

Version No. 064
Dangerous Goods Act 1985
Act No. 10189/1985

Version incorporating amendments as at 30 August 2006

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An Act to promote the safety of persons and property in relation to the manufacture, storage, transfer, transport, sale, purchase and use of dangerous goods and the import of explosives, to consolidate and amend the law relating to explosives and other dangerous goods, to repeal the **Liquid Fuel Act 1941**, the **Liquified Petroleum Gas Act 1958**, the **Explosives Act 1960**, the **Inflammable Liquids Act 1966**, the **Liquefied Gases Act 1968** and the **Dangerous Goods (Road Transport) Act 1984**, to amend the **Health Act 1958**, the **Mines Act 1958**, the **Transport Act 1983** and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART I—PRELIMINARY

1. Short title

This Act may be cited as the **Dangerous Goods Act 1985**.

2. Commencement

The several provisions of this Act (including the several items in Schedule 1) shall come into operation on the day or on the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the Government Gazette.

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3. Definitions

(1) In this Act, unless inconsistent with the context or subject-matter—

S. 3(1) def. of "ADG Code" inserted by No. 84/2000 s. 41(1)(a).

"ADG Code" means the document known as the Australian Code for the Transport of Dangerous Goods by Road and Rail (Sixth edition or a later prescribed edition), as amended from time to time;

S. 3(1) def. of "Authority" inserted by No. 13/1996 s. 13(a).

"Authority" means the Victorian WorkCover Authority established under section 18 of the **Accident Compensation Act 1985**¹;

"blasting compound" means all explosive compounds, formulations or mixtures (other than gunpowder) which are used for blasting and, without limiting the generality of the term, includes all compounds or mixtures containing nitroglycerine or nitroglycol or nitroglycol and nitroglycerine which are used for blasting;

"boat" means any vessel not being a ship;

S. 3(1) def. of "Competent Authorities Sub-committee" repealed by No. 84/2000 s. 41(1)(b).

* * * * *

"container" means anything in or by which dangerous goods are wholly or partly cased, covered, enclosed, contained or packed, whether such a thing is empty or partially or completely full but does not include a vehicle;

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"dangerous goods" has the same meaning as it has in the ADG Code except that—

- (a) Class 1 dangerous goods in that Code are not dangerous goods for the purposes of this Act; and
- (b) the following substances and articles are also dangerous goods—
 - (i) explosives; and
 - (ii) combustible liquids having a flashpoint higher than 61°C; and
 - (iia) high consequence dangerous goods; and
 - (iii) any substance or article declared to be dangerous goods by an Order in Council made under section 9B;

S. 3(1) def. of "dangerous goods" substituted by No. 78/1995 s. 3, amended by Nos 84/2000 a. 41(1)(c), 67/2004 s. 4(1)(a).

* * * * *

S. 3(1) def. of "Director-General" repealed by No. 13/1996 s. 13(b).²

"eligible person", in relation to a reviewable decision, has the meaning given by section 20;

S. 3(1) def. of "eligible person" inserted by No. 31/2005 s. 3.

"explosives" means any substance or article manufactured or used to produce a practical effect by explosion or a pyrotechnic effect and includes—

- (a) gunpowder, nitroglycerine, nitroglycol, gelignite, guncotton, blasting powder, fulminating compounds, coloured fires, smoke compositions, fog signals, fireworks, fuses, rockets, percussion

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caps, detonators, cartridges and
ammunition of all descriptions;

- (b) substances or articles of whatever form
or composition intended for blasting or
demolition purposes;
- (c) substances or articles used for the
initiating of explosive charges or
fillings;
- (d) every adaptation or preparation of
explosives; and
- (e) any substance or article prescribed as
explosives for the purposes of this Act;

S. 3(1) def. of
"explosives
licence"
inserted by
No. 67/2004
s. 4(1)(b).

"explosives licence" means a licence issued
pursuant to section 21 in relation to
explosives;

"Fire Authority" means any permanent or
volunteer fire brigade under the
Metropolitan Fire Brigades Act 1958 or
any permanent or volunteer brigade under
the **Country Fire Authority Act 1958**;

S. 3(1) def. of
"HCDG"
inserted by
No. 67/2004
s. 4(1)(b).

"HCDG" means high consequence dangerous
goods;

S. 3(1) def. of
"HCDG
licence"
inserted by
No. 67/2004
s. 4(1)(b).

"HCDG licence" means a licence issued pursuant
to Part 3 in relation to high consequence
dangerous goods;

S. 3(1) def. of
"high
consequence
dangerous
goods"
inserted by
No. 67/2004
s. 4(1)(b).

"high consequence dangerous goods" means
substances or articles that are declared to be
high consequence dangerous goods under
section 9B but does not include any
substances or articles that are explosives;

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"inspector" means inspector appointed under section 11;

S. 3(1) def. of "inspector" amended by No. 37/1992 s. 9(2).

"keeper", in relation to a magazine, means the owner or person in charge of the magazine;

"licence" means a licence issued pursuant to section 21;

"licensed premises" means any premises, vehicle, boat or magazine where dangerous goods subject to a licence are present;

"licensee" means a person who holds a licence;

"liquefied gases" means any substance or article prescribed as liquefied gases for the purposes of this Act;

"magazine" includes any building, receptacle, place, ship or boat;

"magazine area" means the area in which two or more magazines are sited;

"manifest" means an inventory of dangerous goods;

"manufacture" includes any part or the whole of any process of—

- (a) making non-dangerous goods from dangerous goods;
- (b) making non-dangerous goods from non-dangerous goods, where in the course of the process dangerous goods are made;
- (c) the unmaking, altering, repairing or remaking of dangerous goods;

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"master" includes every person (except a pilot) having command or charge of a ship, and in reference to any boat belonging to a ship means the master of the ship, and in reference to any other boat includes every person having command or charge of such boat;

"occupier", in relation to any premises (other than licensed premises that are a vehicle or boat), includes a person who—

- (a) is the owner of the premises;
- (b) exercises control at the premises under a mortgage, lease or franchise; or
- (c) is normally or occasionally in charge of or exercising control or supervision at the premises as a manager or employee or in any other capacity—

and, in relation to licensed premises that are a vehicle or boat, includes a person who—

- (d) is the owner of the vehicle or boat; or
- (e) is in charge of the vehicle or boat;

"officer" of a body corporate has the same meaning as in section 82A of the Corporations Act except that it does not include an employee of the body corporate (other than in section 46(3));

"officer or member", in relation to a fire authority, includes a person who is employed by or is an officer of the Metropolitan Fire Brigades Board under the **Metropolitan Fire Brigades Act 1958** or the Country Fire Authority under the **Country Fire Authority Act 1958**;

S. 3(1) def. of "officer" substituted by No. 44/2001 s. 3(Sch. item 29.1).

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"owner" in relation to a ship, includes a person who is the charterer of the ship or has possession of the ship;

S. 3(1) def. of "owner" inserted by No. 82/1995 s. 190.

"owner", in relation to a vehicle or boat, includes a person—

- (a) who is the sole owner, joint owner or part owner of the vehicle or boat;
- (b) who has the possession and use of the vehicle or boat under or subject—
 - (i) to a hire-purchase agreement, bill of sale or like instrument; or
 - (ii) to a written hiring agreement (not being a hire-purchase agreement) which requires the person to register the vehicle or boat in the person's name—

but does not include any person in whom the property in the vehicle or boat or any kind of right or licence to take possession of the vehicle or boat is vested under or subject to a hire-purchase agreement or a bill of sale or like instrument or written hiring agreement which requires another person to register the vehicle or boat in the name of that other person but who has not for the time being the possession and use thereof;

"person" includes a body or association (corporate or unincorporate) and a partnership;

"place" includes a vehicle, ship or boat;

S. 3(1) def. of "place" inserted by No. 31/2005 s. 3.

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"premises" includes—

- (a) a building or part of a building;
- (b) a tent, stall or other structure, whether permanent or temporary;
- (c) land, whether or not appurtenant to a building; and
- (d) any other place;

"primary producer" means any person engaged solely or substantially in agricultural, horticultural, viticultural, dairying, pastoral or other like pursuits or any person being a commercial fisherman and holding a licence to take fish for sale;

"public magazine" means any magazine appointed by the Governor in Council under section 34 to be a public magazine;

"reviewable decision" has the meaning given by section 20;

S. 3(1) def. of "reviewable decision" inserted by No. 31/2005 s. 3.

S. 3(1) def. of "Road Traffic Authority" repealed by No. 44/1989 s. 41(Sch. 2 item 8.1).

* * * * *

"sell" includes—

- (a) barter or exchange;
- (b) agree to sell or offer or expose for sale;
- (c) receive for sale;
- (d) have in possession for sale;
- (e) send, forward or deliver for sale;

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- (f) advertise for sale;
- (g) supply or give away for the purpose of advertisement or in furtherance of any trade or business;
- (h) sell for resale; or
- (i) cause, permit or attempt any of the acts or things referred to in paragraphs (a) to (h);

"ship" means any vessel used in sea navigation but does not include any barge, lighter or like vessel;

"statutory rule" has the same meaning as in section 2(1) of the **Subordinate Legislation Act 1962**³;

"this Act" includes—

- (a) the regulations; and
- (b) the register under section 54; and
- (c) Orders under section 55;

S. 3(1) def. of "this Act" amended by No. 48/1989 s. 16(2).

"transfer" means any process which involves—

- (a) the filling, loading, pumping or pouring of dangerous goods into a container; or
- (b) the discharging, unloading, pumping or pouring of dangerous goods from a container;

* * * * *

S. 3(1) def. of "Transport Code" repealed by No. 84/2000 s. 41(1)(d).

"Tribunal" means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3(1) def. of "Tribunal" inserted by No. 52/1998 s. 311(Sch. 1 item 20.1).

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"vehicle" means any means of transport by land and includes a trailer and a semi-trailer.

- (2) For the purposes of the interpretation of "manufacture", **"making"** includes—
- (a) any process of chemical reaction;
 - (b) any process which involves the mixing, separation, concentration, dilution, assembling or blending of substances or articles; and
 - (c) the operation of machinery, plant or equipment which is using, treating or processing dangerous goods.
- (3) Any reference in this Act to sell explosives or to the sale of explosives includes a reference to the supply of the explosives whether or not for any consideration.

S. 3(3)
inserted by
No. 67/2004
s. 4(2).

4. Objects of Act

The objects of this Act are—

- (a) to promote the safety of persons and property in relation to the manufacture, storage, transport, transfer, sale and use of dangerous goods and the import of explosives into Victoria;
- (b) to ensure that adequate precautions are taken against certain fires, explosions, leakages and spillages of dangerous goods and that when they occur they are reported to the emergency services and the inspectors without delay;
- (c) to ensure that information relating to dangerous goods is provided by occupiers and owners of premises to the relevant authorities;

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(d) to allocate responsibilities to occupiers and owners of premises to ensure that the health and safety of workers and the general public is protected;

(e) to provide for licensing of persons required by the regulations to hold a licence in relation to dangerous goods; and

(f) to provide for the implementation of the ADG Code;

S. 4(f)
amended by
Nos 84/2000
s. 41(2)(a),
67/2004
s. 3(a).

(g) to provide for the management of risks arising out of security concerns associated with explosives and high consequence dangerous goods;

S. 4(g)
inserted by
No. 67/2004
s. 3(b).

(h) to prohibit or regulate the import, export, supply or disposal of high consequence dangerous goods;

S. 4(h)
inserted by
No. 67/2004
s. 3(b).

(i) to prohibit or regulate the export or supply of explosives.

S. 4(i)
inserted by
No. 67/2004
s. 3(b).

5. Act binds the Crown

S. 5
substituted by
No. 31/2005
s. 4.

(1) This Act binds the Crown—

(a) in right of the State of Victoria; and

(b) to the extent that the legislative power of the Parliament permits, in all its other capacities.

(2) To avoid doubt, the Crown is a body corporate for the purposes of this Act.

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S. 6
repealed by
No. 31/2005
s. 5.

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S. 7
repealed by
No. 78/1995
s. 9(a).

* * * * *

8. Relationship of this Act to other statutory provisions

- (1) Subject to this Act, where by or under any other Act provision is made relating to dangerous goods, the provision shall—
 - (a) if not inconsistent with a provision of this Act, be observed in addition to the provisions of this Act; and
 - (b) if inconsistent with a provision of this Act, be, to the extent of the inconsistency, of no force or effect and the provision of this Act shall prevail.

S. 8(2)
repealed by
No. 52/1998
s. 311(Sch. 1
item 20.2).

* * * * *

9. Application of Act

This Act shall not apply to—

- (a) any radio-active substance or radiation apparatus within the meaning of Division 2AA of Part V of the **Health Act 1958**;

S. 9(b)
amended by
Nos 6/1987
s. 5(1)(Sch.
item 3(a)),
92/1990
s. 128(Sch. 1
item 5.1),
67/1995
s. 58(Sch. 1
item 6.1),
repealed by
No. 26/2000
s. 30(1).

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- | | |
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| (c) the transport of dangerous goods by ships; | S. 9(c)
substituted by
No. 82/1995
s. 191. |
| (ca) ship to ship transfers of dangerous goods; | S. 9(ca)
inserted by
No. 82/1995
s. 191. |
| (cb) the transport by boat of dangerous goods
(not being explosives) carried as freight; | S. 9(cb)
inserted by
No. 82/1995
s. 191. |
| (d) the transport of dangerous goods by aircraft; | |
| (e) the conveyance of dangerous goods through
a pipeline to which the Pipelines Act 1967
applies or through a gathering line within the
meaning of the Petroleum Act 1998 ; | S. 9(e)
amended by
Nos 24/1987
s. 12(2),
112/1994
s. 114(Sch. 5
item 2),
31/1995 s. 52
(Sch. 1
item 3),
13/1996
s. 23(a),
99/1997 s. 120,
substituted by
No. 96/1998
s. 257(2). |
| (ea) the transmission, distribution or supply of
gas to which the Gas Industry Act 2001
applies; | S. 9(ea)
inserted by
No. 96/1998
s. 257(2),
amended by
No. 32/2001
s. 27. |
| (eb) the conveyance of gas by pipeline to which
the Gas Safety Act 1997 applies; | S. 9(eb)
inserted by
No. 91/2000
s. 39. |
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S. 9(f)
amended by
No. 78/1995
s. 9(b).

- (f) any culture or preparation of pathogenic micro-organisms or other material capable of causing disease in man in respect of which regulations may be made under section 146(1)(n) of the **Health Act 1958**.

S. 9A
inserted by
No. 78/1995
s. 4.

9A. Governor in Council may exempt dangerous goods from this Act etc.

- (1) The Governor in Council may by Order exempt specific dangerous goods from the operation of any or all of this Act.
- (2) An Order takes effect on the date it is published in the Government Gazette or on any later date specified in the Order.

S. 9B
inserted by
No. 78/1995
s. 4.

9B. Governor in Council may declare substance or article to be dangerous goods

- (1) The Governor in Council may by Order declare any substance or article, or class of substance or article, to be dangerous goods for the purposes of this Act.

S. 9B(1A)
inserted by
No. 67/2004
s. 5(1).

- (1A) The Governor in Council may by Order declare any dangerous goods, or class of dangerous goods, to be high consequence dangerous goods for the purposes of this Act.

S. 9B(1B)
inserted by
No. 67/2004
s. 5(1).

- (1B) The Governor in Council may by Order declare needs for access to high consequence dangerous goods—
- (a) that will be treated as lawful needs for the purposes of an HCDG licence;
- (b) that will not be treated as lawful needs for the purposes of an HCDG licence.
- (2) An Order takes effect on the date it is published in the Government Gazette or on any later date specified in the Order.

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- (3) The Governor in Council may only make an Order if the Minister recommends that the Order be made in the interests of public safety.
- (4) If an Order is made under sub-section (1), the Minister must attempt to have the substance or article referred to in the Order classified as dangerous goods in the ADG Code.

S. 9B(4)
amended by
Nos 84/2000
s. 41(2)(a),
67/2004
s. 5(2).

10. Adoption of ADG Code

- (1) Without limiting the generality of section 52(3)(c), any regulation made under this Act may incorporate or adopt by reference the provisions of the ADG Code and may incorporate or adopt them—
- (a) wholly or partially or as amended by the regulation;
- (b) as existing at the time at which the regulation is made or at any time before then;

S. 10(1)
amended by
No. 84/2000
s. 41(2)(a).

S. 10(1)(b)
amended by
No. 84/2000
s. 41(2)(b).

* * * * *

S. 10(1)(c)
repealed by
No. 84/2000
s. 41(2)(b).

- (2) For the purposes of this Act, in any provision of the ADG Code or the regulations any reference to the "competent authority" shall be construed as a reference to the Authority⁴.
- (3) Any reference in any Act, regulation, local law, subordinate instrument or other document to the "Transport Code" is as from the commencement of section 41 of the **Transport Accident (Amendment) Act 2000** to be construed as a reference to the "ADG Code", unless the context otherwise requires.

S. 10(2)
amended by
Nos 13/1996
s. 22(a),
84/2000
s. 41(2)(a).

S. 10(3)
inserted by
No. 84/2000
s. 41(3).

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s. 10A

10A. Review of decisions by Tribunal

S. 10A
inserted by
No. 48/1989
s. 4.

S. 10A(1)
amended by
Nos 13/1996
s. 22(b),
52/1998
s. 311(Sch. 1
item 20.3).

S. 10A(2A)
inserted by
No. 31/2005
s. 6.

S. 10A(4)
inserted by
No. 52/1998
s. 311(Sch. 1
item 20.4).

(1) An application may be made to the Tribunal for review of an administrative decision made by the Authority, or by a delegate of the Authority, under this Act⁵.

(2) An application under sub-section (1) may be made only by a person whose interests are directly affected by the decision.

(2A) Sub-section (1) does not apply to any reviewable decision.

Note: A "reviewable decision" has the meaning given by section 20—see section 3(1). Reviewable decisions are excluded from sub-section (1) because they are dealt with by Part IIA. Essentially, a wider range of people may apply for the review of a reviewable decision and there is a process of internal review available in respect of those decisions.

(3) Sub-section (1) does not apply to decisions under Part III.

(4) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

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s. 10B

10B. Delegations

- (1) The Authority may, by instrument in writing, delegate to an inspector all or any of its powers or functions under this Act (except this power of delegation).
- (2) The Authority may, by instrument in writing, delegate to an authorised person all or any of its powers or functions under this Act (except this power of delegation)—
 - (a) to the extent that they relate to the manufacture, supply, sale, transfer, transport, storage, handling, use or disposal of dangerous goods; and
 - (b) only with respect to activities that are carried out under the **Mineral Resources (Sustainable Development) Act 1990**, the **Extractive Industries Development Act 1995**, the **Petroleum Act 1998**, the **Mines (Aluminium Agreement) Act 1961** and the **Extractive Industries (Lysterfield) Act 1986** and that relate to a mine, quarry or petroleum site.
- (3) In sub-section (2), "**authorised person**" means—
 - (a) a person—
 - (i) who is employed in the Department of Primary Industries under the **Public Administration Act 2004**; and
 - (ii) who, in the opinion of the Authority, has sufficient knowledge and experience to competently exercise or perform the relevant power or function; or
 - (b) the Chief Inspector of Quarries under section 3(1) of the **Extractive Industries Development Act 1995**.

S. 10B
inserted by
No. 31/2005
s. 7.

S. 10B(2)(b)
amended by
No. 63/2006
s. 61(Sch.
item 8).

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s. 10B

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- (4) Despite sub-section (2), the only person to whom the Authority may delegate its power to appoint inspectors in relation to the matters to which paragraphs (a) and (b) of that sub-section apply is the Secretary to the Department of Primary Industries.
- (5) The Authority may, by instrument in writing, delegate all or any of the powers or functions of an inspector—
- (a) to any officer of the Roads Corporation; or
 - (b) to any member of the police force or officer or member of a fire authority (not being a volunteer fire brigade under the **Metropolitan Fire Brigades Act 1958** or a volunteer brigade under the **Country Fire Authority Act 1958**); or
 - (c) to any office holder, officer or employee of a municipal council—
- if it is satisfied that that person is capable of exercising the powers or performing the functions to be delegated.
- (6) An instrument of delegation made under this section must specify when, where and in what circumstances the delegation may be exercised.

Note: Section 42A(1)(b) of the **Interpretation of Legislation Act 1984** provides that a person delegating a power or function may specify conditions or limitations on the exercise of the power or function by the delegate.

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Part II—Inspectors and Enforcement

s. 11

PART II—INSPECTORS AND ENFORCEMENT^{6 7}

Pt 2 (Heading)
substituted by
No. 31/2005
s. 8.

Division 1—Appointment of Inspectors

Pt 2 Div. 1
(Heading)
inserted by
No. 31/2005
s. 9.

11. Appointment of inspectors

S. 11
amended by
Nos 37/1992
s. 9(1),
13/1996 s. 14,
26/2000
s. 30(2),
108/2004
s. 117(1)
(Sch. 3
item 53.1),
substituted by
No. 31/2005
s. 9.

- (1) The Authority may, by instrument in writing, appoint an officer or employee of the Authority to be an inspector for the purposes of this Act.
- (2) The Authority may also, by instrument in writing, appoint any person who is employed in the Department of Primary Industries under the **Public Administration Act 2004** to be an inspector for the purposes of one or more matters relating to the manufacture, supply, sale, transfer, transport, storage, handling, use or disposal of dangerous goods with respect to activities—
 - (a) that are carried out under the **Mineral Resources (Sustainable Development) Act 1990**, the **Extractive Industries Development Act 1995**, the **Petroleum Act 1998**, the **Mines (Aluminium Agreement) Act 1961** and the **Extractive Industries (Lysterfield) Act 1986**; and
 - (b) that relate to a mine, quarry or petroleum site.
- (3) The Authority must give each person who is appointed as an inspector a certificate of appointment signed by—
 - (a) the chief executive of the Authority (appointed under section 22 of the **Accident Compensation Act 1985**); or

S. 11(2)(a)
amended by
No. 63/2006
s. 61(Sch.
item 8).

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Part II—Inspectors and Enforcement

s. 11A

- (b) in the case of an appointment made by the Secretary to the Department of Primary Industries as a delegate, by that Secretary.
- (4) The appointment of a person as an inspector for the purposes of this Act and either or both of the following Acts may be made by a single instrument—
 - (a) the **Occupational Health and Safety Act 2004**;
 - (b) the **Equipment (Public Safety) Act 1994**.
- (5) A certificate of appointment given to a person in accordance with sub-section (3) is conclusive proof of the valid appointment of the person as an inspector under this section.

S. 11A
inserted by
No. 31/2005
s. 9.

11A. Limitations on powers of particular inspectors

The appointment of a person as an inspector may be made subject to conditions, limitations or restrictions as to—

- (a) the powers exercisable by that person; and
- (b) when, where and in what circumstances that person may exercise those powers.

S. 11B
inserted by
No. 31/2005
s. 9.

11B. Identity cards

- (1) The Authority must issue an identity card to each inspector containing a photograph of the inspector and his or her signature.
- (2) An inspector must produce his or her identity card for inspection if asked to do so when performing a function or exercising a power under this Act.
- (3) If a person to whom an identity card has been issued ceases to be an inspector, the person must return the identity card to the Authority as soon as is practicable.

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s. 12

Division 2—Performance of Functions or Exercise of Powers

Pt 2 Div. 2
(Heading)
inserted by
No. 31/2005
s. 9.

12. Inspectors subject to Authority's directions

S. 12
substituted by
No. 31/2005
s. 9.

- (1) An inspector is subject to the Authority's directions in the performance of his or her functions or in the exercise of his or her powers under this Act.
- (2) A direction under sub-section (1) may be of a general nature or may relate to a specified matter or to a specified class of matter.

12A. Authority has the powers etc. of an inspector

S. 12A
inserted by
No. 31/2005
s. 9.

The Authority has all the functions and powers that an inspector has under this Act.

Division 3—Powers Relating to Entry and to Inspection of Vehicles

Pt 2 Div. 3
(Heading)
inserted by
No. 31/2005
s. 9.

Subdivision 1—General Powers

Pt 2 Div. 3
Subdiv. 1
(Heading)
inserted by
No. 31/2005
s. 9.

13. Power to enter places

S. 13
amended by
Nos 48/1989
s. 5, 13/1996
s. 22(c),
substituted by
No. 31/2005
s. 9.

- (1) At any reasonable time (whether it is day or night), an inspector may enter a place at or in which the inspector reasonably believes there is or are—
 - (a) dangerous goods; or
 - (b) any container, equipment, fittings, piping, appliance or other thing that is being, has been, or is likely to be, used—

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s. 13A

- (i) for, or in connection with, the manufacture, supply, transfer, storage, transport, sale or use of dangerous goods; or
- (ii) for the import into Victoria of explosives.

Note 1: "Place" is defined in section 3 as including a vehicle, ship or boat.

Note 2: The powers conferred by this section are limited in respect of a part of a place that is used only for residential purposes (see section 16).

- (2) Without limiting sub-section (1), it is a reasonable time to enter a place if the inspector reasonably believes that there is an immediate risk to the health or safety of a person at the place as a result of the presence of dangerous goods, or of any thing described in sub-section (1)(b), that the inspector reasonably believes to be at or in the place.

S. 13A
inserted by
No. 31/2005
s. 9.

13A. Power to inspect vehicles

- (1) An inspector may stop, detain, inspect, examine or move to some suitable place for inspection and examination any vehicle, ship or boat used, or that the inspector believes on reasonable grounds is being, or is likely to be, used for the transport of dangerous goods.
- (2) For the purposes of this section—
 - (a) the inspector may require the owner of, or the person having the control or management of, the vehicle, ship or boat to move the vehicle, ship or boat to the suitable place; or
 - (b) the Authority may engage a suitably qualified person to move the vehicle, ship or boat to the suitable place, and may recover the cost of doing so from the owner of the vehicle, ship or boat.

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Act No. 10189/1985

Part II—Inspectors and Enforcement

s. 13B

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- (3) A requirement under sub-section (2)(a) may be made—
- (a) orally; or
 - (b) by notice in writing served on the owner of, or the person having the control or management of, the vehicle, ship or boat that specifies by when the vehicle, ship or boat must be taken to the suitable place.
- (4) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under sub-section (2)(a).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note: The powers conferred by this section are limited in respect of a part of a place that is used only for residential purposes (see section 16).

13B. Powers incidental to entry etc.

S. 13B
inserted by
No. 31/2005
s. 9.

- (1) An inspector exercising a power under this Subdivision in relation to a place may do any of the following—
- (a) inspect, examine and make enquiries at the place;
 - (b) inspect and examine any thing (including a document) at the place;
 - (c) bring any equipment or materials to the place that may be required;
 - (d) seize any thing (including a document) at the place that may afford evidence of the commission of an offence against this Act;
 - (e) seize any thing at the place for further examination or testing but only if the inspector reasonably believes that the examination or testing is reasonably

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s. 13C

- necessary and cannot be reasonably conducted on site;
- (f) take photographs or measurements or make sketches or recordings;
 - (g) exercise any other power conferred on the inspector by this Act;
 - (h) do any other thing that is reasonably necessary for the purpose of the inspector performing his or her functions or exercising his or her powers under this Act.
- (2) The inspector may use any vehicle, ship or boat in which seized dangerous goods are present for the removal and detention of those goods, and the Authority must pay to the owner of the vehicle, ship or boat reasonable compensation for that use (unless the owner is found guilty of an offence under this Act in relation to those goods).

S. 13C
inserted by
No. 31/2005
s. 9.

13C. Power to require production of documents etc.

- (1) An inspector who enters a place under this Subdivision may—
 - (a) require a person to produce a document or part of a document located at the place that is in the person's possession or control; and
 - (b) examine that document or part; and
 - (c) require a person at the place to answer any questions put by the inspector.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under sub-section (1).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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s. 13D

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- (3) Before requiring a person to produce a document or part of a document or to answer questions under sub-section (1), an inspector—
- (a) must produce his or her identity card for inspection by the person and warn the person that a refusal or failure to comply with the requirement, without reasonable excuse, is an offence; and
 - (b) must inform the person that he or she may refuse or fail to answer any question if answering the question would tend to incriminate him or her.
- (4) A person is not liable to be prosecuted for an offence against sub-section (2) if the inspector concerned failed to comply with sub-section (3).

Note 1: The powers conferred by this section are limited in respect of a part of a place that is used only for residential purposes (see section 16).

Note 2: This section does not affect legal professional privilege (see section 19G) or, in the case of a requirement to answer questions, the privilege against self-incrimination (see section 19F).

13D. Power to take samples

- (1) An inspector who enters a place under this Subdivision may (without payment)—
- (a) take samples of any thing at the place that may be required for analysis;
 - (b) require the occupier or master or person in charge or apparently in charge of the place to give the inspector samples of any thing at the place that may be required for analysis;
 - (c) require a person at the place who is in possession of any thing at the place to give the inspector samples of the thing to enable the thing to be analysed.

S. 13D
inserted by
No. 31/2005
s. 9.

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s. 13E

- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under sub-section (1)(b) or (1)(c).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) If an inspector intends to take a sample, he or she must notify the person who has the management or control of the place for the time being of that intention.
- (4) Unless it is unsafe to do so, after taking or receiving a sample the inspector must—
- (a) divide it into as many parts as are necessary, mark, and seal or fasten up, each part in a way that the nature of the sample allows; and
 - (b) if the person who must be notified under sub-section (3) requires the inspector to give him or her a part, give one part to that person; and
 - (c) keep one part for future comparison.
- (5) If it is determined that the sample is to be analysed, the inspector must submit another part to an analyst for that purpose.

Subdivision 2—Incident Inquiries

Pt 2 Div. 3
Subdiv. 2
(Heading and
s. 13E)
inserted by
No. 31/2005
s. 9.

S. 13E
inserted by
No. 31/2005
s. 9.

13E. Inquiries concerning fires and explosions and events involving dangerous goods

If any of the following events occurs—

- (a) any fire or explosion resulting in loss of life, personal injury or damage to property; or
- (b) any leakage of dangerous goods; or

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s. 14

(c) any damage to any property or danger to the public involving dangerous goods—

an inspector may make any inquiry concerning the event that he or she considers necessary for the purposes of this Act, and for that purpose he or she may enter any place.

Note: The powers conferred by this section are limited in respect of a part of a place that is used only for residential purposes (see section 16).

Division 4—Procedure Relating to Entry

Pt 2 Div. 4
(Heading)
inserted by
No. 31/2005
s. 9.

14. Announcement on entry

- (1) Immediately on entering a place under Division 3, an inspector must take all reasonable steps to notify the occupier or apparent occupier of the place of the entry, and to produce his or her identity card for inspection by that person.
- (2) However, an inspector is not required to comply with sub-section (1) if—
 - (a) to do so would defeat the purpose for which the place was entered, or would cause unreasonable delay; or
 - (b) the person is already aware that the inspector has entered the place, or was notified in advance of when the inspector would enter.

S. 14
amended by
Nos 44/1989
s. 41(Sch. 2
item 8.2),
48/1989
s. 7(a)(d),
13/1996 s. 15,
26/2000
s. 30(3)(4),
84/2000
s. 41(2)(c),
82/2001 s. 32,
108/2004
s. 117(1)
(Sch. 3
item 53.1),
substituted by
No. 31/2005
s. 9.

14A. Report to be given about entry

- (1) An inspector who enters a place under Division 3 must give a report concerning the entry when, or as soon as is practicable after, he or she leaves the place to the occupier or apparent occupier of the place.

S. 14A
inserted by
No. 31/2005
s. 9.

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Part II—Inspectors and Enforcement

s. 15

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- (2) The report must be in writing and must include—
- (a) the time of the entry and departure; and
 - (b) the purpose of the entry; and
 - (c) a description of the things done while at the place; and
 - (d) a summary of the inspector's observations while at the place; and
 - (e) the procedure for contacting the Authority and the inspector for further details of the entry; and
 - (f) the procedure for seeking a review of any decision made by the inspector during the entry.
- (3) If the inspector takes photographs or makes sketches or other recordings under section 13B(1)(f), the report must also include a statement—
- (a) that the photographs have been taken, or that the sketches or recordings have been made; and
 - (b) that they are, or will be, available for inspection at a specified place.

Pt 2 Div. 5
(Heading)
inserted by
No. 31/2005
s. 9.

S. 15
amended by
No. 13/1996
s. 22(d),
substituted by
No. 31/2005
s. 9.

Division 5—Search Warrants

15. Issue of search warrants

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to a particular place if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, a particular thing (including a document) at the place that may afford evidence of the commission of an offence against this Act.

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s. 15

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- (2) A magistrate may issue the search warrant if he or she is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within 72 hours, a particular thing (including a document) at the place that may afford evidence of the commission of an offence against this Act.
- (3) The search warrant may authorise a named inspector and any assistants the inspector considers necessary—
- (a) to enter the place or part of the place named or described in the warrant; and
 - (b) to search for the thing named or described in the warrant.
- (4) In addition to any other requirement, the search warrant must state—
- (a) the offence suspected; and
 - (b) the place to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time, or during specified hours; and
 - (f) that the warrant authorises entry on only one occasion; and
 - (g) a day, not later than 7 days after the day the warrant is issued, on which it ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
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s. 15A

- (6) The rules that apply to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to search warrants under this section.

S. 15A
inserted by
No. 31/2005
s. 9.

15A. Announcement before entry on warrant

- (1) Before executing a search warrant, the inspector named in the warrant or an assistant to the inspector must—
- (a) announce that he or she is authorised by the warrant to enter the place; and
 - (b) give any person at the place an opportunity to allow that entry.
- (2) However, the inspector or an assistant to the inspector need not comply with sub-section (1) if he or she believes, on reasonable grounds, that immediate entry to the place is needed to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the warrant is not frustrated.

S. 15B
inserted by
No. 31/2005
s. 9.

15B. Copy of warrant to be given to the occupier of the place to be searched

If an occupier or apparent occupier is present at a place when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection; and
- (b) give that person a copy of the execution copy of the warrant.

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s. 16

Division 6—Limitation on Entry Powers

Pt 2 Div. 6
(Heading)
inserted by
No. 31/2005
s. 9.

16. Places used for residential purposes

S. 16
substituted by
No. 48/1989
s. 6,
repealed by
No. 13/1996
s. 16, new
s. 16
inserted by
No. 31/2005
s. 9

- (1) Despite anything else in this Part, the powers of an inspector under this Part in relation to entering a place are not exercisable in respect of any part of a place that is used only for residential purposes except—
- (a) with the consent of the occupier for the time being of the place; or
 - (b) under the authority conferred by a search warrant.
- (2) For the purposes of sub-section (1), any common property in a subdivision of land is not a place used only for residential purposes.

Examples:

Examples of common property include a storeroom associated with a swimming pool at an apartment building (at which, for instance, chlorine might be stored); a cleaner's cupboard under the stairs of a block of flats; and a room containing heating or cooling equipment for an apartment building.

Division 7—Return and Forfeiture of Seized Things

Pt 2 Div. 7
(Heading and
ss 16A, 16B)
inserted by
No. 31/2005
s. 9.

16A. Return of seized things

S. 16A
inserted by
No. 31/2005
s. 9.

- (1) As soon as possible after an inspector seizes any thing (including a document) under this Part, the Authority must return the thing to the owner unless—

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s. 16B

- (a) the Authority considers it necessary to retain the thing because it may afford evidence in proceedings, that have been or that may be commenced, for an offence against this Act; or
 - (b) the thing is forfeited to the Authority under this Act; or
 - (c) the Authority is otherwise authorised (by a law or court order) to retain, destroy or dispose of the thing.
- (2) The thing may be returned either unconditionally or on any terms and conditions that the Authority considers appropriate to eliminate or reduce any risks to the safety of any person or of damage to property arising from, or in relation to, the thing.
- (3) If the Authority imposes terms or conditions on the return of a thing, the owner must comply with each of those terms and conditions.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

S. 16B
inserted by
No. 31/2005
s. 9.

16B. Forfeiture of seized things

- (1) Any thing (including a document), other than high consequence dangerous goods or explosives or containers used for or in connection with high consequence dangerous goods or explosives, that an inspector has seized and retained under this Part is forfeited to the Authority if the Authority—
- (a) cannot find its owner despite making reasonable enquiries; or
 - (b) cannot return it to the owner despite making reasonable efforts; or

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s. 17A

- (c) considers it necessary to retain the thing to prevent the commission of an offence against this Act.

Note: The forfeiture of high consequence dangerous goods or explosives or containers used for or in connection with high consequence dangerous goods or explosives is dealt with in sections 47A to 47D.

- (2) If a thing is forfeited to the Authority under sub-section (1)(c), the Authority must notify (in writing) the owner accordingly, setting out how the owner may seek a review of the decision to forfeit the thing, unless the Authority cannot find the owner despite making reasonable enquiries.

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S. 17 amended by Nos 48/1989 s. 8, 82/1995 s. 192(1)(2) (a)–(d), 13/1996 s. 17, 74/2000 s. 3(Sch. 1 item 34), 67/2004 s. 6, repealed by No. 31/2005 s. 9.

Division 8—Powers to issue Directions and Notices

Pt 2 Div. 8 (Heading) inserted by No. 31/2005 s. 10.

17A. Provisional directions

S. 17A inserted by No. 48/1989 s. 9.

- (1) The Authority may, by instrument in writing, confer on any delegate under section 10B(5) power to issue provisional directions under this section.

S. 17A(1) amended by Nos 13/1996 s. 22(e), 31/2005 s. 11(a).

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s. 17A

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- (2) Any delegate so empowered if of the opinion that any person—
- (a) is contravening this Act; or
 - (b) has contravened this Act in circumstances that make it likely that the contravention will continue or be repeated—
- may issue to the person a provisional direction in writing requiring the person to remedy the contravention or likely contravention or the matters or activities occasioning it.
- (3) A provisional direction must—
- (a) state the delegate's opinion and reasons for the opinion; and
 - (b) specify the contravention; and
 - (c) specify the day (being a day more than seven days after the direction is issued) before which the contravention or likely contravention or the matters or activities occasioning it must be remedied; and
 - (d) state that within seven days after the direction is issued the person may refer it to an inspector.
- (4) A person to whom a provisional direction is issued may, within seven days after the direction is issued, refer it to an inspector for confirmation or cancellation.
- (5) An inspector may—
- (a) confirm a provisional direction, with or without modifications; or
 - (b) cancel it.
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s. 17B

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- (6) A person—
- (a) to whom a provisional direction is issued which is not referred to an inspector; and
 - (b) who fails to comply with the direction—
- is guilty of an offence.
- (7) A provisional direction confirmed by an inspector shall be deemed to be an improvement notice issued under section 17C.
- (8) A person to whom a provisional direction is issued that is confirmed by an inspector need not comply with the direction within the first 7 days after the direction is confirmed.

S. 17A(7)
amended by
Nos 78/1995
s. 5(1),
31/2005
s. 11(b).

S. 17A(8)
inserted by
No. 78/1995
s. 5(2).

17B. Power to issue non-disturbance notice

- (1) An inspector who has entered a place under this Part may issue a non-disturbance notice to the occupier or apparent occupier of the place requiring that person—
- (a) to stop the use or movement of, or interference with, any specified thing at the place; and
 - (b) to prevent the disturbance of the thing or a specified area of the place where the thing is located—

S. 17B
inserted by
No. 78/1995
s. 6,
substituted by
No. 31/2005
s. 12.

if the inspector reasonably believes that it is necessary to do so to facilitate the performance of his or her functions or the exercise of his or her powers under this Act in relation to the place or any thing at the place.

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- (2) A non-disturbance notice must specify the period (of no more than 7 days) for which it applies and set out—
- (a) the obligations of the person to whom it is issued; and
 - (b) the penalty for contravening the notice; and
 - (c) how the person may seek a review of the issue of the notice; and
 - (d) a statement of the effect of section 17I (proceedings for offences not affected by notices).
- (3) If an inspector considers it necessary to do so, he or she may issue one or more subsequent non-disturbance notices to an occupier or apparent occupier, whether before or after the expiry of the previous notice, each of which must comply with sub-section (2).
- (4) A person who, without reasonable excuse, fails to comply with a non-disturbance notice issued to the person is guilty of an indictable offence and is liable to a fine not exceeding—
- (a) in the case of a natural person, 500 penalty units; or
 - (b) in the case of a body corporate, 2500 penalty units.

Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

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17C. Power to issue improvement notice

- (1) If an inspector reasonably believes that a person—
- (a) is contravening a provision of this Act; or
 - (b) has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated—

the inspector may issue to the person an improvement notice requiring the person to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention.

- (2) An improvement notice must—
- (a) state the basis for the inspector's belief on which the issue of the notice is based; and
 - (b) specify the provision of this Act that the inspector considers has been, or is likely to be, contravened; and
 - (c) specify a date (with or without a time) by which the person is required to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, that the inspector considers is reasonable having regard to the severity of any relevant risks and the nature of the contravention or likely contravention; and
 - (d) set out the penalty for contravening the notice; and
 - (e) state how the person may seek a review of the issue of the notice; and
 - (f) include a statement of the effect of section 17I (proceedings for offences not affected by notices).

S. 17C
inserted by
No. 78/1995
s. 6,
substituted by
Nos 52/1998
s. 311(Sch. 1
item 20.5),
31/2005 s. 12.

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s. 17C

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- (3) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates and may, in particular, include—
- (a) a direction that if the person has not remedied the contravention, likely contravention, matters or activities (as the case may be) by the date and time (if any) specified in the notice, an activity to which the notice relates is to cease until an inspector has certified in writing that the contravention, likely contravention, matters or activities have been remedied; and
 - (b) interim directions, or interim conditions on the carrying on of any activities to which the notice relates, that the inspector considers necessary to minimise risks to the safety of any person or of damage to any property.

- (4) A person to whom an improvement notice is issued must comply with the notice.

Penalty: 500 penalty units for a natural person;
2500 penalty units for a body corporate.

- (5) An offence against sub-section (4) is an indictable offence.

Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

- (6) If an application for a review of a decision under this section has been made under Part IIA, an inspector must not give a certificate under sub-section (3)(a) in relation to the improvement notice concerned until after the review ends.

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17D. Power to issue prohibition notice

S. 17D
inserted by
No. 31/2005
s. 12.

- (1) If an inspector reasonably believes that—
- (a) an activity involving the manufacture, supply, transfer, storage, transport, sale or use of dangerous goods, or the import into Victoria of explosives, is occurring at a place that involves or will involve an immediate risk to the safety of any person or of damage to any property; or
 - (b) such an activity may occur at a place that, if it occurs, will involve an immediate risk to the safety of any person or of damage to any property—

the inspector may issue to a person who has, or appears to have, control over the activity a prohibition notice prohibiting the carrying on of the activity, or the carrying on of the activity in a specified way, until an inspector has certified in writing that the matters that give, or that will give, rise to the risk have been remedied.

- (2) A prohibition notice must—
- (a) state the basis for the inspector's belief on which the issue of the notice is based; and
 - (b) specify the activity which the inspector believes involves or will involve the risk and the matters which give, or will give, rise to the risk; and
 - (c) if the inspector believes that the activity involves a contravention, or likely contravention, of a provision of this Act, specify that provision and state the basis for that belief; and
 - (d) set out the penalty for contravening the notice; and

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- (e) state how the person may seek a review of the issue of the notice; and
- (f) include a statement of the effect of section 17I (proceedings for offences not affected by notices).
- (3) A prohibition notice may include directions on the measures to be taken to remedy the risk, activities or matters to which the notice relates, or the contravention, or likely contravention, mentioned in sub-section (2)(c).
- (4) A prohibition notice that prohibits the carrying on of an activity in a specified way may do so by specifying one or more of the following—
- (a) a place, or part of a place, at which the activity is not to be carried out;
 - (b) any thing that is not to be used in connection with the activity;
 - (c) any procedure that is not to be followed in connection with the activity.
- (5) A person to whom a prohibition notice is issued must comply with the notice.
- Penalty: 500 penalty units for a natural person;
2500 penalty units for a body corporate.
- (6) An offence against sub-section (5) is an indictable offence.
- Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).
- (7) If an application for a review of a decision under this section has been made under Part IIA, an inspector must not give a certificate under sub-section (1) in relation to the prohibition notice concerned until after the review ends.
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17E. Directions or conditions in notices

A direction or condition included in an improvement notice or prohibition notice may—

- (a) refer to a code of practice; and
- (b) offer the person to whom it is issued a choice of ways in which to remedy the contravention, likely contravention, matters or activities concerned.

S. 17E
inserted by
No. 31/2005
s. 12.

17F. Variation or cancellation of notices

A non-disturbance notice, improvement notice or prohibition notice issued by an inspector may only be varied or cancelled by the Authority.

Note: The Authority may vary or cancel such a notice in the same way that an inspector may make the notice (see section 41A of the **Interpretation of Legislation Act 1984**).

S. 17F
inserted by
No. 31/2005
s. 12.

17G. Service of directions and notices

- (1) A provisional direction, non-disturbance notice, improvement notice or prohibition notice may be given or issued to a person—
 - (a) by delivering it personally to the person, or by sending it by post or facsimile to the person's usual or last known place of residence or business; or
 - (b) by leaving it for the person at the person's usual or last known place of residence or business with a person who is apparently over 16 years and who apparently resides or works there; or
 - (c) by leaving it for the person at the place to which the direction or notice relates with a person who is apparently over 16 years and who apparently is the occupier for the time being of the place.

S. 17G
inserted by
No. 31/2005
s. 12.

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- (2) If the person with whom a provisional direction, non-disturbance notice, improvement notice or prohibition notice is left is not the occupier of the place to which the direction or notice relates, he or she must give a copy of the direction or notice to the occupier of the place as soon as possible.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

- (3) The occupier of a place to which a provisional direction, non-disturbance notice, improvement notice or prohibition notice relates must, as soon as possible after receiving the direction or notice—

- (a) bring the notice to the attention of each person who is affected by the notice (unless the person is aware of the notice); and
(b) prominently display a copy of the notice at or near the place, or part of the place, that is affected by the notice.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

S. 17H
inserted by
No. 31/2005
s. 12.

17H. Formal irregularities or defects in notices

A provisional direction, non-disturbance notice, improvement notice or prohibition notice is not invalid merely because of—

- (a) a formal defect or irregularity in the direction or notice, unless the defect or irregularity causes or is likely to cause substantial injustice; or
(b) a failure to use the correct name of the person to whom the direction is given, or the notice is issued, if the direction or notice sufficiently identifies the person and is

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issued to the person in accordance with section 17G.

17I. Proceedings for offences not affected by notices

S. 17I
inserted by
No. 31/2005
s. 12.

The issue, variation or cancellation of a provisional direction, non-disturbance notice, improvement notice or prohibition notice does not affect any proceedings for an offence against this Act in connection with any matter in respect of which the direction was given or the notice was issued.

17J. Injunctions for non-compliance with notices

S. 17J
inserted by
No. 31/2005
s. 12.

- (1) The Authority may apply to the Supreme Court for an injunction—
 - (a) to compel a person to comply with a provisional direction, non-disturbance notice, improvement notice or prohibition notice; or
 - (b) to restrain a person from contravening such a direction or notice.
- (2) The Authority may do so whether or not proceedings have been instituted for an offence against this Act in connection with any matter in respect of which the direction was given or the notice was issued.

17K. Inspector may issue direction concerning damaged or spilled dangerous goods

S. 17K
inserted by
No. 31/2005
s. 12.

- (1) This section applies if an inspector believes on reasonable grounds that danger to any person or property exists, or may arise, from any dangerous goods—
 - (a) that are damaged or spilled; or
 - (b) that are in a container that is damaged; or
 - (c) that are in a container that is dislodged from a vehicle, ship or boat.

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(2) An inspector may issue a direction to the owner, or the person in possession or control, or who last had possession or control, of the dangerous goods or container—

(a) to render harmless the dangerous goods or container; or

(b) to dispose of, or remove, the spilled dangerous goods and render harmless anything contaminated by them—

by safe means within the period of time specified in the direction.

(3) A person must not, without reasonable excuse, refuse or fail to comply with a direction issued under sub-section (2).

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

(4) If the inspector believes on reasonable grounds that there is an immediate danger to any person or property, the inspector may take any action that he or she considers necessary for—

(a) the destruction, rendering harmless, disposal or removal of the dangerous goods or container; or

(b) the destruction or rendering harmless of anything contaminated by the spilled dangerous goods.

(5) The inspector may also take any action described in sub-section (4) if—

(a) the inspector has issued a direction under sub-section (2) in relation to the dangerous goods or container, or any thing contaminated by the dangerous goods, and he or she believes on reasonable grounds that

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- the person to whom the direction was issued—
- (i) has failed to comply with the direction; or
 - (ii) is likely to use unsafe means to render harmless, dispose of or remove the dangerous goods, container or thing—
within the period of time specified in the direction; or
- (b) the inspector believes on reasonable grounds that a direction under sub-section (2)—
- (i) cannot be served on the owner or any other person to whom the direction may be issued; or
 - (ii) cannot be served on the owner or such a person without a delay which may increase the danger to any person or property that exists or that may arise from the dangerous goods, container or thing; or
- (c) the owner of the dangerous goods, container or thing authorises the inspector in writing to destroy, render harmless, dispose of or remove the dangerous goods, container or thing.
- (6) If an inspector takes any action under sub-section (4) or (5), the Authority may recover the costs of that action—
- (a) if the dangerous goods, container or thing was or were present at a place other than a vehicle, ship or boat—from any occupier of the place; or
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- (b) if the dangerous goods, container or thing was or were present on a vehicle, ship or boat—from the owner of the vehicle, ship or boat.

Pt 2 Div. 9
(Heading)
inserted by
No. 31/2005
s. 12.

Division 9—Other Powers

S. 18
amended by
No. 13/1996
s. 22(f),
substituted by
No. 31/2005
s. 12.

18. Power to require name and address

- (1) An inspector may ask a person to state his or her name and address if the inspector reasonably believes that the person—
- (a) may be able to assist in the investigation of an indictable offence under this Act that has been committed or is suspected of having been committed; or
 - (b) has committed or is about to commit an offence (whether indictable or summary) under this Act.
- (2) The inspector must inform the person of the grounds for his or her belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence.
- (3) A person who, in response to being asked to state his or her name and address in accordance with this section—
- (a) refuses or fails to do so; or
 - (b) states a name that is false in a material detail;
or

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s. 18A

(c) states an address other than the full and correct address of his or her ordinary place of residence or business—

is guilty of an offence and is liable to a fine not exceeding 5 penalty units.

(4) A person who is asked to state his or her name and address may ask the inspector to produce his or her identity card for inspection.

18A. Power to give directions

S. 18A
inserted by
No. 31/2005
s. 12.

(1) An inspector may give a direction (either orally or in writing) to a person at a place if the inspector reasonably believes that it is necessary to do so because of an immediate risk to the safety of any person or of damage to any property arising out of the presence of dangerous goods or any related thing.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a direction given to the person under sub-section (1).

Penalty: 500 penalty units for a natural person;
2500 penalty units for a body corporate.

(3) An offence against sub-section (2) is an indictable offence.

Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

18B. Powers extend to HCDG and explosives

S. 18B
inserted by
No. 31/2005
s. 12.

Without limiting an inspector's powers in relation to dangerous goods generally, an inspector's powers under this Part extend and apply to, and in relation to, the import, export and disposal of high consequence dangerous goods and the export of explosives.

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s. 19

Pt 2 Div. 10
(Heading)
inserted by
No. 31/2005
s. 12.

Division 10—Other Matters

S. 19
substituted by
No. 31/2005
s. 12.

19. People who must assist inspector

The following persons must not, without reasonable excuse, refuse or fail to provide such assistance as an inspector may reasonably require for the performance of his or her functions, or the exercise of his or her powers, under this Act—

- (a) in relation to a building or land, an occupier or apparent occupier of the building or land;
- (b) in relation to any other place, the person who has the management or control of the place for the time being.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

S. 19A
inserted by
No. 31/2005
s. 12.

19A. Other assistance in exercising powers

- (1) For the purpose of exercising a power under this Act, an inspector may seek the assistance of any person.
- (2) If the power being exercised involves entry to a place, the person assisting must be allowed access to the place by the occupier, apparent occupier or other person who has the management or control of the place for the time being.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) If an inspector uses the assistance of an interpreter—
 - (a) any enquiry or request made by the interpreter on the inspector's behalf is taken to have been made by the inspector; and

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s. 19B

- (b) any answer given to the interpreter is taken to have been given to the inspector.
- (4) Any member of the police force or officer or member of a fire authority may, if requested to do so by an inspector, assist the inspector in the execution of any of the inspector's powers or functions.

19B. Inspector may take affidavits

An inspector is authorised to take affidavits for any purpose relating or incidental to the performance of his or her functions, or the exercise of his or her powers, under this Act.

S. 19B
inserted by
No. 31/2005
s. 12.

19C. Inspector may copy documents

An inspector may make copies of, or take extracts from, a document or part of a document given to the inspector in accordance with a requirement under this Act.

S. 19C
inserted by
No. 31/2005
s. 12.

Division 11—Offences

Pt 2 Div. 11
(Heading and
ss 19D, 19E)
inserted by
No. 31/2005
s. 12.

19D. Offences in relation to inspections

- (1) A person must not—
- (a) intentionally hinder or obstruct an inspector in the performance of his or her functions, or in the exercise of his or her powers, under this Act, or induce or attempt to induce any other person to do so; or
- (b) intentionally conceal from an inspector the location or existence of any other person or any equipment, substance or other thing; or

S. 19D
inserted by
No. 31/2005
s. 12.

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(c) intentionally prevent, or attempt to prevent, any other person from assisting an inspector.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) A person must not assault, directly or indirectly intimidate or threaten, or attempt to assault, intimidate or threaten, an inspector, or a person assisting an inspector.

Penalty: Imprisonment for 2 years, or 240 penalty units, or both, for a natural person;

1200 penalty units for a body corporate.

(3) A reference in sub-section (1) or (2) to an inspector is to be read as including a reference to a person acting under an instrument of delegation under section 10B.

S. 19E
inserted by
No. 31/2005
s. 12.

19E. Offence to impersonate inspector

A person who is not an inspector must not, in any way, hold himself or herself out to be an inspector.

Penalty: 60 penalty units.

Pt 2 Div. 12
(Heading and
ss 19F, 19G)
inserted by
No. 31/2005
s. 12.

**Division 12—Protections Concerning Self-Incrimination and
Legal Professional Privilege**

S. 19F
inserted by
No. 31/2005
s. 12.

19F. Protection against self-incrimination

(1) A natural person may refuse or fail to give information or do any other thing that the person is required to do by or under this Act if giving the information, or doing the other thing, would tend to incriminate the person.

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s. 19G

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- (2) However, sub-section (1) does not apply—
- (a) to the production of a document or part of a document that the person is required by this Act to produce; or
 - (b) to the giving of a person's name or address in accordance with section 18.

19G. Legal professional privilege not affected

**S. 19G
inserted by
No. 31/2005
s. 12.**

Nothing in this Act—

- (a) entitles or requires a person to disclose information that is the subject of legal professional privilege; or
 - (b) affects the law or practice relating to legal professional privilege.
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Part IIA—Review of Decisions

s. 20

Pt 2A
(Heading)
inserted by
No. 31/2005
s. 12.

PART IIA—REVIEW OF DECISIONS

S. 20
amended by
Nos 48/1989
s. 10(1),
13/1996
s. 23(b),
substituted by
No. 31/2005
s. 12.

20. Which decisions are reviewable

- (1) The following table sets out—
 - (a) decisions made under this Act that are reviewable in accordance with this Part ("**reviewable decisions**"); and
 - (b) who is eligible to apply for a review of a reviewable decision (the "**eligible person**" in relation to the reviewable decision).
- (2) To avoid doubt, sections 4 and 5 of the **Victorian Civil and Administrative Tribunal Act 1998** apply for the purposes of this Act.

Note: Under section 4 of that Act, a person makes a decision if the person refuses to make a decision or an instrument, imposes a condition or restriction or does or refuses to do any other act or thing. Section 5 of that Act sets out when a person's interests are affected by a decision.

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Reviewable decision</i>	<i>Eligible person</i>
1.	Section 16A(2)	To impose terms and conditions on the return of a seized thing	<ol style="list-style-type: none">(1) The owner of the seized thing.(2) A person who has an interest in the seized thing.(3) Any other person whose interests are affected by the decision.

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s. 20

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Reviewable decision</i>	<i>Eligible person</i>
2.	Section 16B(1)	To decide that a seized thing is forfeit	<ul style="list-style-type: none"> (1) A person to whom a notice of forfeiture is issued under section 16B(2). (2) A person who has an interest in the seized thing. (3) Any other person whose interests are affected by the decision.
3.	Section 17A(5)	To confirm a provisional direction	<ul style="list-style-type: none"> (1) The person to whom the direction is issued. (2) Any other person whose interests are affected by the decision.
4.	Section 17B(1)	To issue a non-disturbance notice	<ul style="list-style-type: none"> (1) The person to whom the notice is issued. (2) Any other person whose interests are affected by the decision.
5.	Section 17C(1)	To issue an improvement notice	<ul style="list-style-type: none"> (1) The person to whom the notice is issued. (2) Any other person whose interests are affected by the decision.

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<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Reviewable decision</i>	<i>Eligible person</i>
6.	Section 17C(3)(a)	To certify that matters that are the subject of an improvement notice have been remedied	(1) The person to whom the notice was issued. (2) Any other person whose interests are affected by the decision.
7.	Section 17D(1)	To issue a prohibition notice	(1) The person to whom the notice is issued. (2) Any other person whose interests are affected by the decision.
8.	Section 17D(1)	To certify that matters that are the subject of a prohibition notice have been remedied	(1) The person to whom the notice was issued. (2) Any other person whose interests are affected by the decision.
9.	Section 17F	To vary or cancel a non-disturbance notice, improvement notice or prohibition notice	(1) The person to whom the notice was issued. (2) Any other person whose interests are affected by the decision.

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Part IIA—Review of Decisions

s. 20A

20A. Internal review

S. 20A
inserted by
No. 31/2005
s. 12.

- (1) An eligible person in relation to a reviewable decision, other than a decision made by the Authority, may apply to the Authority for a review of the decision within—
 - (a) 14 days after the day on which the decision first came to the eligible person's notice; or
 - (b) such longer period as the Authority allows.
- (2) The application must be in the form approved (in writing) by the Authority.
- (3) If an application is made to the Authority in accordance with this section, the Authority must make a decision—
 - (a) to affirm or vary the reviewable decision; or
 - (b) to set aside the reviewable decision and to substitute another decision that the Authority considers appropriate.
- (4) The Authority must give a written notice to the applicant setting out—
 - (a) the Authority's decision under sub-section (3) and the reasons for the decision; and
 - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based—

and must do so within 14 days after the application is made or, if the reviewable decision was made under section 17C(3)(a) or 17D(1), within 7 days after the application is made.
- (5) If the Authority has not notified an applicant of a decision in accordance with sub-section (4), the Authority is taken to have made a decision to affirm the reviewable decision.

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Part IIA—Review of Decisions

s. 20B

- (6) The making of an application under this section does not affect the operation of the reviewable decision or prevent the taking of any action to implement it unless the Authority, on its own initiative or on the application of the applicant for review, stays the operation of the decision pending the determination of the review.
- (7) The Authority must make a decision on an application for a stay within 24 hours after the making of that application.
- (8) If the Authority has not made a decision in accordance with sub-section (7), the Authority is taken to have made a decision to grant a stay.
- (9) The Authority may attach any conditions to a stay of the operation of a reviewable decision that it considers appropriate.

S. 20B
inserted by
No. 31/2005
s. 12.

20B. Review by the Tribunal

- (1) A person may apply to the Tribunal for a review of—
 - (a) a reviewable decision made by the Authority; or
 - (b) a decision made, or taken to have been made, by the Authority under section 20A in respect of a reviewable decision (including a decision concerning a stay of the operation of the reviewable decision)—if the person is an eligible person in relation to the reviewable decision.
- (2) The application must be made—
 - (a) if the decision is to forfeit a thing (including a document) seized under Part II, within 28 days after the day on which the decision first came to the applicant's notice; or

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Part IIA—Review of Decisions

s. 20B

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- (b) in the case of any other decision, within 14 days after the day on which the decision first came to the applicant's notice; or
- (c) if the Authority is required by the **Victorian Civil and Administrative Tribunal Act 1998** to give the applicant a statement of reasons, within 14 days after the day on which the applicant is given the statement—
- whichever period ends last.
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Part III—Licences

s. 21

PART III—LICENCES⁸

21. Licences

S. 21(1)
amended by
No. 13/1996
s. 22(g).

- (1) Where a person is required by the regulations to hold a licence, the Authority may issue a licence to that person.
- (2) A person who does not hold a licence and who carries out any action in respect of which a licence is required by the regulations to be held by that person is guilty of an offence.

S. 21(3)
amended by
No. 13/1996
s. 22(g).

- (3) Where the regulations require the occupier of premises containing a prescribed quantity or class of dangerous goods to hold a licence, the Authority may require the applicant for such a licence—

S. 21(3)(a)
amended by
No. 13/1996
s. 22(g).

- (a) to carry out such investigations, including hazard analysis studies and risk evaluation studies, as the Authority thinks fit;

S. 21(3)(b)
amended by
No. 13/1996
s. 22(g).

- (b) to carry out any such studies to a standard acceptable to the Authority and in such detail as the Authority may direct; and

S. 21(3)(c)
amended by
No. 13/1996
s. 22(g).

- (c) where the Authority is not satisfied with the standard, content or detail of any such studies carried out by the applicant, to bear the costs of further investigations to be carried out by consultants appointed by the Authority.

S. 21(4)
amended by
No. 13/1996
s. 22(g).

- (4) Subject to sub-section (5), a licence shall, unless previously suspended or revoked, remain in force for the prescribed period and may be renewed by the Authority for a prescribed period on receipt by the Authority of a written application for renewal from the licensee.

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s. 21

(5) Where on application by a licensee another licence of the same class as that which the licensee already holds is issued to that licensee and—

S. 21(5)
amended by
No. 13/1996
s. 22(g).

- (a) the applicant requests; or
- (b) the Authority determines—

S. 21(5)(b)
amended by
No. 13/1996
s. 22(g).

that the other licence be issued for a period expiring on the date on which the licence or licences already held expires or expire, then that other licence, unless previously suspended or revoked, shall remain in force for such period as the Authority thinks fit.

(5A) The Authority must decide an application for issue or renewal of a licence within a reasonable period.

S. 21(5A)
inserted by
No. 48/1989
s. 11,
amended by
No. 13/1996
s. 22(g).

(6) The Authority may refuse to issue a licence or to renew a licence—

S. 21(6)
amended by
No. 13/1996
s. 22(g).

- (a) where the Authority believes that the risk of injury or damage to persons or property which may be incurred by an accident involving dangerous goods is too great in the circumstances to justify the issue or renewal;
or
- (b) where the Authority considers that the applicant is not a suitable person to hold the licence.

S. 21(6)(a)
amended by
No. 13/1996
s. 22(g).

S. 21(6)(b)
amended by
No. 13/1996
s. 22(g).

(7) Where the Authority decides to refuse to issue or renew a licence, the Authority shall send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

S. 21(7)
amended by
No. 13/1996
s. 22(g).

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S. 21(8)
amended by
No. 13/1996
s. 22(g).

- (8) A notice under sub-section (7) shall be sent no less than two months before the expiry date of the licence unless the application for renewal is received by the Authority less than two months before the expiry date of the licence.

S. 21A
inserted by
No. 67/2004
s. 7.

21A. Special provisions for HCDG and explosives licences

- (1) If the regulations require a person to hold a licence to manufacture, transport or store explosives or high consequence dangerous goods, the Authority may require—
- (a) the applicant to provide a security plan for the activities to be covered by the licence;
 - (b) the licensee, at any time during the currency of the licence, to provide a security plan for the activities covered by the licence.
- (2) The security plan must—
- (a) be based on a risk assessment of those activities; and
 - (b) contain the prescribed particulars.
- (3) The Authority must not issue a licence to import, export, manufacture, store, sell, supply, use, handle, transfer, transport or dispose of high consequence dangerous goods unless the Authority is of the opinion that—
- (a) the applicant for the licence, if a natural person—
 - (i) is of the age required by the Authority for the licence applied for; and
 - (ii) has provided specified proof of identity; and
 - (iii) has provided consent and sufficient information for the Authority to obtain known information concerning the person to determine whether the person

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- has satisfied the requirements prescribed by the regulations to hold an HCDG licence; and
- (b) the applicant for the licence, if a body corporate—
- (i) has provided details of the incorporation of the body; and
 - (ii) has provided specified proof of identity of such of the directors and persons concerned in the management of the body corporate that are required by the Authority; and
 - (iii) such of the directors and the persons concerned in the management of the body corporate that are required by the Authority have provided their consent and sufficient information for the Authority to obtain known information concerning the director or person to determine whether they have satisfied the requirements prescribed by the regulations to be a director or person concerned in the management of a body corporate that holds an HCDG licence; and
- (c) the applicant for the licence has provided the consent and sufficient information from any person who is to be responsible for the security of the goods under the HCDG licence for the Authority to obtain known information concerning the person to determine whether the person has satisfied the requirements prescribed by the regulations to be responsible for the security of the goods under the HCDG licence; and
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- (d) the applicant for the licence has demonstrated a need for access to the high consequence dangerous goods that is declared by Order in Council under section 9B(1B) to be a lawful need in relation to those goods; and
- (e) the applicant for the licence has satisfied any other requirements prescribed by the regulations.
- (4) The Authority must not issue a licence to import, export, manufacture, store, sell, use, transport, handle or transfer explosives unless the Authority is of the opinion that the requirements of subsection (3)(a), (b), (c), and (e) with necessary modifications to apply in relation to an explosives licence are satisfied.
- (5) Nothing in this section limits any other powers of the Authority under this Act in relation to the issue of licences for dangerous goods or the powers to make regulations for or with respect to the issue of licences for dangerous goods.
- (6) In this section—
- "known information"** means any records concerning a person kept by or on behalf of—
- (a) the Chief Commissioner of Police appointed under the **Police Regulation Act 1958**; or
- (b) any person holding a position equivalent to that of the Chief Commissioner of Police in the Commonwealth or in a State or Territory of the Commonwealth or any other country; or
- (c) any other prescribed person or body.
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s. 22

"specified proof of identity", in relation to a person or director, means proof of the identity of the person or director in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth.

22. Review of decision of Authority

(1) A person whose interests are affected by a decision of the Authority refusing to issue or renew a licence may apply to the Tribunal for review of the decision.

S. 22(1)
amended by
No. 13/1996
s. 22(h),
substituted by
No. 52/1998
s. 311(Sch. 1
item 20.6).

(2) An application under sub-section (1) for review of a decision of the Authority may be made to the Tribunal at any time within the period of one month after the receipt of a notice of refusal under section 21(7).

S. 22(2)
amended by
Nos 13/1996
s. 22(h),
52/1998
s. 311(Sch. 1
item 20.7).

23. Conditions etc. in licences

(1) The Authority on issuing any licence shall insert in it such conditions, limitations and restrictions as are prescribed and may insert in it such other conditions, limitations and restrictions as the Authority thinks appropriate to ensure the safety of persons and property or to ensure compliance with this Act.

S. 23(1)
amended by
No. 13/1996
s. 22(i).

(2) A person who contravenes or fails to comply with a condition, limitation or restriction inserted in a licence by the Authority pursuant to sub-section (1) is guilty of an offence.

S. 23(2)
amended by
No. 13/1996
s. 22(i).

(3) A person whose interests are affected by a decision of the Authority inserting in a licence a condition, limitation or restriction (other than a prescribed condition, limitation or restriction) may apply to the Tribunal for review of the decision.

S. 23(3)
amended by
No. 13/1996
s. 22(i),
substituted by
No. 52/1998
s. 311(Sch. 1
item 20.8).

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S. 23(4)
amended by
Nos 48/1989
s. 17, 13/1996
s. 22(i),
52/1998
s. 311(Sch. 1
item 20.9).

- (4) An application for review of a decision of the Authority may be made to the Tribunal at any time within the period of 14 days of receiving the licence.

24. Authority may amend, suspend or revoke licences

S. 24(1)
amended by
No. 13/1996
s. 22(j).

- (1) The Authority may amend, suspend or revoke any licence.

S. 24(2)
amended by
No. 13/1996
s. 22(j).

- (2) Where a document evidencing a licence has been issued by the Authority and that licence is amended, suspended or revoked, the licensee shall surrender the document to an inspector on demand.

S. 24(4)
amended by
No. 13/1996
s. 22(j).

- (3) A licence shall not be suspended for longer than six months.
- (4) Where the Authority decides to amend, suspend or revoke a licence, the licence shall not be amended, suspended or revoked unless and until the licensee receives one month's written notice of that decision setting out the reasons for it, except where in the opinion of the Authority there exists a significant danger to persons or property in which case the amendment, suspension or revocation of the licence shall take effect immediately.

S. 24(5)
inserted by
No. 67/2004
s. 8.

- (5) If—
- (a) an HCDG licence has been issued on the basis of demonstrating a lawful need for access to high consequence dangerous goods that has been declared by Order in Council under section 9B(1B); and

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(b) after the issue of the licence, an Order in Council is made revoking that lawful need—

the Authority must revoke the licence or the part of the licence that relates to that lawful need within 3 months after the notice of the Order in Council is published in the Government Gazette.

- (6) Without limiting any of the powers of the Authority to amend, suspend or revoke any licence on any ground or for any reason, the Authority may amend, suspend or revoke an HCDG licence if the person who holds the licence has been found guilty of an offence against this Act or the **Terrorism (Community Protection) Act 2003**.

S. 24(6)
inserted by
No. 67/2004
s. 8.

25. Review of licence revocations etc.

- (1) A person whose interests are affected by a decision of the Authority amending, suspending or revoking a licence may apply to the Tribunal for review of the decision.

S. 25(1)
amended by
No. 13/1996
s. 22(k),
substituted by
No. 52/1998
s. 311(Sch. 1
item 20.10).

- (2) An application under sub-section (1) for review of a decision of the Authority may be made to the Tribunal at any time within the period of one month after the receipt of a notice under section 24(4).

S. 25(2)
amended by
Nos 13/1996
s. 22(k),
52/1998
s. 311(Sch. 1
item 20.11).

26. Transfer of licences

A licensee may, subject to the regulations on payment of the prescribed fee and with the consent of the Authority, transfer the licence to any other person and that person shall then become the licensee.

S. 26
amended by
Nos 13/1996
s. 22(l),
67/2004 s. 9.

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Part IV—Information on Dangerous Goods at Licensed Premises

s. 27

**PART IV—INFORMATION ON DANGEROUS GOODS AT
LICENSED PREMISES⁹**

**27. Certain persons to provide information concerning
dangerous goods**

S. 27(1)
amended by
Nos 82/1995
s. 192(1),
13/1996
s. 22(m).

(1) A licensee, as soon as is practicable after the issue of the licence and at three-monthly intervals thereafter, or an occupier of premises of a prescribed class, at three-monthly intervals after a prescribed date, shall send by post to the Authority the following information in relation to all dangerous goods then present at the licensed premises (not being a vehicle, ship or boat) or at the prescribed class of premises—

- (a) the technical names, chemical names and trade names (if any) of the dangerous goods;
- (b) the quantity of each of the dangerous goods;
- (c) details of the type and capacity of each container in which the dangerous goods are kept and the extent to which each container is filled with dangerous goods; and
- (d) any other prescribed matter relating to the dangerous goods.

(2) Sub-section (1) shall not apply—

- (a) to holders of classes of licences;
- (b) to dangerous goods; or
- (c) to quantities of dangerous goods—

which are prescribed as exempt for the purposes of that sub-section.

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S. 27(3)
repealed by
No. 78/1995
s. 9(a).

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s. 28

- (4) A person who, except for the purposes of this Act or otherwise in connexion with the performance of the person's duties under this Act discloses to any person all or any part of the information sent to the Authority under sub-section (1) is guilty of an offence.

S. 27(4)
amended by
No. 13/1996
s. 22(m).

28. Authority to send the information to relevant fire authority

- (1) On receipt by the Authority of the information referred to in section 27(1), the Authority shall send a copy of that information to the Chief Fire Officer of the Metropolitan Fire Brigades or the Chief Officer of all urban and rural brigades subject to the **Country Fire Authority Act 1958**, whichever is appropriate.
- (2) Section 27(4) does not prevent an officer or member of a fire authority from disclosing exempt information to another officer or member of a fire authority.
- (3) For the purposes of sub-section (2) "**exempt information**" means any information which is disclosed by an officer or member of a fire authority to another person for the purpose of preventing injury or damage to persons or property from a fire, explosion, leakage or spillage of dangerous goods—
- (a) which has occurred; or
 - (b) which, in the reasonable opinion of the officer or member, may occur—
- on or at the premises to which the information relates.

S. 28(1)
amended by
No. 13/1996
s. 22(n).

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Act No. 10189/1985

Part IV—Information on Dangerous Goods at Licensed Premises

s. 29

S. 29
amended by
Nos 82/1995
s. 192(1),
13/1996
s. 22(o).

29. Authority to send municipality details of dangerous goods for which a licence is issued

On the issue of a licence the Authority shall send to the council of the municipality in which the licensed premises (not being a vehicle, ship or boat) are situated a statement—

- (a) of the classification of the dangerous goods to which the licence relates; and
- (b) of the quantity of each class of dangerous goods referred to in paragraph (a) authorized by the licence to be present at the licensed premises.

30. Manifests

- (1) The occupier of licensed premises or an occupier of premises of a prescribed class shall maintain at the licensed or prescribed class of premises a manifest in such form and in such locations as may be prescribed.
- (2) A person who keeps a manifest which is false or misleading in any particular is guilty of an offence.

S. 30(2)
amended by
No. 78/1995
s. 9(c).

PART V—ACCIDENTS AND SECURITY

31. Persons required to take precautions

- (1) An occupier or person in charge of premises where dangerous goods are manufactured, stored or sold, an owner or person in charge of a vehicle or boat used to transport dangerous goods and a person who uses, handles or transfers dangerous goods—
 - (a) shall take all reasonable precautions for the prevention of—
 - (i) tampering, theft or unauthorized access;
 - (ii) any fire or explosion;
 - (iii) any leakage; or
 - (iv) any damage to property or danger to the public incurred by an accident—
involving dangerous goods in the ownership, control or possession of that person; and
 - (b) shall not abandon, discard or otherwise neglect to dispose safely of any dangerous goods in the ownership, control or possession of that person.
 - (2) A person shall not without lawful authority or excuse (the burden of proving which is on that person) do anything in or near any licensed premises which causes or is likely to cause an accident involving dangerous goods.
 - (3) Any person found offending against subsection (2) may be removed from the licensed premises or from the vicinity of the licensed premises by an inspector or by a member of the police force or by a licensee or by the owner or occupier of the licensed premises and shall not resist such removal.
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Part V—Accidents and Security

s. 32

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- (4) A person who carries out any work involving the installation, alteration, repair, maintenance or testing of equipment, piping, fittings or appliances which are not prescribed as exempt for the purposes of this sub-section shall take all reasonable precautions to ensure that the equipment, piping, fittings or appliances—
- (a) are safe for use; and
 - (b) will not cause or contribute to a fire, explosion, leakage or spillage involving dangerous goods.

S. 31(5)
repealed by
No. 78/1995
s. 9(a).

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32. Accidents to be reported

S. 32(1)
amended by
Nos 48/1989
s. 12, 82/1995
s. 192(2)(e).

- (1) A licensee or a prescribed person or master of a ship shall without delay report—
- (a) to the nearest fire authority; or
 - (b) to a police station—
- any fire, explosion, spillage, leakage or escape involving dangerous goods in the ownership, possession or control of that licensee or person or master of a ship.
- (2) This section does not apply to an accident involving—
- (a) prescribed dangerous goods; or
 - (b) prescribed quantities of dangerous goods.
- (3) The occupier of premises where a fire or explosion involving dangerous goods has occurred or the owner or master or person in charge of a vehicle, ship or boat on or in which a fire or explosion involving dangerous goods has occurred shall take all reasonable action to ensure that no

S. 32(3)
amended by
No. 82/1995
s. 192(1)(2)(f).

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s. 33

person shall disturb, move or remove any wreckage or debris resulting from the explosion or fire except with the permission and in accordance with any directions of an inspector.

- (4) Nothing in sub-section (3) shall prohibit a person from disturbing, moving or removing any wreckage or debris—
- (a) to rescue an injured person;
 - (b) to recover the body of a person;
 - (c) to extinguish the fire; or
 - (d) to take any reasonable precautions to prevent injury or damage to persons or property in the vicinity of the explosion or fire.

* * * * *

S. 32(5)
repealed by
No. 78/1995
s. 9(a).

33. Reconstruction work¹⁰

- (1) Where a fire, explosion, spillage, leakage or escape required to be reported under section 32 has occurred the licensee or the prescribed person under that section shall obtain the approval of the Authority before commencing reconstruction work or repairs on or to the premises or vehicle where it occurred.
- (2) The licensee or person referred to in sub-section (1) shall not allow any further supply of dangerous goods in or at the premises or vehicle, unless the Authority consents.

S. 33(1)
amended by
Nos 82/1995
s. 192(2)(g),
13/1996
s. 22(p).

S. 33(2)
amended by
Nos 82/1995
s. 192(2)(g),
13/1996
s. 22(p).

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S. 33(3)
repealed by
No. 78/1995
s. 9(a).

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Act No. 10189/1985

Part V—Accidents and Security

s. 33A

S. 33A
inserted by
No. 31/2005
s. 13.

33A. Power of Authority where premises or magazine especially dangerous

- (1) The Authority may require a licensee to stop the use of, or to use under conditions specified by the Authority, any premises or magazine that the Authority considers to be especially dangerous.
- (2) A licensee who contravenes or fails to comply with any requirement of the Authority under sub-section (1) is guilty of an offence.

Note: This section re-enacts section 18 of the Act as it was before the commencement of section 12 of the **Dangerous Goods and Equipment (Public Safety) Acts (Amendment) Act 2005**.

S. 33B
inserted by
No. 31/2005
s. 13.

33B. Approval of equipment etc. for sale

A person who sells prescribed equipment or appliances or any other prescribed items used or intended to be used for or in connection with dangerous goods is guilty of an offence unless the Authority has approved the equipment, appliances or items for that purpose.

Note: This section re-enacts section 15 of the Act as it was before the commencement of section 9 of the **Dangerous Goods and Equipment (Public Safety) Acts (Amendment) Act 2005**.

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Part VI—Miscellaneous Provisions Relating to Explosives and Liquefied
Gases

s. 34

**PART VI—MISCELLANEOUS PROVISIONS RELATING TO
EXPLOSIVES AND LIQUEFIED GASES**

34. Governor in Council may appoint public magazines

The Governor in Council—

- (a) may appoint public magazines for the storage of explosives; and
- (b) subject to the **Public Administration Act 2004**, may appoint a keeper for any public magazine.

S. 34(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 53.2).

* * * * *

S. 35
repealed by
No. 82/1995
s. 192(2)(h).

36. Trespassers etc. in relation to explosives

- (1) A person who without lawful authority or excuse (the burden of proving which is on that person)—
 - (a) is found in or on any boat, ship or vehicle carrying explosives;
 - (b) is found in or on or in the vicinity of any magazine or premises where explosives are kept or stored;
 - (c) breaks into or interferes with any container used for keeping or storing explosives; or
 - (d) removes any explosives from any such boat, ship, vehicle, magazine, premises or container—

is guilty of an offence.

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Part VI—Miscellaneous Provisions Relating to Explosives and Liquefied
Gases

s. 37

- (2) A person found contravening sub-section (1) may be removed from the boat, ship, vehicle, magazine or premises or from the vicinity of the container—
- (a) by a member of the police force;
 - (b) by the person for the time being in charge or the keeper or occupier of the magazine or premises; or
 - (c) by the person for the time being in charge of the boat, ship or vehicle.

37. Offences in relation to explosives

- (1) A person who negligently or carelessly—
- (a) prepares for use;
 - (b) explodes; or
 - (c) causes to be exploded—
- any explosives so as to endanger the life of a person or the safety of any property is guilty of an offence.
- (2) A consignor, consignee or other person who by wilful act, neglect or default or by improper refusal to accept delivery of any explosive from any person authorized to transport explosives by a licence causes a person to contravene this Act is guilty of an offence.
- (3) A person who delivers explosives to a vehicle or boat knowing that the transport of the explosives in the vehicle or boat would be in contravention of this Act is guilty of an offence.

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Part VI—Miscellaneous Provisions Relating to Explosives and Liquefied
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- (4) A person, not being the keeper of a public or licensed private magazine or the holder of a licence under this Act or the **Mineral Resources (Sustainable Development) Act 1990** or the holder of a work authority under the **Extractive Industries Development Act 1995**, who possesses or has on any premises of which that person is the occupier any gunpowder, blasting compounds, detonators or detonating fuse which that person has not purchased in accordance with this Act or which that person has kept without lawful occasion to use them or in a quantity greater than reasonably necessary for such use is guilty of an offence.
- (5) In any proceedings under sub-section (4) the burden of proving the lawful purchase, the lawful occasion and that the quantity kept was not greater than reasonably necessary for the use shall be on the defendant.

S. 37(4)
amended by
Nos 6/1987
s. 5(1)(Sch.
item 3(b)),
92/1990
s. 128(Sch. 1
item 5.2),
67/1995
s. 58(Sch. 1
item 6.2),
63/2006
s. 61(Sch.
item 8).

38. Exemption of licensee where consignee etc. at fault

Where the holder of a licence to transport explosives contravenes this Act by reason of the wilful act, neglect or default of the consignor or consignee of the explosive or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, the conviction of the consignor, consignee or other person shall exempt the licensee from any penalty under this Act in respect of any breach of this Act arising from the wilful act, neglect, default or improper refusal to accept delivery.

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Part VI—Miscellaneous Provisions Relating to Explosives and Liquefied
Gases

s. 39

**39. Additional penalties for offences involving
explosives**

- (1) Where a person is guilty of an offence against this Act in respect of the import into Victoria of any explosives, all or any part of the explosives may be forfeited to the Government of Victoria.
- (2) Notwithstanding the provisions of section 45 and of any provision of this Act which prescribes a specific penalty for an offence, a person who is guilty of an offence under this Act in relation to any explosives is liable, in addition to or in lieu of any other penalty to which the person is liable under this Act, to a penalty not exceeding 1 penalty unit for every kilogram or part of a kilogram of the explosives and the penalty imposed under this section shall be no less than 5 penalty units.

S. 39(2)
amended by
No. 48/1989
s. 13.

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Act No. 10189/1985

Part VII—Proceedings and Enforcement

s. 40

PART VII—PROCEEDINGS AND ENFORCEMENT ¹¹

Pt 7 (Heading)
substituted by
No. 67/2004
s. 10.

**40. Proceedings may be brought by the Authority,
inspectors and the police**

S. 40
amended by
Nos 48/1989
s. 14, 13/1996
s. 18, 107/1997
s. 69,
substituted by
No. 31/2005
s. 14.

- (1) Proceedings for an offence against this Act may be brought only by—
 - (a) the Authority; or
 - (b) an inspector with the written authorisation of the Authority (either generally or in a particular case); or
 - (c) a member of the police force.
- (2) An authorisation under sub-section (1)(b) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.
- (3) An inspector who brings proceedings may conduct the proceedings before the court.
- (4) The Authority must issue, and publish in the Government Gazette, general guidelines for or with respect to the prosecution of offences under this Act.
- (5) Nothing in this section affects the ability of the Director of Public Prosecutions to bring proceedings for an indictable offence against this Act.

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Act No. 10189/1985

Part VII—Proceedings and Enforcement

s. 40A

S. 40A
inserted by
No. 31/2005
s. 14.

40A. Procedure if prosecution is not brought

- (1) If—
 - (a) a person considers that an offence against this Act has occurred; and
 - (b) no prosecution has been brought in respect of that occurrence within 6 months after that occurrence—

the person may request in writing that the Authority bring a prosecution in respect of that occurrence.
- (2) Within 3 months after the Authority receives a request it must—
 - (a) investigate the matter; and
 - (b) following the investigation, advise (in writing) the person whether a prosecution has been, or will be, brought, or give reasons why a prosecution will not be brought.
- (3) If the Authority advises the person that a prosecution will not be brought, the Authority must refer the matter to the Director of Public Prosecutions if the person requests (in writing) that the Authority do so.
- (4) The Director of Public Prosecutions must consider the matter and advise (in writing) the Authority whether or not the Director considers that a prosecution should be brought.
- (5) The Authority must ensure that a copy of the advice is sent to the person who made the request and, if the Authority declines to follow advice from the Director of Public Prosecutions to bring proceedings, the Authority must give the person written reasons for its decision.

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Act No. 10189/1985

Part VII—Proceedings and Enforcement

s. 40B

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- (6) The Authority must include in its annual report, and publish on its website, a statement setting out—
- (a) the number of requests received by the Authority under sub-section (1); and
 - (b) the number of cases in which the Authority has advised under sub-section (2)(b) that a prosecution has been or will be brought, or will not be brought; and
 - (c) the number of cases in which the Director of Public Prosecutions has advised under sub-section (4) that a prosecution should be brought or should not be brought.

40B. Limitation period for prosecutions

S. 40B
inserted by
No. 31/2005
s. 14.

Proceedings for an indictable offence against this Act may be brought—

- (a) within 2 years after the offence is committed or the Authority becomes aware the offence was committed; or
- (b) at any time with the written authorisation of the Director of Public Prosecutions.

41. Proceedings for an offence

- (1) The following provisions shall apply in respect of any legal proceedings for an offence against this Act:
- (a) Where an inspector or a delegate gives evidence that that inspector or delegate suspects that—
 - (i) particular dangerous goods were involved in an offence; or
 - (ii) writing or markings on any substance, article or container or on any label attached to any substance, article or container indicates or indicate that

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particular dangerous goods were
involved in an offence—

together with evidence of the grounds on
which the inspector or delegate so suspects,
and the court considers that the suspicion is
reasonable, the particular dangerous goods
shall, in the absence of proof to the contrary,
be deemed to have been involved in the
offence;

S. 41(1)(b)
amended by
No. 31/2005
s. 15(a).

- (b) An original or copy made pursuant to
section 19C by an inspector or a delegate of
any entry in any document and certified by
the inspector or delegate who caused such
copy to be made to be a true copy shall be
admissible in evidence and, in the absence of
evidence to the contrary, shall be proof of the
particulars contained in the document;
- (c) Where an inspector or a delegate gives
evidence that that inspector or delegate
suspects that the vehicle or container to
which the offence relates contained a
quantity of dangerous goods greater than a
quantity specified in respect of those
dangerous goods or that class of dangerous
goods under the regulations (whether that
quantity is measured by mass or volume)
together with evidence of the grounds on
which the inspector or delegate so suspects,
and the court considers that the suspicion is
reasonable, the vehicle or the container shall,
in the absence of proof to the contrary, be
deemed to have contained a quantity of
dangerous goods greater than the quantity
referred to in this paragraph; and

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- (d) Where an inspector or a delegate gives evidence—
- (i) that writing, markings or a label on a container to which the offence relates purports or purport to indicate the capacity, tare weight, origin, character, specification, ownership or date of manufacture of the container; and
 - (ii) that the inspector or delegate believes that the writing, markings or label was or were applied to the container in the course of its manufacture or by the manufacturer of the container, or at a place where the container was filled or where dangerous goods were transferred into the container, together with evidence of the grounds on which the inspector or delegate so believes and the court considers that the belief is reasonable—

the container shall, in the absence of proof to the contrary, be deemed to be of the capacity, tare weight, character or specification or to be of the origin or ownership or to have been manufactured on the date indicated by the writing, markings or label.

- (2) For the purposes of paragraphs (a), (c) and (d) of sub-section (1) "**container**" includes anything in or by which any substance or article suspected by the inspector or delegate to be dangerous goods is wholly or partly cased, covered, enclosed, contained or packed.

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S. 41(3)
amended by
Nos 44/1989
s. 41(Sch. 2
item 8.3),
31/2005
s. 15(b).

- (3) For the purposes of this section, "**delegate**" means an officer of the Roads Corporation, member of the police force or officer or member of a fire authority who is acting or has acted pursuant to an instrument of delegation under section 10B.

S. 42
amended by
No. 13/1996
s. 19(1)(a)(b).

42. Evidence

A document purporting to be signed by the Chief Executive of the Authority or by any person authorized in writing by the Chief Executive in that behalf to the effect that—

- (a) any person is or was or is not or was not at any time stated in the document—
 - (i) the holder of any exemption under the regulations; or
 - (ii) the holder of a licence or permit;
- (b) where this Act requires any equipment, appliance or other item to be approved by the Authority, the equipment, appliance or other item is or was or is not or was not at any time stated in the document the subject of an approval by the Authority; or
- (c) where the regulations require any person or class of persons to be registered with the Authority, any person is or was or is not or was not at any time stated in the document so registered—

S. 42(b)
amended by
No. 13/1996
s. 19(2).

S. 42(c)
amended by
No. 13/1996
s. 19(2).

shall be evidence and, in the absence of evidence to the contrary, shall be proof of the facts stated in it.

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42A. Analyst's certificates

S. 42A
inserted by
No. 67/2004
s. 11.

- (1) In any legal proceedings for an offence against this Act relating to an explosive or HCDG the production of a certificate purporting to be signed by an approved analyst with respect to any analysis or examination made by the approved analyst is, without proof of the signature of the person appearing to have signed the certificate or that the person is an approved analyst, sufficient evidence of—
 - (a) the identity or quantity or both the identity and quantity of the substance, article or thing analysed;
 - (b) the nature of any substance analysed including whether the substance is pure or a mixture of other substances;
 - (c) the result of the analysis;
 - (d) any other matters relevant to the proceedings that are stated in the certificate.
- (2) The provisions of sub-section (1) do not apply—
 - (a) if a copy of the certificate was not served on the defendant at least 7 days before the hearing; or
 - (b) if the defendant, at least 3 days before the hearing, gave notice in writing personally or by post to the informant and to the approved analyst that he or she requires the analyst to attend as a witness.
- (3) For the purpose of sub-section (2)(a) a copy of the certificate is deemed to be served on the defendant under that provision if—
 - (a) not less than 10 days before the hearing a copy of the certificate is lodged with the court of hearing which is authorised to make the copy available to the defendant; and

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- (b) notice in writing has been given to the defendant that a copy of the certificate will be so lodged with the court.
- (4) Service of a copy of a certificate for the purposes of this section may be effected and proved—
- (a) in any manner in which service of a summons may be effected and proved; or
- (b) if the certificate was served with the summons and proof of service of the summons is by affidavit, by stating in the affidavit that a copy of the certificate was served with the summons.
- (5) If an analysis or examination has been carried out for the purpose of any legal proceedings for an offence against this Act the court may, in addition to any other order as to costs, make any order that it thinks proper—
- (a) as to the expenses of and remuneration to be paid for the analysis or examination; and
- (b) if the approved analyst has been required by the defendant to attend as a witness, as to the conduct money of the analyst.
- (6) In this section, "**approved analyst**" means an analyst who is—
- (a) operating with the authority of a laboratory accredited by the National Association of Testing Authorities; or
- (b) approved by the Authority.

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43. Right of defendant to have third person before court

- (1) A defendant charged with an offence against this Act who alleges that the contravention constituting the offence was due to the act or default of another person may have that other person brought before the court by which the charge is to be heard.
- (2) A defendant who desires to use the provisions of this section—
 - (a) shall, at least ten days before the return day of the summons in question, give to the informant notice in writing of the defendant's intention to use the provisions of this section and particulars of the defendant's claim that—
 - (i) the contravention was due to the act or default of another person; and
 - (ii) the defendant exercised due diligence to ensure compliance with the provision of this Act in question; and
 - (b) shall file a charge against the other person for an offence against this Act.
- (3) A summons to answer to a charge laid pursuant to paragraph (b) of sub-section (2) shall require the person against whom the charge is filed to appear to answer to the charge at a date and place mentioned in the summons before the court by which the original charge is to be heard and, where that date is not the return date of the original summons, the court shall adjourn the hearing of the original charge to that date or shall adjourn the hearing of the charges to a later date.

S. 43(2)(b)
amended by
No. 57/1989
s. 3(Sch.
item 51.1).

S. 43(3)
amended by
No. 57/1989
s. 3(Sch. item
51.2(a)-(d)).

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S. 43(4)
amended by
No. 57/1989
s. 3(Sch. item
51.3(a)).

(4) On the hearing of the charges—

S. 43(4)(a)
amended by
No. 35/1996
s. 453(Sch. 1
item 22).

(a) the original informant or the original informant's legal practitioner as well as the other person who the defendant has alleged committed the offence—

(i) may cross-examine the defendant (if the defendant gives evidence) and any witness called by the defendant; and

(ii) may call evidence in rebuttal; and

(b) the court—

(i) may convict the other person if the contravention of this Act is proved and the original defendant satisfies the court that the contravention was due to the act or default of that other person;

S. 43(4)(b)(ii)
amended by
No. 57/1989
s. 3(Sch. item
51.3(b)).

(ii) shall dismiss the charge against the original defendant if, in addition to satisfying the court that the contravention was due to the act or default of the other person, the original defendant satisfies the court that the original defendant exercised due diligence to ensure compliance with the provision of this Act in question; and

(iii) may make such orders as to the costs of the proceedings as it thinks fit.

S. 43(5)
inserted by
No. 18/2005
s. 18(Sch. 1
item 32).

(5) In this section, "**legal practitioner**" means an Australian legal practitioner within the meaning of the **Legal Profession Act 2004**.

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44. Offence to interfere etc. with document or give false information

A person who—

- (a) wilfully alters or interferes with any document issued under this Act;

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S. 44(b)(c)
repealed by
No. 31/2005
s. 15(c).

is guilty of an offence.

44A. Offence to give false or misleading information

S. 44A
inserted by
No. 31/2005
s. 16.

- (1) A person must not give information in complying or purportedly complying with this Act that the person knows to be false or misleading in a material particular.

Penalty: 240 penalty units for a natural person;
1200 penalty units for a body corporate.

- (2) A person must not produce a document in complying or purportedly complying with this Act that the person knows to be false or misleading in a material particular without—

- (a) indicating the respect in which it is false or misleading; and
(b) if practicable, providing correct information.

Penalty: 240 penalty units for a natural person;
1200 penalty units for a body corporate.

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Act No. 10189/1985

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S. 45
substituted by
No. 48/1989
s. 15(1).

45. General

S. 45(1)
substituted by
No. 31/2005
s. 17.

- (1) A person who contravenes any provision of this Act (other than a provision in Part II, VII or VIII) is guilty of an offence.
- (2) A person who is guilty of an offence against this Act for which no penalty is expressly provided is liable—
 - (a) in the case of a body corporate—to a penalty of not more than 400 penalty units and to a further penalty of not more than 50 penalty units for each day on which the offence continues after conviction; or
 - (b) in any other case—to a penalty of not more than 100 penalty units and to a further penalty of not more than 10 penalty units for each day on which the offence continues after conviction.

S. 45A
inserted by
No. 48/1989
s. 15(1).

45A. Further penalties for subsequent offences

In any case where a person convicted of an offence against this Act has previously been convicted of an offence against this Act (whether the same offence or any other offence), the Court may, if it considers it appropriate to do so, impose in addition to the penalty it imposes for the present offence—

- (a) in the case of an indictable offence—
 - (i) if the person is a body corporate, a further penalty of not less than 50 penalty units and not more than 2500 penalty units; or

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- (ii) in any other case, a further penalty of not less than 10 penalty units and not more than 500 penalty units or imprisonment for not more than five years or both;
- (b) in the case of a summary offence—
 - (i) if the person is a body corporate, a further penalty of not less than 50 penalty units and not more than 400 penalty units; or
 - (ii) in any other case, a further penalty of not less than 10 penalty units and not more than 200 penalty units or imprisonment for not more than two years or both.

S. 45A(a)(ii)
amended by
No. 13/1996
s. 23(c).

45B. Infringement notices

S. 45B
inserted by
No. 48/1989
s. 15(1).

- (1) Regulations under section 52 may provide for a person to be served with an infringement notice specifying a fixed penalty of not more than 10 penalty units for an offence against this Act as an alternative to a prosecution for the offence.
- (1A) An offence referred to in sub-section (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (2) The regulations must specify—
 - (a) the offences to which this alternative applies; and
 - (b) the fixed penalty for each of the offences; and

S. 45B(1A)
inserted by
No. 32/2006
s. 94(Sch.
item 9(1)).

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S. 45B(2)(c)
repealed by
No. 32/2006
s. 94(Sch.
item 9(2)(a)(i)).

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S. 45B(2)(d)
amended by
No. 32/2006
s. 94(Sch.
item 9(2)(a)
(ii)).

(d) the person or class of persons who may issue infringement notices.

S. 45B(2)(e)(f)
repealed by
No. 32/2006
s. 94(Sch.
item 9(2)(a)
(iii)).

* * * * *

S. 45B(3)-(8)
repealed by
No. 32/2006
s. 94(Sch.
item 9(2)(b)).

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S. 46
(Heading)
inserted by
No. 44/2001
s. 3(Sch.
item 29.2).

46. Offences by bodies corporate and partnerships etc.

S. 46(1)
amended by
No. 44/2001
s. 3(Sch.
item 29.3).

(1) Where an offence against this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any wilful neglect on the part of, an officer of the body corporate or person purporting to act as such an officer, that officer or person is also guilty of that offence and liable to the penalty for that offence.

S. 46(2)
amended by
No. 44/2001
s. 3(Sch.
item 29.3).

(2) When in any proceedings under this Act it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.

S. 46(3)
amended by
No. 44/2001
s. 3(Sch.
item 29.3).

(3) In respect of any legal proceedings for an offence by a body corporate against this Act any statement made by an officer of the body corporate shall be admissible as evidence against the body corporate.

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- (4) Where this Act provides that a person, being a partnership or an unincorporated association, is guilty of an offence, that reference to the person shall—
- (a) in the case of a partnership—be read as a reference to each member of the partnership; and
 - (b) in the case of an unincorporated association—be read as a reference to each member of the committee of management of the association.
- (5) For the purposes of sub-section (3), "**officer**" includes an employee of a body corporate who gives to an inspector any information relating to any part of the operations of the body corporate over which the employee exercises any superintendence or control.

S. 46(5)
inserted by
No. 44/2001
s. 3(Sch.
item 29.4).

47. Court may impose punishment for dangerous offence

Where a person is guilty of an offence against this Act—

- (a) which in the opinion of the court which hears the offence—
 - (i) endangered the safety of or caused personal injury to any member of the public or person employed in, on or about the premises, vehicle, boat, ship or magazine where such offence was committed, being premises or a vehicle, boat, ship or magazine in, on or in the vicinity of which there were dangerous goods; and

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- (ii) which was committed wilfully by the act, default or negligence of the guilty person—

if the court is of the opinion that a pecuniary penalty is inappropriate in the circumstances, the guilty person shall be liable to imprisonment for a term not exceeding two years.

S. 47A
inserted by
No. 67/2004
s. 12.

47A. Forfeiture and disposal of HCDG, explosives or containers before conviction

- (1) Any high consequence dangerous goods or explosives or containers used for or in connexion with high consequence dangerous goods or explosives that are seized and detained by an inspector under Part II are forfeited to the Authority if the Authority—
- (a) cannot find the owner of the goods, explosives or containers after making reasonable enquiries; or
 - (b) cannot return the goods, explosives or containers to their owner after making reasonable efforts.
- (2) Sub-section (1)(a) does not require the Authority to make enquiries if it would be unreasonable to make enquiries and sub-section (1)(b) does not require the Authority to make efforts if it would be unreasonable to make efforts.
- (3) If any high consequence dangerous goods, explosives or containers used for or in connexion with high consequence dangerous goods or explosives that are seized and detained by an inspector under Part II have not been forfeited, the Authority must return the goods, explosives or containers at the end of—

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- (a) 12 months; or
 - (b) if a proceeding involving an offence for the goods, explosives or containers is started within 12 months, the proceeding and any appeal from the proceeding.
- (4) Despite sub-section (3), unless the goods, explosives or containers are forfeited, the Authority must immediately return any goods, explosives or containers taken as evidence to their owners if the Authority stops being satisfied that the continued detention of the goods, explosives or containers as evidence is necessary.
- (5) Sub-section (4) does not apply if the owner of the goods, explosives or containers is not authorised to possess those goods, explosives or containers by a licence.

47B. Court orders for forfeiture and disposal of HCDG, explosives or containers before conviction

S. 47B
inserted by
No. 67/2004
s. 12.

- (1) The Magistrates' Court may make an order or orders and findings under this section if—
 - (a) an application is made in that behalf by the Authority, an inspector or a person authorised by the Authority; and
 - (b) it is proved that—
 - (i) a substance or article is or contains high consequence dangerous goods or explosives; or
 - (ii) a container is or has been used or is capable of being used for or in connexion with the import, export, manufacture, storage, sale, supply, use, handling, transfer, transport or disposal of high consequence dangerous goods or explosives; and

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- (c) the Court is satisfied that—
- (i) unless the goods are forfeited to the Authority and either destroyed or disposed of, there is a reasonable likelihood that—
 - (A) a contravention of this Act will occur; or
 - (B) the goods will be used in connexion with an offence against this or any other Act; or
 - (ii) it is in the interests of public safety that the goods are forfeited to the Authority and either destroyed or disposed of.
- (2) The Court may, upon the notice being given to those persons that the Court directs, order that the container or the whole or any part or parts of the high consequence dangerous goods or explosives are forfeited to the Authority and either destroyed or disposed of in the manner that is provided in the order.
- (3) The Court may also make a finding of fact as to—
- (a) the quantity of the high consequence dangerous goods or explosives produced to, or inspected by, the court, the quantity ordered to be destroyed or disposed of, the quantity remaining, and the fact that what remains is part of what was produced to, or inspected by, the court; or
 - (b) the nature of any high consequence dangerous goods or explosives produced to, or inspected by, the Court; or
 - (c) the nature of any container produced to, or inspected by, the Court.
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- (4) The Court may also order that the quantity remaining of the high consequence dangerous goods or explosives be forfeited to the Authority and either destroyed or disposed of in the manner that is provided in the order when no longer required for the purpose of any subsequent proceedings.
- (5) The Magistrates' Court has power to—
- (a) give any directions; or
 - (b) authorise the Authority to give any appropriate directions—
- necessary to give effect to any order made by it under this section.
- (6) If a finding of fact is made under sub-section (3), production in any subsequent proceedings of an order containing the finding of fact shall be conclusive evidence of the matters to which the finding relates.
- (7) If an order is made under this section requiring the destruction or disposal of a container or the whole or any part of any of the high consequence dangerous goods or explosives, the order may be executed before the end of any appeal period applicable under section 47C if a sample of the thing to be destroyed or disposed of is taken and kept until the end of that appeal period and the determination of any appeal made within that period.

47C. Appeal against orders under section 47B

- (1) Despite anything to the contrary in any other Act a person (including the Crown) affected by an order made under section 47B may appeal against the decision as if the order were or were part of a sentence imposed on a conviction for an offence against this Act to which the order relates, being a

S. 47C
inserted by
No. 67/2004
s. 12.

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sentence which is not fixed by law and against which an appeal may be brought.

- (2) On an appeal under sub-section (1) the court to which the appeal is made may confirm, vary or revoke the order to which the appeal relates.
- (3) A person's right of appeal under this section is in addition to any other right of appeal that the person may have.

S. 47D
inserted by
No. 67/2004
s. 12.

47D. Compensation

- (1) This section applies if—
 - (a) any high consequence dangerous goods, explosives or containers have been forfeited to the Authority and either destroyed or disposed of under an order under section 47B; and
 - (b) after proceedings for an offence against this Act have been instituted and completed, the defendant is not found guilty; and
 - (c) the person from whom they were seized was, at the time they were seized, authorised to possess those goods, explosives or containers by a licence.
- (2) The owner of the goods, explosives or containers referred in sub-section (1) is entitled to recover—
 - (a) the seized goods, explosives or containers or, if they have been destroyed, compensation equal to the market value of the goods, explosives or containers at the time of the seizure; and
 - (b) compensation for any loss suffered by reason of the seizure of the seized goods, explosives or containers.

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48. Court may order forfeiture

- (1) A court that convicts a person of an offence against this Act or before which a person is charged with an offence against this Act of which the person is found guilty or to which the person pleads guilty and in respect of which a conviction is not recorded may order that the whole or any part of any dangerous goods seized in relation to the offence pursuant to this Act be forfeited to the Government of Victoria.
- (2) All dangerous goods forfeited under subsection (1) shall be destroyed or otherwise disposed of as the Authority directs having regard to the public safety.

S. 48(2)
amended by
No. 13/1996
s. 22(q).

49. Court may impose additional penalty in lieu of forfeiture

Where pursuant to section 48 a court has power to order the forfeiture of any dangerous goods, the court may in lieu of such forfeiture impose upon the person referred to in that section, in addition to any other penalty or punishment, a pecuniary penalty of such amount as the court thinks fit being an amount which is not more than the value of the dangerous goods.

50. Costs of seizure etc. recoverable from convicted person

All costs, charges and expenses incurred in or in connexion with the handling, transporting, storing, reconditioning, destroying or otherwise disposing of or dealing with any dangerous goods seized and detained under this Act are recoverable from the person convicted of an offence under this Act in relation to those goods or the person charged with an offence against this Act of which the person is found guilty or to which the person pleads guilty

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and in respect of which a conviction is not recorded.

S. 50A
inserted by
No. 31/2005
s. 18.

50A. Judicial notice of Minister's signature etc.

All courts must take judicial notice of the signature of—

- (a) the Minister; or
- (b) the chief executive of the Authority (appointed under section 22 of the **Accident Compensation Act 1985**); or
- (c) the Chair of the Authority's Board of Management; or
- (d) the Secretary to the Department of Primary Industries—

on each document authorised or required to be signed by the Minister, chief executive, Chair or Secretary (as the case may be) for the purposes of this Act.

S. 51
amended by
No. 13/1996
s. 22(r).

51. Acts in good faith etc. not actionable

Notwithstanding anything to the contrary in any other Act, any act, matter or thing done or omitted to be done by—

- (a) the Minister;
- (b) the Authority;
- (c) an inspector;
- (d) a person acting under a delegation under section 10B; or

S. 51(b)
amended by
No. 13/1996
s. 22(r).

S. 51(d)
amended by
No. 31/2005
s. 19(a).

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- (e) any member of the police force or officer or member of a fire authority assisting an inspector under section 19A(4)—

S. 51(e)
amended by
No. 31/2005
s. 19(b).

for the purpose of giving effect to this Act or done in good faith and purporting to be for the purpose of giving effect to this Act shall not subject the Crown or the Minister, the Authority, the inspector or that person, member or officer to any action, liability, penalty, claim or demand in respect of the act, matter or thing.

51A. Responsible agency for the Crown

S. 51A
inserted by
No. 31/2005
s. 20.

- (1) If the Crown is to be served with an infringement notice, or proceedings are brought against the Crown, for an offence against this Act, the responsible agency in respect of the offence may be specified in the infringement notice or any document initiating, or relating to, the proceedings (as the case may be).
- (2) In this section, the "**responsible agency**" in respect of an offence is the agency of the Crown—
- (a) whose acts or omissions are alleged to constitute the offence; or
- (b) if that agency has ceased to exist, that is the successor of that agency; or
- (c) if that agency has ceased to exist and there is no clear successor, that the court declares to be the responsible agency.
- (3) The responsible agency in respect of an offence is entitled to act in proceedings against the Crown for the offence and, subject to any relevant rules of court, the procedural rights and obligations of the Crown as the accused in the proceedings are conferred or imposed on the responsible agency.

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- (4) The person prosecuting the offence may change the responsible agency during the proceedings with the court's leave.

S. 51B
inserted by
No. 31/2005
s. 20.

51B. Infringement and other notices may be issued to the Crown

- (1) The Crown in any capacity may be issued with an infringement notice for an offence against this Act.

Note: For infringement notices generally, see section 45B.

- (2) If a direction or notice is to be issued to the Crown under Division 8 of Part II, the direction or notice may be issued to the agency of the Crown that would be the responsible agency under section 51A if the Crown were prosecuted for an offence of contravening the notice.

S. 51C
inserted by
No. 31/2005
s. 20.

51C. Proceedings against successors to public bodies

- (1) In this section, "**public body**" means—
- (a) a body corporate representing the Crown; or
 - (b) a State owned enterprise or reorganising body (within the meaning of the **State Owned Enterprises Act 1992**); or
 - (c) a Council (within the meaning of the **Local Government Act 1989**); or
 - (d) a public entity (within the meaning of the **Public Administration Act 2004**).
- (2) Proceedings for an offence against this Act that were instituted against a public body before its dissolution, or that could have been instituted against a public body if not for its dissolution, may be continued or instituted against its successor if the successor is a public body.

Dangerous Goods Act 1985
Act No. 10189/1985

Part VII—Proceedings and Enforcement

s. 51C

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- (3) An infringement notice served on a public body for an offence against this Act is taken to be an infringement notice served on its successor if the successor is a public body.
- (4) Similarly, any penalty paid by a public body in respect of an infringement notice is taken to be a penalty paid by its successor if the successor is a public body.
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Dangerous Goods Act 1985
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Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 52

Pt 8 (Heading)
amended by
No. 31/2005
s. 21.

**PART VIII—REGULATIONS, ORDERS, CODES OF
PRACTICE, UNDERTAKINGS AND ADVICE ON
COMPLIANCE¹²**

52. Power to make regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing that by this Act is authorized or required or permitted to be prescribed or that is necessary to be prescribed for carrying this Act into effect including, but not limited to, the matters and things specified in Schedule 2.
- (2) A power conferred by this Act to make regulations may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions or in relation to any specified case or class of case; and
 - (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.

Dangerous Goods Act 1985
Act No. 10189/1985

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 52

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- (3) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State;
 - (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or body or a specified class of persons or body;
 - (c) so as to incorporate or adopt by reference the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
 - (i) wholly or partially or as amended by the regulation;
 - (ii) as formulated, issued, prescribed or published at the time the regulation is made or at any time before then; or
 - (iii) as amended from time to time;
 - (d) so as to confer a discretionary authority on a specified person or body or a specified class of persons or body; and
 - (e) so as to provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.
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Dangerous Goods Act 1985
Act No. 10189/1985

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 52

- (4) A power conferred by this Act to make regulations providing for the imposition of fees may be exercised by providing for all or any of the following matters—
- (a) specific fees;
 - (b) maximum or minimum fees;
 - (c) maximum and minimum fees;
 - (d) ad valorem fees;
 - (e) the payment of fees either generally or under specified conditions or in specified circumstances; and
 - (f) the reduction, waiver or refund, in whole or in part, of the fees.
- (5) Where pursuant to sub-section (4)(f) regulations provide for a reduction, waiver or refund, in whole or in part, of a fee, the reduction, waiver or refund may be expressed to apply or to be applicable either generally or specifically—
- (a) in respect of certain matters or transactions or classes of matter or transaction;
 - (b) in respect of certain documents or classes of document;
 - (c) when an event happens or ceases to happen;
 - (d) in respect of certain persons or classes of person; or
 - (e) in respect of any combination of such matters, transactions, documents, events or persons—
- and may be expressed to apply or to be applicable subject to specified conditions or in the discretion of any specified person or body.

Dangerous Goods Act 1985
Act No. 10189/1985

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 54

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| <p>(6) The regulations may, for a contravention of the regulations, impose penalties not exceeding the penalties set out in section 45(2).</p> | <p>S. 52(6)
inserted by
No. 48/1989
s. 15(2).</p> |
| <p>(7) The regulations must not require licences to be obtained by a primary producer in relation to the storage, use, handling or transfer of dangerous goods by the primary producer (other than explosives and high consequence dangerous goods) being dangerous goods which are used or intended to be used in connexion with the business of the primary producer and are not held by the primary producer for the purpose of resale.</p> | <p>S. 52(7)
inserted by
No. 67/2004
s. 13.</p> |
| <p>* * * * *</p> | <p>S. 53
repealed by
No. 78/1995
s. 8(1).</p> |

54. Register of classified explosives

S. 54
substituted by
No. 48/1989
s. 16(1).

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|---|--|
| <p>(1) The Authority must establish and maintain a register—</p> <p style="margin-left: 40px;">(a) defining the composition, quality and character of explosives; and</p> <p style="margin-left: 40px;">(b) classifying explosives.</p> | <p>S. 54(1)
amended by
No. 13/1996
s. 22(s)(i).</p> |
| <p>(2) The Authority may from time to time publish the register or a part of it.</p> | <p>S. 54(2)
amended by
No. 13/1996
s. 22(s)(i).</p> |
| <p>(3) A person who, except for the purposes of this Act or otherwise in connection with the performance of his or her duties under this Act, discloses to another person all or any part of the information in the register is guilty of an offence.</p> | |

Dangerous Goods Act 1985
Act No. 10189/1985

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 55

S. 54(5)
amended by
No. 13/1996
s. 22(s)(ii).

- (4) An explosive that is registered, defined and classified is, for the purposes of this Act, an authorised explosive.
- (5) A person who without the Authority's approval imports into Victoria, manufactures, sells, transports, stores, uses or otherwise deals with an unauthorised explosive is guilty of an offence.
- (6) A person who imports into Victoria, manufactures, sells, transports, stores, uses or otherwise deals with an explosive which the person represents as being an authorised explosive but which does not conform to the definition contained in the register is guilty of an offence.

55. Governor in Council may make Order with respect to dangerous goods

- (1) The Governor in Council may by Order published in the Government Gazette prohibit absolutely or subject to conditions or restrictions the manufacture, storage, supply, transfer, transport, sale or use of any dangerous goods when in the opinion of the Governor in Council it is expedient for the public safety to make the Order.
- (2) A person who contravenes an Order made under sub-section (1) is guilty of an offence.

S. 55A
inserted by
No. 67/2004
s. 14.

55A. Orders—general provisions

- (1) This section and sections 55B and 55C only apply to an Order made by the Governor in Council under section 9B that relates to high consequence dangerous goods.
- (2) An Order that specifies a date on which it expires or ceases to have effect, ceases to have effect on that day.

Dangerous Goods Act 1985
Act No. 10189/1985

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 55A

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- (3) The Minister must ensure that an Order is published as soon as practicable after it is made in—
- (a) the Government Gazette; and
 - (b) a newspaper circulating generally throughout the State.
- (4) A power conferred by this Act to make an Order may be exercised—
- (a) by declaring dangerous goods to be high consequence dangerous goods by reference to—
 - (i) the concentration, quantity or the form of the goods; or
 - (ii) a formulation, mixture or compound of goods; or
 - (iii) any other state, characteristic or quality of the goods;
 - (b) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case;
 - (c) so as to make, as respects the cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.
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Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 55A

- (5) An Order may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) to all high consequence dangerous goods or to specified high consequence dangerous goods or a specified class of high consequence dangerous goods; or
 - (iii) as specified in both sub-paragraphs (i) and (ii);
 - (b) so as to require a matter affected by the Order to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or a specified class of persons; or
 - (iii) as specified in both sub-paragraphs (i) and (ii);
 - (c) so as to apply, adopt or incorporate any matter contained in any document issued or published by any person or body whether—
 - (i) wholly or partially or as amended by the Order; or
 - (ii) as issued or published at the time the Order is made or at any time before then;
 - (d) so as to confer a discretionary authority or impose a duty on a specified person or a specified class of persons;
 - (e) so as to provide in a specified case or class of case for the exemption of persons or things or a class of person or thing from any of the provisions of the Order, whether
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Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 55B

unconditionally or on specified conditions
and either wholly or to such an extent as is
specified.

55B. Variation and revocation of orders

S. 55B
inserted by
No. 67/2004
s. 14.

- (1) The Governor in Council may make an order varying or revoking an order under section 9B.
- (2) A variation or revocation order takes effect when notice of it is published in the Government Gazette or on such later date as is specified in it.
- (3) As soon as practicable after making a variation or revocation order, the Minister must ensure that notice of the making of the order is published in—
 - (a) the Government Gazette; and
 - (b) a newspaper circulating generally throughout the State.

55C. Making and varying of orders about HCDG subject to disallowance

S. 55C
inserted by
No. 67/2004
s. 14.

- (1) The Governor in Council's power to make an order under section 9B in relation to high consequence dangerous goods or a variation order under section 55B in relation to high consequence dangerous goods is subject to the order being disallowed by the Parliament.
- (2) Section 15 and Part 5 of the **Subordinate Legislation Act 1994** apply for the purposes of sub-section (1) as though—
 - (a) an order were a statutory rule (within the meaning of that Act); and
 - (b) notice of the making of the statutory rule had been published in the Government Gazette when notice of the order or variation order (as the case may be) was published in the Government Gazette.

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Act No. 10189/1985

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 56

S. 56
inserted by
No. 78/1995
s. 7.

56. Codes of practice

- (1) For the purpose of providing practical guidance to persons who may be placed under an obligation by or under this Act, the Minister may approve any code of practice.
- (2) A code of practice may consist of any code, standard, rule, specification or provision relating to dangerous goods and may apply, incorporate or refer to any document formulated or published by any body or authority as in force at the time the code of practice is approved or as amended, formulated or published from time to time.
- (3) The Minister may approve any revision of the whole or any part of a code of practice or revoke the approval of a code of practice.

S. 57
inserted by
No. 78/1995
s. 7.

57. Proposed code of practice to be made available for public comment

- (1) Before approving a code of practice, the Minister must—
 - (a) advertise the fact that the proposed code has been submitted to him or her for approval and that copies of the proposed code are available for public comment; and
 - (b) make a copy of the proposed code available to anyone who wishes to inspect it; and
 - (c) consider any comments on the proposed code submitted within the time allowed by the Minister.
- (2) However, the Minister need not do this if he or she is of the opinion that in the public interest the proposed code of practice should be made as soon as is practicable.

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on Compliance

s. 58

58. Procedural matters concerning codes of practice

(1) The Minister must cause to be published in the Government Gazette notices of—

- (a) the approval of a code of practice;
- (b) the approval of a revision of the whole or any part of a code of practice;
- (c) the revocation of approval of a code of practice.

S. 58
inserted by
No. 78/1995
s. 7.

(2) The Minister must cause a copy—

- (a) of every approved code of practice;
- (b) if an approved code of practice has been revised and that revision has been approved, of every approved code of practice as so revised;
- (c) if an approved code of practice applies, incorporates or refers to any other document, of every such document—

S. 58(2)
amended by
No. 13/1996
s. 20.

to be made available for inspection by members of the public without charge at the office of the Authority during normal office hours.

(3) An approved code of practice comes into effect—

- (a) on the day on which notice of approval of the code of practice is published in the Government Gazette or on such later day as is specified in the notice; or
- (b) if the code of practice has been revised in whole or in part, to the extent of that revision on the day on which notice of approval of that revision is published in the Government Gazette or on such later day as is specified in the notice.

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on Compliance

s. 59

- (4) An approved code of practice ceases to be of effect at the end of the day on which notice of the revocation of approval of the code of practice is published in the Government Gazette.

S. 59
inserted by
No. 78/1995
s. 7.

59. Effect of failure to comply with a code of practice

A person does not incur any civil or criminal liability only because the person has failed to observe any provision of an approved code of practice.

S. 60
inserted by
No. 78/1995
s. 7.

60. Use of codes of practice in proceedings

If in any proceedings under this Act it is alleged that a person contravened a provision of this Act in relation to which an approved code of practice was in effect at the time of the alleged contravention—

- (a) the approved code of practice is admissible in evidence in those proceedings; and
- (b) if the court is satisfied in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention that—
 - (i) any provision of the approved code of practice is relevant to that matter; and
 - (ii) the person failed at any material time to observe that provision of the approved code of practice—

that matter must be taken as proved unless the court is satisfied that in respect of that matter the person complied with that provision of this Act otherwise than by way of observance of that provision of the approved code of practice.

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on Compliance

s. 60A

60A. Authority may accept undertakings

S. 60A
inserted by
No. 31/2005
s. 22.

- (1) The Authority may accept (by written notice) a written undertaking given by a person in connection with a matter relating to a contravention, or alleged contravention, by the person of this Act.
- (2) The person may withdraw or vary the undertaking at any time, but only with the Authority's written consent.
- (3) Neither the Authority nor an inspector may bring a proceeding for an offence against this Act constituted by the contravention, or alleged contravention, to which the undertaking relates.

60B. Enforcement of undertakings

S. 60B
inserted by
No. 31/2005
s. 22.

- (1) If the Authority considers that a person has contravened an undertaking accepted by the Authority, the Authority may apply to the Magistrates' Court for enforcement of the undertaking.
- (2) If the Magistrates' Court is satisfied that the person has contravened the undertaking, it may make—
 - (a) an order that the person must comply with the undertaking or take specified action to comply with the undertaking; or
 - (b) any other order that it considers appropriate.

60C. Power to give advice on compliance

S. 60C
inserted by
No. 31/2005
s. 22.

- (1) The Authority may give advice to a person who has a duty or obligation under this Act about complying with that duty or obligation.
- (2) The giving of such advice by the Authority does not give rise to—
 - (a) any liability of, or other claim against, the Authority; or

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on Compliance

s. 61

- (b) any right, expectation, duty or obligation that would not otherwise be conferred or imposed on the person given the advice; or
 - (c) any defence that would not otherwise be available to that person.
- (3) The Authority's power under this section to give advice may also be exercised by an inspector or, if the Authority authorises any other person to exercise the power, that other person.

Note: An inspector or other person exercising this power may not be liable for things done or omitted to be done in good faith (see section 51 of this Act and section 22(5) of the **Accident Compensation Act 1985**).

S. 61
inserted by
No. 13/1996
s. 21.

61. Transfer of responsibilities

- (1) In this section—

"relevant Director-General" means the Secretary to the Department of Energy and Minerals, the Secretary to the Department of Agriculture, Energy and Minerals or the Secretary to the Department of Natural Resources and Environment;

"relevant Minister" means the Minister for the time being administering the **Petroleum (Submerged Lands) Act 1982**.

- (2) Despite anything to the contrary in this Act, the relevant Minister has direct and primary concern and responsibility for the administration of this Act and may exercise for that purpose all the powers and functions of the Minister or the Authority under this Act or the regulations with respect to activities carried out under—
- (a) the Petroleum (Submerged Lands) Act 1967 of the Commonwealth; and

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Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

s. 61

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- (b) the **Petroleum (Submerged Lands) Act 1982**.
- (3) For the purposes of sub-section (2) and only for those purposes, this Act applies as if—
- (a) any reference in any other section of this Act or the regulations to the Minister or to the Authority (including any reference deemed to be a reference to the Authority) or to the relevant Director-General were a reference to the relevant Minister; and
 - (b) any reference in any other section of this Act or the regulations to an officer or employee of the Authority were a reference to an officer or employee of the public service.
- (4) Sub-section (2) does not apply to any power or function or responsibility of the Minister relating to codes of practice or the making of regulations.
- (5) On and after the commencement of section 21 of the **Accident Compensation (Occupational Health and Safety) Act 1996**—
- (a) any delegation or other instrument or other document made, issued or given under this Act or the regulations before that commencement by the relevant Director-General is deemed to have been made, issued or given by the relevant Minister;
 - (b) any action taken or decision made under this Act or the regulations before that commencement by the relevant Director-General is deemed to have been taken or made by the relevant Minister;
 - (c) any application made or notification given to the relevant Director-General under this Act or the regulations before that commencement is deemed to be an application made or notification given to the relevant Minister;
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s. 61

Part VIII—Regulations, Orders, Codes of Practice, Undertakings and Advice
on Compliance

- (d) the relevant Minister may continue and complete any other continuing matter or thing commenced by or against the relevant Director-General under this Act or the regulations and existing immediately before that commencement.
- (6) Nothing in this section or any other section of this Act affects the appointment of or any notice given by or proceedings begun under this Act or the regulations by or against or in relation to an inspector appointed by the relevant Minister before the commencement of section 21 of the **Accident Compensation (Occupational Health and Safety) Act 1996**.
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Act No. 10189/1985

Part IX—Savings and Transitional Provisions—Dangerous Goods and
Equipment (Public Safety) Acts (Amendment) Act 2005

s. 62

**PART IX—SAVINGS AND TRANSITIONAL PROVISIONS—
DANGEROUS GOODS AND EQUIPMENT (PUBLIC SAFETY)
ACTS (AMENDMENT) ACT 2005**

Pt 9
(Heading and
ss 62–67)
inserted by
No. 31/2005
s. 23.

62. Definition

In this Part "**amending Act**" means the
**Dangerous Goods and Equipment (Public
Safety) Acts (Amendment) Act 2005**.

S. 62
inserted by
No. 31/2005
s. 23.

63. Interpretation of Legislation Act 1984 not affected

Nothing in this Part limits or otherwise affects the
operation of the **Interpretation of Legislation
Act 1984**.

S. 63
inserted by
No. 31/2005
s. 23.

**64. Amendments not to affect the appointment of
inspectors**

On and after 1 July 2005—

- (a) a person holding office as an inspector under
this Act immediately before that date is
deemed to be an inspector appointed by the
Authority under section 11 (as inserted by
the amending Act); and
- (b) a certificate of appointment furnished to the
person under section 11(2) before that date is
deemed to be a certificate of appointment
given to the person under section 11(3)
(as inserted by the amending Act); and
- (c) an identification card issued to the person
under section 13(1) before that date is
deemed to be an identification card issued to
the person under section 11B(1) (as inserted
by the amending Act).

S. 64
inserted by
No. 31/2005
s. 23.

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Part IX—Savings and Transitional Provisions—Dangerous Goods and
Equipment (Public Safety) Acts (Amendment) Act 2005

s. 65

S. 65
inserted by
No. 31/2005
s. 23.

65. Continuation of directions and notices

- (1) A direction issued under section 17(2) that was in force immediately before 1 July 2005 is, on and after that date, deemed to be a direction given under section 18A(1) (as inserted by the amending Act), and may be varied or cancelled accordingly.
- (2) A notice that was issued under section 17(4) that was in force immediately before 1 July 2005 is, on and after that date, deemed to be a direction issued under section 17K(2) (as inserted by the amending Act), and may be varied or cancelled accordingly.
- (3) A direction issued under section 17B that was in force immediately before 1 July 2005 is, on and after that date, deemed to be an improvement notice issued under Part II (as inserted by the amending Act), and may be varied or cancelled accordingly.

S. 66
inserted by
No. 31/2005
s. 23.

66. Application of provisions concerning prosecutions

- (1) Section 40 applies to proceedings for an offence that are commenced on or after 1 July 2005.
- (2) Section 40A only applies to alleged offences occurring on or after 1 July 2005.
- (3) Any guidelines published under section 40(3) that were in force immediately before 1 July 2005 are, on and after that date, deemed to have been issued and published under section 40(4) (as inserted by the amending Act), and may be varied or revoked accordingly.

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Part IX—Savings and Transitional Provisions—Dangerous Goods and
Equipment (Public Safety) Acts (Amendment) Act 2005

s. 67

67. Saving of instruments of delegation

Any instrument of delegation made under section 14 and in force immediately before 1 July 2005 is, on and after that date, deemed to be an instrument of delegation issued under section 10B (as inserted by the amending Act), and may be varied or cancelled accordingly.

S. 67
inserted by
No. 31/2005
s. 23.

Dangerous Goods Act 1985
Act No. 10189/1985

Sch. 1

SCHEDULES

Sch. 1
amended by
No. 78/1995
s. 9(d),
repealed by
No. 31/2005
s. 5.

* * * * *

Dangerous Goods Act 1985
Act No. 10189/1985

Sch. 2

SCHEDULE 2¹³

SUBJECT-MATTER FOR REGULATIONS

Section 52(1)

1. The classification of dangerous goods.
2. Prohibiting or regulating the manufacture, storage, supply, installation, transfer, transport, sale, resale, use or reuse of dangerous goods. **Sch. 2 cl. 2 substituted by No. 82/2001 s. 33.**
3. Prohibiting the manufacture, storage, supply, installation, transfer, transport, sale, resale, use or reuse of dangerous goods in particular circumstances, or otherwise than in accordance with specified conditions. **Sch. 2 cl. 3 substituted by No. 82/2001 s. 33.**
4. The employment or prohibition of the employment of persons under a specified age in or in connexion with the manufacture, storage, transfer, transport, sale or use of dangerous goods.
5. The maximum quantities of dangerous goods which may be sold to any person at any one time.
6. Prohibiting the sale of dangerous goods to any person under the age of eighteen years.
7. Prohibiting or controlling the use of dangerous goods.
8. Prescribing any premises as a place where dangerous goods may be stored by the public.
9. The odorization, denaturation or stabilization of dangerous goods.
10. Standards of quality for dangerous goods and the methods to be used in determining the quality of dangerous goods.
11. Methods and apparatus to be used in determining the physical or chemical properties of dangerous goods.
12. Any act, matter or thing in, at or on any premises used or intended to be used for or in connexion with the manufacture, storage, transfer or sale of dangerous goods.
13. The conditions under which dangerous goods may be loaded onto or into or transported in or discharged from or unloaded from any vehicle, ship or boat. **Sch. 2 cl. 13 amended by No. 82/1995 s. 193(a).**

Dangerous Goods Act 1985
Act No. 10189/1985

Sch. 2

Sch. 2 cl. 13A
inserted by
No. 82/1995
s. 193(b).

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- 13A. The conditions under which dangerous goods may be transferred on or transferred from any ship or boat.
 14. The maximum quantities of dangerous goods which may be transported at any one time on a vehicle and prohibiting or controlling the transport on a vehicle of different dangerous goods at any one time.
 15. Prohibiting or regulating the transfer of dangerous goods to, in or into containers.
 16. Prohibiting or regulating the presence of different dangerous goods in a container at any one time.
 17. Prohibiting or regulating the manufacture or sale of any containers used or intended to be used for or in connexion with dangerous goods.
 18. Standards of construction, material, efficiency, performance, safety and mode of installation, maintenance, modification, repair, handling and care of any containers, piping, fittings, appliances and equipment used or intended to be used for or in connexion with dangerous goods.
 19. The specifications of any vehicles or the equipment to be provided on vehicles used for or in connexion with the transport of dangerous goods.
 20. Limiting the size of any containers used or intended to be used for holding dangerous goods or the degree to which any containers may hold dangerous goods.
 21. Prescribing the strength, construction and character of packages used or intended to be used to contain dangerous goods, the method of packing, marking or labelling the packages and the maximum quantities and kinds of dangerous goods which may be in any one package.
 22. The mode of construction of any building or structure used or intended to be used for or in connexion with the manufacture, storage, transfer or sale of dangerous goods and requiring the installation and operation of prescribed apparatus or equipment for collecting or preventing the accumulation of dusts, vapours, fumes and gases from dangerous goods.
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23. Requiring drawings, plans, specifications or calculations to be submitted to the Authority in respect of any premises, vehicle, boat, container, equipment, piping, appliance or fitting used or intended to be used for or in connexion with dangerous goods, the nature of such drawings, plans, specifications or calculations and the circumstances in which they are to be submitted.
24. Prescribing the qualifications to be held by persons who install, alter, modify, repair or remove equipment, piping, fittings or appliances used in connexion with dangerous goods in, on or at specified premises, vehicles, boats or containers and prohibiting such installation, alteration, modification, repair or removal by persons not suitably qualified under this Act.
25. The qualifications to be held or the medical or competency tests to be passed by the driver of a vehicle used for the transport—
- (i) of dangerous goods in a quantity greater than a prescribed quantity; or
 - (ii) of containers containing or enclosing dangerous goods where the containers are of a prescribed class, size or capacity.
26. Prohibiting a person from driving or being in charge of a specified type of vehicle used for or in connexion with the transport of dangerous goods unless the person is registered by the Authority and possesses the prescribed qualifications.
27. Requiring licences to be obtained by persons in relation to—
- (a) the manufacture, storage, sale, use, handling or transfer of dangerous goods;
 - (b) the transport of dangerous goods;
 - (c) the carrying out of work in respect of the installation, alteration, repair, maintenance or testing of equipment, piping, fittings or appliances which is or are used or intended to be used for or in connexion with dangerous goods;
 - (d) the import of explosives into Victoria;
 - (e) the sale of explosives; or
 - (f) the assembling and blending of the inexplusive component parts of any prescribed explosive mixture—
- and prescribing the conditions to be complied with before licences can be issued.

Sch. 2 cl. 23
amended by
No. 13/1996
s. 22(t)(i).

Sch. 2 cl. 26
amended by
No. 13/1996
s. 22(t)(ii).

Sch. 2 cl. 27(a)
substituted by
No. 67/2004
s. 15(a).

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Sch. 2 cl. 27A
inserted by
No. 67/2004
s. 15(b).

- 27A. Without limiting any other powers to make regulations about dangerous goods—
- (a) prohibiting or regulating the import, export, supply or disposal of high consequence dangerous goods;
 - (b) prohibiting the import, export, supply or disposal of high consequence dangerous goods in particular circumstances, or otherwise than in accordance with specified conditions;
 - (c) requiring licences to be obtained by persons in relation to the import, export, supply or disposal of high consequence dangerous goods;
 - (d) authorising licences to be issued with respect to all or any activity concerning high consequence dangerous goods required to be licensed;
 - (e) the employment or prohibition of the employment of persons under a specified age in or in connexion with the import, export, supply or disposal of high consequence dangerous goods;
 - (f) requiring persons to obtain permits for the handling of or access to high consequence dangerous goods, prescribing the form of application for the permits, the fees which shall be paid for the application for and the issue of the permits, the transfer of permits and the issue of duplicates of the permits, the renewal and amendment of the permits, the conditions, limitations and restrictions which may be or are required to be inserted in the permits, the periods of time for which the permits remain in force, exemptions from the holding of the permits, the persons who may issue the permits and the amendment, suspension and revocation of the permits;
 - (g) requiring persons applying to obtain permits for the handling of or access to high consequence dangerous goods to provide consent and sufficient information to the Authority for the Authority to obtain known information within the meaning of section 21A concerning the person to determine whether the person is suitable to handle or have access to high consequence dangerous goods;
 - (h) any act, matter or thing in, at or on any premises used or intended to be used for or in connexion with the import, export, supply or disposal of high consequence dangerous goods;
 - (i) the mode of construction of any building or structure used or intended to be used for or in connexion with the import, export, supply or disposal of high consequence dangerous goods and requiring the installation and operation of prescribed apparatus

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or equipment for collecting or preventing the accumulation of dusts, vapours, fumes and gases from high consequence dangerous goods;

- (j) prescribing safety distances to separate buildings, structures, containers, equipment or appliances used or intended to be used for or in connexion with the import, export, supply or disposal of high consequence dangerous goods from—
 - (i) each other;
 - (ii) roads, streets, paths, railway lines and public places;
 - (iii) any other place or structure where the public or the place or structure is likely to be endangered by the proximity of the buildings, structures, containers, equipment or appliances or where the place or structure is likely to constitute a hazard to the buildings, structures, containers, equipment or appliances;
- (k) the training or courses to be undergone or taken by any persons who are self-employed or employed in or in connexion with the export, supply or disposal of high consequence dangerous goods or who handle or have access to high consequence dangerous goods, the method of approval of the training or courses and the qualifications and registration required to be held by those persons;
- (l) prescribing warning notices, instructions or information to be displayed in, on or at any premises, vehicles, ships or boats used for or in connexion with the import, export, supply or disposal of high consequence dangerous goods, the nature and location of such notices, instructions or information and the circumstances in which they are to be displayed or not displayed;
- (m) records to be kept by specified persons in respect of the export, supply or disposal of high consequence dangerous goods, the nature of such records and the circumstances in which they are to be kept;
- (n) generally prohibiting or regulating access to explosives or high consequence dangerous goods on security grounds or prohibiting or regulating access on security grounds to premises or a place where explosives or high consequence dangerous goods are imported to, exported from, manufactured, stored, sold, supplied, used, handled or transferred, transported or disposed of.

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Sch. 2 cl. 27B
inserted by
No. 67/2004
s. 15(b).

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- 27B. Without limiting the powers to prescribe or provide for or with respect to conditions, limitations or restrictions on licences—
- (a) the imposition of conditions as to notifications to the Authority about activities under the licence;
 - (b) the imposition of conditions as to records to be kept and notified to the Authority;
 - (c) the imposition of limitations or restrictions on the activities carried out under the licence;
 - (d) the imposition of conditions as to notifications by a person who holds an HCDG licence to the Authority if the person no longer has a lawful need for access to high consequence dangerous goods that are specified in the person's licence;
 - (e) the imposition of a condition that a person who holds an HCDG licence must ensure that no person has access to high consequence dangerous goods that the licence relates to unless—
 - (i) the person is under the supervision of another person who holds an HCDG licence; or
 - (ii) the person holds an HCDG licence; or
 - (iii) the person has a permit issued under the regulations to have that access.
28. Prescribing conditions, limitations and restrictions to be inserted in licences.
29. Periods of time not exceeding five years from the date of issue of licences or from the date of renewal of licences for which licences remain in force.
30. Prohibit or regulate the transfer of licences.
31. Providing for and prescribing exemptions from the holding of licences.
32. The precautions to be taken against fire and explosion.
33. The safety procedures to be observed in or about premises used for or in connexion with dangerous goods.
34. The precautions to be taken to ensure the safety of persons and property.

Sch. 2 cl. 30
amended by
No. 67/2004
s. 15(c).

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35. The provision, nature and use of protective clothing and safety equipment.
 36. The disposal, neutralization or destruction of dangerous goods.
 37. The provision in premises of, and the standards to be observed in relation to, equipment, systems, appliances, fittings and devices for the prevention, detection or control of fires, explosions or the spillage, leakage, escape or release of dangerous goods and the maintenance and inspection of the equipment, systems, appliances, fittings and devices.
 38. The provision of fencing, surveillance and other security measures at premises where there is present a quantity greater than the prescribed quantity of dangerous goods.
 39. The reporting to an inspector of any fires, explosions or leakages involving dangerous goods.
 40. Prescribing safety distances to separate buildings, structures, containers, equipment or appliances used or intended to be used for or in connexion with the manufacture, storage, transfer or sale of dangerous goods from—
 - (a) each other;
 - (b) roads, streets, paths, railway lines and public places;
 - (c) any other place or structure where the public or the place or structure is likely to be endangered by the proximity of the buildings, structures, containers, equipment or appliances or where the place or structure is likely to constitute a hazard to the buildings, structures, containers, equipment or appliances.
 41. Regulating the use or retention in premises of any substances or articles liable to spontaneous ignition and the quantity of any dangerous goods that may be allowed in any premises or in any part of any premises at any one time.
 42. The areas at any premises where dangerous goods may be stored and the manner in which the dangerous goods shall be stored (including the segregation of the dangerous goods from each other and the safety distances to be observed between them).
 43. The training or courses to be undergone or taken by any persons who are self-employed or employed in or in connexion with the manufacture, import into Victoria, storage, transfer, transport, sale or use of dangerous goods, the method of approval of such training or courses and the qualifications and registration required to be held by those persons.
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Sch. 2 cl. 45
amended by
No. 82/1995
s. 193(c).

44. Prescribing warning labels, writing or markings to be attached to or made on any dangerous goods or any containers and the manner in which and the premises at which such labels, writing or markings are to be so attached or made.

45. Prescribing warning notices, instructions or information to be displayed in, on or at any premises, vehicles, ships or boats used for or in connexion with the manufacture, storage, transfer, transport or sale of dangerous goods, the nature and location of such notices, instructions or information and the circumstances in which they are to be displayed or not displayed.

Sch. 2 cl. 46
amended by
No. 82/1995
s. 193(d).

46. Requiring and prescribing signs, markings or labels to be displayed in or on a vehicle, ship or boat in respect of dangerous goods present in or on that vehicle, ship or boat and the manner of displaying the signs, markings or labels.

47. Requiring persons—

(a) to display or cause to be displayed on a vehicle containing dangerous goods in a quantity greater than the prescribed quantity an emergency telephone number; and

(b) to arrange or cause to be arranged for the emergency telephone to be attended at all times.

48. Prescribing the documentation and hazard information to be carried in or on a vehicle in respect of dangerous goods present in or on that vehicle.

49. Prescribing the form of manifests to be kept by occupiers of licensed or prescribed classes of premises and the manner in which such manifests are to be kept.

50. Prescribing the information to be provided by licensees or occupiers regarding the dangerous goods present at licensed or prescribed classes of premises and prescribing the form and manner in which the information is to be provided.

Sch. 2 cl. 51
amended by
No. 82/1995
s. 193(e)(i)(ii).

51. Requiring the occupier of premises used or intended to be used for or in connexion with the manufacture or storage or transfer of dangerous goods to provide documentary evidence of a prescribed type or in a prescribed form or from a prescribed source or person with respect to the safety of any manufacturing process or of storage or of transfer at the premises.

52. Records to be kept by specified persons in respect of the manufacture, import into Victoria, storage, transfer, transport, sale, use and disposal of dangerous goods, the nature of such records and the circumstances in which they are to be kept.

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53. The fees which shall be paid for—
- (a) applications for and the issue of licences and the issue of duplicates of such licences;
 - (b) the renewal of licences;
 - (c) the amendment of licences;
 - (d) the examination of drawings, plans, specifications and calculations;
 - (e) analyses, tests or examinations made on dangerous goods or on containers, appliances, apparatus, equipment, fittings or piping systems used or intended to be used for or in connexion with dangerous goods;
 - (f) the storage of dangerous goods in public magazines or in other public storage facilities;
 - (g) examinations conducted for the purpose of issuing licences;
 - (h) the transfer of licences; or
 - (i) the issue of identification plates or labels required under any licence and the issue of duplicates of such plates or labels.
54. Prescribing substances to be explosives for the purposes of this Act.
55. Exempting any explosives from any of the provisions of this Act.
56. Requiring persons to obtain permits for the purchase of explosives or high consequence dangerous goods, prescribing the form of application for such permits, the fees which shall be paid for the application for and the issue of the permits, the transfer of permits and the issue of duplicates of the permits, the renewal and amendment of the permits, the conditions, limitations and restrictions which may be or are required to be inserted in such permits, the periods of time for which the permits remain in force, exemptions from the holding of the permits, the persons who may issue such permits and the amendment, suspension and revocation of the permits.
57. Regulating the import into Victoria or the export out of Victoria of explosives or high consequence dangerous goods and prohibiting the import into Victoria or the export out of Victoria of explosives or high consequence dangerous goods otherwise than in accordance with specified conditions.
58. Regulating any matter or thing relating to the packing of explosives for transport.

Sch. 2 cl. 56
amended by
No. 67/2004
s. 15(d).

Sch. 2 cl. 57
amended by
No. 67/2004
s. 15(e)(f).

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59. Regulating the storage of different explosives in separate magazines and prohibiting any of those explosives being stored in the same magazine with any other explosives.
60. Prescribing the special rules applicable to any magazine or magazine area and the precautions to be taken in the storage of explosives in the magazine or area.
61. Regulating the storage and handling of explosives at or in any public magazine or public magazine area and the charges to be made for the receipt and storage of explosives in and for the delivery of explosives from such magazine or magazine area and for the transporting, marking, packing or otherwise dealing with such explosives and prescribing the methods of enforcing and collecting those charges, including procedures for the seizure and sale of the explosives and use of the proceeds of sale to satisfy unpaid charges.
62. Prescribing the persons in whose custody explosives kept for use in or upon prescribed works are to be kept, prohibiting any interference with those explosives without the authority of those persons and generally regulating the manner in which those explosives are to be kept.
63. Regulating the maximum quantities and kinds of any explosives which may be kept or stored otherwise than in a magazine and prescribing the precautions to be taken in such keeping or storage.
64. Prescribing the notice to be given in the event of the theft of or loss of any explosives and the persons to whom such notice shall be given.
- Sch. 2 cl. 65 amended by No. 67/2004 s. 15(f)(g).** 65. Prescribing the notice to be given before explosives or high consequence dangerous goods are imported into Victoria or exported out of Victoria.
- Sch. 2 cl. 66 amended by No. 67/2004 s. 15(f)(g).** 66. Prescribing the kinds and quality of explosives or high consequence dangerous goods which may be imported into Victoria or exported out of Victoria.
- Sch. 2 cl. 67 amended by No. 67/2004 s. 15(f)(g).** 67. Regulating any matter or thing relating to the packages in which explosives or high consequence dangerous goods may be imported into Victoria or exported out of Victoria.
68. Prescribing a notice or notices to be displayed in or at certain places for the purpose of warning persons of their liability to penalties under this Act.
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69. The manner of service of any notices or orders under this Act.
 70. The forms of applications, notices, orders, licences, means of identification and any other forms to be used for the purposes of this Act.
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Endnotes

ENDNOTES

1. General Information

The **Dangerous Goods Act 1985** was assented to on 30 July 1985 and came into operation as follows:

Sections 1–7(1), 8–53, 55, Schedule 1 items 1–4, 8–10, Schedule 2 on 1 October 1985: Government Gazette 1 October 1985, page 3803: section 54, Schedule 1 items 5, 6 on 30 June 1988: Special Gazette (No. 61) 30 June 1988, page 1; Schedule 1 item 7 on 22 August 1996: Government Gazette 22 August 1996, page 2209.

Section 7(2) was never proclaimed and was repealed by section 9(a) of the **Dangerous Goods (Amendment) Act 1995**, No. 78/1995.

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2. Table of Amendments

This Version incorporates amendments made to the **Dangerous Goods Act 1985** by Acts and subordinate instruments.

Coal Mines (Amendment) Act 1987, No. 6/1987

Assent Date: 28.4.87
Commencement Date: 11.5.87: Government Gazette 6.5.87 p. 1004
Current State: All of Act in operation

Gas and Fuel Corporation (Amendment) Act 1987, No. 24/1987

Assent Date: 12.5.87
Commencement Date: 22.6.88: Government Gazette 22.6.88 p. 1774
Current State: All of Act in operation

Transport (Amendment) Act 1989, No. 44/1989

Assent Date: 6.6.89
Commencement Date: S. 41(Sch. 2 items 8.1–8.3) on 1.7.89: s. 2(1)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Dangerous Goods (Amendment) Act 1989, No. 48/1989

Assent Date: 14.6.89
Commencement Date: 28.6.89: Government Gazette 28.6.89 p. 1558
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 items 5.1, 5.2) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Accident Compensation (Further Amendment) Act 1992, No. 37/1992

Assent Date: 16.6.92
Commencement Date: 16.6.92
Current State: All of Act in operation

Gas Industry Act 1994, No. 112/1994

Assent Date: 20.12.94
Commencement Date: S. 114(Sch. 5 item 2) on 21.12.94: Special Gazette (No. 100) 20.12.94 p.1
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

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Gas and Fuel Corporation (Repeal) Act 1995, No. 31/1995

Assent Date: 6.6.95
Commencement Date: S.52(Sch. 1 item 3) on 21.6.95: Special Gazette (No. 49) 14.6.95 p.1
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Extractive Industries Development Act 1995, No. 67/1995

Assent Date: 17.10.95
Commencement Date: Pt 1 (ss 1–7), s. 60(1)(2) on 17.10.95: s. 2(1); rest of Act on 1.6.96: Special Gazette (No. 60) 31.5.96
Current State: All of Act in operation

Dangerous Goods (Amendment) Act 1995, No. 78/1995

Assent Date: 28.11.95
Commencement Date: All of Act (*except* s. 3) on 28.11.95: s. 2(1); s. 3 on 15.4.96: s. 2(3)
Current State: All of Act in operation

Port Services Act 1995, No. 82/1995

Assent Date: 28.11.95
Commencement Date: Ss 190–193 on 1.3.96: Special Gazette (No. 14) 27.2.96 p. 1
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Accident Compensation (Occupational Health and Safety) Act 1996, No. 13/1996

Assent Date: 28.6.96
Commencement Date: Ss 1, 2, 9 on 28.6.96: s. 2(1); rest of Act on 2.7.96: Special Gazette (No. 75) 2.7.96 p. 1
Current State: All of Act in operation

Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 22) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Gas Safety Act 1997, No. 99/1997

Assent Date: 16.12.97
Commencement Date: S. 120 on 1.2.99: Government Gazette 21.1.99 p. 80
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Accident Compensation (Miscellaneous Amendment) Act 1997, No. 107/1997

Assent Date: 23.12.97
Commencement Date: S. 69 on 1.7.98: s. 2(7)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

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Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 items 20.1–20.11) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Petroleum Act 1998, No. 96/1998

Assent Date: 24.11.98
Commencement Date: S. 257(2) on 1.12.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Accident Compensation (Common Law and Benefits) Act 2000, No. 26/2000

Assent Date: 30.5.00
Commencement Date: S. 30 on 30.6.00: Special Gazette (No. 92) 27.6.00 p. 1
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 34) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Transport Accident (Amendment) Act 2000, No. 84/2000

Assent Date: 28.11.00
Commencement Date: S. 41 on 7.12.00: Government Gazette 7.12.00 p. 2865
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Gas Industry Acts (Amendment) Act 2000, No. 91/2000

Assent Date: 5.12.00
Commencement Date: S. 39 on 12.4.01: Government Gazette 12.4.01 p. 643
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001

Assent Date: 19.6.01
Commencement Date: S. 27 on 1.9.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

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Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 29) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Accident Compensation (Amendment) Act 2001, No. 82/2001

Assent Date: 11.12.01
Commencement Date: Ss 32, 33 on 12.12.01: s. 2(1)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Dangerous Goods Legislation (Amendment) Act 2004, No. 67/2004

Assent Date: 19.10.04
Commencement Date: Ss 3–6, 8–15 on 19.10.04: s. 2(1); s. 7 on 1.10.05: Government Gazette 4.8.05 p. 1696
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 53) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 32) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Dangerous Goods and Equipment (Public Safety) Acts (Amendment) Act 2005, No. 31/2005

Assent Date: 21.6.05
Commencement Date: Ss 3–23 on 1.7.05: s. 2
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 9) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 8) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Dangerous Goods Act 1985**

3. Explanatory Details

¹ S. 3(1) def. of "Authority": Part 3 Div. 2 (ss 24–32) of the **Accident Compensation (Occupational Health and Safety) Act 1996**, No. 13/1996 reads as follows:

Division 2—Transitional Provisions

24. Definitions

In this Division—

"Director-General" has the same meaning as it has in the Principal Act as in force at any time before the commencement of Division 1 of this Part, having regard to any Order made under the **Administrative Arrangements Act 1983** but does not include the relevant Director-General within the meaning of section 61 of the Principal Act;

"former inspector" means an inspector appointed under section 11 of the Principal Act as in force immediately before the commencement of Division 1 of this Part but does not include an inspector appointed by the relevant Minister within the meaning of section 61 of the Principal Act;

"Minister" does not include the relevant Minister within the meaning of section 61 of the Principal Act.

25. Interpretation of Legislation Act 1984 not affected

Nothing in this Division affects or takes away from the **Interpretation of Legislation Act 1984**.

26. Superseded references to Minister and Director-General

- (1) On the commencement of this section, a reference in the regulations made under the Principal Act or any instrument or other document made, issued, served or given under the Principal Act or the regulations made under that Act—
 - (a) to the Minister is deemed to be a reference to the Authority; and
 - (b) to the Director-General is deemed to be a reference to the Authority.
- (2) Sub-section (1) does not apply to—
 - (a) any guidelines issued by the Minister under section 40(2) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 56 of the Principal Act.

27. Proceedings in relation to Minister and Director-General

- (1) On the commencement of this section, the Authority is substituted for the Minister or the Director-General as a party in any proceedings commenced or made by or against or in relation to the Minister or the Director-General under the Principal Act or the regulations made under that Act and existing immediately before that commencement.
- (2) On the commencement of this section, any application made or notification given to the Director-General under the Principal Act or the regulations made under that Act before that commencement is deemed to be an application made or notification given to the Authority.

- (3) On and after the commencement of this section, the Authority may continue and complete any other continuing matter or thing commenced by or against or in relation to the Director-General under the Principal Act or the regulations made under that Act and existing immediately before that commencement.

28. Documents etc. issued by Director-General

- (1) On and after the commencement of this section—
- (a) any notice, licence, certificate, requirement, request, direction, determination, declaration, specification, registration, authorisation, endorsement, waiver, approval, delegation, condition, consent, exemption or other instrument or document issued, served, made or given under the Principal Act or the regulations made under the Principal Act by the Director-General or the Minister is deemed to have been issued, served, made or given by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under the Principal Act by the Director-General or the Minister is deemed to have been taken or made by the Authority.
- (2) This section does not apply to—
- (a) any guidelines issued by the Minister under section 40(2) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 56 of the Principal Act.

29. Registers

- (1) On the commencement of this section, the register established by the Director-General under section 54 of the Principal Act is deemed to be the register established under that section by the Authority.
- (2) On the commencement of this section, any other register established by the Director-General under the Principal Act or the regulations made under that Act is deemed to be a register established by the Authority.

30. Inspectors deemed to be inspectors appointed by Authority

On and after the commencement of this section—

- (a) each former inspector holding office immediately before that commencement is deemed to be an inspector appointed by the Authority under section 11 of the Principal Act as amended by Division 1 of this Part; and
- (b) a certificate of appointment furnished by the Minister under section 11 of the Principal Act in respect of the appointment of a former inspector is deemed to be a certificate of appointment furnished by the Authority under section 11 as amended by Division 1 of this Part; and
- (c) an identification card issued to a former inspector by the Director-General under section 13 of the Principal Act is deemed to be an identification card issued to an inspector by the Authority under that section as amended by Division 1 of this Part.

31. Proceedings in relation to inspectors

On and after the commencement of this section, an inspector appointed by the Authority may continue and complete any proceedings under the Principal Act or the regulations made under that Act commenced or made by or against or in relation to a former inspector and existing immediately before that commencement.

32. Documents etc. issued by inspector

On and after the commencement of this section—

- (a) any notice, direction, authorisation, request, requirement, prohibition, exemption, approval, permission or other instrument or document issued, served, made or given by a former inspector under the Principal Act or the regulations made under that Act is deemed to have been issued, served, made or given by an inspector appointed by the Authority; and
- (b) any action taken or decision made under the Principal Act or the regulations made under that Act by a former inspector is deemed to have been taken or made by an inspector appointed by the Authority.

² S. 3(1) def. of "Director-General" (*repealed*): See note 1.

³ S. 3(1) def. of "statutory rule": Section 33 of the **Subordinate Legislation Act 1994**, No. 104/1994 reads as follows:

33. Repeal of Subordinate Legislation Act 1962

- (1) The **Subordinate Legislation Act 1962** is **repealed**.
- (2) Any reference in any Act, regulation, local law, subordinate instrument or other document whatsoever to the **Subordinate Legislation Act 1962** is to be construed as a reference to the

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Subordinate Legislation Act 1994, unless the contrary intention appears.

- (3) Without limiting sub-section (2), a reference to section 5, 6 or 6A of the **Subordinate Legislation Act 1962** is to be construed as a reference to section 15, 22 and 23 or 24 respectively of this Act.

⁴ S. 10(2): See note 1.

⁵ S. 10A(1): See note 1.

⁶ S. 11: Section 9(3)(4) of the **Accident Compensation (Further Amendment) Act 1992**, No. 37/1992 reads as follows:

9. Amendment of Dangerous Goods Act 1985

- (3) The appointment or purported appointment of a person as an inspector of dangerous goods under section 11 of the **Dangerous Goods Act 1985**, as in force immediately before the commencement of this section, is to be taken always to have been valid and anything done by such a person as an inspector under that Act before that commencement is not invalid by reason only of a doubt arising as to the validity of the person's appointment as an inspector.
- (4) On and from the commencement of this section—
- (a) all inspectors holding office or purporting to hold office under section 11 of the **Dangerous Goods Act 1985** immediately before that commencement are to be taken to be inspectors appointed under section 11 of that Act as amended by this section; and
 - (b) a notice of appointment published under section 11(2) of the **Dangerous Goods Act 1985** before that commencement in respect the appointment of an inspector referred to in paragraph (a) is to be taken to be a certificate of appointment of that inspector furnished

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under section 11(2) of that Act as amended
by this section.

⁷ Pt 2 (ss 11, 13–16, 17A, 18): See note 1.

⁸ Pt 3 (ss 21–26): See note 1.

⁹ Pt 4 (ss 27–29): See note 1.

¹⁰ S. 33: See note 1.

¹¹ Pt 7 (ss 40, 42, 48, 51): See note 1.

¹² Pt 8 (ss 54(1)(2)(5), 58(2), 61): See note 1.

¹³ Sch. 2 cls 23, 26: See note 1.