Explosives

substitute

List of Authorised Commonwealth Explosives means the document called List of Authorised Commonwealth Explosives published by the Department of Defence on 1 November 2010.

[4] Subregulation 16 (4), note

omit

In giving that notice, the Competent Authority must have regard to the Code of Practice determined under section 27B of that Act (Gazette No. S 432, 7 December 1994), accessible on the Internet at:

insert

In giving that notice, the Competent Authority must have regard to the Code of Practice determined under section 27B of that Act. The Code of Practice can be viewed at http://www.comlaw.gov.au.

[5] Regulation 17

omit

8.2.7 and 8.2.8

insert

8.2.8 and 8.2.9
[6] **Paragraph 24 (1) (b)**

*omit*

manual called ‘UN Recommendations: Manual of Tests and Criteria’

*insert*


[7] **Regulation 24, note 2**

*substitute*


*Note 3* Due to subsection 14 (2) of the *Legislative Instruments Act 2003*, the Manual of Tests and Criteria mentioned in paragraph (1) (b) is incorporated by reference as it exists on 1 February 2011.

[8] **Subregulation 26 (3), definition of *Commonwealth agency*, paragraph (a)**

*substitute*

(a) the Australian Customs and Border Protection Service; or

[9] **Regulation 27, note 3**

*after*

Customs

*insert*

and Border Protection
Schedule 1 Modifications of the AE Code in relation to Commonwealth explosives
(regulation 22)

1 After section 3.6 (3)

(insert)

(4) However, a Class label for Commonwealth explosives that:
   (a) are included in Division 1.4, 1.5 or 1.6; and
   (b) were manufactured before the commencement of the Explosives Transport Regulations 2002;
   may also display the symbol depicting an exploding bomb that is displayed on the label for explosives included in Division 1.1, 1.2 or 1.3, as shown in Figure 3.1.

2 Section 6.2 (5)

(substitute)

(5) The above requirements do not apply to Commonwealth explosives when transported in or on a Commonwealth vehicle, within the meaning of the Commonwealth Vehicles (Registration and Exemption from Taxation) Act 1997, that displays registration plates issued for the Australian Defence Force.

(6) Despite anything else in this Chapter, a load of Commonwealth explosives may be transported in or on a vehicle that is approved for that purpose by the Competent Authority if it is impracticable to transport the load in an enclosed vehicle body that meets the applicable requirements of this Chapter because of the size or shape of the load or the way in which the vehicle is to be loaded or unloaded.
3 Table 7.2, including the notes

substitute

TABLE 7.2
Permitted mixed transport for Commonwealth Explosives

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‘X’ indicates that explosives of the corresponding compatibility groups may be transported in the same compartment, carry box, freight container or vehicle (see section 7.3.2(3)).

Notes:
(a) Substances that are included in compatibility group A must not form mixed loads with substances or articles that are included in another compatibility group and may be transported only with the written approval of the Competent Authority and in accordance with any conditions specified in the approval.

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(b) Articles that are included in compatibility group B must not be transported in or on the same vehicle on which there are explosives that are included in another compatibility group, but fuzes that are included in compatibility group B may be carried with the articles to which the fuzes are designed to be attached. In this case, the NEQ of the fuzes is to be aggregated with that of the articles and the combined load is to be treated as a load of explosives that are included in compatibility group F.

(c) Detonators that are included in compatibility group B and packed in a manner approved by a Competent Authority as being effective to prevent propagation may be mixed in transport with explosives that are included in compatibility group C, D, E or F or with articles included in compatibility group G that are not liable to give rise to loose explosive powder. The combined load is to be treated as a load of explosives that are included in compatibility group F.

(d) Articles that are included in compatibility group F may be mixed in transport with articles that are included in compatibility group C, D, E or N or with articles included in compatibility group G that are not liable to give rise to loose explosive powder. The combined load is to be treated as a load of explosives that are included in compatibility group F.

(e) Articles that are included in compatibility group C, D, E or N and articles included in compatibility group G that are not liable to give rise to loose explosive powder may be mixed in transport. However, when articles that are included in compatibility group C, D or E are mixed with articles that are included in compatibility group N, the articles that are included in compatibility group N should be treated as articles that are included in compatibility group D.

(f) Substances included in compatibility group C, D or G that are packaged so as not to give rise to loose powder, and that are less sensitive to mechanical stimuli than dry RDX, may be mixed in transport. The combined load is to be treated as a single group.

(g) Articles that are included in compatibility group K must not be transported in or on the same vehicle as explosives that are included in any other compatibility group.

(h) Substances and articles that are included in compatibility group L may only be transported in or on the same vehicle as other articles and substances of the same kind and must not be mixed with other substances or articles.

(i) Inert items, and substances and articles that are included in compatibility group S, may be transported on the same vehicle as substances and articles that are included in another compatibility group, except compatibility group A, K or L.

(j) Articles of HD 1.4 may be mixed in transport with articles of compatibility group B, C, D, E, F, G, N or S.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the Legislative Instruments Act 2003. See http://www.frl.gov.au.